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Anti-Slavery International and Timidria

Alternative report on Niger's implementation of the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC). Initial report.

The Committee on the Rights of the Child 79th Pre-Sessional Working Group (February 2018)

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I. INTRODUCTION

Authors of the report

Anti-Slavery International, in consultative status with ECOSOC since 1950, was set up in 1839 and is the world's leading anti-slavery organisation. Today Anti-Slavery International works to eradicate all contemporary forms of slavery, including bonded labour, forced labour, trafficking in human beings, descent based slavery, the worst forms of child labour, and forced marriage.

Timidria is a community based organisation that was established in 1991 to fight against slavery and discrimination of all forms in Niger. It has approximately 350,000 members across Niger. In 2003, Timidria successfully lobbied the State of Niger to amend the Penal Code to define, prohibit and criminalise slavery. Timidria has since then been campaigning for the effective enforcement of the legislation and the provision of socio-economic support to slavery victims. In 2004, Timidria carried out the first research study into the nature and incidence of slavery in Niger and found that descent-based slavery was still practiced in Northern Niger, affecting approximately 43,000 people. Timidria has also been instrumental in bringing the media and public attention to an undocumented form of slavery, the *Wahaya* or 5th wife practice.

Methodology

Anti-Slavery International and Timidria have been working to combat descent-based slavery in Niger for many years through legal assistance, community education and capacity-building. We played a key role in the landmark international case of Hadijatou Mani, which ruled against the state of Niger for failing to protect her from being sold into slavery when she was only 12 years old. We run a legal programme in order to provide legal support to victims of slavery through the work of a lawyer. Paralegals in four regions of the country also help hundreds of

people obtain identity documents and file claims to the land they farm. In the last 6 years, we have supported nineteen cases in Niger. In our project on ensuring access to education of children of slave descent, we opened six primary schools for families emerging from slavery and built communities around them. The schools serve as a hub for wider projects involving whole communities. They include over 400 microloans for families to start small businesses, human rights and advocacy training, particularly on gender equality and women's leadership, building wells in three communities, so that children are not taken out of school to fetch water for their families. Three neighbouring communities of slave descent, inspired by the success of these schools, were supported to successfully lobby the authorities for the setting-up of schools in their communities.

The information contained in this report has been gathered in the course of these projects, and is based on direct contact with slavery descendants and slavery survivors, and the account given by them of their experiences.

Report content

In this report we provide information on **children in situations of forced labour**, whose circumstances meet the Article 2 definition of the sale of children, for engagement in forced labour. These are: Children in descent-based slavery; the buying and selling of girls to serve as *wahaya* (so-called 5th wives), who are subjected to forced labour and sexual exploitation; *talibés* (children who study at residential Quranic schools, *daaras*) who are forced to beg on the streets by their Quranic masters; and child domestic workers in situations of forced labour.

Please note that further detailed information on these practices is available in our Alternative report on Niger's implementation of the Convention on the Rights of the Child (3rd, 4th and 5th combined periodic reports). To avoid duplication and repetition, we provide summary information in this report.

Anti-Slavery International and Timidria welcome the Committee on the Rights of the Child's (hereafter 'the Committee') upcoming review of Niger's initial report on the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (hereafter the OPSC). We hope that the information contained in this report will inform the pre-sessional review by the Committee and that the areas of concern highlighted here will be reflected in the list of issues submitted to the Government.

II. EXECUTIVE SUMMARY

Various forms of forced child labour persist in Niger, which meet the definition in the OPSC of sale of children for engagement in forced labour. These include children in descent-based slavery; girls sold as *wahaya* (5th wives); forced child begging of *talibés*; and child domestic workers, many of whom are in situations of forced labour.

Descent-based slavery is still practised to some degree in Niger. Children affected live under the direct control of their masters and are treated as property. Like other slaves, they can be rented out, loaned, given as gifts in marriage or inherited by the masters' children. They start work for their masters at a very young age, and work long hours undertaking arduous tasks including drawing water from wells, collecting firewood, cooking, washing clothes, cleaning, caring for the children of their master, grazing animals, and setting up and moving tents. They

receive no payment for this work. Children in slavery experience systematic verbal and physical abuse, and girls are often sexually abused and raped by their masters.

Girls continue to be sold as *wahaya* (so-called 5th wives) and are subjected to forced labour and sexual abuse.

Talibés (children studying at religious schools, *daaras*, which are not regulated by the State), some as young as five years old, are forced to beg on the street. They experience threats, coercion, violence, poor living standards, malnutrition, and receive a poor standard of education.

