

# report

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## Ending slavery in Mauritania: The impact of legal advocacy and strategic litigation from 2010 to 2020

A review of projects aiming to provide access to justice for persons affected by descent-based slavery in Mauritania

Valérie Couillard





Saïd and Yarg were born in slavery and escaped in 2011. The person who subjected them to slavery became the first person ever prosecuted for slavery in the history of Mauritania. Saïd and Yarg are now going to secondary school and are planning for their future.

*Credit: Seif Kousmate.*

## Partners



SOS – Esclaves



## About the Author

Valérie Couillard qualified to the Quebec Bar in 1999. During the early years of her career she practised criminal and penal law and has been practising international law since 2005. Valérie worked and lived in Gambia for several years as an international cooperant legal officer at the African Commission on Human and Peoples' Rights, where she assisted the Special Rapporteur on the rights of women. After that she acted as director of legal and human rights programmes for international non-governmental organizations supporting indigenous peoples and minorities advocating and litigating for their rights in and Africa, Latin America, Asia and Europe.

Valérie worked with Minority Rights Group International (MRG) in 2018 to support them during an important organizational transition period and she also carried out a study on the impact of 15 years of legal work in East Africa, in 2017. She worked closely with representatives of SOS-Esclaves in 2018 in Bamako, in 2019 in Nouakchott and again in 2020 while writing this report. Valérie is also familiar with the work of Anti-Slavery International (ASI), as the author of an independent report on their work in West Africa. All these experiences have, of course, had an impact on this report. It is hoped that this report will prove useful to all involved in the fight against slavery and associated human rights violations in Mauritania and elsewhere.

*This report was written in French and translated into English by a third party.*

## SOS-Esclaves

SOS-Esclaves has been leading the fight against slavery in Mauritania for over 20 years. The organization aims to shed light on slavery practices, to challenge its wide acceptance among the general population, and to defend the rights of

victims who try to escape. SOS-Esclaves works to fight discrimination against slavery victims and racial discrimination.

## Association des femmes chefs de familles

Association des femmes chefs de familles (AFCF) is an apolitical and non-profit association founded in 1999. It works for the promotion of human rights and the rights of women and children in Mauritania. AFCF participates in all actions aimed at the promotion and protection of human rights at the national, regional, and international level. One of its primary missions is to fight against discrimination based on gender, skin colour, and social status. AFCF works to promote the rights of groups excluded from society, in particular women, children, and victims of slavery.

## Anti-Slavery International

Anti-Slavery International (ASI), founded in 1839, fights to eliminate all forms of slavery worldwide. Their actions include carrying out studies on slavery-like practices, intervening with governments and intergovernmental agencies so that they adopt measures to prevent and combat slavery, and supporting local organizations through advocacy and victim assistance. ASI has consultative status with the Economic and Social Council of the United Nations.

## Acknowledgements



This report was written in French and translated into English by a third party.

This report has been produced with the financial assistance of the European Union. The contents of this report are the sole responsibility of Minority Rights Group International and can under no circumstances be regarded as reflecting the position of the European Union.

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ISBN Print: 978-1-912938-63-6. Online: 978-1-912938-77-3. **Published** September 2022.

**Ending slavery in Mauritania: The impact of legal advocacy and strategic litigation from 2010 to 2020** is published by MRG as a contribution to public understanding of the issue which forms its subject. The text and views of the author do not necessarily represent in every detail and all its aspects, the collective view of MRG.

# Ending slavery in Mauritania: The impact of legal advocacy and strategic litigation from 2010 to 2020

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# Acknowledgements and a note on the interview methodology

This report has been made possible by the warm and generous contribution of SOS-Eslaves. I feel immense respect for the resilience, courage, rigour and solidarity shown by its members. I had the privilege of travelling to Nouakchott in 2019, to facilitate round-table discussions where the judicial sector came together to reflect on the changes brought about by the creation of three special criminal courts dealing with slavery, in Néma, Nouakchott and Nouadhibou. I also worked with SOS-Eslaves and their colleagues in 2018 in Mali and Niger during a three-day meeting, drawing lessons from 10 years of work to eradicate slavery in West Africa.<sup>1</sup>

The global Covid-19 pandemic broke out just as the fieldwork for this study was due to begin, which meant that much of the work had to be done remotely. Once again, SOS-Eslaves demonstrated its dedication and outstanding work ethic in unremittingly challenging circumstances. Salimata Lâ, programme coordinator at SOS-Eslaves is a fount of knowledge about the organization and has been particularly supportive of the process. Abdellahi Ahmed Vall and his SISTA (Statistics and Information Systems) office provided exceptional support by holding and recording several face-to-face

interviews. Everyone involved showed flexibility, creativity and perseverance to ensure fruitful consultations and effective participation of all stakeholder groups.

The following people also deserve special thanks for their personal contributions during individual and/or group interviews, their participation in the online survey<sup>2</sup> and various additional interactions to feed into the study: Adballahi Naji; Ahmed Boubacar; Alioune Khalidou; Ammar O. Sod Ahmed; Babémint El Khair; Boubacar Messaoud; Brahim; Claire Thomas; Dahmoud Ould Abatt; Elid Mohamenden; Fatimata Mbaye; Hamady Lehbousse; Jelia Sane; Jennifer Castello; Jibril O. Choumad; Jimbar O. Ramdhane; Joshua Castellino; Julie Barrière; Jérémie Gilbert; Khdeija; Lalla Aicha Cheikhou Ouédraogo; Leguig O. Mahmoud; Lemina M. El-Hadj; Lucy Claridge; Mariem Mint Bouguari; Marieme M Bougari; Moctar Salem Ould Med Vall; Mohamed Mahmoud Mbeiry; Mohamed Ould Mbarek; M'Berika; Salka.; Sarah Mathewson; Sarr Amaduou; Varajoi Ould Brahim. Finally, all those who took part in the community discussion workshops held in Nouakchott in November 2020 are also thanked for their contribution.

# Summary of findings

This impact assessment of the activities of MRG, ASI and SOS-Esclaves through many different projects in the decade 2010–20, focusing on strategic litigation activities, domestic-level litigation and international litigation, is preceded by introductory notes defining and explaining the terms ‘impact’ and ‘strategic litigation’ in the context of the study. The first section presents key events that have supported the change in the legal landscape in Mauritania and offers an overview of the roles played by organizations involved in the fight against descent-based slavery. The second looks at the theories of change of the different organizations involved in action to define the impact of advocacy and strategic litigation activities. This section also explains the scope and breadth of the strategic litigation activities, which go well beyond litigation in the courts. The third section analyses the impact and outcomes of the use of judicial and quasi-judicial mechanisms. The final section offers items for reflection, discussion and strategic planning.

This study was presented and debated during validation workshops held in November 2020 in Nouakchott with civil society, judicial actors from the sector and Mauritanian authorities responsible for issues related to descent-based slavery. The main findings of the report were presented as video seminars that were simultaneously translated as they were presented in Nouakchott. Participants thus contributed to the debate on strategic planning and validated the study findings. The facts and reasoning behind the findings can be found in the text of the report. They are given here in abridged form, as an executive summary.

## Key findings on strategic litigation activities

### Litigation at national & international levels

1. Activities pertaining to litigation before domestic and international courts are seen as partial successes.
2. The support of MRG for SOS-Esclaves and the long-term collaborative relationship with a senior Mauritanian lawyer have clearly added value to strategic litigation activities.
3. SOS-Esclaves’ capacity to use international mechanisms has improved.
4. Under one of the projects, a database that documents cases brought by SOS-Esclaves was created. This has the potential to become a key tool for litigation and advocacy. Even so, use of this resource needs to be the subject of a strategic discussion.

### Capacity building

5. Capacity building, including training for different groups, constituted a substantial part of the work and it has had a very positive impact on the people trained.
6. The idea of a workshop with law-enforcement agencies was an excellent initiative and it would be appropriate to continue to hope that this could eventually take place.
7. Training for judicial actors supported the emergence of a legal community fighting for the end of slavery in Mauritania, but the actual impact of this training will only be felt if and when this support is strengthened.
8. Impact assessment of capacity-building activities for paralegals and victims shows an acquisition of legal knowledge.
9. Deeper understanding of the significance of the Said and Yarg case could be better achieved among the different actors responsible for its implementation, which could help to increase the material impact of this ruling.

### International advocacy

10. In general, international advocacy strategies were very successful and the voice of SOS-Esclaves was heard.
11. Through international advocacy, partners have made intense use of international mechanisms and have effectively influenced the adoption of strong recommendations to the Mauritanian state.
12. The use of international mechanisms has been a gateway for training a number of activists involved in the action in international law and the functioning of its protection agencies.
13. The use of international mechanisms has led to domestic authorities taking a degree of ownership of the problem, but effective implementation at national level is still hindered.

## Domestic advocacy

14. Domestic advocacy against slavery in Mauritania is extremely difficult, mainly because of power structures that perpetuate inequality and the practice of slavery.
15. The involvement of civil society in decisions pertaining to slavery is neither facilitated nor encouraged by the state but is, rather, often prevented or rejected.
16. Advocacy work does not reach remote areas.
17. The impact of activities could eventually be improved with greater involvement of the Beidane population group in support of the cause.
18. Civil society prides itself on alternative methods of conflict resolution that it has often used and sometimes prioritized (in parallel with or in place of legal action); this has supported sensitization and awareness raising.
19. Domestic advocacy does not seem to influence the state in fulfilling its responsibilities to support victims and former victims. This role is played by organizations such as SOS-Esclaves.

## Monitoring

20. Monitoring and evaluation is frequently performed by international non-governmental organizations (NGOs), but these processes should more extensively involve local NGOs and especially the lawyers representing them.

## Key findings on domestic-level litigation

21. Many obstacles prevent access to justice for slavery victims.
22. The withdrawal of complaints by victims is a problem that SOS-Esclaves has to contend with; strategic

planning could devise a specific support package for this aspect of the work.

23. The material outcomes of cases taken to the special courts are poor, largely because these courts lack the resources to do their work properly.
24. It would be useful for partners to pool their knowledge and document a more complete picture of cases that were brought to the national justice system since 1981.
25. Partners would benefit from developing better internal procedures for the monitoring and management of information on allegations brought before the justice system.
26. Rulings are not generally implemented, however holding trials in the special courts seems to have led to some positive social changes in relation to both those accused of practising slavery and victims.

## Key findings on international litigation

27. Pursuing international remedies created pressure to progress the Said and Yarg case at the domestic level.
28. The decision of the African Committee of Experts on the Rights and Welfare of the Child is a formal denunciation of Mauritania's failure to fulfil its responsibilities.
29. The realization of citizenship rights by obtaining identity papers is a material result for Said and Yarg, who have consequently been able to attend school.
30. The African Committee of Experts' decision has significantly increased the visibility of the work of SOS-Esclaves, MRG and ASI, and has, therefore, amplified the reach of the awareness work done by these organizations at the national level.

# Introductory notes

## Background to partnerships

The work under study was carried out within a framework of partnerships between international and Mauritanian NGOs. It was mainly and almost exclusively directed by Mauritanian NGO SOS-Esclaves, with the support of MRG and ASI, two international NGOs based in the United Kingdom. Their concerted efforts aim to make access to justice and reparations possible for victims and former victims of descent-based slavery in Mauritania.

This analysis has a particular focus on activities of a judicial nature conducted in partnership by these organizations. While sociological, psychological, anthropological and historical aspects are also relevant to this analysis, these are further explored in other important reports that have also been produced as part of the implementation of the programmes studied. This impact assessment focuses on the litigation strategy deployed between 2010 and 2020.

For two reasons, strategic litigation activities are foregrounded in this analysis: First, it is clear that the legal strategy developed over the years took inspiration from this method of advocacy; in other words, its motivation was to take descent-based slavery cases before the national and international courts in order to bring about change. Second, the definition of ‘strategic litigation’, as understood by international civil society, necessarily encompasses not only the pursuit of cases before national and international courts, but also a very considerable amount of advocacy and capacity-building work at all relevant intervention levels.

