

REQUEST FOR REVIEW OF THE GSP STATUS OF
THE REPUBLIC OF NIGER
FOR VIOLATIONS OF WORKER RIGHTS

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The Office of the United States Trade Representative
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I. INTRODUCTION

The International Labor Rights Fund (ILRF) presents this petition pursuant to 15 C.F.R. §2007(b) to request a review of the Republic of Niger's designation as a least-developed beneficiary developing country under the Trade Act of 1974, Generalized System of Preferences (GSP), 19 U.S.C. §2461 *et seq.*, as amended. The Government of Niger has failed to take steps to afford workers “internationally recognized worker rights” as required under 19 U.S.C. § 2462(b)(2)(G) & (c)(7) and defined in 19 U.S.C. § 2467(4). Further, it has failed to “implement[] its commitments to eliminate the worst forms of child labor” as required in 19 U.S.C. §2462(b)(2)(H) and defined in 19 U.S.C. § 2467(6).

The Government of Niger has made no effort to enforce laws prohibiting the practice of “forced and compulsory labor”. *See* 19 U.S.C. § 2467(4)(C). While more than 43,000 people are forced to labor under slavery-like conditions in Niger, the Government of Niger continues to deny the severity of the problem and fails to hold those guilty of the practice accountable. Moreover, it actively obstructs the efforts of activists who call attention to the problem of slavery and forced labor. Additionally, the Government of Niger has failed to enforce its laws prohibiting the “worst forms of child labor,” as children continue to be forced to labor as slaves or in slavery-like conditions throughout Niger. *See* 19 U.S.C. §2467(4)(D) & (6)(a). Furthermore, the Government of Niger has failed to enforce its laws regulating the “minimum age for the employment of children.” *See* 19 U.S.C. §2467(4)(D). Until the Government of Niger takes steps to implement its commitment to eliminate forced labor and the worst forms of child labor, Niger’s status as a least-developed beneficiary developing country should be revoked in accordance with 19 U.S.C. §2462(d).¹

II. Overview and Background:

A. Niger Has a Long Tradition of Slavery and Forced Labor That Is Still Practiced Today.

Today, the practice of forced labor is pervasive in Niger with tens of thousands of people forced to labor under threats of punishment and torture. However, slavery and forced labor in Niger are not recent phenomena, but rather have strong roots in the nation’s history. Prior to French colonial rule, there existed a traditional form of caste-based slavery within and between various ethnic groups. Slaves were openly bought and sold, or kidnapped during armed clashes. Then, in the lead up to Niger's independence, the French colonial administration in Niger took action against these most flagrant forms of slavery. The colonial administrators cracked down on human trafficking and closed the public slave markets. This enabled the eradication of slavery in sedentary areas, but did

¹ This submission is, to the best of the petitioner’s knowledge, the first request for action submitted to the Office of the United State’s Trade Representative regarding the use of slave and forced labor in Niger.

little to address slavery in the nomadic areas.² Furthermore, behind closed doors, slavery continued to be quietly tolerated. In fact, the French colonizers enabled slavery to continue by classifying slaves as ‘voluntary labourers’ in a 1905 survey and refused to classify the bonded-workers as slaves.³ Although the colonial administrators did put a stop to the trafficking and slave markets, they permitted domestic slaves, who were actually considered “voluntary” slaves.⁴ Caste-based slavery in Niger survived.

Half a century later, when Niger gained full independence in 1960, the French ‘voluntary labourer’ designation was adopted by the Nigerien government. Furthermore, when slavery was outlawed under Niger’s first constitution, it carried no penalty.⁵ Thus, after gaining independence from French colonial rule in 1960, slavery persisted while many of the ruling elite within Nigerien society, often slave owners themselves, silently approved. In particular, the first post-colonial administrations welcomed slave masters into the government in a bid to quell dissent amongst the powerful Tuareg and other slave-owning tribes.⁶ This practice continued when, in 1974, a coup ushered in 13 years of military dictatorship under Seyni Kountché. The Kountché government assigned known slave masters to run the local governments and act as judges and custodians of tradition.⁷

Then, during the 1980s and 1990s, workers' strikes and student demonstrations began placing more pressure on the government to recognize the problem of slavery and forced labor. In 1995, the government and the Tuareg, who are well-known as slave masters, signed a peace accord to end a four year revolt. Since the peace accord, the Nigerien government has sought to appease the powerful Tuareg faction, often by overlooking their flagrant practice of slavery and forced labor.⁸ Some human rights activists allege that the fear of another Tuareg rebellion has kept the government from challenging the practice of slavery, as it would upset the powerful Tuareg factions.⁹

Since the initial peace accord, a new government replaced the former military regime in 1999. The change in government did open up space for many Nigerien human rights advocates and non-governmental organizations to come forward and speak out against slavery. Furthermore, the 1999 Constitution appeared to address this call for change when it outlawed slavery. However, the current government has acted with little faith to fully combat the problem of slavery and forced labor; acting instead to appease