Child domestic workers are particularly vulnerable to abuse, exploitation and forced labour. Due to the nature of their work inside a private home, they are harder to identify and protect.

COMPREHENSIVE LIST OF THE RECOMMENDATIONS IN THIS REPORT

The Government of Niger is urged to take the following action to address these practices:

PREVENTION

- Ensure socio-economic empowerment of people of slave descent through the provision of education, skills development and assistance, with alternative livelihoods. Human rights and gender-based perspectives need to be part of poverty reduction and development programmes and strategies, and the specific situation of those most vulnerable, including children of slave descent need to be taken into account.
- Fully implement the recommendation of the Special Rapporteur on contemporary forms of slavery to “ensure equal access to high-quality free public education for all children of compulsory school age, including former slaves and those of slave descent, particularly girls, by, inter alia, allocating sufficient budget for adequate school infrastructure, meals in schools and proper teacher training”
- Pay particular attention ensuring the timely and adequate delivery of food supplies to schools in communities of slave descent. The establishment of school canteens are crucial in semi-nomadic areas where food and water are scarce, and instrumental to the ability of children of slave descent to remain in the area and attend the school, as well as to their school attainment and health
- Build more schools in communities formed by former slaves.
- Put measures in place to improve access to secondary education for children of slave descent through the construction of more secondary schools in nomadic areas and/or the provision of bursaries for children who have to leave their family to pursue their education in urban centres.

PROTECTION

Children in descent-based slavery

- Fully implement the recommendations of the UN Special Rapporteur on contemporary forms of slavery, including to coordinate and mainstream anti-slavery efforts; enforce the anti-slavery law and ensure prosecution of perpetrators; take measures to prevent slavery, protect and rehabilitate victims; and raise awareness of the criminalisation of slavery.
Specifically, as recommended by the Special Rapporteur on slavery, to:
- Conduct a nationwide study on the prevalence of slavery and slavery-like practices, in cooperation with national and international stakeholders and the donor community.
- Put in place a national strategy and action plan on the eradication of slavery and slavery like practices and descent-based discrimination.

- Create an adequately funded high-level multi-stakeholder coordination mechanism tasked with monitoring the implementation of anti-slavery strategy and action plan; enforcing anti-slavery legislation, programmes and policies; and tackling its root causes.
- Strictly enforce the anti-slavery law, ensuring prosecution of perpetrators, and ensure effective access to justice for victims of slavery.
- Identify, release and rehabilitate victims of slavery, including their access to safe shelter, family reunification and medical, psychological and other assistance.

***Wahaya* (or 5th wife practice)**

- Fully enforce laws against slavery and prosecute those responsible for selling and buying girls to serve as *wahaya* or ‘5th wives’. Those convicted should receive sentences that are commensurate with the crime and act as a deterrent.
- Amend the 2003 anti-slavery law to make explicit mention of the *wahaya* practice as a slavery crime.

Forced child begging

- Conduct a national study to determine the nature, prevalence, and causes of forced child begging in Niger.
- Take urgent action measures to end forced child begging of *talibés*, some of whom are as young as five years old. Identify *talibés* who are being forced to beg, remove them from harm, and ensure that they are offered rehabilitative care appropriate to their needs.
- Strictly enforce laws relating to forced child begging, which is a worst form of child labour, and ensure that those who exploit children in this way, whoever they may be, are prosecuted and subject to sentences that are commensurate with the crime.
- Provide training for police and other officials who may come into contact with child beggars on national law relating to forced child begging, child protection issues and the differing experiences of children forced to beg.
- Develop strategies to prevent forced child begging that deal with the root causes, including poverty and the lack of access to good quality, affordable state-run education. Measures need to be taken to improve life in the communities of origin so that children from poor backgrounds can stay at home with their families and receive a more rounded education to equip them better for adult life without being sent out to beg.

Child domestic workers in situations of forced labour

- Ratify and implement ILO Convention No. 189 on Decent Work for Domestic Workers.
- Identify, remove, rehabilitate and reintegrate child domestic workers who are in situations of abuse and exploitation, and ensure their access to legal redress.
- Raise public awareness about the risks associated with child domestic work. Particularly, that child labour prevents children from taking better opportunities for their lives.
- Ensure that the education system is accessible for, and responsive to, the specific needs of working children including child domestic workers.

III. PROHIBITION

The legal and policy framework in place to address forced labour, including slavery

A legal framework is in place to address the forms of forced child labour outlined in this report.

