

Slavery in

# Niger

**Historical, Legal and Contemporary Perspectives**

Anti-Slavery International  
& Association Timidira

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## PREFACE

When I had finished my first reading of this study on slavery in Niger, I closed it and set it aside, like a piece of roasted cassava, barely pulled out of hot ashes, or like a cob of freshly roasted corn, still steaming from the fire.

I had the definite impression that what I had before me was a remarkable document. Firstly, for placing the emphasis on indigenous documentation centres, thanks to them, and because of the watchful eye of the “archives master” of Niger, it is possible to appreciate the vitality of the research. Secondly, the study was carried out under very strict rules, in particular in the choice and training of those undertaking the survey. A certain “level of motivation” and a sense of open-mindedness are essential for this very sensitive subject. Having myself failed in 1976 to obtain a single word about slavery from a village chief in the West of Niger, a humiliation that, still stings to this day, I must emphasize the quality of the results obtained. Indeed, the situation of those carrying out the survey was not without its dangers. These were however avoided, thanks to an excellent training programme.

A very brief introduction presents an overview of the role of Africa in the history of slavery. In this area, it may be recalled that in January 1975, in Bamako, Mr. Wa Kamissoko presented two facts to a scientific symposium that set many a theory on its head. Firstly, Soumaworo Kanta, the King of Sosso tried, and failed, to mobilize the Malinkes against the slave trade that was practised by the Soninkes and the Moors. Secondly, Sundiata Keita, after having defeated the same Soumaworo in Kirina in 1235, adopted the “Charter of Kurukanfuga”, which included a clause prohibiting slavery. It would be a good thing if the “Kankan” version of this charter, could be published by the Centre for the Study of African Oral Traditions (CELHTO/UA) of Niamey, in order to make its contents known to one and all. Furthermore, the UNESCO Slave Routes project should lead to more in-depth knowledge about slavery in Africa, and present the views of all players.

The study begins with a presentation of the situation within the area that now constitutes Niger, before the colonial conquest. The presentation is based on research carried out in various regions, Ader, Air, Damagaram, Katsina, and Mangari. Work carried out by people who are from Niger themselves, reveals the existence of slavery in the Kanuri, Hausa, Tuareg, and Zarma-Songhay societies. The presentation is supplemented by a review of the ideology that underpins slavery: “... beyond the differences in day-to-day practices (...), the slave has no right to participate in life as a citizen...” Despite the survey carried out between 1903 and 1905 on slavery, in spite of the debate within the League of Nations, and notwithstanding the abolition of forced labour, slavery “disappeared from political language, but colonialism allowed it to survive.” Upon attaining independence, Niger therefore had to deal with it. The successive regimes from 1958 to 1991 “all kept silent on the issue.” The start of the fight against slavery was marked by the creation of the Timidria Association in 1991. This document is the outcome of twelve years of intense activity.

For in the Republic of Niger, there are some people who are not yet full-fledged citizens. A magistrate has sought to give a legal definition of slavery by analysing its critical components. He has collated and itemised the contradictions between slavery and human rights. Reviewing the various texts available, he has noted the absence of any specific incrimination of slavery and other similar practices in the laws of Niger. He also points out the existence of many legal provisions sanctioning various violations of human rights. Finally, he emphasizes the difficulties in trying to apply the legal arsenal of Niger in the fight against slavery. These difficulties arise in various areas; the legal process, in lawsuits, the existence of legal pluralism, and the administrative organisation. The existence of diverse land tenure systems and customary marriages also contributes to these difficulties. All of these are major obstacles! This piece of legal anthropology concludes with a series of recommendations that deserve to be disseminated broadly. Indeed, one feels relieved because the impressions of impotence and resignation are swept away by the legal, political, administrative and economic proposals that are made, and by the suggestion that former captives should assume responsibility for themselves in a new context. In other words, that they should behave as citizens. In this complex chapter, which deals with issues from the legal to the psychological, the study shows the way that will lead to the attainment and enjoyment of the right to exist.

The final part is devoted to the database, the ultimate objective of the study. The following are the six main categories of data collected, in a slightly modified order: Work done by slaves; marriage of enslaved women; school enrolment of children; use of violence; breakdown by region and marital status, and an estimate of the total number of slaves. The seminar in May 2003, which focused and adopted this study, was a reflection of the enlightenment of members of Timidria, and the maturity of the association. A number of other factors contributed to this. The National Assembly had adopted the bill to curb practices similar to slavery; many human rights associations were present; the political authorities of Niger were actively involved in the seminar, and the discussions were of high quality.

This study allows others to have a better understanding of “the current reality” of Niger. It marks a major contribution to the “renaissance” of Africa, of which one of the first prerequisites is the equality of all citizens before the law. The authors have used the social sciences in the service of human dignity. The London based organisation, Anti-Slavery International, provided the funding for the study and took an active part in the whole process that led to the outcome that you now have in your hands. A saying of the Zarma-Songhay people and many other Africans of the Sahel region goes as follows: *“It is only in the dry season that people boast of their prowess and their skills in the field.”* Each and every one can cease to hesitate and begin to act.

Having drafted this preface, I happened to come across a survey that we carried out in the Say region in 1975/76. The question that we put then was the following: “Do you know why you pay taxes?” One of the respondents, who was about 54 years old at the time said, “I have been told that we pay taxes in order to be free, because the white men abolished slavery. We are paying them for that.”

It is up to us all to meditate on the significance and the entrenchment of this phenomenon in the day-to-day life of Niger.

**Diouldé Laya**

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Niamey, 30<sup>th</sup> June 2003

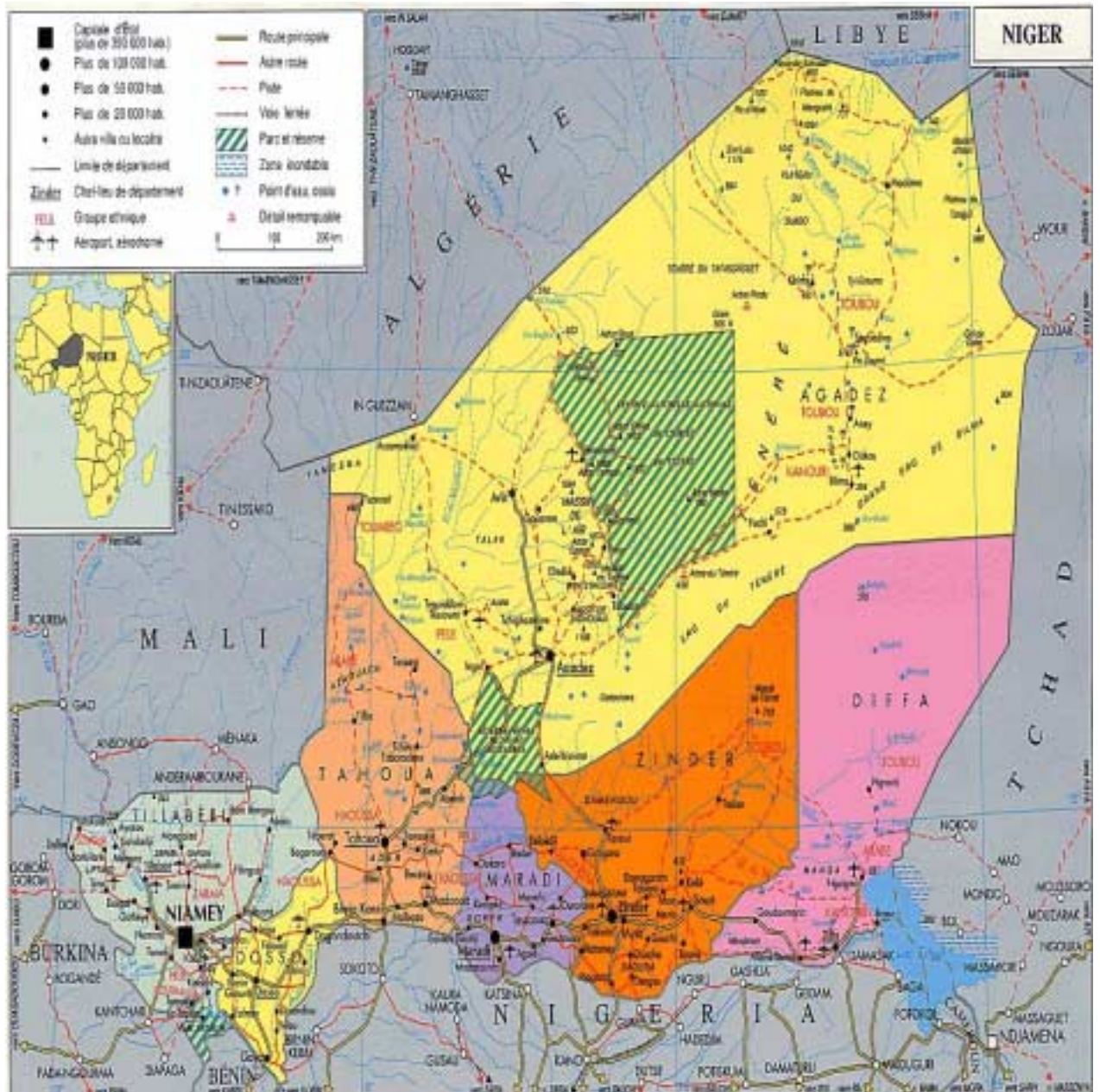
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This historic study and the presentation of the database are the work of Galy Kadir Abdelkader. Mahaman Laouali Danda was responsible of the legal section, and Timidria prepared the section of the study on the fight against slavery in Niger. The database was designed and implemented by Galy Kadir Abdelkader and Adamou Elhadji Danbadji.

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The views expressed are those of their authors and do not necessarily reflect the views of Timidria or of Anti-Slavery International.



## **BACKGROUND INFORMATION ON NIGER**

Niger is a landlocked Sahelian country, with a surface area of 1 267 000 km<sup>2</sup>. The Niger River flows over a distance of 600 km in the interior, in the western part of the country. According to the general census of 2000, the population of the country numbered 10 070 000 inhabitants.

Niger has a high rate of population growth (3.3%), and is made up of several ethnolinguistic groups. The Hausas represent the largest group, almost half of the population. The next largest group is the Zarma-Songhays, followed by the Tuaregs, the Fulanis, the Kanuris, the Arabs, the Grumanshis, and the Budumas. There is a high diversity of cultures and languages. The population is nevertheless unified by a common religion, since 98% of the population follows the adopted religion of Islam.

The majority of the population live in rural areas, and there are few big towns. The main urban centres are Niamey, the capital, Zinder, Maradi, Dosso, Tahoua, Agadez, Tillabery, and Diffa. These towns are the capitals of the eight administrative regions of the country.

Niger ranks 172 out of 173 countries on the scale of the human development index, and the main characteristic of the country is the poverty of the population, with an annual GDP per capita of US\$ 746. The following indicators paint a clearer picture of the level of poverty. Life expectancy is 45.2 years and infant mortality is 159 per 1000. The literacy rate in adults is 19%, and the gross school enrolment rate is 26%. Furthermore, 63% of the population lives below the poverty threshold, with 85% of the population living with less than US\$ 2 per day.

The main economic production of the country comes from agriculture, which contributes 41% of GDP. Industry only contributes 17%, while the service sector, essentially public services, contributes 42%. Debt servicing absorbs 11% of GDP, a total of US\$ 221 million dollars. The climate of Niger is typically Sahelian and is dry and harsh. Two thirds of the territory is desert. The country's population is concentrated in two zones, and the main activities are agriculture and cattle rearing. Many people are nomads, constantly moving between the farming zones in the south and the areas in the north that are not suitable for farming.

In the political arena, Niger has had a democratic government since 1999. The country has however had a history of turmoil and political instability. After attaining independence in 1960, Niger was ruled by a single party regime until 1975, when the army seized power and instituted a military dictatorship, which remained in power until 1991, when the Sovereign National Conference was held. This was followed in 1994 by general elections. Throughout this period, the country also faced an armed rebellion of the Tuareg and Tubu populations, which continued until 1994, when a peace agreement was signed. In 1996, a second coup d'état toppled the democratic regime and there began another transitional period, marked by disputed elections. This period ended in 1999, following the assassination of the Head of State. A third transitional period ended in 2000, with the holding of general elections. With so much



turmoil, the country found itself on its knees and completely abandoned by development partners.

## PREAMBLE

Generally, when one speaks of slavery in Africa, The Slave Trade is what comes to mind, because of the sheer magnitude of that trade and the damage that it caused in entire societies, as well its consequences, which have not yet been fully evaluated, nor has there been an attempt to make reparation for the harm caused.

History shows that Africa has had a relatively longstanding role in slavery. In exploring certain sources, it becomes clear that it is not only Europe and America that owe a debt to Africa. Indeed, a good part of the prosperity of other continents stemmed from the sweat, tears, blood, and suffering of Africans, particularly black Africans.

The Encyclopaedia Universalis gives a general, historic definition of slavery. Lengelle actually dates the institution of slavery to the time of the emergence of rural civilisations. “From the time of the emergence of rural civilisations, and up to the 18<sup>th</sup> century in Europe and the 19<sup>th</sup> century in most other continents, slavery constituted the most common form of organising labour, and the basis and structure of the economy”. (Lengelle, *Encyclopaedia Universalis*, 1980, p. 445).

Slavery is often a prelude to genocide of the very same people who are enslaved. The question that arose was whether it was skin colour or the use of language that distinguished men from animals. In other words, “Did God create negroes at the same time as the birds and the reptiles, or on the sixth day, at the same time as man?” (Lengelle, *Encyclopaedia Universalis*, 1980, p. 445). In describing the beginnings of slavery, Lengelle describes a “mild” form of slavery, where men no longer eliminate their enemies, who are competitors in consumption. “Instead of using them in the most direct manner, which is through cannibalism, they decide to transform them into auxiliary workers whose reduced circumstances make it possible to improve the circumstances of the master.”

This mild form of slavery is in contrast to a second form where man is reduced to the state of being part of a herd of animals. In this system, men become “possessions of the owner, just like a horse or a cow.” As a result, concludes Lengelle, all the attributes of ownership under Roman law are applied to human beings. A slave could thus be rented out or leased. The two fundamental characteristics of slavery are racism and social inequality. A society that practises slavery is founded on a denial of human dignity. This definition of slavery still applies today. Lengelle does not however give much importance to the place of Africa in this vast movement of humanity. He is also mistaken in situating the date of the end of slavery as the 18<sup>th</sup> century for Europe and the 19<sup>th</sup> century for the rest of the world.

The reality is somewhat different because in 2000, slavery still exists in certain parts of Africa and in Niger in particular. At the dawn of the third millennium, several forms of enslavement exist in Niger. There is the “pure and simple” form of slavery in which a slave is considered as a beast of burden. He/she works day and night for no pay and is subject to all possible and imaginable forms of harassment, according to the whims of the master. There are many examples of this. On 7 November 1994 the newspaper *Le Démocrate* carried a picture of three escapees with the following

caption: "... Tahmoud, Rhali and Chaddi... had been living as slaves for years. They were treated as chattel and were often beaten. According to their own account, they were even forbidden to pray. This might have been understandable if the events took place in some remote corner where certain tribes still live as in prehistoric times. This is not the case, however. The three unfortunate young people claim that they ran away from the home of a deputy permanent secretary of a ministry."

In 1991, the following text was published on 22<sup>nd</sup> November in the government newspaper *Sahel Dimanche* "Slavery in Tchintabaraden: In the region of Tchintabaraden, it is alleged that a young man was savagely assaulted by his so-called 'master', the son of an eminent personality, for having refused to serve the master. The victim is alleged to have lost his virility as a result of the severe beating. It appears that this practice is quite common in the region ..." In reality, the master had quite simply castrated the victim.

On 28 July 2000, the newspaper *Alternative*, featured a special dossier on slavery. It was entitled "Shameful practices of slavery in Niger in the year 2000". The dossier contained an interview of Tumajet Ghoumane, a runaway slave, who said, "I was given as a wedding gift. The husband of my mistress was a member of the Republican Guard of Niger (...), but I suffered a lot, nevertheless. I got beaten if there was simply not enough salt in the sauce. I still recall a day, just last year, when my eight-year-old child was hurt. He had taken the animals out to pasture, but as he was being bullied and terrified by some children who were stronger than him, my son came back home. This made the master very angry. He took a stick and beat my son and me. I received a strong blow on my left elbow. My arm hurt for months, after that. As far as the master is concerned, we are just objects, like a chair, a pestle, or a mortar."<sup>1</sup>

There are many other examples, but we have chosen to limit ourselves to those that have appeared in national newspapers, thus showing that the authorities, public opinion and human rights associations are all aware of the existence of these practices. The practice is very widespread. It is found throughout most of the national territory of Niger, with only variations in degree.

The second type of slavery that may be encountered is a practice based on ownership of land and of people. Indeed, in the western part of Niger, the practice of outright slavery has evolved into a milder form, which consists of allowing slaves to take over the fields of their masters, but then the latter come in at the time of harvest and help themselves to whatever quantities of the harvest they want. The slaves have no right to protest, nor do they have the right to demand a salary or any form of compensation. Often, they live far away from their masters, but the land does not, and can never, belong to them because they themselves are the property of somebody else. In this case the relationship between master and slave is not often marked by violence, but are nevertheless governed by links of ownership. This practice has often been called passive slavery. Yet this form of slavery is no less active than the others, as was shown in the Tamou region where people who were bound by links of slavery to a master took advantage of a dispute concerning the appointment of a district chief, to rebel. This was what the government newspaper termed "The revolt of the

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<sup>1</sup> Interview of Tumajet Ghoumane by Cissé Souleymane Mahamane, in *Alternative*, n°218, July 28 2000.

Fulmanгани.”<sup>2</sup> Relaying the words of the rebels, the journalist wrote, “Go back and simply tell those who are ready to listen, that we did not agree yesterday, we do not agree today, and we shall not agree tomorrow. Even if they were to kill us to the very last one of us, we would not accept that this new chief have command over us. We are free today, and we shall die free one day or the other.”<sup>3</sup> The Tamou region is part of an area where, in colonial times, three-quarters of the population was counted as slaves. The chiefdom in question believes that it owns the land that the former slaves consider to be their property. In September 2002, the dispute had still not been settled.

A third form of slavery exists, known as *Wahaya*. Certain rich people or eminent personalities, as well as many chiefs and important *Marabouts* (Quranic teachers) buy young girls to serve quite legitimately as their concubines. The young girls do household chores and serve the master. In theory, in certain traditions, the concubine becomes a legal spouse once she bears him a child. In others, she only becomes a wife when she bears him a son. In many traditions, the children of concubines are often frontrunners in the succession of a chief.

Remnants of slavery also exist even where urbanisation, droughts, education, and the past action of the colonial authorities, albeit limited, have all contributed to freeing certain descendents of slaves from all forms of attachment. Such people lead normal lives and are free to own property and to buy and sell. And yet, society generally refuses to allow marriages between them and others who are not of the same servile origin. In this area, therefore, the society relegates them to a sort of closed caste. We can cite the example of Biga, a nurse, who during his studies met a young lady who later became his wife. After the birth of their first child, he came home one day and found his wife absent. While he was away, her brothers had convinced her to flee with them to Libya, leaving behind the child that she had had with a person they considered unworthy because of his servile ancestry. We may also cite the case of a high-ranking army officer who in 2002 distributed invitations to his wedding with a lady doctor. On the day of the wedding, those who had gathered for the religious ceremony were told, to their great surprise, that the wedding had been cancelled. Some of the guests whispered that this was due to the fact that the bride-to-be was descended from slaves.

New, contemporary forms of slavery also exist alongside the various forms of slavery that derive from the history of the peoples that make up the Niger of today. Fighting against these new forms of enslavement is also a means to wage the battle against outright slavery, which casts a shadow on the humanist values that all modern populations claim as their own. These new forms of slavery have been dealt with in treaties and conventions, most of which have been ratified by Niger.

### **Contemporary forms of slavery**

In recent times, States and various international organisations have made the fight against slavery part of their concerns. Generally, awareness about these issues has led to the signing of conventions and treaties. The Slavery Convention signed in Geneva on September 25 1926 defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”

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<sup>2</sup> *Sahel Dimanche* n°542, October 15 1993.

<sup>3</sup> Abdourahamane Varino, special envoy, *Sahel Dimanche* n° 542, October 15 1993, p. 4.

The 1948 Universal Declaration of Human Rights stipulates that all men are equal and accords them the same rights and duties as citizens. It also specifically states in article 4 that “No one shall be held in slavery or servitude. Slavery and the slave trade shall be prohibited in all their forms.” In 1956, a Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery was signed. This convention included serfdom as a form of slavery because it describes the “condition of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.”

In 1999, the General Conference of the International Labour Organisation unanimously adopted Convention 182 on the Worst Forms of Child Labour. A child is defined as any person below the age of 18, without exception. Article 3 of the Convention prohibits the following:

- (a) All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;
- (b) The use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
- (c) The use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
- (d) Work, which by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

In even more recent times, the Durban Conference held in South Africa in August 2001 marked a very important step in the international fight against slavery by denouncing racism, discussing slavery, and by opening the way for reparations for the victims of slavery, from the time of the Slave Trade to date. Contemporary forms of slavery such as the worst form of child labour are taken up by other associations such as the Federation of Niger Workers’ Unions, which has mobilized to deal with the fate of children who are subjected to the worst forms of child labour.

Nevertheless, as Bernard Debord noted, outright slavery in Niger, is characterized by all the aspects, which are denounced in international conventions. And yet the practice is not sufficiently condemned. Following a visit to Niger, he wrote, “It is generally not known that in Niger, numerous men and women are the property of a slave-owner, just like cattle. Slavery in Niger is a reality that is rooted in custom, culture and history. It is also something that is not spoken about. Throughout the country, those who have the power to speak are the slave-owners, the families of slave-owners, or the descendants of slave-owners. The enslaved do not speak about their status because it goes without saying. Many do not complain of their fate for they have been convinced that it is the will of God. Everything contributes therefore to the conspiracy of silence. Niger, one of the poorest countries in the world, derives the greater part of its finances from international aid. Neither the authorities nor the elite therefore wish

to see the image of the country tarnished outside by the continued existence of slavery.’<sup>4</sup>

This is a realistic description of the situation in Niger that allows hundreds of people to participate in the conspiracy of silence by saying self-righteously, “If slavery exists, prove it.” This is the challenge that we wish to take up by applying the appropriate methodology to prove that slavery does exist. We wish to do this as our contribution to the universal movement of humanism, and in a desire to liberate many men, women and children. This will also serve to boost the image of Niger, which would be better enhanced by freeing her enslaved children, than by hiding the poverty and inhumane conditions in which a good part of them live.

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<sup>4</sup> Bernard Debord, ‘The Conspiracy of Silence, in *La chronique*, June 2002, Journal of the French Section of Amnesty International p 23.

## INTRODUCTION

This study is aimed at contributing to the setting up of the necessary mechanisms to eradicate slavery in Niger. Indeed, it may seem absurd that at the dawn of the third millennium, a country like Niger, which is well known for being amongst the lowest ranking country according to the human development index, is being called to account on an issue such as slavery, a form of human social organisation that was thought to have been eradicated with the establishment of democracy. And yet slavery is present in the daily life of Niger. The issue is not to find a definition of slavery, but rather to free hundreds of men and women from the shackles of slavery. For them, each day brings its lot of humiliation, physical suffering, torture and uncertainty.

Is it necessary to define slavery before fighting against it? The question deserves to be asked. But who must define slavery? Could it be this woman whom we met in Abalak in July 2002? Her name is not important, suffice it to say that she had just walked 40 km to find refuge with anti-slavery activists in Abalak, Tahoua district in the north of Niger. She had barely finished recounting her escape when she asked for help for her three daughters, who were still in the possession of their owner. The gendarmes accompanied the woman and brought her back with her daughters.

After listening to her, one of the members of our team asked her, “What are you going to do, now that you are free?” She answered, “I shall try to live by watching what others do.” Not being familiar with freedom, she was going to learn by watching others.

When the same question was put to another slave who had been freed through the activities of activists, he said that for him, “freedom begins by being able to go to sleep and to wake up when I want.” Having been a slave, he did not even know that he could be the master of his own sleeping patterns.

Instead of trying to define slavery, it could be said that a slave is a person who:

- Works for another without the benefit of a salary;
- Is subject to violence from others, without being protected by the law;
- Has no social status, and therefore cannot voice an opinion;
- Has no responsibility for his/her descendants because they belong to another;
- Has no freedom of movement because he/she requires permission from another;
- Is only allowed to marry another person of the same status;
- May only eat that which is allowed by others because he/she has no say over their own feeding;
- Is not allowed to speak to another person, who is considered noble and
- Has no control over their time, which is controlled entirely by others.

This is a minimal basis of non-rights, which can help to describe slavery. But slavery may also be what slaves themselves have to say about their situation, and we chose to give them a forum to enable them to describe what they had experienced. Indeed, how can one describe the situation of a woman who, in answer to a question about the maltreatment inflicted by her owner, answered by saying that he raped her?

Slavery finds its origins in the past, and it seems important to us to take a look at history, in order to understand the current situation of this phenomenon in Niger, with a view to finding a solution in accordance with the law, that is the Constitution and international treaties and conventions ratified by Niger.

There is a conspiracy of silence about the slavery. This fosters the indifference of citizens to the phenomenon and to the fate its victims. As though they agreed with Ahmed Mohammed, chief of the Ikadamane Tuaregs who stated the following, talking about inheritance of the property of a slave: “When a slave dies, everything that is left behind belongs to his owner. God gave absolutely no rights to slaves.”<sup>5</sup>

Slavery does exist in Niger. It has been studied in depth and the results of these studies have boosted the academic careers of many a researcher, most of whom were French. And yet those who try to combat slavery today are asked to prove its existence.

The current study set itself an objective of going back into the history of the peoples’ of Niger to find the origins of slavery. There is one major upheaval to be noted, and that is colonisation, which, in winning a military victory over African chiefs, also brought about a change in values that could not accommodate slavery. The constitutions adopted at the time of independence also further strengthened these humanist values, which are in total contradiction with the values of slavery. If slavery persists today, it is because it has enjoyed support from certain quarters, as the study will show.

The study also provides a bibliography on the practice of slavery, as a means to opening the way for more in-depth research on the various aspects of the phenomenon. Since an objective of the study is to serve as a basis for the eradication of slavery, the study also provides a database on slavery. This database makes it possible to have statistics on slaves, be they men, women or children, and provides a detailed description of the conditions in which they were acquired, the work that they carry out, the treatment meted out to them, and the reasons why they have remained enslaved.

We believe that in this manner, the era of prevarication about slavery will give way to conscious and methodical action so that no longer will anyone, anywhere in Niger, be relegated to the degrading status of slave.

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<sup>5</sup> Interview with Bernard Debord in *La Chronique*, June 2002, Journal of the French Section of Amnesty International



## METHODOLOGY

The objectives of this study were as follows:

- Research and report on the historical factors that explain the existence of slavery in the territory of the Niger of today.
- Research and report on changes in administrative and legal provisions that sanction slavery.
- Research and report on the administrative, legal and/or cultural obstacles to the emancipation of slaves in contemporary Niger.
- Create a database that will make it possible to access statistics on slavery and thus illustrate what many people suspect but dare not state, due to the lack of proof.
- Present statistics illustrating the practice of slavery in modern day Niger, and define the ways and means of advancing in the fight against slavery, on the basis of existing laws or laws to be drafted.

A team of consultants and volunteers of the Timidria Association was set up to carry out the study. The team used different methods in their work, depending on the issues and objectives.

### *Documentary review*

The first challenge facing the team was to constitute a bibliography on a phenomenon that many believe is a thing of the past. In order to do this, the study focused on local documentation centres, in particular the Institute for Research in Social Sciences of the Abdou Moumouni University. The groundwork was carried out on the basis of the doctoral theses of researchers from Niger. The latter had each worked on a specific region and presented their findings in public. Furthermore, most had the opportunity to present their conclusions on radio or television programmes - nobody disputed the facts, which they had meticulously recorded, in relation to slavery and the social structures that govern social relations in modern Niger.

This data was supplemented by the writings of a certain number of European authors who have demonstrated the existence of slavery, from the viewpoint of outsiders. In addition to these sources, there are Anglophone sources from Nigeria, a country that deserves credit for having sought to understand the phenomenon. Another important source of documentation was the National Archives of Niger, where it is possible to follow the changes in the provisions and motivations of the colonial administration. This administration deserves credit for having attempted to eradicate slavery, with quite notable success in certain areas and less success in others, before handing over Niger to its citizens in 1960.

The bibliography is presented as an annexe in order to contribute to creating a collection of materials, which will enable researchers to have access to resources and facilitate subsequent studies.

The legal section is based on existing texts, as well as the international conventions that Niger has ratified. The illustrations and examples were gathered from national courts, the media and the experience of the authors.

### *Survey with a view to establishing a database*

The most reliable way to obtain statistics on slavery or any other issue at a national level is to refer to the general population census. This presupposes that the authorities of the country are aware of the problem and wish to determine its scope. Unfortunately, in this particular instance, this is not yet the case. In the absence of data that has been validated by a general population census, the only option is to collect information according to the available means. Collecting statistics on people however requires that such statistics be updated regularly, and this raises the difficult problems of time and resources available to carry out such an exercise.

In order to get around this difficulty, we chose to set up a dynamic database, which would give the statistical picture of a given situation, with the possibility of updating it each time new information was gathered. In fact, it was a question of setting up a dynamic database in which a certain number of people identified as being slaves would be registered, with the possibility of removing them from the database once they are emancipated. The database also provides the possibility of adding new cases as and when they are detected.

