

FRANCE: Exploitation case sees slavery criminalised at last

Summary

Henriette, 15, was brought to France from Togo by one of her father's acquaintances. She believed she would be given an education, but was instead made to work long hours for no pay, and never went to school. Following a tip-off, police freed Henriette, and she later made an application to the European Court of Human Rights, claiming that France failed to prevent and effectively punish the perpetrators for slavery, servitude, or forced or compulsory labour.

Background

When she was 14, Henriette Siliadin lived in Togo. A friend of her father, who lived in Paris, suggested that she could have a better life if she left Togo and continued her education in France. Henriette was put on a plane to Paris, believing that she would perform domestic work to pay off the cost of her airfare, but it quickly became clear that she was not a guest.

In [an interview](#) many years later, she recalled: "On the first day after my arrival in January I was given just two blankets. One I put on the ground to sleep on. The other was to cover myself. It was terribly cold for someone coming from Africa. Immediately I realised I had made a mistake."

Henriette was given small weekly food rations and allowed to eat the family's leftovers - if there were any. Forced to sleep on the floor, she once tried to sleep on a sofa, but was woken within minutes and told she was only allowed to sleep in the corner of the kitchen. As well as looking after children, cooking food and cleaning the house Henriette was made to cut and sew fabric for her captor's clothes shop. Having had her passport confiscated there seemed to be nowhere for Henriette to turn. She tried to contact her parents but could not find the correct country code.

She explained: "I was a slave," she said, "The only difference was that they didn't buy me from my parents. But they betrayed my trust and that of my parents. Slaves at least know that they have been bought."

"I was the first to wake up and the last to sleep. Sometimes, when I did sleep, they told me that I had not worked properly and was punished. I had no friends, no money, no documents and nowhere to go."

After a few months Henriette was sent to work for another woman “Mrs. B”, where she was made to work around 15 hours a day, seven days a week, caring for a newborn and carrying out domestic chores. She slept on a mattress in the children’s bedroom and then a folding bed during this time, but was never paid, never had her immigration regularised, and was not given an education, as she had been promised.

In December 1995 she escaped and spent almost six months working for a Haitian national living in France. Henriette was paid during this period, but later returned to Mr. and Mrs. B on the orders of one of her uncles, who claimed that the couple would work to regularise her immigration status if she returned to them. Mr. and Mrs. B never delivered on this promise, and the routine of exploitation and abuse Henriette had become used to simply resumed.

Speaking about the situation years later [she said](#): “After that, I took what came to me and I more or less gave up. I did everything she told me to, to the letter, like a robot. The years were passing and my strength and eyesight started to fail. I learned later at the hospital that I was anaemic and on the point of fainting, because I hadn’t been fed properly.”

In 1998, four and a half years after her ordeal began, Henriette found help. She was asked by the building’s caretaker why she never went outside, and explained her story. The caretaker told her that her tale was almost unbelievable but reported the details to the *Comité contre l’esclavage moderne* (CCEM), an organisation which works to help the victims of modern slavery. Staff from CCEM spoke with the caretaker and, finding the evidence credible, alerted the police to Henriette’s situation. Within days the police intervened, first placing Henriette in police custody and later in a foster family. After being rescued she spent six months in hospital recovering from medical problems brought on by her exploitation.

CCEM seeks justice

After Mr. and Mrs. B’s home was raided they were both charged with obtaining the performance of services without payment and subjecting an individual to working and living conditions incompatible with human dignity, both by [taking advantage of a person’s vulnerability or state of dependence](#). The pair were convicted in 1999 of the first of the two offences and sentenced to 12 months’ imprisonment each, seven of which were suspended, and ordered to pay a 100,000 franc fine and 100,000 francs in damages to Henriette.

However, the Paris Court of Appeal overturned these convictions just over a year later, acquitting Mr. and Mrs. B. The Principal Public Prosecutor’s Office refused to appeal their acquittal, asserting that it “had not been established” that Henriette had been forced to endure working or living conditions incompatible with human dignity.

Henriette appealed the civil aspects of the Paris Court’s decision, and in 2003 an appeal court agreed that Article 225-13, related to acquiring unpaid services from a vulnerable or dependent person, had been violated. The court awarded Siliadin €15,245 for psychological trauma and, in addition, the Paris Industrial Court awarded Siliadin €33,049 in relation to arrears of salary, notice period and holiday leave. This amount was equivalent to slightly more than €1 per hour of work she was made to do.

Assisted by an experienced French advocate, H el ene Cl ement, Henriette made an application to the European Court of Human Rights. With support from CCEM they claimed that France had failed to comply with its positive obligation under Article 4 of the European Convention on Human Rights, which required it to prevent and effectively punish the perpetrators of slavery, servitude, or forced or compulsory labour with adequate criminal law provisions.

In its first submission to the court the Government contended that Henriette could no longer claim to be the victim of a violation of the Convention, as she had accepted the national court decision which had convicted her "employers". It added that in line with other case-law, a decision or measure favourable to an applicant was sufficient to deprive him or her of "victim" status, provided that the national authorities had acknowledged and then afforded redress for the breach of the Convention.

The government claimed that the sanctions applied by the Court of Appeal had afforded redress for the alleged violation, further noting that Henriette's immigration status had been regularised and she had received a residence permit enabling her to reside in France lawfully and to pursue her studies.

