

**Human Rights in World Politics  
Policy Paper**

***Slavery in Niger:***  
*What can the international community do to help?*

**April 12<sup>th</sup> 2005**

Acronyms:

ECHR	=	European Court of Human Rights
ECOSOC	=	Economic and Social Council
ICC	=	International Criminal Court
ICCPR	=	International Covenant on Civil and Political Rights
ICJ	=	International Court of Justice
IGO	=	Inter-Governmental Organization
NGO	=	Non-Governmental Organization
OAU	=	Organization of African Unity
UDHR	=	Universal Declaration of Human Rights
UN	=	United Nations

Niger, like many African states is a relatively young nation. It won independence from France in 1960, when slave-owning elites took control of the country. These elites benefited from slavery, thus they had little incentive and took little action to end it.

Slavery has a long history in the landlocked state of Niger and, for various reasons, the practice remains. *Anti-Slavery International* and its affiliate *Timidria* – a local anti-slavery organization based in Niger - estimate that at least 43,000 people are enslaved today in the state and assert that the figure may be as high as 870,000.<sup>1</sup> Slavery was officially banned in Niger in 2003.<sup>2</sup> Recently, though the government cancelled a ceremony in which roughly 7,000 slaves were to be freed. The government then claimed that slavery does not exist in the country.<sup>3</sup>

The lives of slaves are brutal and strictly controlled by their masters. According to *Timidria*, slaves are forced to reproduce like animals and women may be raped by their master.<sup>4</sup> Once a slave's child turns three years old, he/she becomes the property of the master, who often give these children away as gifts.<sup>5</sup> Slaves are not paid and are not on the electoral roll.<sup>6</sup>

Slavery was one of the first human rights issues to provoke an international

---

<sup>1</sup> Weila, I (2004) *President President of Timidria Iguilas Weila's acceptance speech for the 2004 Anti-Slavery Award* Available from: <http://www.antislavery.org/homepage/antislavery/award/weilaspeech2004.htm> [accessed March 10, 2005]

<sup>2</sup> Available from: <http://www.unfpa.org/ipci/newsletters/issue22.htm> [accessed March 14, 2005] "In its provisions on slavery, the amended Penal Code recognizes as a form of slavery any institution in which a woman, with no power to refuse, is promised or given in marriage in exchange for money or goods, is transferred to a third party, or is forced to engage in sexual relations with a "master." Also characterized as slavery is any institution or practice in which a minor under the age of 18 is given by a parent or guardian (or a person having control over a parent or guardian) to a third party, with or without compensation, for the purpose of exploitation or labour. It is also an offense to profit from the prostitution of a woman in a "servile position.""

<sup>3</sup> Unknown (2005) *Niger Cancels 'Free Slave' Event* [online]. BBC News. Available from: <http://news.bbc.co.uk/2/hi/africa/4321699.stm> [accessed March 10, 2005]

<sup>4</sup> Anti-Slavery International/ *Timidria* (Ibid)

<sup>5</sup> Anti-Slavery International/ *Timidria* (Ibid)

<sup>6</sup> Anti-Slavery International/ *Timidria* (Ibid)

outcry. In 1787 the Society for the Abolition of the Slave Trade was formed in England.<sup>7</sup> The fact that slavery still exists across the world continues to provoke international outcry.

This policy paper will analyze what instruments are currently in place to prohibit slavery and what avenues are open to the international community to expedite slavery's eradication. For the purposes of this paper, "international community" refers to any state, IGO, or NGO that actively seeks to end slavery in its traditional form.