A questionnaire was drafted to serve to collect the information for the database (see annexes). This questionnaire drew upon the method used for a general population census, which consists of using the questionnaire to collect information systematically from the citizens of a given country. It is generally considered that any information given by a person, concerning their identity, marital status, mode of living, work, the number of their children and their wealth is reliable. This is the information that, when included in the database, gives a faithful picture of the population. One does not question the veracity of the information given by a citizen concerning the number of animals that they own. Indeed, when a figure is given about the total livestock in a country, this figure is based on what citizens have said they own, in the census. Development plans in all sectors, economic, health, social, are all based on the data from the general population census. Subsequently, population estimates are made on the basis of projections from the statistics, until the next general population census is held.

The questionnaire asks questions about the identity of the persons interviewed, their condition of servility, and the identity of their master. It also provides the possibility of describing the general situation of the persons, as in any population census. Because of the limited means available, the study had to select specific regions in which to administer the questionnaire. These regions were selected in accordance with a certain number of criteria.

### *Identification of the areas to be studied*

In June 2002, teams from the National Executive Bureau of Timidria travelled throughout the six regions out of the eight, which were selected, to make contact and identify the villages, neighbourhoods, camps, tribes, groupings, cantons, and urban centres that could be involved in the study. These missions also made it possible to define the profile required for the interviewers, supervisors, resource persons, and coordinators who were going to be mobilized. They were also a means of making

members of the association even more aware of the importance of the study. During the same period, the administrative arrangements were also being made. What are the reasons behind the selection of the areas and the profiles of the people to be involved in carrying out the survey?

Since its inception, Timidria has travelled throughout the national territory carrying out civic education field missions, general assemblies and seminars, which has enabled it to identify the geographical areas and the ethnolinguistic groups within which slavery continues to exist. This led to the selection of a certain number of villages, hamlets, camps, tribes, groupings, cantons and urban centres in the six regions of Agadez, Dosso, Maradi, Tahoua, Tillabéri and Zinder (see map of Niger). The areas selected were chosen because the investigations carried out by Timidria showed that these were places where slavery and slavery-like practices still existed in varying degrees. As for the other two regions that were not covered by the study, that is the Diffa region and the Urban Community of Niamey, the reasons for this are as follows:

- Timidria is not sufficiently well established in the Diffa region. Slavery nevertheless exists in that region, in particular within the nomadic communities of the Toubous, the Arabs and the Fulani. Furthermore, this region represents a vast territory with limited means for moving from one place to another. The region had also been the theatre of an armed rebellion, one of the consequences of which has been the proliferation of all sorts of weapons in the area. The security of staff was therefore not assured. It seemed wise not to venture out into this region. A government programme is currently being carried out with the support of the United Nations Development Programme (UNDP). The objective is to exchange the arms held by the population for radios.
- Niamey, the capital, is characterized by a high level of urbanisation and its proximity to the decision-making centres of the country. Slavery is less of an issue here, among other reasons because traditions have less influence in an environment where the population comes from various origins.

### ***Mobilisation of human resources***

Identifying and mobilizing the competent human resources to carry out the study only came about after a lengthy process of reflection, first involving the authorities of the Timidria Association, and then involving the members of the Bureau and the consultants. The result of this exercise was to draw up a profile for the various positions.

### ***Selection of the interviewers***

The following criteria were applied in making the selection:

- *Level of education of interviewers*  
The minimal level was the fourth year of general secondary education. Most of those carrying out the survey were however teachers and students.
- *Knowledge of the local language*

Each interviewer was required to have a good knowledge of the language or languages of the village or camps where they were going to work.

- *Good geographical knowledge of the area of the survey*  
Each interviewer was required to be familiar with the various geographical areas of their zone, in order for them to be able to move about freely.
- *Availability of the interviewers*  
Interviewers were required to be available for the duration of the study period.
- *Level of motivation of interviewers*  
The level of motivation of the people carrying out the survey and their commitment as human rights activists was very important. Each one had been informed beforehand of the risks involved and in particular of the possibility of physical and/or verbal abuse on the part of slave-owners.
- *Open-mindedness and a spirit of cooperation*  
Here, account was taken of the capacity of those carrying out the survey to establish dialogue and/or lead discussions with others. This could be related to the level of education and in particular the amount of experience or even the personality of individuals, in order to have a better picture of their potential for field work.

### ***Selection of supervisors***

Supervisors were selected on the basis of their good knowledge of the area of operations and were generally the chairpersons of the local section of Timidria. They therefore had a keen knowledge of the area under their supervision. Supervisors were required to fulfil all the conditions demanded of the interviewers, with in addition, an even better knowledge of the region.

### ***Selection of coordinators***

The coordinators were generally members of the Bureau of Timidria. They were either originally from the region, and/or civil servants having worked for a long time in the region. They fulfilled the same criteria as the interviewers, resource persons, and supervisors, but in addition, they were in charge of managing the funds allocated to the region to cover payment of daily allowances for interviewers, resource persons, and the supervisor, as well as for the purchase of fuel.

At the end of the mission, the coordinators had to account for all expenditure during the study. They were also required to deposit all the results from their region at the headquarters of Timidria in Niamey. This arrangement made it possible to have information about the possible difficulties encountered in the field, since they were to be mentioned in their written report of the mission. The coordinator was also in charge of ensuring the security of interviewers and of making the necessary arrangements with the authorities before and after the fieldwork.

### ***Selection of resource persons***

Resource persons were mostly members of the decentralised chapters of Timidria. Some were leading human rights activists, while others were in responsible for local sub-chapters and local offices.

Once the staff required to carry out the study had been recruited, the date and venue for training, as well as the practical arrangements for the training were defined, and the information was sent out to participants.

### ***Training of interviewers and supervisors***

A training workshop was held from 28 - 30 July 2002, for all the interviewers, supervisors and coordinators that had been selected for the study. Training was provided by three facilitators, including Mariam Ouatara, of the London based organisation Anti-Slavery International.

During the workshop, participants were provided with comprehensive documentation about slavery and its various mutations in the periods before, during and after colonialism. They were informed about the sort of behaviour patterns to look out for in the field, depending on the specific area of intervention. After the training, the questionnaire was tested in order to determine whether it was user-friendly. The tests also made it possible to check how well the interviewers had understood and assimilated the contents of the questionnaire. Practical sessions were organised, during which the future interviewers played the role of interviewer or interviewee in turn. Following these sessions, the results were pooled in order to resolve the difficulties that had been encountered, in particular in translating, in understanding the meaning of certain questions, and in the different possible interpretations in day-to-day language. Comments from participants were noted and incorporated into the questionnaire in order to make it more appropriate for the purpose it was expected to serve.

### ***Conduct of the study***

The study was conducted over a period of ten days between 5 - 14 August 2002, by eight teams, each of which covered one zone. The zones covered were Agadez, Dosso, Maradi, Tahoua I, II and III, Tillabery, and Zinder. Altogether, these teams comprised 87 interviewers (see the breakdown below), eight supervisors, eight coordinators, and 87 resource persons. Ten vehicles were used for the field trips.

Before the start of the survey, the Ministry of Interior and Territorial Administration was informed of the fact that the Timidria Association was about to undertake an awareness raising campaign and to make contact with its various chapters. An application was made for authorisation from the ministry. The ministry then sent instructions by radio to all the bodies concerned, to enable all the necessary arrangements to be made, particularly with respect to security. Within each administrative unit, the coordinators first went to see the authorities, showing them a copy of the radio message. They then indicated the expected itinerary and duration of the missions. At the end of each mission, the administrative authorities were once again informed that the mission had been completed.

In addition to the missions carried out in the first two weeks of August, three other supplementary missions took place in Agadez, Tillabery, and Zinder. The interviewers carried the questionnaire, as well as administrative documents that were intended to facilitate their movements and their contacts with local authorities. The supervisors accompanied the coordinators as they carried out their activities, with tape recorders and cameras, which were used to record and film the accounts of certain victims, particularly those who had large and visible scars and injuries.

As much as possible, interviews were carried out both by day and by night, in order to minimize the risk of drawing the attention of slave-owners. At the end of the survey, 11 000 questionnaires had been completed.

### *Processing of the data*

Once the data had been collected, the questionnaires from each zone were bound together in the form of registers. A total of 101 registers, corresponding to 11 000 people interviewed, were constituted. The data was then processed into a database using a data entry form, which was an exact copy of the questionnaire. This was done in order to avoid losing even the slightest bit of information. Members of Timidria and students entered data into the database.

After the first phase of data entry, it was apparent that some information was duplicated. This duplication related to the number of slaves per master. Indeed, since the question was put to the slaves as to how many slaves were owned by their master or mistress, it can only be expected that for the same owner, several slaves may give the same or even different numbers. In totalling the numbers given by each slave, we ended up multiplying the actual number of slaves owned by the same person. The way to avoid such duplication is to relate individual slaves to their master by name. The attempt to correct this failed because after many months of effort, the work done was accidentally deleted by an error in handling. The problem resulted from the fact that those in charge of entering the data could be relied on to safeguard the integrity of the results, but did not have a good knowledge of information technology. Since there was neither enough time nor financial resources to start all over, it was decided to use the data as it was, without the desired accuracy.

Another major difficulty arose alongside the former. This relates to the spelling of slave-owners' names and of places. Indeed, it is commonly, albeit erroneously, accepted that "there are no spelling errors where proper nouns are concerned." In Niger, French is learnt in school mostly through dictation exercises. Proper nouns are copied by pupils if they make mistakes however, they are not corrected. Teachers have always justified this attitude by saying that one cannot mistakenly spell proper nouns. This perception has persisted and names are often written in whatever way the writer considers correct. Therefore, relating slaves to their owners by name becomes difficult, since the interviewers used different spellings for the same name. As an example, these are the different possibilities for spelling the name Galy: Ghaly, Ghali, Gali, Galli, Ghalli, Ghally, Ghâly, Ghâly, Gâli, Gâly, and Ghâlli. In order to overcome this difficulty, the interviewers should have been assembled with the results of their work, to harmonise the spellings of names of people and places. This was not

possible, however, because of a lack of sufficient funding to bring together all the interviewers from the regions for a lengthy stay.

### *Difficulties*

There were a number of risks or difficulties involved in preparing and conducting the present study, the following factors may be noted:

- The car accident that took place on the Dosso – Konni road on August 5 2002, the very day on which the teams set out. The coordinator for the Tahoua I zone suffered a fracture in the accident, and the vehicle was considerably damaged.
- The difficulty in carrying out interviews on a very sensitive issue.
- Obtaining access to remote areas in order to carry out the survey, especially during the rainy season.
- The sheer size of the country.
- Lack of adequate infrastructure.
- Insufficient financial, logistic and material resources, particularly computer equipment.

Between 1 September and 30 December 2002, following the field-work, a team of four computer specialists took turns entering the data from the registers onto a single Timidria computer, which often broke down. It had been agreed that Anti-Slavery would supplement the computer with three additional machines. The shipment of those machines however got lost somewhere in Sudan and when they finally arrived, they were out of service. The greater part of the work was therefore done on a single machine.

It had also been intended to provide the teams with cameras in order to have pictures of the scars resulting from torture and other forms of violence on victims. The funding that was made available, however, was only sufficient to allow the purchase of a few disposable cameras. The quality of the pictures taken with these cameras is so poor that they could not be used.

With so many difficulties, we were left with no choice but to publish the results, with the inherent shortcomings. This does not however preclude the fact that the principal data generated by the database was well founded, was collected according to stringent rules and is accurate. The solution to the difficulties mentioned lies in better funding. It is therefore necessary to start work on a second version of the database, which would enable it to be fine-tuned, and which would give more detailed answers to various questions. In fact, a remarkable paradox has emerged, concerning this work. Whereas the greatest challenge was to produce data on slavery, as soon as those statistics were made available, the demand now was for further details, ratios, combinations, and other supplementary analyses. And yet, to study any phenomenon, there is a need to proceed step by step. The first step, and the most important, is to define a certain idea of the phenomenon. That is the descriptive phase. Subsequently, an attempt may be made to understand the relationships, which underpin the phenomenon. This is when further investigations can be made on the qualitative aspects.

It must be noted, however, that this is the first time that such an exercise has been carried out and the authors are aware of the shortcomings of the study, which are due more to a lack of material resources than a lack of intellectual capacity. The work was undertaken to serve as a starting point for subsequent action by human rights activists. This, it is hoped will lead in the long run, to the database becoming empty, through the emancipation of all victims. As it is, the database constitutes the best instrument any human rights association has possessed in relation to fighting slavery in Niger as the database can easily be updated by adding or removing cases. It is also possible to know the conditions in which each victim lives. Slave-owners are registered by name, with the number of slaves they own, and the manner in which they were acquired. From the legal point of view, the ground is well prepared for legal action with a view to obtaining reparation, case by case, if necessary.



## THE HISTORIC ROLE OF AFRICA IN SLAVERY

One of the oldest historical sources on the role played by Africa in slavery is to be found in Popovic's account of a Black slave revolt in Mesopotamia (Lower Iraq) in 689-90 and in 694. These slaves were known as Zandjs, and later Al Tbarai estimated that they numbered about 15,000. They worked on irrigation projects and maintained the canals. Ibn Khaldun reported that these slaves came from East Africa. Al Yakubi (1975, p. 48-49) wrote in 891: "We then went to a country (or a town) called Ghasht (Audaghust). It is a prosperous oasis with fixed houses. Their king has no religion, is not bound by any religious law and raids the states of the Soudan.<sup>6</sup> Further south, the populations are Muslim and they export Soudan slaves (...) in their neighbourhood, enslaving them. I have been told that the Kings of the Soudan therefore sell the Soudan slaves without any reason or grounds related to war." (Al Yakubi)

Ibn Hauqal (1925, p. 95) writes that before 988 "among the items exported from the Maghreb to the East were beautiful women and girls who became the favourites of the Abbassides and other eminent personalities ... There were also the handsome slaves imported from Black states, as well as the slaves from the Slavonic region through Spain."

Anderson (1977 p. 190-191) sees a link between the slave trade and the prosperity of certain regions in Russia, especially the Varg Kingdom: "the Varg Kingdom of Russia was a commercial empire built essentially from the sale of slaves, first to the Islamic world through the Bulgarian Kharzar and Khanats and later directly at the central emporium of Kiev". Thus for several centuries, all the continents contributed to "bleeding" Africa through slavery.

There is no need to discuss the Trans-Atlantic Slave Trade, which is well understood. It is however important to examine the participation of present day Niger in the proslavery movement and to look at the situation on the eve of colonial expansion, during colonial domination and after the advent of independence. Indeed, Olivier de Sardan wrote that "colonisation constituted such a break in the history of African peoples' that it is impossible not to distinguish between the periods "before" and "after" the French conquest." (Olivier de Sardan 1984, p.1) African societies have been traumatized by colonisation, which disrupted their values in favour of other values. This domination needs to be examined in the light of slavery in order to see whether values have remained the same, since the legacy of the past depends on them.

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<sup>6</sup>Sudan is the name given by Arab historians to both the land of Black people and the Blacks themselves. Later, geographers called French Sudan the part of West Africa comprising a large part of present day Mali to distinguish it from Sudan, which is an Islamic republic today.

## SLAVERY IN NIGER

### The situation before colonialism

Before the colonial conquest, the area occupied by present day Niger may broadly be subdivided into four more or less homogeneous zones based on the people, customs and lifestyles.

In the east from the banks of the Lake Chad to Zinder, capital of Damagaram, the area was mainly occupied by Mangas, a Kanouri sub-group. This area was under the influence of the Mai of Bornou<sup>7</sup>. The people were converted to Islam and lived by agriculture, cattle rearing, fishing and trading. The Hausa who engaged in hunting, agriculture, trading and cattle rearing predominantly populated the south. The accelerated Islamisation of the Hausa states was a result of the Jihad of Ousman Dan Fodio who subjugated all the Hausa states within the Caliphate whose capital was Sokoto in present-day Nigeria. However, two Hausa states were not subjugated. They were Katsina (capital Maradi) and Gobir (capital Tibiri), which maintained their old animist beliefs. Another area occupied by people of Hausa origin was Arewa, which was not affected by Islamic influences from either the east or west.

The Zarma-Songhay people who share the same social structure and language occupied the West. These people engaged in hunting, agriculture, cattle breeding and fishing. Islam was not dominant in spite of the conversion of the Songhay sovereigns. The Hausa and Tuareg peopled the North. The Hausa living in the region of Tahoua were hunters and farmers. The Tuareg were nomads and caravan traders in part, and sedentary farmers for those who lived around the massif of Air.

The different regions had unstable relations of alliances, opposition, war and peace. In any case, their history is marked by both periods of conflict and peace. Certain regions built cities whose influence extended far beyond the borders of present day Niger.

On the eve of the colonial conquest, the Damagaram was a vassal of Bornou and in conflict with the neighbouring Hausa states. The Sultan of Air (capital Agadez) conquered a large part of the region of Tahoua. But he himself had sworn allegiance to the Caliphate of Sokoto.<sup>8</sup> Gobir and Katsina remained politically and religiously opposed to the Caliphate of Sokoto. In the West, the warlords had consolidated the balance of power around certain major centres and organized their defence against the raids of the Tuareg in particular.<sup>9</sup>

Historical documents have recently shed light on the political and social organisation of each of the regions. Indeed, with the development of the University of Niamey,

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<sup>7</sup> Mai means King.

<sup>8</sup> Sokoto is the capital of the state of Sokoto in modern Nigeria. It is also the capital of the Caliphate of the same name founded by Usman Dan Fodio. It reduced most of the Hausa states to the status of vassals splitting them overnight between Hausa dependent on England and those, dependent on France. The colonial break did not succeed in separating the Hausas living on both sides of the border between Niger and Nigeria.

<sup>9</sup> A rapid incursion into a neighbour's land to seize all kinds of booty. People captured in such operations were enslaved. Tuaregs were very notorious for this practice.

each region has been studied in-depth, thus providing material based on both written and oral sources. It is these sources that enable us to learn about the situation of slavery in the pre-colonial societies of Niger.

## **Slavery in the East of Niger**

### ***The Far East: Mangari***

In the far east of Niger, peopled by the Manga, Maikoréma Zakari in his '*Contribution à l'histoire des populations du sud-est nigérien : le cas du Mangari (XV<sup>e</sup>-XIX<sup>e</sup> siècle)*' [*Contribution to the history of the people of south-east Niger: the case of Mangari (15th-19th century)*], provided a comprehensive description of the society in relation to economic structures. This society is made up of two main groups: the first being that of the "commoners" and the second the "leaders".

The main problem for free men, was the tax they had to pay to the leaders, particularly the Munyoma. The tax was equivalent to a tenth of the harvest of a free man, and in addition, every adult had to pay in cash (then cowries) 1,000 cowries per person, 1,000 cowries per head of cattle and 2,000 cowries per slave. "To cope with all these expenses and still have enough food to eat, the peasant had to have a large labour force and produce as much as he could. It was therefore necessary to supplement the work done by the members of the family with the labour provided by slaves. This only served to increase the number of over-exploited individuals composed of captives, among the masses of exploited farmers." (Maikoréma 1985, p. 128)

At the bottom of the ladder were the slaves. The status of slave was acquired in several ways. The most common way was capture during raiding expeditions against neighbours. The second way was kidnapping, mainly of isolated individuals and children in particular, by armed groups. The third way was through trade. Guré (present-day Gouré, provincial capital of the district by the same name) had a slave market. The suppliers of slaves were members of the group of leaders. The aristocracy supplied slaves especially to the North African and Arabian merchants. The prices varied according to whether the slave was a child (60 to 80,000 cowries), an adult (30 to 40,000 cowries), a pubescent boy (50 to 60,000 cowries) or pubescent girl (80,000 to 100,000 cowries). Barter was also a way of acquiring slaves; fabrics, animals, cereals and farming implements were among commodities used.

Among the commoners, the slaves performed all manner of tasks, especially working their master's farms, fetching water, keeping and feeding the master's herds, and collecting firewood. On the personal level, the slave was relegated to the rank of an animal owned by somebody and, in that capacity, could not own any property, which the master could not use freely. The slave could also be sold or given away at any time. Maikoréma wrote: "The captive is an individual who has lost all intrinsic value. His person and meager property both belong to his master. For the latter, the slave has the same value as a beast of burden. He may be sold, exchanged or given away at any time. Sometimes, slaves were among the property a newly married woman took with her to her in-laws, and their number depended on her parents' means." (Maikoréma, 1985, p. 131) The aristocracy and other people in authority all owned slaves. The aristocracy was the supplier of slaves for sale. They kept some slaves to use in the administrative system. These slaves became bodyguards and soldiers who "always

occupied the frontline in battles and were the most exposed to danger in all conflicts, thus ensuring the defence of the authorities.” (Maikoréma, 1985, p. 132) Paradoxically, the slaves of the aristocracy were privileged compared to free men, because they lived in the shadow of the authorities and gathered wealth in cattle and slaves. They were more taskmasters than task performers.

Whatever the manner in which a slave acquired his status, the latter could be reversed for first generation slaves. A slave could be freed by a master, or could buy back his freedom from the master. However, for a person born of slave parents, it was impossible to buy back one’s freedom or even be set free by one’s master. It is easy to understand why a girl of marriageable age attracted the highest price: because her children would never be free and were part and parcel of the master’s property. This permanent status was characteristic of the system of values created by a proslavery Mangarian society’s ideology which recognised a hierarchy in which “those whose parents were sold or exchanged remained inferior to those whose parents had never been enslaved, even though they might have found their freedom later. Some went even further to claim that the descendants of former captives remained victims of a congenital defect due to the simple fact that their parents once served as a medium of exchange.” The quotation is from a footnote by a historian, which aptly reflects the current ideas about the ranking of citizens and, indeed, the current proslavery attitude in present day Mangari and among its people. It can be seen especially with regard to marriage, where people whose parents have never been enslaved take care to avoid giving their children away in marriage to anyone whose parents were slaves. The people talk about a curse that creates an insurmountable barrier between citizens. In this region, this ideology is still a remnant of slavery, which, although no longer openly practised outside of royal courts, persists in the form of discrimination between citizens of noble and humble birth. The praises showered on some are meant to remind others that if they cannot enjoy any praises, it is because of an unspoken reason known to all. By praising some and ignoring others during naming ceremonies, the *Griots* (musicians, dancers) contribute to maintaining the vestiges of outdated values.

The domination of the Bornou Empire extended to Damarangam, which, from the historical point of view, was also affected by the question of slavery.

### ***Damarangam***

Zinder was the capital of Niger until 1926. Its old name was Damarangam, capital of the Sultanate by the same name. Administratively, the city is a provincial capital and is one of the few fortified cities in Niger, the cradle of a civilization and rich history preserved both by oral tradition and the work of contemporary historians. Under colonialism, it was also a military post and capital of Niger, which has made it possible for historians to have access to the archives and reconstruct the past. Further, it was a town of Islamic radiance and the Arabic and *Ajami* writings have helped reconstruct its history. André Salifou described in his doctoral thesis on “Damarangam or the Sultanate of Zinder in the 19th century”, published in 1975, the social structure, which revealed the existence and role of slaves in and outside the city.

The city was located at the crossroads of the trade routes that linked Black Africa to the Maghreb, Bornou of which it was a vassal, and the markets of the various Hausa cities including Kano.

One of the characteristics of Damarangam was its direct participation in the slave trade towards North Africa. Many reports have been gathered on this subject including those of European explorers who described real life scenes. One of these scenes is heart-breaking: “A long line of captives, taken during a raid, was walking towards the city, led by a single horseman. There isn’t a more horrible spectacle than that in the world. I felt dizzy at the sight. There were little children running around naked; mothers painfully dragging themselves along with babies at their breast; a little further, girls of different ages, old men with heads bent low, old women leaning on long sticks with only a semblance of life left in them and then came a line of strong, young men, chained to each other by the neck. In all, there were nearly three thousand of these poor souls.” (Richardson, quoted by A. Salifou, 1975, p. 197)

This testimony recounts the practice of the slave trade by the sovereign of Damarangam, who paid his debts to traders who were nearly all of Arab origin. The proceeds from the sale of slaves were also used to pay the tribute to the sovereign of Bornou whose vassal he was. The question here is the origin of the slaves: according to Delanoye, they were prisoners of war, but a special kind of war. Indeed, the Sultans came up with a trick, which constituted “an injustice unparalleled in the North of the Soudan.”<sup>10</sup> The trick was as follows: the governor of a province, the Sultan of Zinder in this case, stirred up a conflict in an area under his rule and then marched against the rebels whom he then seized and enslaved.” (Delanoye quoted by Salifou, 1975, p. 197)

The sovereigns enslaved their own subjects for the purpose of selling them and paying their tribute. Thus Zinder had slave markets. Commander Lamy in 1899 recounted that he saw in a corner of the city market “some sorry souls, as thin as skeletons, squatting on the ground (with shackles on their legs), heads on their knees, waiting to be purchased by a new master. The old man selling them feeds them just enough to keep them alive.” (Lamy, quoted by Salifou, 1975, p. 197)

The biggest slave markets of Damarangam were those of Birni (fortified) and Zongo (non-fortified part of the city). Every year, the slaves were taken to North Africa via two routes, one leading to Tripoli and the other to Cairo. Some of them were taken to Ilorin and Zaria in present-day Nigeria. There were about three thousand annually.

André Salifou has provided a fine description of the different kinds of slave.

The Sultan’s slaves subdivided into two groups:

- those acquired at a young age by the Sultan after a war during which their parents were killed or sold. They lived around the palace, were integrated into the royal family and therefore could not be sold or given away. They could serve in the Sultan’s administrative system.

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<sup>10</sup> Soudan refers to the land of the Blacks south of the Sahara in West Africa.

- those acquired when they were much older and who were given to courtiers, *Marabouts* and princes.

The slaves of other free citizens. These were generally bought and used to work in the fields, to collect wood and fetch water.

The status of slave made them the exclusive property of their master under laws governing the ownership of slaves. Those were such that, when two slaves belonging to the same master married, their offspring became the property of their master; when the two slaves belonged to different masters, their offspring were the joint property of the two masters and could neither be sold nor set free. Should the parents divorce, the children became the property of the mother's master who could do whatever he liked with them. There was never any dowry involved when slaves married.

Masters could take their slaves as concubines who became free after giving birth to their first child. They could then do what they wanted and even marry their former master. Any slave could buy back his freedom, except the offspring of slaves who forever remained inferior.

The Sultanate used slaves to perform administrative tasks and also as soldiers. Soldiers were almost all slaves. The price of slaves varied according to age and ethnic group. The average price varied between 10,000 and 45,000 cowries. Slaves belonging to the Peuhl ethnic group were less valued than the Kanuri.<sup>11</sup> The price of strong and vigorous slaves was considerably lower because they could run away. The most valuable slaves were young ones because they were malleable. Slaves were also bartered against animals such as horses and oxen, as well as weapons such as swords.

This was the state of affairs when the colonial troops occupied Damagaram. Once again, the ideology here was that the slave was an inferior being who "born a slave" should "die a slave."

The historian of Damagaram concludes as follows on the role of slaves in the Sultanate and society: "Slaves were able to assert themselves through their courage and righteousness, but especially through their zeal for work, to the point of becoming administrators, food-producers, and defenders of the state, while remaining a commodity and a particularly valuable medium of exchange. The very survival of the state depended on the existence of slaves – a paradox that seemed to be one of the most characteristic features of the Damagaram society in the 19th century (André Salifou, 1975, pp 205-206).

### **Slavery in Western Niger**

In Western Niger, which is inhabited by the Zarma-Shonghay, slavery was and continues to be the principal mode of production. Indeed, a scholar has published interviews conducted in the 1980's to highlight the dichotomy between free men and slaves in Zarma-Songhay societies. According to one of the people interviewed: "If this happens, (if we eradicate slavery) we will die! Our women do not know how to pound cereals, they cannot draw water or cook. All we do is rest; we do not engage in

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<sup>11</sup> Kanuri is the name of an ethnic group living in the east of Niger, from Zinder to Diffa.

agriculture, we cannot till the land. It is our slaves who do our farming for us". (D.E. Sardan 1984, p 28).

This testimony demonstrates how the concept and magnitude of slavery, which remains the mainspring of the society to this day. The structures of the Zarma - Songhay society described by Kimba Idrissa are, according to him, not well understood for reasons related to the different migrations which took place between the 16th and 19th centuries. The principal immigrants are the Peul and Tuareg. Mobility was the rule, which explains the absence of major settlements.

There were also the military leaders (*wonkoy* or *mayaki*), the warlords who seized political power after distinguishing themselves in the field. Indeed, people settled down in the second half of the 19th century during the period of the many wars, which resulted in an increase in the number of captives. This modified the attitude to work, relegating agricultural work to the rank of an activity for people of humble origin, and considering war as a noble activity.

Kimba Idrissa described three social groups in Western Niger: the military leaders and princes (*koy* and *koy izé*), free men without authority, and captives called *banya*. The society has no specific name for craftsmen, all manual workers are called by the same name of *kambe goy-teeri* (manual worker).

Slaves constituted the principal labour force in warlike societies. Their numbers kept increasing and, in the region of Say on the right bank of the river Niger, it is estimated that three-quarters of the population around 1904-1905 was composed of slaves.

War was the main source of supply for slaves. The purchase of slaves was a second source, but "this trade was never brought about by foreign demand (Kimba, 1981, p. 27), with the exception of a few cases which did not last. The price of slaves varied according to age and sex. The price for a child varied between 80,000 and 100,000 cowries, 60,000 for an adult, and between 100,000 and 150,000 cowries for a young girl. Barter was also used as a way of acquiring slaves - with clothes, horses and cereals serving as mediums of exchange. The third source of supply was kidnapping, practised mainly by the people living in the islands along the river Niger, especially the Kurteys. Slaves could be pawned. However, this was more common in the colonial period with the practice of keeping members of a family hostage until taxes were paid.

