

**INITIAL AND PERIODIC
REPORT**

**OF THE REPUBLIC OF NIGER TO THE AFRICAN
COMMISSION ON HUMAN AND PEOPLES' RIGHTS
(A.C.H.P.R)**

**ON THE IMPLEMENTATION OF THE AFRICAN CHARTER
ON HUMAN AND PEOPLES' RIGHTS
1988-2002**

INTRODUCTION

On 15th July, 1986 the Republic of Niger ratified the African Charter on Human and Peoples' Rights, adopted in Nairobi (KENYA) in June 1981. In compliance with article 62 of the Charter, Niger should have presented its initial report on measures taken with a view to giving effect to the rights and freedoms set out in the Charter.

Also, the 1st, 2nd, 3rd, 4th, 5th and 6th periodic reports should have been presented respectively in 1990, 1992, 1994, 1996, 1998 and 2000. The 7th report is scheduled to be presented this year. However difficulties of all sorts; military coup d'Etats, political instability and armed rebellions, as well as the socio-economic constraints that the country had to bear throughout the decade of the 1990s have not allowed the authorities of Niger to fulfil this obligation.

By reason of the foregoing, the government of Niger fervently wishes that the present report be considered as a basic report, replacing all the other seven that Niger should have presented at the dates indicated above. The structure of the report, which is in line with the general guidelines drafted by the African Commission on Human and Peoples' Rights, is as follows:

Chapter I: Profile of the Republic of Niger.

Chapter II: Legal system, system of government and relations between institutions.

Chapter III: Main texts of domestic law relating to the promotion and protection of Human and Peoples' Rights.

Chapter IV: Main regional and international Human rights instruments to which the Republic of Niger is a party.

Chapter V: Measures taken by Niger to ensure the effective enjoyment of the rights enshrined in the African Charter on Human and Peoples' Rights.

Chapter VI: Efforts deployed by the government with a view to improving the conditions of women, children and the disabled.

Chapter VII: Measures taken to protect families and encourage their cohesion.

Chapter VIII: Efforts deployed in the area of the right to human rights education.

Chapter IX: Difficulties encountered in implementing the Charter, due to political, economic and social conditions.

Chapter X: Compliance with the Charter by Niger in the conduct of its international relations.

Chapter I

Profile of the Republic of Niger

The Republic of Niger is a former French colony that attained independence on 3rd August 1960 and became a member of the United Nations Organisation (UN) in September 1964. It is also a member of the former Organisation of African Unity (OAU), now the African Union, of the Economic Community of West African States (ECOWAS), the *Conseil de l'Entente* as well as other international organisations such as the *Organisation Internationale de la Francophonie (OIF)* and the World Trade Organisation (WTO).

I - Territory, population, economy

A) Territory

Niger is a vast landlocked country with a surface area of 1 267 000 sq. kilometres. It is situated between the 12th and the 24th parallels of the northern latitude and is bordered by the following countries:

- Burkina Faso and Mali, to the West
- Chad, to the East
- Libya and Algeria to the North
- Nigeria and Benin to the South

Niger has three climate zones:

- A desert and semi-desert zone that covers about 67% of the surface area of the country and which is due to the continental and latitudinal position of the country. These zones are characterised by arid and semi-arid lands and they receive very little rainfall, although there are a few, small humid regions in the south-west.
- A sahelian zone that covers about 30% of the territory. This is the agro-pastoral zone and the area of rain-fed cultivation.
- A sudanese zone that covers the south-eastern part of the country and which represents 3% of the national territory. It is characterised by the abundant and highly varied plant species that are found there. The vegetation is made up savannahs with trees, small bushes and grasslands, alongside a few thin forests.

A) Population

The population of Niger is estimated at about 11 millions inhabitants as at 1st January 2000. Women represent 50.3% of this population.

The population is characterised by a very high growth rate, as well as its extreme youth. Indeed, one out of two people in Niger is below the age of 15 years.

The population is Muslim in its majority (98.7%) and is made up mainly of eight ethnic groups, that is, by decreasing order of numbers: the Hausas (56%), the Djerma – Songhais (22%), les Peulhs (8.5%), the Kanouris (4.5%) and the Tuaregs, Arabs, Toubous and the Grumanchis (1 %).

The official language of the country is French.

The population of Niger is very unevenly distributed on the national territory. 75% of the population lives on one quarter of the surface area of the country, leading to serious imbalances and thus accelerating the degradation of land and the ecological environment. Life expectancy is 45 years for women and 44 years for men. Population growth rate is 3.6% in rural areas.

The national average school enrolment rate is 34%. This rate varies from region to region between 12% and 60%.

The national average literacy rate is 19.9%. The proportion of literate women is lower than men; 11 %, as against 30% for men.

In the area of urbanisation, the growth rate of major urban centres is about 6%, with a tendency to accelerate due to the rural exodus caused among other things by persistent droughts; the reduction in production of food crops, leading to food insecurity and the growing pauperisation in rural areas.

A) The Economy

The economy of Niger depends heavily on subsistence agriculture, which occupies almost 82 % of the population living in rural areas. Niger is thus an agro-pastoral country. Its income is directly linked to the commercialisation of agricultural products and livestock and as such, it remains dependent on the vagaries of the climate.

PPP (purchasing power parity) income is US\$ 824. This is one of the lowest in the world (US \$ 836 for men and US \$ 671 for women).

Per capita GDP is around US \$ 850. The Human Development Index (HDI) classification places Niger among the lowest ranking countries in the world with an HDI of 0.298 in 1999.

II) The Political and Administrative Systems

A) The Political System

Niger became independent in 1960. From the political standpoint, this country is a peculiar case in West Africa. Indeed, its political environment has been characterised by upheavals that have seriously hampered the work of nation building. Between 1990 and 2000, Niger went through the following:

- A sovereign national conference.
- Three (3) Republics.

- Three (3) Presidential elections.
- Two (2) military coups d'Etats.
- Four (4) legislative elections.
- A dissolution of the National Assembly.

Since 1999, Niger once again enjoys the rule of law as instated at the end of the National Conference in 1991, thanks to the adoption on 9th August 1999 of the Constitution of the 5th Republic. The constitution set up a semi-presidential regime in a fully multiparty environment (35 political parties have been recognised).

Under the terms of the Constitution, public authority is organised upon the principle of the separation of powers.

a) Executive power

The constitution of Niger sets out a bicephalous executive, with a President of the Republic and a Prime Minister who is head of government.

The President of the Republic is the Head of State. He symbolises National Unity. He is the custodian of national independence, national unity and territorial integrity. He ensures the respect of the constitution, as well as international treaties and agreements. He ensures that public authority functions smoothly and ensures the continuity of the state. The President of the Republic is elected for a five (5) year term of office, renewable once, by universal, free, direct, equal and secret suffrage.

The Prime Minister is appointed by the President of the Republic from a list of three personalities proposed by the parliamentary majority. The President of the Republic appoints and terminates the appointments of the other members of government on the basis of proposals made by the Prime Minister.

He may also terminate the appointment of the Prime Minister when the latter tenders his resignation.

The Prime Minister is the Head of Government. He defines and implements national policy. He is accountable to the National Assembly.

b) Legislative power

In Niger, legislative power is exercised by a single chamber called the National Assembly. It is made up of eighty-three (83) members, elected for five (5) years by universal, direct, free and equal suffrage. The vote is by simple majority, with only one round of voting for individual candidates when there is only one seat to be filled, and by lists for proportional representation according to the rule of the strongest average, when there are several seats to be filled. The National Assembly passes laws, approves taxes and supervises the actions of the government. It can pass a vote of no confidence in the government.

The constitution organises the relations between the executive branch and the legislative branch of power. The President of the Republic has the right to communicate with the

Assembly through messages addressed to it and members of government are allowed to make direct presentations. The National Assembly also has the right to supervise the action of government by calling it to account through written or oral questions which allow Ministers to provide information to members of the Assembly.

c) Judicial power

According to the provisions of the constitution, the judicial power is independent of the executive and legislative powers and is exercised by the Constitutional Court, the Supreme Court and regularly constituted Courts and Tribunals. Justice is rendered on the national territory on behalf of the people and in strict compliance with the rule of law as well as the rights and freedoms of citizens.

B) The administrative system

Article 127 of the constitution of Niger stipulates that administration of the national territory is founded on the principles of decentralisation and deconcentration.

The central administration is made up of ministerial departments that are created and organised by presidential decree. Their number varies according to the requirements of the time. Decree n° 2001 – 171 /PRN of 17th September 2001 sets the number at twenty-two (22), with two (2) state secretariats.

The deconcentrated administrative service is made up of external departments, situated in the seven (7) regional departments, with one in the urban community of Niamey. The regional departments are sub-divided into arrondissements and administrative posts. Each of these administrative bodies is headed by a prefect, sub-prefect and head of administrative post, who are the representatives of the executive power.

The process of decentralisation was initiated in Niger in 1964, but it is not yet effective. Two laws have been passed, setting out the institutional framework. These are law n° 2001-23 of 10th August 2001, setting up the administrative constituencies and territorial communities, and law n° 2002-012 of 11th June 2002, defining the fundamental principles of the free administration of the regions, departments and districts, as well as their areas of competence and resources.

Several other supplementary laws have also been passed. These are:

- Law n° 2002-13 of 11th June 2002, transferring competence to the regions, departments and districts.
- Law n° 2002-014 of 11th June 2002, creating the districts and indicating the names of their capitals.
- Law n° 2002-015 of 11th June 2002, creating the urban community of Niamey.
- Law n° 2002-016 of 11th June 2002, creating the urban communities of Maradi, Tahoua and Zinder.
- Law n° 2002-017 of 11th June 2002, defining the financial regime of the regions, departments and districts.

CHAPTER II

JUDICIAL SYSTEM, POLITICAL REGIME AND RELATIONS BETWEEN THE INSTITUTIONS

I) The judicial system

Before the arrival of the colonial authority, justice was the prerogative of chiefs (the family chief, the chief of a lineage or the sultan).

During the colonial period, the co-existence of two communities with different socio-cultural realities led the colonial legislator to adopt a judicial system based on dual jurisdictions, as was the case in its other possessions in Africa and elsewhere. These were the indigenous jurisdictions or those based on local law, and the jurisdictions based on French law or ordinary law.

Subjects with customary personal status appeared before the local law jurisdictions while the French and other assimilated persons appeared before the French law jurisdictions. A decree dated 30th April 1946 brought an end to this jurisdictional dualism and set up a system with a single jurisdiction for criminal cases, which fell under the sole competence of the ordinary law jurisdictions. The local law jurisdictions retained their competence to hear civil cases.

After independence, Niger did not sweep away all traces of its colonial history.

It thus maintained certain fundamental principles, in particular those of the hierarchy of jurisdictions, the system of appeal courts, making the rendering of justice professional, and the independence of the magistrature.

On the other hand, the need to simplify and save on material and human resources led it to carry out a number of reforms of the judicial organisation. The number of jurisdictions was therefore reduced and they were unified.

The fact that the system of dual courts was abandoned did not lead to the end of a dual body of laws applicable in the area of personal status. Customary law and modern law continue to co-exist. The innovation is in the fact that they are applied by the same courts, the ordinary law courts, which are headed by the Supreme Court, set up by law n° 61 – 28 of 15th July 1961. This law sets out the composition, organisation, attributes and functions of the Supreme Court. This law was supplemented by law n° 62-11 of 16th March 1962, which sets out the organisation and competence of jurisdictions in the Republic of Niger.

