

International **CURE**

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Prison and Justice Assessments in Africa

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Niger Assessment

1. FAIR JUSTICE

1.1 Judicial system capability.

The judicial system here in Niger has many shortcomings which are due to the vast poverty of the country. They are manifested by corruption led by the rich and delays in processing. All this makes the system not fair to the people, especially the poor.^[1]

Detainees have a right to prompt judicial determination, and this generally occurred in practice. Security forces usually informed detainees of the charges against them promptly; however, detainees involved with sensitive cases were sometimes held longer than legally permitted. There is a functioning bail system for crimes carrying a penalty of fewer than 10 years' imprisonment.^[2]

There were serious backlogs in the judicial system. The law provides for a maximum pretrial confinement of 30 months for serious crimes and 12 months for minor offenses, with special extensions in certain sensitive cases; however, some persons waited as long as six years to be tried. At year's end, 70 percent of the prisoners in Niamey's civil prison were awaiting trial. Trial delays occurred due to factors such as lengthy legal procedures, inadequate resources, staff shortages, and corruption.²

1.2 Legal assistance to persons living in poverty.

The indigent defendants have lawyers for their defense, provided by the judicial system. In the police station there are no legal or para legal services. The incarcerated persons have no access to legal services to understand the law and procedures that apply to themselves. Only parents and NGOs can help, such as ANDDH (Association Nigérienne pour la Défense des Droits de l'Homme) or authorities of the Judiciary, to provide information on the law and advice.¹ Those arrested must be notified of their right to a lawyer within 24 hours. Indigents are provided a lawyer by the government. Widespread ignorance of the law and lack of financial means prevented many from fully exercising their right to an attorney and using the bail system.²

1.3 Justice for women and juveniles.

Niger is a country 95% Muslim, and the entire system is heavily influenced by the practices of this religion. Some effort is made to make the system fair to the women and juveniles. All cases of violence are judged as possibly acts condoned by Islam. In recent times the cases of child abuse declined slightly because of the legal victory of a young Nigerian who underwent a forced

marriage as a minor. Children are incarcerated from 17 years. From 10 to 13 years they are only sent to a rehabilitation center in Dakoro(except for murder).¹

Rape is punishable by 10 to 30 years' imprisonment, depending upon the circumstances and age of the victim. The law does not explicitly recognize spousal rape but appears to cover it in practice.²

Domestic violence against women was widespread, although reliable statistics were also not available. Husbands commonly beat their wives. The law does not explicitly prohibit domestic violence; however, a woman can sue her husband or lodge criminal charges for battery, penalties for which ranged from two months in prison and a 10,000 CFA (approximately \$20) fine to 30 years' imprisonment. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the legal system and fear of repudiation or social stigma. The Ministry of Women's Promotion and Children's Protection, international organizations, NGOs, and women's organizations conducted public awareness campaigns on violence against women through several events that received wide media coverage.²

The law does not specifically prohibit trafficking in persons, and persons were trafficked to, from, and within the country. Traffickers could be prosecuted under a law that criminalizes slavery and coerced labor; punishments ranged from 10-30 years' imprisonment. The country was a source of women trafficked to Nigeria, North Africa, Europe, and the Middle East for domestic servitude and commercial sexual exploitation. Young boys from neighboring countries were trafficked into the country for labor exploitation. Child prostitution was especially prevalent along the main East-West highway, particularly between the cities of Birni n'Konni and Zinder²

1.4 Unfair treatment by discrimination.

Niger is a country where a foreigner can gain advantage, and the poor are disadvantaged in favor of the rich. Then, too, there are cases of political discrimination, as in most African countries.¹

1.5 Arbitrary or severe penalties.

All sanctions given by the judicial system allow legal procedures for decriminalization when excessive cruelty makes it necessary. The death penalty no longer exists; however there remains life sentence with mostly no possibility of parole.¹

2. PRISON SYSTEMS BASICS

Corruption among prison staff continued. Officials demanded bribes to let prisoners leave prison for the day and serve their sentences in the evenings or serve their sentences in the national hospital in Niamey.²