The slaves themselves were classified according to a certain hierarchy. The *Horso* "the half-brother of a free child born from the marriage of a captive woman and a free man. The *Horso* was the offspring from a previous marriage of the same captive woman with a man of the same status. This child of captive parents therefore became the *Horso* of his half-brother who was free because he had noble blood on his father's side" (Kimba, 1981, p.29). After some time, the *Horso* became part of the master's family and could no longer be sold or exchanged. He remained a half-slave for the rest of his life, could marry a woman of servile status, and own property that the master inherited when he died.

The pure slave was called *Tam*, which meant *slave-commodity*, and "his labour and even his life belonged totally to his master." (Kimba, 1981, p 29) A *Tam* was not only a medium of exchange but could be part of the dowry of the master or other member

of the latter's family. Certain slaves belonging to the leaders could be emissaries or messengers.

Emancipation existed. It was a unilateral act on the part of a master who, for religious reasons, could decide to change the status of his slave. "It is a pious act recommended in the Koran and difficult to date back to the pre-Islamic period." (Kimba, 1981, P. 31)

Socially, the "captive" (except the *Horso*), was not even classified among the group of human beings and was considered a non-being. He was considered as non-existent, which explains why no mention was made of this group in any matters relating to public institutions. This gap between the two groups has remained to this day. The slaves and descendants of slaves, even *Zarmas*, do not consider themselves as part of the Zarma society. To show this difference in nature, when they refer to free men they always say "the Zarma and us." (Kimba, 1981, p. 33) The social system marginalizes the slave to the extent that even his military prowess has a value only by reference to the master.

It should be remembered that the Zarma-Songhay society was based on slavery, which produced wealth for the benefit of a class of privileged people who acquired that status through the hazards of war.

### **Slavery in Northern Niger**

#### ***Ader***

The area known as *Ader* corresponds to the present administrative division of Tahoua. *Ader*, was until the 19<sup>th</sup> century, mainly occupied by the *Azna* (the name given to non-Muslims). The *Azna* were subdivided into two groups: the *Azna Mahalba*, who were mainly hunters but also farmers, and the *Azna Ramu*, who were mainly gatherers. Their peaceful life was to be disrupted by the new conquerors from the north, the Tuareg Kel Aïr. The latter took over the territory, establishing chiefdoms and a new social structure.

It was after the Tuareg invasion that the term *Adar* was used to refer to the country. The name now refers to the whole region. The conquest did not change the life-style of the indigenous people, who continued to live on millet farming, hunting and gathering. A new status hierarchy came into being with the establishment of the *Sarki Adar* (leader of *Ader*), whose capital is still Illéla. The *Sarki* was above the people. He reigned over a large court composed of courtiers from Aïr, which excluded the locals from participating in decision-making. Next to the *Sarki* came the *Lisawan* who constituted the so-called privileged or pact group. The *Lisawan* were from Aïr, just like the *Sarki*. Some *Azna* leaders maintained some importance but owed tribute to the *Sarki*. Then came the village chiefs living with the *Talaka* (subjects) who were free.

One of the major factors of change was the increase in the number of slaves. Slavery was a practice that was part and parcel of Tuareg life and the newcomers obtained their slaves from Gobir (present day Tibiri), Zamfara, and Kabi in present day Nigeria. Other sources of slaves were the villages that revolted, the villages were plundered and their inhabitants enslaved. Slavery was not widespread among the



people. It was limited to the circle of those who held power, especially those from the North.

Slaves worked in the fields and looked after the livestock. What is noteworthy, is that the simultaneousness of the Tuareg invasion and the institutionalisation of slavery. It was therefore mainly a Tuareg institution practised long before the conquest of Ader for the purpose of supplying the markets of the Maghreb and the Oases of the North.

### *Aïr*

Historically and politically, northern Niger corresponds to the Tuareg Sultanate of Aïr. The Tuareg, who pushed the black indigenous populations out towards the south, gradually occupied the area. From the 14th century, when the Sultanate of Aïr was established, the semblance of unity among the various Tuareg tribes and confederations were a force used by some of the sovereigns of Aïr to conquer new territories such as Ader or to carry the war into the Hausa principalities like Kabi.

Black people remained in the area of Aïr, especially in the city of Agadez itself and in Ingall. A permanent feature was the mixing of the populations. Tuareg society has been closely studied because, among other reasons, it presents a strongly hierarchical and apparently stable structure, according to Djibo Hamani.<sup>12</sup> In any case, it appears very complex with its many tribes, confederations, political structures and alliances, all actively engaged in cattle rearing, trading, and raiding.

It is generally agreed that Tuareg society has a two-tier structure: a first tier of free men and a second of slaves. At the top of the hierarchy are the *Imajaghan* (nobles or lords) described as the aristocrats or leaders of the society. They were in the minority in all Tuareg societies, but have succeeded in remaining distinct from the other groups through their wealth in livestock and “an ideology that tends to mythicise the origin of the *Imajaghan*, making them more or less supernatural beings. These beliefs are deeply rooted in the minds of the people they dominate and are kept alive by the daily feats of the aristocracy on the battlefield: courage, skill, an uncommon ability to withstand hunger, thirst, fatigue (...) They have managed to keep their group together by establishing a tight barrier between themselves and the *Imghad* (tributaries), by excluding them from any intermarriage, and by behaving as differently as possible in their daily lives.” (Djibo, 1989, p. 304)

The *Imghad* form the majority of the members of the Tuareg society. They are in general as fair-skinned as the *Imajaghan*. They are free, but considered inferior to the lords who prevent any intermarriage between the two groups. The *Imghad* are said to have been nobles in the past who were forced into submission by the lords. They are considered vassals and, in this capacity, are tributaries of the lords who could ask an *Imghad* “not only to perform tasks and make contributions, but also hand over all his property.” (Djibo, 1989, p. 304) This class engages almost exclusively in cattle rearing.

The *Ineslem*, or Muslims, are Tuaregs who converted to Islam. They are said to have been *Imajaghan* in the past but devote all their lives to their religion. Indeed, Tuareg

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<sup>12</sup> Djibo M. Hamani, 1989, p 301

communities are, in general, hardly islamized. Thus, when a significant number of them converted, they formed a separate tribe described as *Ineslem*.

The *Iklan*, or slaves, are to be found in every Tuareg tribe or sub-group. Though their numbers may vary, the fact remains that slavery is a common feature of Tuareg society. The Tuaregs first built up their stock of slaves from the indigenous populations they found on the spot when they arrived. According to Djibo Hamani (1989, p. 307), “... when they established relations with the Soudan, they obtained new slaves by purchasing them. This remained the only way of acquiring slave labour for centuries”. Since the slaves are black, the Tuareg society became one in which the “division into classes” was also a “racial” division: at the top were the aristocracy and free men, all White; at the bottom of the ladder were the servile masses composed of Blacks.” (Djibo Hamani 1989, p 307)

Kidnapping, which developed in the 19th century, was another way of acquiring slaves. Sedentary people of the south knew that Tuareg travellers could carry off lone children.

Slaves performed all sorts of domestic chores. “It is clear that present Tuareg culture as a whole - of which poetry, long and frequent visits with relatives, the courting of women and “idleness” are main features - was only able to exist and develop because the free men and women, the *Imajaghen*, were totally exempt from manual labour.” (Djibo Hamani 1989, p 307) All manual work was considered lowly and therefore exclusively carried out by black slaves.

The slave has no “family” as such. He is attached to his master’s family and considered a “son” of the master. He could marry, and his master would pay the dowry; however, any offspring from the marriage would belong to his wife’s master. The slave cannot inherit. When he dies, all his property would belong to his master. He could be sold or exchanged or form part of the dowry of a bride from a noble family.

Slaves could be set free in a Tuareg society. Thus, a master could reward a slave by granting him freedom. Slaves were set free because of the piety of the master - where the latter was a Muslim - or because the master wished to show his appreciation of the merits of a slave who distinguished himself through bravery. The freed slave had the right to leave the master’s camp. Tribes of freed slaves therefore exist.

The *Ighawelan* (*freed slaves*) are composed of former slaves who, though freed, remain tributaries of their former masters. Moreover, they do not enjoy all rights, particularly with regard to marriage. The freed slave must keep away from the society of free men and, according to Djibo Hamani (1989, p. 309), “once a slave, always a slave in Tuareg society, especially as the difference is so visible”. Tribes of freed slaves engage in caravan trading or agriculture, or tend the herds of former masters. Such tribes are to be found almost all over Niger, particularly in Damer gou (Tanout) in the region of Tessaoua, in present Nigeria, as well as in the regions of Sokoto and Kano.

The social structure of Tuareg tribes also includes castes. Handicraft, for example, is the work of castes, particularly blacksmiths and potters. The *Inadem* (blacksmiths) work with iron and wood, while their women work with leather. They are also the

poets of the society - which prompts Djibo Hamani to say that they should be given the main credit as the architects of Tuareg culture. From the point of view of status, blacksmiths are classified as a caste attached to a tribe biased against them. The educated considered them unfit for military service, not being brave enough, and therefore undeserving of any consideration – they neither had the right to even respond to insults, nor, of course, the privilege or merit of imitation by free men, least of all aristocrats. They are, above all, treated as liars and as people to be scorned.

“Blacksmiths we come across always seem to play the game and accept the faults Tuareg society ascribes to them. This strikingly efficient “brainwashing” of their *Iklan* (slaves) and *Imghad* (commoners) by the *Imajaghan* has been so successful with the *Inaden*, that, like their masters, they are called “sons of geni” (spirits) - a very graphic description, but the historian is not deceived.” (Djibo, Hamani 1989, p.311)

It is worthwhile considering the conclusions of the Kel Tamachek<sup>13</sup> historian in order to understand the issue of past and present day slavery in Tuareg society. He writes: “Thanks to a pyramid structure that almost resembles a caste system, at the top of which sits the small stratum of *Imajaghan* - very much a minority. Everywhere you find the *Imajaghan* had succeeded in establishing the conditions necessary to maintain their domination. Marriage with the *Imghad* was prohibited and considered a misalliance, which led to the offspring from such a marriage being excluded from the caste of the *Imajaghan*. The *Imghad* also made it a point of honour to avoid intermarriage with the other inferior strata, and the same was true for the craftsmen in their relations with the slaves. In theory, one could not leave the status of *amghid* (noble), or *enad* (blacksmiths); and we have seen that although he could be set free, in reality, the *akli* (slave) could never be a free man. The society was organized according to a system based on a “ladder of scorn”, each group despising the one below it, with their biases and reservations, though all tending toward the ideal of the *amajagh* - the perfect hero: proud, brave, generous and cruel at the same time.” (Djibo, Hamani 1989, p.311)

It should be underscored that the Tuareg, though concentrated in Aïr, never stopped moving southwards. A number of tribes settled in Ader when it was conquered. The same is true of the area between Tahoua and Agadez, Azaouak – where various Tuareg tribes and Arabs migrated. As far as slavery is concerned, the Arabs (Moors) have similar customs as the Tuareg.

The Tuareg settled more or less permanently in the west, centre and east of Niger. There is no region, society or culture, which is not in contact by way of trade, conflict, cooperation, vassalage, or neighbourliness, with part of the many Tuareg confederations, tribes, or sub-groups.

### **Slavery in Central Niger**

The people of central Niger belong to various Hausa societies. Central Niger can be considered to stretch from Maradi to Dogondoutchi, along the border with Nigeria.

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<sup>13</sup> Tamachek is the language spoken by the Tuareg. Kel Tamachek, literally, those who speak Tamachek. (editors note)

In Hausa societies, which are animists for the most part, the main activities were farming, hunting and trading. They generally engaged in these activities around major cities ruled by a king who usually had a court and large administrative staff.

Hausa society is not organized into a hierarchy as complex as that of, say, the Tuareg. Basically, they have a sovereign (king, prince and courtiers) and the *talaka*, that is, the subjects who pay a tax to the king but are free men. Since the people are relatively homogeneous, ethnically speaking, there is no form of closed hierarchy. The priests in whom religious power is vested are either closely related to the chiefs or chosen according to well-defined criteria. Certain occupations are reserved for certain castes, which vary according to the group concerned. Blacksmiths and butchers are the most common castes.

Production was organized around land farmed by the family in the broad sense of the term, specifically under the head of the family who distributed the harvest. Slavery was not a custom and was limited to the courts in which slaves often played honourable roles. In Katsina, for example, slaves are mentioned in relation to politics: "The use of slaves in politics is another feature of the Hausa political institutions, also found in the institutions of their neighbours." (Mahaman Ado, 1998, p 344) Ado also writes: "Of all the classes associated with government, the dignitaries of slave origin are those who benefit the most from royalty after the Serkin Katsina. The role of slaves (...) served to check the unbridled ambitions of the members of a prolific royal dynasty, while giving the slaves the feeling that their status could improve to the point where they could decide the fate of free men and nobles." (Mahaman Ado, 1998, p 372)

It seems that slavery was limited to "aristocrats" instead of being generalized as in other societies. Moreover, "a man could have an affair with his female slave. In this case, the latter acquired the status of *er sadaka* (the integrated) and her children were as legitimate as the offspring of mothers of free origin." (Mahaman Ado, 1998, p 344-345)

It is not possible to mention all the ethnic groups of Niger and describe the social structure. There is a diversity of cultures, but the general trend is as described in the major groups studied above, to which one must add the areas conquered by the Peul who also founded kingdoms and left their mark on the political and social life of the area.

On the whole, slaves were the driving force of agricultural production, keepers of the herds of animals, defenders of caravans, camps and kingdoms, courtiers, and trusted house servants who performed all manner of work. They served as a medium of exchange and enhanced the glory of their masters who rewarded them by establishing an ideology that kept slavery alive in a gradual and pernicious manner for centuries.

## **THE PROSLAVERY IDEOLOGY ON THE EVE OF COLONIAL PENETRATION**

Advocates of slavery base their arguments on the way people think and behave to justify the establishment of absolute inequality as a system. We have seen that, in general, slavery relegates the human being to the level of an animal. To achieve this, a complex but efficient system was established to justify the “superiority” of some people and the “inferiority” of others.

As we have seen, those who practise slavery prefer children and adolescents to adults, for the simple reason that it was easier to break-in or tame a child than an adult. Indeed in Damarangam, strong adults were called “fence jumpers” because they could run away. This malleability of children was the reason why kidnapping developed as a means of acquiring slaves. The preference for children was also a reason for the gap in the life of a slave – a slave was a person without a past, without ancestors. In most Sahelian societies, indeed in most human societies, people refer to a past - that of their ancestors - to justify their place in the world, their views about the latter and their values.

Moreover, by endeavouring to cut colonised people off from their past, didn't the French colonizer work relentlessly at teaching them that their ancestors were Gauls? As for the slave, he has no past at all. For him, history stopped the day he was defeated, that is, captured, and he bore the burden of that defeat alone. He could not pass his name on to his off-spring as he was carefully prevented from having contact with his own children. While all societies in Niger were patrilineal, there was a special rule for the slave whereby the child he “fathered” belonged to a woman who in turn belonged to a master. No children, therefore no historical heritage. For a slave, history was confined to a single generation. “Man must not forget his heritage, what he received from his ancestors and the past he built himself (...). Anyone without a family before and after him will be known as a “captive.” Nobility consists of preserving the legacy of one's ancestors.” (Boubou Hama, quoted by Olivier de Sardan p 29)

Everything was done to deny the slave a father. Indeed, by subjecting him to a matrilineal system in a society that practised patrilineal filiation, the point was made very clear that the slave was an individual without a father, in short, a “bastard.” Thus he could not, was not permitted to, meet the gaze of those who have a known father whose marriage was performed with the payment of a dowry, which was not the case for slave marriages where there was no dowry or where the latter, was paid by the master.

The slave was an individual without any inheritance. Anybody with a known father could inherit the property of his father or mother, but not the slave, whose property was never inherited by his children who “do not belong to him” but to the master who could dispose of them as he saw fit.

The slave did not own any land; therefore, he could not produce anything for himself. Even a freed slave could not own any land. He had to give up part of his harvest and had to leave the land when asked to do so by the master.

The slave had to suffer in silence. He was defined as genetically weak and attributed with all that was considered socially evil. Bermus quotes a Tuareg poem, which reflects society's opinion of the slave: "Thou, craftsman or slave who the camels tend, not a single glorious feat canst thou claim, for in battle not even a mule in trammels hast thou slain" (Bernus, 2001, p 35).

Among the Zarma-Songhay, according to Olivier de Sardan, "the 'model' slave is, at least for the free man (though many slaves fit this model), a "beggar" (...) who endeavours to work his way into a nobleman's pocket by rendering a service or by begging, cunning, flattery or cajolery. He is also described as uncouth and foul-mouthed, in short, a shameless person" (p. 35). What did the society in question consider as shameful acts? The latter were cowardice, theft, adultery, and any violation of the rules of hospitality or respect for the family. The society actually incited its slaves to adopt a behaviour that was the opposite of normal comportment as a means to better marginalize them.

## **SLAVERY UNDER FRENCH COLONIZATION**

The custom that allowed people to gather slaves as property was above all based on war. The victors enslaved the vanquished and their victory allowed them to sell the latter.

Historically, the colonial troops defeated all the principal African kings and chiefs, from Samory to Rabah. If the general rule were to apply, all the vanquished would be treated alike and, therefore, become slaves of the victor, that is, the colonizer. It would be inconceivable for the vanquished to own anything other than that allowed by the "master." The defeat of the Africans by the colonial powers became the defeat of the ideology based on the supremacy of the old victors over those they had vanquished. In principle, slavery should have died out by itself. The colonial invasion occurred gradually, from the coast to the hinterland. In the case of French West Africa (FWA), the conquest was followed by the military occupation of Senegal from 1887, and continued until April 1900 with the defeat of Rabat on the banks of Lake Chad. Colonial policies, after the so-called "pacification" period, were elaborated from the capital of FWA, Dakar, Senegal.

It is worth noting that the French republican state officially abolished slavery in 1848, in the name of humanist values and in the name of Freedom, Equality and Fraternity. These values were quickly set aside in favour of the needs of military victories. Thus, as the Voulet-Chanoine column moved across the territory of Niger, the colonial infantrymen were allowed to reduce the defeated enemy to slavery and to plunder their property. After Birni Konni was taken, "seven hundred women were distributed among the infantrymen in addition to the captives," according to Jean-Francis Rolland who also reported Captain Voulet's bitterness when the latter said: "If the Ministry had given me enough means, I should not have to pay my men with booty and slaves."<sup>14</sup> It was in fact such "rewards" that officers used to motivate their men for combat.

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<sup>14</sup> Jacques-Francis Rolland, the great captain and unknown adventurer of the colonial epic, Bernard Grasset, Paris, 1976, p 80.

When the pacification phase was over, the problem of managing the enslaved people “in the name of civilization” had to be addressed. Instead of applying the republican rules, colonization, through the state of natives system, created two categories of citizens: natives and French citizens. Hence, a specific policy was applied to natives and the elimination of slavery was no longer a priority for colonial policy. The first anti-slavery measure was taken in 1899 when the Minister of the Colonies Albert Décrès sent a letter to the governors of the Colonies asking them to severely punish any acts of slavery.

In an article entitled “Slavery and the French Colonial State,” Martin A. Klein described the variations of French colonial policy regarding slavery. The Governor General of the Upper Senegal-Niger, William Merleau-Ponty, for his part sent a circular ordering caravans to be arrested and traffickers to be imprisoned for 15 days and fined 100 francs. Later, the Governor asked administrators not to help slave masters recover their runaway slaves.

In 1903, the Secretary General to Governor Roume, Martial Merlin, was clear about the question of slaves. One of his circulars stated: “You shall therefore not hesitate to reject outright any claims from so-called masters invoking the rights of captors over any other natives. You shall warn them that any attempts on their part to seize those they claim to be their captives, as well as any harassment of the latter would make them liable to prosecution”.<sup>15</sup>

It would appear from this circular addressed to the colonial administrators that the latter were in the habit of returning runaway slaves to their former masters. Indeed, it would seem that for the most part, the colonial administrators had reached a compromise with the chiefs and other eminent persons so their objectives could be better served by these auxiliaries who drew their powers and wealth from the ownership of slaves.

It seems that it was this reluctance on the part of the administrators that prompted the Governor General to order an enquiry into the situation of slavery. Indeed, in 1904, the Governor General of FWA, acting in his capacity as Delegate of the Government, addressed a circular to the administrators of the colonies in which he asked them to respond to a questionnaire on slavery in the areas under their responsibility (Circular of 18 January 1904). The administrators were required to answer in full to questions on the number of slaves, how they were acquired and the varying forms of inheritance. There is no doubt that these answers prove the existence of slavery while providing information on the number of slaves in some cases.

For example, in the division of Dori, the Commander justified slavery in the following terms: “The status of captivity still exists in the settlement of Dori which is not under our direct administration but where we exercise authority through the chiefs of the administrative provinces which still exist as they did before our occupation and whose established customs and traditions we have continued to respect.”<sup>16</sup>

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<sup>15</sup> Circular dated 10 December 1903 quoted by Martin A Klein.

<sup>16</sup> Response to the questionnaires attached to the circular from the General Delegate of the Government, dated 18 January 1904.

The Commander estimated that there were 41,500 slaves for a total population of about 94,000. He provided the following breakdown:

<b>Zone</b>	<b>Men</b>	<b>Women</b>
Baraboule	600	139
Djibo	1250	2390
Toungoumayal	1400	2150
Aribanda	450	650
Liptako	6500	11000
Oudalan	2400	3100
Yagha	1400	2000
Torodi	1300	1900

The same report states that the colonialist put a stop to the slave trade. In response to the question of how one became a captive, the Commander said: “Presently, no one becomes a captive any more; those who are captives remain so for the moment, and their children are also captives ...”

When asked how captivity could be completely eliminated, he answered: “For some time to come, in my opinion, the peace and prosperity of the country are too closely dependent on the possession of captives by the Foulbe (Peulh) to hope to achieve a complete liberation of captives overnight.” And among the proposals made to the General Delegate of the Government were the progressive purchase of captives in the form of compensation paid to their masters, or the freeing of children when they were born. Hoping to convince the General Delegate about the payment of compensation, the Commander estimated the amount required at 2,075,000 Francs.

For his part, the Administrator of the division of Say, in his reply to the Governor of Dahomey and Dependencies, estimated that the number of slaves in that division represented three quarters of the total population, that is, 27,000 individuals not yet properly counted in a census. One became a captive through war, kidnapping or refusal of the head of the family to convert to Islam. In the latter case, the head of the family was killed and his family reduced to slavery. One also became a captive if one’s parents were captives.

On the question about the relations between masters and slaves, Commander Lousteau wrote: “The relations between masters and captives are generally good. Any bad relations are usually dealt with before the administrator.”

To the question: “Do the captives in your division give the impression that they want to regain their freedom?” The Commander replied: “I do not think so. I have visited all the villages in the division where three quarters of the inhabitants are captives and they seem to be happy everywhere. No grievances were expressed even though, wherever I went, I always said that the white man no longer tolerated slavery and that everybody was free. Rarely did one hear a single protest! I can even go further to say that some captives would not accept freedom if it were offered to them. Several captives who were freed from traffickers were very upset by their freedom ...”



Regarding the question of how slavery should be eliminated, the answer was: "I do not think it is presently possible to eliminate slavery. Our civilization has not penetrated deeply enough for the natives, both masters and slaves, to understand and accept any measures towards the outright elimination of slavery". He believed that it was "by establishing as many schools as possible and encouraging closer relations between natives and Europeans that slavery can be eliminated."

In his conclusions the Commander wrote: "The word captive has an unwelcome sound; it should no longer be used. We have done a lot toward that end. As stated earlier, everything that was odious about the trade in human flesh has disappeared: the markets where captives were exhibited for sale no longer exist, and the same is true about the maltreatment. Captives know that we do not condone slavery and that all they have to do is claim their freedom for them to be declared free. The masters are equally well informed about our attitude towards them. They are aware that the slightest maltreatment makes them liable to serious penalties. What, in these conditions, remains of slavery, this status of captivity? Nothing, apart from individuals who maintain an ancient system by choosing to remain in the service of people who provide their subsistence. These so-called voluntary captives are subdivided into several categories. There is the captive who lives with a rich, good, and humane master, who provides all his needs and trusts him. He would never want to leave such a man for all the world. It is just like some of our house servants."

"Then you have the captive who reasons as follows: "I do very much as I please without any concern for tomorrow; I have my hut, millet, wrappers, in all a very easy life." This is the lazy slave who lives at the expense of his master. There are many of them and the master does not protest, out of pride, because they still count among his slaves and his standing among free men depends on the number of slaves he owns. Finally, you have the brute who cannot think or understand anything; he is a real machine who would be incapable of finding a grain of millet tomorrow if he were told: "You are free and may leave your master's house." So why should anybody wish to change the status of these people? Humanity has nothing to gain by it, since everything inhuman about the thing has been eliminated."

Such was the thinking of Commander Lousteau, administrator of the division of Say. He managed, in the same report, to deny the existence of 'forced' slavery and reduce the whole situation of slavery to a voluntary-based relationship, which the slave finds more convenient than freedom, unless he just happens to be one of the lazy ones. To the question "Are there any temporary voluntary captives for debt, for example?" He replied: "No; or at least there may be only one example of voluntary captivity. This occurs in cases of serious famine. In such crises, people have been known to offer themselves as captives against food, but they ran away as soon as things improved and there was plenty of food again for their families."

One may say that when it was put in place, the colonial administration found a generalized situation of slavery, which some administrators condoned as long as it did not create problems for them.

In 1905, after receiving various reports from the different divisional commanders, and especially under pressure from French public opinion, the Governor General of FWA signed the decree of 12 December 1905 making slavery a punishable offence. J. L

Boutillier used the replies of various administrators in his article 'Captives in FWA (1903-1905).' He concluded that "the phasing out and finally the more or less complete end of all forms of transactions in slaves were obviously very important factors; the recourse to French law, which could not recognize the status of captives, was also another decisive factor"<sup>17</sup>. The same author promptly adds in a footnote that "the existence of customary courts recognizing the status of captives as well as the policies of "commanders" who supported certain chiefs led to many conflicts of law until the eve of independence."<sup>18</sup>

Colonial policy, still under pressure from French public opinion, sought to pursue the fight against slavery but met with the passive opposition of various administrators. Thus, according to Denise Bouche: "In 1908, in order to answer a question from Miliès-Lacroix, the Minister of Colonies, on the measures that needed to be taken against domestic slavery, Governor General William Ponty sent a circular (No 107 c of 24 April 1908) to the various colonies which could have led to efforts similar to those made in 1904, but this was apparently aborted. The Lieutenant Governors of Upper Senegal-Niger, Côte d'Ivoire and Guinea replied briefly before the end of the year. When sent reminders in December, the Lieutenant Governors of Senegal, Dahomey and Mauritania failed to reply, or at least no traces can be found of their replies. Yet the divisional commanders had drafted reports, which were never sent to Dakar."<sup>19</sup>

It seems that the Lieutenant Governors were among those who undermined the will of those opposed to slavery, by failing to act on the information necessary to take the appropriate decisions to address the situation. In the case of Niger, the conquest was not yet completely over. Indeed the coloniser only succeeded in establishing himself in Agadez in 1906.

Hardly had the coloniser settled down in the territory than the First World War (1914-1918) broke out. Both the civilian and military administrators demanded the participation of the colonies in the war effort. This effort came in providing men sufficient provisions to maintain them. In order to fulfil their quotas, each administrator relied on traditional chiefs who preferred to supply slaves to serve as cannon fodder.

The chiefs were part of the colonial administrative machine. They had for the most part become allies of the colonizer against the people on whom they levied taxes, and served to transmit the orders regarding forced labour and various other tasks. They could even punish certain offences reported to them.

It was under such circumstances that a series of revolts broke out challenging colonial domination. In the west of Niger the revolt was led by Firhoun and in the region of Ménaka and in the north by Kaocen, ally of Tagama, the Sultan of Aïr. Both revolts took place in 1916 and shared the peculiarity of being led by black Tuareg chiefs. It goes without saying that they were brutally put down and it was an opportunity for the

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<sup>17</sup> J-L Boutillier, Les captifs en AOF(1903-1905) [Captives in FWA (1903-1905)], Bulletin de l'IFAN, TXXX, sér. B, n°2, 1968, p532

<sup>18</sup> J-L Boutillier, op cit, footnote n° & p 532.

<sup>19</sup> Denise Bouche, Les villages de liberté en Afrique Noire française 1887-1910 [Freedom Villages in French Black Africa 1887-1910]; Mouton, Paris, 1968.

colonisers to forge alliances with the chiefs who had remained faithful by fighting the rebels. As usual, they kept all their privileges, especially that of levying taxes as well as all their property, including their slaves!

### *The situation just after the First World War*

At the end of the First World War, the abolitionists resumed their activities. In the case of Niger, it seems that this was the result of the circular No 24 B.P. of the Governor of the Colonies to the divisional Commanders.

The Governor of the Colonies, himself referring to a circular from the Governor General dated 29 October 1922, asked the Commanders to respond to a number of questions:

- “1. What were the results achieved during the fight against slavery as the French administration spread into the territories under your authority?
2. What were the administrative measures taken by the local public authorities to punish slavery, and what were the sentences handed down in this regard?
3. In the territories under your authority, is there any more or less clandestine slavery within the country or towards neighbouring countries? What land or maritime routes are used for this trafficking?
4. To your knowledge, is there any recurrence of slavery under any form in the areas under your authority, and what is the situation regarding domestic slaves?”<sup>20</sup>

The capital of the Niger was Zinder. The request of the Governor was intended to satisfy a demand by the League of Nations regarding the abolition of slavery. The National Archives only contain the response from the division of Agadez. Captain François, in response to the circular letter from the Governor of Niger, made the following points in his conclusion: “Our presence has resulted first in diverting, then eliminating the passage of slave caravans. The slave merchants became frustrated by the difficulties they encountered during their journeys through the land under our administration and it may be said that after a few years of our presence the South-North slave trade has ceased to exist”.