In order to make up for the lack of human resources and facilitate access to justice for citizens, the legislator instituted in all jurisdictions, except for the courts, a system of a single judge, in order to allow for better coverage of the national territory in judges and jurisdictions.

To date, the successive reforms have never affected the essence of the jurisdictional system and its fundamental principles. Thus, although the customary courts no longer exist, when jurisdictions sit on a customary case, they have to use the services of a customary assessor. As a result, reforms supplement and clarify the law of 16th March 1962 but do not amend it. This can be said of the law of 20th July 1962, which defines the headquarters, the

areas of competence and the composition of police courts, as well as the law of 21st February 1963, which defines the procedures to be followed before these bodies.

Two decrees, one dated 13th June 1962 and the other 25th August 1962 define the designation, status and role of the local law assessors before the substantive jurisdictions and the Supreme Court.

Currently, justice in Niger is rendered by one single order of jurisdiction, which includes the following:

- The Constitutional Court.
- The Supreme Court.
- The Appeal Courts.
- The regional tribunals.
- The external sections of regional tribunals.
- Judicial delegations.

A) The Constitutional Court

The court was set up by the constitution of 9th August 1999. It hears constitutional and electoral cases. It is responsible for examining the constitutionality of laws and ordinances and ensuring that international treaties and agreements comply with the constitution.

It interprets the provisions of the constitution and checks the regularity and fairness of referenda, presidential, legislative and local elections. It sits on electoral disputes and publishes the final results of elections.

Law n° 2000 – 11 of 14th August 2000 defines the organisation, functioning and procedure to be followed before the Constitutional Court.

B) The Supreme Court

This is the highest State jurisdiction in matters concerning the administration, judicial system and State accounts.

It comprises three (3) chambers; the judicial chamber, the administrative chamber and the accounts and budgetary discipline chamber.

It has jurisdictional power over all national jurisdictions with the exception of the Constitutional Court.

To this end, it rules on appeals for misuse of authority brought against decisions of the various administrative authorities, as well as on appeals for reasons of incompetence, violation of the law, of custom, and the principles of law, brought against decisions of last resort, or in any other matters from the lower jurisdictions.

Law n° 2000 – 10 of 14th August 2000 defines the organisation and functioning of the Supreme Court.

This jurisdiction is currently being broken up into the Supreme Court of Appeal, the Council of State and the Revenue Court.

C) The Courts of Appeal

There are two (2) such courts, one in Niamey and the other in Zinder.

The Court of Appeal of Niamey covers three (3) regional courts, (Niamey, Tahoua and Dosso), two (2) external sections (Tillabery and Konni) and thirteen (13) judicial delegations (Abalak, Douchi, Gaya, Ouallam, Téra, Say, Filingué, Kollo, Bouza, Illéla, Tchintabaraden, Madaoua and Keita).

The Court of Appeal of Zinder also covers (3) regional tribunals (Zinder, Maradi and Agades), two (2) external sections (Diffa and Arlit) and twelve (12) judicial delegations (Matamèye, Magaria, Tanout, Gouré, Maïné-Soroa, N'Guigmi, Bilma, Tessaoua, Madarounfa, Mayahi, Dakoro and Guindan–Roumdji).

The Court of Appeal hears civil, commercial and administrative cases, as well as minor offences and simple police cases. It also deals with appeals of rulings handed down by the regional tribunals, the external sections of tribunals and the judicial delegations.

On the other hand, appeals against the rulings in customary cases by judicial delegations are not referred to the Court of Appeal. In such cases, the appeal is brought before the regional tribunal or its external section.

Unlike the jurisdictions of first instance where there is a single judge, the Court of Appeal is presided over by a college of judges.

D) The Regional Tribunals and External Sections

There are six (6) regional tribunals: Niamey, Dosso, Tahoua, Maradi, Agades and Zinder and four (4) external sections: (Tillabery, Birni N'Konni, Arlit and Diffa).

These jurisdictions are judges in ordinary law for all matters. In criminal matters, they and the judicial delegations deal with misdemeanours and minor offences within the limits of the rules of competence set out in the rules of criminal procedure.

In civil, commercial and social affairs, they deal with all matters that do not fall under the competence of the judicial delegations. They also sit on all administrative disputes, except for appeals for misuse of authority. It is important to note that within each regional tribunal, there is one specialised judge who deals with minors.

E) The Judicial Delegations

These are the former police courts. They are twenty-five (25) in number and have a single judge, except in customary matters, where the judge is assisted by two assessors from the same customary group as the parties.

In criminal matters, the judicial delegation has the same attributions as the regional tribunal. It sits on misdemeanours and minor offences. It also has the competence to examine criminal cases. The judge in this case assumes the functions of prosecutor, examining judge and ruling judge.

In civil and commercial matters, the judicial delegations have the competence to sit on affairs concerning all persons, on all purely personal, property, civil and commercial matters, as well as any difficulties between property owners and tenants, up to a total amount of CFA 500 000.

The judge of the judicial delegation may also hear all matters between persons, involving local habits derived from custom, without any limit to the amount over which he has competence.

Before these jurisdictions, it is mandatory to first seek an amicable settlement in all matters except criminal matters.

F) The High Court of Justice

Alongside these ordinary law jurisdictions, there is the High Court of Justice. It has competence to try the President of the Republic for high treason, and members of government for acts that may be qualified as crimes or offences, committed in the exercise of their functions or while they were in office.

The High Court of Justice is made up of members of the National Assembly who are elected by the Assembly after each new legislative election.

The foregoing shows that in criminal matters political authorities are subject to the law in the same manner as ordinary citizens. They only have the privilege of a separate jurisdiction and even this privilege is shared with many other high-ranking civil servants such as magistrates and commanding officers.

Any citizen of Niger who considers that their rights and freedoms guaranteed by existing texts have been violated, has the right to turn to one or other of these jurisdictions to demand the respect of such rights. Such texts include international conventions that have been duly signed by Niger, especially the African Charter on Human and Peoples' Rights.

Where the person feels that the law has not been appropriately applied by the first judge, they may appeal this decision in accordance with the law.

Indeed, the right of appeal for cassation remains open for any decision handed down by a court of final appeal.

Also, article 113 of the constitution provides any person involved in a case with the possibility of pleading the unconstitutionality of a law before any jurisdiction, by way of an exception. The jurisdiction shall then suspend ruling on the case, pending the decision of the Constitutional Court, which must be rendered within 30 days.

When a provision is declared unconstitutional, it becomes null and void *ipso jure*.

It is important to note that when judges make their rulings, they are subject only to the authority of the law.

Rulings handed down by the jurisdictions of Niger are strictly applied only to those persons against whom they were handed down. The authorities are charged with ensuring their enforcement.

Every accused person has the right to be assisted by a lawyer of their choosing in order to protect and ensure the respect of their rights. For minors and persons accused of a crime the assistance of a lawyer is mandatory. The law therefore provides for the possibility of the court appointing a lawyer, where necessary.

Still concerning minors, it is important to emphasise that they are tried by a judge for juveniles in the case of minor offences, or by the juvenile court, in criminal cases. Juveniles are tried according to a special procedure, which focuses, not on punishing them, but on re-integrating them in society. These juvenile jurisdictions were created by order n° 99-11 of 14th May 1999, governing the creation, composition, organisation and competence of juvenile jurisdictions.

To ensure the smooth functioning of the judicial apparatus and thus better guarantee the protection of human rights and fundamental freedoms, the General Inspectorate of judicial services was set up in 1996 by decree n°2001 – 191/PRN /MJ of 19th October 2001, governing the organisation and attributions of the central services of the Ministry of Justice.

Under the terms of article 6 of that decree, the General Inspectorate is charged in particular with the following tasks:

- To check the strict application of existing legislative and regulatory texts by the jurisdictions.
- To provide regular and permanent supervision of the activities of all jurisdictions, with the exception of the Supreme Court.
- To carry out any occasional supervision exercise at the request of the Minister of Justice.
- To study the functioning of the judicial services.
- To draft reports of administrative investigations of magistrates or any other agents against whom action may be brought.
- To give an assessment on the general functioning of the jurisdictions inspected.
- After each inspection mission, to draft a report to be submitted to the Minister of Justice within two weeks.

Furthermore, a Higher Council of the Magistrature has been in existence in Niger since 1966. It was set up by law n° 66-009 of 20th March 1966, which defined its composition, organisation and functioning. This law was amended by ordinance n° 74 –11 of 26th July 1974 and subsequent amendments in 1992 and 1993.

The Council is presided over by the President of the Republic, as the guarantor of the independence of the Magistrature. It is made up of ex-officio and elected members.

The Higher Council of the Magistrature is charged with giving its view on the appointment of judges and on appeals for presidential pardon. The President of the Republic also consults the council on all issues relating to the independence of judges. It is the body in charge of discipline among judges.

It must however be noted that after more than 40 years of functioning, the judicial system in Niger is confronted with enormous difficulties, some of which are cited below:

- Insufficient human resources, with 134 active judges, 18 of whom are women. That is, one magistrate per 74000 inhabitants.
- Insufficient material resources, with infrastructure in bad conditions, and a lack of means of moving around.
- Insufficient financial resources. Justice has never received more than 0.56% of the national budget.
- Inappropriate applicable law. The law was drawn from several written and oral sources with no guarantee of coherence, and certain texts in force date back to colonial times.
- Interference, favouritism and corruption.

Faced with the multitude of problems confronting the system of justice in Niger and with the need to render to the system its letters of noblesse, the Ministry of Justice initiated a vast reform programme in 1999, focusing on four points:

- Drafting and implementing a programme of modernising and strengthening the judicial apparatus.
- Improving standards and ethics within the judicial apparatus.
- Harmonising and reforming existing texts.
- Disseminating information about law and humanising the prison environment.

In order to strengthen the reform process, the State of Niger set up a support programme for the judicial reforms in 2000. This was done in close collaboration with development partners whose desire is to make Niger's system of justice modern and effective.

To this end, a coordinating committee was set up and is currently actively pursuing its work.

II) The political regime

The constitution of the fifth republic set up a semi-presidential regime and a separation of powers between the executive, the legislative and the judicial branches.

According to article 35 of the constitution, the President of the Republic is the Head of the State. He symbolises national unity. He is the custodian of national independence and national unity. He ensures the respect of the constitution, as well as international treaties and agreements. He ensures that public authority functions smoothly and provides continuity to the State.

The President of the Republic appoints the Prime Minister from a list of three personalities proposed by the parliamentary majority.

The President of the Republic is the head of the administration. He is also the supreme commander of the armed forces. He makes civilian and military appointments by decree.

The Prime Minister is the head of government. He directs, guides and coordinates government action. The government defines and implements national policy. The administration and public forces are at the disposal of government, which renders account to the National Assembly.

According to article 66 of the constitution, legislative power is exercised by a single chamber, called the National Assembly and whose members bear the title of deputies. The National Assembly is made of up 83 deputies, including one (1) woman. They are elected for a period of five years. The National Assembly passes laws, approves taxes and supervises government action.

Judicial power is exercised by the Constitutional Court, the Supreme Court, the courts of appeal and tribunals set up in accordance with the constitution.

III) Relations between the institutions

1) Between the executive and the legislative branches

The constitution of the fifth republic requires that government render an account of its activities to the National Assembly, under whose control it exercises its privileges.

Parliament carries out its supervision of government action by way of written or oral questions, and also by hearing some members of government in various committees.

The National may also pass a vote of no confidence in the government.

It may be noted that both the government and the National Assembly concurrently have the right to initiate laws.

