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## U.S. Department of State

### Niger Country Report on Human Rights Practices for 1996

Released by the Bureau of Democracy, Human Rights, and Labor, January 30, 1997.

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#### NIGER

Niger began the year as a multiparty parliamentary democracy, but on January 27 a group of army officers led by then Colonel Ibrahim Mainassara Bare overthrew the elected government. The leaders of the coup d'etat quickly established a Military Council of National Salvation (CSN) and a subordinate interim cabinet. The CSN suspended the 1992 Constitution, dissolved the National Assembly, implemented a state of emergency, and temporarily prohibited political activity. Top civilian government leaders were put under house arrest. The Government subsequently organized a Constitutional Conference, held a referendum on the new Constitution, and conducted a seriously flawed presidential election, which was won by Bare, the coup leader. November legislative elections were boycotted by the opposition. Progovernment parties and sympathizers claimed all 80 National Assembly seats.

Security forces consist of the army, the Republican Guard, the gendarmerie (paramilitary police), and the national police. The police and the gendarmerie traditionally have primary responsibility for internal security. However, since the coup the army has had a much more prominent role. The January coup was led by army officers with some support from the gendarmerie. Since the coup, members of all security forces have committed human rights abuses.

The economy is based mainly on traditional subsistence farming, herding, small trading, and informal markets. Less than 15 percent of the labor force is in the modern sector. Uranium is the most important export. Per capita income is less than \$260. Persistent drought, deforestation and soil degradation, low literacy, a flat uranium market, high import prices, and burdensome debt further weakened the already

troubled economy. Niger is heavily dependent on foreign assistance, and one of the aftermaths of the coup was a sharp fall in foreign aid.

The Government's human rights record worsened in 1996 as the Government committed numerous abuses. The fraudulent presidential election effectively disenfranchised Nigeriens, preventing them from exercising their right to change their government. Security forces beat political opponents and violated laws governing searches, treatment of prisoners, and length of detention. Prison conditions remained poor. The overloaded judicial system and delays in trials resulted in long periods of pretrial confinement. The Government intimidated the private press and radio, arresting and mistreating journalists and publishers, and temporarily closing two private radio stations. Civic and political organizations were banned from holding gatherings or demonstrations for much of the year, under a declared state of emergency and other bans. Societal discrimination and domestic violence against women continued to be serious problems. Female genital mutilation persists.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1 Respect for the Integrity of the Person, Including**

#### **Freedom from:**

##### **a. Political and Other Extrajudicial Killing**

There were no reports of political or other extrajudicial killings by government officials.

Violence in the North has been minimal since the signing of the April 1995 peace pact between Tuareg separatists and the Government. A similar agreement in April between the Government and the Arab/Toubou/Kanouri Front (CRA) based in eastern Niger, which seeks independence for its region, also lessened sporadic violence in that area. After an attack in February on Dirkou and its small military base by a CRA subgroup, the Government reported CRA casualties of 12 dead and 8 wounded. Skirmishes with the same group in the Lake Chad area in January and February produced a similar number of deaths with casualties on both sides. The group also killed and wounded several civilian road workers in an attack in June in the same area. The Government has not yet met its peace accord commitment to disarm Arab militias and has produced no report of a promised investigation into the 1995 killing of a Tuareg rebel leader, reportedly by Arab militia.

##### **b. Disappearance**

There were no reports of politically motivated disappearances.

##### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Although the Constitution prohibits such practices, there were reports that police or military personnel beat or otherwise abused several political leaders and their supporters. Mamane Abou, editor of the weekly newspaper, *Le Republicain*, and president of the private press association, was detained briefly by police on July 21, who shaved his head bald to humiliate him (see Section 2.a.).

Prisons are underfunded and understaffed. They are overcrowded and diet, health, and sanitary conditions for prisoners are very poor. For example, the Agadez prison's health budget for 182 prisoners was \$825 a year.

