

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS
Twenty-Fifth Ordinary Session
26 April - 5 May 1999

S.O.S. - ESCLAVES
v.
MAURITANIA

DECISION

BEFORE: CHAIRMAN: Mr. Youssoupha Ndiaye VICE CHAIRMAN: Dr. Vera Valentino Duarte Martins COMMISSIONERS: Dr. Ibrahim Ali Badawi El-Sheikh, Dr. Mohammed Hatem Ben Salem, Professor E.V.O. Dankwa Professor Issac Nguema, Mrs. Julienne Ondziel-Gnelenga, Dr. Nyameko Barney Pityana, Mr. Kamal Rezag-Bara

Citation: S.O.S. - Esclaves v. Mauritania, Comm. 198/97, 12th ACHPR AAR Annex V (1998-1999)

Publications: IHRDA, Compilation of Decisions on Communications of the African Commission On Human and Peoples' Rights Extracted from the Commission's Activity Reports 1994-2001, at 158 (2002); Documents of the African Commission on Human and Peoples' Rights, at 742 (Malcolm D. Evans & Rachel Murray eds., 2001; (2000) AHRLR 147 (ACHPR 1999))

RAPPORTEUR

22nd session: Commissioner Ondziel-Gnelenga

23rd session: Commissioner Ondziel-Gnelenga

24th session: Commissioner Ondziel-Gnelenga

25th session: Commissioner Ondziel-Gnelenga

THE FACTS AS PRESENTED BY THE COMPLAINANT

1. SOS – Esclaves alleges that slavery remains a common practice in Mauritania, regardless of its prohibition under the law. According to this NGO, in a considerable number of cases, the Mauritanian government is informed about these practices, and in some of those cases, it occasionally supports the authors of those practices. SOS-Esclaves cites some concrete examples in support of its allegations.

2. In its report of March 1996, SOS-Esclaves provides the following illustrations: ten Mauritanian adults sold and bought as slaves (M'barka mint Said, Temrazguint mint M'Barek, Nema mint Ramdane, Aïchana mint Abeid Boïlil, Mbarka mint Meriéme, Zgheilina, Bakary, Abeid, Aïcha mint Soélim, Kneïba); children from four families enslaved by the masters of their parents (the daughter of M'barka mint Meriéme, the five children of Aïchana mint abeid Boïlil, the daughter of Messaoud ould jiddou, and the two sons of Fatma mint Mama); four other children sold as slaves (Baba ould Samba, Houssein, Mohamed Ould Maouloud, Sidi ould Matallah); two Mauritanian women married to their masters against their will (Aïchetou mint M'Boyrik and Temrazguint mint M'Bareck); finally, six Maritanians and their families dispossessed of their ancestral property by the masters of their parents, following the death of the latter (Mohamed ould Bilal, Oum El Hella mint Bilal, Bah ould Rabahl, Biram ould Abd Elbarka and M'Boyrik would Maouloud).

3. SOS – Esclaves requested the Mauritanian government to carry out investigations into these acts and to take necessary measures for their eradication. However, its request was never followed up.

COMPLAINT

4. The communication alleges violation of articles 2, 3, 4, 5, 6, 7, 9, 11 and 15 of the African Charter.

PROCEDURE

5. The communication is dated 11 April 1997 and was received by the Commission meeting at its 21st Ordinary Session, which was seized of the matter.

6. On 7 July 1997, a letter of notification was addressed to the Mauritanian government informing it of the content of the communication and requesting it to give its reaction.

7. On 7 July 1997, a letter was sent to the complainant acknowledging receipt of the complaint.

8. At the 22nd ordinary session held from 2 – 11 November 1997, the Commission decided to defer action on all communications submitted against Mauritania until the 23rd session. This was due to the fact that it was still awaiting the reaction of the government to the mission report that had been given to it during the 21st session.

9. At the 23rd session, the Commission determined that some of the information contained in the report submitted in conjunction with the communication did not help it to establish conclusively whether internal remedies had been exhausted. In particular, the Commission emphasised that SOS – Esclaves should supply copies of all judicial decisions on all the cases that it brings up in its report, and to point out those cases that were still pending before Mauritanian jurisdictions. This would enable it to decide on a firm basis of knowledge as the admissibility of the communication.

10. On 25 April 1998, a copy of the communication and the letters requesting additional information on internal procedure were given to the Mauritanian representative at the 23rd session.

11. On 19 August 1998, correspondence was dispatched to the complainant communicating the Commission's position to it.

12. At its 24th ordinary session, the Commission deferred consideration of the this communication to the following session.

13. On 12 November 1998, the Secretariat addressed letters to both parties informing them of this decision.

LAW

ADMISSIBILITY

14. In terms of the provisions of article 56, 5 of the African Charter on Human and Peoples' Rights, "communications [.....] relating to Human and Peoples' Rights received by the Commission, shall be examined if they [.....] are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged."

15. The facts alleged in the communication submitted by SOS – Esclaves are very grave and from all appearances, contrary to the provisions of the African Charter on Human and Peoples' Rights, in particular articles 2, 3 and 5. However, the complainant, having indicated that there are internal procedures initiated by the supposed victims, does not say anything regarding the status of those procedures. Hence, the Commission is unable to determine whether the said procedures have been concluded or otherwise; nor whether they have allowed the supposed victims to have their rights restored.

16. To enable it to reach an objective determination, the Commission requested the complainant to supply the additional information it required. Faced with the silence observed by the latter, it is unable to form a precise opinion regarding the facts of which it has been seized. This would seem to indicate that the internal remedies have not been exhausted; the Commission is of the view that if they had been, the complainant would have made it known.

FOR THESE REASONS, THE COMMISSION

17. Declares the communication inadmissible due to non-exhaustion of internal remedies;

18. It however acknowledges that the complainant still enjoys the opportunity to seize the Commission again once the conditions of article 56, 5 have been fulfilled.

Bujumbura, 5 May 1999.