2) Between the legislative and the judicial branches

Article 112 of the constitution requires that organic laws be submitted to the Constitutional Court, which rules on their compliance with the constitution, before such laws are promulgated. The rules of procedure of the National Assembly also require the same procedure.

3) Between the judicial and the executive branches

Judicial power is independent of the executive and legislative powers. In exercising their functions, judges are independent and are subject only to the authority of the law. The President of the Republic is the guarantor of the independence of judges. He is assisted in this area by the higher council of the magistrature. People in judicial office may not hold any other public office nor have any professional or salaried employment, nor hold elected office.

Chapter III

Main texts of domestic law relating to the promotion and protection of human and peoples' rights

- The Constitution of 9th August 1999.
- Law n° 61-27 of 15th July 1961, setting up the code of criminal law.
- Law n° 61-33 of 14th August 1961, setting up the rules of criminal procedure.
- Law n° 62-11 of 16th March 1962, defining the organisation and competence of jurisdictions in the Republic of Niger.
- Law n° 62-12 of 13th July 1962, amended by order n° 96-039 of 29th June 1996, setting up the labour code.
- Law n° 65-23 of 15th May 1965 on matters in dispute concerning social security.
- Law n° 74-7 of 4th March 1974 setting out the forest legislation and its decree of enforcement n° 74 -226 /PCMS/MER/CAP of 23rd August 1974.
- Law n° 94-20 of 6th September 1994, instituting police courts in 14 capitals of arrondissements.
- Law n° 96-02 of 10th January 1996, creating the bailiff's statute.
- Law n° 98-06 of 29th April 1998, creating the notary's statute.
- Law n° 98-07 of 29th April 1998, setting out the legislation on hunting and protection of the fauna.
- Law n° 98-12 of 1st June 1998, setting out new guidelines in the school system.
- Law n° 98-56 of 29th December 1998, outline law on the management of the environment.
- Law n° 2000-08 of 7 June 2000, setting up a system of quotas in elective offices within the government and state administration.
- Law n° 2000-11 of 14th August 2000, defining the organisation, functioning and procedure to be followed before the Constitutional Court.
- Law n° 2000-10 of 14th August 2000, defining the composition, competence and functioning of the Supreme Court.
- Law n° 2000-06 of 7th June 2000, regulating the profession of business agent.
- Law n° 2001-23 of 10th August 2001, creating administrative constituencies and territorial communities.
- Law n° 2002-012 of 11 June 2002, defining the fundamental principles of the free administration of the regions, departments and districts, as well as their areas of competence and resources.
- Law n° 2002-13 of 11th June 2002, transferring competence to the regions, departments and districts.
- Law n° 2002-014 of 11th June 2002, creating the districts and indicating the names of their capitals.

- Law n° 2002-015 of 11th June 2002, creating the urban community of Niamey.
- Law n° 2002-016 of 11th June 2002, creating the urban communities of Maradi, Tahoua and Zinder.
- Law n° 2002-017 of 11th June 2002, defining the financial regime of the regions, departments and districts.
- Law n° 2001-040 of 31st December 2001, defining manifestly illegal orders.
- Ordinance n° 84-06 of 1st March 1984, amended by ordinance n° 96-019 of 19th May 1996, setting the rules governing associations.
- Ordinance n° 84-33 of 23rd August 1984, amended by ordinance n°99-17 of 4th June 1999, setting the nationality code of Niger.
- Ordinance n° 88-001 of 7th January 1988 amended by ordinance n° 99-15 of 14th July 1999, setting the magistrate's statute.
- Ordinance n° 89-19 of 8th December 1989, setting the investment code of the Republic of Niger.
- Ordinance n° 89-18 of 8th December 1989, setting the General Statute of the Civil Service and its decree of enforcement n° 91/111/PRN/MFP/T of 28th June 1991.
- Ordinance n° 92 – 024 of 18th June 1992, punishing the crime of unlawful enrichment.
- Ordinance n°92-48 of 7th October 1992, instituting the 1st volume of the commercial code.
- Ordinance n°92-037 of 21st August 1992, outlining the organisation of trade and transport of timber in large cities and the attendant tax regime.
- Ordinance n° 93 –015 of 2nd March 1993, setting the guidelines of the rural code.
- Ordinance n° 93-16 of 2nd March 1993, outlining the mining law.
- Ordinance n° 93-28 of 30th March 1993, outlining the status of traditional chieftaincy.
- Ordinance n° 93-005 of 15th September 1993, setting up the Court of Appeal of Zinder.
- Ordinance n° 93-006 of 15th September 1993 amended by law n°94-002 of 11th February 1994 amended by Ordinance n° 99-41 of 23rd September 1999 setting out the composition, organisation and functioning of the higher council of the magistrature.
- Ordinance n°98-55 of 29th December 1998 amended by law n°2001-05 of 20th April 2001 outlining the competence, composition and functioning of the National Commission on Human Rights and Fundamental Freedoms.
- Ordinance n° 99-11 of 14th May 1999, creating and outlining the composition, organisation and competence of juvenile jurisdictions.
- Ordinance n° 99-37 of 4th September 1999, outlining the electoral code.
- Ordinance n° 99-44 of 23rd September 1999, concerning drug control.
- Ordinance n° 99-51 of 22nd November 1999, regulating the profession of lawyers.
- Ordinance n° 99-59 of 20th December 1999, outlining the charter of political parties.
- Ordinance n° 99-67 of 20th December 1999, outlining the rules governing freedom of the press.
- Decree n° 62-021 of 7th February 1962, instituting compulsory primary education for all children of school-going age.
- Decree n° 93-004/PM/MMEI/A of 12th March 1993, setting the conditions of enforcement of the mining law.

- Decree n° 99-368 MJ/DH of 3rd September 1999, defining the organisation and internal rules of penitentiaries, amended decree n° 2001-055/PRN/MJ of 28th February 2001.
- Decree n° 99-369 of 3rd September 1999, creating the statute of the corps of prison administration staff.
- The National Observatory for the Promotion of Women, created by decree n° 99-545/PCRN/MDS/P/PF/PE of 21st December 1999.
- The National Policy for the Promotion of Women, adopted in 1996.
- The inter-professional collective agreement of 1972.

Chapter IV

Main regional and international human rights instruments to which Niger is a party

The Republic of Niger has acceded to following the main regional and international human rights treaties:

I) Regional treaties

The African Charter on Human and Peoples' Rights, adopted by the Assembly of Heads of State and Government of the OAU on 27th June 1981 in Nairobi. Niger signed this charter on 9th July 1986 and ratified it on 16th May 1986. Signing was therefore subsequent to ratification.

The OAU Convention on specific aspects of the issue of refugees, adopted on 10th September 1969 in Addis-Ababa. Niger ratified this convention on 21st September 1971.

The OAU Convention on the elimination of mercenary activities in Africa, adopted in July 1977 in Libreville. Niger signed this convention on 8th November 1979 and ratified it on 19th June 1980.

The African Charter on the Rights and Well-being of the Child, concluded in Addis-Ababa in July 1990. Niger ratified it on 11th December 1992. This was notified by decree n° 96-487/PRN/MAE/C of 23/12/1996.

The ECOWAS Protocol on the free circulation of persons, the right of abode and residence, adopted in Dakar on 29th May 1979. Niger ratified this on 29th November 1979.

I) International treaties

The Rome statute setting up the International Criminal Court, adopted in Rome on 17th July 1998 was ratified by Niger on 11th April 2002.

The Convention relating to the prohibition of trade in adult women, amended by the Lake Success Protocol, adopted in Geneva on 11th October 1933. Niger's acceptance was notified on 7th December 1964.

The international convention on the prohibition of trade in white women signed in Paris on 4th May 1910 and as amended by the Lake Success Protocol (New York) on 4th May 1949. Notification of the succession of Niger was made on 25th August 1961.

The Convention on the prohibition of trade in human beings and the sexual exploitation of others signed at Lake Success (New York) on 21st March 1950. Le Niger acceded to this on 10th June 1977.

The Convention on the political rights of women signed in New York on 31st March 1953. Notification of the succession of Niger was made on 7th December 1964.

The Convention on consent to marriage, the minimum marriageable age and registration of marriages, signed in New York on 10th December 1962. Niger acceded to this on 1st December 1964.

The Convention on slavery, signed in Geneva on 25th September 1926. Notification of the succession of Niger was made on 25th August 1961.

The Protocol amending the convention on slavery, signed in New York on 7th December 1953. Accepted by Niger on 7th December 1964.

The additional convention on the abolition of slavery, slave trade and institutions and practices similar to slavery, signed in Geneva on 7th September 1956. Niger acceded to this on 22nd July 1963.

The convention on the fight against discrimination in teaching, signed in Paris on 14th December 1960 (UNESCO). Accession by Niger on 16th July 1968.

The protocol amending the convention on the prohibition of trade in women and children, concluded in Geneva on 30th September 1921. Accepted by Niger on 7th December 1964.

The international convention on the elimination of all forms of racial discrimination, adopted on 7th March 1966 in New York. Was signed by Niger on 14th March 1966 and ratified on 27th April 1967.

The international covenant on economic, social and cultural rights, signed on 16th December 1966 in New York. Niger acceded to this on 7th March, 1986.

The international covenant on civil and political rights, signed on 16th December 1966 in New York. Niger acceded to this on 7th March 1986.

The optional protocol to the international covenant on civil and political rights signed on 16th December 1966 in New York. Niger acceded to this on 7th March 1986.

The international convention on the elimination and punishment of the crime of apartheid, signed on 30th November 1973 in New York. Niger acceded to this on 28th June 1978.

The Convention on the Elimination of all forms of Discrimination Against Women, signed on 18th December 1979 in New York. Niger acceded to this convention on 8th October 1999.

The initial report on the application of this text has already been drafted by Niger and is about to be sent to the United Nations Secretariat.

Still on the implementation of this text, in 2001, Niger set up a National Observatory for the Promotion of Women.

The convention against torture and all forms of cruel, inhuman and degrading treatment, signed on 10th December 1984 in New York. The adhesion of Niger was registered on 5th October 1998.

The international convention against apartheid in sports, adopted on 10th December 1985 in New York. Niger signed this convention on 27th May 1986.

The convention on the rights of the child, adopted on 20th November 1989 in New York. Niger signed this on 26th January 1990 and ratified it on 30th September 1990. The initial report on the implementation of this instrument has also been drafted.

The convention on the status of refugees, signed on 28th July 1951 in Geneva. The succession of Niger was effected on 25th August 1961.

The convention on the reduction of cases of stateless persons, signed on 30th August 1961 in New York. Niger acceded to this on 17th June 1985.

The protocol on the status of refugees, signed on 30th January 1967 in New York. Niger acceded to this on 2nd June 1970.

The United Nations Charter and the Declaration of acceptance of the obligations contained in the Charter, signed on 26th June 1945 in San Francisco. Notification of the succession of Niger was made on 20th September 1960.

The Geneva Convention for the Amelioration of the Conditions of the Wounded and the Sick in Armed Forces in the Field, signed on 12th August 1949.

The Geneva Convention Relative to the Treatment of Prisoners of War, signed on 12th August 1949.

The Geneva Convention Relative to the Protection of Civilian Persons in time of War, signed on 12th August 1949.

The Geneva Convention on the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, signed on 12th August 1949.

Notification of Niger's succession to these four (4) conventions was made on 16th August 1964.

The addition protocol to the above-mentioned Geneva Conventions on the protection of victims of international armed conflicts (Protocol I), adopted in Geneva on 8th June 1977.