² Anti-Slavery International & Association Timidira, *SLAVERY IN NIGER: HISTORICAL, LEGAL AND CONTEMPORARY PERSPECTIVES*. (Galy kadir Abdelkader ed.), March 2004. Available at <http://www.antislavery.org/homepage/resources/PDF/Full%20English%20Slavery%20in%20Niger.pdf>

³ Integrated Regional Information Network (“IRIN”), UN Office for the Coordination of Humanitarian Affairs. March 21, 2005. (“IRIN Report, March 2005”) Available at http://www.irinnews.org/S_report.asp?ReportID=46200&SelectRegion=West_Africa

⁴ Anti-Slavery International & Association Timidira, *SLAVERY IN NIGER: HISTORICAL, LEGAL AND CONTEMPORARY PERSPECTIVES*, supra note 2.

⁵ IRIN Report, March 2005, supra note 3.

⁶ Id.

⁷ Id.

⁸ IRIN, UN Office for the Coordination of Humanitarian Affairs. *“NIGER: The government says slavery no longer exists, the slaves disagree.”* June 24, 2005. (“IRIN Report, June 2005”) Available at http://www.irinnews.org/report.asp?ReportID=47813&SelectRegion=West_Africa&SelectCountry=NIGER

⁹ Id.

the pro-slavery interests at the expense of justice for the thousands of slaves laboring for slave-owning castes.¹⁰

B. Slavery and Forced Labor Continues Unabated in Niger.

Today, in Niger, more than 43,000¹¹ people continue to labor under conditions of slavery and forced labor, as defined by the International Labour Organization's (ILO) Convention No. 29.¹² Forced labor, according to ILO and U.S. law,¹³ is any activity where an individual is forced to perform services under threat of punishment without his or her own consent.¹⁴ As the ILO explains, evidence that a person is being forced to labor as a slave can be found through examining whether the victim has suffered physical confinement, psychological compulsion, the withholding and non-payment of wages, among others.¹⁵

In Niger, slaves are forced to perform menial work under the command of their master and do so not only without pay, but also under severe menace of punishment.

People are born into slavery, and are forced to work without pay for their so-called masters throughout their lives, primarily herding cattle, working on farmland or as domestic servants. . . . Girls are forced to start work as domestic servants at a very young age and are at the continual beck and call of their

¹⁰ Id.

¹¹ According to a study carried out in 2004 by Timidria, at least 43,000 people still live in bondage in Niger. See Anti-Slavery International & Association Timidira, *SLAVERY IN NIGER: HISTORICAL, LEGAL AND CONTEMPORARY PERSPECTIVES*, supra note 2.

¹² See International Labor Organization, *Convention Concerning Forced or Compulsory Labor No. 29* ("Forced Labor Convention"), 29 U.N.T.S. 55, entered into force May 1, 1932. Article 2 of the Forced Labor Convention defines forced and compulsory labor as "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." Both the United States and Niger have ratified the Forced Labor Convention.

¹³ U.S. courts have unequivocally recognized that forced labor is a violation of international law and "internationally recognized workers rights", and is binding on all nations. See, e.g., *Iwanowa v. Ford Motor Co.*, 67 F. Supp. 2d 424, 441 (D. N.J. 1999); *In Re World War II Era Japanese Forced Labor Litigation*, 164 F. Supp. 2d 1160, 1179 (N.D. Cal. 2001) ("[g]iven the Ninth Circuit's comment in *Matta-Ballesteros*, 71 F.3d at 764 n. 5, that slavery constitutes a violation of *jus cogens*, this court is inclined to agree with the *Iwanowa* court's conclusion that forced labor violates the law of nations."); *Estate of Rodriguez v. Drummond Company, Inc.*, 256 F. Supp. 2d 1250, 1260 (N.D. Ala. 2003); *Jane Doe I v. Reddy*, 2003 WL 23893010, *8 (N.D. Cal. 2003) (forced labor constitutes modern day slavery). That the law of nations recognizes forced labor is reinforced by the strong prohibition in U.S. law. Involuntary servitude is not only prohibited by the Thirteenth Amendment to the U.S. Constitution, the prohibition is enshrined in various U.S. statutes that criminalize the use of forced labor. See, e.g., 18 U.S.C. § 1589 (prohibits forced labor by making it a criminal offense to provide or obtain the labor of a person by "threats of serious harm . . . or physical restraint").

¹⁴ See Forced Labor Convention, supra note 12. See also IRIN, UN Office for the Coordination of Humanitarian Affairs. *NIGER: Survey finds over 870,000 are still slaves*. May 13, 2003. Available at http://www.irinnews.org/report.asp?ReportID=34073&SelectRegion=West_Africa&SelectCountry=NIGER.