This study took a close interest in referrals to judicial and quasi-judicial mechanisms, in addition to these other facets of legal work. All activities that had an impact on the advancement of the rights of people affected by descent-based slavery are the subject of analysis. The study therefore covers strategic litigation activities in the all-encompassing, or holistic, sense, as it most often arises in the context of partnerships between international civil society organizations.

The aim of the terms of reference was to identify those aspects of work that can be deemed ‘areas of success’ or ‘gaps’, with regard to the approach of MRG and its direct partners to improve access to justice and reparations for victims/survivors of descent-based slavery in Mauritania.

The underlying objective of the study is to better understand the impact of the approach, that is, what works well and what works less well (what has considerable impact and what does not have sufficient impact), in order to offer avenues for exploration for future strategic planning and the orientation of support programmes for local Mauritanian NGOs.

The expectations of leaders of the organizations involved in this work were expressed in interviews with them. Some noted that the evaluation exercise had the goal of ‘reflecting on lessons learned and providing direction for the design and implementation of future programmes’. Others hoped that the study would be able to shed particular light on the possible reasons why few cases had been tried by national courts. Others saw an opportunity to try to raise strategic planning issues, namely the opportunity to support strategic litigation over the discrimination faced by members of the Haratin population group. Several members of SOS-Esclaves stressed the importance of maintaining and increasing efforts to protect rights, especially those of women and children.

All those consulted expressed some dismay at the gap between theory and practice with respect to access to justice and reparations for persons affected by descent-based slavery in Mauritania. One glaring problem is that the participation of persons affected and of the organizations that defend their rights to reparations processes does not seem possible and is not made possible by agencies of the state. Boubacar Messaoud, founding president of SOS-Esclaves, does not mince his words: ‘My big worry is that we are absent from agencies set up the state with a responsibility for compensating victims. We do not belong to their bureaux.’

## Defining the impact of international strategic litigation programmes

As discussed earlier, the objectives of strategic litigation (in the field of human rights and in a context of international civil society partnerships) have more to do with advancing the protection and implementation of human rights than with victories as such in the courts. In fact,

several NGOs in the field of protecting human rights operate with objectives other than that of ‘winning in court’; their work is strongly anchored in goals of raising public awareness and calling out acts of injustice and impunity.<sup>3</sup>

It should also be noted that an impact assessment (such as that conducted for this report) is not the same as a programme performance evaluation. While a programme evaluation is designed to measure the performance of one (or more) organization(s) that has (have) carried out actions,<sup>4</sup> the aim of an impact assessment is to carry out an overall assessment of changes, in order to determine whether it is highly possible that the actions taken have contributed to effects observed (causality of impact). Specific project objectives are relevant to assessment of the impact, but they do not direct the assessment exercise.

This impact assessment looks more at consequences observed within the framework of paradigm shifts associated with programmes. These changes in paradigms can be predefined and illustrated in an organization’s strategy documents, through a ‘theory of change’.

Paradigm changes may have been identified in the preparation of or during programmes, or they may be discovered after the intervention.<sup>5</sup> That being so, reference to the logical frameworks of funding applications is irrelevant. Organizational theories of change, however, offer support for impact analysis.

Material results and external impact are elements considered by impact assessments. *Material results* are visible and reasonably measurable consequences, such as financial compensation and criminal sentences. It is fairly easy to attribute these results to actions. *External impact* refers to one or more observed changes, for which there is a strong possibility of a correlation with activities and which are within the paradigm of change (the spirit of projects’ general objectives) associated with the action. For example, the external impact of activities intended to bring cases before the courts could take the form of: revelation of facts and sharing of personal stories; or development of remedies that had been little used up to that point; or the creation of domestic and/or international visibility for human rights violations.

# 1 Legal changes in Mauritania from 2010 to 2020

*Slavery persists because the ‘master’ remains the ‘master’. What is yet to be achieved is for those affected by slavery to become in control of the decisions that concern them. That is what we are asking for.*

Boubacar Messaoud

Table A provides an overview of key legal events that have taken place in recent years with regard to the fight

against slavery in Mauritania. This chronology also highlights legal advocacy work. In 2009, the United Nations (UN) Special Rapporteur on contemporary forms of slavery, including its consequences conducted a visit to Mauritania. During that visit, collaboration between the Mauritanian government and the UN was initiated, and this then led to important changes, including legal reform.

Table A: Chronology of key legal events and advocacy actions

Date	Key legal events and advocacy actions
1981	Official abolition of slavery in Mauritania, by ordinance No. 081-234.
1995	Boubacar Messaoud founds SOS-Esclaves.
1998	Boubacar Messaoud is imprisoned for leading an unauthorized organization.
2005	SOS-Esclaves is officially recognized by the government.
2007	Adoption of Law No. 2007.048 criminalizing slavery and slavery-like practices. The crime of slavery is punishable by imprisonment for between 5 and 10 years and a fine of between 500,000 and 1 million ouguiyas (US \$14,000–28,000).
2008	Coup takes place, affecting democracy and leading to non-application of the law.
2008	Biram Dah Abeid founds the Initiative for the Resurgence of the Abolitionist Movement (IRA-Mauritanie).
2009	UN Special Rapporteur’s mission on contemporary forms of slavery, including its consequences, <sup>6</sup> concludes that slavery exists de facto in Mauritania; recommendation for, and beginning of development of a roadmap for its eradication. Rapporteur recommends the strengthening of the 2007 Law. <sup>7</sup>
2010	SOS-Esclaves receives the French Republic’s Human Rights Award.
2011-12	Mauritanian Arab Spring protests call for legal reforms, including to address the problem of slavery.
2011	First-instance judgment in the Said and Yarg case, by the Criminal Court of Nouakchott. Eight accused, of whom one is acquitted; one is not prosecuted (unidentified); four found guilty of failing to report facts, given two-year suspended sentences and ordered to pay financial compensation; one found guilty of the crime of slavery and sentenced to two years’ imprisonment; the mother of Said and Yarg found guilty of the crime of slavery and given a two-year suspended sentence (mitigating circumstances). The defence appeals.
2012	Constitutional reform establishing slavery as a crime against humanity.
2013	Creation of the Tadamoun Agency (decree No. 048-2013) with a mandate to combat the legacies of slavery. <sup>8</sup>
2014	Follow-up mission by the UN Special Rapporteur on contemporary forms of slavery, including its consequences. <sup>9</sup> The Special Rapporteur is concerned about the lack of information and the low number of prosecutions under the 2007 Law and recommends that the law be amended to strengthen it. Official adoption of the roadmap as a ‘detailed and comprehensive national strategy to combat slavery’, and announcement of the forthcoming creation of special courts.

Table A: Chronology of key legal events and advocacy actions (continued...)

Date	Key legal events and advocacy actions
2015	Adoption of Law No. 2015-031 instituting the criminalization of slavery and punishing slavery-like practices. <sup>10</sup> Slavery becomes punishable by imprisonment for a period of between 10 and 20 years and a fine of between 250,000 and 5million ouguiyas (US \$7,000–140,000).
2015	Filing of a communication on the Said and Yarg case to the African Committee of Experts on the Rights and Welfare of the Child (African Union), further to delays in hearing the appeal in the case in the national courts.
2016	The appeal in the Said and Yarg case is heard in the national courts. The Criminal Chamber of the Court of Appeal of Nouakchott confirms the first-instance verdict, with negligible increases in the amounts to be set for compensation.
2016	Creation of special criminal courts under the 2015 Law, in Néma, Nouadhibou and Nouakchott.
2016	First guilty verdicts handed down in the Néma Special Court. Two persons convicted of the crime of slavery and each sentenced to five years' imprisonment, of which one year served in prison and four years as a suspended sentence.
2016-19	15 cases of slavery are tried, leading to 10 guilty verdicts. <sup>11</sup>
2017	The Said and Yarg case is referred to the Supreme Court.
2017	The African Committee of Experts on the Rights and Welfare of the Child (African Union) declares that Mauritania is in breach of its obligations under articles 1 (obligations of states parties), 3 (non-discrimination), 4 (best interests of the child), 5 (survival and development), 11 (education), 12 (leisure), 16 (protection from abuse and torture), and 21 (protection from harmful practices). The committee recommends several measures, <sup>12</sup> including that all family members be prosecuted for the crime of slavery, that Said and Yarg be provided with identity documents and that their compensation be adequate.
2018	The Supreme Court upholds the judgment of the Court of Appeal.
2019	Announcement of the forthcoming (2020) creation of a new social protection agency named 'Ta'azour' to replace Tadamoun. <sup>13</sup>

Since 2010, there has been noticeable change in the law, and judicial mechanisms dealing specifically with slavery have emerged. However, implementation of these legal reforms is a real challenge. Civil society organizations have worked to ensure access to justice for victims and former victims. They have brought many cases to court, formally using the newly established legal mechanisms. However, according to many and in the words of a senior lawyer working with SOS-Esclaves, using the judicial system for slavery cases is an 'uphill battle that seems impossible to win'. In the rare instances where cases did proceed in court and sentences were pronounced, these have been extremely difficult or impossible to enforce. The same senior lawyer, in charge of several slavery cases still pending before the courts, blames a 'lax government'.<sup>14</sup>

While resorting to the newly created national legal institutions in the last 10 years has not had the impact sought (further analysis provided in the third section of this report), legislative developments are an outstanding result which have had remarkable social impact. National and international advocacy by civil society has contributed greatly to this change.<sup>15</sup> One member of the Committee

for Solidarity with Victims of Human Rights Violations in Mauritania (CSVVDH), a local partner organization of SOS-Esclaves, explains:

*Even if it needs to be strengthened, the law has evolved. Having a law against slavery, that's a step forward... Slavery was silenced and hidden. The struggles that have occurred have exposed the problem and made it something that is now discussed in society... Because of the criminal consequences, people have gained awareness that slavery exists and must be abolished. Victims themselves are trying to escape servitude.<sup>16</sup>*

According to Boubacar Messaoud (SOS-Esclaves' founding president), these problems could have been avoided. What was required was for the government to allow and ensure appropriate representation in the management of programmes such as the Tadamoun Agency. Organizations and individuals possessing in-depth knowledge of the situation should have been part of the work. Boubacar Messaoud maintains that all mechanisms put in place need to be administered and

influenced by the main stakeholders, and that includes of course the new social protection agency that is about to be established.<sup>17</sup> According to him, as long as human rights organizations and slavery survivors remain excluded from decision making, the problem will not be solved: ‘slavery persists, because the old “master” is the “master” still’.<sup>18</sup>

Civil society organizations have tried to estimate the number of people subjected to slavery in Mauritania. The estimated figures for the last decade have been seriously debated by the Mauritanian government. The government’s official statements nationally and before UN treaty bodies imply that slavery no longer exists and that the country must now solely focus on the historical consequences of slavery. Strategic litigation efforts led by civil society over the last 10 years have constituted an attempt to demonstrate that slavery does still broadly exist. The objective was to bring several cases to court so this could be shown and dealt with. During this review process, those who tried to litigate slavery explained that access to justice has been compromised. They explained that the government has not taken steps commensurate with the magnitude of the problem, and instead appears to have slowed down the prosecution of slavery to avoid compromising the country’s political image with national litigation exposing the extent of the problem.<sup>19</sup>

A worn-out and disillusioned civil society is now trying to avoid arguing about numbers and wants to focus on finding solutions for those affected. The secretary-general of the Forum of National Human Rights Organizations (FONADH) explains:

*Personally, I’m not bothered about the figures. Right now, no one can say how many people are affected by slavery. This has become demagoguery. What is certain is that our organization is committed to cohesion and peace in trying to resolve this matter, which is a reality*

*for a lot of people and seriously undermines our national cohesion.*<sup>20</sup>

Reports issued over the last 10 years indeed present various estimated figures, but the relevance of the support of organizations such as ASI is undeniable. In a 2019 ASI report, it is explained that the number of cases identified has declined in recent years. ASI staff told the review team that this could mean that an important number of victims have come out of slavery and that the problems they face are associated with historical discrimination. SOS-Esclaves staff further explain: ‘[I]n urban areas, former slaves are somewhat less dominated, but in rural areas, those affected by slavery are still very much dominated. There is talk of “masters” and of “former masters”, but it doesn’t matter because it’s an entire system [of dominance] that is still in place.’<sup>21</sup> SOS-Esclaves does not have access to the resources required to conduct regular visits to remote areas, but their staff have witnessed that slavery is still practised in faraway regions.