Prisoners are segregated by sex. Family visits are allowed, and prisoners can receive supplemental food and other necessities from their families. There are no reports of unduly harsh treatment, beyond the very poor conditions of detention noted above, but petty corruption among prison staff is also reported rampant.

Human rights monitors visit the prisons.

#### d. Arbitrary Arrest, Detention, or Exile

Although the Constitution prohibits arbitrary detention, and laws officially prohibit detention without charge in excess of 48 hours, police violate these provisions in practice. If police fail to gather sufficient evidence within the detention period, the prosecutor gives the case to another officer, and a new 48-hour detention period begins.

Authorities detained numerous political party leaders, generally for brief periods, and sometimes roughly treated them, as part of an effort to intimidate the opposition. Authorities placed the four political party candidates who contested the July 7 to 8 presidential elections under house arrest after the elections and held them until July 22. One candidate, Nigerien Party for Democracy and Socialism (PNDS) head Mahamadou Issoufou, was put under house arrest again by authorities from July 27 to August 12, and two other party leaders were detained for 3 days, after party members staged a protest on July 27 against the election fraud. In February authorities arrested eight members of former President Ousmane's party, reportedly to prevent them from helping him seek asylum in a Western embassy. They were released within a few days; no charges were filed. Two PNDS party leaders were detained by soldiers for 5 days in early May without explanation; one was beaten. The Government arrested several dozen protesters at the time of the July elections but released them by July 22. At least one, possibly more, were beaten while in custody.

The judicial system is seriously overloaded. There are no statutory limits on pretrial confinement of indicted persons; detention frequently lasts months or years. As many as 80 percent of prisoners in Niamey are awaiting trial.

The law provides for a right to counsel, although there is only one defense attorney known to have a private practice outside the capital. A defendant has the right to a lawyer immediately upon detention. The State provides a defense attorney for indigents.

Bail is available for crimes carrying a penalty of less than 10 years' imprisonment. Widespread ignorance of the law and lack of financial means prevent full exercise of these rights.

In August President Bare pardoned most prisoners with less than 2 years yet to serve and substantially reduced the sentences of most others. All juveniles, nursing and pregnant women, elderly prisoners, and those with certain illnesses were released regardless of the time remaining on their sentences.

The Constitution prohibits exile, and there were no reports of its use.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. Although the Supreme Court has on occasion asserted its independence, human rights groups assert that family and business ties influence the lower courts and undermine their integrity. Judges sometimes fear reassignment or having their financial benefits reduced if they render a decision unfavorable to the Government, though such coercive tactics

are reportedly less frequently used.

Defendants and prosecutors may appeal a verdict, first to the Court of Appeals, then to the Supreme Court. The Court of Appeals reviews questions of fact and law, while the Supreme Court reviews only the application of law and constitutional questions.

A traditional chief or a customary court try cases involving divorce or inheritance. Customary courts, located only in large towns and cities, are headed by a legal practitioner with basic legal education who is advised by an assessor knowledgeable in the society's traditions. The judicial actions of chiefs and customary courts are not regulated by code, and defendants may appeal a verdict to the formal court system. Women do not have equal legal status with men and do not enjoy the same access to legal redress (see Section 5).

The law provides that the Government constitute a State Security Court to try high crimes against the State in secret, but due process provisions still apply. Civil and criminal trials are public except in security-related cases. Defendants have the right to counsel, to be present at trial, to confront witnesses, to examine the evidence against them, and to appeal verdicts. The Constitution affirms the presumption of innocence.

The law provides for counsel at public expense for minors and indigent defendants charged with crimes carrying a sentence of 10 years or more. Although lawyers comply with government requests to provide counsel, they are generally not remunerated by the Government.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law requires that police have a search warrant, normally issued by a judge. Police may search without warrants when they have strong suspicion that a house shelters criminals or stolen property. The police routinely violated required procedures when invading the homes and interfering in the affairs of political party leaders and journalists after the July presidential elections. These actions confirm human rights organizations' reports that police often conduct routine searches without warrants.

