



July 2008

Information on Niger

Compliance with ILO Convention No.29 on Forced Labour (ratified in 1961)

Slavery in Niger

In 2002-03, Timidria, a non-governmental human rights organisation from Niger, and Anti-Slavery International, carried out research into the scale and scope of slavery practices in Niger. It involved over 11,000 face-to-face interviews in six regions of the country (Agadez, Tahoua, Maradi, Zinder, Tillabéri and Dosso) and constitutes the most comprehensive survey of slavery in Niger to date.

The research found that thousands of Nigerians are born into an established slave class where they are denied fundamental rights and where their masters exercise powers of ownership over them. Slaves are inherited, given as gifts and can have their children taken away from their mothers at an early age. They are forced to work for their masters without pay, most commonly as domestic and agricultural workers.

The survey showed that masters take basic decisions affecting the lives of those in slavery. In response to a question asking who makes the decision on your marriage, 84 per cent of those that responded (8,310 people) said that their master was solely responsible for the decision, while 82 per cent (6,103 people) replied that their master was solely responsible for the decision on whether their children attended school.

The research estimates that more than 40,000 people are in slavery across Niger.

The Government response

In 2003, the Government of Niger took a significant step forward in responding to the problem of slavery by recognising that it “has not been totally eradicated”. It then took appropriate legislative action and changes to the Penal Code were adopted by the National Assembly and approved by the President as Act No.2003 – 025 on 13 June 2003. These changes to the Penal Code make slavery a criminal offence and those responsible for enslaving another person, including accomplices, face a term of imprisonment of between 10 and 30 years and a fine. Organisations combating slavery can sue for damages in civil courts where the law has been broken.

The Prime Minister wrote to the Minister of the Interior in both 2004 and 2005 to urge him to ensure implementation of the law and the Minister wrote to chiefs and district administration heads requesting that this be done. Some awareness raising activities have also been undertaken by the Government.

In November 2006, a National Committee to Combat Forced Labour and Discrimination was officially established with the support of the ILO. The Committee has a mandate to combat forced labour and discrimination, carry out an in-depth diagnostic study of slavery in Niger, and prepare and implement a national action plan. In October 2007, the national action plan was finalised and sent to the Government for its adoption.

These are extremely important initiatives for which the Government should be commended and supported. However, while the Government's response to the issue of slavery in Niger has generally been positive, there have been some inconsistencies which need to be addressed.

For example, while the Government has accepted that slavery persists in Niger and recognised the gravity of the issue, it has questioned, both in the Committee of Experts' report (2004) and at the ILC Standards Committee (2004), the scale of the problem, describing the estimates from the research carried out by Timidria and Anti-Slavery International as "fairly exaggerated" and "excessive". It is important that the Government does not give the impression that the issue of slavery is confined to isolated cases and that it publicly recognises that slavery is a widespread problem which requires action across society. The proposal to undertake an in-depth national study of slavery should address this problem directly.

Of greater concern was the Government's role in an event held on 5 March 2005 near the Mali border in In Atès, Tillabéri. The ceremony was hosted by the National Human Rights Commission and the chief of In Atès intended to announce that all of the slaves in his area would be free. This would have freed some 7,000 people.¹ The Government initially agreed to take part in the ceremony, but then warned slave masters not to release their slaves officially, stating that if they do, they could be subject to 30 years in prison. As a result the slaves were not freed.

The Government of Niger then arrested the president of Timidria, Mr. Iguilas Weila, and his colleague Mr. Alassane Biga on 28 April 2005 on allegations of fraud relating to the planned release in In Atès. At the end of May, the AFP news agency quoted a government spokesman who denied the existence of slavery in Niger and accused those who raised the issue of being determined "to damage the country's image and its leaders". The two members of Timidria were released on bail on 27 June 2005 and the charges against them were only dropped after a year.

In 2007, the Government of Niger categorically denied the existence of slavery before the UN Committee on the Elimination of Discrimination Against Women. A member of the delegation expressed surprise to hear there was slavery in Niger and said that "slavery was a thing of the past or relegated to a few isolated cases." He added that "he could provide evidence of the fact that slavery as defined in international texts did not exist in Niger."²

These repeated public statements by Government officials which deny the existence of slavery and the arrest and imprisonment - on unfounded allegations - of individuals involved

¹ The estimate of the number of slaves to be freed came from the master himself, who declared he and his fellow chiefs in the area had 7,000 slaves.