“Regarding the direct traffic between Air and the countries in the North, the results have not been as conclusive ...” Administratively, three means were used for reporting offences. First, secret agents were used, second there were reports by individuals and thirdly, complaints from the slaves themselves. The divisional Commander was categorical and presents statistics on the judgments handed down per year from 1915 to 1922. These figures show that there was only one conviction in 1914 for the sale of a servant and another for the kidnapping of a child for the purpose of using him as a servant. From 1915 to 1921, no slavery cases were tried. In 1922, two cases were tried, prompting the divisional Commander to write that it was

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<sup>20</sup> Colonie of Niger, Circular No 24 B.P. of the Governor of Colonies, Chevalier of the Legion of Honour, Lieutenant-Governor of Niger to the divisional Commanders, 12 February 1923, signed Lieutenant-Governor of Niger Brévie P.A. Principal Private Secretary.

“needless to prove that there is no overt or clandestine slave trafficking in the division of Agadez.”<sup>21</sup>

However, regarding the situation of domestic slaves, he wrote that “this issue is settled within the division” in that “all servant families remain voluntarily attached to the families of their masters. They do so out of habit, in their own interest, are well treated and do not wish to be set free. Yet they are aware that they are completely free.

Herein lies the paradox of the status of slaves under colonization. The colonial administrators did indeed put a stop to the trafficking and slave markets. But somehow, voluntarily or not, they accepted the status of domestic slaves as a free status, to the point of considering them as “voluntary” slaves, while the fact of the matter is that the customs and habits the Governor talked about are nothing other than a servile status since there is never any mention of a salary paid for this bondage. And this view of the situation was to help mask the true relations between former masters and new slaves. But does this mean that this unpaid labour was provided in any framework other than slavery? This is the paradox of the situation. This paradox is expressed by divisional Commander François who concludes his report with a definition of domestic slavery as follows: “In short, slavery only exists virtually, and it may not be argued that domestic captives are slaves. In the proper sense of the word, they are voluntary servants serving their masters without any duress.”

The National Archives of Niger remained silent on the phenomenon until 1931, after which the anti-slavery machinery became more visible and powerful.

### ***The situation in 1931***

As a matter of fact, it was the telegramme letter No 1733 AGI written in May 1931 by Governor Blachet, which revived the issue of the fight against slavery.

The circular letter began by recalling the legal provision stipulating that pursuant to article 1 of the decree of 12 December 1905 (wording of the decree of 8 August 1920) “any person who within the territories of FWA and French Equatorial Africa (FEA) concludes an agreement for the purpose of disposing of any other person’s freedom either free of charge or against payment, shall be punished by 2 to 5 years imprisonment and a fine of 500 to 5000 Francs. Any attempt to commit the offence shall be liable to the same penalty.”<sup>22</sup>

The circular urgently requested the Commanders to report on the judgments handed down by the divisional courts and to send copies of the same. They were also asked to report on the status of domestic slaves, especially if they had been exchanged, transferred or disposed of, and to describe the conditions of such transactions. Similarly, they were asked whether or not the domestic slaves enjoyed their freedom and to describe the customs governing the relations between masters and house servants. This anti-slavery system seemed stronger than in the previous years. Based

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<sup>21</sup> Territory of FWA, Colony of Niger, Captain François, Commander of the Division of Agadez, to the Governor of the Colony of Niger, Letter No 69 of 8 March 1923.

<sup>22</sup> Official Telegramme letter, All divisions No 1735 of 11 May 1931.

on the responses from the divisions that sent reports, copies of which are kept by the National Archives of Niger, it is possible to summarize the situation as follows:

In the division of Dosso, only one judgment could be traced, handed down in June 1931, sentencing two people to terms of imprisonment and a fine for trading in slaves.<sup>23</sup> Whilst in the division of Maradi, the Governor was categorical: “domestic slaves have totally disappeared among the Peulhs in the area; they exist in small numbers among the Haussa but are still to be found in quite large numbers among the Tuareg”.<sup>24</sup>

The Governor distinguished the situation among the Haussa from that which prevailed among the Tuareg. Among the Haussa, he wrote: “There are very few domestic slaves. They are considered as children of their masters to whom they remain attached by their own free will. Transactions such as “exchanges, transfers, disposal and pawning of slaves” have completely disappeared.”

“The captive is expected to work for his master, but he may do more work for his own account; he is even free to refuse to work for his master.” He has the right to own and dispose of his property as he wishes. When the master dies, his descendants do not inherit the captive and the latter’s children are free. Further, the master does not inherit the property of the slave when the latter dies. The children of the deceased remain his sole heirs. The domestic slave does not have to obtain the permission of his master to marry. He may marry a free woman and his children are free. He is free to engage in trade. Furthermore, the request to marry a captive woman is addressed to her parents and not to the master.”

By contrast, among the Tuareg, the “captive is expected to work for his master, and his master alone. He may be beaten. With the master’s permission, the captive may own some small property and use it freely ... In the event of the death of the master, the captive may choose the member of the household he would like to remain with as a servant. In case the master has no heirs, the captive will belong to the Tuareg chief”.

“In matters of inheritance, it is the master who inherits the property of the deceased captive. The disposal of a captive is practised in the form of marriage to a stranger. There are two forms of marriage. The first is the marriage of captives among themselves. In this case, the permission of the master is required unless the captive has some property. The captive woman remains under the authority of her master and her children are her master’s captives. The request to marry a captive woman is addressed to the master and not the parents. In case the marriage involves a captive and a free woman in the house, he becomes free as well as any offspring from such a marriage. If the captive marries a free woman from outside the house, the children are free and the woman can buy back her husband’s freedom.”

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<sup>23</sup> Letter from the Legal Secretary at the Colonial Court (‘Tribunal Colonial d’Homologation du Niger’) to the Justice of the Peace with broad jurisdiction, President of the said court in Niamey, dated 9 June 1931.

<sup>24</sup> Governor General’s Office of French West Africa, Colony of Niger, Division of Maradi, Report on the status of domestic slaves, Letter No 104 from the Administrator of the Division of Maradi to the Governor of Niger in Niamey, 4 June 1931, signature illegible.

“When the marriage involves a captive woman and a foreigner, the woman leaves the master’s house and the husband has to pay a heavy amount, in the form of a disguised sale. The captive may engage in trade with the permission of his master and he remains under the latter’s authority during all his travels. The situation in the division of Maradi shows that there is a tendency for slavery to disappear among the Haussa, while it is maintained among the Tuareg.” It should be noted that the report says nothing about any convictions for the sale of people.

The report from the division of Gouré, dated 5 June 1931, mentions a single case of slave trading tried but without any conviction because of the lack of evidence. Drawing from the traditions he observed, the Commander of the division of Manga reported on the situation in the following terms: “Among the Manga, the only former captives who have remained with their masters are those who, since our arrival in the country, either have not found their relatives or their native countries, or have preferred to remain in a place where they were comfortable rather than take the risk of returning to their home countries only to live in misery.”<sup>25</sup>

The Commander categorically states that there was no longer any exchange, transfer, or sale of slaves. Further, slaves were no longer part of the master’s estate. They were free to move about and settle wherever they wished. “The old captives sell their harvests without seeking the permission of their masters; they are registered separately from the latter and pay their own taxes.”

With regard to marriage, not only could a captive marry his former master’s daughter, but informed the master as he would a parent. When a master travelled, the captive was free to follow him or remain at home. This situation was the same among the Peuhl who were less numerous. In short, the Commander felt that a “domestic captive among the Manga is absolutely free. He only maintains relations with his masters if he so wishes. He is of course considered as having an inferior status, but this caste distinction will gradually disappear with time.”

By contrast, among the Toubous, the Commander of the division of Manga wrote that the practice of slavery deserved closer attention, especially as in neighbouring Nigeria the slave trade was still alive.

In the division of Bilma, the Commander’s letter mentioned the existence of slavery. But the Commander’s bias shows how varied the administrator’s opinions could be on this issue. He wrote: “There are still many captives in the division, especially in Kaouar and Agram, but they are not the object of any transaction. They work for their masters who feed and clothe them. While the boss is away in Bornou where he spends part of the year, the captive remains in the division where he looks after the palm trees and gardens of his master. More often than not, he takes advantage of the opportunity to steal shamelessly; thus some captives have been able to enrich themselves substantially.”<sup>26</sup>

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<sup>25</sup> Letter from the Administrator of Colonies Commander of the Division of Manga to the Lieutenant-Governor of Niger No 156 of 5 June 1931.

<sup>26</sup> Colony of Niger, Division of Bilma, Letter from Captain Lafitte Commander of the Division of Bilma, to the Governor of Niger, under cover of the Colonel Commander of the Military Subdivision of Niger, No 56 of 3 August 1931.

The Commander mentions no court judgments but states that “sometimes masters express grievances regarding the honesty of captives or former captives; however, there were never any complaints against or attempts to dispose of the freedom of former captives, nor any deals regarding a captive.”

Yet the Commander defines a captive as “a labourer who is not paid a salary but is fed and clothed, and is expected to work in exchange. At the death of his boss, he remains with one or more of his heirs or leaves them if he wishes”. He believed that captives remained with their masters of their own free will. It is worth noting a change in the terms used, which is not due to chance. The master becomes the boss, and what characterizes the “boss” is that he does not pay a salary and grumbles about theft without lodging a formal complaint.

For his part, the Commander of Manga pointed out that the situation among the Toubous deserved closer attention. Indeed, such is the perception of slavery that as soon as the practice is considered normal, one loses sight of the status of the slaves and their living conditions.

In the division of Tahoua, the divisional Commander’s report dated 10 July 1930 gives a quite realistic and honest description of the situation of slavery. The Commander says without mincing his words: “Although officially abolished all over the territory of French West Africa since 1905, there is no hiding the fact that slavery exists almost everywhere, especially in the divisions located within the Sahara peopled by nomads of Berber or Arab origin.”<sup>27</sup>

The same report recognizes that slavery among the sedentary inhabitants was still the status of certain individuals, but that “slavery is almost abolished.” “From time to time, the Commander receives a report about slavery, but such cases are few and far between. This *de facto* abolition, it must be admitted, is due more to the fear of punishment than a natural change in the mindset of the natives.”

“The slave for sale has therefore all but disappeared. All that remains is the domestic slave. This captive is considered a member of the family; he is expected to work for his master, who provides for his needs in exchange. The captive remains willingly in his master’s home and is not accountable to anybody should he ever choose to free himself from this relationship. He has the right to property, which is inherited solely by his heirs ... In short, among the sedentary people, the present status of the domestic captive, the only vestige of ancient bondage, is more akin to that of the “client” of Roman antiquity than that of the slave.”

The situation is different among the nomads. Indeed, “although severely sanctioned, the slave trade still exists. The nomads of the North (Hoggars and Iforas) buy their slaves in our regions. With the overt or covert complicity of all the people, this trade is taking place, often without our knowledge. It is only when a slave escapes that the matter is brought to us. Some Hoggars no longer take the trouble of buying their slaves here, they simply kidnap them. There is currently such a case before the Head of the Nomad Subdivision.”

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<sup>27</sup> Division of Tahoua, Report on slavery and the slave trade No 5473 dated 10 July 1931.

The Divisional Commander sent his superiors copies of several judgments handed down by the Court of Tahoua after it tried a number of cases relating to slavery. There were in fact 9 attachments to his letter. The trials were held in public and the Divisional Commander was assisted by assessors, generally group chiefs.

Judgment No. 8, for example, involved the case of a woman and her daughter who complained their master had sold them around 1908. One of the two people accused had died and the other admitted the facts. After hearing both parties, the court sentenced the latter to 2 years imprisonment. He benefited from mitigating circumstances, in view of his youth at the time of the event.<sup>28</sup>

Judgment No 4 involved the case of two people, both Tuareg, convicted and sentenced to 6 months imprisonment each and a fine of 150 francs. They were accused of selling the young son of the complainant for twelve thousand measures of millet. They denied the accusations and in their defence one of them argued that he had “lent the child to my uncle who needed a young shepherd. The millet I received was an advance that I was expected to refund later in full.”<sup>29</sup>

Records of the complaints and testimony of witnesses accompanied the judgments. Another judgment was delivered in a case of trading in slaves, in which an Arab nomad was convicted and sentenced to five months imprisonment for selling a young girl of 14. The court based its decision on articles 1 and 3 of the decree of 12 September 1905. The colonial administration was able to use the law and had a system that enabled complaints to be received from victims. The court, presided by the Commander, also included assessors who were members of the local traditional chieftaincies. The efficiency of the administrators depended on how convinced they personally were about the offensive nature of slavery. Those who were convinced that captives were unpaid labourers, willingly living with their masters, would not take the complaints seriously, while those convinced that slavery was an offence would apply the full force of the law. The colonial administration also had the means that enabled the superior authorities to monitor the situation and raise the issue from time to time. Divisional Commanders were expected to keep record cards listing the cases brought before them. Thus, we have the record cards of the division of Manga (especially card numbers 20 and 28), which carried the identities, status and facts of individual cases.

After the judgments were delivered, all the victims were of course declared free. This both enlightened people and served as a deterrent.

### ***The situation on the eve of the Meeting of the Commission of the League of Nations***

Once again, in 1935, on the occasion of the meeting of the relevant Commission of the League of Nations, the Governor General of FWA addressed a circular letter to the Lieutenant Governors of the Colonies of the group and to the Administrator of the Constituency of Dakar, reminding them about dispatch No 568 of 3 August 1936 informing them that “the issue of slavery in all its forms would be reviewed again in early 1937”. He therefore asked them to provide “... all useful details on the changes

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<sup>28</sup> Judgment No 8, trading in slaves, delivered by Captain Cavot of the Colonial Infantry, on 25 May 1921.

<sup>29</sup> Minutes of Judgment No 4 delivered on 22 September 1920 by the Court of the division of Tahoua presided over by Captain Cavot of the Colonial Infantry, Commander of the division of Tahoua.



observed, new developments brought to your notice, as well as the measures taken since you sent in the reports requested by my circular No 23AP/2 of 28 January 1935 mentioned above.”<sup>30</sup>

Following this circular, the Governor of the Colony of Niger produced a comprehensive report. From this report, it can be seen that:

1. The *Bellah*<sup>31</sup> emancipation policy has borne a number of positive results, particularly in the subdivision of Tillabéry, where all the *Bellah* groups have been sedentarized and placed under the authority of the chiefs of the sedentary cantons. Established close to sedentary people, they are mixing little by little, at an increasing rate each year, with the Cadots, Courteys and Ouagos living in the division of Tillabéry”;
2. A form of employment contract has been introduced like in Dori where the divisional Commander explained to the people “how an employment contract operates between bosses and servants, spelling out the rights and duties of both parties”;
3. With the exception of the Tuareg, “throughout the colony, the natives know that they cannot be forced to remain in the service of a master”;
4. There is no situation where people are used as surety for debts;
5. There is no unpaid labour. “As a tax payer, the native is subjected to the system of services which are generally redeemable”;
6. The native Chiefs “no longer have any real slaves. Many of them are surrounded by a sort of group of clients composed of completely free men who willingly remain with their former masters”; and
7. Trafficking in slaves is practised along the banks of Lake Chad due to the situation of the borders with Chad and Nigeria. But the slave trade is declining in Niger. It has also been reported that a slave was set free during the Commander’s tour of the Nomadic Group of N’Guigni.

In his conclusion on the overall situation, the Governor wrote: “In short, we can look at the changes that have occurred among the people of Niger with full confidence. Domestic slavery and domestic captives are no longer but words devoid of any meaning, a simple linguistic survival from an outdated state of society. The few cases of real slave trading that occur sporadically are in the process of stopping completely. It is possible to imagine that in the very near future these odious practices will disappear”.

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<sup>30</sup> Governor General of FWA, Directorate of Political and Administrative Affairs, Department of Justice, Circular letter from the Governor General of FWA to the Lieutenant-Governors of the Colonies of the Group and to the Administrator of the Constituency of Dakar, No 1272 AP/C of 10 September 1936.

<sup>31</sup> Term refers to the name given by the Songhay to the Toureg in general and Toureg slaves in particular.

If this is true, the following reports support the Governor's optimism.

### *The situation in 1950*

Indeed, in July 1949, the Minister of French Overseas Territories wrote a note on the status of servants in Mauritania. In his letter, the Minister stated that "maintaining a large part of the Mauritanian population (70,000 souls) in a state of servitude, and even slavery, is contrary to the spirit of the Constitution; it is definitely against our concept of human dignity". The Minister further stated that "what is said above regarding the "*Haratine*" in the land of the Moors also goes for the *Bellah* of the Tuareg.<sup>32</sup>

Pursuant to the directives from his superiors, the Governor of Niger in turn sent an official confidential telegram letter asking his subordinates to send in all details necessary to deal with the issue: "Please assess the situation in your constituencies, stating how many people are still living in a status of servitude, and explain what has been achieved in the past few years."<sup>33</sup>

It should be mentioned that meanwhile, forced labour was legally abolished by the 11 April 1946 Act. The colonised people reaped the first dividends of the war effort and the struggles for their emancipation.

The Telegram letter from the Governor was accompanied by a policy document signed by Mr. Chauvet (a colonial administrator) giving policy directives based on the various situations. "It is indeed striking to note that the people held in a status of servitude live in the Sahelian and Saharan zones of West Africa, where any attempt at liberation comes up against several difficulties:

- The existence of a white nomadic population who for historical and physiological reasons find it difficult to perform manual work in a tropical area;
- The extreme lack of arable land, which means that even if a captive aspires to a freer status, he has to tend the herds or work in the master's field in order to avoid migrating to the south of the country which is unfamiliar to him".

Mr. Chauvet is entitled to his own personal opinion about the physiological nature of the white populations who, according to him, are not able to work. In any case, as history has shown in Africa and elsewhere, slavery is not a monopoly of white people. What is more interesting in Mr. Chauvet's arguments is what he proposes, especially his recommendations to bind master and servant by a work contract, to involve customary and religious leaders in the efforts to sensitise people against slavery, to change the jurisprudence and customs to take into account the rights of servants such as the right to inheritance, marriage and private property.

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<sup>32</sup> Ministry of the French Overseas Territories, Directorate of Political Affairs, Letter from the Minister of French Overseas Territories to the High Commissioner of the Republic, Governor General of French West Africa, Office of the Director General of the Interior, Department of Political Affairs, N° 689 of 8 July 1949.

<sup>33</sup> Territory of Niger, Political and Administrative Affairs, Official Telegram letter from the Governor of Niger to the Maradi- Niamey-Tahoua-Tillabery-Zinder divisions and Dakoro-Filingué-Madaoua-Téra-Tanout subdivisions, dated 15 June 1950, n°354/APA.

In the nomadic regions, he proposes that in farming areas, the relations of serfdom should be transformed into a tenant farming system. Where there are no farmlands, there could be caretaker contracts, and in the absence of any bonds between freed slaves and masters, the former should be gathered into a group and one of them appointed as their leader.

There is therefore evidence of a change because in addition to punitive measures, colonial policy regarding the liberation of slaves was moving towards their progressive integration into a free society.

In the National Archives of Niger, it has been possible to find the responses from the divisions of Tahoua, Tillabéry and Maradi. In the division of Tillabéry, the divisional Commander started by giving an overview of the situation and the ratio of *Bellah* domestic slaves to the overall Tuareg nomad population. The *Bellah* are subdivided into two categories:

- The first category is composed of those living in autonomous tribes whose “emancipation in the division of Tillabéry is the result of economic and not political factors. *Bellah* farmers are being sedentarized and are constantly extending their farmlands. Their sources of revenue are also increasing. This prosperity is giving them greater independence from their tribal chief. Some of them have found themselves attached to sedentary cantons because they own land. Others continue to depend on their *Imajorem*, while living in autonomous tribes, their dependence in this case being similar to that of villagers or the canton chiefs.”<sup>34</sup>
- The second category is composed of domestic *Bellah* who “constitute the last of the servants ... They enjoy a quite satisfactory standard of living and remain attached to their masters through traditional and family ties. Some are trusted servants. They all have a family card in which all their property is recorded individually during censuses. Should any of them wish to leave his master’s family, the authorities are automatically notified and he is registered in an autonomous tribe of his choice. The authorities have also tried to normalize master-servant relations by promoting contracts of lease and hire of services...” A copy of such a contract, between the *Allacheten* and the *Bellah* of their tribe, was attached to the report.

Under the terms of this contract, the “*Allacheten* agree to pay the head tax of the *Bellah* in their service, the latter only paying the tax on the animals belonging to them personally. They agree to clothe them or pay them an annual clothing allowance either in cash or kind. They agree to respect the unity of the family and allow children to live freely with their parents. They agree to respect the property of the *Bellah* and not to take over ownership of all or part of the animals left by the latter, as they are entitled to do by custom. The estate of the deceased should be equally distributed among his children. They shall compensate their shepherds by giving them 1/30<sup>th</sup> of the animals born during the year, be they goats, sheep or bulls. For their part, the *Bellah*

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<sup>34</sup> Republic of Niger, Division of Tillabéry, Telegram letter to the Governor of Niger, n° 77 c. of 28 June 1950 signed Jean Paumelle.

agree to serve the *Allacheten*, the men as farmers and shepherds, the women to pound cereal, on the understanding that they can cultivate their own fields.”<sup>35</sup>

Any disputes were to be settled by the Chief who should refer the matter to the Head of the subdivision if he could not find a solution. Should there be a breach of contract by the former masters, the *Bellah* would be registered in another tribe.

It should be noted that with the introduction of the employment contract, for some the type of servitude born of slavery changed into a contractual type of working relationship in which individuals and their children were free, resulting in the disappearance of the form of human relations known as slavery.

In the Division of Maradi, the report by the divisional Commander also describes the situation in the following terms: “Besides, the issue is daily becoming less of a problem, especially in the division of Maradi where, out of a total population of less than 4,000 Tuareg, there are about 300 non-emancipated *Bellah* and nearly 3,000 emancipated *Bellah*. These non-emancipated *Bellah* are not captives but tent servants who intermarry, have children, own property and have normal relations with their masters in all economic and social matters of the group.

Bad masters became an exception, since they had nothing to gain by adopting an inhuman or harsh and inflexible attitude. Those who were left by their servants and could not get them back learnt this the hard way. Very often, the tent servant was happier than the emancipated *Bellah* who was free to do as he liked but had to fend for himself in a modern world where it was difficult to feed, clothe, and find accommodation for himself as well as satisfy all the needs of his family by engaging in an activity which was not any easier than in the past.”<sup>36</sup>

The letter by the Head of the subdivision of Dakoro, where the nomadic tribes of Maradi lived, confirmed the situation by first emphasizing the fact that the “issue of servants, while remaining as delicate as it is in the bigger neighbouring constituencies, has never caused any special problems, as one might be tempted to believe.”<sup>37</sup>

In the attached statistical table, there are 7 groups of nomadic peoples with a total number of 3,715 individuals including 254 white Tuareg (*Amajer*), 132 *Imrads* (vassals), 170 blacksmiths, 342 non-emancipated and 2,817 emancipated *Bellah*. The latter, “totally emancipated”, came from the neighbouring constituencies. “After escaping from their original tribes, they voluntarily placed themselves under the authority of a tribal chief of their

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<sup>35</sup> Colony of Niger, Division of Tillabéry, Subdivision of Téra, Contract signed on 17 September 1942 between the Allacheten and the Bellahs of their tribe.

<sup>36</sup> Territory of Niger, Division of Maradi, Letter from the divisional Commander to the Governor of Niger in Niamey, No. 81 of 21 July 1950.

<sup>37</sup> Territory of Niger, Division of Maradi, Subdivision of Dakoro, Official telegram letter of the Head of the Subdivision to the divisional Commander of Maradi, n.9/c of 7 July 1950.

choice, who registered them, therefore placing them under the almost direct control of the French administration ... It may thus be said that masters and *Bellah* of the subdivision of Dakoro share a common characteristic of great independence, since the former settled there while freeing themselves from the control of their traditional chiefs, and the latter by breaking the bonds once and for all with their former masters.”

Those who continued to live in a status of servitude were “genuine tent servants ...who followed their white masters, almost cohabiting with them, remained directly dependent on them and never left them. Their lifestyle no longer has anything to do with that of a captive.”

“The situation is no longer the same as it was some ten years ago. It has changed a lot ... But this change occurred in a more effective and organized manner since 1946 after the 11 April 1946 Act on the Elimination of Forced Labour.”

It should be noted here that in addition to the 1905 decree, the colonial administration used the Act that prohibited forced labour in order to move towards the elimination of slavery by systematizing the contracts binding former masters and slaves, thus changing the inherited relations into working relations.

In the division of Tahoua, the Commander in his report gave the statistics regarding the nomadic populations. He estimated that there were 50,000 nomads in the Division, and 40,000 *Bellah*, of whom:

- “15,000 have cut off all links with their masters and live in sedentary cantons where they engage in farming;
- 6,489 are free from their masters and belong to the tribes under *Bellah* authority;
- 3,768 are free from their masters, live in their own families with their wives and children, enjoying the rights to property and inheritance. They live in entirely *Bellah* tribes but under an *Amajer* chief;
- 5,200 live in tribes that are mixed and are all entitled to a family record card as well as all rights granted by the *Takarada* or *Shirop* [‘administrative act’, editor’s note]: right to family life, property and inheritance, so they are virtually free;
- 4,000 registered on their masters’ cards living in the south as farmers. These *Bellah* pay a sort of rent to their bosses and live in their own families and have the right to property, which is the first step towards freedom.
- 5,572 registered like the preceding group on their masters’ cards and living either with them or with their animals. This is all that remains of the servile status of the 40,000 *Bellah* of the Oulliminden.”<sup>38</sup>

According to this administrator, “this change was brought about above all by our very presence and the ideas we brought with us. It was also the result of our

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<sup>38</sup> Territory of Niger, Division of Tahoua, Letter from the Administrator of Colonies, Commander of the division of Tahou to the Governor of Niger, n° 170, of 5 July 1950.

administrative measures that ensured: a family-based census wherever possible, permission to settle in sedentary cantons, the formation of solely *Bellah* tribes, the recognition of the right to property and, in the event of any complaints in respect of inheritance rights, the refusal by the civil court to consider the *Bellah* as part of the estate, the granting of freedom in the case of a complaint, all this facilitated by the revolt of 1917 and later by a single sedentary-nomadic authority ...” This opinion gives a good description of the manner in which the colonial administration was able to put in place a system that led to the gradual improvement of the status of slaves.

In this division, there was also the initiative by Captain Reeb, head of the nomadic subdivision of Tahoua, who in 1947 prepared a draft standard contract for the keeping of animals in order to regulate the relations between former masters and servants. But he was transferred from his post before he could implement the contract and his successor chose to ignore it because he felt it an inadequate instrument.

The colonial administration of Niger made significant progress in the fight against slavery. This of course did not occur overnight but gradually. Following the measures adopted in 1905, the sanctions imposed succeeded in putting a stop to the trafficking in slaves, especially in the sedentary areas. The markets disappeared and the traffickers were tracked down.

In the 1930s and 1940s, the colonial administration’s system enabled it to end direct servitude in all the sedentary areas and to begin to standardise the working relations between masters and slaves in the nomadic areas. The system comprised the courts, the population censuses, the taxes which made it possible to control the independence of people and their families, while especially enabling the mobility and progressive settlement of former slaves in new lands. Naturally, by recognising the rights to property, to free movement, to live in one’s family, to inherit, the colonial administration dealt a severe blow to the custom that was based on the denial of these very rights.

However, although the system enabled the eradication of slavery in sedentary areas, the same was not true for the nomadic areas. The colonial administration was aware of this. Thus was born the *Bellah* issue, named after the emancipated slaves, mostly blacks freed from the yoke of their masters who were generally white Tuareg.

### ***The Bellah issue***

In 1954, following the reports of 1950 and the exchanges between administrators, Mr. Ferral, Administrator of Colonies, attempted a summary which he entitled “The *Bellah* Issue.” Among the Tuareg the term used for slaves is *Iklan*. The colonial administration’s initiatives led to various forms of emancipation. In some cases the slave was emancipated after lodging a complaint. He automatically obtained his freedom. In other cases, whole groups of slaves of nomadic origin changed territory and therefore masters. They became free with the blessing of the colonial administration, which protected and watched over their rights. In still some other cases, migrations, just like the severance of the bonds of dependence, followed crises such as the revolts of 1905 led by Firhoun and that led by Kaocen in 1916-1917.

The victories of the colonial troops over the masters, and the particularly severe sanctions that followed, often created conditions that enabled slaves to flee with the property of their masters who had themselves been killed or were on the run.

Thus new Tuareg tribes were born, composed mainly of former slaves who then had to establish a new independent life in harmony with the other social groups including white Tuareg minority tribes as well as sedentary populations that were themselves changing.