Before moving onto an analysis of the legal framework, it is useful to establish that freedom from slavery is widely regarded as a universal human right. Human rights have been divided into what are termed "first" and "second" generation rights: the former includes freedom from torture, right to life and freedom from slavery, whereas the second represents what are sometimes viewed as culturally relative rights such as economic and social rights.<sup>8</sup>

### Current legal framework

International law can be separated into two areas when analyzing the compliance of states; the first can be termed traditional or functional laws and are concerned with practicalities which have developed over time such as the law of the sea and diplomatic immunity. This type of law is inductive as it is built on norms and customary law. The second is deductive or normative, where an objective is set and the laws are created towards meeting that objective, attempts are made to codify law on moral assumptions regarding what "ought" to be the case – human rights laws are generally agreed to be in

---

<sup>7</sup> Unknown (no date) *Anti-Slavery Society*. [online] Available from: <http://www.spartacus.schoolnet.co.uk/REantislavery.htm> [accessed April 10, 2005]

<sup>8</sup> Class seminar 8<sup>th</sup> February 2005

the second category. The first category of law enjoys high compliance by states; the second does not. This paper examines the most relevant legal framework, starting at the international level, before moving onto the regional mechanism in place to protect the inhabitants of Niger.<sup>9</sup>

Although Niger is now independent from France, the treaties that France was party to up until 1960 are legally binding, until such time as Niger decides to renounce them.<sup>10</sup> On the 7<sup>th</sup> December 1964, Niger accepted the Protocol amending the Slavery Convention signed at Geneva on 25 September 1926, and thus has explicitly agreed to end slavery.

The language used in the slavery convention is proactive: Article 2 of the convention states that signatories must actively work: “(a) To prevent and suppress the slave trade; (b) To bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms”.<sup>11</sup> Because the government of Niger does not recognize that slavery exists within its borders, Niger is breaching the terms of the treaty. It is impossible to “progressively” end slavery when the government of the country denies its very existence.

Article 4 of the Slavery Convention, states that, “The High Contracting Parties shall give to one another every assistance with the object of securing the abolition of slavery and the slave trade”. Therefore, most signatories are literally breaching the treaty as there is little evidence that any state has offered assistance to Niger to end slavery.

However, the treaty has deliberately been written in general terms and is open to many

---

<sup>9</sup> Steiner, H & Alston, P (2000) *International Human Rights in Context*, Oxford University Press, pp. 128-9. Louis Henkin stresses the “possibly political-economic (rather than humanitarian) motivations for early norms and agreements”.

<sup>10</sup> Class seminar 15<sup>th</sup> March 2005

<sup>11</sup> Slavery Convention 1926

interpretations, as is common during treaty-making negotiations.

The 1956 Slavery Convention has not “created a special organ to implement the treaty or monitor state conduct”.<sup>12</sup> Thus, there is no clear mechanism enforcing the convention, so what little is known about the plight of the slaves originates from NGO’s.

Article 4 of the 1948 Universal Declaration of Human Rights states that, “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”. The UDHR has been an important tool for providing the normative benchmark of what human rights aspirations are. Though it is just a declaration of intent and does not have any enforcement mechanisms, the UDHR is the most cited human rights instrument and is often used as a “springboard” for treaties.<sup>13</sup>

The UN Commission on Human Rights, which prepared the UDHR, has two procedures that allow it to “respond to violations”.<sup>14</sup> The 1503 procedure of the Economic and Social Council (ECOSOC) allows for an examination of complaints “pertaining to ‘situations which appear to reveal a consistent pattern of gross and reliably attested violations of human rights’”.<sup>15</sup> It is important to note that the 1503 procedure deals with situations, not incidents; an isolated incident would not fall within its remit but a situation where 43,000 people were held in slavery presumably would. There are many criticisms of this procedure, not least the fact that the hearings are confidential which can lead to a lack of accountability and credibility. For example, in 1996, Saudi Arabia was asked by the commission to respond to an Amnesty International report accusing the government of torture and public executions. After the government denied the

---

<sup>12</sup> Steiner & Alston - Ibid pp. 773

<sup>13</sup> Steiner & Alston - Ibid pp. 139

<sup>14</sup> Steiner & Alston - Ibid pp. 611

<sup>15</sup> Steiner & Alston - Ibid pp. 613

allegations and showed a “cooperative attitude”, the hearings were dropped.<sup>16</sup> If Niger’s government were brought before the sub-commission, they could easily follow Saudi Arabia’s example and be superficially cooperative. One could argue that this scenario has already occurred as Niger’s government passed a law punishing slave-owners to thirty years in prison, yet do not enforce it.