¹⁵ International Labor Conference, *A GLOBAL ALLIANCE AGAINST FORCED LABOR*, "A GLOBAL REPORT UNDER THE FOLLOW-UP TO THE ILO DECLARATION ON FUNDAMENTAL PRINCIPLES AND RIGHTS AT WORK", 2005. 93 Session 2005, at p. 5. ("Global Report"). Available at <http://www.ilo.org/public/english/bureau/inf/pr/2005/22.htm>.

masters. Girls may be sexually abused by men in the household or forced to marry at a young age.¹⁶

As further described by the United States Department of State in its 2005 Country Report on Human Rights in Niger:

A traditional form of caste-based servitude was still practiced by the Tuareg, Djerma, and Arab ethnic minorities...Persons born into a traditionally subordinate caste were often expected to work without pay for those above them in the traditional social structure. . . Individuals could legally change their situations, but most did not and accepted their circumstances.¹⁷

The practice of caste-based servitude in Niger is in violation of international law and the “internationally recognized workers rights” to be free from slavery and forced labor.

In a comprehensive survey carried out in 2002-2003 where more than 11,000 people were interviewed in six regions of Niger (Agadez, Tahoua, Maradi, Zinder, Tillabery and Dosso), Timidria and Anti-Slavery International extensively documented the pervasive practice of slavery and forced labor.¹⁸ Timidria found that people are born into slavery and are forced to work without pay throughout their lives while receiving only minimal amounts of food and a place to sleep, which would typically be a shelter that they had to build themselves, as compensation. A child born of a slave mother automatically enters the slave caste, even if he or she is fathered by the slave owner.¹⁹ Children of slaves become the property of their masters and can be passed from one master to another as gifts or as part of a dowry. They are usually taken away from their

¹⁶ Anti-Slavery International. *SLAVERY IN NIGER*. 2004. Available at <http://www.antislavery.org/homepage/antislavery/award/nigerbackground2004.htm>

¹⁷ US Dept. of State, *Niger- Country Report on Human Rights Practices- 2005*. (“Country Report”). Available at: <http://www.state.gov/g/drl/rls/hrrpt/2005/61585.htm>. U.S. federal law strongly supports the ILO’s position that binding international law does not require that a person be physically restrained or owned to be a slave, but rather can be forced to labor through psychological pressure. The federal courts have been clear in finding that involuntary servitude exists when the use, or threatened use, of force creates a climate of fear that prevents the slaves from escaping their circumstances. *See, e.g., U.S. v. Bibbs*, 564 F. 2d 1165, 1167-68 (5th Cir. 1977), *cert. denied*, 435 U.S. 1007 (1978); *U.S. v. Harris*, 701 F. 2d 1095, 1098 (4th Cir. 1983), *cert. denied*, 463 U.S. 1214 (1983); *U.S. v. Booker*, 655 F. 2d 562, 563 (4th Cir. 1981). In one case, the 11th Circuit Court of Appeals upheld a criminal conviction for forcing migrant workers into involuntary servitude. The Court there held that involuntary servitude was proven through the victims’ testimony that they did not escape from the potato farm they had been brought to against their will because “they were scared, did not know where they were, and had no way out.” *U.S. v. Warren*, 772 F. 2d 827, 830 (11th Cir. 1985). One victim even went to a town near a labor camp but did not ask anyone to help him because “he did not feel like a free man and he was afraid of [the camp overseers].” *Id.* at 831. As is the case for the slaves in Niger, it is the coercion caused by fear of physical retaliation, isolation, lack of resources to escape, and overall feelings of hopelessness that lead to their enslavement even if they have the possibility of legally changing their status.

¹⁸ Anti-Slavery International & Association Timidira, *SLAVERY IN NIGER: HISTORICAL, LEGAL AND CONTEMPORARY PERSPECTIVES*, *supra* note 2.

¹⁹ See Forced Labor Convention, *supra* note 12. See also IRIN, UN Office for the Coordination of Humanitarian Affairs. *NIGER: Leading anti-slavery activist imprisoned*. May 5, 2005. Available at: http://www.irinnews.org/report.asp?ReportID=46967&SelectRegion=West_Africa&SelectCountry=NIGER

parents at a very young age to begin conditioning for a life of slavery. They are treated as mere objects to be used by their masters as the masters see fit.²⁰

The slaves are held in bondage in part by the menace of severe suffering through punishment. The victims' familial, marital, physical, mental and psychological lives are dominated by the master. They are humiliated, beaten, raped and threatened starting at an early age resulting in psychological indoctrination where they accept their position as a slave.²¹

The master . . . keeps [his slaves] in complete ignorance and far away from town centres . . . This indoctrination consists of separating the child from his parents from a very young age, in order to traumatise the child, so that he sees himself as an inferior person, born only to serve others and to accept the humiliation that will be inflicted on him throughout his life.”²²