Also, while some people have come out of slavery since it was criminalized by national legislation, many continue to live a life that is highly impacted by their previous circumstances. As explained by an activist:

*We must help those coming out of slavery to have livelihoods; the land that is worked is not theirs and their working conditions are similar to another form of slavery: they work the land on the estates of the rich, sumptuous houses, but they have no property rights and derive no benefits from the natural resources of the earth.*<sup>22</sup>

The following sections of this report review and present the actions taken by civil society, their impacts, the obstacles encountered and the milestones achieved. The report also presents ideas that can feed into policy discussions.

## 2 Theory of change and impact of legal activities

*When I took up my post at MRG, I thought, 'Wow! We're working with partners in Mauritania – that's already amazing.' Then, I gained an insight into their achievements and I was really impressed.*

Joshua Castellino, Executive Director at MRG

### The problem of descent-based slavery in Mauritania, as described by MRG

The Mauritanian population of 3.5 million people is composed of several ethnic groups. The Arabic-speaking Beidane people, also known as White Moors, form the majority, not only within government, the army and the justice system, but also as business owners, land and other resources holders. Historically, the Beidane pillaged and enslaved black Africans from sub-Saharan ethnic groups and over time, people subjected to slavery were assimilated into Moorish culture. Descendants of people subjected to slavery now constitute a distinct Arabic-speaking group known as the Haratin population (people descending from those who have been enslaved, or 'Black Moors'). Most Haratin people now live apart from their 'former masters', but a majority of them continue to suffer discrimination and exclusion due to their belonging to the 'slave caste'. Even to this day, however, thousands remain reduced to slavery: living under the direct control of the people who subject them to slavery, they are considered to be property and they receive no pay for their work. The status of being enslaved is handed down

from the mother and so, the children of a mother subjected to slavery are given as an inheritance to the children of the 'master'. It is also extremely difficult for them to escape slavery and to obtain national identity documents, as it is for Haratin people in general. After a visit to Mauritania in 2009, former Special Rapporteur of the UN on modern forms of slavery, Gulnara Shahinian, described slavery in Mauritania as a 'slow, invisible process which results in the "social death" of many thousands of women and men'.

It is difficult to know exactly how many people are currently still living in slavery in Mauritania. Slavery-like practices are still largely ignored, and investigative efforts aiming at shedding light on the number of persons affected by slavery and its historical consequences (such as independent media reporting or national censuses) are actively suppressed. Mauritanian authorities regularly declare that slavery no longer exists, since it was abolished and sanctioned by the 2007 Law that criminalizes slavery and associated discrimination.<sup>23</sup>

The projects assessed here aimed at engaging a variety of actors. Broadly, programme beneficiaries are: Mauritanian civil society organizations; lawyers and law students; journalists; persons living under slavery and/or former victims of slavery; black Mauritians suffering discrimination; the Mauritanian state and supranational actors at the regional and international levels. The 'final beneficiaries' of these projects are ultimately persons living under slavery and/or former victims of slavery as well as black Mauritians suffering discrimination. The projects that have been analysed under this study include: a number of projects implemented during 2009–16 and funded by the UN Voluntary Trust Fund on Contemporary Forms of Slavery; projects implemented

between 2014 and 2016 and funded by the UN department on violence against women; projects implemented between 2016 and 2019 and supported by the Bureau of Democracy, Human Rights and Labor (USDRL); the European Union project for 2017 to 2019; and the project funded by the Freedom Fund in 2018. The ongoing project with the European Union for the period 2020–23 is also included in the analysis.

It is common practice for civil society organizations to develop a 'theory of change', which 'describes how the activities undertaken in an intervention (such as a project, a programme or a policy) give rise to a chain of results that will have the intended or observed impacts'.<sup>24</sup> SOS-Esclaves did not offer an organizational theory of change.

Nevertheless, the changes sought were identified from the objectives stated in the project documents jointly submitted by MRG, ASI and SOS-Esclaves (see Table B).

MRG did prepare a strategic document illustrating its theory of change, for its programme being implemented in Mauritania.<sup>25</sup> This theory of change for Mauritania highlights the problems that are being addressed and lists the contributions, results and impact sought. At the organizational level (including but not limited to the

support provided in Mauritania), MRG also developed a theory of change.<sup>26</sup> This organizational strategy illustrates that MRG is first and foremost informed by beneficiaries' needs when analysing a situation and designing programmes in response. Programme evaluations take place alongside implementation to analyse the needs of beneficiaries and support future programme design. Needs assessment and programme performance evaluation are key components of the theory of change itself.

Table B: Intended impacts of theories of change of MRG and ASI

Organization + theory of change	How sought changes are described
MRG – general change goal for all programmes	<ul style="list-style-type: none"> <li>• Positive changes in the law and/or practice with effective monitoring and implementation.<sup>27</sup></li> </ul>
MRG – changes sought in recent proposal for a project on women's rights <sup>28</sup>	<ul style="list-style-type: none"> <li>• Women who are currently affected by slavery and former victims are confident that they can survive and conserve the family unit after leaving slavery, that they know how to live independent lives and have the means to generate income; they feel that they have the right to freedom and equality.</li> <li>• Legal rulings are more favourable to women current and former victims of slavery, finding those responsible guilty and giving them appropriate sentences.</li> <li>• Policy-makers are more motivated to recognize that slavery is a problem that still exists, one that has long-term consequences for people affected by slavery, former victims and their families.</li> <li>• Coordination among civil society organizations is improved.</li> <li>• SOS-Esclaves and AFCF are more active and sustainable as organizations.</li> </ul>
MRG – EU 2017–19 and 2020–23	<ul style="list-style-type: none"> <li>• End slavery in Mauritania by building the capacities of the NGOs fighting slavery and supporting its victims.</li> <li>• Improving local capacity to fight slavery.</li> <li>• Better enforcement of anti-slavery legislation.</li> </ul>
ASI – general goal for change in Mauritania	<ul style="list-style-type: none"> <li>• Eradication of slavery.</li> <li>• Total emancipation and social integration of persons coming out of slavery.</li> </ul>

According to Sarah Mathewson, Africa programme manager at ASI, ASI's theory of change is clear: reducing the number of cases of slavery is the primary goal. In her recent evaluation of the USDRL project (2016–19), she explains that over the past three years, IRA identified six or seven new cases of slavery, while SOS-Esclaves did not identify any (although SOS-Esclaves did continue the important and arduous work of supporting and managing the consequences of slavery for the programme's beneficiaries). Partners say that the lack of access to remote areas prevents them from

identifying the cases there, and this explains the reduction in the number of cases identified. Mathewson accepts this explanation and also believes that the number of cases of slavery now taking place has fallen over the past decade.<sup>29</sup>

Aside from their role for organizational and programmatic theories of change, specific objectives underpin funding applications as well as programme implementation. Table C provides an overview of the specific objectives of a number of projects carried out during the most recent part of the period under study.

Table C: Specific objectives of the various legal projects 2010–20<sup>30</sup>

Organization managing project and funders <sup>31</sup>	Specific objectives
MRG – EU 2020-2023	<ul style="list-style-type: none"> <li>• Develop the capacities of local organizations.</li> <li>• Strengthen the legal framework by means of litigation, advocacy and awareness raising.</li> <li>• Victim assistance (slavery and discrimination).</li> </ul>
MRG – Freedom Fund 2018–19	<ul style="list-style-type: none"> <li>• Raise public awareness of the content and impact of the Said and Yarg ruling.</li> <li>• Increase pressure on the Mauritanian authorities for implementation.</li> <li>• Increase the impact of international advocacy efforts.</li> <li>• Increase support for efforts by Mauritanian lawyers taking slavery before the national justice system.</li> </ul>
MRG – EU 2017–19	<ul style="list-style-type: none"> <li>• Sustainable improvement to capacity to combat slavery.</li> <li>• Consolidation and implementation of the legal framework.</li> <li>• Support and social reintegration of more than 100 people.</li> </ul>
ASI – USDRL 2016–19	<ul style="list-style-type: none"> <li>• Provide support for developing capacity and opportunities for 330 persons coming out of slavery, so that they achieve socio-economic independence and they realize their rights, including the right to citizenship.</li> <li>• Strengthen the legal and judicial framework so as to identify and prosecute crimes of slavery.</li> <li>• Develop the capacity of the media to promote anti-slavery and anti-discrimination messages.</li> </ul>
MRG – Freedom Fund 2015–16	<ul style="list-style-type: none"> <li>• Develop the capacities of local organizations.</li> <li>• Strengthen coordination for litigation and advocacy, aiming to end impunity for crimes of slavery.</li> <li>• Raise stakeholder awareness of the situation and needs of Haratin people, victims of slavery and former victims of slavery.</li> <li>• Better understanding of the support needed by NGOs in the field and of their work for systemic change.</li> </ul>
MRG – UN 2013–16	<ul style="list-style-type: none"> <li>• Reduce violence against women through slavery.</li> <li>• Improve long-term support for women.</li> <li>• Improve access to justice and reparation.</li> <li>• Change the legal and political framework.</li> </ul>
MRG – UN OHCHR 2011–12	<ul style="list-style-type: none"> <li>• Increase the capacity of local NGOs representing the rights of Haratin people.</li> <li>• Raise the awareness of the public and stakeholders to the situation of Haratin people.</li> <li>• Increase the commitment of policy-makers in respect of compliance with and application of international human rights instruments and mechanisms.</li> </ul>

Table D lists activities held to support of strategic litigation. It uses colour coding to show the assessment of the outcomes recorded in recent programme evaluation reports. The variety of activities illustrates of the ‘holistic’ or ‘inclusive’ legal approach used; different approaches are used to initially bring about change in the law (period

before 2015) and afterwards ensure its practical application, including the adoption of policies.

**RED** is used to show that the activity was self-rated as significantly positive. **AMBER** indicates that the activity was self-rated as partially positive. **BLUE** indicates that the activity did not take place or had no impact.

