



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of the Republic of Niger and welcome the constructive engagement of the Government of Niger during the 38th session of the UPR Working Group in May 2021.

As the final outcome report on the review of Niger was recently adopted by the Human Rights Council at its 48th session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Niger – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and recommendations made by 95 delegations and the presentation made and responses provided by the delegation of Niger. I have also considered the actions taken by the Government of Niger to implement the 167 recommendations supported during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I note with satisfaction that, since the 2nd cycle of the UPR of Niger, more than twenty international human rights instruments have been ratified and more than eighty laws and regulations have been adopted to incorporate international instruments into national laws. I also note that the de facto moratorium on the death penalty was still being observed with no death row inmates having been executed since 2016 and that the Government was actively pursuing consultations with all national stakeholders with a view to reaching a consensus on the abolition of the death penalty.

I note with concern that, despite the efforts of the Niger to combat trafficking in persons and slavery, in particular under articles 270.1 to 270.5 of the Criminal Code and Ordinance No. 2010-86 of 16 December 2010, the practice of slavery is persistent. I am also concerned at the low rate of application of the above-mentioned legal provisions and with few prosecutions reported with the penalties imposed in some cases not being in line with the seriousness of the crime of slavery. I am concerned in particular that the practices of *wahaya*, characterized as a form of slavery, including sexual slavery, and female genital mutilation persisted in the Niger. I note with concern the low number of prosecutions under the Criminal Code provisions prohibiting slavery to criminalize perpetrators of *wahaya* and the low conviction rates in cases of female genital mutilation.

While acknowledging the cross-border difficulties faced by the Niger in its struggle against non-State armed groups that carried out attacks on its territory, I am concerned at the disproportionate impact of the state of emergency that is currently in force and regularly extended in the regions of Diffa, Tillabéri and Tahoua. I am also concerned about the definition of terrorism provided in Ordinance No. 2011-12 of 27 January 2011 amending the Criminal Code.

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H.E. Mr. Hassoumi MASSOUDOU
Minister of State, Minister of Foreign Affairs and Cooperation
Republic of Niger



I encourage Niger to develop a comprehensive national human rights action plan in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate preparations for the fourth cycle of the UPR. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution and all civil society organizations and, where necessary, with the support of international organizations, including my Office and other United Nations entities, under the leadership of the United Nations Resident Coordinator.

I also encourage Niger to pursue efforts to strengthen the inter-ministerial technical committee for comprehensive reporting and follow-up to recommendations received from all international and regional human rights mechanisms and to treaty obligations, linking them to the Sustainable Development Goals. To this end, I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:

http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf

Please note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting States with the implementation of the recommendations, following the review. One important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I encourage the Government of Niger to consider submitting a mid-term report on follow-up to the third cycle of the review by 2023.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *“The Human Rights Council’s universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council’s recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals.”*

I look forward to discussing with you ways in which my Office may assist the Niger in relation to the areas identified in this letter and its annex.

Please accept, Excellency, the assurances of my highest consideration.

Michelle Bachelet
High Commissioner for Human Rights

cc: Ms. Louise Irène AUBIN
United Nations Resident Coordinator and Humanitarian Coordinator
Republic of Niger

Mr. Omer Kebiwou KALAMEU
Country Representative of the United Nations High Commissioner for Human Rights
OHCHR Country Office for Niger
Republic of Niger

Annex

Scope of international obligations and cooperation with international human rights mechanisms and bodies

- Ratifying the Convention on the Prevention and Punishment of the Crime of Genocide and the Kampala amendments to the Rome Statute of the International Criminal Court.
- Ratifying the International Labour Organization (ILO) Domestic Workers Convention, 2011 (No. 189).
- Ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, and the Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime.
- Lifting its reservations to the Convention on the Elimination of All Forms of Discrimination against Women and ratifying the Maputo Protocol to promote gender equality and women's rights.
- Extending a standing invitation to all special procedure mandate holders.

National human rights framework

- Adapting its domestic legislation to bring it into line with the international and regional instruments to which it is party.
- Expediting the adoption of the law criminalizing torture, ensuring that it complies with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Ensuring that the legal framework regarding the fight against terrorism complies with the international human rights obligations and international humanitarian law.
- Finalizing the adoption of the law on the protection of human rights defenders in collaboration with civil society.