The slaves often have no right to make their own decisions. The master decides whom a slave can marry and whether or not the slave's children can go to school. During Timidria's interviews, eighty-four percent (8,310 people) of those interviewed said that their master was solely responsible for the decision of whom they married, while eighty-two percent (6,103 people) replied that their master was solely responsible for the decision of whether their children attended school.²³

The condition of forced labor and slavery for women is particularly dire.²⁴ Many of the women interviewed spoke of living in constant fear of abuse. Rape is common. Women consider themselves the master's property and so they submit to his demands for sex. Beyond just physical control, women have reported that their masters exert tremendous psychological control over them by telling them if they do everything he demands, they will go to heaven.²⁵

In other instances of slavery and forced labor, children, who have been sent by their parents to receive religious education in the cities, are forced to labor for their religious instructor. Frequently the children, usually boys aged 5-15, are placed into the care of a *marabout* religious leader. In return for their education, the boys support their teachers by begging on the streets or performing manual labor.²⁶ The *marabout* leaders not only oversee the boys' religious education, they determine the employment of the young boys.²⁷ Boys aged from 10 to 15, as well as some young adult men, have been dispatched to work full time on rice farms. All their earnings were handed over to their

²⁰ Matthew Green, *Slavery-like Setup Persists in Niger*, THE SEATTLE TIMES. July 15, 2005 at A10.

²¹ IRIN Report, June 2005, supra note 8.

²² IRIN Report, March 2005, supra note 3.

²³ Anti-Slavery International, Submission to United Nations Commission on Human Rights Sub-Commission on the Promotion and Protection of Human Rights Working Group on Contemporary Forms of Slavery, 30th Session, June 6-10, 2005. Available at: <http://www.antislavery.org/archive/submission/submission2005-niger.htm>

²⁴ Green, supra note 20 at A10.

²⁵ Anti-Slavery International, Submission to United Nations Commission on Human Rights, supra note 23.

²⁶ U.S. Dept. of State, Country Report, supra note 17.

²⁷ International Labor Organization, Committee of Experts on the Application of Conventions and Recommendations (“ILO CEACR”), Individual Observation concerning Convention No. 29, 2002. Available at: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>

teacher.²⁸ Indeed, during the ten years in which the children are placed under the care of the *marabout*, the religious leader has absolute control over their lives and forces them to perform various tasks, including begging.²⁹ The ILO Congress has criticized this form of forced labor as falling "clearly under the definition of forced labor set out in Article 2 of the [Forced Labor] Convention."³⁰

More recent surveys and interviews confirm the continued persistence of slavery and forced labor in Niger. In February of 2004, a six-member mission from Timidria traveled to the Agadez, Zinder, Maradi and Tahoua regions to investigate the extent to which the Nigerien Government was acting to combat the practice of slavery and forced labor. During the mission, Timidria identified 86 new slaves. In July 2004, Timidria again identified 802 new cases of slavery.³¹ Importantly, Timidria's research provides merely a minimum baseline of the number of people in slavery in Niger. For example, after the publication of the study, an additional 5,402 people came forward to Timidria and claimed that they were slaves.³²

Reports from government and international institutions further confirm the severity of the problem of forced labor in Niger. The latest U.S. Department of State Trafficking in Persons Report (TIP) for 2006 explains that "traditional forms of caste-based servitude, rooted in ancestral master-slave relationships, also continue in isolated areas of the country. Between 10,000 and 43,000 Nigeriens are estimated to live in conditions of traditional servitude, which range in practice from societal discrimination to outright slavery . . ."³³ The ILO Committee of Experts notes that slavery persists in Niger and that "the slave is placed at the disposal of the master without charge or in exchange for payment. The relations between master and slave are based on direct exploitation."³⁴ Moreover, in a recent report issued in March 2006, the United Nations Economic and Social Council Commission on Human Rights again described the historic problem of caste based slavery in Niger.³⁵

²⁸ See Global Report, *supra* note 15.

²⁹ International Confederation of Free Trade Unions, INTERNATIONALLY RECOGNIZED CORE LABOUR STANDARDS IN NIGER AND SENEGAL: REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE TRADE POLICIES OF NIGER AND SENEGAL. Geneva, September 2003. ("ICFTU Report"). Available at: <http://www.icftu.org/displaydocument.asp?Index=991218463&Language=EN>

³⁰ ILO, International Labor Congress, ("ILO ILC"), Individual Observation concerning Convention No. 29, 2004. Available at: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>

³¹ Anti-Slavery International, Submission to United Nations Commission on Human Rights, *supra* note 23. According to Timidria, 793 were in the village of Babou Saye (approximately 65 kilometers from Niamey) where village representatives invited Timidria to Babou Saye. While there, Timidria registered 440 more women and 353 men as slaves, and found that nothing had been done to assist them.

