

Niger

Amnesty International submission to the UN Universal Periodic Review

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B. Normative and institutional framework of the State

In the last couple of years, Niger's Constitution and key institutions have been severely undermined by the authorities. In May 2009, former President Mamadou Tandja dissolved Parliament after the Constitutional Court rejected his attempts to amend the Constitution by referendum to allow him a third term. In June 2009, he dissolved the Constitutional Court and assumed emergency powers, and in August 2009 the Constitution was amended by referendum to allow a third term. The referendum was boycotted by opposition parties.

In February 2010, a coup led by a military junta deposed President Tandja and suspended the Constitution in force since 1999. The new administration, presided over by squadron leader Salou Djibo, also dissolved the government, promised a new Constitution to be put to a referendum, committed itself to holding free and transparent elections before March 2011, and pledged that the new leaders would not be candidates in these elections. The draft Constitution, prepared by a committee of experts in May 2010, reaffirms its opposition to dictatorship, impunity, corruption and nepotism, and its commitment to the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the African Charter on Human and Peoples' Rights, and the ECOWAS (Economic Community of West African States) Protocol on Democracy and Good Governance.

C. Promotion and protection of human rights on the ground

Niger is a volatile country with a long history of coups and armed rebellions. The armed forces have dominated political life in Niger since the country's independence in 1960 and have run the country openly or from behind the scenes. Over the past decade, the armed forces have become a major destabilising factor in the country. Different factions within the armed forces have supported different governments at various times. These rivalries within the armed forces have resulted in killings, including the assassination in 1999 of President Baré Maïnassara, who had taken power following a coup in 1996, but was overthrown by another coup in 1999. Over the years, the armed forces have committed human rights violations with total impunity, including killings, torture and other ill-treatment, detention of prisoners of conscience, arbitrary detention and suppression of freedom of expression and association.

1. Human rights violations and abuses in the context of the Tuareg conflict

Following the February 2007 uprising led by the Tuareg armed opposition movement, the Niger People's Movement for Justice (*Mouvement des Nigériens pour la justice*, MNJ), based in the northern region of Agadez, sporadic fighting between the government forces and members of this armed opposition group, over the past two years, has led to serious human rights abuses committed by both sides.

In response to the uprising, former President Mamadou Tandja declared a state of emergency in Agadez in August 2007 and this was continuously renewed until a comprehensive peace agreement was signed in October 2009. Under the emergency, the security forces had additional powers to arrest and detain suspects beyond the statutory 48-hour *garde à vue* which led to serious human rights violations, including extrajudicial executions, arbitrary arrests and torture and other ill-treatment in detention.

The conflict also led to massive population displacement in that region, leaving the population in an extremely precarious situation, exacerbated by the 2005-2006 food crisis.

1.a. Human rights violations by Niger security forces

Extrajudicial executions

Since the beginning of the Tuareg armed uprising in February 2007, members of the security forces extrajudicially killed dozens of people suspected of links with the Tuareg opposition. In May 2007, three men, aged between 65 and 85, Abtchaw Kunfi, Abbe Kunfi and Kalakoua Immolane, were killed reportedly by members of the security forces in Tizirzait allegedly because one of them had a satellite phone which might have raised suspicion of possible links with the MNJ.

In November and December 2007, at least 11 civilians were unlawfully killed by the security forces, apparently in reprisals for attacks carried out by the MNJ. In November, four people, Bachir Mouhamad and Mariko Kané, both gardeners, and Oukhoudane Algha and Hamad Ibrahim, both cattle farmers, were arrested by gendarmes in Tchintébizguint after a mine exploded. Five days later their bodies were found in a common grave. According to witnesses their bodies showed signs of bullet wounds to the heart, forehead and ear. In December 2007, a further seven people were arrested by the Niger security forces while travelling by car to Agadez. The members of the group which included two Arab tradesmen, Ibrahim Sidi Amar and Osmane Sidi Rali, a cook, a mechanic and two drivers, all either Tuareg or Hausa,¹ were all killed.

In March 2008, after clashes with the MNJ in which the army sustained casualties and material damage, the army launched reprisals and at least eight civilians were unlawfully killed, among them, Hada Baregha, a herder aged 67, was killed by the military in the town of Dabaga in the Agadez region while returning from the fields with his donkeys and Mohamed El Moctar, a gardener aged 66, was arrested by soldiers in Tabouhait, struck with the butts of their guns before being killed. Three others were shot dead in the village of Tamazalak.

Arbitrary detention

In 2007 and 2008, dozens of civilians were arrested by the security forces in the Agadez region, many of them after attacks launched by the MNJ. Most were released after several days or weeks of detention without charge or trial. In September 2007, five of them, including Issoufou Matachi, a former leader of a Tuareg armed opposition groups, and Moustapha Karimoun, a Tuareg trader, were transferred to the capital. Other people arrested in Arlit were detained incommunicado for several weeks in the Madaweïla military camp. All have subsequently been released.