Table D: Categories of actions taken and assessment of their impact

Category of activity	Actions	Activities and impacts (internal evaluation)
<b>1. Litigation before domestic and international courts</b>	<ul style="list-style-type: none"> <li>a. Slavery cases brought before domestic courts</li> <li>b. Cases brought before international mechanisms</li> <li>c. Compendium of cases to show their abundance</li> </ul>	<ul style="list-style-type: none"> <li>• Case before examining magistrates / criminal courts</li> <li>• Case before the special courts</li> <li>• Said and Yarg, before the African Committee of Experts on the Rights and Welfare of the Child</li> <li>• Database</li> </ul>
<b>2. Capacity building – training for different groups (including socio-economic support for victims)</b>	<ul style="list-style-type: none"> <li>d. SOS-Esclaves members (focal points) and civil society partners</li> <li>e. Legal actors</li> <li>f. Paralegals</li> <li>g. Victims</li> <li>h. Journalists</li> <li>i. Law enforcement</li> <li>j. Mauritanian government / policy-makers</li> </ul>	<ul style="list-style-type: none"> <li>• Training in awareness, social support and advocacy for members of SOS-Esclaves</li> <li>• Workshop (2017) in Nouakchott with judges and clerks of special courts, prosecutors and judges</li> <li>• Legal manual</li> <li>• Training for Mauritanian lawyers (2018)</li> <li>• Round tables (2019) with judges and prosecutors of the special courts, lawyers and law enforcement</li> <li>• [Training of law-enforcement officers]*</li> <li>• Socio-economic support for people coming out of slavery</li> <li>• Literacy courses for victims</li> <li>• Monthly meetings with national authorities</li> </ul>
<b>3. International advocacy</b>	<ul style="list-style-type: none"> <li>k. Use of UN mechanisms</li> <li>l. Use of regional (African Union) mechanisms</li> <li>m. Publication of research reports, case studies, etc.</li> </ul>	<ul style="list-style-type: none"> <li>• Meetings with UN agencies / regional and international organizations</li> <li>• Participation in sessions of the committees of treaty bodies and special mechanisms</li> <li>• Submission of reports to the committees of treaty bodies and special mechanisms</li> </ul>
<b>4. Domestic advocacy</b>	<ul style="list-style-type: none"> <li>n. Public awareness raising</li> <li>o. Use of the media</li> <li>p. Publication of research reports, case studies, etc.</li> <li>q. Follow up on recommendations from international mechanisms (MRG and SOS-Esclaves support for monitoring and pressure on the authorities)</li> </ul>	<ul style="list-style-type: none"> <li>• Advocacy for citizenship rights</li> <li>• Physical material containing recommendations for action for key actors</li> <li>• Community awareness raising and information sessions</li> </ul>
<b>5. Self-evaluation and monitoring<sup>32</sup></b>	<ul style="list-style-type: none"> <li>r. Programme performance evaluations (ASI and MRG)</li> <li>s. Narrative reports to donors</li> <li>t. Feedback forms from beneficiaries after activities have taken place</li> </ul>	<ul style="list-style-type: none"> <li>• Lessons learned reports (ASI)</li> <li>• Validation planning and strategy meetings (ASI, MRG, SOS-Esclaves)</li> <li>• Regular communications between partners and ad hoc feedback</li> </ul>

\*NOTE: IT WAS NOT POSSIBLE TO CARRY OUT THIS ACTIVITY.

The self-assessment of the activities above can be complemented with the observations in the next sub-section.

# Key findings on the impact of strategic litigation activities

## Litigation at national and international levels

1. *Activities pertaining to litigation before domestic and international courts are seen as partial successes.* The Said and Yarg case before the African Committee of Experts on the Rights and Welfare of the Child is perceived as an unprecedented success, despite implementation and enforcement obstacles at the national level. The domestic justice system is a source of frustration for local and international organizations, which speak out against acquittals, overly lenient sentences, and the fact that too many cases are dropped or do not lead to prosecution. Access to the domestic justice system is challenging, and many victims simply cannot face going through its processes.

Judicial actors gathered during the round-table sessions of 2019 examining three years of impact of the special criminal courts. Some wondered why the courts were not busier, considering the outcry on the high number of cases of slavery. State authorities and activists hold diametrically opposing positions on this: the government maintains that the low number of cases before the courts is evidence of the extinction of the practice of slavery, and activists are clear that the special court system is failing because the necessary resources for their efficient operation are lacking.

The third section presents the material outcomes of litigation. It shows that, while there are slavery cases being brought to national courts, there are many issues reported with the system. Proceedings are slow, compensation orders are not paid, and the accused have passed, are missing, or released on bail for unclear reasons. Also, criminal court judges have said that too many cases do not reach them as they remain at the stage of complaint to the police and/or prosecutor without going any further. In short, there is a long list of obstacles and this does not lead to any conclusion that the government adopted adequate measures to ensure proper administration of and access to justice and reparation.

2. *MRG's support for SOS-Esclaves and the long-term collaborative relationship with the senior Mauritanian lawyer have clearly added value to strategic litigation activities.* According to ASI, litigation activities (at national and international levels) simply would not

have happened without the support of MRG, and the cases brought before the criminal courts of the country would not have been tried.<sup>33</sup> Projects implementing strategic litigation activities have directly led to long-term collaboration between MRG and a Mauritanian lawyer who has taken on all SOS-Esclaves legal cases. This collaboration, which began in 2009–10, when MRG joined the already-existing partnership between ASI and SOS-Esclaves, was renewed over the 10-year period. This has ensured continuity of legal representation and support from an international NGO.

3. *SOS-Esclaves' capacity to use international mechanisms has improved.* The concerted actions of SOS-Esclaves and international NGOs (especially MRG, whose area of activity includes strategic litigation) have led to an increase in its capacity to use international mechanisms. SOS-Esclaves filed a communication to the African Commission on Human and Peoples' Rights in 1997, which had been declared inadmissible on account of non-exhaustion of domestic remedies. When SOS-Esclaves later submitted the Said and Yarg communication to the African Committee of Experts on the Rights and Welfare of the Child, with the support and advice of MRG, the complaint was upheld. This means that collaboration between the organizations and added expertise led to the effective use of international bodies for the protection of human rights.
4. *Under the project, a database that documents cases brought by SOS-Esclaves was created. This has the potential to become a key tool for litigation and advocacy. Even so, use of this resource needs to be the subject of a strategy discussion.* Activities reported in the database were initiated to achieve the specific objectives of projects relating to strategic litigation and domestic advocacy. To demonstrate the existence of slavery and refute the claims made by the state that it did not exist, partner organizations created a database of slavery cases for which SOS-Esclaves has provided support. The database is in place, but it is used very little by SOS-Esclaves and has not yet been used to support advocacy.

For different reasons, when addressing the work on the database, partners have mixed feelings and approaches: SOS-Esclaves staff leave it entirely to programme directors to comment and decide on the value of using the database; MRG reports not knowing what to expect from possibly accessing its information; and ASI explains that the resource has huge potential, but that SOS-Esclaves staff do not use it. Several implementation issues are raised:

- Only one person held the onerous role of inputting cases into the database and it was expected that this individual would train others in the use of the database, but this has not yet happened.
- The incomplete nature of the information.
- Most case files are available only in Arabic, and scanned copies of handwritten notes are often illegible, making translation difficult.
- Remote access is not yet possible, for reasons related to network security.
- Other priorities with precise time requirements have made development of the database seem ambitious and long-drawn-out.
- Procedures for protecting data confidentiality and personal information about victims are not sufficiently clear and raise concerns.

A strategic discussion regarding the use of this resource is planned as part of the EU 2020–23 project. Based on the interviews held under this review, it would be useful if partners openly set out their expectations, constraints and concerns in respect of this project and show flexibility on possible strategic directions.

## Capacity building

5. *Capacity building, including training for different groups, constituted a substantial part of the work and has had a very positive impact on the people trained.* This category encompasses many activities and has greatly developed over time. In general, it is clear that these activities have positive impacts and that a range of knowledge has been acquired by all the sectors involved. Critical assessments, according to which some successes are only partial, come from activists who are frustrated at the lack of political will and institutional lethargy. Training activities as such are very well targeted and conducted. During interviews, there was unanimity on the desire to continue this specific work and no negative reviews in respect of capacity-building activities were registered.
6. *The workshop with law-enforcement agencies was an excellent initiative and it would be appropriate to continue to hope that this could eventually take place.* While this activity was well thought through in theory, it could not take place in practice, because the Mauritanian government disagreed with a prior security process that would have required the names of all the law-enforcement officers to be communicated to the US Embassy.<sup>34</sup> Some interviewees also hinted that the authorities were simply reluctant for training to be

held. Partner organizations responsible for action, in consultation with the donor, postponed this activity several times and then cancelled it. Recent interviews with SOS-Esclaves staff and other Mauritanian activists show that they would support a reconsideration of this aspect of the legal strategy and its possible inclusion in future programmes. ‘Police inertia’ was mentioned several times as a weak link in the chain of justice, because several complaints would go no further than the indictment phase.

7. *Training for judicial actors supported the emergence of a legal community fighting for the end of slavery in Mauritania, but the actual impact of this training will only be felt if and when this support is strengthened.* In general, training has played an essential role for the legal community, as explained by a participant: ‘This training has been very useful for the emergence of a legal community working to end slavery and address its consequences.’<sup>35</sup> There is, nonetheless, a need to consolidate learning and to continue to build the capacities and resources available to Mauritanian lawyers who are in a position to act for the cause. Interviewees noted the absence of a more formal support network among participants / the legal community.

The workshops of 2017 and 2018 were organized as twin sessions (with intended participation in both) and they mainly involved legal actors. MRG expressed disappointment regarding the lack of feedback after the training, wondering if this was due to a lack of investment in the cause on the part of participants. Also, several of the participants that had been trained one year had changed role the following year. This meant that only a few people were able to participate in both training sessions, the second of which was intended to be a progression from the first. Nevertheless, the 2018 training event was assessed more positively than the 2017 event, which had been criticized by ASI on the grounds that the participants were people in positions of power, and they seemed to decry the inaction of other (government) actors instead of taking responsibility for that over which they had authority.

Judicial actors play a very important role in working towards the harmonization of domestic law with international legal standards. During the review process it was observed that these stakeholders have shown interest in integrating international law into their practice but demonstrated limited capacity in that regard. It was not possible to confirm whether they had used international law effectively in their practice. While some theoretical knowledge is held, it

does not seem to have been applied in the context of proceedings before national courts or of support for advocacy for the rights of those affected by slavery. This is an indicator that further and more assiduous training in international law could be needed to effectively support change within the legal profession through the empowerment of legal actors.

8. *Impact assessment of capacity-building activities for paralegals and victims shows an acquisition of legal knowledge.* In interviews, victims said that they knew about the Said and Yarg case, because of information published by SOS-Esclaves, and were able to talk a little about it. Some victims also mentioned the changes in the law and the creation of the special courts as positive changes, while also making it clear that implementation was, nonetheless, lacking. These pieces of information are indicators of the impact of the work done to build the capacity of victims.
9. *Deeper understanding of the significance of the Said and Yarg case by the different actors responsible for its implementation could increase the material impact of this ruling.* Several members of SOS-Esclaves staff and paralegals interviewed incorrectly claimed that the Said and Yarg case had been brought by the government (see third section of the report for details of the case). The interview with the Advisor to the Minister of Justice also left unanswered questions concerning this case, which could indicate a lack of either knowledge or interest.

The comments gathered on the significance of this case show that its potential impact is underestimated or overlooked. This affects the effective implementation of this important ruling. For the Said and Yarg case to generate more impact, activities must continue to build the capacity of all stakeholders able to influence its implementation.

## International advocacy

10. *In general, international advocacy strategies were very successful and the voice of SOS-Esclaves was heard.* The success of international advocacy is largely due to the fact that international mechanisms aiming to protect and promote human rights offer effective channels for NGO participation and procedures for complaints. In the spirit of facilitating dialogue with states parties, these mechanisms provide opportunities for civil society: 'International advocacy helps structure the conversation and have the key questions posed by experts who put them better than we do. International

advocacy is excellent work that must continue.'<sup>36</sup> SOS-Esclaves had very little experience of using these mechanisms before 2010. During the period under study, SOS-Esclaves' voice was eloquently communicated to the various international bodies. For the Mauritanian government, participation in these mechanisms and interaction with civil society through them was also a significant new experience over the last decade. The response of the state also clearly evolved over time, even though it was often criticized by both civil society and international mechanisms as being laudable in theory but dismal in practice.

11. *Through international advocacy, partners have made intense use of international mechanisms and have effectively influenced the adoption of strong recommendations to the Mauritanian state.* Analysis of actions and results clearly shows that the reports submitted by partner organizations in preparation for visits and interventions by international mechanisms in Mauritania have fuelled dialogue with the state. The study found that between 2012 and 2019, partner organizations submitted at least 16 interventions in the form of alternative reports to various international mechanisms, often accompanied by representatives of the Mauritanian organizations attending public sessions of the mechanisms.