### **Section 2 Respect for Civil Liberties, Including:**

#### a. Freedom of Speech and Press

Like its predecessor, the 1996 Constitution, approved by referendum in May, provides for freedom of speech and the press. Nevertheless the current Government, following the January coup and through the fraudulent July presidential elections, took actions to limit press freedom and stifle political discussion, through intimidation, harassment, and detention. The editor of *Le Soleil* newspaper was kidnaped and beaten by unknown persons, presumed to be government agents. The Government detained the editor of *The Alternative* newspaper in April, after he published an article critical of the Bare regime. On May 3, an edition of the (antimilitary) *Tribune du Pöeple* containing an editorial critical of the Government was seized at the printers. On May 5, the Government detained and imprisoned without charges the editor of *Tribune du Pöeple*.

On July 7, during presidential voting and after independent radio station R and M aired comments by a party candidate critical of the regime, police temporarily shut down the station and arrested the editor in chief. On July 8, military authorities closed independent radio station Anfani, which had also carried

remarks the previous day by a political leader opposing Bare. The station was not allowed to resume broadcasting until early August. Mamane Abou, editor of the weekly newspaper, *Le Republicain*, and president of the private press association, was detained briefly by police on July 21, who shaved his head bald to humiliate him. Police also arrested Amadou Hamidou, publisher of *Tribune du Puple*, in July. British Broadcasting Corporation correspondent Abdoulaye Seyni was briefly detained by the Government and released in early August. All arrested persons listed above were released after brief detention.

Despite these governmental efforts to control media content, the local independent press remained relatively assertive in protesting the July electoral fraud and other government actions. No newspaper was forced to shut down. Foreign journals circulated and reported freely.

Government harassment of the private media continued during the legislative elections with the private radio station Anfani being most repeatedly targeted. Station managers decided to suspend all news programming for the weekend of the election because of concerns that government officials would arbitrarily detain both staff and management.

The most important public medium is the government-operated, multilingual national radio service. It provided only minimal air time for opposition political activities. The Government publishes the French-language daily, *Le Sahel*, and its weekend French edition. There are about 12 private French and Hausa language weeklies or monthlies, some published by political parties.

Academic freedom is respected.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association. Nevertheless, the Government retains the authority to prohibit gatherings either under tense social conditions or if advance notice (48 hours) is not provided. A decree prohibiting political party activity remained in effect from January until May 20. In addition, the Government declared a state of emergency after the coup, under which it selectively banned public assemblies or gatherings until lifting it on May 23. Authorities used a ban on public demonstrations issued after the July elections to mute public protest of the results. On July 10 and 11, police dispersed opposition supporters, who defied the ban in large numbers in Niamey and Zinder respectively, with tear gas and baton charges, assisted by armed forces personnel.

Opposition parties which boycotted the legislative elections were not permitted to hold meetings or demonstrations during the campaign period. Government spokesmen claimed that only parties contesting elections had such a right although the Constitution makes no such distinction.

Under the Constitution, Nigeriens may form political parties of any kind, except those that are based on ethnicity, religion, or region, and the Government respects this right in practice.

#### c. Freedom of Religion

The Government respects freedom of religion. Most Nigeriens practice Islam. Christians (including Jehovah's Witnesses) and Baha'i practice freely. Foreign missionaries work freely, but their organization must be registered as a Nigerien association.

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for freedom of movement. Neither emigration nor repatriation is restricted. The coup-installed Government closed the country's airports and land borders immediately following the coup but reopened them several days later.

Among the Hausa and Fulani peoples in eastern Niger, some women are cloistered and may leave their homes only if escorted by a male and usually only after dark. Security forces at checkpoints monitor travel of persons and the circulation of goods, particularly near major population centers and sometimes demand extra payments. Attacks by bandits on major routes to the North have declined considerably, although people often travel in convoy with military escort for security.

The Government cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees.