In March 2008, four men, including Al Wali, village chief of Tourayat, were arrested by government soldiers and detained for more than a year. During this time their families were unable to obtain any information about their whereabouts. They have subsequently been released.

Torture and other ill-treatment

Torture and other ill-treatment are prohibited in both the suspended Constitution and the draft Constitution; it is not widely practiced according to Amnesty International's information. However, Amnesty International is concerned to note that there is no crime of torture in the 1961 Penal Code as required by Article 4 of the Convention against Torture, to which Niger is a party.

In 2007 and 2008, armed forces are reported to have tortured people in the context of the conflict with Tuareg armed opposition groups. In December 2007, the bodies of the seven men extrajudicially killed by security forces on their way back to Agadez bore numerous signs of torture, including cigarette burns and whipping, as well as many bullet wounds to the face and chest.

In March 2008, a tradesman, Aboubakar Attoulèle, arrested by the military reportedly had his ears cut off and his hair set on fire before being stabbed to death. The same month, on the Dabaga-El Meki road, the army forced three

¹ A Sahelian people chiefly located in northern Nigeria and south-eastern Niger.

civilians to drive in front of a military convoy to detect landmines. However, when a military vehicle drove over a mine and was damaged, the soldiers accused the civilians of leading them into a trap and beat them. Later the civilian vehicle was blown up by a mine and the soldiers gave treatment to the injured.

1.b. Abuses by the Niger People's Movement for Justice

In the past few years, the MNJ are reported to have carried out attacks against the Niger military, killing and abducting dozen of soldiers.

In July 2007, the MNJ abducted a Chinese national working for a uranium research company based in the Agadez region. He was released a week later. His abduction was claimed by MNJ leader Aghali Alambo, who declared that it constituted an "ultimatum for the Chinese companies which cooperate with the Niger army".

The MNJ also abducted and held hostage a number of soldiers and civilians in 2008, including a senior government official, an imam and a teacher. Some of them were handed to the International Committee of the Red Cross. All of them have now been released.

In January 2008, during an MNJ attack, Abdou Garba Kona, prefect of Tanout, a city north-west of Niamey, was kidnapped with several members of the military forces. He was released in March 2008 with 25 others. In May 2008, the MNJ abducted the Vice President of the National Commission on Human Rights, Ahmadou Ahellawey, near Tanout while he was raising awareness of human rights. He was released a week later.

2. Abductions by armed group linked to Al-Qa'ida

In December 2008, Robert Fowler, UN special envoy to Niger and a fellow UN official, Louis Gray, both Canadian nationals, were abducted by Al-Qa'ida in the Islamic Maghreb (AQIM). They were released in Mali in April 2009.

3. Restrictions on freedom of expression and assembly

Over the past four years, an increasing number of restrictions have been placed on the rights to freedom of expression and assembly. On three occasions in 2007, 2008 and 2009, the authorities imposed a blackout on media coverage of the northern Tuareg uprising. Journalists were banned from travelling to the north of the country where the unrests occurred. Some of them were arrested and accused of links with armed groups. Radio France International (RFI) was suspended for three months and Saharan FM, the main private radio in Agadez, was closed indefinitely. In June 2009, the Dounia media group was closed down for several days for airing a statement by the opposition accusing President Tandja of staging a coup.

Throughout 2006, journalists covering stories of government mismanagement or other political issues were arrested and sentenced to prison terms. In September 2006, publisher Mamane Abou and journalist Oumarou Keita of the weekly *Le Republicain* were sentenced to 18 months' imprisonment charged with spreading false news and defaming the state after publishing an article accusing the Prime Minister of seeking favour with Iran.

In September 2007, Moussa Kaka, director of the privately-owned Radio Saraouniya station and Niger correspondent of RFI, was arrested in Niamey and charged with "complicity in undermining the State's authority". This charge was based on the fact that Moussa Kaka had had telephone contact with MNJ members while working as a journalist. Moussa Kaka was sentenced to a prison term and was provisionally released after nearly a year in detention. In October 2007, the editor of *Aïr Info*, Ibrahim Manzo Diallo, was arrested in Niamey and transferred to the Agadez region where he was held incommunicado in army custody for three weeks and then charged with associating with criminal elements for his alleged links with the MNJ. He was provisionally released in February 2008.

In April 2009, Seyni Amadou, director of Dounia TV, and journalist, Elhadj Idi Abdou, were briefly arrested and charged with "broadcasting false information" after criticizing French President Sarkozy's visit to Niger. In August

2009, Abdoulaye Tiémogo, the publishing manager of the independent newspaper, *Le Canard Déchaîné*, was sentenced to three months' imprisonment for having "discredited a court decision" by commenting on the arrest warrant against former Prime Minister Hama Amadou. He was released after two months.