Henriette did not dispute that measures and decisions had been taken which were favourable to her but stressed that the State had never acknowledged that it had failed to comply with its positive obligation under Article 4, to secure "tangible and effective protection" against slavery, even though it had offered a civil remedy. She claimed that Articles 225-13 and 225-14 of the Criminal Code, as worded at the time, were too open to interpretation and as such did not provide sufficient protection from the practices she had been subjected to.

Outcome

The court's decision came in July 2005 and it quickly noted similarities with a previous case, [*X and Y v. the Netherlands*](#), and several other cases that dealt with States' positive obligations to set up a system of criminal prosecution and punishment. The cases had been presented in Henriette's arguments to the court, and the French government had conceded that it might have positive obligations to provide criminal penalties, though it stressed that "States had a certain margin of appreciation when it came to intervening in the sphere of relations between individuals", suggesting that the wording of Articles 225-13 and 225-14 of the Criminal Code made it possible to fight all forms of exploitation through labour for the purposes of Article 4.

The government's arguments did not convince the court. Citing *X and Y v. the Netherlands*, its judgment clarified that "effective deterrence against grave acts... where fundamental values and essential aspects of private life are at stake, requires efficient criminal-law provisions. Children and other vulnerable individuals, in particular, are entitled to effective protection". The court added that freedom from slavery was a fundamental value of democratic society and that, in line with current norms, States were required to implement

“the penalisation and effective prosecution of any act aimed at maintaining a person in such a situation”.

Discussing the particulars of Henriette’s case the court noted that, according to the Convention, forced or compulsory labour included “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily”. While the court accepted that no specific penalty had been spelled out to Henriette by the people who exploited her, the fact that she was “an adolescent girl in a foreign land, unlawfully present on French territory and in fear of arrest by the police” was impressed upon her, and she understood the dangers that being reported to the authorities would entail.

Ultimately the Court determined that the conditions she suffered amounted to servitude and forced and compulsory labour, but fell short of the stricter definition of slavery. It held that, although the applicant was clearly deprived of her personal autonomy, she was not held in slavery as there was no genuine right of legal ownership over her. However, as she did not choose to work for Mr and Mrs B. and, due to their refusal to regularise her immigration status or send her to school, she had little hope of her situation improving, conditions which amounted to servitude.

The judgment then turned to whether or not French law and its application constituted a breach of Article 4 of the Convention. It noted that French National Assembly’s own joint taskforce on modern slavery had previously found that the country’s laws were “proving an insufficient deterrent when put to the test”, and that “the provisions of Articles 225-13 and 225-14 of the Criminal Code are open to interpretation in different ways, some more restrictive than others”. The judgment noted that Henriette was unable to see her exploiters convicted under Articles 225-13 and 225-14, and held that it did not afford her or other victims a practical and effective protection, and as such constituted a breach of Article 4.

Impact

Henriette’s case marked the first time the European Court of Human Rights found a breach of Article 4 of the Convention, and the decision affected a string of later rulings dealing with human trafficking and forced labour. The decision made it clear to States that they are required set up systems to protect against violations and make channels available for all victims to enforce their human rights.

Sadly change did not come quickly, and CCEM brought [another similar case](#) to the attention of the court in 2012, involving [two Burundian girls](#) exploited by their French Aunt after the death of their parents. In October the Court found that one of the girls was forced to work in a permanent state of servitude within the meaning of Article 4, ruling again that France had failed in its positive obligation to set in place a legislative and administrative framework to effectively combat servitude and forced labour.

As a result of these cases France amended the law [in the summer of 2013](#) to introduce five new offences into its penal code. These were: reduction to slavery, servitude, forced labor,

forced services and the removal of organs, with the law mandating [prison sentences of up to 30 years](#) for the most serious offences. Despite drastic improvements to the law, CCEM reports that cases of modern slavery are still worryingly common, and that it continues to work on new cases every year.

The decision also had an effect on later cases, being cited in the case of the two Burundian girls exploited in France, [C.N. and V. v. France](#), and also in a case in the UK, [C.N. v. The United Kingdom](#). In both cases the court's decision relied on the fact that it had already penalised France for failing in its positive obligations to protect victims for forced labour, servitude and slavery.

The outcome of Henriette's case also influenced the case of [Rantsev v. Cyprus and Russia](#), concerning the death of a Russian woman in Cyprus in which police failed to investigate circumstances that suggested human trafficking was taking place. The Rantsev case clarified that, while trafficking was not explicitly mentioned with the European Convention on Human Rights, it fell within the scope of Article 4, and broadened its approach to include two other aspects: [positive obligations to prevent trafficking and to protect victims](#).

Henriette is now married, has two children and works as a teacher in France, while also occasionally speaking about her experience. In 2014 she spoke to *Le Figaro* [about her time in servitude](#), confessing that she considered suicide many times during the years of abuse she suffered. Despite what she had been forced to endure, in servitude and in the justice system, Henriette framed her experience in a remarkably positive way.

“In my misfortune, I had the opportunity to meet generous people who gave me the necessary strength to go through with the Committee against Modern Slavery.

“France was also condemned in 2005 by the European Court of Human Rights for not protecting me. But I am very grateful to France, it is thanks to the laws of this beautiful country that I was able to get out and lead today the life I had dreamed of.”

Further information

- Read CRIN's case summary of [Siliadin v. France](#).
- Read CRIN's case summary of [CN v France](#).
- Find out more about [strategic litigation](#).
- See CRIN's [country page on France](#).
- Read CRIN's report on [access to justice for children in France](#).

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