The Government has provided first asylum in the recent past to several thousand Chadian refugees. Thousands of Malian refugees have resided in recent years in western Niger. The issue of first asylum is not known to have arisen in any new cases in 1996. There are 1,500 Chadian refugees in eastern Niger. In addition, 20,000 to 25,000 Tuareg refugees from Mali reside in Niger. A tripartite agreement was negotiated by Mali, Niger, and the UNHCR for the repatriation of Malian refugees beginning in early 1997. Many refugees have begun to return voluntarily to Mali with assistance from the Governments of Niger and Mali, the International Committee of the Red Cross, and the UNHCR.

There were no reports of forced repatriation of refugees. There were no reports of forced return of persons to a country where they feared persecution.

### **Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government**

President Bare, through the Military Council of National Salvation and his Council of Ministers, rules by decree. The January coup d'etat led by then Colonel Bare overthrew the democratically elected government. In the days following the coup, Bare and the coup leadership dissolved the National Assembly; banned political party activity; suspended the 1992 constitution; and declared a state of emergency. Bare scheduled presidential elections for July and legislative elections for a new National Assembly for September, later postponed until November.

In a May 10 referendum with a low turn-out, voters approved a new Constitution that reiterates rights granted under the 1992 document. Citizens 18 years of age and over can vote, and balloting is by secret ballot. The Constitution provides for a political system with checks and balances, an ethnically representative 83-seat National Assembly, and an independent judiciary. The most prominent constitutional changes are the provisions for a stronger presidency, which make the Prime Minister more clearly subordinate to the President.

The military government organized presidential elections on July 7 and 8, in which General Bare (promoted from colonel in May), the leader of the coup, ran against four political party candidates. However, midway through the voting, the regime dismissed the independent electoral commission, took control of ballot boxes, and prevented political party representatives and neutral observers from monitoring the vote tabulation. Bare claimed 52 percent of the votes, a result widely viewed as fraudulent by both local and international observers. An association of nongovernmental organizations (NGO's), the Collectif, issued in mid-July a very critical report on the Government's organization of the presidential elections, including the vote-counting phase. The report cited numerous violations of the electoral code and concluded that the elections were not transparent and therefore not credible. General Bare was sworn into office on August 7.

Circumstances were similar for the legislative elections, postponed until November 23 from their original September date. The Government and opposition attempted to negotiate terms for full and free political participation, with the opposition seeking to annul the presidential election and further postpone legislative elections. During this period of negotiation, the Government arrested Bello Tiousso Garba, the leader of a small opposition party, after he criticized the Government in an interview on a local radio station. Although Garba was released within 24 hours, the Minister of the Interior subsequently prohibited the party from all activities for 3 months. Ultimately the sides could not reach agreement, and when the Government moved forward with the elections as scheduled, the opposition called for a boycott. The elections were characterized by a modest turnout with the Government claiming 36 percent participation, but foreign observers indicated a more accurate figure was 25 percent.

Women traditionally play a subordinate role in politics. The societal practice of husbands' voting their wives' proxy ballots effectively disenfranchises many women. This practice was widely used in recent presidential and National Assembly elections.

In the now-dissolved National Assembly, 3 of the 83 members were women. In the Assembly elected in November only 1 of the 80 elected members is female. The last Government appointed 5 women to ministerial positions; the present Government has appointed 4 women. Many women were active in the brief summer electoral campaign, focusing on getting out the female vote, voter registration, and organizing campaigns.

#### **Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

Several independent human rights groups and associations operate without explicit governmental hindrance, although a certain atmosphere of intimidation has prevailed since the coup. Dominant among the associations are the Nigerien Association for the Defense of Human Rights (ANDDH); Democracy, Liberty, and Development (DLD); the National League for Defense of Human Rights; Adalci; the Network for the Integration and Diffusion of Rights in the Rural Milieu (known as "Ridd-Fitla"); and the Association of Women Jurists of Niger. There are several other women's rights groups. The International Committee of the Red Cross is active in Niger.