In 2009, human rights activists, notably members of the United Front for the Protection of Democracy (*Front uni pour la sauvegarde des acquis démocratiques*, FUSAD), were repeatedly harassed by the police when protesting against the constitutional amendment. Demonstrations that were mostly peaceful were dispersed with tear gas. In August 2009, Marou Amadou, a human rights activist and President of FUSAD, was arrested for calling for protests against the government. Following a judicial decision, he was released the next day, but immediately rearrested and charged with "running an unauthorized association". He was released on bail in September 2009.

4. Repression of dissent

In 2009, the authorities repressed demonstrations against the referendum on the Constitution and President Tandja's rule, and arrested several political opponents.

In June 2009, Mamadou Issoufou, former Member of Parliament and leader of the main opposition party, the Nigerien Party for Democracy and Socialism (*Parti nigérien pour la démocratie et le socialisme*, PNDS), was briefly detained, allegedly after calling on the security forces to stop obeying President Tandja's orders.

In July 2009, opposition activist Alassana Karfi was arrested and sent to Koutoukalé high-security prison after criticizing the referendum process on television. He was charged with "provoking the creation of a crowd" and released on bail in October 2009.

5. Impunity for human rights violations

Impunity for past human rights violations prevails in Niger. The lack of investigation into human rights violations by members of the security forces has perpetuated the culture of impunity sanctioned by article 141 of the suspended Constitution which granted an amnesty to the authors of the 1996 and 1999 coups.

In October 2009, following a peace agreement between the authorities and the Tuareg armed opposition groups, former President Tandja granted an amnesty to all the members of those groups involved in abuses of human rights. This blanket amnesty was also extended to the Niger security forces, which further entrenched the climate of impunity and closed off avenues for justice and redress for human rights abuses committed by both sides during the conflict.

6. The death penalty

Although there have been no executions in Niger since 1976, death sentences continued to be imposed by the courts. At least one death sentence is known to have been handed down in 2008. Amnesty International considers Niger as abolitionist in practice, in view of the absence of executions since 1976 and its established practice not to carry out executions. However, in December 2007 and December 2008, Niger abstained at the vote on UN General Assembly resolutions 62/149 and 63/168 calling on all States that still retain the death penalty to establish a moratorium on executions with a view to abolishing the death penalty.

Under the 1961 Penal code, a wide range of offences carry the death penalty, such as treason and other crimes against the state, aggravated murder, torture and other crimes against the person, and aggravated theft with violence. In many instances, such as crimes against the state and premeditated murder, the death penalty is mandatory. Amnesty International opposes the death penalty in all circumstances as a violation of the right to life and as the ultimate cruel, inhuman and degrading punishment.

7. Slavery

In October 2009, the Community Court of Justice of the Economic Community of West African States (ECOWAS) ordered the government of Niger to pay reparations to a woman who had been kept as a domestic and sexual slave for a decade. The woman had lodged a complaint against the government for failing to implement existing laws against slavery. The landmark decision corroborated denunciations by several international and national NGOs that there were still slaves in Niger despite the criminalization of this practice in 2003.

Appendix 1: Recommendations for action by the State under review

Amnesty International calls on the government of Niger:

Extrajudicial executions

- To open investigations into unlawful killings, notably in the context of the Tuareg conflict;
- To bring to justice those responsible of extrajudicial executions, notably members of the security forces;
- To provide reparation for the relatives of victims of extrajudicial executions.

Torture and other ill-treatment

- To give clear instructions to the security forces to always act in compliance with international human rights law, in particular the right to life and the prohibition of torture and other ill-treatment;
- To bring national legislation on torture and other ill-treatment in line with international human rights standards, to amend the 1961 Penal Code to include a comprehensive definition of torture as provided for in Article 1 of the UN Convention against Torture, to make any act of torture or ill-treatment a criminal offence and to make provision for penalties that reflects the gravity of the act;
- To ensure that anyone placed in detention is brought promptly before a judicial authority and has the option of disputing the legality of the decision to imprison;
- To draw up a plan of action to eradicate torture and ill-treatment and to bring to justice all suspected perpetrators of such acts;
- To inform members of the police and other law enforcement officers, in unambiguous language, that torture and ill-treatment are violations of human rights which will not be tolerated under any circumstances and that anyone committing such offences will be punished as provided for by law;
- To carry out impartial and effective investigation without delay into all complaints and information concerning torture and other ill-treatment;
- To ensure that all judges, prosecutors and lawyers are informed that confessions and statements obtained other than in the presence of a member of the public prosecutor's office and the suspect's counsel may not be used in support of the accusation before the court;
- To ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Freedom of expression

- To respect the right to peaceful exercise of freedom of expression and assembly;
- To ensure that the right to freedom of expression, as enshrined in the Constitution as well as in relevant international human rights standards, is fully respected in practice, including for those who may wish to express dissenting view;
- To issue clear guidelines and inform all law enforcement personnel, at all levels, of their obligations to respect and protect human rights and to refrain from arresting and beating critics.