² Sessions 789 and 790 of the UN Committee on the Elimination of Discrimination Against Women, cited in the UN Economic and Social Council press release, 29 May 2007 (WOM/1632).

in challenging slavery in Niger are likely to have been interpreted by those involved in this practice as a licence to continue this exploitation with impunity.

It is important that the Government ensure that a consistent message relating to the seriousness of slavery is communicated by anyone representing the State and that it work together with representatives from civil society to combat the problem. The limited nature of activities to prosecute those using slaves or release and rehabilitate those affected highlights the need for a national action plan to take these issues forward.

A continuing problem

In February 2004, a six-member mission from Timidria (including Ilguilas Weila who is also a member of the National Commission for Human Rights and Fundamental Liberties) documented the continuing use of slavery during a mission to Agadez, Zinder, Maradi and Tahoua. The mission identified 86 slaves and noted that the practice was not being challenged by the authorities.

In July 2004, Timidria informed Anti-Slavery International that they had identified 802 new cases of slavery. Of these, 793 were in the village of Babou Saye (approximately 65 kilometres from Niamey). Village representatives invited Timidria to Babou Saye where Timidria registered 440 women and 353 men as slaves. However, the authorities took no action to release or assist these people.

In August 2004 Assibit Wanagoda brought a case against her former master for crimes of slavery. Assibit, told Anti-Slavery International that she inherited her status at birth and that her entire family including her mother, aunts, sisters and children had been slaves of Tafane Abuzeidui who had forced them to work with out pay all their lives. Despite being before the judge at the local court in Abalak for almost four years, Assibit is still waiting for the case to be resolved.

During 2005, Anti-Slavery International also gathered numerous first-hand accounts from slaves documenting the abuses they suffer. Women have spoken of living in constant fear of abuse and rape is common. The master exerts psychological control by telling his slaves if they do everything he demands they will go to heaven.

Masters also consider they have the right to demand the marriage dowry of their former slaves (which consists of a bed, a tent and kitchen utensils) and when a slave dies the master can demand the inheritance, even if the former slave has children. Since Timidria started awareness raising in Talamcis, villagers have begun to refuse to hand over their dowries or inheritance. However the masters continue to make demands for money or chores.

In 2006, Timidria facilitated the release of 34 women known to have been sold as *Wahiya* or 'fifth wives' in the Canton of Douguerawa. A further 12 were released in 2007. Anti-Slavery International was able to interview 10 of the women who complained they had been subjugated to forced and unpaid labour, rape and daily insults by their masters. Humanitarian assistance was provided to these women with the support of the UN High Commission for Human Rights.

In the department of Tchintabaraden, Alguimat Ajnalher, took a case against her master to the local court following a violent attack by her master in 2006. The prosecutor ordered the

arrest of the master and two accomplices, although they were released on bail after one week. The presiding judge dismissed the case without hearing arguments. Alguimat's lawyers have lodged an appeal at the Appeal court in Niamey.

The information above highlights the fact that slavery is a significant and ongoing problem in Niger and that many cases are not being resolved even after being brought to the attention of the authorities. It should be noted that Anti-Slavery International is not aware of any measures being taken by the Government either to release or rehabilitate slaves since the changes to the Penal Code were adopted in June 2003.

Problems regarding implementation

On 25 July 2006, Seidimou Hiya was found guilty of the offence of slavery and was ordered to serve one year in jail of a five year sentence and fined the equivalent of £500. He was also ordered to pay his former slave, Houalata Ibrahim, £1,000 in compensation. Houalata Ibrahim said her master "treated me as his slave, as he did my mother before me.... Every time he thought I was late or that the work was done badly, he beat me.... He told me I was just a stupid slave and had no rights."

However on appeal the sentence was dramatically reduced to a suspended prison sentence of 18 months and a fine of the equivalent of £100. Hiya was ordered to pay Houalata £100 in compensation for her years of servitude. The fact that the strong initial sentence was not upheld on appeal is disappointing and a suspended prison sentence for the crime of slavery is not likely to be a deterrent.

