

June 2015

## **Anti-Slavery International submission for the Universal Periodic Review of Niger, 24th Session**

### **Executive Summary**

1. Slavery persists in Niger. Anti-Slavery International and Timidria continue to document the existence of slavery based on descent, whereby slave status is inherited and those affected live under the control of their masters, are treated as property, and receive no payment for their work. While the majority of people of slave descent now live separately from their traditional masters, many continue to face severe discrimination in terms of rights to land ownership, political representation and marriage. In addition, many women and girls of slave descent continue to be sold as '*wahaya*' or '5<sup>th</sup> wives' and are subjected to forced labour and sexual abuse.
2. At its first cycle Universal Periodic Review in 2011, the Government accepted several recommendations relating to the eradication of all forms of slavery; including the adoption of a national action plan to combat slavery; accelerated implementation of anti-slavery laws and policies; prosecution of offenders; victim assistance and rehabilitation; compensation for victims<sup>1</sup>; and specific measures targeted to eradicate the *wahaya* practice<sup>2</sup>
3. While various moves to improve the legal and policy framework against slavery have been undertaken, little has changed in the lives of people of slave descent, as laws against slavery and social discrimination are rarely enforced. In slavery and discrimination cases brought by Anti-Slavery International and Timidria, judges have largely ruled in favour of traditional masters in land disputes, and have often reclassified slavery-related acts under other charges. Only two cases of slavery have ever been successfully prosecuted in a Niger court. While a slavery case was taken to the ECOWAS Court in 2008 and the State of Niger was found guilty of failing to protect a woman from slavery, no concerted efforts have been made to increase the number of prosecutions for slavery crimes. More action is needed to identify and prosecute offenders and assist victims. The Government also needs to put in place affirmative action measures aimed at people of slave descent, including investment in education for children and economic development.

### **1. Slavery in Niger**

#### **1.1 Slavery based on descent**

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<sup>1</sup> Report of the Working Group on the Universal Periodic Review of Niger (A/HRC/17/15), Human Rights Council, Seventeenth session, Agenda item 6, 25 March 2011. Recommendations 76.37 – 76.51.

<sup>2</sup> *Ibid.* Recommendations 76.26.

4. Slavery based on descent remains deeply embedded in Niger. It exists across the country, both in rural and urban areas, and is practised predominantly by the Tuareg, Maure, Zarma, Songhai and Peulh (also known as Pulaar or Fulani) ethnic groups.
5. Under this system, slave status is inherited at birth, and passed through the generations. Those who are born into slavery are forced to work without pay for their so-called masters throughout their lives, primarily herding cattle, working on farmland or performing domestic work. They are denied fundamental rights and their masters exercise powers of ownership over them. Slaves are inherited, and may be given as gifts or have their children taken away from them at an early age.
6. People living in slavery are subjected to verbal, physical and, in the case of women and girls, sexual abuse. Girls are vulnerable to rape by men in the household and can be forced into informal marriages at a young age.
7. Masters also consider that they have the right to demand the marriage dowry of their former slaves (which typically consists of a bed, a tent and kitchen utensils). When a person in slavery dies, the master can claim the inheritance, even if the person has children.
8. In 2014, the ILO Committee of Experts recalled that “the issue of slavery in Niger, which exists in a number of communities where the status of slave continues to be transmitted by birth to persons from certain ethnic groups, has been the subject of its comments for many years.”<sup>3</sup>

## 1.2 The ‘*wahaya*’ or ‘5<sup>th</sup> wife’ practice

9. Another form of slavery still practised in Niger is the ‘*wahaya*’ or ‘5<sup>th</sup> wife’ practice, which is mainly practised in the Tahoua region, and entails the purchase of a woman or a girl under the guise of ‘marriage’. A *wahaya* is a woman or girl of slave status who is sold as a ‘5<sup>th</sup>’ or ‘additional’ wife (in addition to the four wives permitted by Islam). No actual marriage takes place and a *wahaya* has none of the legal rights of a wife. A *wahaya* is treated solely as property; forced to work for her ‘master’ and his family, and sexually exploited.
10. Anti-Slavery International and Timidria documented the routine selling of girls from the black Tuareg ethnic group by their Tuareg ‘masters’ to wealthy men from the Hausa ethnic group in Northern Nigeria. Typically sold for between US\$330 and US\$660 euros, 43 per cent of the girls interviewed were sold between the ages of 9 and 11 years old, and 83 per cent were sold before the age of 15<sup>4</sup>. It is common for the ‘master’ to force sexual relations with the girls as soon as they reach puberty. *Wahayu* are forced to work without pay, never allowed to leave the family’s home apart from to work in their master’s fields or take livestock to pasture. *Wahayu* not only face regular rape and physical abuse from their master, but are constantly mistreated by the