The mechanisms used were:

- The UN Committee on Economic, Social and Cultural Rights (CESCR)
- The UN Human Rights Committee (under the International Covenant on Civil and Political Rights, UNHRC/ICCPR)
- The UN Committee Against Torture (CAT)
- The UN Committee on the Elimination of All Forms of Discrimination against Women (CEDAW)
- The UN Committee on the Rights of the Child (CRC)
- The UN Committee on the Elimination of Racial Discrimination (CERD)
- The African Commission on Human and Peoples' Rights (ACHPR)
- The UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences
- The UN Special Rapporteur on minority issues

International advocacy also reached the Conference Committee on the Application of Standards and the Committee of Experts on the Application of

Conventions and Recommendations of the International Labour Organization (ILO).

Following all of the above-mentioned submissions, except one (Committee Against Torture, 2014), human rights mechanisms adopted concluding observations and recommendations directly based on reports of human rights violations in connection with slavery. Reports were prepared by NGOs and submitted in parallel with the examination of the Mauritanian government's reports. These strong concluding observations and recommendations evidently challenged authorities of the state, which took care to follow up on them in their subsequent reports. The use of international mechanisms has thus clearly contributed to increasing the visibility of SOS-Esclaves and of the issue of descent-based slavery in Mauritania. Several interviewees participating in this study also highlighted that international pressure had been an important driver for change. For example, the Secretary-General of FONADH said: 'It is thanks to the use of international mechanisms that changes can be observed. Before, the government completely denied the existence of slavery, while today there are people within agencies that recognize the problem who are prepared to act.'<sup>37</sup>

12. *The use of international mechanisms has been a gateway for training several activists involved in the action in international law and the functioning of its protection bodies.* Interview responses on this were unanimous: actively contributing to human rights mechanisms has an inherent, strong training effect. Activists gained skills and improved them, in research, consultation, evidence gathering, submissions writing, public statements. They also improved their visibility through international travel and presence. SOS-Esclaves staff's participation in mechanisms directly influenced the adoption of recommendations. Activists' accounts during the study are to the effect that they are using the knowledge and skills acquired.

13. *The use of international mechanisms has led to domestic authorities taking a degree of ownership of the problem, but effective implementation at national level is hindered.* The work done by NGOs with international mechanisms to promote and protect human rights allowed a dialogue to take place with the state and 'an ownership of the problem by the Mauritanian authorities, who have been preparing, because there is a roadmap and answers to submit to the questions that will be coming up during future human rights mechanism sessions'.<sup>38</sup> During the

decade from 2000 to 2010, issues of slavery barely figured in discussions on international platforms. The observations that followed the initial report of Mauritania to the CRC in 2001 excluded slavery.<sup>39</sup> The problem was brought to the knowledge of CERD in 2001, probably by civil society, but little was known about it at that time and the involvement of both the state and civil society was limited.<sup>40</sup>

Over the past decade, allegations made internationally by civil society of the persistence of slavery and advocacy for the rights of victims and former victims have intensified and this has directly led to the state addressing the issue.<sup>41</sup> Following these discussions in international forums, according to one activist:

*The authorities are well aware of international law; they are presenting their reports. The problem is compliance. Political will, I can't say it exists and I can't say it doesn't, but I do know that social pressure is so strong in Mauritania that it is often to the detriment of international law. When issues affect major ethnic groups, families and tribes, what matters is what these groups want, not international law.*<sup>42</sup>

ASI's interpretation of this active and positive attitude of the state is, however, sober: Mauritania seems to have a 'tendency to develop new initiatives around the time that it is under the spotlight [by UN committees, etc.]' and so, 'recommendations made on similar lines to ours are sometimes tempered by praise [from the international community towards the new initiatives], but the government's action is often strategic to counter international criticism and no real change in terms of the abolition of slavery emerges from it.'<sup>43</sup>

Some people interviewed by this study emphasized an improvement in respect of the government's taking ownership of recommendations from international mechanisms. One of the people of that opinion explained: 'In terms of the level of attention given by the new authorities to recommendations from international mechanisms, I think that we have noticed a degree of progress.'<sup>44</sup>

The creation of the new social protection agency (replacing Tadamoun) and one particular recent initiative from the National Human Rights Committee<sup>45</sup> are two opportunities mentioned during interviews for a positive impact for the cause. Nevertheless, the expectations of the president of SOS-Esclaves remain muted because, he says, real change will only be seen when the people concerned are

involved in the decision-making structures of all the initiatives aimed at protecting those affected by slavery.

## Domestic advocacy

14. *Domestic advocacy against slavery in Mauritania is extremely difficult, mainly because of power structures that perpetuate inequality and the practice of slavery.* The comments that the assessors made during their programme performance reviews bear witness to the fact that government policy-makers and judicial and national leadership posts are overwhelmingly occupied by members of population groups that once were or possibly still are subjecting people to slavery. The assessment of domestic advocacy activities compiled by ASI in 2019 reports that project managers in Mauritania agree unanimously about the obstacles they have encountered: 'the obstacles to successful advocacy were always the same: promises made but rarely kept, complicity between authorities and those who are subjecting people to slavery, and even reluctance to recognize the victims as being in a different situation to other Mauriticians'.<sup>46</sup>
15. *The involvement of civil society in decisions pertaining to slavery is neither facilitated nor encouraged by the state but is, rather, often limited or rejected.* The state has, on several occasions over the past decade, seriously rebuffed civil society combating slavery. In 2017, for example, international NGOs were refused entry to the country and local NGOs were prevented from holding their activities in certain public places. The international media were given equally brusque treatment at that time.<sup>47</sup> While relationships with the state appear to be improving recently, the voices of local NGOs have historically been silenced rather than heard.
16. *Advocacy work does not reach remote areas.* Two recent performance evaluations have identified as programme weaknesses the fact that the work of SOS-Esclaves is geographically limited to three wilayas, one of which is Nouakchott, and that most of its work is done in urban or peri-urban areas. A lack of financial resources to reach persons affected in remote areas has also been stressed by members and SOS-Esclaves.
17. *The impact of activities could eventually be improved with greater involvement of the Beidane population group in the cause.* It seems that the two groups are polarized, that is the group historically subjected to slavery practices (Haratin or Black Moors) and the group that has historically been and still today is in power (Beidane or White Moors). It has been suggested to further directly
- involve Beidane communities in advocacy activities in order to foster alliances with the Haratin community and changes of attitude and behaviour.
18. *Civil society prides itself on alternative methods of conflict resolution that it has often used and sometimes prioritized (in parallel with or in place of legal action); this has supported sensitization and awareness raising.* In its advocacy with the government, SOS-Esclaves and its local partners mostly use dialogue and non-violent methods. One effective method of advocacy, besides legal action, has been to meet up with those who are subjecting people to slavery and explain the law to them and the reasons for ensuring that victims and former victims enjoy their rights and freedom fully. This is an alternative method of conflict resolution that has had a positive impact in some respects. FONADH explains:
19. *It is not violence or insults that will move things forward, but dialogue. We explain that the people living in slavery or forced labour since they were born worked for you ... that creates a different way of looking at these matters.*<sup>48</sup>
20. *Domestic advocacy does not seem to influence the state in complying with its responsibilities to support victims and former victims. This role is played by civil society organizations such as SOS-Esclaves.* Every programme of the last 10 years has included a strong element of capacity building and activities to support victims. SOS-Esclaves has developed an approach strongly focused on the rehabilitation and capacity building of former victims so that they achieve emancipation and genuine freedom from slavery. One of the reasons for this programmatic emphasis is that the authorities do not honour this part of their mandate as institutions of the state. Victim support activities are also an arduous and burdensome task for local NGOs. According to Boubacar Messaoud, it is imperative that the institutional agencies responsible for victim support work with the civil society organizations that understand the problem and are in a position to share their expertise. Future national advocacy should hammer this message home until the situation changes.
21. *Monitoring and evaluation is frequently performed by international NGOs, but these processes should more extensively involve local NGOs and especially the lawyers representing them.* Self-monitoring and evaluation is a key component of ASI's and MRG's theories of change. A significant number of monitoring activities take place,

## Monitoring

and several strategic reports have been submitted during the period under study. These have been supported by participatory research methods and validation meetings. This work constitutes a solid base for strategic planning and action. Further developing and supporting systemic processes involving local organizations (and eventually led by them) would be beneficial.

Self-evaluation of programmes by local partners is often not a possibility, due to the constraints of work in the field and the multiple administrative obligations that accompany projects. Consideration should be given to establishing monitoring mechanisms that would lighten the administrative burden and help local NGOs to take on programme self-evaluation. It seems that the process of preparing narrative reports to donors is essentially run by international NGOs. In general, strategic planning tools are used less at the local level. With

regard to legal activities, adding better structured and systematic self-monitoring components to programmes would certainly have the potential to improve reporting and follow-up on litigation activities. ASI and MRG have expressed some dismay at the lack of clarity on the status of pending cases. One suggestion to address this issue would be to expressly allocate contractual responsibility for tracking and monitoring cases to the lawyers representing. This could nurture self-evaluation and provide clarity on the progress/status of cases taken before domestic courts. This could enhance support provided to lawyers and could lead to better exchange of information between all partners.

The final part of this report also suggests the establishment of a mentoring system for legal professionals. Self-monitoring and assessment could be part of that initiative.

# 3 Impact and outcomes of the use of judicial and quasi-judicial mechanisms

*There is effective action by the courts in the fight against slavery, under the anti-slavery Law of 2015. There is a penal response against all forms of slavery. Trials have taken place at every level of the courts in this regard and custodial sentences have been imposed as well as fines. A circular has been sent to all courts to underline the importance of giving priority to cases related to slavery.<sup>49</sup>*

Government of Mauritania, 2018

While the Mauritanian government argues that the legal measures taken to combat slavery are adequate and that the activity of the courts in this regard is effective; the view of domestic and international civil society is quite another matter. This section highlights the problems related to the effectiveness of domestic courts.

MRG's programme managers explained that strategic litigation was a key component of the programme of support for its Mauritanian partners during the period 2010–20. The approach used was that of collecting numerous allegations and, therefore, support for bringing many cases before the national courts. Only a small handful of cases have made it through the winding path of national justice since the abolition of slavery, most of these during recent years. There is, therefore, a change, but access to justice continues to be severely constrained.

The changes to the justice system that took place in 2015 also gave grounds to hope that this legal strategy would finally lead to positive results for victims. Also, it was hoped that demonstrating the abundance of cases would have finally led to the adoption of policy measures targeted at addressing the social inequalities related to slavery. This strategic angle has not yet produced the desired impact. The results of cases brought to domestic and international justice are presented in this section.

## Pending cases supported by MRG

By the end of the EU project of 2016–19, the project is following up closely on 10 cases. Most of those are still pending before national criminal authorities.

Ongoing cases include:

- Five complaints that have been formally filed before the authorities by victims since 2015 and that are still pending:
  - Two related cases remain before the prosecutor of Néma (since January 2017), who has ordered an investigation, but the accused cannot be traced.
  - Another complaint filed before the prosecutor of Néma in January 2017 is not moving forward; the order to the police to investigate and arrest those who are subjecting people to slavery has not yielded any result.
  - Another case has been pending before the Criminal Court of Atar since December 2017. A follow-up mission to the prosecutor of Atar in 2018 revealed difficulties making contact with some of the victims, who have fled and are trying to save their families. The case was sent back to Atar and has been suspended since 2018.
  - A complaint filed in 2015 resulted in an acquittal by the Néma Special Court in 2016 and an appeal was lodged before the court of Kiffa, but no date has been set since 2016.
- A complaint dated 2017, which was beset by many obstacles in its procedural journey and appears to have recently been withdrawn by the victim.
- A complaint (Hajarra) that appears to have been dealt with by the civil courts (the Civil and Social Chamber of the Court of Appeal) and which has also been stalled with no outcome since 2018. MRG's lawyers say the reasons why this was a civil case are unclear. In respect of this case, there is a pending request from MRG for further information from the Mauritanian lawyer.

Cases closed by the national justice system but monitored by MRG and SOS-Esclaves for effective prosecution are:

- A case that was filed in 2011 and ruled on seven months later the same year by the Criminal Court of Nouakchott, then by the Court of Appeal in 2016 and finally by the Supreme Court in 2018. At the international level, meanwhile, a complaint submitted in 2015 to the African Committee of Experts on the Rights and Welfare of the Child<sup>50</sup> and the 2017

decision of the African Committee of Experts is ongoing (Said and Yarg – see below for details).