Impunity for human rights violations

- To repeal amnesty laws and to bring to justice those responsible for human rights violations regardless of how much time has elapsed since the commission of the crime;
- To take immediate steps to establish an independent complaints mechanism with a mandate to investigate all allegations of human rights violations and abuses by security forces and armed opposition groups.

The death penalty

- To immediately establish a moratorium on executions with a view to abolishing the death penalty as provided by UN General Assembly resolution 62/149, adopted on 18 December 2007 and resolution 63/168 adopted on 18 December 2008;

- To commute without delay all death sentences to terms of imprisonment;
- To immediately remove all provisions in national law which are in breach of international human rights law, in particular:
 - By restricting the imposition of the death penalty to only the most serious crimes,
 - By abolishing all provisions which provide for mandatory death sentences,
 - By prohibiting the imposition of the death penalty on anyone suffering from a mental disability,
 - By prohibiting executions of pregnant women and mothers with dependent infants;
- To ensure rigorous compliance in all death penalty cases with international standards for fair trial, including the rights:
 - to be tried before an independent, impartial and competent tribunal,
 - to competent defence counsel at every stage of the proceedings,
 - to adequate time and facilities to prepare one's defence,
 - to be presumed innocent until guilt has been proved beyond reasonable doubt,
 - to appeal to a higher court, and
 - to seek pardon and commutation of sentence;
- To ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at abolition of the death penalty.

Slavery

- To establish an independent and impartial enquiry into progress over the past 20 years and to consider steps towards complete eradication of slavery, slavery-like practices and related abuses and discrimination in Niger. The inquiry should involve religious leaders, traditional leaders, law enforcement officials and judicial officials as well as members of civil society including NGOs working against slavery;
- To ensure that the 2003 law which makes slavery a criminal offence is effectively enforced and that all people suspected of practicing slavery are prosecuted;
- To develop mechanisms for full and fair reparations for victims of slavery, including compensation and rehabilitation.

Appendix 2: Amnesty International documents for further reference²

- Public Statement - Niger : Appel à la libération inconditionnelle et immédiate de M. Amadou Arou (Index: AFR 43/002/2009), 18 August 2009.
- Public Statement – Niger: Amnesty International calls for the release of hostages reportedly held by Al Qa’ida in the Islamic Maghreb (Index: AFR 43/001/2009), 19 February 2009.
- Public Statement - Niger: Moussa Kaka est muselé depuis un an de manière totalement arbitraire (Index: 43/005/2008), 17 September 2008.
- Press Release - Niger: Executions and forced disappearances follow army reprisals (Index: PRE01/106/2008), 3 April 2008.
- Urgent Action - Niger: Further information on prisoner of conscience: Ibrahim Manzo Diallo (Index: AFR 43/003/2008), 22 February 2008.
- Public Statement - Niger: Les autorités doivent libérer au plus vite le journaliste Moussa Kaka (Index: AFR 43/002/2008), 14 February 2008.
- Public Statement - Niger. Le mouvement d'opposition armé touareg doit cesser de prendre en otage des civils (Index: AFR 43/001/2008), 24 January 2008.
- Press Release - Niger: Extrajudicial executions and population displacement in the north of the country (Index: PRE01/005/2007), 19 December 2007.
- Urgent Action - Niger: Further information on Fear of torture or ill-treatment / incommunicado detention / prisoner of conscience: Ibrahim Manzo Diallo (Index: AFR 43/004/2007), 7 November 2007.
- Urgent Action - Niger: Niger: Fear of torture or ill-treatment/incommunicado detention/ prisoner of conscience: Ibrahim Manzo Diallo (Index: AFR 43/003/2007), 12 October 2007.
- Press Release - Niger: Amnesty International calls for the immediate and unconditional release of Moussa Kaka (Index: AFR 43/002/2007), 26 September 2007.
- Public Statement - Niger: Emergency legislation infringes non-derogable human rights (Index: AFR 43/001/2007), 21 September 2007.
- Urgent Action – Niger: Prisoners of conscience, journalists Mamane Abou and Oumarou Keita (Index: AFR 43/002/2006), 28 September 2006.
- Urgent Action – Niger: Prisoners of conscience, journalists Mamane Abou and Oumarou Keita (Index: AFR 43/001/2006), 4 September 2006.

² All of these documents are available on Amnesty International’s website: <http://www.amnesty.org/en/region/niger>