In all cases, the emancipated faced problems related to their new lives, new property (animals and land) and the fate of their former masters. While criticising the mistakes made by his predecessors, especially the fact that they lacked knowledge of the local people, Ferral came up with a list of the problems experienced in 1954. He was convinced that gradual emancipation was possible, as opposed to certain attempts at massive liberation, because in his opinion “the tent *Bellah* [as opposed to the *Bellah* herdsman] plays an important role in the Tuareg’s family life and his emancipation had to be achieved slowly and carefully in order to avoid causing serious disruptions.”<sup>39</sup>

Ferral was against the Tuareg sedentarisation projects and proposed a sort of deal which was basically as follows:

- For the Tuareg: “You are losing the *Bellah*, but we shall reduce your taxes until you regain your economic equilibrium.”
- For the *Bellah*: “You have gained your independence, but in so doing you have acquired a responsibility made up of both rights and duties.”<sup>40</sup>

Ferral’s report is interesting for two reasons. On the one hand, it shows that there was no centralized and consistent policy to fight slavery in the colonies and on the other hand, demonstrating that in 1954, the matter was still being discussed by the colonial authorities. However African elites were organizing to fight for new citizenship rights, the struggle led to the elimination of forced labour and the establishment of local councils, which empowered the colonised. The march towards independence became irreversible. Slavery disappeared from the political language, but it did not disappear from the realities and practices of Niger because it existed before the arrival of the coloniser. It survived under colonialism and it was now hoped that independence would solve the problem.

### **Slavery in independent Niger**

The process that led to independence in Niger has often been seen as the story of a long rivalry between two political parties, the Parti Progressiste Nigérien’ – Rassemblement Démocratique Africain (PPN-RDA), led by Diori Hamani, and SAWABA,<sup>41</sup> led by Djibo Bakary.

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<sup>39</sup> G Ferral, The Bellah issue, Fililing Sako Gao Documentation, 20 December 1954.

<sup>40</sup> G. Ferral, op cit p 18.

<sup>41</sup> SAWABA, party with socialist tendencies advocating independence.

During the rivalry, however, something happened that was to influence the course of political events in Niger. This was the organisation of the traditional chieftaincies into a force that became conscious of its power and its interests. Indeed, as early as 1949, the first association of customary chiefs was established and held its first congress in January in Zinder, where it adopted its statutes.

Djibo Bakary and his party had the majority after establishing an alliance with the traditional chiefs. At the referendum of 1958 (the options were to join the Franco-African Community led by De Gaulle or immediate independence), the chiefs dissociated themselves from Bakary, causing his defeat. The traditional chiefs' influence in the political scene remained strong. They emerged victorious from this profound mutation which transformed them from auxiliaries of the administration into powerful election agents whose support was henceforth recognized and even sought by extremist parties."<sup>42</sup> Indeed, the bloc that won the legislative elections following the referendum of 1958 was an alliance between the PPN-RDA, the Union Nigérienne des Indépendants et Sympathisants (UNIS) (close to the colonial administration) and the traditional chiefs. It is noteworthy that UNIS, led by Issoufou Seydou Djermakoye, Georges Condat and Zodi Ihkia brought together canton or related chiefs, all councillors at large. Was this purely a creation of the administration or a reaction of the chiefs in self-defence? It was probably both at the same time."<sup>43</sup> This second bloc was called the Union of the Franco-African Community (UCFA) won 50 seats compared to the six won by SAWABA.

When the government was formed, the traditional chiefs were given a place of choice. "Aware of his debt to the chieftaincies, he [Diori Hamani, first President of independent Niger] called in all the members of the latter who were capable of holding high office: ministers, parliamentarians, ambassadors and members of the party political bureau."<sup>44</sup> For example, the first ministers of justice of independent Niger were traditional chiefs or were members of a ruling family.

The first national of Niger to occupy the post of UN Assistant Secretary General was a political leader and member of a ruling dynasty. At the end of his term of office at the UN, he died as a provincial chief. The Chief Justice was a traditional chief and so was the Minister of Nomadic Affairs.

It should be said that ministers held their ministerial posts concurrently with those of traditional chiefs. Since independence, traditional chiefs have been considered not only as a link with the administration, but also as the custodians of traditional values. The reign of the chiefs associated with the single party lasted fifteen consecutive years, from 1960 to 1974. During these fifteen years, a single party was in power, allowing no freedom or expression of demands.

It seems clear that the issue of slavery was no longer discussed. Who would have dared to raise it before the Minister of Nomadic Affairs who was a traditional chief? Or before the Minister of Justice, the Minister of Defence or the Chief Justice, all traditional chiefs, to name but a few?

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<sup>42</sup> Kimba Idrissa, *La dynamique de la gouvernance au Niger*, in *Le Niger : Etat et démocratie*, [The Dynamics of Governance in Niger, *Niger: State and Democracy*], L'Harmattan, Paris 2001 p 38.

<sup>43</sup> Kimba Idrissa, *op cit*, p 37

<sup>44</sup> Kimba Idrissa, *op cit* p 38



The National Archives show that the issue was raised only once in 1969. The Sub-prefect of Tanout sent a letter to the Minister of Justice through his superior, the Minister of Interior, requesting instructions on how to deal with the inheritance of the property of emancipated slaves. “I am beginning to receive quite complicated cases and fear I may make mistakes. I therefore request you to instruct me on how to deal with all cases related to inheritance among the Tuareg (between old former slaves, newly emancipated ones and their masters).”<sup>45</sup>

While forwarding the letter to the Minister of Interior, the Prefect of Zinder, the immediate superior of the Sub-prefect, suggested how the matter might be dealt with. He wrote: “I am not aware of any special provisions in this matter, apart from the usual rule of handing such property over to the state (Office of the Curator of Intestate Estates and Bona Vacantia).”<sup>46</sup>

The Minister of Interior in turn consulted the Minister of Saharan and Nomadic Affairs, Post and Telecommunications, who replied as follows: “I have the honour to inform you that in this matter, the only approach I can recommend is that provided by Act no. 62-11 of 16 March 1962 governing the organisation and jurisdiction of the courts in the Republic of Niger, particularly its article 51 which stipulates that:

“subject to compliance with the legal provisions or fundamental rules regarding public order or the freedom of individuals, the court shall apply the custom of the parties:

1. in cases involving their capacity to enter into contracts and appear in judicial proceedings, the status of individuals, the family, marriage, divorce, parentage, inheritance, gifts and testaments;
2. in those involving the ownership of property and the rights deriving therein, except where the dispute is over a registered land or land whose acquisition or transfer was witnessed by one of the modes of evidence established by law”.

These provisions are confirmed by articles 52 and 53, the competent jurisdictions are:

- traditional chiefs and cadis, whose conciliation powers are maintained (art 78);
- customary courts (art. 73);
- justices of the peace, where they exist locally (art. 66);
- courts of first instance, and
- courts of appeal.

When the letter from the Minister of Saharan and Nomadic Affairs, Post and Telecommunications is considered, one is struck by the regression, legally speaking, consisting in referring back to custom in order to deal with cases relating to births, marriage and inheritance. With regard to slavery, custom and religion are very clear. The slave, together with his property and offspring, belongs to his master, his heir and who may sell him. Moreover, this judicial system grants traditional chiefs the status of

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<sup>45</sup> Republic of Niger, Department of Zinder, arrondissement of Tanout, Letter from the Subprefect of Tanout to the Minister of Justice, under cover of the Minister of Interior, n° 9/AT/CF of 7 May 1969.

<sup>46</sup> Republic of Niger, Department of Zinder, Prefecture of Zinder, Forwarded to the Hon. Minister of Interior, n° 120/PZ/CF of 10 May 1969.

competent jurisdictions, when in fact under colonialism they could at the most only serve as assessors. Once again, the powers of the supporters of slavery were increased, including their right to recover their former slaves. This loophole was bound to lead to a resumption of slavery in the remotest areas, where the state's presence was reduced to its auxiliary, that is, the traditional chief.

The Minister went further, "I would also like to seize this opportunity to point out that more and more *Bellah* are taking advantage of their emancipation to fraudulently take away part or all of their former masters' cattle. I would therefore be grateful if you could, in your instructions to the authorities, remind them that such offences are covered and punished by articles 321, 322 and 330 of the Penal Code quoted in Chapter V of the same Act of 16 March 1962. The Tuareg who suffered losses in such cases are complaining that their statements and testimonies would not be received favourably. Therefore, I would also like to urge the same authorities to scrupulously exercise impartiality in such cases when they are brought before them."

It should also be noted that the Minister, himself a noble Canton Chief and Tuareg, turned the whole administrative system around to favour former masters who were alleged victims of freed slaves and who claimed that the administration was unwilling to listen to them.

Here again, it is obvious that the progress achieved in the fight against slavery suffered a setback, since those who practised slavery were henceforth to have the ears of the administrators. For his part, the Minister of Interior, by a circular addressed to the Prefects, Sub-prefects, Heads of Administrative Posts and Mayors, simply forwarded the letter from the Minister of Saharan and Nomadic Affairs, Post and Telecommunications, asking them to "consider its contents as instructions" that should dictate their "conduct in all such cases."<sup>47</sup>

This was the only system put in place by the First Republic and it was a regression when compared to the progress achieved by the colonial administration in the area of human rights. There was no further discussion of slavery in the First Republic. According to Diouldé Laya, who liked telling the story about the Speaker of the House of Assembly, who was the only member of servile origin, he enjoyed repeating the slogan *Yega* during his tours in his native province. The word means slave, and he used it to "taunt those who claimed to be" his masters. That was where the discussion about slavery ended.

The regime of Hamani Diori and the PPN-RDA single party was succeeded by the military regime of Seyni Kountché. During the latter's regime, which lasted from 1974 to 1987, Niger experienced a military dictatorship which not only curtailed all freedoms but also had a fearsome political police force.

To win popular support, the regime of the Supreme Military Council adopted certain measures in favour of the traditional chieftaincies. From its first year in power, it promised to rehabilitate and modernise the chieftaincies. As early as 1981, the traditional chiefs became administrative law judges. In 1983, the chiefs were

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<sup>47</sup> Republic of Niger, Ministry of Interior, circular letter to the Prefects, Subprefects, Heads of Administrative Posts, Mayors, n° 13/MI/DAPA/CIRC/CF of 6 Octobre 1969

associated with all the structures of the “Mouvement National pour la Société de Développement” (MNSD), the future party of the military dictatorship. The chiefs automatically became chairmen of local government authorities and the representative of the Association of Traditional Chiefs became a member of the national political bureau of the MNSD-State party. Throughout the rule of the Supreme Military Council, only members of the chieftaincies or those related to them could be appointed Ministers or Ambassadors, or hold other high office in the State. There were no written rules, but everybody understood the criteria used for certain appointments. The traditional chiefs recommended the intellectuals capable of occupying such posts. In some cases, prominent *Marabouts* also had a say in such appointments. But there was no possibility for a dignitary to come from a slave family or from one of the many castes of Niger. President Kountché himself came from a family of chiefs.

Consequently, the issue of slavery could not be raised because of the lack of an “attentive” respondent. Indeed, chiefs were considered not only as agents of the state, but also as judges and especially custodians of the traditions. In such conditions, it is easy to understand that the “justiciable” slave could not find any attentive ears, since both tradition and religion recognised and legitimised slavery, which was not sanctioned by the law.

Upon the death of Général Kountché in 1987, his successor was Ali Chaïbou, his faithful chief of staff. The latter decided to speed up the establishment of the structures of the Development Society by creating the Mouvement National pour la Société de Développement (MNSD –State Party). He chose to ease the political tension, a policy which freed everybody from the fear of expressing their opinions. Very quickly, in a general wave of democratisation, the people of Niger imposed a multiparty system and a Supreme National Conference, which opened the way to democracy.

Thus, the three successive regimes had the same attitude to slavery. This attitude was to remain silent on the issue. Whenever the issue was raised, the answer was always the same: ‘the State does not recognise slavery,’ and therefore, no official document could make mention of it. This attitude favoured the slavery practices whose supporters were first and foremost the traditional chiefs who were not only closely associated with the political authorities but wore the double hats of customary judges and custodians of the traditions.

The issue of slavery was to be tabled in an organised manner only after the establishment of the TIMIDRIA Association. The current fight against slavery is closely related to the struggle waged by TIMIDRIA. Other human rights organisations focus as a matter of priority on the respect for democracy and the constitution, often overlooking the fact that a large part of the population has not yet attained citizenship due to slavery practices.

## **SLAVERY, POSITIVE LAW, AND HUMAN RIGHTS IN CONTEMPORARY NIGER**

### **Slavery is the denial of human rights**

To support this statement, one has to search for a definition of slavery in the positive law of Niger in order to show how prejudicial it is to human rights.

### **The search for a legal definition of slavery**

The first question that needs to be answered here is what does slavery consist of? The answer to this question will enable us to delimit the scope of our enquiry and avoid any misunderstandings about the attitude of the positive law of Niger regarding this practice. The enquiry will be conducted by looking at several elements of definition, followed by a critical analysis of the elements identified.

There is no definition of slavery in colonial domestic law. What does exist is a definition of The Slave Trade contained in the decree of 12 December 1905 modified by that of 8 August 1920. The trade is defined by these texts as an agreement whose purpose is to dispose of the freedom of another person either against payment or free of charge.

In the absence of a definition established by municipal law, it is necessary to refer to the definition found in international legal instruments related to the subject. Thus, article 1 of the Slavery Convention 1926 clearly defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”

Article 544 of the Niger Civil Code defines ownership as “the right to enjoy and dispose of possessions in the most absolute manner, provided they are not put to a use prohibited by statutes or by regulations.” The right of ownership covers all the uses of the possession or chattel. It comprises three rights: the right to use the chattel oneself (*usus*), the right to enjoy the chattel, to receive the fruits, that is, the income (*fructus*), and the right to dispose of the chattel by alienating it (*abusus*). The owner of an object therefore has the right to use it, receive income generated by it and do anything he likes with it. In this regard, he could, for example, sell it, give it away, abandon or destroy it.

The right of ownership is, therefore, an absolute right whose only restriction is to exercise the powers attached to it within the limits laid down by the law and regulations. For example, if the owner wishes to sell his property, he must do so while abiding by the rules and procedures established by the legal provisions in force related to selling.

When the definition in article 544 of the Civil Code is read together with article 1 of the Slavery Convention, slavery is seen as the condition of a person reduced to the status of an object that is, a person with an owner who has the right to put him to his service, receive the fruits of his labour, sell or give him away, and has the power of

life and death over him. It is not necessary for the owner to exercise all the powers attached to the right of ownership; he only has to exercise two of these powers for slavery to be established. For example, slavery is established as soon as a person is allowed to use another person and receive the fruits of his labour. Slavery is also established when a person has, for example, the right to dispose of and use another person.

The definition given by the Slavery Convention corresponds to the active form of slavery, which is still found in Niger among the Arabs, Tuareg and Peuhl. True, there is no trafficking involved in this slavery, but it gives the master a real right of ownership over the slave. The latter is at the service of the master, who may sell him, give him away as a present and dispose of his property. This said, the definition offers the advantage of taking account of the fact that slavery is established even if the master does not have the right to dispose of the slave, in the sense of having the power of life and death over him. It is sufficient for the master to exercise the other powers of the right of ownership for his acts to qualify as slavery.

Due to the incomplete and outdated nature of the Slavery Convention, and the realisation that slavery, the slave trade and similar institutions and practices had not been eliminated in all the regions of the world, a supplementary Convention was signed on 7 September 1956 entitled: Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery (hereafter the Supplementary Convention). It addresses other forms of slavery such as serfdom, defined in its article 1 (b) as “the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.”

The Supplementary Convention goes further to state in its article 5 that in a country where slavery or slavery-like institutions and practices are not completely abolished or abandoned, “the act of mutilating, branding or otherwise marking a slave or a person of servile status in order to indicate his status, or as a punishment, or for any other reason, or of being accessory thereto, shall be a criminal offence under the laws of the State parties to this Convention and persons convicted thereof shall be liable to punishment.”

#### *Post-Independence law*

Post-Independence law does not contain any definition of slavery. Just as in the colonial period, the attempt at a definition of slavery is to be found in an international instrument, namely the International Convention on the Elimination of all forms of Racial Discrimination (CERD), 1966. Through this Convention, state parties condemned racial discrimination and pledged to prohibit it in the territories under their jurisdiction. According to article 1 of CERD “the term ‘racial discrimination’ shall mean any distinction, exclusion, restriction or preference based on race, colour, descent or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life.” This definition is perfectly applicable to the ideological type of slavery which is nothing other than a form of discrimination based on ancestry or skin

colour, and whose aim is to deprive a person of the enjoyment or exercise of certain political, economic, social, cultural and other rights.

### *A critical analysis of the definitions of slavery*

By stating that slavery is “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised,” the Slavery Convention further complicates the task of defining slavery in that, instead of explaining it in an independent and comprehensive manner, it attempts to describe it in relation to another concept, that of the right of ownership.

The major drawback of the said definition is its backward-looking and restrictive nature. Indeed, it refers to the active form of slavery or slave trade, which is the form under which slavery was known. According to it, “The slave trade includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves.”

The Slavery Convention seems to ignore certain changes that have occurred in the practice, mainly as an attempt to circumvent its prohibition by the 1905 decree. Thus, apart from the form of slavery that gave the master a complete right of ownership over the slave, another type of slavery developed which was subtler in that the master’s powers over the slave were no longer visible. The latter was apparently free but, in reality, was obliged by custom to live with the master and provide him with certain services free of charge. The slave’s submission was encouraged by fatalism, the misinterpretation of Islamic precepts or the slave’s extreme poverty. Thus, many people living under the yoke of slavery state that they are resigned to their fate because their ancestors were slaves, or out of fear of divine punishment, or they lack the means to take care of themselves. This problem of lack of means as one of the causes for the perpetuation of the subtle form of slavery is evidenced by the many testimonies of people subjected to slavery. The slave is either assigned to specific tasks such as household chores, farm work, jewellery making and animals rearing, or to any other work decided by the master.

While the Supplementary Convention may have the merit of broadening the scope of the application of international instruments relative to the fight against slavery, it must be said that it, too, overlooks the ideological type of slavery in which a person is treated as a slave, is despised and has to bow to the wishes of a master because of the so-called servile origin of his family. This is a form of discrimination based on ancestry and sometimes on skin colour. Its aim is to exclude a person customarily from the enjoyment of certain rights, such as the right to marry a woman of noble birth or to occupy political posts such as the leadership of a structure at village level.

For example, during the election of the head of the Red Cross branch of Tchintabaraden in 1995, Indika Yacouba, a black Tuareg of servile origin, won a landslide victory over Ikoum Mohamed, a white Tuareg of noble birth. However, the chief of the 2<sup>nd</sup> Tuareg group of Tchintabaraden opposed this decision, stating that:

“A black slave shall never occupy such a post of responsibility in Tchintabaraden.”<sup>48</sup> It was on the basis of such discrimination that in 1998, a young girl from the neighbourhood of Boukoki in Niamey saw her marriage plans shattered on the eve of the event by her prospective in-laws who said she was of servile origin.<sup>49</sup> Yet the person called a slave and segregated often has no direct or indirect links with any master. For example, out of the one hundred or so slaves Abeyatane Abarad, Chief of the 1<sup>st</sup> Tuareg group, claims to be his property, only five actually work for him. The rest are free for all practical purposes but continue to be treated as slaves. On the other hand, sometimes it is the person called a slave who wishes to be considered as such in order to benefit from the favours of his so-called master.

The ideological type of slavery the master has no physical hold over the person considered a slave. This form of slavery appears to be linked to the strong influence of tradition on the structure of the society and to the widespread poverty among certain people who believe it is to their advantage to be considered as slaves.

It was because the ideological type of slavery did not reveal any real powers of the master over the slave, that the Slavery Conventions of 1926 and 1956 did not include it in their definition of slavery and similar practices. Therefore, these conventions remained incomplete omitting the ideological form of slavery. Legally speaking, it is certainly difficult to have a provision forbidding a person from claiming the right to be called a slave. Since such behaviour is the consequence of widespread poverty, it can only be countered by adopting economic measures in favour of these so-called slaves. However, it is possible to have provisions that make it an offence to call certain people slaves and to subject them to discrimination on that basis.

Finally, it is apparent that none of the above-mentioned conventions gives a complete definition of slavery. Each focuses on one of the possible forms of slavery. In the face of the fragmented nature of international legal instruments relating to slavery, it is difficult to adequately apprehend this multifaceted practice.

A comprehensive and more operational definition is perhaps to say that slavery should be understood as any act or juridical fact, discrimination, exclusion, restriction or preference based on descent or skin colour; any agreement or understanding based on modern or customary law whose purpose or effect is to dispose of the freedom of a person, either against payment or free of charge, in order to make him provide certain services to another person without reward and without the possibility of changing his status; any attempt to compromise or deny the recognition, enjoyment or exercise, on an equal footing, of the various rights and freedoms of the human being in the political, economic, social and cultural fields or any other field of public life.

This definition has the merit of covering the various aspects of slavery. It also emphasizes the structural opposition between slavery and human rights.

### ***The contradiction between slavery and human rights***

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<sup>48</sup> Annual Report of the Human Rights Defence Association of Niger (ANDDH), 1995, quoted by A. Balla Kalto Loutou et al, in “Les insuffisances dans les textes législatifs nigériens en matière d’esclavage” [The Deficiencies of Niger Legislative Texts on Slavery], Niamey, January 2000, page 21.

<sup>49</sup> Source Timidria.

Insofar as it alienates the freedom of a human being, slavery is the denial of a legal personality. From this point of view, it constitutes a serious and routine violation of human rights. These principles are philosophically based on the theory of natural law, which was elaborated by ancient philosophers. According to the theory of natural law, there exists a law that predates the establishment of the State, a body of rules that reason may discover by analyse the nature of the human being as created by God. This natural law common to humanity should govern the international relations between States. Similarly, the rules set down by public authorities, which constitute positive law should comply with natural law. They draw their authority from their compliance with natural law; they lose it if they fail to comply.

According to the theory of natural law, human rights are only the expression of a transcendent norm – it is nature, and not the State, that grants them. They are inherent to the essence of the human being. It follows that human rights, because they are natural, are necessarily inalienable. One may not give them up, even voluntarily, and others may not dispose of them. Given that human nature is the same in all persons, all rights emanating from it are found in all human beings, who are born equal before the law because they are born as human beings. Since all persons are born equal before the law, no person is entitled to reduce another to slavery. Indeed, the Universal Declaration of Human Rights, 1948 (UDHR), which is, in this field, the common ideal to be achieved by all peoples and all nations, begins by affirming the right to life, freedom and security of the individual. These rights imply the prohibition of slavery, which is tantamount to their denial because it gives the master the power of life and death over the slave.

Further down in its list of civil and political rights, the UDHR states that “no one shall be held in slavery or servitude”, adding, among other things, that no one “shall be subjected to torture, inhuman or degrading treatment or punishment;” that “everyone has the right to recognition everywhere as a person before the law;” that “everyone has the right to freedom of movement,” to “own property”, to “freedom of opinion and expression.” to “freedom of assembly and association.” Slavery is opposed to the exercise of these various rights since the master has the right to torture, brand and deny the slave all forms of expression. The property of the slave belongs to the master who may dispose of it.

Slavery is a violation of economic, social and cultural rights. These are especially the right to work, to social security, to rest and leisure, to an adequate standard of living in order to ensure health and well-being, education, as well as the right to participate in the cultural life of the community and benefit from scientific progress. According to the UDHR, economic, social and cultural rights are essential to the dignity and development of one’s personality. These various principles stated by the Universal Declaration of Human Rights were reaffirmed by the African Charter on Human and Peoples’ Rights 1981 (ACHPR).<sup>50</sup>

As slavery is the denial of civil and political as well economic, social and cultural rights, it is actually “the graveyard of human rights.” The master may dispose of the slave free of charge or against payment, as in the case of Bouboulou, a young Tuareg

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<sup>50</sup> Adopted by the eighteenth Assembly of Heads of State and Government held in Nairobi, Kenya, in June 1981. [www.achpr@achpr.org](mailto:www.achpr@achpr.org)



girl sold in 1984 to the chief of an Arab tribe of Tassara, who married her off to one of his slaves to produce young slaves for the master. A girl was born from this marriage and, at the age of four was given to the master's daughter as a wedding gift.<sup>51</sup> Similarly, the master has the power of life and death over the slave as shown by the case of Azagua, who was murdered in Infajemar by his masters because one of their daughters had fallen in love with him.<sup>52</sup>

Since the master has the power of life and death over the slave, he assumes the right to subject him to inhuman and degrading treatment. It is this hard reality that is borne out by the case of Mariama who was severely beaten and wounded by her master in Tchintabaraden in 1998.<sup>53</sup> Even more serious is the case of Akididé, who was castrated in 1991 in Gharo<sup>54</sup> by his master's son; or the case of Taherrat, a young slave who gave birth to a child after being repeatedly raped by her master. The same thing happened to Taboutou Kidawa from the village of Intchirikten (Tanout). Many people subjected to slavery have reported that they are routinely insulted, tortured, beaten or deprived of food for days. To assert their authority, masters resort to various methods of torture, all rivalling in repulsiveness. Thus, in the village of Intchirikten (Tanout), Aklian Naroua's master forced him to stare at the sun for several hours as a form of punishment.

Slavery is irreconcilable with the very idea of human rights. The existence of human rights is indeed subject to the recognition of legal personality. But the fact is that slavery, because it reduces the human being to the status of chattel, is the denial of legal personality. Since the slave is a chattel, it is the master who decides in his place; for example, it is the master who gives away his slave's daughter in marriage, takes the decision about the marriage and determines the amount of the dowry. When a slave dies, it is his master who inherits his property. It is because slavery is a violation of all the recognized prerogatives of the human being that it became the subject of a specific convention even before UDHR namely the Slavery Convention 1926.

Given that slavery is a violation of human rights, the question that should be asked is whether the legal instruments of Niger can cope with the seriousness of this institution?

### **The Niger legal framework for the suppression of slavery\***

The fact is that Niger law does not specifically criminalise slavery and there are many provisions that sanction violations of freedom characterised under various legal definitions.

The Niger legal framework does not contain any provisions defining slavery as a crime or offence. The decrees of 12 December 1905 and 8 August 1920 on the abolition of The Slave Trade in French West Africa (FWA) and French Equatorial Africa (FEA) exclusively refer to that trade. Indeed, article 1 of the decree of 8

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<sup>51</sup> Source Timidria.

<sup>52</sup> Ibid.

<sup>53</sup> Source Timidria.

<sup>54</sup> Ibid.

\* This report was written before the amendments to the Penal Code, defining, prohibiting and punishing slavery in 2003.

August 1920 states that “any person who within the territories of FWA and FEA concludes an agreement for the purpose of disposing of any other person’s freedom either free of charge or against payment, shall be punished by 2 to 5 years imprisonment and a fine of 500 to 5,000 Francs.”

There are two justifications for the absence in Niger law of the specific criminalisation of slavery and similar offences: the first is related to the prohibition of the slave trade and forced labour, while the second is based on the affirmation of the principle of equality in the Niger Constitution.

### ***The abolition of the Slave Trade and forced labour***

In the mind of the colonial legislator, the Slave Trade was the only form slavery could take. That is why it was thought it would be sufficient to prohibit the trade to eliminate slavery. The chances of the measures succeeding seemed all the greater because of the penalty of 2 to 5 years imprisonment and fine of 500 to 5,000 Francs for the offence. Besides, any attempt to commit the offence was punishable by the same penalty. Similarly the law provided for the confiscation of money, goods and any other objects or proceeds from the execution of the contract or advances received for a future contract. Further, the offender could be banned from residing in certain areas for a period of 5 to 10 years and could lose certain civic rights.

Given that the Slave Trade was considered as the only form slavery could take, and that its prohibition was expected to eliminate the practice, it seemed pointless for the legislator to come up with any provisions defining it as a crime or offence. Since slavery was prohibited, this measure was seen as sufficient to curb this kind of behaviour. Regrettably, this failed to happen in practice. Indeed, while the Slave Trade was prohibited and punished by the 1905 and 1920 decrees, the measures adopted seemed to be incomplete. What was prohibited was to conclude a contract for the purpose of disposing of the freedom of another person against payment or free of charge. More explicitly this means, for example, to sell a person as a slave, hire him out to somebody else or give him away as a gift.

The forms of disposal of freedom prohibited are those occurring through a legal contract. The latter is defined as the manifestation of the will of one or more people enforceable by law. When such a legal act is the manifestation of the will of a single person, it is said to be unilateral. This is the case, for example, of a testament. But a contract may be, and most often is, an agreement between two or more parties, in which case it is described as bilateral or multilateral. This is the case of written contracts, which are typical deeds of agreement.

This said, when talking about contracts, the 1905 and 1920 decrees refer to agreements between at least two people: the assignor, that is, the person who transfers his ownership of the slave, and the assignee, that is, the person who receives the slave. The aforementioned decrees do not take into account the disposal of other peoples’ freedom either by a unilateral deed such as a will, or juridical fact<sup>55</sup> such as, for example, the devolution of estate. Consequently, there is nothing to stop a slave owner from enjoying the fruits of his slave’s labour.

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<sup>55</sup> A juridical fact is defined as a fact which gives rise to or affects legal rights and duties without the conscious will of the person or persons affected.

One may think that the deficiencies of the 1905 and 1920 decrees would be compensated by Act no. 46-0645 of 11 April 1946 prohibiting forced labour. Indeed, this Act stipulates, “forced or compulsory labour is totally prohibited in the overseas territories. All methods or means of directly or indirectly forcing a person to be hired or maintained in a place of work shall be covered by legal provisions containing penalties imposed by a court.”

### ***Fundamental human rights enshrined in the Constitution***

The Niger Constitution of 9 August 1999 stipulates that the Republic of Niger is a State governed by the rule of law and that it guarantees the equality of all before the law without distinction based on sex, social, racial, ethnic or religious origin. The principle of equality, therefore, has constitutional significance in Niger. The Constitution guarantees everyone the status of a citizen on an equal footing and consequently, equal protection by the law and access to the rights it enshrines. Any derogation from this principle can only be based on objective grounds.