- Another case filed in 2011 that was ruled on in Néma in 2018 led to a 10-year prison sentence and a fine of 25,000 new ouguiyas (approximately US \$7,000). The accused was freed on bail pending the victims' appeal on compensation and is now untraceable.
- A case that began in 2015 and finally led to a verdict in Néma in 2019. The story of this case is one of a particularly difficult legal journey: the examining magistrate referred the case to the Néma Special Court in 2016. Two appeals on the referral were lodged in Kiffa by the defendants and the Supreme Court had confirmed the transfer of the case to Néma Special Court. A hearing had been scheduled for November 2018, but was postponed because the accused was not present and the court said that it had lost the file. The file was sent back to Néma and the accused was finally found guilty and sentenced to 15 years in prison and a fine of 5 million ouguiyas,<sup>51</sup> and civil status papers were produced for the person he formerly had held in slavery. There is no information available on the enforcement of this sentence.

## Key findings on domestic-level litigation

22. *Many obstacles are challenging access to justice for slavery victims.* The MRG report to the EU (2016) reflects the fact that:

*Since 2010, more than 30 slavery cases have been brought to the attention of the judicial authorities. ... In some cases, those facing slavery accusations were released on bail after their initial arrest, allowing them to flee or hide in order to avoid conviction. In other cases, the judges reclassified accusations of slavery as offences that were much less severe, such as conflicts related to employment or exploitation of minors. Nonetheless, as already mentioned, most slavery cases never get as far as the criminal courts as they are stuck at the prosecutor level.<sup>52</sup>*

The obstacles identified include:

- Complaints are not always taken seriously.
- Prosecutors order enquiries that are then not conducted or lead nowhere.
- The defendants are not located.
- Those found guilty are not located.
- Sentences are too lenient.
- Prosecutors sometimes tolerate negotiations with the victims.

23. *The withdrawal of complaints by victims is a problem that SOS-Esclaves has to contend with and strategic planning could devise a specific support for this aspect of the work.* SOS-Esclaves explains that, too often, victims are pressed into withdrawing their complaints and seeking compensation instead. Boubacar Messaoud explains that, in some cases, his organization has continued proceedings as a civil party after the victims have agreed to negotiate, even though the organization encourages victims to pursue criminal justice and to not accept offers from those who have subjected them to slavery. The slowness of proceedings, the cumbersome nature of the process and the associated stigma have a crucial influence on victims' decisions. Ultimately too, the disparity in the estimates of the amounts for the parties involved makes it impossible to achieve justice through monetary negotiations.

24. *The material outcomes of cases taken to the special courts are poor, largely because these courts lack the resources to do their work properly.* The workshops with judicial actors in 2017–18 and the round tables held in 2019 enabled discussion of this problem. Boubacar Messaoud of SOS-Esclaves is critical of the fact that three special courts were created without the allocation of adequate resources. He explains that for other special courts, such as the drugs court, just one court, with more resources, was created. He sees in this a lack of competence and possibly a strategy to curb the effectiveness of these mechanisms.

25. *It would be useful for partners to gather their knowledge and document a more complete picture of cases that were brought to the national justice system since 1981.* Eleven people have been convicted of slavery since its abolition in 1981.<sup>53</sup> An article in the Mauritanian press stated that the Oumar Ould Aida case of November 2019 put the number of slavery convictions since 1981 at eight. This study has now found 10 convictions under the special courts.<sup>54</sup> To this can be added Said and Yarg (discussed below), which has gone before ordinary criminal justice, putting the number of convictions listed under the project at 11. While this figure may possibly be incomplete, it is highly likely that these are the only 11 criminal convictions for slavery from all the cases since the laws of 2007 and 2015. It should also be stressed that all 11 of these convictions took place after 2011.

26. *Partners would benefit from working together to develop better internal procedures for the monitoring and management of information on allegations brought before the justice system.* The exact number of complaints filed

during the project is difficult to quantify, not only regarding possible actions outside the project and unknown to it, but also even within the scope of the project. The study has not had access to sufficient information to undertake a thorough analysis of the complaints laid before the justice system and their outcomes. The study noted the complexity of information and the difficulty of tracking it. It also noted a certain lack of communication between MRG's legal personnel and the SOS-Esclaves lawyer, which resulted in a disparity of information in internal documentation.

The work done on development of the database is aimed at strengthening monitoring and augmenting the availability of information. Its potential added value is indisputable, and the project would truly gain from ensuring this resource is accessible. The study notes that this resource is being developed and that it has broader objectives than that of listing complaints that have been or are going to be made to judicial authorities. In the very short term, however, it is strongly suggested that internal procedures should be strengthened for coordinating and monitoring cases that have been laid before the authorities, as the

internal notes exchanged by the SOS-Esclaves and MRG legal teams are incomplete.

27. *Rulings are not generally implemented, however holding trials in the special courts seems to have led to some positive social changes for both those accused of slavery and victims.* Many commented on the immense impact of adoption of the law and the establishment of the special courts. In general, there is agreement that although some sentences are too lenient or are not enforced, there have been ricochet effects from simply holding trials.

*The trials held by the special courts have had a positive impact on those who were subjecting people to slavery. These people have been directly approached and have reconciled with the people they were holding in slavery. [...] When those who once practised slavery saw those who were subjecting people to slavery dragged to court and tried, they could only have felt afraid and therefore freed the people they were holding under slavery before being targeted by the justice system. [...] For victims, a different positive effect was observed. Before those cases were brought before the courts, they would not speak of their abusive past. They would not assert their rights. Seeing those subjecting people to slavery appearing before the*

## Chronology of the Said and Yarg legal case

In April 2011, Said and Yarg filed a complaint with the Police Brigade for Minors and their case was heard seven months later in the same year, by the Criminal Court of Nouakchott. The Criminal Court of First Instance considered a case in which eight people were accused of the crime of slavery. The results in the first instance were:

- One person was found guilty (articles 4 and 7 of the 2007 Law) and sentenced to two years in prison for deprivation of education and slavery.
- Four defendants were found guilty of not having reported the situation (article 56, CCC), two years' suspended sentence, and severally responsible for compensation to Said of 840,000 ouguiyas (approximately US \$24,000) and to Yarg of 240,000 ouguiyas (approximately US \$6,650).
- Said and Yarg's mother (a former victim of slavery) was also accused and found guilty (under article 4 of the 2007 Law); she was sentenced to two years' imprisonment, suspended due to mitigating circumstances.
- One other accused was acquitted for lack of evidence.
- Another defendant was untraceable/unidentifiable and therefore not prosecuted.

The defence mounted an appeal in 2011, but not without difficulties. The defendant sentenced to two years' imprisonment had been released after four months. The victims' lawyer had not been informed of the release. Hearings were scheduled for November 2012 but were not held because the defendants could not be found.

In December 2015, a communication was filed with the African Committee of Experts on the Rights and Welfare of the Child.

In November 2016, the hearing in the Court of Appeal finally took place. The Court of Appeal upheld the verdict and increased the financial compensation (which, however, has not been paid to Said and Yarg to date).

In December 2017, the African Committee of Experts on the Rights and Welfare of the Child published its decision and declared that the Mauritanian state had violated articles 1, 3, 4, 5, 11, 12, 15, 16 and 21 of the African Charter on the Rights and Welfare of the Child (ACRWC).

On 18 April 2018, the Supreme Court upheld the judgment of the Court of Appeal.

*special courts brings hope that they too will be able to enjoy their right to liberty and will be able to approach the authorities or organizations able to support them.*<sup>55</sup>

## The Said and Yarg case

In parallel with its processing under the national criminal justice system, Said and Yarg<sup>56</sup> was the subject of a communication to the African Committee of Experts on the Rights and Welfare of the Child. This dual examination was possible because domestic remedies were ineffective.

Said and Yarg had an immensely positive impact on many levels, but the lack of enforcement of the sentence undermines the benefits of this breakthrough. As Lalla Aicha Cheikhou explains:

*This case has been an example of persistence, in the case of the work of SOS-Esclaves, of the importance of persevering to achieve the resolution of a problem ... it has constituted official recognition by the state of a case of slavery.... On the other hand, the person who subjected Said and Yarg to slavery has not served his sentence and I don't know why. Nobody knows why. His sentence was confirmed, but he never served it.*<sup>57</sup>

## Key findings on international litigation

28. Pursuing international remedies created pressure to progress the Said and Yarg case at the domestic level. The appeal hearing was due to take place in 2012, but only took place in November 2016, while the case was the subject of a complaint to the African Committee of Experts. The Court of Appeal increased the compensation

amount. The substantive content of the African Committee of Experts' decision was not, however, taken into consideration in the appeal to the highest court in the country, the Supreme Court, on 18 April 2018, which upheld the judgment of the Court of Appeal and did not take into account the decision of the African Committee of Experts (under which the penalties would have been more severe and consistent with national legislation and the anti-slavery law of 2015).

29. *The African Committee of Experts' decision is a formal denunciation of Mauritania's failure to fulfil its responsibilities.* The committee noted in its decision that the law criminalizing the practice of slavery does not in itself offer sufficient protection against this practice and Mauritania does not yet have the adequate measures necessary for prevention, the holding of criminal investigations, criminal prosecutions, and appropriate penalties and remedies for crimes of slavery. This leads to impunity.
30. *The realization of citizenship rights by obtaining identity papers is a material result for Said and Yarg, who have consequently been able to attend school.* Nonetheless, the African Committee of Experts recommended that the state should deal with the general problem for children and populations descending from those victims of slavery of obtaining citizenship and/or identity documents, and this has still not been implemented.
31. *The African Committee of Experts' decision has significantly increased the visibility of the work of SOS-Esclaves, MRG and ASI.* This has, therefore, amplified the reach of the awareness work done by these organizations at the national level.

# 4 Matters for discussion and strategic planning

*The next strategic steps for SOS-Eslaves are, in chronological order:*

*(1) Effective use of the courts that have been established.*

*(2) The state providing socio-economic support for victims in a real way.*

*(3) Strengthening the voices of former slavery victims and ensuring their participation.*

Salimata Lám

## International law and pressure on authorities

The analysis of the outcomes from the impact of international advocacy is clear: this part of the partners' work has produced outstanding results on several levels. The strategy used is a winning formula: international human rights mechanisms are used creatively and intensively, which builds capacities and enhances participation of victims and the organizations representing them. Strong recommendations to the state are consequently made by international human rights mechanisms. What is missing? Effective national implementation.

The state has been seen to react to the pressure placed on it through the use of the international mechanisms. This reaction, although highly appropriate in theory, is flawed in practice. Despite this, dialogue has started. National civil society organizations, with the support of international organizations, can invest more efforts into following up on the recommendations made by treaty bodies and special mechanisms. This could be more systematically integrated into the training offered to all stakeholders, including judicial actors.

## Strengthening domestic advocacy through command of international law

Reacting to a question inferring a lack of political will to implement international standards, Mauritanian lawyer Fatimata M'Baye explained: 'The state lacks political assurance. There is a need to translate domestic legislation

and international standards into social and economic policies.<sup>258</sup> This remark calls for the dialogue to continue. The use of international mechanisms has most certainly been and still remains a platform for that dialogue. It is important to convey the achievements of international advocacy to the domestic level.

Some people interviewed mistakenly described the Said and Yarg case as having been implemented at national level. Interviewees also had an opportunity to give examples of their use of international law at the domestic level, and the examples offered showed, among other issues, that practical knowledge of the recommendations of international bodies could be strengthened, so that their advocacy efforts could concretely contribute to the harmonization of national law with international law.