Slavery is criminalised 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 for Combatting Trafficking in Persons (CNCLTP) and the National Agency for Combatting Trafficking in Persons (ANLTP) 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 Human Rights Commission was established, with slavery eradication as part of its mandate.

IV. PREVENTION

1. Groups particularly vulnerable to slavery

Children of slave descent, who are still socially perceived as ‘slaves’, face widespread stigma and discrimination. Communities of slave descent and their children face immense challenges. In addition to food and water scarcity, these communities are generally overlooked by government-run services and poverty alleviation programmes due to their marginalisation and remote location. Consequently, children of slave descent, particularly girls, have limited prospects for life and are vulnerable to exploitation, forced labour, and forced and early marriage.

2. Access to education for children of slave descent

For children of slave descent, access to education is their best protection against child labour, slavery, and forced or early marriage, and a vital platform for achieving alternative livelihoods outside of slavery or exploitation in adulthood. However, most children of slave descent are unable to access education due to a range of factors including the unavailability of schools and discriminatory attitudes by the authorities. Semi-nomadic lifestyles compound these impediments. The access of rural children, especially girls, to secondary education is especially problematic because of the long distances and associated costs.

Following her country visit, the UN Special Rapporteur on contemporary forms of slavery observed that “The Government of the Niger has taken important measures to ensure the right to education¹.... Despite those initiatives, investments in school infrastructure and teacher training, the reduction of school fees and the establishment of canteens in alternative rural, previously called nomadic, schools, access to education remains unequal and the education quality in public schools continues to be poor.”² She further noted that “Education plays a key

¹ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Urmila Bhoola, Mission to the Niger, A/HRC/30/35/Add.1, 30 July 2015, para 88

² *Ibid.*, para 89

role in emancipating former slaves and their descendants, combating their social exclusion, marginalization and discrimination and ending slavery and slavery-like practices. Low education levels and high levels of illiteracy perpetuate the cycle of poverty and contribute to the continuation of slavery and related practices.”³

RECOMMENDATIONS

- Ensure socio-economic empowerment of people of slave descent through the provision of education, skills development and assistance, with alternative livelihoods. Human rights and gender-based perspectives need to be part of poverty reduction and development programmes and strategies, and the specific situation of those most vulnerable, including children of slave descent need to be taken into account.
- Fully implement the recommendation of the Special Rapporteur on contemporary forms of slavery to “ensure equal access to high-quality free public education for all children of compulsory school age, including former slaves and those of slave descent, particularly girls, by, inter alia, allocating sufficient budget for adequate school infrastructure, meals in schools and proper teacher training”
- Pay particular attention ensuring the timely and adequate delivery of food supplies to schools in communities of slave descent. The establishment of school canteens are crucial in semi-nomadic areas where food and water are scarce, and instrumental to the ability of children of slave descent to remain in the area and attend the school, as well as to their school attainment and health
- Build more schools in communities formed by former slaves.
- Put measures in place to improve access to secondary education for children of slave descent through the construction of more secondary schools in nomadic areas and/or the provision of bursaries for children who have to leave their family to pursue their education in urban centres.

V. PROTECTION

1. Children in descent-based slavery

Descent-based slavery is still practiced to some degree in Niger, and children affected are born into slavery and treated as property by their master. They can be rented out, loaned, given as gifts in marriage or inherited by the masters’ children. They start work for their masters at a very young age, and work long hours undertaking arduous tasks including drawing water from wells, collecting firewood, cooking, washing clothes, cleaning, caring for the children of their master, grazing animals, and setting up and moving tents. They receive no payment for this work. Children experience systematic verbal and physical abuse, and girls are often sexually abused and raped by their masters. They have no access to education, no access to leisure and play time, endure poor living conditions, and have little or no access to healthcare.

There is an absence of statistical data on the numbers of adults and children affected by descent-based slavery. However it is clear that, although now affecting much lower numbers compared to twenty years ago, the practice 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 and Fulani) ethnic groups. The report of the Special Rapporteur on contemporary forms of slavery following her 2014 country mission states that “Almost all of the interlocutors with

³ *Ibid.*, para 91

whom the Special Rapporteur met said that slavery continued to exist in some ethnic communities in the Niger, where people were born into slavery, resulting in generations being owned by, and at the entire disposal of, their masters. It was however repeated on several occasions that the prevalence of slavery was difficult to estimate, since it was hidden and practiced in closed family circles⁴

Obstacles to the eradication of descent-based slavery

While the 2003 Anti-Slavery Law is comprehensive, the number of prosecutions has been very limited. Only a few dozen slavery cases have reached domestic courts and tribunals, and all of these have been brought by the legal programme run by Anti-Slavery International and Timidria. In the last six years, we have supported 19 cases. Out of these cases, there have been only three successful prosecutions under the anti-slavery law. Even in these cases, the penalties have not been proportional to the offence: sentences of only four years, one year and one year suspended have been handed down to convicted slave-owners, despite the fact that the lowest penalty for the crime of slavery provided for in law is ten years imprisonment.