After stating the principle of equality, the Constitution of Niger provides the list of human rights, of which we shall mention a few. It is first of all stated that the human being is sacred and that the State has the absolute duty to respect and protect him, as well as to guarantee the full development of his potential. This provision means that the human being cannot be traded, that is, he cannot be the object of any transaction, and all practices likely to constitute an obstacle to the full development of his potential are prohibited. In the same vein, article 11 enshrines the principle of the right to life, health, freedom, security, physical and mental integrity, education and training under the conditions defined by the law. Similarly, it is stated that no person may be subjected to torture, or cruel, inhuman and degrading treatment or punishment. Further, the right to work and a fair reward for one’s services and production are recognised for all citizens, as well as the right to property.

Finally, the Constitution recognises that every citizen has the right to civil and political rights as well as economic, social and cultural rights. Since these rights are opposed to all forms of alienation of a citizen’s freedom, the idea of a specific criminalisation of slavery appears superfluous. It is felt that, as long as the above-mentioned rights and freedoms are recognized and guaranteed, slavery should not exist as a practice and, therefore, it is not necessary to provide for the criminalisation of a practice that has become inoperative.

In addition to the absence of the specific criminalisation of slavery is a gap in relation to bondage, which is the most rampant form of slavery in Niger. Yet article 1 of the Slavery Convention makes it binding on States parties to adopt all legislative or other measures necessary to ensure the total abolition of the institutions and practices similar to slavery progressively and as soon as possible.

Niger municipal law is also silent about discrimination based on skin colour or family origin aimed at denying or compromising the recognition, enjoyment or exercise of the rights and freedoms of the human being in various fields. Indeed, article 102 of the Niger Penal Code only relates to “any act of racial or ethnic discrimination, as well as any regionalist propaganda, any acts contrary to the freedom of opinion and

religion likely to set people against each other ...” This article does not cover discrimination based on decent; discrimination based on race, or ethnicity is only punishable when its purpose is to set citizens against each other.

Because of the absence in the law of Niger of the specific criminalisation of slavery and similar practices, the lower courts are at a loss. Some have been more daring by prosecuting such offences under other legal definitions such as “the alienation of other peoples’ freedom.” But this is a remedy, which unfortunately does not cover all aspects of slavery.

With regard to Act no. 46-0645 of 11 April 1946 prohibiting forced labour, its implementation comes up against a major difficulty related to the definition of the concept of forced labour. According to the ILO Convention of 28 June 1930, forced or compulsory labour “shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” On the basis of this definition, one may believe that the deficiencies of the 1905 and 1920 decrees have been largely made up for. However, this argument does not stand up to criticism. Indeed, can the labour performed by the slave for his master, be considered forced or compulsory? Should the forced or compulsory labour covered by Act no. 46-0645 not be understood as the unpaid labour imposed by the colonial administration on certain people? There are many issues whose collective effect was to help perpetuate slavery practices.

### **The multiplicity of legal texts which punish human rights violations**

These provisions are to be found in civil, criminal and administrative law.

#### ***In civil law***

The human body cannot be traded; not only is it protected against violation by others but is protected from the individual himself. Protection comprises both a preventive and a punitive aspect. With regard to prevention, protection is based on the principle that an individual may not be forced to suffer violations of his own body, even if such violations are justified by somebody else’s interest. Thus, for example, a person may not be subjected to a surgical operation, however important or necessary, without his consent or that of his family.

With regard to punitive measures, the violator of the human body may be forced to pay damages to the victim.

Since the human body is the material manifestation of the person, it is inalienable like the person. A person may not sign a contract of which his body is the subject matter. However, the law has slightly qualified this principle to take account of the aim of the parties. Thus, there is a distinction between contracts directly affecting the body and those indirectly affecting it.

Contracts directly affecting the body may be subdivided into contracts enforceable during the life of a person and those enforceable after the death of a person. Contracts enforceable during the life of the person are void if their effect is to sell the person and reduce him to slavery. However, if they affect part of the body, they are valid if

the purpose is legitimate and permissible, for example, therapeutic (blood transfusion, organ transplant), or social (employment contract...). Hence, they are more readily accepted, whether totally or partially, if they have a therapeutic or scientific purpose.

Contracts indirectly affecting the body aim at extending or reducing the liability of the author of a tort. Contracts that extend liability in order to ensure reparation are considered valid, just like those that limit liability. In general, however, contracts that cancel liability are void.

### *In criminal law*

The Niger penal code imposes custodial penalties and fines for violations of the human body. These various violations are very precisely defined in law. They are mainly:

- **Assault and battery, violence or threat of violence:** The law punishes by imprisonment or fine any individual who intentionally inflicts injury, strikes or commits or threatens violence against another person. The penalty is more severe if the offence was committed with a weapon, malice aforethought, foul play, or results in the death of the victim, amputation, or loss of the use of a limb, blindness, loss of an eye, or other permanent disabilities, or if the offence was committed among others against a child under the age of 16.
- **Castration:** This is the intentional ablation or removal of an organ necessary for reproduction. Castration is a crime punished by life imprisonment. If it results in death, the penalty is capital punishment.
- **Threats:** Under this definition, the law punishes any individual who threatens another verbally or in writing, through images, signs or symbols, with assassination, violence, battery or any other violation of the person. The offence is punishable whether or not the threat is made under an order or a condition.
- **Murder and other capital offences:** Murder is a homicide committed voluntarily. Assassination is murder committed with premeditation, ambush, torture or while committing acts of vandalism.
- **Arbitrary arrest and detention:** this is the arrest, detention or confinement of any person without order from the legal authorities or from the courts in the case of the arrest of the perpetrators of an offence. The penalty applies even to the person who lent the use of the place of detention or confinement. It is more severe if the victim was arrested or detained with threats to his life or if he was subjected to torture.
- **Alienation of the freedom of others:** Two offences are covered by this definition: the first is to use or receive a person as surety for whatever reason; the second is to dispose of the freedom of a person free of charge or against payment. The latter offence is just the same one found in the 12 December 1905 decree prohibiting the slave trade. However, it seems rather broader than the earlier one because it does not mention the contract as one of the elements constituting the offence. This means that the offence of alienation of other people's freedom can be established even in the absence of a contract. The penalties are more severe than those provided by the 1905 decree. The penalty of 10 to 30 years imprisonment provided in article 270 of the penal code may be increased to life imprisonment if the victim is under the age of 13. Besides,

if the offender disposed of the freedom of several people, the penalty is capital punishment.

From the operational point of view, this provision is not easy to implement because it does not give a definition of what is meant by the alienation of other people's freedom. It is a "catch-all" offence, which may be invoked in many situations depending on the judge's understanding of the term.

- **Rape:** Rape is the act of forcible intercourse committed by a male person upon a female person. The penalty for rape is more severe if the victim is under 13 years of age or if the offender is a parent or relative.

### **The obstacles to the effective implementation of legal provisions in the fight against slavery and similar practices**

#### *The procedural difficulties*

These are related to respecting the principle of legality of offences and penalties, and that of the strict interpretation of criminal law.

The principle of legality of offences and penalties is first stated in article 15 of the Constitution, which stipulates "no one may be arrested or charged with an offence other than under a law that entered into force prior to the commission of the acts constituting the offence." This is reaffirmed by article 4 of the Penal Code according to which "no violation, offence or crime may be punished by penalties which were not provided for by the law before the offensive acts were committed."

The principle of legality therefore has a constitutional value in Niger. It imposes three obligations on the lawmaker:

- the obligation not to draft retroactive laws: if the legislator were allowed to criminalise acts committed prior to the enactment of the law, or punish them with more severe penalties or have them tried under a different procedure, the law would no longer be objective or impartial;
- the monopoly to draft criminal law; and
- the obligation to accurately draft criminal law : in defining criminal law the legislator must exercise great care in defining offences, the elements that constitute the offence, the nature of the penalty and the rules of procedure.

The obligation of the principle of legality imposed on the judge reveals its restrictive nature with regard to the punishment of slavery and similar practices. The principle of legality imposes on the judge:

- the obligation to classify offences: the judge may not prosecute, try and convict a person unless he has beforehand related the act the person has been charged with committing to a legal provision and given it a name that has a legal definition in criminal law. For instance, the judge may not call slavery, bondage or discrimination based on family origin offences, because this definition is not enshrined in the law. The judge may, for example, penalise the assault and battery inflicted upon a slave by his master. However, such a

penalty will have no effect on the existing slave-master relationship, which remains intact because it is not the subject of the criminalisation. It is in order to abide by this duty to define offences that led the deputy judge of Madaoua to prosecute two acts of slavery brought before him in 1999 and 2002 under the legal term and offence of the “alienation of the freedom of others.” Since the alienation of the freedom of others is a catch-all offence, it is the one used by some judges in order to prosecute certain forms of slavery;

- the obligation to comply with the law: the judge must comply with the law both in interpreting the offences and in punishing them. He may not modify the details of the law, for example, by punishing acts that are not considered offences or hand down penalties not provided by the law;
- the obligation to adopt a strict interpretation of criminal law: the judge must not adopt a broad interpretation, because that would allow him to extend the scope of criminalisation to acts that are not covered by the law. This would be arbitrary, and that is precisely what the principle of legality seeks to avoid. Thus, the judge cannot, through interpretation, extend the scope of the offence of assault and battery to cover the relationship of domination existing between master and slave.

### ***Public prosecution***

Public prosecution is the right to take proceedings in the interest of the public with a view to suppressing the disorder caused by the commission of an offence, by imposing a penalty or adopting protective measures against the offender. It is a right that belongs to the public and may be exercised through its representatives such as prosecuting attorneys. Public prosecution is initiated by prosecuting an offender before the relevant courts.

However, public prosecution can only be instituted in respect of acts that constitute violations of criminal law. Since slavery, bondage and discrimination based on descent or colour are not specifically criminalised, public right of action cannot be directed against them. Such acts cannot be criminally prosecuted because they are not legally defined as offences. Only offences committed in the course of the practice of slavery or bondage may be subject to prosecution.

### ***The legal difficulties***

Even if slavery came to be specifically criminalised, there would still be a legal problem that would make it difficult to repress. This problem is related to the legal action, which makes it possible to defend the subjective rights of the individual but can only be initiated by the individual himself or his representative. Our law does not allow class action, that is, action initiated by an individual on behalf of the society. This is the role of the Public Prosecutor through public prosecutions as discussed above. On the basis of this principle, an association may not bring a case on behalf of the community. An association can only sue for damages in criminal proceedings on behalf of the victim he represents.

Moreover, the fear of retaliation by the master will deter the slave from going to court. To illustrate this fear of the master’s retaliation, let us give an example of a case

of slavery brought before the deputy judge of Abalak. The victims, out of fear of the reaction of their masters, refused to testify, forcing the judge to decide there was no ground for prosecution and therefore to dismiss the case. The fear of retaliation by the master is so strong that complaints about slavery recorded to date by the courts have come from human rights associations in general and Timidria in particular.

Under such circumstances and as long as civil society organisations are not granted *locus standi* to go to court on behalf of the victims of slavery, it is to be feared that even if slavery is specifically criminalised, there will not be any effective implementation of the law. Indeed, the worst thing that can happen to a legal provision is for it not to be implemented.

### ***Limitations inherent to a multi-legal system***

In Niger issues relating to the person and property are dealt with by legal systems that differ both in their nature and their sources. Indeed, as far as certain legal relations are concerned, citizens are not governed by the same norms. Civil or modern law governs some people, while others are governed by custom. The latter is a set of oral rules resulting from the repeated practice of certain behaviour. Customary law is established by practice, it may vary from one ethnic group to another even though, due to the Islamisation of Niger society among other things, there are elements shared by all customs.

This is a legacy of colonialism. Indeed, after the colonial conquest, several laws were adopted to harmonize the law by referring to French law alone and suppressing the traditional courts. This is what became known as the “outright assimilation policy”. When this policy failed, it was replaced by a “suggested assimilation policy.” The latter endorsed the dual legal system by enabling the colonised to choose between modern (French) civil law and traditional customary law.

This modern law/customary law dualism continued to exist after independence. It was enshrined by Act no. 62-11 of 16 March 1962 governing the organisation of the judicial system of the Republic of Niger. This Act states the principle of the application of custom:

- in cases relating to the capacity to enter into contracts and take legal action, the status of people, the family, divorce, parentage, inheritance, gifts and testaments;
- in those relating to property or the ownership of real estate and the rights deriving therein, except where the dispute is over a registered land or land whose acquisition or transfer was witnessed by one of the modes of evidence established by law.

The scope of modern law is very limited because it only applies:

- when custom is silent or vague;
- when the person to be tried cannot invoke a custom or has partially or totally renounced it;
- in matters other than those in which custom has explicit jurisdiction.



The Niger legal system is therefore a multi-legal system since it comprises both customary law and modern law rules. These different rules do not have the same attitude to slavery. Indeed, while modern law condemns the practice, customary law permits it. This situation makes it difficult and will continue to make it difficult to enforce a legal provision against slavery.

It certainly follows from article 51 of Act no. 62-11, 1962 that the application of custom is subordinated to the “respect of the legislative and regulatory provisions or fundamental rules relating to public order or the freedom of individuals.” In other words, a custom that is contrary to public order or the freedom of individuals should not be enforced.

However, the above-mentioned article 51 raises many difficulties. The first difficulty is in the fact that public order is a subjective notion that varies in time and context. What was considered as contrary to public order yesterday may not be considered to be so in the future. Similarly, what is considered as contrary to public order in one region may not be considered as such in another. But the fact of the matter is that the legislator has not given the judge the criteria for deciding whether or not a custom complies with public order. The second difficulty comes from the fact that the legislator has not specified who may raise objections regarding compliance to public order or the freedom of individuals and at what stage of the procedure.

Finally, the issue of the compliance of a custom with public order or the freedom of individuals can only be raised in practice when a dispute over such compliance is brought before a court. But the fact is that many disputes are in practice adjudicated by customary authorities. The latter apply custom, including those of its provisions that are contrary to public order and the freedom of individuals since these notions are unknown to customary law. In principle, according to Act no. 62-11, Chiefs only have the power to reconcile parties in civil, commercial or customary cases. But in fact, Chiefs adjudicate like courts and their decisions indeed have a greater authority than court judgments. As soon as they are handed down, their decisions have the authority of a final judgment, because according to article 15, paragraph 4 of Ordinance no. 93-28 of 1993 on the status of the traditional chieftaincies, the records of the Chiefs’ proceedings can never be challenged before the administrative or judicial authorities.

For all these reasons, one can rightly consider the multi-legal system as a factor that limits the efficiency of the legal provisions against slavery and similar practices.

### ***Limitations inherent to the administrative structure***

The organisation of local government in the Republic of Niger is syncretic by nature. Indeed, the Republic of Niger is divided into regions, the regions into départements, the départements into arrondissements and the arrondissements into communes. These modern structures coexist with traditional structures or communities hierarchically integrated into the administrative system according to article 2 of Ordinance no. 93-28, 1993 establishing the status of the Traditional Chieftaincies of Niger. These traditional communities are the districts, villages, cantons, tribes and groups, provinces and sultanates, which are administered by the traditional chiefs.

Only those entitled by custom may be elected to the post of Traditional Chief. In fact, candidates have to come from families of Chiefs, which sanctions the transfer of the title hereditarily.

The Chief has the discretionary power to choose his collaborators among those entitled to be selected by custom. The said collaborators can never be people of servile origin. The latter are therefore excluded from the decision-making process related to the management of a traditional community since they cannot be among the Chiefs' collaborators. The nature of this specificity of the organisation of local government in Niger is such that it compromises the effectiveness of legal provisions against slavery and similar practices. This risk is greater because in certain customary communities of western Niger where society is divided into two classes (nobles and slaves), the existence of traditional chieftaincies perpetuates the existence of a class of nobles. And the fact is that the nobility ensures the survival of slavery since it is with reference to the slave that the noble acquires his status.

### ***Obstacles related to the land tenure system***

There are many land tenure systems in Niger that sometimes vary from region to region. It is this reality that was sanctioned by Ordinance n. 93-015, 1993, which established the principles guiding the Rural Code by stating in its article 8 that "land ownership is acquired through custom and as provided by statutory law". In agricultural areas, while the principle of individual land ownership remains the rule, it must be said that in the cantons of Guéladjo and Say, all the lands belong to the families of chiefs. By contrast, in the canton of Gaya, the lands belong to the family of the rural-farmer leader. Land property rights are generally transmitted by inheritance. The families of canton chiefs or rural-farmer leaders have their lands cultivated by other people who pay them a tithe after each harvest.

The survival of the land tenure systems that make canton Chiefs and rural-farmer leaders owners of all the lands encourages the perpetuation of slavery practices in that the descendants of former slaves, because they cannot have access to land ownership, have to accept serfdom in order to support themselves. The establishment of land commissions and their empowerment to distribute land as well as the development of the mechanism of rural concessions are solutions that should be explored with a view to eliminating serfdom in agricultural areas.

In pastoral areas, the pastureland is not privately owned either individually or collectively. Access to pastureland is therefore free; however, it is regulated by individual ownership of watering points, especially wells. This situation leads to a *de facto* ownership of pastureland since the owner of a well, because he controls access to the water, indirectly controls access to the grazing land around his well. Since the descendants of former slaves do not have the means to sink wells, it is difficult for them to become herd owners and they are therefore generally reduced to accepting their status as slaves in order to have access to water, a resource that is rare in pastoral areas. The sinking of wells in sufficient numbers in pastoral areas may be an appropriate solution for these populations.

### ***Problems related to customary marriage***

As pointed out earlier, a person may either have a civil law status or a customary law status. The option is made at marriage. Those who marry according to the civil code are said to have a civil law status, while those who marry according to custom have customary law status. Marriage is, according to the civil code, a secular institution: it is performed by a registrar who verifies the consent of the spouses and reads out their rights and duties. Monogamy is also the rule, in the sense that the man will not be able to have another wife as long as his first marriage is not dissolved. Moreover, in civil law marriages, the husband does not have the right to repudiate his wife; should he ever wish to end the marriage, he must go to a judge who may allow or refuse a divorce.

On the other hand, customary marriage is religious. It is a mix of Islamic rules and traditional African practices. It is performed by a religious elder, mostly the *Marabout* of the neighbourhood, village or family, then the marriage is declared to the registrar of births, deaths and marriages at the request of the spouses in the presence of two witnesses. Polygamy is the rule in this kind of marriage, which gives the man the right to take several wives. The husband also has the right to divorce his wife, and may thus take the unilateral decision to separate from her without having to go to a judge or give any reasons for doing so. All the judge can do is record the divorce. Customary marriage is unequal in that its conditions vary according to the status of the wife. If she is of servile origin, her marriage will not be performed in the same way as that of a woman of noble origin. While the latter may express her consent, the former is denied that right since it is her master who decides for her. Therefore, customary marriage perpetuates the practice of slavery. This risk of perpetuating slavery is increased by the fact that customary marriage allows a man to have up to four wives. However, he may also take a slave woman as a fifth wife.

### **Precautions to be taken following the adoption of the new penal code**

With the adoption of the new penal code by the National Assembly of Niger on 5 May 2003, slavery is henceforth a criminal offence declared as such and punishable by the law. The efficiency of the legal provisions will depend on an understanding of the phenomenon and its various aspects by all those working in the penal judicial system. This will enable them to appreciate it from all angles so that those who practice slavery may not find other ways of avoiding punishment. There is therefore a need to train police and criminal investigating officers as well as attorneys in charge of examining and prosecuting criminal offences. It is also appropriate to note that Niger law enshrines in Act no. 62-11, 1962 the principle of the application of custom in many matters. The fact is that by referring to the past, some of these customs expressly or tacitly legitimise slavery practices. True, Act no. 62-11 subordinates the application of custom to compliance with the law, the respect of public order and the freedom of individuals. However, the implementation of this provision by the lower courts is not easy because of the absence of explicit criteria on which to base their opinions. In these conditions, judges in charge of trying cases of a customary nature should also be trained. Given that such cases involve a conciliation phase before they are taken to court, the authorities in charge of conciliation also need to be trained. This understanding of slavery and the penalties applicable against those who practice it may contribute significantly to its eradication because in the final analysis, as Kelsen points out, “all our behaviour is directly or indirectly controlled by the law.”



## **THE FIGHT AGAINST SLAVERY IN PRESENT DAY NIGER**

The fight against slavery in present-day Niger is almost exclusively waged by TIMIDRIA, a national human rights association. In Tamacheq, TIMIDRIA means Fraternity-Solidarity. It was established on 15 May 1991 and recognized by Order no. 159/MI/DAP/J of 3 December 1991 by young intellectuals from all regions of the country who shared the same conviction and determination to break the shameful silence regarding slavery.

These young people, some of who were traumatized by the barbaric and criminal acts perpetrated by relatives and some traditional leaders against fellow citizens. They rallied to the cause, to fight for justice and against the impunity enjoyed by a certain social stratum that disregarded the laws and regulations of the Republic. These privileged people are to be found both within the customary and the so-called modern administration.

Timidria opted for a non-violent approach in its struggle to break the silence over all forms of discrimination based mostly on colour or descent. This period of commitment was difficult for the Association and its members who received all sorts of threats. However, these threats did not discourage them from confronting the perpetrators of certain flagrant injustices.

The Association operates a system of review, self-criticism and performance evaluation in order to guide or support and sustain its activities. In order to undertake its mandate of combating slavery and all forms of discrimination, Timidria felt the need to enlarge its partnership network to include other human rights organisations. It initiated contacts with sub-regional and international organisations such as Anti-Slavery International with a view to obtaining assistance in increasing its intervention capacity. The Timidria and Anti-Slavery International partnership was formalised by financial assistance for a review of the legislation regarding slavery and the present study on a census of the victims of slavery and slavery like practices.

Timidria's objective is to work towards eradicating all forms of discrimination, particularly slavery. In order to raise public awareness about the organisation, Timidria initiated briefing meetings financed by the voluntary contributions of its members. Timidria held its first congress in May 1992 in Tabalak (Tahoua), the second in April 1998 in Ibohamane (Keita, Tahoua) and the third in January/February 2002 in Abalak (Tahoua). National seminars and local assemblies enabled discussions to reflect upon various aspects of slavery practices in Niger.

Timidria mobilizes human rights defenders and individuals directly or indirectly concerned by the most violent and revolting of human rights violations, slavery. Among them are eminent national scholars and religious leaders who assist in explaining the cruelty of slavery. Timidria collaborates with organisations working for the promotion of human rights and particularly the protection of the rights of victims of slavery. It is a member of the collective of human rights non-governmental organisations (NGOs) and currently holds the vice-chairmanship of that structure. It

exposes the inconsistency between Niger's ratification of international conventions protecting the rights and freedoms of citizens and practices in the country .

Timidria's organs are as follows:

- Congress
- National Council (NC)
- National Executive Bureau (NEB)
- Regional Councils (RC)
- Chapters
- Sub-Regional Councils (SRC)
- Sub-Chapters
- Area Offices
- Local Offices

The Association has nine (9) chapters: Agadez; Diffa, Maradi, Niamey, Tahoua, Tillaberi, Arlit, Dosso and Zinder. It has 38 sub-chapters, 18 area offices and several dozen local offices. The establishment of chapters and sub-chapters is going on gradually (Agadez, Zinder). A Timidria chapter was established in Cote d'Ivoire in 2001.

Timidria has been financed mainly through the subscriptions of members, which paid for the congresses and the rent for the first office. Financial and technical assistance of bilateral, international organisations and NGOs cover the operating costs of the Timidria headquarters. The staff is composed of a secretary and executive secretary and many activities are carried out by volunteer members. The Association has succeeded in establishing working relations and partnerships with sub-regional and international organisations. These contacts have enabled it to develop the following activities that have helped it build its institutional capacities.

### **Population reached**

Since its establishment, Timidria has reached 122 villages and sensitized and trained a total of 41,000 people.

### **Cases of liberation**

In 1999, Timidria discovered, along with other local slavery cases, in the administrative districts of Madaoua, Illela and Konni the practice of trafficking in women between Niger and Nigeria. This involved the disguised sale of young slave girls by their masters, traders and other privileged people living in the North of Nigeria. This so-called triangle of shame was exposed through the national and international media, resulting in the liberation in:

- Tchintabaraden, (Targa, a slave woman called Boulboulou, a girl, two youths including a pregnant girl in Tassara, Toukourat, another girl in Agawane).
- Madaoua (a girl from Tambaye Jano), Tahaoua (a girl from the commune of Tahoua).
- Tillaberi (four people including a woman and her three children - a boy and two girls, and one girl in Inates).
- Tahoua (seventeen victims, including three adult women, five adult men, three boys and six girls in Abalak where eleven other people were freed).

A total of forty-two people have been freed publicly, and several mass liberations have taken place since the law on the abolition of slavery was passed in May 2003.

### **Intergration**

Intergration programmes for freed slaves are conducted in the regions notorious for the practice of slavery. In the district of Tillaberi, two hundred tons of cereals have been freely distributed, thanks to Swiss Co-operation funding.

UNICEF financially supports the intergration of freed slaves in the region of Tahoua. This contribution is in the form of providing the victims of slavery with animals, equipment for agricultural work and the enrolment of their children in school.

Civil education outreach programmes and thematic fora (such as peace and development, civic education and governance) are regularly organised, thanks to the technical and financial assistance received through bilateral co-operation with such institutions as USAID, Danish Co-operation, NOVIB/Netherlands and Swiss Co-operation as well as international non governmental organisations.

### **Production of audiovisual material and collection of slavery-related objects.**

Timidria has produced audio-cassettes of testimonies of victims of slavery and collected jewellery worn by women that identified them as slaves. A documentary has been produced with the collaboration of the French channels ARTE and CINE TV on the practice of slavery in Niger.

### **Training and capacity building**

Timidria members have taken part in several meetings and training sessions at the national, sub-regional and international levels with the technical and financial support of international organisations (Africare, USAID, Danish Cooperation, Canadian Cooperation, Swiss Cooperation and NOVIB/Netherlands) on various themes on human rights, non-violence in human rights work, conflict management and prevention, the management of women's associations, good governance, institutional development and the organisational management of associations. Timidria also took part in the World Summit Against Racism in South Africa (2001) and one of the sessions of the UN Working Group on Contemporary Forms of Slavery, in Geneva (2002).

### **National, sub-regional and international co-operation**

At the national level, Timidria collaborates with governmental structures through its active participation in the National Commission on Human Rights and Fundamental Freedoms. The organisation of outreach sessions to sensitise the public has not experienced any serious problems in the administrative districts.

The adoption of a law on the abolition of slavery in Niger is concrete evidence of positive collaboration between Timidria and the Government.

Participation in human rights seminars or meetings (peace, freedom and justice, civic rights, democracy and human rights) has enabled Timidria to establish contacts in the sub-region. There is an informal partnership between Niger and the neighbouring countries (Burkina Faso, Chad, Mali, Mauritania).

Timidria has taken part in one of the sessions of the Sub-Commission of the UN Working Group on Contemporary Forms of Slavery and the World Conference on racism in South Africa – with its participation financed by the Human Rights Internal Law Group of Washington and NOVIB of Netherlands.



## PRESENTATION OF THE DATABASE

The database for the census was developed with Microsoft Access. Its structure reflects the entire questionnaire used to collect the data - a deliberate choice to avoid loss of information and facilitate further study of the problem in greater detail.

Subsequently, regrouping the data made it possible to list the themes, which appeared with a high level of frequency and facilitate the input by modifying the data entry form. The database is made up of **51** fields comprising **561051** data which, obtained from 11001 questionnaires, have been grouped in tables to facilitate statistical reading.