³² *Id.*

³³ U.S. Dept. of State, Trafficking in Persons Report- Niger, June 2006. ("TIP Report"). Available at: <http://www.state.gov/g/tip/rls/tiprpt/2006/65989.htm>

³⁴ ILO CAECR, Individual Observation Concerning Convention No. 29, 2004. Available at: <http://webfusion.ilo.org/public/db/standards/normes/appl/index.cfm?lang=EN>

³⁵ Juan Niguel Petit, RIGHTS OF THE CHILD: REPORT OF THE SPECIAL RAPPORTEUR ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY. UNECOSOC. March 27, 2006. Available at: <http://daccessdds.un.org/doc/UNDOC/GEN/G06/121/93/PDF/G0612193.pdf?OpenElement> The report lays out a series of findings and observations on the incidence of forced child labor and caste-based slavery, noting that "les systemes d'esclavage et le pratiques s'y apparentant continueraient d'exister aujourd'hui." The special rapporteur also noted that "les descendants des victims seraient euc-memes consideres comme des esclaves", or that the children of victims are also born into slavery.

III. THE GOVERNMENT OF NIGER HAS FAILED TO TAKE MEANINGFUL ACTION TO ELIMINATE FORCED LABOR AND SLAVERY

Slaves and laborers in Niger have no meaningful legal recourse. As such, the Nigerien government has consistently failed to take steps to afford internationally recognized worker rights as required under the criteria for GSP beneficiary status. The Government of Niger refuses to investigate, prosecute or hold accountable those guilty of forcing others to labor. Instead, it publicly denies that forced labor exists and actively seeks to obstruct the work of NGOs seeking to eradicate slavery and forced labor in Niger. All the while, those who enslave and forced others to labor remain free to act with impunity.

A. The Government of Niger Refuses to Enforce Laws Prohibiting Slavery and Forced Labor

Even though the Nigerien Labor Code prohibited forced labor unconditionally prior to 2003, the Government of Niger came under strong criticism from the ILO Committee of Experts who recognized that, although the constitution of Niger and the labor code have prohibited the practice of forced labor and slavery, the Nigerien Government had failed to implement a legal framework to enforce those laws. In response to the ILO's concerns, which noted in part that the labor law applied only to relations between employers and workers and not to those private relationships of caste-based or religiously influenced slavery,³⁶ the Government of Niger took basic measures and amended its Penal Code to criminalize the practice of forced labor and slavery in June 2003.³⁷ After amending the Penal Code, the Prime Minister issued orders to all levels of government to implement the new laws. The Minister of the Interior also informed the appropriate authorities of the amendments to the Penal Code in a circular on July 12, 2003. Yet, as report by Amnesty International, "hundreds of thousands of people reportedly remained in conditions of slavery despite the adoption of a new Penal Code in 2003 making slavery a punishable crime."³⁸

The various levels of government in Niger have, in fact, ignored the Prime Minister's order to enforce the new law and have refused to prosecute those who use forced labor and slaves.³⁹ According to the U.S. Department of State, "the government's law enforcement mechanisms remained weak in 2004," and that although the anti-slavery

³⁶ ILO CEACR, Individual Observation concerning Convention No. 29, 2002, *supra* note 27.

³⁷ Anti-Slavery International & Association Timidira, *SLAVERY IN NIGER: HISTORICAL, LEGAL AND CONTEMPORARY PERSPECTIVES*, *supra* note 2. The provisions of the Nigerien penal code criminalizing slavery and forced labor are located at Article 270.1 - 270.4 of the Penal Code and provide for prison terms ranging from 5 to 30 years, and fines ranging from 500,000 CFA francs (US \$2,123), to five million CFA francs (\$10,617) for people found guilty of enslavement or the use of forced labor.

³⁸ Amnesty International. *REPORT ON NIGER*. 2005. Available at <http://web.amnesty.org/report2005/ner-summary-eng>

³⁹ However, the Government's will to enforce the amended law was questionable from the start since it failed to print and disseminate the new law in the Official Journal until April 2004, which significantly undermined the implementation of the law.

law entered into force in April 2004, and the government's Human Rights Commission investigated only four cases of alleged slavery and human trafficking resulting in "no prosecutions or rescues of forced labor victims resulted from these actions."⁴⁰ The ILO Congress registered a similar reaction noting that, despite the enactment of the amended Penal Code in 2003, the Government of Niger had not enacted an "effective enforcement programme...and that more concrete action was needed to meet the obligations" of the Forced Labor Convention. Indeed, in 2004, the ILO Congress considered the minimal steps taken by the government to be "totally insufficient" and stated that the Government "needed to pay urgent attention to eradicating forced labor in law and practice." The speaker of the Congress echoed this, arguing that a "legal arsenal of laws, even if it existed, did not suffice on its own to solve the problems or to allow ethnic minorities to be aware of their rights as citizens, as defined in the constitution of Niger."⁴¹