Implementation of international human rights obligations, taking into account applicable international humanitarian law

A. Cross-cutting issues

Equality and non-discrimination

- Taking appropriate steps to enact comprehensive legislation providing full and effective protection against discrimination in all spheres and containing an exhaustive list of prohibited grounds of discrimination, including sexual orientation and gender identity.
- Amending article 282 of the Criminal Code in order to decriminalize consensual sexual relations between adults of the same sex.

Development, the environment, and business and human rights

- Establishing a clear regulatory framework for the mining industries operating in the country to ensure that their activities do not negatively affect human rights or endanger environmental and other standards, especially those relating to children's rights.
- Ensuring effective implementation by companies, especially industrial companies, of international and national environmental and health standards and effective monitoring of the implementation of those standards, appropriately sanctioning and providing remedies when violations occurred, and ensuring that appropriate international certification was sought.
- Requiring companies to undertake assessments of and consultations on the environmental, health-related and human rights impacts of their business activities and their plans to address such impacts, and to fully and publicly disclosing those assessments, consultations and plans.
- Taking measures to strengthen policies and programmes to address the issues of climate change and disaster risk management, including through replanting trees, regenerating land and increasing solar energy.

Human rights and counter-terrorism

- Bringing its legislation on terrorism in line with the International Covenant on Civil and Political Rights and narrowing the definition of terrorism in Ordinance No. 2011-12 of 2011.
- Taking all measures necessary in order to guarantee full respect for human rights and international humanitarian law in activities to combat terrorism and violent extremism.
- Ensuring accountability and conducting transparent and impartial investigations into alleged violations and abuses of human rights committed during counter-terrorism operations in accordance with article 96 of the Constitution of 1996.
- Ensuring that measures adopted to combat terrorism are fully compatible with article 4 of the International Covenant on Civil and Political Rights and, in particular, that measures derogating the provisions of the Covenant are limited to the extent strictly required by the exigencies of the situation and met the requirements of the principle of proportionality.

B. Civil and political rights

Right to life, liberty and security of person

- Abolishing in law the death penalty and repealing the provisions of the Criminal Code that provided for the application of that punishment.
- Swiftly adopting the draft law of 23 October 2014 authorizing the accession of the Niger to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and acceding to that instrument.

Administration of justice, including impunity, and the rule of law

- Upholding the principle of the independence of the judiciary, as guaranteed under article 16 of the Constitution, and ensuring that judges and public prosecutors are appointed on the basis of objective and transparent criteria that allow for candidates' qualifications to be assessed in terms of the required skills, competence and integrity.

- Guaranteeing the tenure and independence of judges and the impartiality of public prosecutors, by protecting the work of the judiciary from any interference.
- Undertaking investigations into all reports and allegations of gender-based violence against girls, including sexual assault, rape and domestic violence, and ensuring that perpetrators are brought to justice.
- Undertaking comprehensive investigations into the National Human Rights Commission's findings regarding possible extrajudicial killings by the Niger's security forces.

Fundamental freedoms

- Adopting all necessary measures to protect Christians and other religious minorities from all forms of violence and discrimination.
- Protecting the rights to freedom of expression and opinion, freedom of the press as well as freedom of association and of peaceful assembly.
- Implementing the antiterrorism law in accordance with international standards and guaranteeing freedoms of expression, association and peaceful assembly, as well as the legitimate work of human rights defenders and journalists.
- Ensuring that any unjustified or disproportionate infringement of the freedom of expression of the media and human rights defenders under counter-terrorism legislation is prevented.
- Carrying out prompt, impartial and effective investigations of all cases involving the excessive use of force for the dispersal of demonstrations and bringing the perpetrators to justice.

Prohibition of all forms of slavery

- Strengthening the implementation of anti-slavery laws and national action plans to prevent slavery, as well as educational measures to eliminate discriminatory practices.
- Adopting a national strategy and an action plan on the elimination of slavery, assimilated practices and descent-based discrimination.
- Adopting a national plan of action to combat slavery, including effective measures to free victims of traditional slavery practices and providing children with rehabilitation, psychological recovery services and assistance for reintegrating into their families.
- Strengthening the fight against trafficking in persons and smuggling of migrants, in particular by providing victims with the necessary assistance for their rehabilitation.
- Stepping up the fight against cross-border human trafficking.

C. Economic, social and cultural rights

Right to work and to just and favourable conditions of work

- Improving women's access to the formal labour market through temporary special measures such as creating incentives for both public and private sector employers to recruit women, introducing flexible work arrangements and strengthening professional training for women.