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<sup>3</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (no.29), Niger, Published 2014

<sup>4</sup>Galy Kadir Abdelkader and Moussa Zangaou, *Wahaya: Domestic and sexual slavery in Niger*, Anti-Slavery International and Association Timidria, November 2011

legitimate wives, who view *wahayu* and any children they bear as competition to their own interests.

11. In November 2014, the UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Ms. Urmila Bhoola, (the Special Rapporteur on contemporary forms of slavery) conducted a country visit to Niger and visited villages where ‘*wahayu*’ who fled from this form of their slavery now live. The Special Rapporteur received information that “the sale of girls into sexual slavery continues to exist and these are procured mainly for members of the Nigerian elite, particularly in Birni N’Konni and its surrounding areas.”<sup>5</sup>

### **1.3 Stigmatisation and discrimination against people of slave descent**

12. As noted by the Special Rapporteur on contemporary forms of slavery, people considered to be of slave descent face ongoing stigmatisation and discrimination, including in terms of land ownership and marriage.<sup>6</sup>
13. Masters consider that they own their slaves, so even when former slaves have lived separately from their masters for many years, the master will assume the right to approve their marriage or inherit their property. They are treated as inferior and often have limited opportunities for education and employment. Many slaves are also not on the electoral roll and are therefore not entitled to vote, let alone stand for office. This political exclusion enables those in power to maintain the status quo.
14. The Special Rapporteur on contemporary forms of slavery emphasised that education and socio-economic empowerment of people of slave descent should be a priority for the government. The Special Rapporteur also called on the government to establish a special compensation fund for all victims of slavery and slavery-like practices in order to ensure their economic autonomy and reintegration into society.<sup>7</sup>

## **2. The Government response – legal and policy framework**

15. There is a legal framework prohibiting slavery in Niger. Law No. 2003-25 criminalised slavery and imposes substantial penalties. Legal standing is granted to associations which have a mandate relating to fighting against “slavery or similar practices”, to initiate criminal proceedings against perpetrators. The Constitution of 2010 stipulates in Article 14 that no one shall be subjected to slavery. In 2010 a law was adopted to prevent and fight human trafficking, including trafficking for slavery and slavery-like practices, which led to the creation of the National Coordination Commission and National Agency for Combatting Human Trafficking in 2012. In July 2014 a National Action Plan on Combatting Human Trafficking was adopted. Niger also amended the Labour Code to prohibit forced labour and worst forms of child labour. Law No. 2012-45 of 25 September 2012 updated the Labour Code, which provides further legal protection from slavery-like practices. A National

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<sup>5</sup> *End of Mission Statement by Ms. Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the Country visit to Niger (11 – 21 November 2014)*, <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15329&LangID=E>

<sup>6</sup> *End of Mission Statement by Ms. Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the Country visit to Niger (11 – 21 November 2014)*, op.cit

<sup>7</sup> *Ibid.*

Human Rights Commission was established, with slavery eradication as part of its mandate.

16. The first ever convictions for the crime of slavery since the passage of the 2003 Anti-Slavery Law took place in 2014. In the *case of Timidria v. Elhadji Jadi Razikou*, Birni N’Konni court (South-West Niger) sentenced the individual to four years imprisonment for the ‘*wahaya*’ (5<sup>th</sup> wife) form of slavery. In the *case of Issibite Wanagoda and family & Timidria v. Tafane Abouzeidi*, a family subjected to slavery and acts of torture had managed to escape in 2004. In 2008, courts ruled that their master was guilty of these crimes and sentenced him to one year in prison and a fine of 100,000 CFA (£120), as well as damages to the victims. However, he was acquitted on appeal in 2009. A lengthy appeal process then ensued and the original verdict of a slavery crime was finally upheld in May 2014.
17. In 2008 the Economic Community of West African States (ECOWAS) Community Court ruled that the State of Niger had failed to protect Hadijatou Mani from slavery (*case of Hadijatou Mani Koraou v. The Republic of Niger*) and was ordered to pay compensation of 10,000,000 CFA (US\$). Hadijatou had been in slavery as a ‘*wahaya*’ or ‘5<sup>th</sup> wife’ from the age of 12 when she was sold for 240,000 CFA (US\$) to Elhadj Souleymane Naroua. She carried out domestic and agricultural work without pay and was subjected to regular beatings and rape. She had four children, of whom only two survived. Elhadj Souleymane, who was given a one year prison sentence and a fine of US\$1,000, has yet to be located and arrested. Hadijatou’s two children remain with him and in 2015 her custody claim was definitively denied by a court as the children are now both married and considered adults under Niger law.