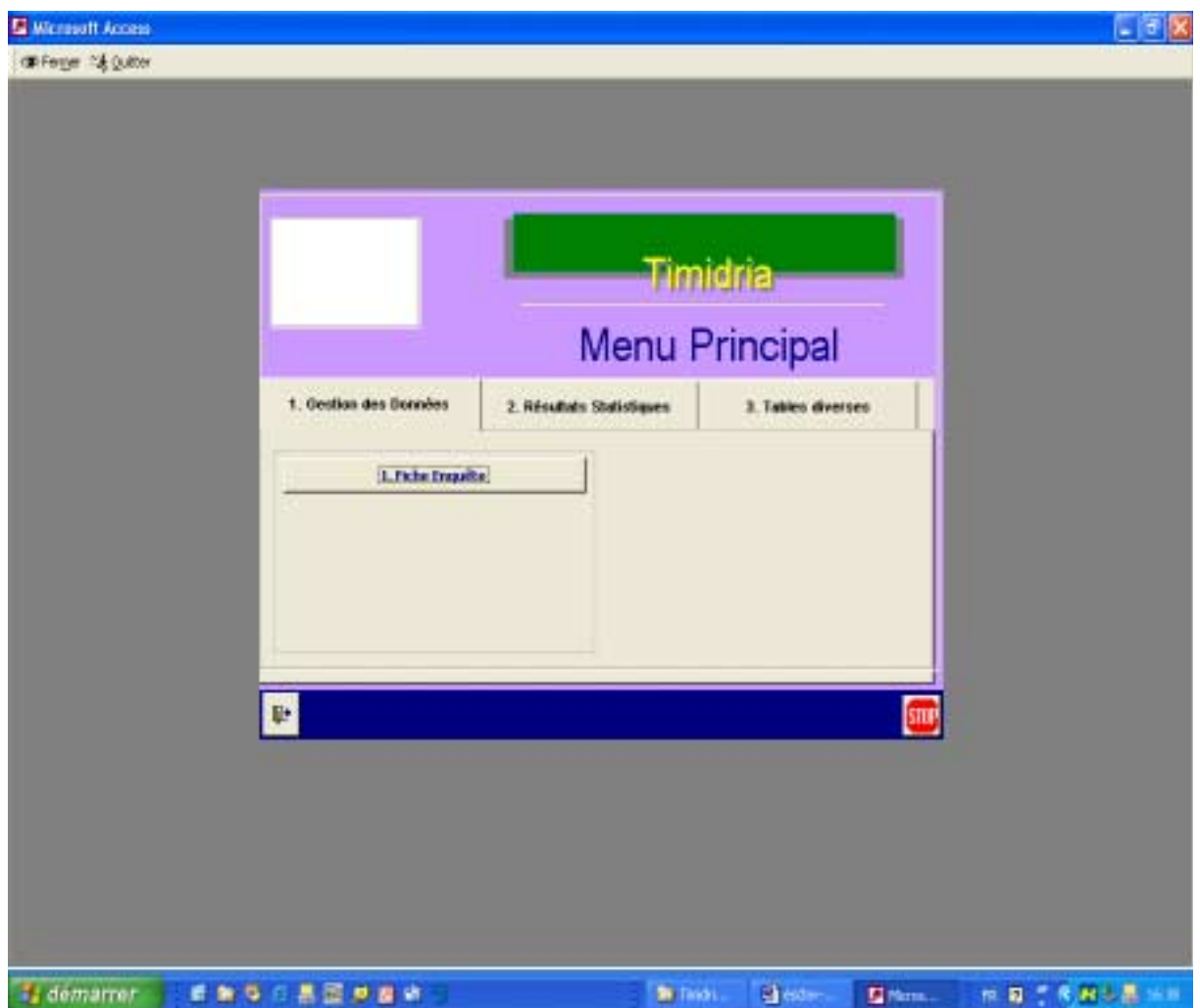
The screenshot shows a Microsoft Access window titled "Ecran" with a form titled "QUESTIONNAIRE ENQUETE DE BASE" for "TIMIDRIA". The form is divided into several sections:

- Code Fiche:** 11001
- 1. Région:** [Dropdown]
- Lieu:** [Dropdown]
- 2. Enquêteur:** [Text]
- Date Sexe:** [Text]
- Démir:** [Text]
- 3. Enquêté(e):**
- 3.1. Nom:** [Text]
- 3.2. Prénom:** [Text]
- Age:** [Text]
- 3.4. Nom et prénom du père:** [Text]
- 3.5. Nom et prénom de la mère:** [Text]
- 3.6. Sexe:** [Dropdown: Féminin]  Sexe
- 4. Situation matrimoniale:** [Dropdown]
- 5. Nombre d'enfants au total en vie:** [Text]
- 5.1. Nombre d'enfants vivants avec vous:** [Text]
- 5.2. Nombre d'enfants orphelins:** [Text]
- 6. Activités:**
- 6.1. A quels travaux êtes-vous affecté(e)?** [Dropdown]
- 6.2. Recevez-vous une rémunération régulière?**
- 6.3. En cas de dérobance qui risque-vous** [Dropdown]
- 7. Identité du maître:**
- 7.1. Nom:** [Text]
- 7.2. Prénom:** [Text]
- 7.3. Activité principale:** [Text]
- 7.4. Groupement/Canton/Tribu/Village/Campement:** [Text]
- 7.5. Combien d'éclaireurs à votre connaissance possède le maître?** [Text]

The data entry form contained three sections: the **card code**, **survey card menu** and **statistical results menu**.

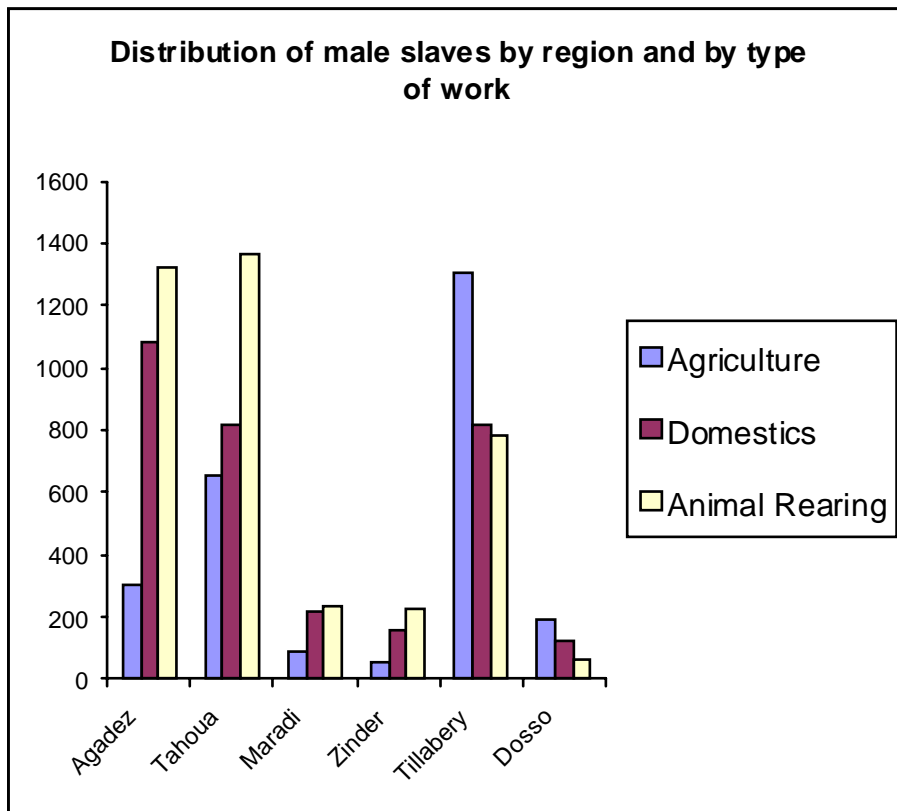
The **card code** enables the recording of a new case to be edited and makes it easy to follow a link to any record in the data base for related details which are the answers given by the respondents.

Once entered into the database, the latter is presented in the form of a menu used for managing and operating it. The **survey card menu** enables a new case to be inputted, and the **statistical results menu** enables access to the various statistical results generated by the database.



## THE WORK SLAVES ARE ASKED TO PERFORM

In present day Niger, slavery is the use of the free labour of slaves by masters. The statistics reveal three types of work, namely: domestic work, cattle rearing, and field work – with a clearly visible distribution by region, sex and age.



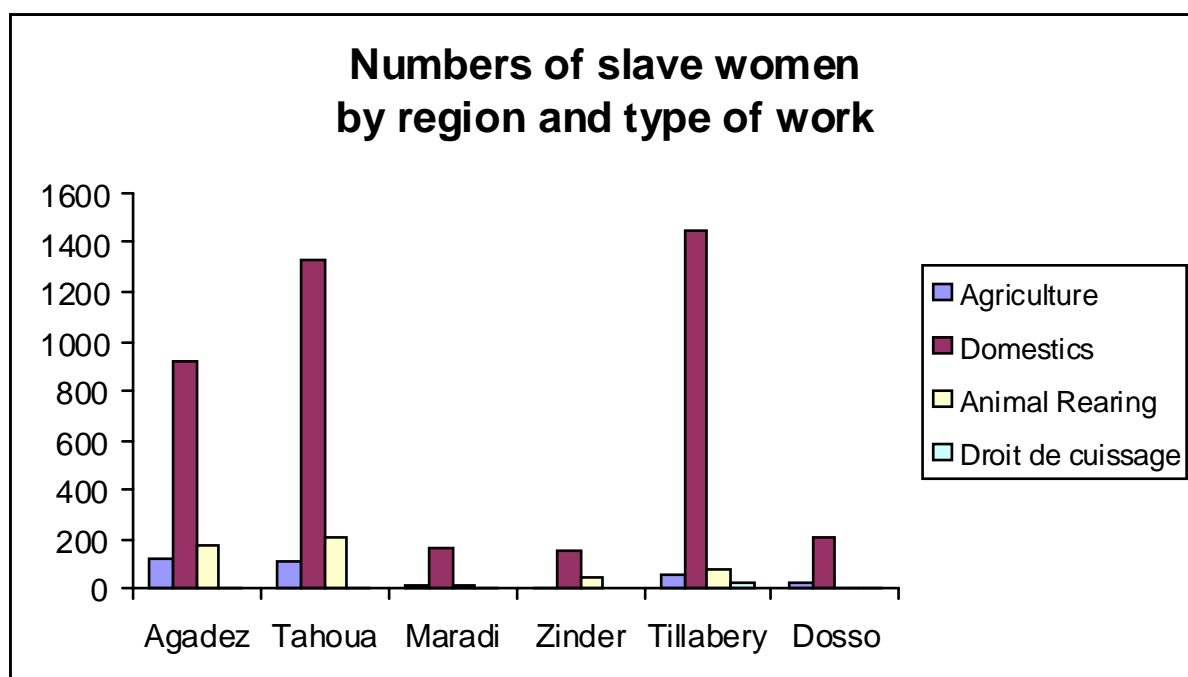
Whatever the region, the situation of slavery remains the same: people are “assigned” by others to perform unpaid work by virtue of a status which may have been justified from the point of view of the historical evolution of human societies, but is no longer justifiable in view of universal human rights. All slaves are assigned to agricultural work, domestic work or to the rearing of animals, which they or their families do not own. Although slaves may own property such as gifts from a master or his wife, and are also allowed in some cases to work for others and enjoy more material possessions, when they die, their master remains the sole inheritor.

The variation observed from region to region is only an adaptation to the dominant mode of production. In the cattle rearing areas, most of the slaves perform cattle rearing tasks. In the agricultural areas, field-work dominates. Beyond the knowledge they give us of the situation, it is important to have this data for the purpose of any future social integration in the event of liberation. Farm slaves may be integrated into agriculture, those assigned to cattle rearing could of course be integrated accordingly. Two problems have to be addressed for this to happen. The first is the achievement of the status of a free person and the second is related to compensation. Indeed, it would be inconceivable for slave masters to get rid of the slaves who spent all their lives producing wealth for them alone. Slave owners should therefore surrender to former slaves a part of the wealth produced by their labour. If this is not done, freed slaves would go back to their former masters, since freedom would result in absolute poverty and they would therefore prefer their former situation of bondage. The example of the abolition of slavery in the USA is a case in point that reminds us of the need for vigilance.

Women are generally assigned to domestic work, and serve the master's family who often despise all forms of work, especially housework, which they consider "a reserved area."

Another type of relationship that needs mention is the slave owner's privilege or *droit du seigneur* or *droit de cuissage*, which, as revealed by slave women, included their complete submission to the master's every wish, including sexual gratification – a resultant child from such a relationship is not recognized by the master but simply considered additional "stock."

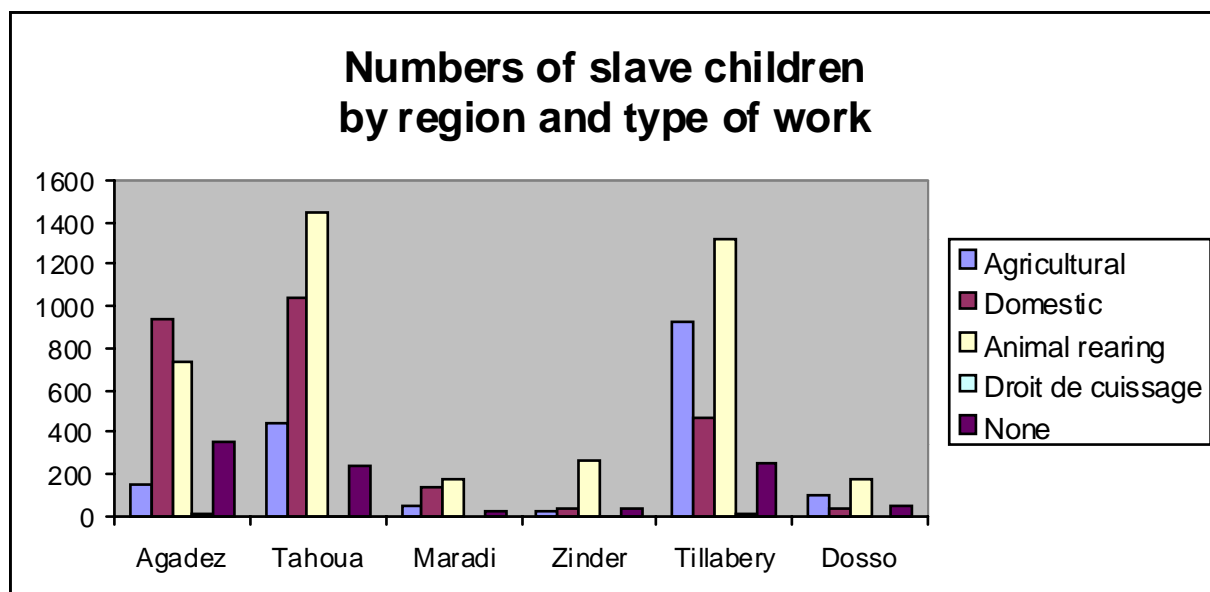
One of the reasons slave owners keep slave women around them is the latter's usefulness for domestic work from which the master's wives are completely exempt. But a second, no less important reason, is the mode of reproduction of slaves – with slave masters closely supervising their "breeding," through negotiations and, when necessary, impregnation of the women - the overriding factor being the increase in numbers; for, as with animals, the larger the number of slaves owned, the greater the master's prestige.



The statistics show a common trend in all regions regarding the use of slave women, with the exception of the region of Zinder where the number of slaves and the practice of slavery are in the decline.

Slave children suffer the same fate as their parents: they are assigned to domestic work, field-work or cattle rearing depending on the dominant mode of production in the area. However, in two of the regions with large number of slaves - Tahoua and Tillabery - children are mainly used in cattle rearing. The conditions of cattle rearing in the Sahel require the child to live with the animals and move around with them in search of pasture or watering points. Indeed, outside of the rainy season, water for the animals must be drawn from wells. This is the work of slave men and children. The latter lead the animals where they can graze and protect them from predators,

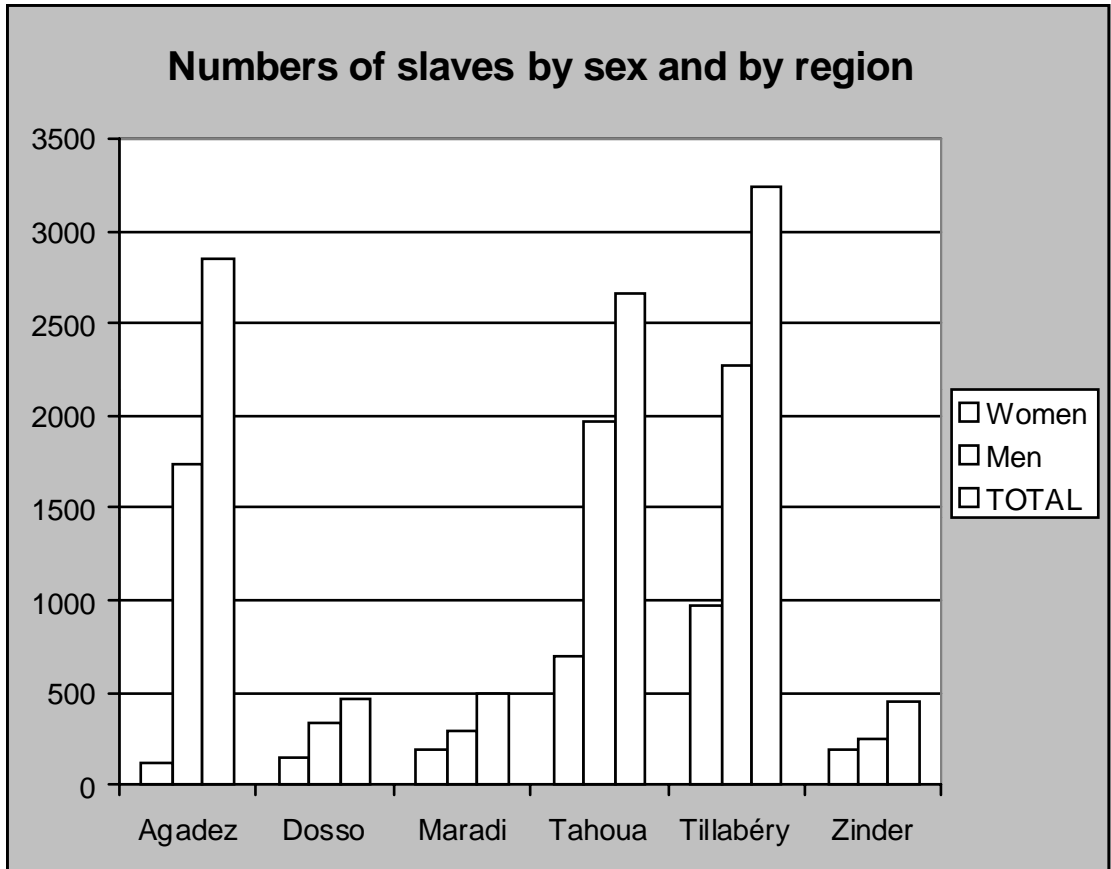
especially the jackal which causes havoc among herds of small ruminants. Slave children are excluded from any form of schooling since their fate is settled quite early in most cases. Like their mothers, slave girls are assigned to cattle rearing and



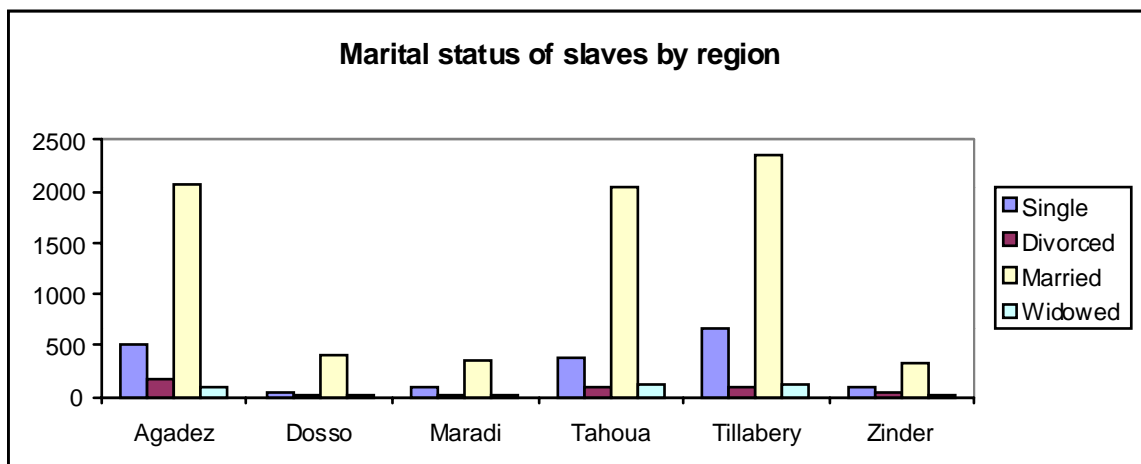
domestic work, while remaining victims of the master's right to abuse them sexually.

We observed however that, in some cases, children are not assigned to any tasks, though we cannot say whether this is due to their age or the "humanity" of the masters.

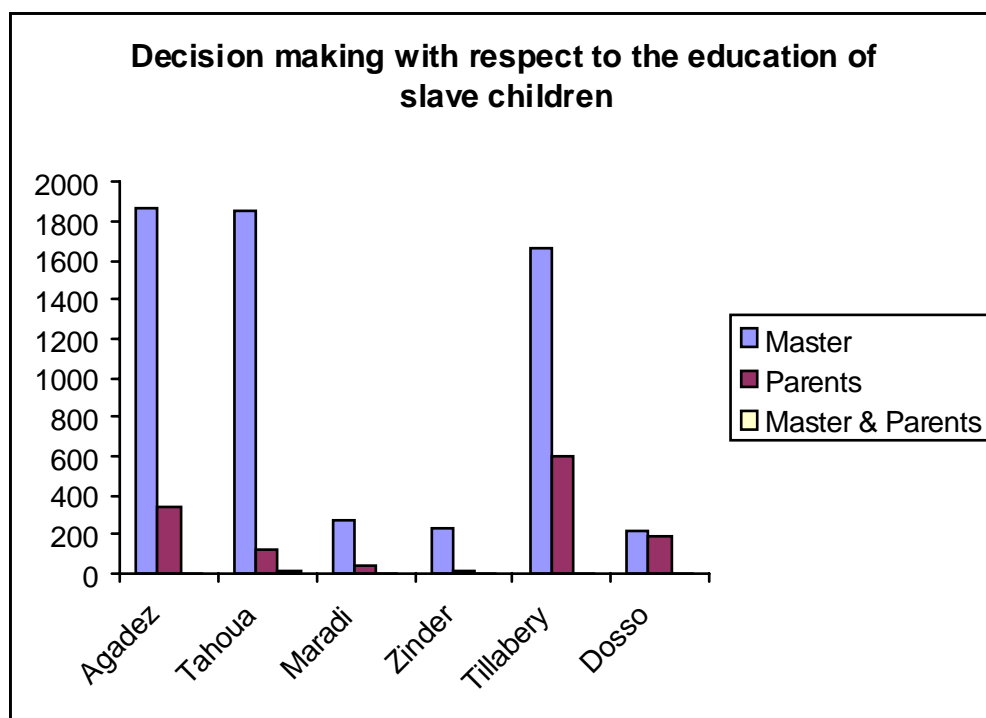
The distribution of slaves by sex and region reveals that in most cases there are more men than women. However, no conclusions should be drawn from this since more men than women were interviewed in most of the areas surveyed. Indeed, given that the women are closer to the families of their masters, they were less accessible to the interviewers. It should constantly be borne in mind that this survey was only possible because it was conducted very quickly without arousing the suspicions of the masters. The latter will go to any lengths to "protect" their privileges, especially in the regions where the State's presence is negligible, and where the masters exercise absolute rule - claiming the power of life and death over all living things.



### DISTRIBUTION OF SLAVES BY REGION AND MARITAL STATUS



The figures relating to the marital status of slaves show that most of those interviewed are married. The marriage of slaves is different from that of free people. Indeed, such a marriage has legitimacy neither from the customary nor religious point of view. In most cases, it is considered “cohabitation” and tolerated because it involves no dowry or celebration - which are characteristic elements of legal marriage in the customary and religious traditions.

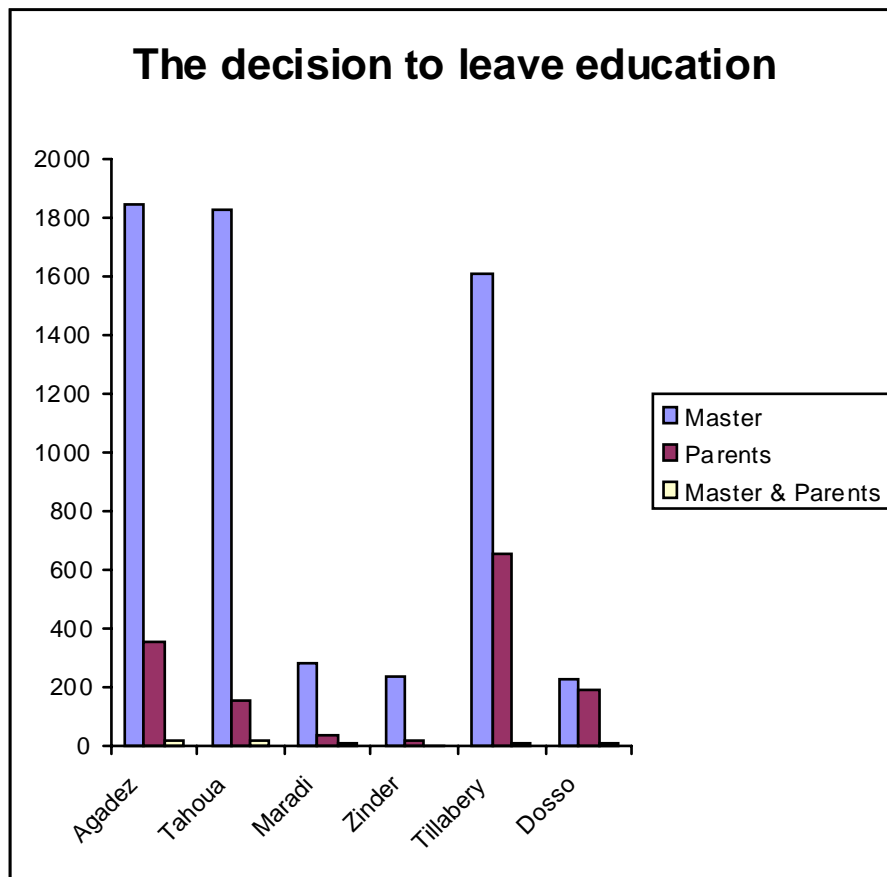


Slave masters tolerate the marriage of their slave women because any children born become the slave master’s property and additional “stock.” Moreover, children born in such circumstances are “lawful illegitimate” children in societies where legitimacy of birth determines the moral status of the individual.

Slave masters are good at ensuring that they have more slaves who can never claim a “normal” social life. The special nature of slave marriages has been mentioned above. Since the children of slave women belong to their masters, it is the latter who make the decision regarding the enrolment of the children. The situation is quite clear.

The enrolment of children in school has its own history in Niger and a lot has been written on the subject. However, it is useful to recall the circumstances in which it is done for certain categories of the population.

In general, since colonisation, the populations of Niger have always been hostile to the enrolment of their children. In the sedentary areas, it has been easier to force village chiefs to enrol children of school-going age because the tax collection system enabled them to know the composition of every household. In the nomadic areas, however, a special status was created in the form of nomadic schools with two factors taken into account: the first was the hostility of nomadic people towards a new lifestyle taught in school, and, the second, the movement of parents according to the seasons.



In order to attempt an integration of nomadic people into “civilization” under colonialism, and into national unity following independence, nomadic schools with school-feeding programmes were established. In such schools, much care is taken to ensure that the teachers are also of nomadic origin, and that, thanks to support from the World Food Programme (WFP), the children are provided with accommodation, food and health care at the expense of the State. This was how schools could be established in nomadic areas. The children enrolled in such conditions, with the endorsement of the leaders of tribes, groups and camps, are not slave children. The latter are excluded because they have no right to any amenities, and certainly do not enjoy the right not to work.

This also partly explains why the permission to enrol slave children is the preserve of slave masters. In rare cases the decision is made by the parents, especially in the region of Dosso where the phenomenon linked to slavery is in decline except in certain pockets dominated by people of Peul origin and is historically recent.

Just as the masters decide about enrolment, they are the ones who also decide when the children ought to leave school. In general, slave masters withdraw children from school when they want to use them for work or, as is more often the case, when the master’s daughter is getting married and receives, as part of her trousseau, a young slave boy or girl to take with her to her new home to relieve the master’s daughter of all work. Of course, it does not matter in such cases whether the children are going to school or not. In rare cases where they are going to school, the slave masters decide their enrolment and equally reserve the power to withdraw them from school.

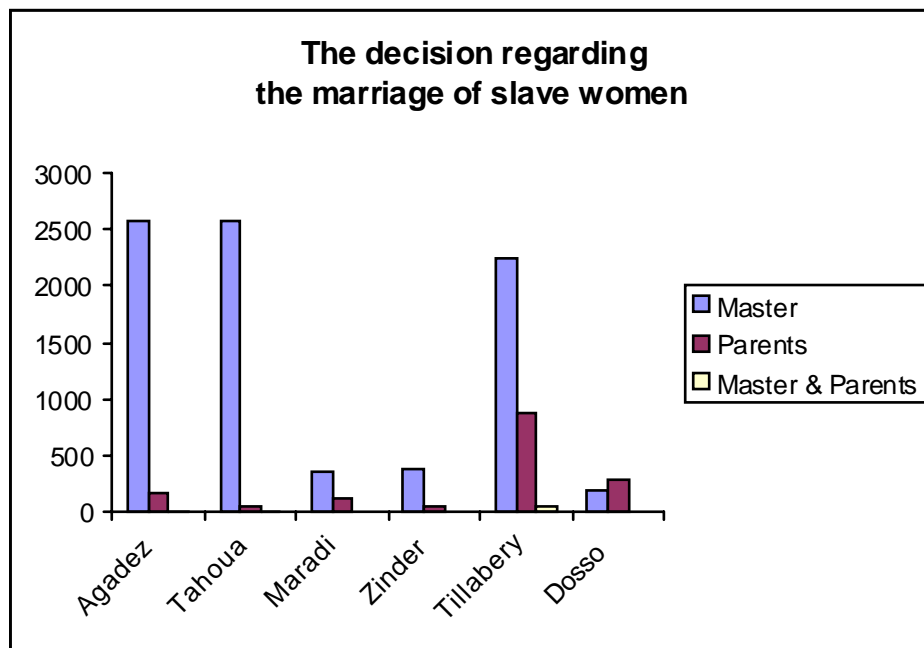


## DECISION REGARDING THE MARRIAGE OF SLAVE WOMEN

The decision regarding the marriage of slave women is taken by the master and neither the women nor their parents are involved in the decision making process. The masters decide when to allow their slave girls to marry and whether or not to accept the spouse. In general, the spouse should be sponsored by his master to guarantee the children born from the marriage will belong to the girl's master.

The dowry, that is, the gifts offered by the bridegroom or his master is received by the bride's master to use as he wishes. This dowry is considered as profit accruing from a guaranteed income. In fact, when a free man decides to marry a slave woman, he is discouraged by the amount of the dowry fixed by the master. There is often an organised racket whereby several people come forward one after the other to collect the dowry, claiming that the one paid earlier was handed to an unauthorised person.

As they are so good at protecting their own interests, the masters calculate the loss of earnings and demand a refund from the suitor.