The additional protocol to the Geneva Conventions on the law of war of 12th August 1949, concerning the protection of victims of international armed conflicts (Protocol II), adopted on 8th June 1977.

Niger signed both additional protocols on 16th June 1978 and ratified them on 8th June 1979.

ILO convention n° 182 on the prohibition of the worst forms of child labour and immediate action with a view to eliminating them, adopted on 17th June 1999. Niger ratified this on 14th August 2000.

The Universal Declaration of Human Rights of 10th December 1948. Niger reiterates its attachment to this declaration in the preamble of the Constitution of 9th August 1999.

Once Niger has ratified a convention to which it is a party, such conventions become an integral part of the domestic legal order and "immediately upon publication, have precedence over laws, subject to the application of each agreement and treaty by the other party", according to the terms of article 132 of the constitution of Niger. As a result, the provisions of such instruments may be cited before national jurisdictions.

Niger also shares the ideals of regional and sub-regional integration and participates in the protection of human and citizens' rights in the community through the courts of justice of ECOWAS, OHADA and UEMOA.

Finally, it must be noted that Niger participates actively in the proceedings of the African Commission on Human and Peoples' Rights. Within the limits of the means available, Niger also participates in all major international conferences on human rights. This was the case for the Beijing summit on women, the New York conference on "gender equality, development and peace for the 21st century", held in June 2000 and the Durban conference on racism, xenophobia and intolerance, held in October 2001, among others.

Niger has adapted to the international and African context by reorganising its internal services to take into account the requirements of respecting human rights and African integration. It has therefore set up a Human Rights Department within the Ministry of Justice. The Ministry of Foreign Affairs, Cooperation and African Integration was also set up with this concern in mind.

Niger has also set up an independent administrative authority as a national institution for the protection and promotion of human rights. This is the National Commission on Human Rights and Fundamental Freedoms, whose institutional foundation is based on

article 26 of the African Charter on Human and Peoples' Rights and article 33 of the constitution of Niger of 9th August 1999.

Chapter V

Measures taken by Niger to ensure effective enjoyment of the rights enshrined in the Charter.

In this chapter we shall be considering successively, civil and political rights (I), economic, social and cultural rights (II) and group rights (III).

I) Civil and political rights

This is the right to life and to physical integrity; the prohibition of slavery, torture and other forms of cruel, inhuman and degrading punishment and treatment; the prohibition of arbitrary arrests and detention, and the right to a fair trial.

) The right to life and physical integrity (Article 4)

Article 10 of the constitution of Niger states that “the human person is sacred. The State has an absolute obligation to respect and protect it and guarantees it full development”.

Article 11 also states that “every individual has the right to life, to good health, to freedom, security, physical and mental integrity, to education and teaching under the conditions defined by law”.

Article 14 for its part stipulates that “every individual has the right to the free development of his/her personality in the material, cultural and temporal dimensions, provided he/she does not infringe the rights of others or violate the constitutional and legal order or accepted standards of good behaviour”.

The death sentence is still in force in the Republic of Niger. It is however only passed for serious crimes such as assassination, murder, patricide or poisoning. Nevertheless, a mother who is the principal perpetrator in the case of the assassination or murder of her newborn baby may not be sentenced to the death penalty, as she is only liable to a sentence of between 10 and 20 years of imprisonment.

Furthermore, anybody sentenced to death has the possibility of introducing a plea for presidential pardon.

Under article 55 of the constitution, the right to pardon is a prerogative of the President of the Republic. When a death sentence becomes legally binding, the condemned person can only be executed once the presidential pardon has been refused. It must be pointed out that the death sentence has not been applied since 1976.

The right to life and physical integrity were somewhat violated during the armed rebellion between 1995 and 1999.

B) Prohibition of slavery, torture and other forms of cruel, inhuman or degrading punishment and treatment (Article 5)

According to the terms of article 12 of the constitution of Niger, “no person shall be subjected to torture, slavery or cruel, inhuman and degrading punishment or treatment”.

Article 13 of the same constitution also stipulates that “no person is obliged to execute a manifestly illegal order.

The law defines what constitutes a manifestly illegal order. Any individual or state agent who carries out acts of torture, or cruel, inhuman and degrading punishment or treatment in the exercise or as part of their function shall be punished in accordance with the law”.

A law defining what constitutes a manifestly illegal order was adopted on 31st December 2001. According to article 2 of that law, “any order given or notified in flagrant violation of the laws and regulations in force is a manifestly illegal order”.

“Any written or verbal instruction given or notified to a person by another person to transgress a legal prohibition or to refrain from fulfilling a legal obligation shall also constitute a manifestly illegal order”.

It must be recalled that the Republic of Niger acceded to the Convention against torture and other forms of cruel, inhuman or degrading punishment on 5th October 1998.

Niger also acceded to the Geneva Convention relative to slavery on 25th August 1961 and to the additional convention relative to the abolition of slavery, slave trade and institutions and practices similar to slavery on 22nd July 1963.

In order to comply with these different international conventions, the new draft criminal code provides for a section comprising five (5) articles that prohibit and sanction all forms of slavery in Niger.

B) Prohibition of arbitrary arrest and detention
(Article 6)

Infringements of individual liberties and in particular, arrest, sequestration and detention are prohibited by the constitution in its articles 15 to 17 and by the criminal code in its articles 248 and 265 to 270.

C) Equality before the law (Article 3)

This principle is enshrined in article 8 of the constitution, which emphasises the fact that “the Republic of Niger is a state governed by law. All persons are thus equal before the law, without distinction of sex or of social, racial, ethnic or religious origin.

The Republic respects and protects all forms of belief and no religion or belief may assume political power upon itself nor interfere in the affairs of the state.

Any form of individualistic propaganda based on regional, racial or ethnic characteristics, and any demonstration of racial, ethnic, political or religious discrimination shall be punished by law.

Foreigners on the territory of the Republic of Niger enjoy the same rights and liberties as the citizens of Niger, under the conditions defined by law”.

E) The right to a fair trial (Article7)

Equality of all citizens before the law is guaranteed in the legislation of Niger where article 99 of the constitution clearly mentions the possibility of bringing a case before the courts for any act that violates the rights enshrined in existing texts. The article states that “justice is rendered on the national territory on behalf of the people and in strict compliance with the rule of law, as well as the rights and liberties of each citizen”.

Article 17 of the constitution sets the principle of the presumption of innocence. Thus, any person accused of an offence is presumed innocent until legally proven guilty in the course of a public trial during which all the necessary guarantees to ensure an open defence have been provided.

“No one shall be condemned for acts or omissions which did not constitute an offence according to national law at the time they were committed. Likewise, no penalty may be inflicted which exceeds those applicable at the time the offence was committed”.

The right to a defence is guaranteed in Niger. Indeed, article 108, paragraph 3 of the rules of criminal procedure stipulates that “the examining magistrate shall inform the accused of their right to choose a lawyer from among the defence lawyers registered in Niger or in a state with which Niger has signed a convention of reciprocity”.

Also, article 262 of the rules of criminal procedure gives people accused of a crime the possibility to be assisted by counsel of their choice or, failing that, to have a lawyer appointed for them by the President of the Court of Assizes.

Where minors are concerned, they are assisted by a court-appointed lawyer, whether they are the perpetrators or the victims, under the terms of article 15 of ordinance n° 99-11 of 14th May, outlining the creation, composition, organisation and competence of juvenile jurisdictions, as well as the first article of law n°67-015 of 18th March 1967 relating to the defence of the civil interests of minors before criminal jurisdictions.

F) Freedom of association

The constitution of 9th August 1999 guarantees this freedom in its articles 9 and 24. It is enforced by ordinance n°84-06 of 1st March 1984, outlining the rules governing associations and the texts amending it, as well as ordinance n°99-59 of 20th December 1999, outlining the charter of political parties.

According to the 1st article of ordinance n°84-06 mentioned above, an “association is an agreement by which two or more legal or moral entities willingly, and in full awareness, pool together their capacities and activities in a permanent manner, during a defined period of time, with a given objective, which is other than to share profit”. As at 15th February 2002 the list stood as follows:

- 557 associations
- 500 NGOs
- 35 political parties and one support structure
- 102 trade unions

It may be noted that 28 associations and NGOs for the defence of human rights and democracy had been recognised.

There is no restriction on the freedom of association, apart from the prohibitions contained in the above-mentioned ordinance concerning associations with an ethnic or regionalist bent. These are imposed out of the desire of the authorities to preserve national unity, public peace and social cohesion.

Associations may therefore be set up freely, and each individual is free to join the association of their choice. When an association is formed it declares its existence to the administrative authority in charge of the area where the association has its headquarters. A temporary receipt, valid for three (3) months is delivered to the one making the declaration. The authorisation to carry out activities is issued by decision of the Ministry of the Interior and of Decentralisation after verification of compliance. This authorisation may only be refused for reasons set out by the law.

Cooperatives, for their part, are authorised by sub-regional authorities (sub-prefects and mayors).

Freedom of association is also accorded to foreigners in the form of friendly societies.

Ordinance n°99-59 of 20th December, outlining the charter of political parties defines political parties as “non profit-making associations that, in accordance with the constitution, bring together citizens of Niger grouped around a societal project and a political programme, with a view to contributing to the expression of universal suffrage and to participating in political life through democratic and peaceful elections”. This definition shows that citizens of Niger are accorded the right to vote. Indeed, both the constitution and the electoral code recognise this right in their articles 9 and 4 respectively.

The above-mentioned ordinance places an obligation on political parties to contribute to protecting fundamental liberties and human rights. It is therefore up to party leaders to educate their activists.

Anybody is free to join a political party. Article 11 of ordinance n° 99-59 of 20 December 1999 recognises this freedom and states that “any citizen of Niger who enjoys their civil and political rights is free to join the political party of their choice”.

Article 26 of the Constitution recognises the right to form trade unions and gives workers the right to go on strike.

In the past trade unionism was a means for the working classes to exert pressure on employers, but today all professions are involved in this movement.

Unlike associations, trade unions do not have to have prior authorisation. They are required to declare the establishment of the union to the competent authority, which takes note of their existence after having verified the dossier, which must comprise the following:

- One copy of the constitution
- One copy of the rules of procedure
- One copy of the list of members of the executive

- One copy of the report of the constitutive assembly or congress

G) Freedom of worship and of religion.

Freedom of worship and of religion is enshrined in article 23 of the constitution of 9th August 1999. The Republic of Niger is a lay state and as such, all religions are accepted. Several religious associations have been formed in application of this right. Their authorisation procedure is slightly different from that of other associations. The difference lies in the fact that there has to be a prior morality check on the main officials of the movement. This provision arises out of the care taken to minimise the influence of sects and protect the country from any extremist and fundamentalist leanings, which can be a source of conflict and disruption of public order.

Currently, there are 27 recognised Islamic associations, 26 recognised Christian associations and two recognised animist associations.

H) Freedom to hold meetings and demonstrations

Meetings and demonstrations do not require prior authorisation from the administration. They must however be notified prior to the event.

There is no restriction of the freedom to hold meetings or demonstrations, except when there is a real risk of disrupting public order.

Any meeting or demonstration must first be notified to the authorities, indicating the organisers, the place, date and itinerary of the demonstration, where appropriate. The officials of the meeting or demonstration must take the necessary measures to ensure the security of goods and persons. They may call on the public forces to supervise the event.

Public demonstrations are organised by trade unions and political parties.

In order to better coordinate their activities and have a greater influence on national affairs, civil society movements have set up a framework for consultation and action in the form of the national council and the democratic coordination.