A further impediment to the 1503 procedure is that the complainants must have clear evidence and cannot be anonymous. In Niger, slaves do not know their rights; have few resources and limited access to communications technology. Bringing the abuses to the UN is therefore difficult.

The second procedure – known as the 1235 procedure – is primarily concerned with developing countries. Its commission can investigate and make recommendations if there is a “consistent pattern of violations of human rights”; an example where this procedure could be invoked is apartheid. 43,000 people enslaved in Niger undoubtedly reach the level required under this procedure to be deemed “consistent”.<sup>17</sup>

In the 1235 procedure, NGO’s and governments are given an annual opportunity to publicly raise issues. Simply being mentioned may exert pressure on a country through “shaming” and move the offending government into action. If the commission did take up the matter, numerous actions could be taken, from simply providing an advisory service to the imposing of sanctions.

Political issues directly impact on the effectiveness of the 1235 procedure; Human Rights Watch reported the “muzzling” of the commission by China when a request to

---

<sup>16</sup> Steiner & Alston - Ibid pp. 617

<sup>17</sup> Steiner & Alston - Ibid pp. 619

debate its human rights record was proposed.<sup>18</sup> Despite this, its potential usefulness in pressuring Niger's government to eradicate slavery should not be overlooked; Niger does not have as much political clout as China.

Article 8 of the International Covenant on Civil and Political Rights (ICCPR) explicitly prohibits slavery. Under this treaty organ, states are obliged to file reports at the request of the ICCPR committee. These reports are often "incomplete", an "abstraction" or "delayed",<sup>19</sup> and a lack of resources mean the committee cannot "meaningfully review national reports" and respond with comments.<sup>20</sup> Niger has ratified the ICCPR and its Optional Protocol. The Protocol allows individual communications to be made. The slaves of Niger are unlikely to know about this procedure and have limited means to invoke it if they did. This protocol also suffers from a lack of resources leading to processing delays of around three years.<sup>21</sup> Though these instruments are imperfect, they are a further means by which pressure can be exerted on Niger.

The International Criminal Court (ICC), one of the newest and most promising forms of enforcement, specifically enumerates enslavement under the extended definition of Crimes Against Humanity.<sup>22</sup> It has jurisdiction over individuals and the ability to enforce the law. Niger ratified the ICC treaty on the 11<sup>th</sup> April 2002.<sup>23</sup> Though promising, the ICC is new and its effectiveness has not yet been tested.

In the regional regime, the African system is "the newest, the least developed or

---

<sup>18</sup> Steiner & Alston - Ibid pp. 635

<sup>19</sup> Steiner & Alston - Ibid pp. 710

<sup>20</sup> Steiner & Alston - Ibid pp. 730

<sup>21</sup> Steiner & Alston - Ibid pp. 742

<sup>22</sup> Rome Statute of the International Criminal Court, Article 7: 2(c) states: "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;

<sup>23</sup> <http://www.iccnw.org/countryinfo/worldsignsandratifications.html> [accessed 5th March 2005]

effective” in relation to other regional human rights regimes.<sup>24</sup> The Organization of African Unity is a reflection of North-South cultural differences because it emphasizes “duties” rather than “individual”.

According to Chidi Odinkalu, the OAU commission is ineffective. There have been no interstate complaints thus far and only one case in two hundred received by the commission was found to have any merit.<sup>25</sup> Compared to other regional regimes the commission suffers from a lack of funds. Also, like most other treaty documents, Odinkalu contends that the charter itself is open to multiple interpretations. Steiner & Alston assert that “unlike the UN Charter, the OAU makes no provision for the enforcement of its principles”, meaning the organization has no teeth to ensure compliance.<sup>26</sup>

In combating slavery, however, the Protocol of the African Court on Human and Peoples' Rights could give the OAU the enforcement mechanism it needs. It has received the required 15 signatories to enter into force, Niger being the 16<sup>th</sup>.<sup>27</sup> The desire to create a court is there; all the OAU must do is to actually create it. The court will complement and reinforce the commission, not undermine it. This court will help Nigerien slaves by enforcing the principles laid out in the African Charter on Human and Peoples' Rights.