This was the first case to be successfully prosecuted since the law against slavery was passed in 2003 and was brought by an NGO, Timidria, who were awarded a symbolic franc towards their legal costs by the judge. It should be stressed that no legal proceedings have been initiated by the authorities to date against anyone for their involvement in slavery.

Even when allegations of slavery are brought to the attention of the authorities, they often fail to promptly investigate and resolve the case. This is clearly demonstrated by the examples cited above and by the case of a 15 year old girl, Zeinbou Souley. She sought Timidria's assistance after running away from her new master after being sold for the equivalent of £240. The Prosecutor at the local Court in Konni dismissed the case stating that Zeinabou was a disobedient girl for refusing to follow her mother's wishes. Timidria continues to seek redress on her behalf.

Those seeking to use the judicial system to access their rights under the law continue to encounter serious obstacles and take substantial risks in bringing cases before the authorities. This is clearly demonstrated by the case of Hadijatou Mani. In 1982, Hadijatou was sold into slavery at the age of 12 years old. She was purchased for £250 and carried out domestic and agricultural work. She also lived as a sexual slave or *sadaka* to her master, who already had four wives and seven other *sadaka*. Hadijatou served her master and his family for 10 years. She was never paid for her work and was subjected to regular beatings and sexual violence.

On 18 August 2005, her master released her - providing a 'liberation' certificate - with the intention of legalising his 'relationship' with her. When Hadijatou sought to exercise her newfound freedom and leave, he refused to let her go, arguing that she was in fact his wife. She appealed to a local tribunal which found that there had been no marriage between them,

and that therefore she was free. Hadijatou then married a man of her own choice, but her former master brought a complaint against her for bigamy and also laid claim to her new baby which was fathered by her real husband. The judge ruled in the master's favour and on 9 May 2007 Hadijatou was sentenced to six months imprisonment.

Hadijatou brought a case against the State of Niger before the Economic Community of West African States (ECOWAS) Community Court of Justice in Niamey on 7 April 2008, on the grounds that Niger has failed to implement laws against slavery. The Government of Niger is accused of not only failing to protect Hadijatou Mani from the practice of slavery, but also continuing to legitimise this practice through its customary law, which is discriminatory against women and in direct conflict with its own criminal code and constitution as well as its obligations under the African Charter of Human and Peoples' Rights and various other international standards.

In 2007, the Government of Niger told the UN Committee on the Elimination of Discrimination Against Women that everything was being done to eliminate discrimination against women. The National Policy is based on respect for women's rights as citizens, non-discrimination, gender equality, equal opportunity and protection of women and children within the family unit. The Government also stated that: "Customary law was gradually being abandoned. Both the family laws of 1962 and 2004 provided safeguards and, as such, custom did not apply automatically or generally; the parties to a case could ask that civil law be applied. When custom clashed with a ratified international convention or with the rules of public order or individual liberties, then custom did not apply. Also when custom was vague, it could not be applied."³

Hadijatou's case illustrates that the Government's assurances about protections for women and the primacy of civil law over customary law are not being applied in practice and that those seeking to use the judicial system to secure their release from slavery can end up being criminalised and incarcerated.

Conclusions and recommendations

The Government of Niger has taken several positive measures to address the situation of slavery in Niger. However, the implementation of the new legislation remains extremely problematic with only one successful prosecution in the four years since the law was passed and even this was undermined by an appeal which suspended a reduced prison sentence. In this context the penalties for the use of slavery cannot be considered adequate or strictly enforced as required by ILO Convention no.29 on forced labour.

The Government must provide training for all judges and judicial personnel on human rights law and specifically on changes to the penal code criminalising slavery and ensure that all government officials are proactive in identifying and prosecuting cases of slavery. Regular reports should be made on progress in implementing the law, including the number of people charged, successfully prosecuted and the sentences passed.

The Government of Niger should establish a national observatory made up of representatives from the Government, human rights and civil society non-governmental organisations, which

³ Sessions 789 and 790 of the UN Committee on the Elimination of Discrimination Against Women, cited in the UN Economic and Social Council press release, 29 May 2007 (WOM/1632).

will implement the national action plan on slavery. This plan should include measures to identify, release and rehabilitate all those living in conditions of slavery, public information campaigns regarding the new law, an in-depth national study of slavery and policies to promote access to education programmes and the provision of economic alternatives to former slaves.