The government's failure to enforce the existing laws prohibiting forced labor is not a new problem for the Nigerien Government. Rather, its recalcitrance to act has been a long-standing government policy. For example, in 2001, the Government of Niger promised to initiate to and implement an effective and meaningful coordinated plan of action to combat the problem of slavery and forced labor. The government also promised to undertake a national survey to map the prevalence and scope of slavery in the country, as well as to organize educational and awareness raising activities to inform the population of its rights and duties. The Government of Niger has failed to implement either of these proposals.⁴² In particular, it has failed to educate and inform its citizens of the prohibition so as to raise awareness of the new legal rights and duties for citizens provided in the amended Penal Code.⁴³

B. The Government of Niger Continues To Deny That Slavery and Forced Labor Exists.

The primary reason the Government of Niger has failed to implement its laws to eradicate slave and forced labor is that the government refuses to publicly recognize that slavery continues to exist in Niger. The following are statements made by various government officials in Niger denying the existence of slavery and forced labor.

- In June 2005, Mahamadou Zeti Maïga, the governor of the Tahoua region declared before an international audience, "I deny that slavery exists in Niger. . . In the six years during which I have traveled across Tahoua, I have never seen a single case of people who feel oppressed or who have gone to the authorities to complain. This country respects the rule of law."⁴⁴
- Also in 2005, the Nigerien Justice Minister Maty El Hadj Moussa declared, "There's no slavery in the form known in the West, that's to say somebody treating someone else like his personal property... What we do recognize is that

⁴⁰ U.S. Dept. of State, TIP Report, supra note 34.

⁴¹ ILO-ILC, supra note 30.

⁴² Anti-Slavery International, Submission to United Nations Commission on Human Rights, supra note 23.

⁴³ Id.

⁴⁴ IRIN Report, June 2005. Supra Note 8.

there are certain ancestral practices that have categorized parts of our society into a class of people who are noble and non-noble."⁴⁵

- During a ceremony intended to celebrate the freeing of nearly 7,000 slaves,⁴⁶ which was hosted by the Niger National Human Rights Commission in March 2005 near the Mali border in In Atès in Tillabéri, a local government official, Arissal Ag Amdague, a Tuareg chief, "denied that either he or any of his 19 clans owned any slaves."⁴⁷ He continued his denial by stating that "[s]lavery doesn't exist in In Atès...nobody has told me they have seen slaves. If someone has slaves they must tell me."⁴⁸
- Also, on the day of the planned ceremony in In Ates, Niger's Human Rights Commissioner, Lonpo Garba, claimed there was no slavery in Niger any more. Garba told reporters that "[t]he commission does not deny the existence of slavery in Niger in the past, but [there are] not 7,000 slaves in today's Niger...We deem that organising a slave release ceremony is unacceptable as it appears groundless and in contradiction with Niger's laws."⁴⁹

Additionally, pro-slavery interests have apparently coalesced in Niger's Parliament to act as a check on the government and prevent effective action from being taken to stop the practice of forced labor and slavery.⁵⁰ This has created a political impasse in the Nigerien Parliament that has prevented any policy discourse regarding forced labor and slavery and has led to further inaction by the government in affording internationally recognized worker rights to all Nigeriens.

The denials and silence from the Government have not gone unnoticed. In a report released this March, the Special Rapporteur for the UN Economic and Social Council Commission on Human Rights noted "with satisfaction" the passage of the 2004 legislation adapting the penal code in his report.⁵¹ However, he lamented that the practice of slavery continues to be "deliberately" overlooked by public officials and that certain public announcements denied that the practice existed, "which only legitimized the continuation of the practice."⁵² The most recent U.S. State Department TIP report

⁴⁵ Green, supra note 20 at pg. A10

⁴⁶ IRIN Report, March 2005, supra note 3. The ceremony was organized after officials in the region signed a pledge with Timidria in September 2004, entitled 'Freeing of Slaves', whereby the provincial officials agreed to free the slaves during the ceremony. Though most of the freed slaves were expected to continue working in their current jobs, they were to start earning wages from their former masters who had until then paid them nothing. In the days leading up to the ceremony, Timidria, with the assistance of international donors, collected enough food, clothing and shelter to care for the first 7,000 slaves freed for six months. To support them, Timidria planned to build community schools, cereal stores, seed banks, wells and health clinics.

⁴⁷ IRIN Report, March 2005, See supra note 3

⁴⁸ Id.

⁴⁹ Id.

⁵⁰ IRIN Report, June 2005, See supra note 8.

⁵¹ Petit, supra note 36.