### Current Foreign Policy Status

If demand for compliance in the international arena comes from horizontal

---

<sup>24</sup> Steiner & Alston - Ibid pp. 920

<sup>25</sup> Steiner & Alston - Ibid pp. 924

<sup>26</sup> Steiner & Alston - Ibid pp. 921

<sup>27</sup> Unknown (2004) [online] *African Court on Human and Peoples' Rights: Checklist to ensure the nomination of the highest qualified candidates for judges*, Amnesty International, Available from: <http://web.amnesty.org/library/Index/ENGIOR630012004?open&of=ENG-312> [Accessed March 15<sup>th</sup> 2005]

pressure from states – rather than vertical pressure in the domestic setting – then pressure needs to be applied to the region as a whole. Many of Niger’s neighbors are unlikely to pressure its government to do more as the surrounding countries have similar problems; Nigeria, Chad, Mauritania and Mali have all been accused of practicing slavery. In addition, African states are less willing to interfere in Niger because of colonialism; more emphasis is placed on state sovereignty. Steiner & Alston believe that this “has been one of the OAU’s central creeds”.<sup>28</sup>

Human rights are often low on countries’ agendas. Luard contends that “there has probably never been a time when there was so much concern for human rights”, he cites globalization as a reason for this.<sup>29</sup> He reasons that human rights may not be high on countries’ foreign policy list because governments have to interact with each other and want to be on good terms. While this is undoubtedly true, most foreign powers are unlikely to be concerned with Niger as it is not a large or important power in the region. In fact, its weakness may be the reason it is not on the agenda – it has little strategic or material value.<sup>30</sup>

Another reason states do not get involved is because, as Teson asserts, they are racist. Teson maintains that the political left and right in the West tend to be arrogant and racist against people suffering abuses. Both views result in people like the slaves in Niger being abused and as Teson asserts, “is fundamentally immoral and replete with

---

<sup>28</sup> Steiner & Alston - Ibid pp. 921

<sup>29</sup> Claude, R & Weston, B (1992) *Human Rights in the World Community*, University of Pennsylvania Press, 2<sup>nd</sup> ed. pp. 296. It could be argued that globalization passed Niger by as it is still one of the poorest and backward countries anywhere in the world.

<sup>30</sup> Claude & Weston - Ibid pp 297-298. The other reasons Luard gave were: Reluctance to criticize a major power; contrary to sovereignty tradition and that such policies are “ineffectual”. In terms of Niger it is not a major power. Luard discounts the other two reasons by stating that “human rights are of concern for the entire international community and that interstate relations are unlikely to be fatally damaged” and that the facts show that such policies are actually effective.

racist overtones”<sup>31 32</sup>.

The founders of the UN assumed that “horizontal” enforcement by states would be enough to gain compliance.<sup>33</sup> In Niger, however, the pressure has come from NGO’s rather than states; thus horizontal enforcement has failed in Niger.

### Current NGO status

There are currently two non-governmental organizations working to end slavery in Niger. The first is Anti-Slavery International, founded in 1830 and based in London. The second is Timidria, founded in 1991 by Nigeriens. Unlike many African human rights organizations,<sup>34</sup> Timidria has quickly developed into a large organization with thousands of members and offices, in both the capital and villages. These two organizations work in partnership.

Odinkalu expresses the fear that many NGO leaders in Africa “enjoy privilege and comfort, and grow progressively distant from a life of struggle”.<sup>35</sup> Others criticize the fact that NGO’s are unelected. Timidria combats this by including freed slaves in its membership base and holding regular elections to elect the leadership of the organization.