- Ensuring the application of social protection schemes to all women, including those working in the informal sector.
- Carrying out inspections, including when there are reasonable grounds to believe that violations are taking place in private homes, combating exploitative labour practices against women and ensuring that perpetrators are appropriately sanctioned.
- Amending article 45 of the Labour Code to broaden the definition of sexual harassment and the scope of persons to whom it applied and raising awareness of the remedies available to victims.

Right to social security

- Continuing to provide basic social services to its citizens and taking the necessary measures to facilitate the access of low-income populations to decent housing.

Right to an adequate standard of living

- Continuing to promote poverty reduction and to improve people's living standards.
- Pursuing efforts to guarantee access to drinking water, particularly in rural areas.
- Taking steps towards sustainable development and countering pandemic-related socioeconomic challenges.

Right to health

- Strengthening efforts to ensure the right to health for all, including through adequate health facilities, personnel and services.
- Taking concrete measures to tackle stigma and discrimination against persons affected by leprosy and their families and to ensure them timely and adequate access to health services.
- Continuing the Government's efforts to increase health coverage and to bring it closer to citizens, especially pregnant women, infants and children.
- Amending legislation to provide safe access to abortion to protect the lives and health of pregnant women and girls, particularly in situations in which carrying a pregnancy to term would cause the woman substantial suffering or in which the pregnancy is the result of rape or incest or is not viable.

Right to education

- Strengthening access to education, by ensuring a safe and protective environment for all children, particularly in conflict zones, including for young girls and children of nomadic populations.
- Amending legislation on education to make primary and secondary education free and to ensure that everyone is guaranteed a legal right to education.
- Securing the protection of educational institutions against attacks by armed groups.

D. Rights of specific persons or groups

Women

- Reinforcing the substantive equality of women in law and in practice, by ensuring the application of a definition of discrimination against women that is in line with article 1 of the Convention on the Elimination of All Forms of Discrimination against Women, covering direct and indirect discrimination in both the public and private spheres, and recognizing intersecting forms of discrimination.
- Harmonizing statutory and customary laws with the provisions of the Convention on the Elimination of All Forms of Discrimination against Women and repealing all legislation that is incompatible with the principle of equality of women and men and the prohibition of sex-based discrimination.
- Initiating open and inclusive public debates regarding diversity of opinion and interpretation with regard to customary personal laws and practices and, with the participation of women's civil society organizations, raising awareness among parliamentarians, traditional leaders and the general public of the importance of comprehensive, consistent and coherent legal reform to achieve the substantive equality of women and men.
- Specifically criminalizing the practice of *wahaya* with the same penalties as other forms of slavery and ensuring that articles 232.1–232.3 of the Criminal Code prohibiting female genital mutilation are strictly enforced.
- Increasing efforts to eliminate all harmful and discriminatory practices against women and girls, such as child and forced marriage and female genital mutilation.
- Collecting data on incidents of gender-based violence against women and girls, in particular sexual violence, and of child marriage, forced marriage, trafficking in persons, forced prostitution and abduction by terrorist groups in the Niger.

Children

- Developing and adopting a family code in accordance with international human rights standards in order to raise the minimum age for marriage to 18 years, recognize the equal rights of women in inheritance and divorce matters, as well as the equal legal status and protection of children born out of wedlock.
- Accelerating the process of adoption of the draft children's code and the draft law on the protection of young girls during schooling.
- Taking immediate measures to ensure that all children with disabilities have access to health care, including early detection and intervention programmes, and quality orthopaedic equipment, especially in rural areas.

Persons with disabilities

- Taking measures to address discrimination against persons with disabilities and including in national laws the denial of reasonable accommodation as a form of prohibited disability-based discrimination.
- Adopting a human rights-based approach to disability and collecting data on children with disabilities.



- Setting up a comprehensive strategy for the inclusion of children with disabilities and developing an efficient system for diagnosing disability, which is necessary for putting in place appropriate policies and programmes and a specific budget for children with disabilities.

Migrants, refugees and asylum seekers

- Expediting the adoption of a policy and legislative framework to guarantee the security of women and girls who are asylum seekers, refugees, returnees or displaced; ensuring their access to food supplies, clean water and sanitation, shelter, health care and education; and facilitating their acquisition of identity documentation.
- Ensuring that all migrant workers and members of their families on its territory or subject to its jurisdiction, whether documented or not, enjoy the rights recognized by the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families without discrimination.