I) Freedom of expression

The introduction of political pluralism has been accompanied by the development of the mass media, in particular the written press. Private newspapers have been created, many of which are opinion papers.

In addition to the two state newspapers, the *Sahel* and *Sahel Dimanche* and the magazine *Nigerama*, there are 47 private newspapers whose publication depends entirely on the means available to their promoters.

The state does not censure any of these newspapers. They are only subject to a prior control by the competent prosecutor's office, through the depositing of duty copies for copyrighting.

Where the audio-visual press is concerned, one private television channel (TV Ténéré), broadcasts alongside the two national channels.

Radio stations have also multiplied, in line with the expansion of freedom of expression and the spirit of entrepreneurship. Twelve private radio stations are currently on the air and some of them have regional branches.

Community radio stations remain very close to the population and have multiplied very rapidly. Between 29th January 2001 and 11th February 2002, twenty-five community radio stations began broadcasting.

Foreign newspapers and magazines also circulate freely, and twenty-five such publications have been registered with the copyright office.

The right to information is an inalienable right of every individual, as indicated in article 1 of ordinance n° 99-67 of 20th December 1999, relative to the freedom of the press. In addition to this ordinance, the following texts have been adopted to govern freedom of the press:

- Deliberation n° 97-002/CSC of 4th July 1997, relative to the adoption of the charter of professional journalists of Niger.
- Law n°2001-006 of 19th June 2001, outlining the composition, organisation, competence and functioning of the Higher Council on Communication (CSC).

The CSC is a communications regulatory body and is independent of the political authorities. It is charged with the following tasks:

- To guarantee the freedom of information and communication, in line with the law.
- To guarantee the independence of public and private media in providing information.
- To guarantee and ensure the freedom and protection of the press, as well as all other mass means of communication, in accordance with the law.
- To ensure the promotion of documentary information.
- To guarantee fair access of political parties, trade unions, associations and citizens to the media.
- To guarantee the rational and fair use of public press and communication bodies by the institutions of the republic, according to their constitutional missions and to intervene in this direction, where necessary.
- To ensure the respect of professional ethics and standards, in accordance with the charter of professional journalists of Niger.

Freedom of the press has however suffered greatly from the lack of professionalism of the managers of certain organs of the press. On several occasions, the latter have committed acts of libel and have had to be brought before the courts.

J) Freedom of movement and the right to security

Article 24 of the constitution of 9th August 1999 accords each citizen of Niger, the right to come and go. Many police posts have been dismantled in order to reduce the constraints resulting from unexpected police checks. Individuals wishing to travel or immigrate are not subject to any harassment in moving about. They are only required to hold the appropriate legal documents. Foreigners coming to Niger must obtain an entry visa and a residence permit under the conditions defined by law.

In the area of free circulation of goods and persons, Niger has signed bilateral agreements with its neighbours (Algeria, Nigeria, and Libya). Free circulation is a reality in the ECOWAS space, in accordance with the texts of that organisation. The same applies to the *Conseil de l'Entente* and the Community of Sahelo-Saharan states (C.E.N-S.A.D), which was created in Tripoli on 4th February 1998 with the following states as members:

- Burkina-Faso
- Djibouti
- Egypt
- Eritrea
- The Gambia
- Libya
- Mali
- Morocco
- Nigeria
- Niger
- Central African Republic
- Senegal
- Sudan
- Chad
- Tunisia

The right to security is guaranteed by article 11 of the constitution. It gives each individual the possibility to demand that the State protect their person and their property. The enjoyment of the right to security is illustrated by the fact that the law enforcement bodies, the National Police and the National Intervention and Security Force (FNIS) are mobilised to ensure peace and order within the society. They organise day and night patrols in order to ensure the security of the population.

Joint patrols of the Armed Forces, National Police and the FNIS are also organised regularly and this has enabled them to dismantle networks of organised crime that were terrorising the populations in large urban centres.

The emergency police service has been overhauled to make it more operational and the number of its forces has been increased from 32 to 121.

Along the borders, joint patrols have been organised with neighbouring countries (Mali, Nigeria and Chad). These are intended to bring a halt to remaining pockets of banditry.

Where member countries of the *Conseil de l'Entente* and Mali are concerned, the meeting of Ministers of Security that was held in Niamey on 27th March 2002 adopted the following resolutions:

- 1) To check harassment by police on the roads.
- 2) To set up a system of information in the area of security. Countries were called upon to study the means of setting up a communication network among the state security forces of members of the *Conseil de l'Entente* and Mali. This network would be in charge of finding and disseminating information on subversive groups; armed robberies; organised crime car theft, child, drugs and arms trafficking networks, etc.

Another illustration of the right to security is the fact that individuals may now be issued with permits to import and carry guns, in certain conditions defined by law.

Finally, it may be noted that refugee status may be accorded to persons who have had to leave their country of origin following certain events. Law n°97-016 of 20th June 1997 recognises the right of such refugees to security and free circulation. A national eligibility commission was set up by decree n° 98-381/PRN/MI/AT of 24th December 1998.

II) Economic, social and cultural rights

We shall be speaking here of the right to work, the right to health and education, and the right to participate in cultural life.

A) The right to work (article 15)

The right to employment is recognised for all citizens in the Republic of Niger, without distinction of race, ethnic origin, sex, opinion or religion. This right is guaranteed by article 25 of the constitution, which states that “the State recognises the right of all citizens to work and shall strive to create the conditions to ensure effective enjoyment of this right and which guarantee to the worker, fair remuneration for their services or production”.

The conditions of effective enjoyment of this right are set out in ordinance N°89-18 of 8th December 1989, setting the General Statute of the Civil Service and its implementation texts, as well as the inter-professional collective agreement. Employees who are subject to the above-mentioned statute and who carry out their functions in the public administration are qualified as civil servants. Article 5 of the above-mentioned statute stipulates that “the different corps of civil servants are classified and grouped by level of recruitment into four categories designated in descending hierarchical order by the letters A, B, C and D. Each corps is made up of one or several grades. The grade is the title which confers upon the beneficiary the right to hold one of the positions attributed to them”. The starting salary is calculated according to an index and its nominal value corresponds to the category of the employee. The minimum wage in Niger is CFA 18 898.

Appointments in the civil service are made on the basis of merit and the requirements of the administration. Nevertheless, article 7 of the General Statute specifies that no individual may be appointed to the civil service before the age of 18 or after the age of 35.

Under the terms of ordinance N° 98-04 of 24th December 1998, upon attaining the age of 55 or a total of 30 years of service, a civil servant may claim their right to retire.

In the area of union rights, the law governing the right to go on strike sets up mechanisms that ensure the effective application of those rights. Civil servants may file suit against any individual decisions that violate the collective interest (article 19 of the General Statute). Under article 20 of the Statute, “Civil servants have the right to go on strike to defend their collective professional interest. This right is exercised within the framework defined by the law”.

In carrying out their functions, civil servants enjoy protection against threats, abuse, insult or defamation, in accordance with the rules laid out under the criminal code and other special laws (Art. 18).

Access to the private sector is governed by ordinance n° 96-039 of 29th June 1996, creating the labour code and by the inter-professional collective agreement of Niger of 15th November 1972. According to article 92 of the code, “the work period in all public and private establishments is set at 40 hours per week”. Night work is prohibited for young workers aged less than 18, except in specific cases (article 96). It is also forbidden to employ children below the age of 14. A weekly rest period is mandatory and is set at 24 consecutive hours per week, usually on Sunday.

The code contains provisions that protect women and mothers. Women are entitled to a leave period of 14 consecutive weeks, eight of which must be after the date of delivery.

Hygiene and social security are also guaranteed for workers, in order to create a healthy and pleasant work environment.

The labour code stipulates that employees are entitled to a period of leave to be paid for by the employer. This leave corresponds to two and a half days of rest per month of effective service. The duration of paid leave is increased by two working days after 20 years of continued employment, whether or not these are with the same employer. This additional period is increased to four days after 25 years of service, and to six days after 30 years. The employer is obliged to pay an allowance at least equal to the salaries and various components of their remuneration to the employee, at the time that they go on leave and for the duration of the leave period.

There are courts in Niger competent to hear labour cases. The labour inspectorate supervises the effective enforcement of labour legislation and regulations. It provides information and advice to the social partners on issues relating to working conditions. Under the terms of article 248 of the labour code “the labour inspectorate is in charge of all issues concerning the condition of workers, professional relations, employment of workers, movements of workers, professional training and orientation and placement of workers”.

The inter-professional collective agreement of 15 November 1972, governs the relations between employers and employees. It prohibits any form of discrimination in salaries. Article 38 of the agreement stipulates that “for equal conditions of work and professional qualification and performance, an equal salary shall be paid to all workers irrespective of their origin, age, sex or status, under the conditions of the present agreement”.

It may also be recalled that Niger is a member of the International Labour Organisation (ILO). It has ratified several ILO conventions including the following:

- The Night Work of Young Persons convention, ratified on 27/02/61.
- The 1992 Freedom of Association (agriculture) convention, ratified on 27/02/61.
- The 1921 Weekly Rest Period (industry) convention, ratified on 27/02/61.
- The 1925 Worker Compensation (Occupational diseases) convention, ratified on 27/02/61.
- The 1928 Minimum Wage Fixing Machinery convention, ratified on 27/02/61.

- The 1932 Minimum Age (non-industrial employment) convention, ratified on 27/02/61.
- The 1934 Night Work (Women) convention (revised), ratified on 27/02/61.
- The 1941 Labour Inspection convention, ratified on 09/01/79.
- The 1948 Freedom of Association and Protection of the Right to organise convention, ratified on 27/02/61.
- The 1951 Equal Remuneration convention, ratified on 09/08/66.
- The 1957 Abolition of Forced Labour convention, ratified on 23/03/62.
- The 1958 Discrimination (employment and occupation) convention, ratified on 23/03/62.
- The 1970 Minimum Wage Fixing convention, ratified on 24/04/80.
- The 1971 Workers' Representatives convention, ratified on 05/04/80.
- The 1973 Minimum Age convention, ratified on 04/12/78.
- The 1977 Working Environment (Air pollution, Noise and vibrations) convention, ratified on 21/01/93.
- The 1981 Collective Bargaining convention, ratified on 05/06/85.
- The 1981 Workers with Family Responsibilities convention, ratified on 05/06/85.
- The 1982 Termination of Employment convention, ratified on 05/06/85.
- The 1999 Child Labour convention, ratified on 23/10/2000.
- The 2000 Maternity Protection (revised) convention.
- The 1998 Worst Forms of Child Labour convention, ratified on 14/04/2000.

It must however be recalled that the state of Niger is going through difficult times. The continued degradation of its economic fabric has not made it possible to find the best solutions to the most pressing demands of civil servants. The paralysis of the state apparatus due to repeated strikes only worsens the crisis and as a result leads to the accumulation of salary arrears.

Furthermore, the government proceeded to reduce the minimum wage, while the purchasing power of workers remains inadequate. This makes it extremely difficult to satisfy the most basic needs, especially when prices shoot up. The government has also suspended systematic recruitment into the civil service, whereas the universities and other professional schools continue to train young people.

Although Niger has a sizeable active population, there are only about 30 000 civil servants. The two tables below indicate the changes in this labour force within the civil service.