An association of local NGO's representing all political views created an umbrella association, the "Collectif", to promote human rights and democracy. (see Section 3)

#### **Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status**

The Constitution prohibits discrimination based on sex, social origin, race, ethnicity, or religion. In practice, however, there is discrimination against women, children, ethnic minorities, and disabled persons, including limited economic and political opportunities.

##### **Women**

Domestic violence against women is widespread, although firm statistics are lacking. Wife beating is reportedly common, even in upper social strata. Families often intervene to prevent the worst abuses, and women may (and do) divorce because of physical abuse. While women have the right to seek redress in the customary or modern courts, few do so from ignorance of the legal system, fear of social stigma, and fear of repudiation. Women's rights organizations report that prostitution is often the only economic alternative for a woman who wants to leave her husband.

Despite the Constitution's provisions for women's rights, the deep-seated traditional belief in the submission of women to men results in discrimination in the political process (see Section 3), in education, employment, and property rights. Discrimination is worse in rural areas, where women do much of the subsistence farming as well as childrearing. Despite being 47 percent of the work force, women have made only modest inroads in civil service and professional employment and remain underrepresented in these areas.

Women's inferior legal status is evident since, for example, a male head of household has certain legal rights; but divorced or widowed women, even with children, are not considered to be the heads of their households. In 1995 the Government considered a draft family code modeled on codes in other African Muslim countries intended to eliminate gender bias in inheritance rights, land tenure, and child custody, as well as end the practice of repudiation, which permits a husband to obtain an immediate divorce with no further responsibility for his wife or children. In June 1995, when Islamic associations condemned the draft code, the Government suspended discussions and has taken no further action. Islamic militants reportedly threatened women who supported the code with physical harm.

### Children

Although the Constitution provides that the State promote children's welfare, financial resources are extremely limited. Only about 25 percent of children of primary school age attend school, and about 60 percent of those finishing primary school are boys. The majority of young girls are kept at home to work and rarely attend school for more than a few years, resulting in a female literacy rate of 7 percent versus 18 percent for males. Tradition among some ethnic groups allows young girls from rural families to enter marriage agreements on the basis of which girls are sent at the age of 10 or 12 to join their husband's family under the tutelage of their mother-in-law. There are credible reports of underage girls being drawn into prostitution, sometimes with the complicity of their families.

According to international experts, female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is practiced by several ethnic groups in the western and the far eastern areas of the country. Clitoridectomy is the most common form of FGM.

### People with Disabilities

The Constitution mandates that the State provide for people with disabilities. However, the Government has yet to implement regulations that call for accessibility and education for those with special needs.

### National/Racial/Ethnic Minorities

Ethnic minorities--Tuareg, Fulani, Toubou, Kanouri, and Arab--continue to assert that the far more numerous Hausa and Djerma ethnic groups discriminate against them. The Hausa and Djerma dominate government and business. The Government has supported greater minority representation in the National Assembly and increased education and health care. It supports in principle the April 1995 peace accord calling for special development efforts in the north where the Tuareg population is dominant. However, nomadic peoples, such as Tuaregs and many Fulani, continue to have less access to government services.

## Section 6 Worker Rights

### a. The Right of Association

The Constitution provides formal recognition of workers' longstanding right to establish and join trade unions. However, more than 95 percent of Niger's work force is employed in the nonunionized subsistence agricultural and small trading sectors.

The National Union of Nigerien Workers (USTN), a federation made up of 42 unions, represents the majority of salary earners; most are government employees, such as civil servants, teachers, and employees in state-owned corporations. The USTN and the affiliated National Union of Nigerien Teachers (SNEN) profess political autonomy but, like most unions, have informal ties to political parties. There is also an independent magistrate's union.

However, in February the Government suspended the two national police unions, with the purported aim of restoring order within the police service. It also suspended the customs, and water and forest workers' unions in April, because of their "paramilitary nature."