## THE ESTIMATED TOTAL NUMBER OF SLAVES FROM THE DATABASE

The number of slaves is an estimation based on the information contained in the database.

The questionnaire asks every slave to respond to the following questions:

7.5 To your knowledge, how many slaves does the master have?

Men: / /                      Women: / /                      Children: / /

7.6 To your knowledge, how many slaves does the master's wife have?

Men: / / Women: / / Children: / /

Only presumed slaves are asked to respond to the questionnaire. By complying with the request, the respondents are considered to accept that they are slaves. Thus, a total of 11,000 people were counted.

After the identification and other details concerning the master, each slave, in responding to questions 7.5 and 7.6, gives the number of male, female and child slaves owned by the master. The same question is asked regarding the slaves owned by the master's wife. It is true that a couple of slave masters own all their slaves, but the mode of acquisition is not the same. The wife may have acquired her slaves at marriage, in the form of a dowry from her parents. She may also have received them from her husband at marriage or during their life as a couple. In case of separation, each member of the couple keeps his or her slaves and animals. The database enables us to group the various cases into categories.

When the slave identified himself he also stated the number of children he had. All these details were put into the database. It is necessary to find a method for calculating the total number of slaves. A first figure is based on the number of respondents and their children. This adds up to a total of 46,382 slaves. To this number should be added the number of slaves owned by the master. This is estimated at 695,665 slaves. Then there is the number of slaves owned by the master's wife, which is 12,8316.

This gives a grand total of 870,363 slaves counted.

	Slaves and their Children	Masters' Slaves	Masters' Wives' Slaves
AGADECZ	12527	73066	1534
DOSSO	3107	1461	458
MARADI	2176	5020	2675
TAHOUA	12131	43880	3481
TILLABERY	13215	480486	108949
ZINDER	1812	86346	11216
NOT PLACED	1414	5406	3
TOTAL	46382	695665	128316

These figures should be treated with some caution because several slaves belonging to the same master may give the number of slaves owned by the master, and in that case the number of slaves would have been counted twice or more times for the same master. We realized this as soon as we started inputting the data. As stated in the methodology, in order to be certain of our computation, certain conditions have to be met. We need to harmonise and correct the spelling of the names of masters, slaves and places. This would make it possible to assign each slave to a master or master's wife. The total number of slaves per named master would give a reliable figure because there would not be any duplication. This could however not be done due to technical, financial and time constraints.

Therefore we have thought of producing a second version of the database when the time is available to correct the spelling of the names that were recorded by the interviewers.

However, when one knows the real situation, the estimate is not at all exaggerated. Indeed, the surveys were conducted mostly at night. The probability of coming across slaves belonging to the same master is very low because in general, slaves are widely dispersed in Niger. They live in vast areas, often hundreds of kilometres away from their masters. They carry out the same activities without close supervision. The credibility of the data cannot be questioned in view of the precautions that were taken. We know where the problems lie, and it is our duty to address them.

However, this first study deserves some serious thought. Indeed, a small organisation with limited resources has succeeded in conducting a census of about 11000 slaves and came to realize that there are hundreds of thousands of other slaves living in the harsh conditions of pure slavery described herein.

How many slaves would one find in Niger if one had the investigating resources needed? Why is this the only study to give a credible estimate of the number of slaves in Niger since the days of colonialism? Why has the population census never attempted to identify people living as slaves? Why have political parties been silent on this issue, choosing instead to negotiate slave votes with slave masters? Why have the unions never taken up the issue? Why have academics left it to westerners to report the stories they are told by slave masters about slavery?

These are all questions without an immediate answer. This study opens the way towards the answers. It will require a long-term effort with many obstacles.

May we not conclude by saying that it is a failure for our democracy for a single individual to be reduced to slavery; are we not challenged to finally conclude that whatever their number we will not deserve the status of human beings unless that number is reduced to ZERO?

## **THE REIGN OF VIOLENCE**

The slaves were questioned about the risks and violence suffered by them if they disobeyed their masters. The answers require no comments and are similar in all cases. An open-ended list has been included in the database with details on the number and types of acts of violence incurred. There are several pages of testimonies. They will need to be specially processed with a view to grouping the types of abuse, which are similar. But we can already include the following among the list of acts of violence suffered by slaves:

- Beating
- Food deprivation
- Psychological torture
- Increased work load
- Sleep deprivation
- Tying to the neck of an animal

- Tying to a tree
- Rape
- Settlement of scores
- Throwing down a well
- Malicious gossip
- Confiscation of property
- Confiscation of farmland
- Tying under the sun
- Undressing in front of family
- Tying in chains
- Slapping
- Insults
- Refusal of assistance

The need to give figures led to the grouping of the types of violence suffered by slaves into categories so that they can be added up. The advantage of this method is that it gives an idea of how widespread the practice is, though it does not bring out the real pain suffered by the individual victims.

However, we thought it would be helpful to listen to the victims. Thus, we made a random selection of some records and report below the responses as some slaves made them. Of course, we voluntarily eliminated all the testimonies in which the slave simply states that he was subjected to violence, and chose instead those that give a more detailed or informative description of an experience. The question asked in the questionnaire was about the acts of violence suffered by the victim, his wife and children.

The following answers are reported exactly as recorded by the interviewers.

**Ibrahim Zabeirou**, village Chief, 56 years old (Talamout Zango): “Insults. I am the village Chief. I collect taxes but have not received any commission for over thirty years”.

In their attempt to eradicate slavery, the colonialists established villages for freed slaves, and appointed one of them as their leader. The latter collects taxes on behalf of the State and is therefore in charge of delivering official family record books considered as a sign of freedom and giving the right to vote. The village Chief receives a percentage of the taxes collected. However, as we can see in this case, when the Chief is a slave in the customary sense, he is not paid any commission. Who is responsible? The head of the ‘Canton’ (or electoral district), and the Deputy Prefect, share a large part of the responsibility and complicity, because when the authorities make any payment to an individual, the latter’s signature constitutes an accounting record. What happened to the commissions of this village Chief? This is one of the questions that will be asked at the appropriate time.

**Abdou Zabeirou**, 46, (Talamout Zango): “Insults. We are also made to carry heavy loads.”

**Djanou Marafa**, 30 (Zoraré): “Malnutrition, demoralizing insults.”

**Aggou Marafa**, 25, “Forced to work all the time, without any rest.”

This is a typical situation for slaves. Insults constitute the normal mode of communication between slaves and their masters who need to constantly remind them of the reasons for their status - that is, their servile ancestry about which they can no longer do anything. The back-breaking work they have to perform is a means of maintaining the status of the slave because “he is meant for that.”

*The following cases were observed in the region of Zinder.*

**Doumbou Tchilla**, 40, (Tajaé nomad). This individual spoke about the maltreatment suffered by his child, a girl: “forcibly married.” The master has sole authority. He does what he likes with the children of his slaves; he can give them away in marriage, or sell them to who ever he likes, at his own price.

**Allasane Amadou**, 50, (Zonga Iguidas): “Insults and other degrading treatment.”

**Salla Maouli**, 55, (Zonga Iguidass): “Forced to be always submissive, without respite.”

His wife: “Daily chores even while pregnant.”

His child: “Always looking after the animals.”

These cases, located in the region of Tahoua, reveal slaves are subjected to insults, degrading treatment and hard labour on a daily basis. In the West, they use their “imagination” to shoot films on the conditions of slaves in America. Here, all you need to do is point a camera at the life you see around you because it provides its own screenplay. Women, whatever their condition, are not spared the back breaking work.

**Abdalahi Hassan**, 27 (Maradi Commune, Zaria neighbourhood): “Insults, blows, I am tied and refused food.”

**Algabasse Imilayague**, 36, (Maradi Commune, Zaria neighbourhood): “Blows, insults, my property is taken away from me.”

His wife: “blows, insults, rape.”

The above are two cases in Maradi, in a neighbourhood considered as a stronghold of Islamic fundamentalists. Maradi has been considered for a long time as the economic capital of Niger. The fact that the slave lives in town does not change his status, contrary to what one may think. Many people believe that after the dry season, slaves who have to leave their masters to make a living in town escape from their status. Unfortunately, once the hard times are over, the first concern of the masters is to find their slaves and use them. In town, slaves work as free men, but what happens to the fruits of their labour? The latter are indeed partly or totally collected by the masters. The old relations are resumed and the master, even in town, may satisfy his sexual urges with his slave women or wives of his slaves.

**Tachalou**, 19, (Gadabéji), does not know her father: “Whenever I disobey, I get beaten,” she says.

The interviewer adds the following: “this woman’s hand was requested in marriage, but the master refused to allow her to marry anybody because she is part of his property. Her parents (mother) inherited their status as slaves.”

**Billo Wanalher**, (Gadabéji): her child was taken away but later returned to her: “My children were taken away by the Chief, but people helped me to get them back” she adds, “one of my children was taken away in the presence of all the people.”

**Maimonide Billot**, 9, (Gadamérien): “I was taken away from my parents, but am now living with them.”

**Hilal Maichanou**, 67, (Gadabéji): “I do as I am told, I cannot disobey.”

His wife says: “There is nothing I can do about his behaviour.” About his children, he adds: “They are not growing up with me, and, as for their education, they belong to the master.”

**Gamraka**, 58, (Gadabéji): knows neither of his parents. “I cannot disobey, I have no choice,” he said. About his wife: “we only have intercourse during the night, upon the master’s orders.” His children, he says, “are maltreated by the master’s children.”

**Islamana**, 70, (Gadabéji): knows neither of his parents. “My two daughters” he says, “are treated like goats. The master invites men to sleep with them; they sleep with the men chosen by the master.”

**Gatack**, 40, (Gadabéji): knows neither of his parents. Marital status: stud. The questionnaire asked whether the respondent was married, a bachelor, divorced or widowed. As for Gatack, he belongs to a special category, that of a stud - that is, one of those slaves whose task is to impregnate slave girls selected by the master. “Insults” are the order of the day. “The girls,” he says, “are made to sleep with other slaves so that they can produce slave children.”

**Kola** (Gadabéji), a woman who knows neither of her parents, is a mother of four children, all of whom have been taken away from her. “All my children have been taken from me and given away. They do not know their parents,” she laments.

**Tassala**, 28, (Gadabéji): knows neither of her parents. Marital status: breeder of slaves. There are as many studs as there are women who “spawn” slaves like Tassala. “My master may at any time ask me to sleep with any man. My children do not grow up with me.”

In this village situated in the region of Madaoua, we note that both male and female slaves have one thing in common: they do not know their parents. They are taken away very early from their parents to sever any bonds that might give them a personal or family history. The only reference allowed to exist is the master. Families are for other people. Slaves “belong” they are objects and must never be allowed to forget it.

A system that destroys the family must solve the problem of reproduction. Masters have come up with a solution, which makes certain men studs. Their job is to impregnate the women and girls, selected by the master to increase the latter's stock of slaves. Just as some male slaves are studs, some women slaves are slave-breeders. For them, "marriage" is out of the question. Their purpose is to produce children, more slaves for the master. In that capacity, they are made to sleep with anybody. Dignity is not meant for slaves. These facts are not the figment of anybody's imagination. They are simply a part of life in present-day Niger.

**Ahmed Assalam**, 33, (Dajin-Ango Kobdou Safoua Tessaoua): says " I have been beaten, and had my legs broken, look at the scars." His wife has been "tortured and raped," and the children "tortured."

**Indo Faka**, (woman) 46: "My back is hurting from the whipping I was subjected to".

**Wayounfa Amazza**, 60, says: "You can't even think of disobeying. Violent torture is meted out if you dare; one of my ears is deformed as a result. My wife is made to work under the sun and in the bush."

**Tagou Amagal**, 90, (Zangon Tessaoua), a woman: "I have suffered torture; as you can see, one of my legs is lifeless. My children are used as bedposts made to carry the master's bed throughout the night."

This is something that happens in the region of Tessaoua, in the centre of sedentary Niger. The main characteristic is the physical violence that leaves scars. Men and women are treated alike. Women are routinely raped by their masters. The level of violence is such that when old Wayounfa was asked what might happen to her if she disobeyed, she replied: "you can't even think of disobeying." That short but meaningful reply sums up the whole situation.

In the lives of these slaves, all thought is dead, killed. Imagination is dead, killed. The person is dead but not yet killed. Given the name of an object so that at any moment life can become death. The slave only knows about and lives in the present – the only reflex being to safeguard "peace of mind" by obeying the best way possible. This attitude of obedience makes it "normal" for the slave to carry the master's bed throughout the night on his shoulders, in a squatting position, while the master is sleeping or making love.

Is this cruelty or inhumanity? It is worthwhile to meditate on the words of Victor Schoelcher, quoted by Amélia Plumelle-Urbe: "Any legal system based on violence is inevitably condemned to use violence to maintain itself. Logically, all societies have to find ways of protecting themselves. When a society is contrary to nature, it can only preserve itself by resorting to laws that are against humanity. The more difficult it is to expect the obedience demanded, the more ruthless the punishment meted out to those who disobey."<sup>56</sup>

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<sup>56</sup> Rosa Amelia Plumelle-Urbe, *La férocité blanche. Des non-blancs aux non-aryens, Génocides occultés de 1492 à nos jours*, [White savagery. Non-blacks and non-Aryans. Hidden Genocides from 1492 to date], Paris, Albin Michel, 2001.

The analysis of violence offered in this study is only fragmentary. Its purpose is simply to reveal part of the wealth of information contained in the database. The amount of information collected makes further research necessary in order to extract the significant data and other details that illustrate the lives of non-citizens.

The ground has been prepared. Everybody can contribute. For our part, we have reported the facts while avoiding any extrapolation, because in refuting an ideology one must necessarily create a legal basis. If this is successful, then thousands of people will be able to join the human race, be they victims or slave masters. Apartheid has become a thing of the past before our very eyes. Humankind is, therefore, capable of anything.



## CONCLUSION

The peculiarity of such a study is that it cannot have a conclusion. Indeed, drawing a conclusion would mean that slavery is abolished in fact and in mind. As matters stand, this study shows that slavery not only exists but that it is actively and openly practised.

Slavery is a legacy of the past. History shows that in pre-colonial Niger the modes of production were dominated by slavery; societies all through the length and breadth of the land, shared the same characteristic of exploiting slave labour.

The advent of colonialism interrupted the indigenous evolution of societies in Niger. Colonialism came with dominant values, which had the merit of being incompatible with slavery. Colonialism carried its own system of slavery including forced labour.

Under public pressure, colonialism had to prohibit slavery in the colonies. But the management of the prohibition encountered problems. The complicity of certain officials, irrespective of their rank in the administrative system, slowed down the effort of eradicating slavery. Further, the colonial administration, while subjecting the local kings (known today as Traditional Chiefs), also made allies and auxiliaries of them. The latter, as custodians of the customs based on pro-slavery values, played their new roles as go-betweens the best way they could to protect their own interests; and they played well enough to present forced labour as slavery imposed by the new masters similar to the existing slavery. The apparent behaviour of the colonizer strengthened this position. Moreover, the behaviour of the colonizer was not free from racism. History shows that in all countries inhabited by black people who enslaved other blacks, prohibition was successful. However, when the slave masters were white and the slaves black, slavery was tolerated. Those whose skin colour was close to that of the colonizers were protected.

The advent of independence, in the case of Niger, occurred in special circumstances. The Traditional Chiefs were able to project themselves and be rewarded for helping run the new state: they were rewarded by being allowed to maintain their old privileges and acquire new ones. Slavery was maintained without the need to defend it. It was enough to practise it. Those who had lost their slaves were able to legally retrieve them - this is the great drama for the victims and shows the shrewdness of the new masters. They could not have thought this out for themselves. All their advisers were French. It may be said that slavery found a new lease of life after independence, especially in the areas where the state was solely represented by Traditional Chiefs.

The coup d'état of 1974 brought about a change of leadership. But the new military leaders had the same values as the leaders they deposed. Nobody could question the privileges of the leaders who were senior officers. The major problem of slavery in Niger is that it is part of the people's system of values. This problem should be taken seriously because it conditions people's reflexes. Why has nobody raised the issue? Is it because according to societal values a slave must "shut up" in the presence of a nobleman? This is inconsistent with the new democratic values and the rule of law.

This study may contribute to exploding the values that justify slavery. It may paint a new picture of Niger society. Indeed, since independence, people have been talking about regional balance, especially with regard to the composition of the government. Who is a Tuareg in Niger? The Whites or Blacks? Tuareg society has integrated a chunk of the black population to whom it has transmitted its values. It is these blacks with no other history, no other past, no other culture apart from Tuareg culture, which constitute the majority today. So who should be chosen as members of the government if ethnic balance is to be respected? This issue is compounded by other problems related to development projects, distribution of aid and access to credit. For democracy to have any meaning, it must free the slaves. By setting them slaves, society will change because values will change.

The legal system has changed in Niger. Indeed, on 5 May 2003, the National Assembly unanimously passed a new Criminal Code that criminalises slavery. The law amending Act no. 61-027 of 1961 establishing the Criminal Code stipulates in article 270-2 that: “reducing others to slavery or inciting them to alienate their freedom or dignity or that of any dependents for the purpose of turning them into slaves, is punishable by a fine of 1,000,000 to 5,000,000 francs. Any slave master or accomplice shall be liable to the same penalty stipulated above for:

1. having sexual intercourse with a woman considered a slave or the wife of a man considered a slave;
2. putting at the disposal of another person a woman considered a slave for the purpose of sexual intercourse.

“Any complicity or attempt to commit the offences specified in the preceding articles shall be punishable by the penalty stipulated in the present article”.

Further, article 270-5 clearly states that: “Any association duly registered at least one year before the facts and mandated by its statutes to fight against slavery or similar practices, may bring criminal indemnity action to obtain compensation for damages caused by the offences that violate the criminal law on slavery”.

The passing of the Act, which occurred simultaneously with the presentation of the studies on the number of slaves in Niger, is a major victory in the struggle towards the liberation of thousands of slaves. Since the database contains names, it is easy to understand the confusion among pro-slavers and their accomplices. At the same time, one can understand the great joy and hope raised among the many victims. Now the new situation has to be managed, and this is not an easy task. It will require a lot of level-headedness, moderation and method. All this was taken into account by the participants at the presentation workshop on the results of the present study. The workshop proposed a number of recommendations, which we now adopt as our own.

The time has come to think about how to manage the liberation of thousands of people and how to deal with the social change under way, as well as the transformation of relations between people. We have great hopes that this study, by suggesting a methodological approach and presenting concrete cases, will play a positive role in bringing both torturers and victims to work towards a more humane world, which is the ultimate purpose of the whole struggle.

The only useful conclusion is that, henceforth, no one will be able to say “I do not know.” This study makes available to all the people of Niger and elsewhere, facts that nobody will ever be allowed to ignore in the future and that “now that we know, let us work together as a family in order to be democrats, and better still, human beings.”

## **RESOLUTIONS and RECOMMENDATIONS**

The presentation workshop on the *database on slavery in Niger*, which met at the Palais des Congrès of Niamey on Saturday, 10 May, 2003:

Having

- taken cognisance of the study carried out by the consultants;
- listened to the many comments and questions from various speakers and clarifications made by the consultants and resource persons;

And

- Convinced that a very important milestone has been reached in the awareness of the inequality of citizens before the law in an Africa experiencing active renaissance,

### **I**

1. takes note of the document entitled: *Slavery in Niger: Historical, Legal and Statistical Aspects*, while commending the authors;
2. recommends its publication as soon as the editing of the final draft is completed;
3. requests Timidria to cooperate with the print and audiovisual media in order to ensure a very broad dissemination of the findings of the study.

### **II**

Hereby appeals to His Excellency the President of the Republic to ensure:

1. the publishing, as soon as possible, of the law passed on 5 May 2003 by the National Assembly on the criminal offence of slavery;
2. that this new fact is mainstreamed into the Special Programme;
3. constant vigilance in dealing with and monitoring this very sensitive issue.

## **RECOMMENDATIONS**

The Workshop further

### **III – Recommends to the Government:**

1. to prepare, as soon as possible, the necessary regulatory texts involving the formal enactment of the Act on the punishment of slavery;
2. to ensure the effective enforcement of these texts;

3. to adopt the accompanying social and economic measures necessary to ensure the integration of freed slaves, with special attention to children who should be protected by granting them the status of wards of the state.
- IV** Recommends to the **National Assembly** to monitor the measures taken in this matter.
- V** Recommends to the **National Commission on Human Rights and Fundamental Freedoms** to:
1. initiate a comprehensive investigation of the issue;
  2. take stock of the situation on an annual basis;
  3. encourage the establishment of a broad-based independent committee to monitor slavery.
- VI** Recommends to **Human Rights Defence Associations**:
1. to be more involved in the fight against slavery;
  2. to play a more active role in the establishment and operation of the monitoring committee;
  3. to support the work of Associations and NGOs that will be established by people who are already victims of slavery and descent based discrimination.
- VII** Recommends to **political parties** to:
- (1) take up the fight against all forms of slavery practices;
  - (2) raise awareness and help their supporters to eradicate all practices related to descent and caste based discrimination.
- VIII** Recommends to **development partners** to lend more support to the efforts of the authorities and NGOs in their fight for the eradication of slavery.
- IX** Recommends to **UNICEF** to be more resolutely involved in providing support to children and women victims of slavery practices.
- X** Recommends to *the traditional chiefs* in view of their closeness to the people, their participation in local government and the commitment they showed during the “*National Forum on Forced Labour*” organized from 13 to 15 November 2001 by the International Labour Office (ILO), to be fully involved in the fight against slavery practices.
- XI** Recommends to the **Abdou Moumouni Dioffo University of Niamey** to:
1. enhance the process of reflection, research and teaching of the various forms of slavery in Niger;
  2. lend various forms of support to the compilation of documentation on the subject;
  3. support the building of citizen consciousness in keeping with the challenges of the day.

**XII** Recommends to **the press**:

1. to broadly publicize the results of the workshop;
2. to take part in clarifying the issues raised by slavery in democratic Africa.

**XIII** Recommends to **Timidria** to:

1. establish a National Civic Education and documentation Centre on the various forms of slavery and social discrimination;
2. continue the periodical publication of the bulletin "*La Lettre de Timidria*," while devoting more space to slavery.

## Annex

### Slavery practices and Islam in pre-colonial and colonial Niger

As shown by Shaikh Boureima Daouda, Islam established a strict code of slavery and rules, which were bound to lead to its elimination in the long run. However, we note that the societies of Niger, in spite of being Muslim for centuries, have seldom observed the laws governing slavery.

In principle, a Muslim cannot be enslaved. Indeed, most war captives who became slaves should not have been slaves because they were Muslim: conflicts in the 19<sup>th</sup>, 18<sup>th</sup>, 17<sup>th</sup> and 16<sup>th</sup> centuries occurred between so-called Muslim states and resulted in the enslavement of captives.

The vast majority of slaves found among the Tuaregs and Arabs in Niger are descendants of children stolen in the outskirts of villages as late as the middle of the 19th century. Since it is much easier to assimilate a seven-year-old child than an adult who might flee back to his people, one can see why children were preferred.

There are cases of slaves being set free by eminent personalities in both sedentary and nomadic tribes, but as far as I am aware, the Koranic rule requiring the state to allocate part of its revenue (zakat) to slaves who wish to buy back their freedom does not appear to have been applied in this region. Neither did the masters observe the obligation to allow slaves some free time to work and save enough to buy back their freedom if they wished.

This state of affairs dates back to and was denounced at the end of the 15th century, by Mohammed al-Lamtuni in a request for a fatwa addressed to the Egyptian scholar Jalal-al-Din Al-Suyuti (month of Shawwal 898/July - August 1493). In his request, Mohammed al-Lamtuni denounced the tribal chiefs who enslaved free men in the region of Agadez (Ayar). During the same period, the Songai King Askia Muhammad (1493-1528) freed Muslims who had been enslaved by his predecessor Sonni Ali. In 1615/1616, Ahmad Baba of Timbuktoo wrote "Al-Kashf wal-bayân li asnâf majlub al-sudan" in reply to questions asked by the people of Tuwat (Algeria). In this fatwa, he said the people of Kano, Katsina, Songoi, Borno, Kabi, Gobir and Mali were Muslims and could not be enslaved. He cited the reprehensible practice in Hausaland where conflicts between Muslim Sultans led to "raids and the capture of prisoners who were sold even though they were free Muslims. This practice is widespread in Hausaland where Katsina raids Kano and other areas. Yet they all speak the same language."

In the 17th century, Jibril Omar (of Adar) went so far as to describe the Hausa sovereigns as infidels because, among other things, they enslaved free Muslims.

The violation of Islamic legal provisions on slavery is therefore quite old in West Africa in general and in Niger in particular. This means, in short, and as far as Islam is concerned, that the vast majority - of those enslaved during the last five centuries

(16th to 20th) - should not have been slaves because they belonged to states whose religion was Islam.

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## II – MUNICIPAL LAW

### THE CONSTITUTION OF 18 JULY 1999

Article 12: “No individual shall be subjected ... to slavery”.

#### THE CRIMINAL CODE:

The new article 208.2 on the punishment of the criminal offence of slavery: “slavery is a crime against humanity and as such, is punished by the death penalty.”

New article 270.1: “Slavery” is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised; a “slave” is an individual who finds himself in such a status or condition.

The “person of servile status in a servile condition” is a person placed in a status or condition resulting from one of the slavery institutions or practices, *inter alia*:

1. bondage or any form of total dependence or submission to a master;
2. any institution or practice whereby:
  - a. a woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to the master;
  - b. the husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise;
  - c. the master has the right to have sexual intercourse with the wife of his slave;
3. any institution or practice whereby a child or young person under the age of 18 years, is delivered by his parents or by his guardian, or by his master or the master of one or both of his parents to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.

#### New Article 270.2:

Reducing others to slavery or inciting them to give up their freedom or dignity or that of any dependents for the purpose of turning them into slaves, is punishable by 10 to 30 years imprisonment and a fine of 1,000,000 to 5,000,000 francs.

Any slave master or accomplice shall be liable to the same penalty stipulated above for:

1. having sexual intercourse with a woman considered a slave or the wife of a man considered a slave;
2. putting at the disposal of another person a woman considered a slave for the purpose of sexual intercourse; and



3. any complicity or attempt to commit the offences specified in the preceding articles shall be punishable by the penalty stipulated in the present article.

### **New article 270.3: On the offence of slavery**

The following shall be considered an offence of slavery:

1. any violation of the physical or moral integrity of a person because of his/her servile status, or any degrading, inhuman or humiliating treatment of such a person;
2. the act, on the part of a master, of receiving the fruits or proceeds from the prostitution of a woman of servile status, or from the labour of any person of servile status;
3. extortion of money from or blackmailing a person of servile status;
4. the act by a master of receiving tribute from a person because of the right of ownership exercised over that person;
5. the kidnapping of so-called slave children or their bondage.

### **New Article 270.4**

Any person found guilty of the offence of slavery shall be punished by five to less than ten years imprisonment and a fine of five hundred thousand to one million francs.

Any complicity or attempt to commit the offence of slavery shall be punishable by the penalty specified in the preceding paragraph.

### **New Article 270.5: Locus standi of associations**

Any association duly registered at least one year before the facts and mandated by its statutes to fight against slavery or similar practices, may bring criminal indemnity action to obtain compensation for damages caused by the offences that violate the criminal law on slavery.

## SURVEY QUESTIONNAIRE

### 1 Locality:

2 Interviewer: Surname: \_\_\_\_\_ Name \_\_\_\_\_

### 3 RESPONDENT

3.1 Surname .....

3.2 Name.....

3.3 Surname and name of Father.....

3.4 Surname and name of Mother .....

3.5 Sex        M                    F

### 4 Marital status

4.1 Married                    4.2 Divorced                    4.3 Widowed

4.4 Single

### 5 Children

5.1 Total number of children alive: /     /

5.2 Number of children living with you: /     /

5.3 Number of children taken away from you: /     /

### 6 Activities

6.1 What tasks are you required to perform?

6.2 Field work                    6.3 Cattle rearing                    6.4 House work

6.5 Do you receive a regular salary? Yes     No

6.6 What risks do you run if you fail to obey?

### 7 Identity of the Master

Surname..... 7.2 Name.....

7.3 Main occupation of the Master .....

7.4 Group/ Canton/ tribe/ Village/ camp: .....





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This study is aimed at contributing to putting in place the necessary mechanisms to eradicate slavery in Niger. Indeed, it may seem absurd that at the dawn of the third millennium, a country like Niger, known for being amongst the lowest ranking countries on the human development index, is being called to account on an issue such as slavery, a form of social organisation that was thought to have been eradicated with the establishment of democracy. And yet slavery is present in the daily life of Niger. The issue is not to find a definition of slavery, but rather to free thousands of men and women from the shackles of slavery. For them, each day brings its lot of humiliation, physical suffering, torture and uncertainty.

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This study allows others to have a better understanding of "the current reality" of Niger. It marks a major contribution to the "renaissance" of Africa, of which the first prerequisites is the equality of all citizens before the law.

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Timidria is a national human rights organisation that fights against slavery and all forms of discrimination in Niger. Timidria, which means fraternity-solidarity in Tamacheq, was founded in 1991 by a group of young Nigeriens who shared a determination to challenge the widespread silence around the phenomenon of slavery. Timidria works for the eradication of slavery through raising awareness and lobbying at the national, regional and international level, as well as carrying out research, reintegration and community development projects.

Since 1839, Anti-Slavery International has been committed to ending slavery. This most fundamental abuse of human rights affects people on every continent and in most countries. We are the only charity in the United Kingdom working exclusively against slavery. Throughout the world, we work with local organisations at the grass-roots level to help end this violation. We help them pressure their governments for significant change and increase their effectiveness on the international stage as well as support their work to release people.



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