Changes in employment levels of civil servants

Dates	Supervisory staff	Auxiliary staff	Total
1990	27 300	10 971	38 271
1991	28 844	10 835	39 679
1992	28 516	10 455	38 971
1993	29 352	10 284	39 636
1994	30 479	10 295	40 774
1995	30 860	9 992	40 852
1996	31 626	10 209	41 835
1997	32 524	9 854	42 378
1998	33 090	9 616	42 706
1999	33 666	8 834	42 500
2000	32 382	7 122	39 504
2001	32 375	6 879	39 254

Source: MFP/T/SG/DIS (January 2002)

Changes in employment levels of civil servants by category and by gender, from 1994 to 2001

Years	1994		1995		1996		1997		1998		1999		2000		2001	
	M	W	M	W	M	W	M	W	M	W	M	W	M	W	M	W
A1	1579	233	1668	249	1821	264	2024	268	2082	282	2184	299	2153	311	2186	317
A2	2331	621	2343	629	2466	647	2513	685	2473	669	2482	674	2461	667	2417	669
A3	1811	420	1830	433	1859	437	2018	449	1988	449	1924	449	1837	432	1854	428
B1	4428	1119	4518	1166	4555	1201	4929	1314	5017	1367	5231	1439	5097	1412	5089	1393
B2	2227	1042	2258	1079	2265	1136	2356	1141	2423	1244	2427	1317	2333	1406	2321	1410
C1	5829	2713	5958	2841	6172	2977	6392	3066	6547	3100	6480	3117	6031	2998	6009	2998
C2	652	305	629	309	660	318	505	243	471	237	435	218	366	196	349	187
D1	2346	1306	2264	1262	2197	1225	1990	1183	2149	1193	2345	1203	2250	1110	2448	1068
D2	1213	299	1132	292	1142	284	1125	323	1085	314	1107	335	1023	299	952	280
E	5		0		0		0		0		0		0			
Subtotal sup.	22421	8058	22600	8260	23137	8489	23852	8672	24235	8855	24615	9051	2351	8831	2365	8750
Total supervisor	30479		30860		31626		32524		33090		33666		3232		3235	
Auxiliary	8539	1756	8269	1723	8428	1781	8083	1771	7843	1773	7161	1673	5604	1518	5413	1466

Total Auxiliary	1029 5	9992	1020 9	9854	9616	8834	712 2	687 9
Grand Total	4077 4	4085 2	4183 5	4237 8	4270 6	4250 0	395 0	392 4

Source: MFP/T Scoreboard

N.B: M = Men
W = Women

Certain decisions have been condemned by trade unions as violating the right to work and being harmful to the basic interests of workers. These concern early retirement; a freeze on recruitment since 1994; delays in settling salaries in arrears; child labour in the private and informal sectors; political interference in the administration, centralisation of information and neglecting certain demands concerning working conditions.

The total lack of organisation of the labour market and the exponential increase in unemployment led Niger to create a National Employment Agency (ANPE) by decree N°96-405/PRN/MFPT/E of 4th November 1996. The fundamental mission of this agency covers the following:

- Drafting a national employment policy.
- Placing job-seekers.
- Introducing and repatriating workers.
- Transferring the savings of migrant workers.
- Registering employment notices.
- Collecting and preserving documentation on job offers and requests.

The agency is however faced with many problems in seeking to carry out its mission. In particular, it has to deal with the arrival of large numbers of young diploma holders on the labour market who do not find employment, due to the freeze on recruitments in the civil service since 1994, as well as the policies of privatisation and restructuring. These problems are compounded by the lack of a clear national employment policy in Niger and insufficient financial resources (CFA 50 000 000 in subsidies).

It must be emphasised that employment was not taken into account as a central component of the Poverty Reduction Strategy. It was rather considered as a cross-cutting issue. Furthermore, energies are dispersed and the absence of employment statistics hampers the smooth running of activities.

The ANPE has also noted a disquieting flow of demands for jobs that cannot be met by the offers, which remain insufficient. The following table illustrate this state of affairs:

Situation of job requests and offers in the private and para-state sectors

Year	Requests	Offers	Employees
1987	27152	4522	28039
1988	26086	5044	25974

1989	24523	4052	28039
1990	20947	3153	25238
1991	20818	2773	24131
1992	29084	3097	23075
1993	22381	3483	18064
1994	21664	3640	18649
1995	16822	4720	17145
1996	6444	3333	16895
1997	20716	3272	20514
1998	17376	3872	21536
1999	1623	2413	27441
2000	19443	2986	29999

Source: ANPE (2001)

Looking at job offers by sectors, extractive industries are most affected by the falling numbers of job offers. In this branch of activity, the offers fell from 625 in 1997 to 147 in 1998. On the other hand, the building industry and social services branches have registered an increase in offers of 1100 and 1187 in 1998, as against 855 and 1023 respectively 1997.

The break-down of job offers by branch of activity in 1998 is as follows:

- Agriculture 141 or 4.31%
- Extractives industries 147 or 4.49%
- Water, electricity, gas 315 or 9.63%
- Construction 1100 or 33.62%
- Manufacturing industries 110 or 3.36%
- Trade, Bar-Restaurant 151 or 4.61%
- Transport, storage 63 or 1.93%
- Banks and insurance 58 or 1.17%
- Social services 1187 or 36.28%

Unfortunately, one of the most striking features of the employment situation is the gap between women and men. The break-down of offers received in 1994 show 172 for women, and 3311 for men. In 1995, the figures were respectively 161 and 3393, 495 and 4111 in 1996, 239 and 3094 in 1997, 303 and 2964 in 1998, 123 and 875 in 2001. Concerning job requests, they were respectively 11416 and 20248 in 1994, 206 and 16616 in 1995, 3469 and 2975 in 1996, 1792 and 18924 in 1997, 2132 and 15244 in 1998, 1707 and 10895 in 2001.

Looking at employment categories, in 1997, only 250 women obtained high level jobs, compared to 2294 for men. In 1998, there were 225 women and 1320 women. For office staff, the figures were 992 and 3007 in 1997, 1534 and 3021 in 1998. At the middle-level, we note 568 femmes as against 14317 men in 1997, 338 and 10554 in 1998.

This situation in the private sector can be explained by the fact that pre- and post-natal leave for women imply a high labour cost that is sometimes too much for businesses.

The informal sector also plays a vital role in the national economy. This sector covers mainly crafts, production services, petty trading and transport. Its importance in the

economy of Niger is shown in the fact that it contributes significantly to reducing the imbalance between job supply and employment in the modern sector, through income generation, vocational training and apprenticeship.

Employment remains one of the major concerns of young school leavers today, as well as those who have been excluded from the education and training system. The flows of job-seekers coming out of the school and university systems are incomparable to the human resources requirements of the labour market. The volume of both public and private modern job offers is not capable of absorbing the new arrivals on the labour market. Consequently, the role of the informal sector has become crucial in controlling unemployment through the absorption of this surplus manpower.

A programme of support to private initiative and job creation (PAIPCE) has been set up to encourage the informal sector to organise and become integrated with the modern economy.

In addition, Niger is resolutely committed to modernising its public administration with concrete actions, which include discouraging political interference in the administration and creating a framework for consultation between the public authorities and social partners with a view to finding a consensus on issues affecting civil servants and workers. The framework is made up of the ad hoc commission on social dialogue and the inter-ministerial committee in charge of social issues with partners.

As part of this consultation, the government undertook to pay salaries when they fall due, and to settle outstanding salaries according to a timetable that was accepted by the union organisations. A competitive examination for entry into the civil service was organised recently in the education and health sectors. This was a special derogation from the 1994 decision to freeze all recruitments.

As part of the desire to adopt a gender approach in all development projects, law n° 2000-08 of 7th June 2000 was passed, instituting a system of quotas in elective positions, within the government and in the state administration. Effective implementation of this law would make for broader involvement of women in the development process.

The private sector has also played a significant role in the area of employment and professional training. This boost to the labour market is certainly due to the setting up of new activities such as the "*Pari Mutuel Urbain*", which has spread all over the country; cellular telephones; gold and uranium mining; the cotton industry, and development projects that have been made possible by the return of peace to areas that had been affected by the rebellion.

The 21st century will probably give Niger the opportunity to reformulate its employment policy with the assistance of the ILO. Once this policy is established, the National Employment Agency could implement the various aspects of already initiated programmes.

As far as vocational training is concerned, some progress can be envisaged with the creation of a National Office for Vocational Training (ONAFOP), and the imminent setting

up of a fund for vocational training as well as the final opening of a technical centre at Kalmaharo for the leather and skins sector.

B) The right to health (article 16)

According to article 16 of the African Charter on Human and Peoples' Rights adopted in June 1981 in Nairobi, Kenya, "every individual shall have the right to enjoy the best attainable state of physical and mental health".

The same article obliges States to "take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick".

Other international agreements to which Niger is a party contain provisions in the area of health.

For example:

- The constitution of the World Health Organisation (WHO) indicates that "enjoying the best attainable state of health is one of the fundamental rights of every individual, irrespective of their race, religion, political opinions or economic and social conditions".
- The convention on the Elimination of All forms of Discrimination against Women, adopted on 18th December 1979 in New York and to which Niger acceded in 1999 calls on states, among others to ensure the following:

1. Access to specific, educational information that could help to ensure the health and well-being of families. This includes information and advice on family planning.
2. The adoption of appropriate measures to eliminate discrimination against women in the area of health care, with a view to providing them with access to such care, including family planning, on the basis of the equality of men and women.

In addition, Niger has signed several regional and international declarations, such as:

- The 1978 ALMA-ATA declaration, relating to primary health care strategy.
- The 1985 LUSAKA declaration on a three-phase health development strategy.
- The 1987 BAMAKO declaration, also known as the Bamako initiative.

The country's accession to these declarations has been followed by a number of concrete actions such as the adoption of an appropriate legal framework, as well as others that will be indicated in the paragraphs below.

Where the legal framework is concerned, all the basic laws of Niger guarantee the right to health, either in the body of the text or by reaffirming the attachment to certain universal principles.

Article 11 of the current constitution of 9th August 1999 stipulates that "every individual has the right to life and to health (...) under the conditions defined by law".

The WHO constitution also states that “health is a state of complete physical, mental and social well-being and does not only consist of the absence of disease or infirmity”.

We shall consider the actions undertaken to guarantee the right to health in the light of health policy, the health situation, health care coverage, funding for health, the constraints and prospects for the future.

1) Overview of the health policy

National policy has evolved in several forms.

At the time of independence, health policy was focused mainly on individual curative medicine. The essential aspects of this policy were free health care; insignificant involvement of communities in the management and funding of their own health facilities, and the concentration of infrastructure in the large cities.

In 1975, the major options and general objectives of health were defined by the first edition of the Health Survey, held in Niamey. This policy, which was revised during the Survey in Agades in 1977, stipulated that health care in Niger must be characterised by the following features:

- It is general: curative, preventive, educational.
- It is continuous: unrelenting in the control and surveillance of acute and chronic diseases.
- It is promotional: (for individuals and society) regularly assessed for all communities with their involvement, in order to attain self-sufficiency.
- . It is dispensed by competent, motivated personnel.
- . Health structures are carefully organised, improved and adapted.
- . They use means that are rationally selected.

In March 1983 the Maradi appeal was launched at the end of a national debate on health. The objective was to ensure the integration of the health system in the society’s development structures with a view to ensuring the voluntary and informed participation of all citizens in the health effort.

The July 1995 sectoral policy declaration noted insufficient results, despite the implementation of all these policies. This declaration now serves as the framework for development of the health sector. It was preceded by a national pharmaceutical policy declaration, adopted in March 1995, whose objective is also to ensure the availability of quality, essential generic drugs at affordable prices for the majority of the population, and to ensure their rational use.