The Constitution provides for the right to strike, except for security forces and police. In March 1994, the National Assembly passed a new strike law specifying that labor must give notice and begin negotiations before work is stopped; that public workers must maintain a minimum level of service during a strike; that the Government can requisition workers to guarantee minimum service; and that striking public sector workers will not be paid for the time they are on strike. The latter condition already prevailed in the private sector.

During the year, labor challenged the Government on the budget and a new law regulating strikes. The USTN staged several short strikes, most over pay demands. Civil servants struck for 2 days over salary arrears in January, and uranium and coal mine workers struck for several days in February and March over expanded pay and benefits. Television journalists and announcers struck briefly in March over allowances. In June USTN orchestrated a 48-hour general strike to protest salary arrears that it claimed were due to civil service and parastatal workers. These strikes largely failed to achieve their objectives but demonstrated that the right to strike, within accepted procedures, would be honored. Following the tainted July presidential elections, USTN called a poorly heeded strike to protest the dissolution of the independent electoral commission midway through the voting and vote counting. However, the Government announced that the strike was illegal, because its goal was not to advance workers' "material and moral" interests but was only to make a "political demand" outside the unions' competence.

The USTN is a member of the Organization of African Trade Union Unity and abides by that organization's policy of having no formal affiliations outside the African continent. However, it enjoys assistance from some international unions, and individual unions such as the teacher's union are affiliated with international trade secretariats.

#### b. The Right to Organize and Bargain Collectively

In addition to the Constitution and the Labor Code, there is a basic framework agreement, negotiated by the USTN's predecessor, employers, and the Government, which defines all classes and categories of work, establishes basic conditions of work, and defines union activities. In private and state-owned enterprises, unions widely use their right to bargain collectively with management without government interference for wages over and above the statutory minimum as well as for more favorable work conditions. Collective bargaining also exists in the public sector. However, since most organized workers, including teachers, are government employees, the Government is actually involved in most bargaining agreements. The USTN represents civil servants in bargaining with the Government, and labor/management agreements apply uniformly to all employees.

The Labor Code is based on International Labor Organization principles; it protects the right to organize and prohibits antiunion discrimination by employers. Labor unions reported no such discrimination.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The Labor Code prohibits forced or compulsory labor, except for legally convicted prisoners. There were no reports of violations.

#### d. Minimum Age for Employment of Children

Child labor in nonindustrial enterprises is permitted by law under certain conditions. Children under the age of 14 must obtain special authorization to work, and those 14 to 18 years of age are subject to limitation on hours (a maximum of 4.5 hours per day) and types of employment (no industrial work) so that schooling may continue. Minimum compulsory education is 6 years, but far fewer than half of school-age children complete 6 years of education.

The law requires employers to ensure minimum sanitary working conditions for children. Law and practice prohibit child labor in industrial work. Ministry of Labor inspectors enforce child labor laws. Child labor is practically nonexistent in the formal (wage) sector, although children work in the unregulated agricultural, commercial, and artisan sectors. Rural children (the majority) regularly work with their families from a very early age--helping in the fields, getting firewood and water, and other similar tasks. There is no official regulation of this labor.

#### e. Acceptable Conditions of Work

The Labor Code establishes a minimum wage for salaried workers of each class and category within the formal sector. The lowest minimum is approximately \$38 (cfa 20,500) per month. Additional salary is granted for each family member and for such working conditions as night shifts and required travel. Minimum wages are not sufficient to provide a decent living for workers and their families. Most households have multiple earners (largely informal commerce) and rely on the extended family for support.

The legal workweek is 40 hours with a minimum of one 24-hour rest period. However, for certain occupations the Ministry of Labor authorizes longer workweeks--up to 72 hours. There were no reports of violations.

The Labor Code also establishes occupational safety and health standards; Ministry of Labor inspectors enforce these standards. Due to staff shortages, however, inspectors focus on safety violations only in the most dangerous industries: mining, building, and manufacturing. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, unions say workers should be better informed of the risks posed by their jobs. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs.

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