2.1 Structures and alternatives.

The most dangerous criminals are separated from lesser incarcerated persons. Also, women and men are separated from children; and men are separated from women. When a drug addiction is added to the ordinary case of conviction, the prison sentence still remains the only sanction here in Niger.¹

Under customary courts and traditional mediation, individuals do not have the same legal protections as those using the formal court systems. Traditional chiefs can act as mediators and counselors. They have authority to arbitrate in many customary law matters, including marriage, inheritance, land, and community disputes, but not in all civil issues. Chiefs received government stipends, but had no police or judicial powers. Customary courts, based largely on Islamic law and local tradition, are located only in large towns and cities and try civil law cases. A legal practitioner with basic legal training, advised by an assessor knowledgeable in the society's traditions, heads these courts. The judicial actions of chiefs and customary courts are not regulated by formal law, and defendants can appeal a verdict in the formal court system.²

2.2 Physical space and separations.

Overcrowding remains a major problem in Nigerian prisons, with 33 persons per 8 m². Even at this level, no action is taken by the authorities to improve this condition due to the very very poor country (Niger is one of the poorest in the world). Here, in prisons the un-convicted prisoners are separated from convicted prisoners, men from women, and children from men and women. Nothing is done in this direction for the elderly.¹

Prison conditions were poor and life threatening. Prisons were underfunded, understaffed, and overcrowded. For example, in Niamey's civil prison there were 718 prisoners in a facility built for 350.²

2.3 Pretrial services and process.

No assessment service exists in pretrial detention for the accused. No other release (e.g., in bond) is permitted. The time served in preventive detention is subtracted from a subsequent prison sentence.¹

2.4 Standards.

Living conditions in prisons are regulated by the code of prison services, but none of these conditions are met. The prisoners and prison officers are left to themselves (there are no visits by judges and no prison inspections, except by the commissioner of prisons).¹

3. PROTECTION OF INCARCERATED PERSONS

3.1 Grievances.

Regulations regarding the behavior of inmates in prison are implemented by the guards, but their application is not what it should be. The detainees have no opportunity to complain to the central authorities, and can not be entrusted to members of their families. NGOs, with official permission from the authorities, are the only representatives of the community allowed to visit.¹

3.2 Abuse of incarcerated persons.

The humane treatment of humans are not followed; the dignity of the human being is violated; and detainees are subjected to all treatments that you can imagine: corporal punishment, torture, the black hole, sexual abuse (between prisoners), threats and other collective punishments; everything is permitted. Adequate support is not provided, by the officers of the law, to detainees who suffered such treatment. The gangs are the law in between, and the law of the strongest is raging.¹

Niger does little to secure human rights at both international and regional levels. In the application of these instruments to the legislation in the country, only a few associations of human rights are active. The adoption of the Optional Protocol to the UNCAT is not supported.¹

3.3 Sexual security.

No protection against sexual abuse of detainees is provided,-not even for abuse from other detainees. The eyes of the authorities are powerless regarding behavior leading to the evolution of AIDS and increasing homosexuality.¹

3.4 Correctional Officers.

The detention officers receive a moderate training initially, but no follow-on training, because of the lack of means of the state. Information on human rights and other human principles are not taught.¹

4. HEALTH SERVICES FOR INCARCERATED PERSONS

4.1 Health Care.

Nutrition, sanitation, and health conditions were poor, and deaths occurred from AIDS, tuberculosis, and malaria.²

6. SOCIAL RIGHTS OF INCARCERATED PERSONS

6.2 Visitation.

Family visits were allowed, and prisoners could receive supplemental food, medicine, and other necessities from their families.²

Human rights observers, including the International Committee of the Red Cross (ICRC), the National Human Rights and Fundamental Liberties Commission, the Collective of Human Rights and Democracy Association, and media representatives were granted unrestricted access to prisons and detention centers and conducted visits during the year. ICRC visits were in accordance with its standard modalities.²

^[1] A knowledgeable source in Niger.

^[2] U.S. Human Rights 2008 Country Reports, <http://www.state.gov/g/drl/rls/hrrpt/2008/af/119017.htm>