The Special Rapporteur on contemporary forms of slavery identified the following as causes for the limited number of prosecutions: prosecutorial and judicial authorities and law enforcement officials seem to sometimes lack the necessary expertise on the existing anti-slavery legislation; reluctance on the part of victims to report crimes of slavery, owing to, among other things, fear of retaliation or victimization; lack of awareness of their rights, including due to illiteracy; limited access to legal aid; lack of alternative livelihoods; inadequate victim support; and absence of trust in law enforcement.⁵

There is an absence of state programmes and policies regarding the identification of victims of slavery. Child victims of slavery do not have access to adequate rehabilitation and reintegration measures. There is no policy, strategy or action plan aimed at providing comprehensive support and assistance to slavery victims. The absence of effective state programmes and policies to provide socio-economic support to victims emerging from slavery is a huge challenge. While local organisations seek to fill this gap, and provide assistance to victims, albeit with limited resources, there is a real risk of destitution for those leaving slavery, which makes them hugely vulnerable to further exploitation.

RECOMMENDATIONS

- Fully implement the recommendations of the UN Special Rapporteur on contemporary forms of slavery, including to coordinate and mainstream anti-slavery efforts; enforce the anti-slavery law and ensure prosecution of perpetrators; take measures to prevent slavery, protect and rehabilitate victims; and raise awareness of the criminalisation of slavery.
Specifically, as recommended by the Special Rapporteur on slavery, to:
- Conduct a nationwide study on the prevalence of slavery and slavery-like practices, in cooperation with national and international stakeholders and the donor community.
- Put in place a national strategy and action plan on the eradication of slavery and slavery like practices and descent-based discrimination.

⁴ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Urmila Bhoola, Mission to the Niger, A/HRC/30/35/Add.1, 30 July 2015, para 33

⁵ *Ibid.*, para 95

- Create an adequately funded high-level multi-stakeholder coordination mechanism tasked with monitoring the implementation of anti-slavery strategy and action plan; enforcing anti-slavery legislation, programmes and policies; and tackling its root causes.
- Strictly enforce the anti-slavery law, ensuring prosecution of perpetrators, and ensure effective access to justice for victims of slavery.
- Identify, release and rehabilitate victims of slavery, including their access to safe shelter, family reunification and medical, psychological and other assistance.

2. Girls sold as *wahaya* (so-called 5th wives)

Mainly practised in the Tahoua region, girls of slave status are sold as a 5th 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.

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 15⁶. It is common for the ‘master’ to force sexual relations with the girls as soon as they reach puberty. *Wahaya* 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. *Wahaya* not only face regular rape and physical abuse from their master, but are constantly mistreated by the legitimate wives, who view *wahaya* and any children they bear as competition to their own interests.

Prosecutions for engaging in *wahaya* practice in Niger have been rare. Anti-Slavery International and Timidria are aware of only one conviction for *wahaya* as a crime of slavery: on 26 May 2014 the Assize Court of Birni N’Konni sentenced a 63-year-old perpetrator to four years in prison and a fine of 250,000 CFA francs. The court took account of the marriage between the parties subsequent to the initiation of the charges as a mitigating factor, as well as the victim’s failure to file a civil action. It also reduced the accused’s sentence for time served awaiting trial, a decision that was perceived as condoning the crime.

RECOMMENDATIONS

- Fully enforce laws against slavery and prosecute those responsible for selling and buying girls to serve as *wahaya* or ‘5th wives’. Those convicted should receive sentences that are commensurate with the crime and act as a deterrent.
- Amend the 2003 anti-slavery law to make explicit mention of the *wahaya* practice as a slavery crime.