Health policy now places the emphasis on promoting primary health care, with the following strategies:

- Decentralisation of health services.
- Increasing health coverage.
- Increase and effective management of health resources.
- Training of staff.
- Providing quality health care.
- Providing essential generic drugs.
- Organising community participation and strengthening partnerships.

2) The health situation

The health situation in Niger is characterised by very high morbidity due mainly to respiratory diseases, malaria, diarrhoeal diseases, and chicken-pox.

Malaria is one of the main causes of death. In 1998, about 873 000 cases of malaria were reported.

Niger signed the Abuja declaration of African Heads of State and government on the fight against malaria, dated 25th April 2000.

As part of the implementation of the “Roll back malaria” initiative, the human, financial and material resources of the National Malaria Control Programme have been strengthened. Activities to control the disease have also been diversified.

A number of national programmes have also been set up with the general objective of improving the health of the population. These are national programmes to control:

- Diarrhoeal diseases
- Acute respiratory infections
- Tuberculosis
- Noma
- Blindness

Other strategies have been implemented. These include Integrated Treatment of Childhood diseases, the National Immunisation Days (NID) and the National Micro-nutrients Days.

Certain epidemic diseases require obligatory reporting and are the object of daily surveillance. These are chicken-pox, meningitis, tetanus, poliomyelitis, diphtheria, whooping cough, cholera and yellow fever.

Furthermore, since the first case of Acquired Immunodeficiency Syndrome (AIDS) was reported in 1987, this disease has continued to spread. At the end of 2000, a total of 5598 cases had been reported as follows:

1-1	505 cases
1992	304 cases
1993	453 cases
1994	467 cases
1995	621 cases
1996	652 cases
1997	217 cases
1998	425 cases
1999	940 cases
1	1014 cases

According to a World Health Organisation estimate, 65 000 people have been infected with the Human Immunodeficiency Virus (HIV).

The spread of HIV/AIDS led to the setting up of a National Aids Control Programme in 1991. In addition, many associations and non-governmental organisations are involved in the fight against this scourge.

In other areas, the epidemiological situation is characterised by high health indicators. Whereas life expectancy at birth is 47 years, infant mortality is 123 ‰, mortality in young children is 274 ‰, and maternal mortality is 7 ‰.

A State Secretariat on Endemic Diseases was set up in September 2001, to improve coordination in the control of endemic diseases.

3) Health coverage

Physical access to health care is very low: 47% in 1998, compared to 32% in 1974.

The ratio of health staff/population in 2000 was as follows:

- 1 doctor per 33 102 inhabitants
- 1 dentist per 769 230 inhabitants
- 1 qualified state nurse per 9 100 inhabitants
- 1 midwife per 6 650 women of childbearing age.

These ratios are below the following WHO recommendations:

- 1 doctor per 10 000 inhabitants
- 1 dentist per 50 000 inhabitants
- 1 qualified state nurse per 5 000 inhabitants
- 1 midwife per 5 000 women of childbearing age.

In 2000 public health staff were distributed in the regions as follows:

- AGADEZ	230
- DIFFA	182
- DOSSO	437
- MARADI	471
- TAHOUA	453
- TILLABERY	411
- ZINDER	650
- NIAMEY	1 126

There is a clear disparity between urban areas and rural areas. Indeed, 65 % of health staff works in cities, with 35 % in the countryside.

Public sector health establishments are organised on the basis of territorial administrations, with three levels as follows:

- The first level: This corresponds to the Health District, with a Health Hut, and Integrated Health Centre (CSI) and the District Hospital.

Health huts are set up in villages that do not have an Integrated Health Centre. The organisation and competence of these huts are set by decision n° 033/MSP of 11 February 1999.

There are two types of CSI: CSI type I and CSI type II. The CSI type II has a capacity of 5 to 10 observation beds, which are not considered hospital admission beds because the CSI is not a hospital. In 1999, 417 CSI were functioning.

The district hospital is the reference level for CSIs. This hospital is located in the capital of the arrondissement and in certain districts. There are a total of 42 district hospitals, but not all of them are operational.

- The second level: This is made up of five (5) Departmental Hospital Centres (CHD) and the Niamey Communal Hospital.
- The third level: This includes the reference centres such as the National Hospitals, the National Centre on Reproductive Health and the National Tuberculosis Centre. Some of these centres have been made into Public Administrative Establishments (EPA).

In 1999, the distribution of public health structures was as follows:

LIST OF PUBLIC HEALTH STRUCTURES PER REGIONAL DEPARTMENTS

DEPARTMENTS	CSI I	CSI II	CD	CHD	MAT. REF.	HN	TOTAL
AGADEZ	17	11	4	1			33
Arlit	5	3	1				9

Agadez	0	3	1	1			5
Bilma	1	2	1				4
Tchirozérine	11	3					14
DIFFA	16	6	3	1			26
Diffa	7	2	1	1			11
Mayné soroa	6	2	1				9
Nguigmi	3	2	1				6
DOSSO	46	14	5	1			66
Boboye	7	4	1				11
Doutchi	9	4	1				14
Dosso	13	3	1				18
Gaya	13	2	1				16
Loga	5	1	1				7
MARADI	41	12	7	1			61
Aguié	6	1	1				8
Dakoro	7	1	1				9
Guidan Roundji	4	3	1				8
Mayahi	7	2	1				10
Madarounfa	6	2	1				9
Tessaoua	8	1	1				10
Maradi. Com.	3	2	1				6
TAhOUA	53	14	8	1	1		77
Birni N’Konni	6	2	1				9
Bouza	7	2	1				10
Illéla	9	2	1				11
Keita	5	2	1				8
Madaoua	6	1	1				8
Tahoua	12	3	1	1	1		18
Tchintabarden	5	1	1				7
Abalak	4	1	1				6
TILLABERY	55	19	61				80
Filingué	6	6	1				13
Kollo	10	2	1				13
Ouallam	8	2	1				11
Say	5	3	1				9
Téra	15	3	1				19
Tillabéry	11	3	1				15
ZINDER	55	21	6		1	1	84
Gouré	9	3	1				13
Magaria	12	2	1				13
Matamaye	6	2	1				11
Mirriah	17	3	1				9
Tanout	11	2	1				19
Zinder Commune	0	9	1				15
CUN	20	16	3		1	2	43
Commune I	9	5	1		1	1	17
Commune II	7	10	1		1		18
Commune III	4	1	1			1	7
TOTAL	304	113	42	5	3	3	469

Private sector health establishments are governed by the following texts:

- The labour code.
- The pharmaceutical legislation established by ordinance n°97-002 of 10th January 1997 and implementation texts.
- Law n° 98-016 of 15 June 1998, authorising the private exercise of health sector professions, and its implementation decree.

In 1999 private establishments were as follows:

- 3 hospitals
- 13 clinics
- 25 medical practices
- 89 treatment centres
- 30 corporate infirmaries
- 42 pharmacies
- 4 pharmaceutical purchasing offices
- 212 drug outlets

In 1991, there were 36 treatment centres, 4 medical practices, 10 pharmacies and 110 drug outlets.

It is not known how many hospital beds there are in the country at the moment. In 1992, there were 4 423 hospital beds of which 3 153 for general medicine, 906 for maternity and 364 for paediatrics.

4) Funding health care

The main agents involved in financing health care are the State and local authorities, the population, individuals and development partners.

The operating budget of the sector represented 5.12% of the national budget in 1999 and 6.86% in 1995. Since 1960, the health budget has never attained the 10% of national budget recommended by the World Health Organisation.

Between 1994 and 1999, the state invested about CFA 56 billion in health. In 1998, public health spending represented CFA 1270 per year, per inhabitant, whereas the minimum recommended amount is CFA 9100.

In order to supplement State action and organise community participation, it has been decided to set up rules and structures for cost recovery in health care. This is a framework within which individuals, families and the community take responsibility for their own health development.

Recovery of primary health care costs will ensure that populations feel more responsible for their health care services. This translates into financial participation of the population and their involvement in the management of health structures through the setting up of health committees within these structures.

The objective of cost recovery in primary health care is to improve the quality of care by guaranteeing in particular that essential generic medicines will be available.

Before being generalised under law n° 95-014 of 3rd July 1995, cost recovery was tested in three arrondissements. Two modes of participation were identified and local councils may choose between these. They may also choose some other form of participation.

Cost recovery in primary health care is governed by a legal and regulatory framework. The above-mentioned law of 3 July 1995 has been followed by a decree of implementation and several decisions.

5) Constraints

The following may be counted among the constraints:

- An unfavourable economic environment.
- A high level of illiteracy.
- An unhygienic environment.
- Extreme poverty within the population.
- Insufficient resources allocated to health.
- Lack of a generalised social security system.

6) Prospects for the future

1. As part of the programme of utilisation of resources of the Highly Indebted Poor Countries (HIPC) initiative, the President's special programme provides for the construction of 1000 health huts throughout the country between 2001 and 2003.

2. Following the decision of African Heads of State relating to AIDS control, the National AIDS Control Programme has been attached to the Office of the President of the Republic. This political commitment at the highest level has led to the gradual setting up of a new organisational framework.

3. The Public Hygiene ordinance, n° 93-13 of 2nd March 1993 is only partially enforced. The hygiene police service provided for to ensure its enforcement is currently being organised.

4. A new health policy and a ten-year health development plan are being drafted.

C) The right to education and to participate in the cultural activities of the community (article 16)

Legislation in Niger guarantees all citizens the right to education and to culture.

Thus, the constitution of 9th August 1999 recognises that all the communities that make up the nation of Niger enjoy the freedom to use their language while respecting those of others. These languages all have equal status as national languages.

We shall consider the right to education and then the right to participate in the cultural life of the community.

a) The right to education

Education aims at ensuring the flourishing of an individual's personality and the fullest development of their gifts and mental and physical capacities. It prepares children for active adult life in a free society and encourages them to respect their parents, their identity, their language and their cultural values, as well as the culture and language of others.

In accordance with the African Charter on Human and Peoples' Rights of 1981, (article 17 paragraphs 1 and 2) "Every individual shall have the right to education and every individual may freely take part in the cultural life of the community".

Article 25 recommends that States parties promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the Charter and take measures to ensure that those freedoms and rights, as well as the corresponding duties and obligations are known.

Despite the unfavourable economic conditions in Niger in the decade between 1990 and 2000, considerable efforts have been deployed by successive governments to ensure the respect of the provisions contained in national legislation and international legal instruments to which the state is a party.

A lot still remains to be done however to make education effectively universal.

1) Legal and institutional framework

The legal framework governing the education system in Niger is made up of basic sources of international law and the legal apparatus of national legal standards.

In spite of the financial difficulties and the serious obstacle of economic depression, Niger strives to implement the international agreements and conventions on education that it has ratified. The main rules of international law constitute the framework for the defence and enjoyment of fundamental rights and freedoms.

Domestic law in Niger has evolved to incorporate new principles defined in the legislation, practice and resolutions of various international fora such as:

- The international covenant on economic, social and cultural rights of 16th December 1966.
- The convention on the elimination of all forms of discrimination against women of 18th December 1979.
- The 1979 convention on the international women's decade.
- The international convention on the fight against discrimination in the field of teaching, drafted under the auspices of UNESCO, dated 15th December 1960.
- Law 70-8 of 17th March 1970, outlining the regulations governing private teaching.
- The convention on the rights of the child, date 20th November 1989.