⁵² Id. ("Les Rapporteurs spéciaux et la Représentante spéciale ont noté avec satisfaction que des lois prohibant et criminalisant l'esclavage et les pratiques assimilées sont entrées en vigueur en avril 2004. Cependant, certains agents publics passeraient délibérément outre certaines pratiques constituant des crimes au regard de la loi, et personne à ce jour n'aurait encore été condamné dans le cadre de la nouvelle législation. Les déclarations publiques de certains hauts fonctionnaires du Gouvernement, niant l'existence

confirms the Rapporteur's findings noting that "several times during the year the government publicly denied the problem of slavery and related practices."⁵³

C. The Government of Niger Actively Obstructs the Efforts of Activists to Call Attention to the Problem of Slavery and Forced Labor

The Government of Niger has gone beyond simply denying the existence of forced labor and slavery within its borders by actively pursuing efforts to silence activists working to raise awareness of the problem. As noted by the U.N. Special Rapporteur, the Government of Niger was "obstructing the efforts of NGOs" who are calling attention to the problem of forced labor. In particular, the Government of Niger has falsely levied fraud charges against the country's leading anti-slavery activists, members of Timidria.⁵⁴

The government's efforts to silence anti-slavery activists were stepped up in the days before the March 5 ceremony.⁵⁵ Many of the slaves living in the In Atès area, as well as local human rights groups reported intimidation from government officials.⁵⁶ In fact, they were outright discouraged from attending the March ceremony. Nigerien officials also began to threaten charges of fraud against the prominent human rights activists who planned on attending the ceremony.⁵⁷

In line with the Government of Niger's systemic practice of arbitrary arrest and detention, "executive interference" in the judicial process, restrictions on freedom of speech,⁵⁸ the government arrested Mr. Weila, the president of Timidria, his colleague, Mr. Alassne Biga, and three other activists on charges of fraud relating to the planned release of slaves at the March ceremony on April 28, 2005.⁵⁹ In particular, the government questioned the origin of money that had been raised by Timidria to fund the transition of the 7,000 freed slaves into society. The government instituted legal action against the activists, charging them with fraud based on "propagating false information on slavery and attempting to raise funds illegally."⁶⁰ The allegations stem from accusations by Niger's Human Rights Commissioner, Lonpo Garba, who claimed that the officials in In Atès involved in the ceremony had only agreed to a staged release in return for cash from Timidria and others; money intended to ease the former slaves' integration into free society. As a result, the Government has accused Timidria of trying to fraudulently obtain £2,000,000 from Anti-Slavery International; an allegation to which Anti-Slavery International has categorically denied in a letter to Nigerien President Mamadou Tandja.⁶¹ Since, Anti-Slavery International has been urging the government to

de l'esclavage au Niger, légitimeraient le refus des agents publics d'intervenir dans les cas d'esclavage ou de pratiques traditionnelles analogues")

⁵³ U.S. Dept. of State, TIP Report, supra note 34.

⁵⁴ Petit, supra note 36. ("l'attitude de certaines autorités ferait obstruction au travail des organisations de la société civile et des défenseurs des droits de l'homme contre l'esclavage au Niger. Le 28 avril 2005, le Gouvernement aurait arrêté I.W., Président de l'ONG Timidria et A.B., Secrétaire général du bureau de Timidria à Tillabéri.")

⁵⁵ For description of the ceremony see supra note 48.

⁵⁶ IRIN Report, March 2005, supra note 3.

⁵⁷ Id.

⁵⁸ U.S. Dept. of State, Country Report, supra note 17.

⁵⁹ Anti-Slavery International, Submission to United Nations Commission on Human Rights, supra note 23.

⁶⁰ Id.

⁶¹ Id.

drop all charges against the activists noting that “[s]lavery is a significant problem in Niger” and that the government must work in co-operation with Timidria to end this serious abuse.⁶² Although they were released on bail in June 2005, Mr. Weila and Mr. Biga continue to face charges of fraud.⁶³

Mr. Weila’s and Mr. Biga’s arrest provoked massive demonstrations demanding their release in the following weeks. However, the government has continued to officially deny that slavery exists in Niger, and has accused those who raise the issue slavery of the ulterior motive of attempting “to damage the country’s image and its leaders.”⁶⁴

IV. The Government of Niger Continues to Allow Forced Child Labor and Other Worst Forms of Child Labor

The Nigerian Government's failure to protect or even act out against forced labor, is part of a systemic failure to afford other critical and core worker rights. Although Niger has ratified both ILO Conventions No. 138 and No. 182 on Minimum Age and the Worst Forms of Child Labor,⁶⁵ it fails to afford such rights to its most vulnerable citizens: the children of Niger.