3. Forced child begging of *Talibés*

Talibés are children, almost exclusively boys, who study in residential Quranic schools (*daaras Makaranta*), under Quranic teachers and/or *Marabouts* (Quranic masters), which are not part

⁶Galy Kadir Abdelkader and Moussa Zangaou, *Wahaya: Domestic and sexual slavery in Niger*, Anti-Slavery International and Association Timidria, November 2011

of the formal education sector in Niger and are therefore not regulated by the authorities. Their education almost entirely consists of rote learning of the Quran in Arabic – a language that the children do not speak. By tradition, these residential schools do not charge for food, accommodation or studies. Instead the children, some as young as five years old, are forced to beg on the streets. *Talibés* experience regular physical abuse, emotional abuse, and other forms of threats and coercion to meet their financial ‘quota’ from begging. Many of the students come from neighbouring countries, mostly from the Gambia and Mali. Separated from their families for long periods, they live in crowded and unhygienic conditions, and are vulnerable to disease and malnutrition. Those fleeing mistreatment often end up living on the streets. Forced child begging is a worst form of child labour, children affected experience economic exploitation as well as violence, threats and coercion.

Due to the very limited education provided at the *daaras*, *talibés* leave the *daara* poorly educated and socially ill-equipped for future life. Despite this, the *daara* system is a highly regarded tradition within Niger, widely accepted by society which still largely fails to appreciate the depth and prevalence of violence, coercion and neglect experienced by residential *talibés*.

The number of *talibés* forced to beg on the streets in Niger is unknown but child begging is very visible in the country’s urban centres, which indicates high levels. Young boys and girls stand outside supermarkets, gas stations or by the traffic lights and beg for money. They are at risk of violence on the streets; vulnerable to trafficking, exploitation, abduction and sexual abuse by strangers; and road traffic accidents causing injury or even death are common. Forced begging does not only affect children who study in Quranic schools. Civil society organisations believe that about 50% of children begging on the street are *talibés*. The rest are probably exploited by their own families, criminal gangs or their peers.

The Special Rapporteur on contemporary forms of slavery noted that she was not “informed of any convictions in relation to the worst forms of child labour, despite penalties provided for under the Labour Code. Similarly, no *marabout* has been convicted for forcing children to beg, despite the clear definition of forced child begging as a crime under article 181 of the Criminal Code.”⁷

RECOMMENDATIONS

- Conduct a national study to determine the nature, prevalence, and causes of forced child begging in Niger.
- Take urgent action measures to end forced child begging of *talibés*, some of whom are as young as five years old. Identify *talibés* who are being forced to beg, remove them from harm, and ensure that they are offered rehabilitative care appropriate to their needs.
- Strictly enforce laws relating to forced child begging, which is a worst form of child labour, and ensure that those who exploit children in this way, whoever they may be, are prosecuted and subject to sentences that are commensurate with the crime.
- Provide training for police and other officials who may come into contact with child beggars on national law relating to forced child begging, child protection issues and the differing experiences of children forced to beg.
- Develop strategies to prevent forced child begging that deal with the root causes, including poverty and the lack of access to good quality, affordable state-run education. Measures need

⁷ Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Urmila Bhoola, Mission to the Niger, A/HRC/30/35/Add.1, 30 July 2015, para 64

to be taken to improve life in the communities of origin so that children from poor backgrounds can stay at home with their families and receive a more rounded education to equip them better for adult life without being sent out to beg.

4. Child domestic workers in situations of forced labour

Child domestic workers are particularly vulnerable to abuse, exploitation and forced labour. The vast majority are girls, who work in private homes undertaking a range of tasks such as cooking, cleaning, laundry, ironing, and caring for young children and the elderly. They are often subjected to work which is hazardous and harmful to their health, safety and development: using electrical equipment, machinery, chemicals and other hazardous materials, often without training or equipment; and performing skilled tasks such as childcare or caring for the elderly with minimal training. Child domestic workers struggle with multiple demands and constant responsibilities. They work long hours, often without any rest days, for little or no pay. Working and living in the home of their employer, child domestic workers are often isolated from their families and opportunities to make friends, under the total control of their employers, and deprived of opportunities for education. Physical, verbal, and sometimes sexual, abuse is common. Some child domestic workers are trafficked.

There is limited data available on child domestic work in Niger. However it is clear that domestic work is a major sector of employment for girls. The hiring of a child domestic worker is a widespread and socially accepted practice. Those employed in domestic work are mainly girls from rural areas within the country who go to cities to escape poverty, but girls from neighbouring countries (Benin, Mali and Togo) are also involved.

RECOMMENDATIONS

- Ratify and implement ILO Convention No. 189 on Decent Work for Domestic Workers.
- Identify, remove, rehabilitate and reintegrate child domestic workers who are in situations of abuse and exploitation, and ensure their access to legal redress.
- Raise public awareness about the risks associated with child domestic work. Particularly, that child labour prevents children from taking better opportunities for their lives.
- Ensure that the education system is accessible for, and responsive to, the specific needs of working children including child domestic workers.