Timidria is better suited than Anti-Slavery International to deal with the situation in Niger since it is perceived as a local group. From an African’s standpoint, involvement from an NGO based in the North is often seen as interference and as a form

---

<sup>31</sup> Claude & Weston - Ibid pp 50. Teson asserts that those on the political left believe in tolerance and respect for cultural identity and right to self-determination, whereas those on the right believe that some developing countries are “backward”. Both views are racist according to Teson and lead to inaction by governments.

<sup>32</sup> Claude & Weston - Ibid pp 301. Luard recommends that concerned governments should “ensure that human rights concerns remain constantly at the top, or near the top of the international agenda”

<sup>33</sup> Claude & Weston - Ibid pp 360

<sup>34</sup> Steiner & Alston - Ibid pp. 946-7, Odinkalu asserts that most African human rights organizations are based on Northern counterparts, do not have a membership base and are more like a “think tank”.

<sup>35</sup> Steiner & Alston - Ibid pp. 946-7

of neo-colonialism. Moreover, as Cox asserts, local groups are better able to understand the circumstances in which the human rights abuses are taking place and to deal with them in an appropriate manner.<sup>36</sup>

Odinaku raises the concern that local NGO's are sometimes seen as elitist and use human suffering as a means of getting more funds from overseas donors.<sup>37</sup> The concerns raised by Odinaku are expanded on by Fowler who feels that a partnership between a group based in the North and the other in the South, "camouflages aid-related relationships that are unbalanced, dependency-creating and based on compromise in favour of the powerful" and that the NGO's credibility and autonomy has been "eroded".<sup>38</sup> Timidria's partnership with Anti-Slavery International does not appear to suffer from the weaknesses outlined above, however, as its funding is derived from local as well as "international donors" the group must employ caution so that its credibility remains intact.

These arguments underscore the danger of creating North-South relations in the anti-slavery movement. On the other hand, Al-Sayyid proposes that in fact it does not matter where the funding comes from as local donors may attempt to influence the NGO as much as any international donor. According to Al-Sayyid, NGO's such as Timidria need to "demonstrate legitimacy through other channels...participatory activities, consultations, public outreach and press work".<sup>39</sup> Indeed Timidria actually is already involved in this approach by conveying the concept of freedom through traditional song

---

<sup>36</sup> Steiner & Alston - Ibid pp 956

<sup>37</sup> Steiner & Alston - Ibid pp. 959

<sup>38</sup> Steiner & Alston - Ibid pp. 959

<sup>39</sup> Steiner & Alston - Ibid pp. 960

and dance, thus the source of change is from the local population rather than outsiders.<sup>40</sup>

As discussed in class seminars, the paradox that NGO's have the will but not the means to enforce human rights law and that states have the means but not the will is evident in Niger.<sup>41</sup>

### Conclusions and recommendations

The numerous laws and treaties outlined above clearly show that the international community agrees that slavery is unacceptable and freedom from slavery is a universal human right. Efforts pursuant to these laws and treaties to eradicate slavery in Niger have thus far not been adequate.

Traditional or inductive laws such as diplomatic immunity achieve high compliance as the practice was customary before the law was codified. Human rights law differs as it is deductive, the desired outcome is codified into law and the international community is relied upon to conform to the new standards. Human rights law is thus a slow and difficult area to achieve compliance and progress in.

As has been shown, the Slavery Convention, UDHR and the OAU all have good intentions but have no mechanisms with which to enforce compliance. The African regional regime has made slow progress, yet moves are afoot to create an African Court. The ECHR has been successful in Europe; yet it is debatable whether the same success can be replicated in Africa in light of budgetary difficulties.

On the international level, the ICC holds more promise in enforcing the prohibition of

---

<sup>40</sup> Steiner & Alston - Ibid pp. 420. Eradicating female genital mutilation is having some success using this approach amongst the Sabinu people of Uganda. NGO's support local leaders and the changes therefore come from local people by local people.