A programme evaluation carried out by ASI in 2019 explained that SOS-Eslaves had a project to compile its own recommendations and use them as the basis for a domestic advocacy document, but this initiative has not yet been executed. MRG could support SOS-Eslaves in respect of the integration of international law at the national level. This impact assessment has compiled the recommendations of human rights treaty bodies in a document that could be made available to trainers and SOS-Eslaves; this document is in itself can be an advocacy tool.

In continuing its work with international mechanisms, SOS-Eslaves should rely further on existing standards and recommendations, to increase pressure at the national level. The monitoring process at UN CERD, for example has proved useful for several situations of human rights violations in many countries. It seems that so far, international mechanisms have been the main allies of change and that the next decade could see increased efforts to translate outcomes to the national level, through mastery of the gains made by SOS-Eslaves and those it represents.

## Angles of approach for strategic litigation

*Strengthening the system in place.* Most of the people interviewed as part of the study emphasized the urgent need to ensure the efficient functioning of the legal system created by the 2015 Law, that is the three special courts for

slavery. The round-table discussion with legal actors made it clear that the lack of resources allocated to these courts was a real problem, hence the low number of cases actually tried and the lack of enforcement of the decisions. One lawyer explained, 'Right now, it seems to me that the primary need is to find an efficient tool for enforcement of the important trial decisions made by the courts.'<sup>59</sup> Enforcement is already a strategic priority and will remain so in years to come.

Also, after several years of strategic litigation, one question has emerged, particularly for MRG. The question is that of whether the goal of taking multiple cases to court in order to demonstrate the existence of the practice of slavery and to influence national reforms remains a worthwhile tactical approach. The finding of a lack of correspondence between the number of cases brought to the justice system and the actual number of convictions is, at the very least, discouraging, and human rights activists are asking themselves how to channel their efforts. Voices from the field ask for continuing support to use and strengthen the existing system.

*Discrimination.* In parallel with actions to improve the enforcement of criminal justice, one course of action proposed by the leaders of international programmes is to include more fully the issue of discrimination within litigation activities. This is an interesting proposal; the work could be developed on the basis of other existing international human rights law work. The joint alternative report submitted by MRG, ASI and SOS-Esclaves to the Human Rights Council (2019) examining Mauritania's report on the application of the ICCPR highlights how discrimination issues could be examined.<sup>60</sup> The report offers an excellent foundation as it presents the legal landscape and cross-cutting questions associated with discrimination in Mauritania. The UN has also raised serious concerns regarding the 2019 anti-discrimination law<sup>61</sup> and the concluding observations of several committees contain relevant recommendations.<sup>62</sup>

*Crimes against humanity and universal jurisdiction.* The ability to use new remedies based on the principle of universal jurisdiction for crimes against humanity was also put forward in discussions with lawyers, albeit in a very exploratory manner. This idea could be discussed further with SOS-Esclaves and the international lawyers who support their work.

## Should the training of judicial actors continue?

MRG head of law Jennifer Castello thinks that it is now strategic to dedicate support to raising public

awareness and building the capacities of activists, such as paralegals and journalists. She questions the usefulness and effectiveness of training high-level members of the judiciary, such as judges and prosecutors.

Her thinking chimes with an observation made by Sarah Mathewson. She presented a pessimistic report on the results of the training workshop held in March 2017 for members of the judiciary:

*It was noted during the workshops that participants were better able to identify gaps and to make recommendations on how others should be enforcing the law, rather than on how they could themselves improve. Participants did not indicate that they felt responsible for the legal system, which they described as not fit for purpose, and gave no convincing explanation of the overall failures of the judicial system, in respect of investigations and prosecutions. Several useful and relevant recommendations could and should have already been implemented.<sup>63</sup>*

A number of complications also support this questioning of the value of training for judicial actors. One problem is that judges have been transferred to other roles after a short time in post. This results in difficulties following up on training activities, and can explain the non-participation of judges and lawyers in the workshop feedback questionnaire. Also, the very important issue of the independence of the justice system has been brought up by many as an obstacle to effective training of the judiciary.

However, the impact assessment shows that training events for legal actors have helped gather a legal community around the issue of slavery, and a certain ownership of the problem by some judicial and state actors has emerged. The legal actors consulted are also very open and enthusiastic about the proposal to create an international support and exchange network that could carry out a mentoring role for the Mauritanian legal community. The concerns of MRG and ASI about the value of this training denotes the difficulty of the task, rather than its lack of potential impact. We believe that the obstacles highlighted only serve to confirm the importance of the support provided by the training of institutions and legal actors, and efforts must be redoubled in order to generate the impact sought. There is no doubt that capacity building for legal actors is a key element of the support system for change.

## Is it appropriate to form an international legal panel?

During the period under study, efforts have been made to increase the commitment of Mauritanian lawyers to the cause of anti-slavery. The funding applications and their strategic objectives and narrative reports bear witness to this: there is a need for a larger number of lawyers to commit to the cause and to represent victims in criminal proceedings. Although progress can be seen in this respect since the projects started (when just one lawyer represented victims), the commitment of Mauritanian legal professionals to this serious crime remains low.

MRG and ASI programme managers explained that, in addition to structural obstacles inherent to the judicial system, representing slavery victims is a very onerous role for Mauritanian lawyers. Senior Mauritanian lawyer Elid Mohamenden (mandated to represent ASI/MRG and SOS-Esclaves since 2011) explains that the cases are many and the task immense, and that victims should be supported through this lengthy and arduous process.

One way to increase support among lawyers could be to set up an international legal panel (or working group). In addition to continuing to provide essential support for building the capacities of Mauritanian lawyers, SOS-Esclaves/MRG/ASI could initiate a mentoring programme and an international support network. The international and Mauritanian lawyers with whom this study was conducted all confirmed the relevance of such an initiative and their openness to taking part in one.

Lawyer Elid Mohamenden was encouraged by the idea of forming an international legal panel (or working group). He explained that workshops such as the training events for legal actors, were very helpful in enabling consultation and sharing. He acknowledged that, unfortunately, Mauritanian legal professionals generally work alone, and that providing opportunities for stakeholders to meet and support each other could enable concerted efforts. He also suggested sharing experience with other countries that are familiar with the issues.

In summary, the expected outcomes of such an initiative are: improved legal and judicial support for victims by lawyers; opportunities to consolidate legal strategies and form alliances; building collegial links among Mauritanian lawyers; and mentoring in support of the profession.

## Should a stakeholder analysis be conducted?

Another question raised in the study was whether it would be sensible to conduct a study of all the actors involved in the fight for the eradication of descent-based

slavery in Mauritania. It was suggested that this study should seize the opportunity to start to draw up a profile of the organizations working in this field.

According to the people consulted, IRA and SOS-Esclaves would seem to be the only organizations taking slavery cases before the Mauritanian courts. This is only a supposition, however. Preliminary research identifies the following international actors as having been involved in national and/or international advocacy during the period of the study: the ILO, the German Agency for International Cooperation (GIZ), Amnesty International, the American Bar Association, the Unrepresented Nations and Peoples Organization (UNPO), the Society for Threatened Peoples, IUTC, Abolition Institute, and Agir Ensemble. Relationships between these organizations do not seem to be coordinated.

At the national level, the following organizations submitted a joint report to the Committee Against Torture in 2018: Mauritanian Human Rights Association (Association Mauritanienne pour les Droits de l'Homme, AMDH); Association of Women Heads of Household (Association des Femmes Chefs de Famille, AFCF); SOS-Esclaves; Action for the Protection of Human Rights in Mauritania (Action pour la Protection des Droits de l'Homme en Mauritanie, APDHM); Unity Network for the Development of Mauritania (Réseau Unité pour le Développement de la Mauritanie, RUDM); Committee for Solidarity with the Victims of Human Rights Violations in Mauritania (Comité de Solidarité avec les Victimes des violations des droits humains, CSVVDH); Forum of National Human Rights Organizations (Forum des Associations Nationales des Droits de l'Homme, FONADH); and ACAT-France. SOS-Esclaves would be able to provide a more detailed picture of the areas of action of each of its organizations, and very probably add to the list.

The question is whether an analysis of stakeholders, key players and their roles could enhance the scope and possible impact of action. Such initiatives have supported the work of several civil society organizations in the past. It falls on SOS-Esclaves/MRG/ASI to discuss the possibility of carrying out such a study in support of strategic priorities. This could have several advantages, such as identifying women's and children's rights organizations in order to deepen support relationships, and the inclusion of the issue of slavery in coordination work. Some resource persons exist with demonstrated expertise in this field and whom it would be useful to consult.<sup>64</sup>

## Needs and opportunities related to the use of information technology

Training journalists is one of the programme's key successes of the last decade.<sup>65</sup> The integration into future activities of training for activists in the use of social media is already in under discussion. The upcoming workshop for knowledge exchange could explore this idea further. The potential impact, relevance and appropriateness of using video content, such as documentaries, educational video clips and webinars, could also be discussed.

The need to expand channels of communication between partners has been further highlighted with the incidence of the global pandemic. With travel bans, working methods have had to be adapted. The methodology of this study attempted to use new technologies to undertake remote information gathering and this was satisfactorily achieved. It appeared, however, that all parties involved would benefit from support to develop new skills in the use of technology to make

conference calls, record interviews, use reporting techniques and present audio-visual content.

With this in mind, and taking into account the means of communication now available, it seems that legal programmes ought also to facilitate the use of new technologies, in order to ensure impactful activities. Documentation in the form of images and videos can be extremely useful, and so far advocacy and other legal work have not used these communications channels very much. The new EU project, running from 2020 to 2023, does contain a programme component on information technology.

Such activities will have much greater impact if they are developed, managed and disseminated by beneficiaries and those responsible for programme implementation in the field. While the international media sometimes cover the issue of descent-based slavery in Mauritania, they do so from the standpoint of their own perspectives and value systems. The idea here would be to create further space for learning and content creation with the potential scope to reach more people through a Mauritanian lens.