Child labor, particularly of the worst forms, is rampant in Niger. In a report released this year, the Office of the United States Trade Representative stated that, although in Niger “the law prohibits child labor in industrial work . . . this remains a problem. Children continue to work in the unregulated agriculture, commercial, and artisan sectors, and as domestic servants.”⁶⁶

The most recent U.S. State Department Country Report echoes the USTR’s concerns about child labor in Niger. The State Department noted that even though “Niger is a signatory of ILO Convention 182 on the Worst Forms of Child Labor” and that “the Ministry of Labor . . . continued working with UNICEF and the International Program on the Elimination of Child Labor to determine the extent of child labor in the country, preliminary findings revealed that 61 percent of children between the ages of 5 and 9, and 83 percent of children between the ages of 10 and 14 worked; 40 percent of child workers were not paid.”⁶⁷ The report explains more fully that the labor code does not prohibit forced or compulsory labor by children specifically, and that girls are being drawn into prostitution while boys are working as laborers in mines, slaughterhouses, and rice fields.⁶⁸

In a 2004 report, the U.S. Department of Labor notes that “[c]hildren work under hazardous conditions in small trona, salt, gypsum, and gold mines and quarries;

⁶² IRIN Report, June 2005, see supra note 8.

⁶³ U.S. Dept. of State, Country Report, supra note 17.

⁶⁴ Anti-Slavery International, Submission to United Nations Commission on Human Rights, supra note 23.

⁶⁵ See ILO Convention No. 182 on the Worst Forms of Child Labor, June 17, 1999, *entered into force* November 19, 200; ILO Convention No. 138 on the Minimum Age for Admission to Employment, June 26, 1973, *entered into force*, June 19, 1976.

⁶⁶ Office of the U.S. Trade Representative, *U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act*. 2006. Available at: http://www.ustr.gov/Document_Library/Press_Releases/2006/May/AGOA_Report_Shows_Increase_in_U_S-Africa_Trade.html

⁶⁷ U.S. Dept. of State, Country Report, supra note 17.

⁶⁸ *Id.*

prostitution; and drug trafficking; as well as in slaughterhouses. Niger serves as a source and transit country for children trafficked into for domestic service and commercial labor, including commercial sexual exploitation. Some Koranic teachers indenture young boys and send them to beg in the streets. Forced domestic service and commercial sexual exploitation of girls is a problem in Niger."⁶⁹

Also, in a 2002 report by the ILO Committee of Experts, the ILO similarly found that child labor in the mining and quarry sectors was rampant in Niger. The Committee noted that "child labor is extremely common in Niger, mainly in the informal sector" and that even within the mining sector ("the country's most dangerous informal sector activity"), 47.5% of the laborers in small mines are children, and 57% of those working in quarries are also children. Furthermore, the report expresses concern that in the mines cited in a 1999 ILO study, "conditions of work for children are extremely difficult. As from the age of eight, they carry out physically exacting and dangerous tasks, more often than not seven days a week for approximately ten hours a day. The work involves serious risks of accidents and diseases, which are damaging for children's health. The Committee further notes the absence of modern mine safety techniques in the sites observed and the lack of sanitary infrastructures and any systematic health care in the neighborhood."⁷⁰ The ILO report then explains that the labor extracted from the children in these mines qualifies as forced labor under the definition of the ILO Convention No. 29, and questions the "validity of consent" to engage in such work.

Finally, as describes above, Nigerien children are commonly entrusted into the care of *marabout* religious leaders from the ages of 5-15, and then sent to labor for the benefit of those leaders. The ILO Committee of Experts again explains that those children are "persons in a relationship resembling a slave-master relationship, lacking freedom to control their own lives, are, due to these very circumstances, carrying out work for which they have not offered themselves voluntarily."⁷¹

V. Conclusion

In light of the egregious workers rights violations described above, Niger's GSP benefits must be revoked. The Government of Niger continues to refuse to enforce its laws against slavery and forced labor, and it has no coordinated plan of action to combat the problems of slavery and forced labor. Still, the Government of Niger has yet to secure a single conviction for slavery offences. The government's only actions have been to officially deny that slavery and forced labor currently exist and attempting to silence and punish those who call for the eradication of forced labor. Furthermore, the Government has failed to take measures to eliminate the worst forms of child labor, which also includes forced and slave labor. Until the Government of Niger effectively takes steps to afford internationally recognized worker rights as mandated for the enjoyment of GSP beneficiary status, the ILRF requests that the President revoke Niger's GSP entitlement as a least developed beneficiary country in accordance with 19 U.S.C. §2462(d).

⁶⁹ U.S. Dept. of Labor, Bureau of International Labor Affairs; Niger 2004. Available at: <http://www.dol.gov/ILAB/media/reports/iclp/tda2004/niger.htm>

⁷⁰ ILO CEACR, Individual Observation concerning Convention No. 29, 2002, *supra* note 27.

⁷¹ *Id.*