### **3. Obstacles to the eradication of slavery and slavery-like practices**

18. While a legal framework criminalising slavery is in place, the number of prosecutions have been very limited.
19. The Special Rapporteur on contemporary forms of slavery noted several key challenges to the eradication of slavery and prosecution of perpetrators. These included gaps in legislation; delays in adopting national action plans and setting up of institutional mechanisms; enforcement and implementation challenges of the legal framework including resource and capacity constraints.<sup>8</sup> Indeed, the Government reported to the International Labour Organisation’s Committee of Experts on the Application of Conventions and Recommendations that the National Committee to combat the vestiges of forced labour and discrimination (established 2006) no longer meets due to a lack of resources, and it has been impossible to implement the action plan adopted by that Committee in 2007.<sup>9</sup>
20. In addition, the coexistence of national law and customary law presents obstacles in the ability of those of slave descent to access remedies, as customary law appears to discriminate against people of slave descent, for example in rulings on land ownership.

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<sup>8</sup> *End of Mission Statement by Ms. Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the Country visit to Niger* (11 – 21 November 2014), op cit

<sup>9</sup> ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning Forced Labour Convention, 1930 (no.29), Niger, Published 2014

21. The Special Rapporteur on contemporary forms of slavery observed that attempts to effectively eradicate slavery and slavery-like practices were also constrained by a number of factors, including endemic poverty, food insecurity, high rates of population growth, and high levels of illiteracy. She concluded that poverty eradication, rule of law and good governance, education and socio-economic empowerment, and overcoming discrimination based on social origin are key to the eradication of slavery.
22. Anti-Slavery International considers that access to education for communities of slave descent is crucial to break the vicious cycle of dependency and slavery between the slave-owning ‘masters’ and communities of former slaves.

#### **4. Recommendations to the Government of Niger:**

- Fully implement the recommendations of the UN Special Rapporteur on contemporary forms of slavery, its causes and consequences, Ms Urmila Bhoola<sup>10</sup>, including to:
  - Conduct continued training of judicial and law enforcement officers on effective enforcement of anti-slavery laws, including on upholding civil law where there are conflicting provisions in customary law.
  - Undertake sustainable awareness-raising about the legislation, including by translating the anti-slavery texts, already in a compendium, into national languages in order to reach out to people.
  - Conduct a study on the prevalence of slavery and slavery-like practices in order to be able to develop targeted programmes aimed at eradicating specific practices and assisting all victims of slavery and slavery-like practices, including through the foreseen special compensation fund.
  - Ensure centralisation of slavery cases and effective case management within the judiciary to allow information sharing.
  - Increase access to justice for victims including the provision of state funded legal aid and victim support.
  - Ensure socio-economic empowerment of people of slave descent through skills development and assistance with alternative livelihoods. Human rights and gender based perspectives need to be part of all poverty reduction and development programmes and strategies and the specific situation of those most vulnerable, including people of slave descent, needs to be taken into account.
  - Ensure quality public education and facilities and implementing compulsory primary schooling particularly for girls, as well as addressing the disrupted schooling of nomadic children and education of children from poverty stricken areas and children of slave descent.
  - Strengthen enforcement of labour law through promulgating regulations and administrative structures to oversee the legislation. In this context the

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<sup>10</sup> The country report was not available at the time of writing. These recommendations are taken from the End of Mission Statement: *End of Mission Statement by Ms. Urmila Bhoola, Special Rapporteur on contemporary forms of slavery, including its causes and consequences, to the Country visit to Niger (11 – 21 November 2014)* op cit

strengthening of the labour inspectorate is important to ensure increased monitoring of forced labour and worst forms of child labour contraventions.

- Ensure access to education for children of slave descent by building more primary and secondary schools in areas affected by slavery.