<sup>41</sup> Class seminar 15<sup>th</sup> March 2005

slavery. It will replace the need for *ad hoc* tribunals and may coerce Niger by “shaming” the government into action. What follows are additional recommendations that are open to the international community:

The ICCPR Human Rights Committee should exercise its authority to request a report from Niger detailing what measures Niger has taken to promote the covenant. This would open up a dialogue with Niger and allow the commission to offer “general comments”.

Study the problem. A study of slavery in Niger should be undertaken by a delegation from the 1235 or 1503 commissions, or directly by the UN and/or OAU. The reports by NGO’s, whilst useful, do not carry the same level of credibility as from an IGO. A fact-finding mission is useful on two counts; firstly, it would answer how widespread the problem is and because it is produced by a legitimate source, the government of Niger may be pressured to acknowledge the issue.

Create a Slavery Convention Committee, as an alternative or in addition to the above. Although the UN human rights regime is sometimes criticized for duplication among different procedures,<sup>42</sup> a new committee could report back on compliance to the slavery convention and reinforce the normative ideals and behavior expected of states.

Once Niger’s government acknowledges the problem, the international community, consisting of concerned states, IGO’s and NGO’s, should pressure the government to fulfill its treaty obligations and enforce applicable domestic laws pertaining to slavery.

If government elites still refuse to acknowledge the problem, two options are open to the Security Council. The first would be a feasibility study by the UN to impose targeted sanctions on the elites by freezing bank accounts and/ or imposing travel restrictions.

---

<sup>42</sup> Steiner & Alston - Ibid pp. 694

Niger is so poor that general sanctions or any moves to sanction against the nomadic slave-masters are likely to prove fruitless.

A second option is to implement the rule of law by trying suspects in the ICC. Niger has ratified the ICC and slavery is within the ICC's jurisdiction. The ICC can try the case if the Security Council refers the issue, at the behest of the Chief Prosecutor, or if Niger asks the ICC to examine the issue.<sup>43</sup>

The above recommendations would gradually exert pressure on the government of Niger to stamp out slavery, and if Niger fails to comply then the international community can force them to fulfill its obligations.

In addition, NGO's can help the situation by considering the following. The issue should be framed in terms of national security, the pressure to end slavery needs to be combined with assisting the country to move towards a stronger economy and help Timidria to assist the freed slaves in their new life.

The work undertaken by Timidria and Anti-Slavery International should be intensified. There has been an explosion of NGO's in recent years and pressure could be mounted by creating more alliances. Several human rights NGO's have "consultative status" at the UN, an alliance would enable these groups to speak on behalf of the Nigerien slaves. In addition, NGO's should provide the resources for slaves to send individual complaints to the ICCPR Committee under its Optional Protocol. The slaves of Niger could then be given a voice and the government of Niger may be shamed into action.

As far as possible, funding from international donors should be given to Timidria

---

<sup>43</sup> Unknown (2005) Lengthening the Arm of Global Law, *The Economist*, Vol. 375 Issue 8421, pp38. This article states that Uganda and Congo have both asked the ICC to examine an issue for them.

without external pressure or influence. Timidria needs to continue to display its independence and legitimacy through active participation of the Nigerien population. Many Nigeriens do not know what the concept of “freedom” is. Support, in the form of economic aid and transportation should be given to Timidria’s members to help them continue and increase the valuable work of educating the population.

While it is true that cultural change will not happen overnight, the pace of change can be increased. There is no “one quick fix” to end slavery in the state of Niger; rather a concerted, combined effort is required by the international community utilizing some of the recommendations outlined above.

The mechanisms to end slavery exist; it is the political will that is lacking. An effective human rights strategy should also be concerned with politics as well as legislation. Slavery in Niger is being featured more and more frequently in the media. The international community should seize this opportunity and keep the issue at the top of the agenda, as Luard recommends. Niger must be shamed and pressured to implement the treaties and mechanisms it has accepted.