# Notes

- 1 This workshop in Mali was a consultation preceding the report: Couillard, V., *Difficile passage vers la liberté: 10 ans de travail contre l'esclavage par ascendance en Afrique de l'Ouest*, London, Anti-Slavery International (ASI), June 2019, <https://www.antislavery.org/wp-content/uploads/2019/09/AntiSlavery-Report-french.pdf>
- 2 The results of the online survey are available at: <https://www.surveymonkey.com/stories/SM-HFWL8YSY/>
- 3 For a detailed discussion of this suggestion, see Barber, C.C., *Tackling the Evaluation Challenge in Human Rights: Assessing the Impact of Strategic Litigation Organizations*, Catherine Corey Barber, Working Paper, No. 55, September 2010, Hertie School of Governance, available at: <http://edoc.vifapol.de/opus/volltexte/2013/4269/pdf/56.pdf>, p. 17, citing Reisman, Gienapp and Stachowiak, 2007.
- 4 The performance evaluation approach examines the results of activities (inputs/outputs) in connection with the objectives originally set by programmes. For example, a programme evaluation may measure an objective as being partially achieved because 3 cases rather than the 10 originally set as an objective have been won/ruled on by the courts. While a performance evaluation approach may afford immediate correlations, it is rarely possible to demonstrate an immediate, precise correlation with actions in the case of an impact assessment.
- 5 This aspect of the assessment of the impact of strategic litigation activities is presented in detail in: Open Society Justice Initiative, *Strategic Litigation Impacts, Insights from Global Experience*, New York, Open Society Foundations, 2018.
- 6 See: [https://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2\\_en.pdf](https://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2_en.pdf)
- 7 Recommendation: 'that the 2007 Slavery Act be amended to contain a clearer definition of slavery to aid judicial enforcement, provide for victim assistance and socio-economic programmes to aid victims' reintegration into society'. See: [https://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2\\_en.pdf](https://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20.Add.2_en.pdf)
- 8 Tadamoun is also given responsibility for integrating Mauritanian returnees from Senegal and combating poverty, to 'promote and implement, particularly within the Strategic Framework for Combating Poverty (CSLP), programmes to eradicate poverty in all regions of Mauritania'. <http://www.tadamoun.mr>
- 9 Shahinian, G., Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, A/HRC/15/20, 26 August 2014, available at: [https://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/27/53/Add.1](https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/27/53/Add.1)
- 10 The Law covers four types of crime: slavery, placement, serfdom and debt bondage. Article 3: 'For the purposes of this Law, the following definitions shall be understood: *Slavery*: the status or condition of a person over whom are exercised the attributes of property law or certain of them. Slavery includes: any act of capture, acquisition of surrender of an individual for the purpose of reducing that person to slavery; of selling or exchanging that person; any form of serfdom or servitude for debts; any form of forced labour; any act of trading in or transporting enslaved people; deprivation of property or inheritance rights on the grounds that an individual is enslaved; deprivation of the right to take legal proceedings or to bear witness. *Placement*: A practice under which: a woman, with no right to refuse, is promised or given in marriage for a consideration in money or in kind paid to her parents, guardian, family or any other person or group of persons, the husband of a woman or the family of the husband who surrenders her or tries, for a consideration or otherwise, to surrender her to a third party; the transfer by succession of a woman, on the death of her husband, to another person; the handing-over of a child, by its parents or by one of its parents or by its guardian to a third party, for payment or not, for the purpose of exploiting it or subjecting it to work. *Serfdom*: the condition of any person who is required by law, custom or agreement, to live and labour on land belonging to another person and to give the other person, for payment or free of charge, certain determined services, without being free to change his or her condition. *Debt bondage*: the status or condition resulting from that fact that a debtor has pledged to provide, as security for a debt, his or her services either in person or through a person over whom the debtor has authority, if the value of these services as reasonably assessed is not applied to the paying-down of the debt or if the duration of the services is not limited or if their character is not defined. *Slave*: An individual over whom is exercised the status of slavery.'
- 11 However, these sentences are not enforced and are, for the most part, too lenient or not in accordance with the sentences provided in the 2015 Law. See the third section, 'Impact and outcomes ...', for more details.
- 12 See third section, 'Impact and outcomes ...', for further detail on the recommendations of the African Committee of Experts.
- 13 'The new agency will be responsible for such tasks as fighting poverty, eliminating the legacy of slavery, building and refurbishing schools and supporting social insurance networks. This new institution is an election promise of President Mohamed Ould Cheikh El Ghazouani. Even before its constitutive texts have come into force, the agency is already attracting a great deal of favourable comment.' 'Création d'une nouvelle Agence de protection sociale', 10 November 2019, <http://lecalame.info/?q=node/9472>
- 14 Interview with lawyer Elid Mohamenden, September 2020.
- 15 Advocacy at the international level has certainly had a striking impact.
- 16 Lalla Aicha Cheikh, Committee for Solidarity with the Victims of Human Rights Violations in Mauritania (CSVVDH), interview in September 2020.
- 17 'Création d'une nouvelle Agence de protection sociale', op. cit.
- 18 Interview with Boubacar Messaoud, October 2020.
- 19 This opinion is widely shared by all the stakeholders interviewed by this study. For example, Boubacar Messaoud explains that the creation of the three special courts was itself a premeditated failure, because it was never going to be possible to provide the resources necessary for them to operate properly. He compared that with the specialized drugs court, whereby just one court was established, which was more realistic and practicable.
- 20 Interview with Mamadou Sarr, Secretary-General of the Forum of National Human-Rights Organizations (FONADH), October 2020.
- 21 Interview with Boubacar Messaoud, October 2020.
- 22 Interview with Lalla Aicha Cheikh, CSVVDH, op. cit.

- 23 Text of funding applications submitted to the European Union by MRG. The problem of descent-based slavery as discussed here is presented broadly in the same terms in most of the supporting documents for funding applications by the three partner organizations.
- 24 See: <https://www.betterevaluation.org/fr/node/5312> (back-translated into English).
- 25 This document is available in English on request; it was developed as part of a recent unsuccessful application for funding specifically targeted at women's rights.
- 26 This document is available in English on request. Claire Thomas, MRG Executive Director, explains that MRG uses a holistic approach to achieve change. This extends to legal action.
- 27 This ultimate change sought is stated in MRG's theory of change, available on request: 'Positive change in law and practice and implementation'.
- 28 Excerpts from a project document on women's rights under consideration in 2019. Used here to demonstrate the theory of change in support of this project.
- 29 Sarah Mathewson, Evaluation of the Mauritania project, 2019.
- 30 The list of projects in the table can be taken as exhaustive in respect of legal strategy. Other projects managed exclusively by ASI and/or SOS-Esclaves were in connection with legal objectives. However, they are not covered here, because they were aimed more essentially at the socio-economic support of victims and the strategic organizational side of local NGOs working to eradicate slavery.
- 31 The projects shown here were managed with the very close collaboration of SOS-Esclaves and were administered by the international organizations (ASI and/or MRG) mainly for administrative reasons. SOS-Esclaves remained ultimately responsible for deciding on activities and, most of the time, submitted support requests to the two organizations, which took on part of the administration burden that accompanies requests for funding and their monitoring.
- 32 The impact of these self-evaluation points does not seem to have been internally analysed, so no colour code has been attached to them.
- 33 Interview with Sarah Mathewson, June 2020.
- 34 This monitoring process is called the Leahy vetting system, after American Senator Patrick Leahy who introduced it. Its purpose is to ensure that the United States does not provide military support to people responsible for human rights violations.
- 35 Interview with Mauritanian lawyer Boubechrine Ould Cheikh on 17 August 2020. Translation into French by SISTA.
- 36 Interview with Lalla Aicha Cheikh, CSVDH, op. cit.
- 37 Interview with Mamadou Sarr, FONADH, op. cit.
- 38 Ibid.
- 39 Concluding observations of the Committee on the Rights of the Child: Mauritania, CRC/C/15/Add.159, 6 November 2001.
- 40 'With regard to article 5 of the Convention, allegations are noted to the effect that some groups of the population, especially the black communities, are still suffering from various forms of exclusion and discrimination, especially where access to public services and employment is concerned. While the Committee notes with satisfaction that Mauritanian legislation has abolished slavery and servitude, it also notes that, in some parts of the country, vestiges of practices of slavery and involuntary servitude could still persist, despite the State party's efforts to eradicate such practices.' Conclusions [concluding observations] of the Committee on the Elimination of Racial Discrimination, CERD/C/304/Add.82, 12 April 2001, para. 9.
- 41 Among the most significant reactions from the Mauritanian government, we note: its response to the CRC in 2018, the interaction with the UN Rapporteur in respect of the roadmap, the report to the African Committee of Experts on implementation of Said and Yarg, and the response to ICCPR in April 2019.
- 42 Interview with Lalla Aicha Cheikh, CSVDH, op. cit.
- 43 Sarah Mathewson, Evaluation of the Mauritania project, op. cit.
- 44 Interview with Boubechrine Ould Cheikh, op. cit.
- 45 This initiative was not explained in detail, but lawyer Elid Mohamenden would seem to have access to more information.
- 46 Sarah Mathewson, Evaluation of the Mauritania project, op. cit.
- 47 The story by journalist Tiphaine Gosse linked to the Said and Yarg case is a rich source of information about the Mauritanian context in 2017. See: Gosse, T., 'Esclavage: La face cachée de la Mauritanie', Sept.inmfo, available at: <https://www.sept.info/esclavagisme-mauritanie>
- 48 Interview with Mamadou Sarr, FONADH, op. cit.
- 49 The Committee on the Rights of the Child examining the Mauritania report, Geneva, 18 September 2018, <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=23585&LangID=F>
- 50 The complaint to the African Committee of Experts has advanced the appeal to the national level – see discussion that follows.
- 51 The information does not specify whether these are new or old ouguiyas. If they are new ouguiyas, then the fine equates to US \$1.39 million and if they are old ouguiyas, the equivalent amount would be US \$139,000.
- 52 Text of MRG funding request to EU, 2016.
- 53 See: <http://www.fr.alakhbar.info/15218-0-Mauritanie-Trois-personnes-condamnees-pour-esclavage.html>
- 54 Two other convictions were probably handed down just after publication of the press article.
- 55 Interview with Boubechrine Ould Cheikh, op. cit.
- 56 Minority Rights Group International and SOS-Esclaves, acting on behalf of Said Ould Salem and Yarg Ould Salem in their case against the Government of the Republic of Mauritania, Communication No. 7/Com/003/2015, Decision No. 003/2017, African Committee of Experts on the Rights and Welfare of the Child, 15 December 2017.
- 57 Chair of the CSVDH, interview, op. cit.
- 58 Interview with Fatimata M'Bayem.
- 59 Interview with Boubechrine Ould Cheikh, op. cit.
- 60 Alternative report available at: <https://minorityrights.org/wp-content/uploads/2019/06/2019-CCPR-Mauritania-Update-June-2019.pdf>
- 61 OHCHR, 'Mauritanie: Des experts des droits de l'homme demandent une réforme immédiate de la nouvelle loi sur la non-discrimination', 31 January 2018, available at: <https://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=22618&LangID=F>
- 62 See, among others: CERD/C/MRT/CO/8-14, Committee on the Elimination of Racial Discrimination, concluding observations on the report of Mauritania combining the eighth to the fourteenth periodic reports, adopted by the Committee at its ninety-fifth session (23 April to 11 May 2018); CEDAW/C/MRT/CO/2-3, Committee on the Elimination of Discrimination Against Women, concluding observations on the second and third periodic reports of Mauritania presented in one document, adopted by the Committee at its fifty-eighth session (30 June to 18 July 2014). In 2013, before the passing of the 2015 Law, UNCAT had explained the problem by illustrating the intersection of slavery, racial discrimination and torture, CAT/C/MRT/CO/1, Committee Against Torture, concluding observation on the initial report of Mauritania, adopted by the Committee at its fiftieth session (6 to 31 May 2013).
- 63 Sarah Mathewson, Evaluation of the Mauritania project, 2019.
- 64 One of the resources that could be useful on this issue is: <https://www.thegrassrootscollective.org/stakeholder-analysis-nonprofit>
- 65 Evaluation reports refer frequently to this success. See also Couillard, *Difficile passage vers la liberté*, op. cit.

# working to secure the rights of minorities and indigenous peoples

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## Ending slavery in Mauritania: The impact of legal advocacy and strategic litigation from 2010 to 2020

This report, *Ending slavery in Mauritania: The impact of legal advocacy and strategic litigation from 2010 to 2020*, provides an assessment of the activities undertaken by Minority Rights Group (MRG), Anti-Slavery International (ASI) and SOS-Esclaves in the decade 2010–20, focusing on strategic litigation activities, domestic-level litigation and international litigation. The organizations have worked closely together during this time to campaign for an end to slavery in Mauritania, a practice that continues despite being criminalized.

First, the report presents key events that have supported the change in the legal landscape in Mauritania and offers an overview of the roles played by organizations involved in the fight against descent-based slavery. Second, it looks at the theories of change of the different stakeholders involved in action to define the impact of advocacy and strategic litigation activities. It then goes on to analyse the impact and outcomes of the use of judicial and quasi-judicial mechanisms. The final section offers items for reflection, discussion and strategic planning.

### Minority Rights Group International

Minority Rights Group International (MRG) is a non-governmental organization (NGO) working to secure the rights of ethnic, religious and linguistic minorities and indigenous peoples worldwide, and to promote cooperation and understanding between communities. Our activities are focused on international advocacy, training, publishing and outreach. We are guided by the needs expressed by our worldwide partner network of organizations, which represent minority and indigenous peoples.

MRG works with over 150 organizations in nearly 50 countries. Our governing Council, which meets twice a year, has members from 10 different countries. MRG has consultative status with the United Nations Economic and Social Council (ECOSOC), and observer status with the African Commission on Human and Peoples' Rights (ACHPR).

MRG is registered as a charity and a company limited by guarantee under English law: registered charity no. 282305, limited company no. 1544957.



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ISBN Print: 978-1-912938-63-6. Online: 978-1-912938-77-3.

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