All the constitutions and laws of Niger have made education a right for all citizens. The democratic environment in place since the Sovereign National Conference has

fostered the setting up of an enabling environment for the effective enjoyment of the right to education and the emergence of decentralised management of education in partnership.

The constitution of 18th July 1999, promulgated by decree n°99/320/PCRN of 9th August 1999 guarantees education to every citizen of Niger, under the conditions defined by law.

Under the terms of article 19, the constitution recognises that parents have the right and duty to educate their children. They are assisted in this task by the State and local authorities.

Law n° 98-12 of 1^{er} June 1998, which lays down new guidelines for the school system, is an innovation in the normative environment of Niger.

It is an original law that constitutes real progress and a real programme. It creates effective rights and guarantees their enjoyment. Article 2 of the law stipulates that “education is a right for every citizen of Niger”.

The state guarantees education for all children between the ages of four and eighteen.

Article 7 of the law sets education as a national priority, while article 8 recognises this right to every individual without distinction of age, sex, social, racial, ethnic or religious origin.

Through this law, the state reaffirms its respect for the commitments made in the area of education.

Education at all levels must be in harmony with the economic, social and cultural development needs of Niger.

Law 98-12 of 1st June 1998 sets the main policy orientations of the education system. It demonstrates the desire of the government to meet essential needs in education. These include increasing school enrolment and literacy rates; improving the internal and external effectiveness of the system; ensuring more productive management of human, financial and material resources, and seeking ways of sharing the cost of education.

2) Measures taken to promote the right to education

In implementing the right to education, Niger has adopted a number of policy measures. These include:

- Giving priority to basic education through the allocation of 4% of GDP to the education sector. This will lead to:

- Allocating 40% of the resources flowing from debt alleviation as part of the Highly Indebted Poor Countries (HIPC) initiative to promoting universal education.
- Allocating at least 50% of the resources of the education sector to primary education.

These measures will lead to a significant increase in the gross school enrolment rate, which is expected to rise from 37.3% in 2001 to 70% in 2012.

- Giving priority to the education of children in rural areas, in particular by guaranteeing free schooling and appropriate school services for children from nomadic groups and in remote areas.

Gross school enrolment in rural areas will rise from 28% in 2000 to 65% in 2012.

- Improving the rates of retention of girls in school, in particular in rural areas, from 27% in 2000 to 68% in 2012 through:

- Organising awareness raising campaigns for parents and communities.
- Organising awareness campaigns targeted at communities.
- Carrying out research action on the schooling of girls.
- Training teachers on the gender approach.
- Setting up hostels for young girls in secondary schools.

- Provide education for children with special needs (handicapped) through:

- Setting up integrating classes.
- Developing special schools for the hearing impaired.
- Diversifying available facilities.

- Developing preschool education in the rural areas through the setting up of community kindergartens.

3) Aims, objectives and structures of the education policy of Niger

3.1.1. Aims and objectives

The objective of the education policy of Niger is to build up a system of education capable of enhancing the value of its human resources and enable the harmonious economic, social and cultural development of the country (art. 12).

It pursues the following objectives, among others:

- To cultivate those virtues that enable the flourishing of individuals and the promotion and defence of society.

- To guarantee fair access to education to all young people between the ages of four and eighteen, without distinction.

- To eradicate illiteracy.

- To identify and eradicate those socio-economic and cultural blocks, pedagogical handicaps and other obstacles that hamper the full development of girls and women in the learning process.

3.2. Structures

The education system of Niger comprises formal, non formal, informal and specialised structures.

3.2.1. Formal education

Formal education is the mode of acquiring knowledge and professional training within the school framework. It is made of the following:

- Basic education I.
- Middle school and higher education.

Basic education I concerns preschool and primary levels.

• Preschool

Preschool concerns children between the ages of 3 and 5 years. This cycle lasts three years. (3 to 6 years, since the adoption of the law).

During the period from 1990 to 2000, the number of preschool age children increased considerably. Indeed, in addition to representing a large portion of the population, (17 %), the number of children between three and six years of age increases by a yearly rate of 3.6%.

GROWTH IN ENROLMENT IN PRESCHOOL

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total	10990	11696	13177	14034	11653	9939	9203	10638	11764	11564	10360
Girls	5237	5593	6362	6782	5775	4833	4467	5192	5919	5779	5163
Boys	5753	6103	6815	7252	5898	5106	4736	5446	5845	5785	5197

An analysis of this table shows a slow see-saw movement. However, given the scope of actions to be undertaken and the will of the education authorities to make promotion of this sub-sector a reality, it is hoped that the implementation of the ten-year plan will lead to real growth.

• Primary education

Primary education begins between 6 and 7 years. The average duration is 6 years. At the end of this cycle, pupils obtain the certificate of primary education (CFEPD) or the certificate of the first degree of elementary education in French and Arabic (CEPE).

Niger drafted and implemented a plan of action for Education For All (EFA) from 1990 to 2000 in order to provide basic education for all. This plan emphasised awareness raising at national level, as well as resource mobilisation and development of partnerships

for basic education. One of the assigned objectives of the primary sub-sector was to increase the overall school enrolment rate from 23.9% in 1990 to 31.11% in 2000.

GROWTH IN ENROLMENT IN THE PRIMARY SECTOR

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Total	344848	368732	370117	389252	410929	426929	440622	464267	482065	529806	579486
Girls	124413	133252	135523	144402	146515	159974	165306	177136	186488	207559	228017
Boys	220435	235480	234594	245228	264414	266955	275316	287131	295577	322247	351469

During the decade between 1990 and 2000, enrolment levels in primary school witnessed positive growth of 4.6%. Although Niger is far from having attained the objective of universal primary education, the objective of 31.11% in 2000 was reached and even exceeded (34.1 % in 2000 and 37.3% in 2001, with 29.6% for girls). Even better, the determined policies of the new authorities in power since 1999 augur well for the future development of this sub-sector. Already, thanks to the special programme of the President of the Republic, primary enrolment has increased from 579 486 in 1999-2000 to 646 964 in 2000-2001. This represents a net increase of almost 12% in just one year.

• Basic education II

This cycle begins between the ages of 11 and 13. Children enter the cycle through a competitive entrance exam. The normal duration of this cycle is four years, at the end of which students obtain a certificate of first cycle education (BEPC).

At the beginning of the 2001 school year, there were 216 junior secondary schools in this cycle, with 85 328 students in 1920 classes under the supervision of 2398 teachers. The enrolment rate here is 13.25%.

• Middle school (second cycle of secondary education)

This is the second degree of education and comprises:

- A general education branch.
- A technical and vocational education branch.

In 2000-2001 technical and vocational education involved 16 817 students (compared to 18 049 in 1999-2000) with 1493 teachers in 54 establishments.

In 2000-2001, technical and vocational education in the public sector (outside of the Lycée Issa Béri) involved 2801 students, with 276 teachers in 9 establishments. Access to middle school is open to holders of the certificate of basic education.

The enrolment rate in this sub-sector was estimated at 4.2% in 2000.

- Higher education

This is the third degree of education and comprises all levels of training after the middle level. Currently this sector falls under the responsibility of the Ministry of Secondary and Higher Education, Research and Technology.

It comprises two universities; the Abdou Moumouni University in Niamey and the Say Islamic University. It also comprises research institutes and technical and professional training establishments such as the Institute for Training in Information and Communication Technologies (IFTIC), the National Institute for Pedagogical Research and Training (INDRAP), the National School of Public Health (ENSP), the National School of Administration (ENA), the School of Mines and Geology (EMIG), as well as other private training establishments, particularly in the area of information technology and management and accounting.

In 2000, there were some 6000 students registered at this level of education, in the faculties and schools of the Abdou Moumouni of Niamey and the Say Islamic University.

3.2.2. Non formal education

Non formal education is the mode of acquiring knowledge and professional training in a non school context. It involves young adults and is dispensed in literacy centres, religious schools, shared training centres and various other ad hoc training structures.

- Literacy teaching

Literacy teaching is defined as “all the educational processes aimed at providing an individual with the capacity to read and understand a simple text, to write an intelligible text and to carry out basic written calculations”. In Niger, literacy activities have evolved from adult education classes in French, towards literacy in national languages in particular in order to strengthen development action. Adult literacy aims among other things to raise awareness within village communities in order to obtain the following results:

- To take into account the realities of their environment.
- To define and control the problems of their social and physical environment.
- To obtain voluntary participation in the national development process.

The literacy rate rose from 14.5% in 1990 to 17% in 1995 and 19.9% in 2000. The literacy rate for women was 10.6 % en 1990. The number of village newspapers rose from 105 in 1990 to 172 in 1995 but fell to 50 in 1999.

This reduction was due to the allocation of a very low budget to literacy activities (0.23% of the education budget in 1998-1999) and to the fact many local authorities cancelled their funding of the activities of this sub-sector.

Over the period between 1990 and 2000, there was a marked increase in enrolment of women. They numbered 2290 out of 4438 enrolled, which is 51.2% of the total. This increase in female participation can be explained by the sustained attention that they have received from partners such as the World Bank, UNICEF and UNESCO, certain projects, NGOs and associations.

It is important to note that thanks to the efforts deployed to implement an effective and operational literacy programme, Niger has received two distinctions and prizes in the form of the King Sejong literacy award, a US \$ 15 000 award, which was created in 1989.

• Vocational training for adults and youth

The objectives of vocational training are as follows:

- To significantly and rapidly improve the education coverage within the population.
- To improve the efficiency of educational institutions and bring about a change in the attitudes of communities, families and other partners.
- To counteract the negative impact of high dropout rates from the formal sector and thus contribute to the reduction of rural exodus and unemployment.

Community development training centres and apprenticeship centres have been set up to help attain these objectives. These centres provide apprenticeship programmes in professions such as hairdressing, dressmaking, etc., as well as training about civil society, associations, cooperatives and community integration.

Apprenticeship centres have contributed significantly to counteracting the impact of females having to drop out of the school system. Although they only exist in large cities at the moment, they have played a vital role in reducing female unemployment and raising the standard of living of women.

3.2.3. Informal education

This is a lifelong process by which an individual acquires knowledge, skills and attitudes through daily experience and relations with the environment.

It is carried out through several channels:

- The family unit.
- The community.
- Social groupings.
- The media communities and other instruments of communication.
- Various associations and movements.

3.2.4. Specialised education

The mission of specialised education is to educate or re-educate and train physically and mentally handicapped citizens, in order to facilitate their social insertion or re-insertion.

It is provided by:

- Establishments for the physically and mentally handicapped.
 - Reform centres for juvenile delinquents.
- Specialised education is mainly the responsibility of the State.

4) Funding education

Education in Niger has enjoyed particular attention from the public authorities.

This sector is a major component of the National Framework for the Reduction of Poverty (PNC/LP).

In the light of the enormous sacrifices made in favour of the sector and the low results obtained, Niger has developed a policy of diversifying the sources of financing by extending partnerships both internally and externally, and by intensifying cooperation in the area of education.

As a result, financing of teaching and training is provided by the State, local authorities, families, development partners and all other legal and moral entities, and through grants and legacies.

The distribution of roles and the rules governing the action of each partner are laid down by law.

However, the State remains the primary source of financing of education.

In 1999, education sector spending represented 18.8% of the national budget and 3.07 % of Gross Domestic Product (GDP).

The break down of the budget for each sub-sector is as follows:

- 43% for Basic education I.
- 26% for Basic education II.
- 22% for Higher education.
- 9% for literacy and administrative services.
- The wage bill represents 96% of the education budget and scholarships absorb 77% of the higher education budget.

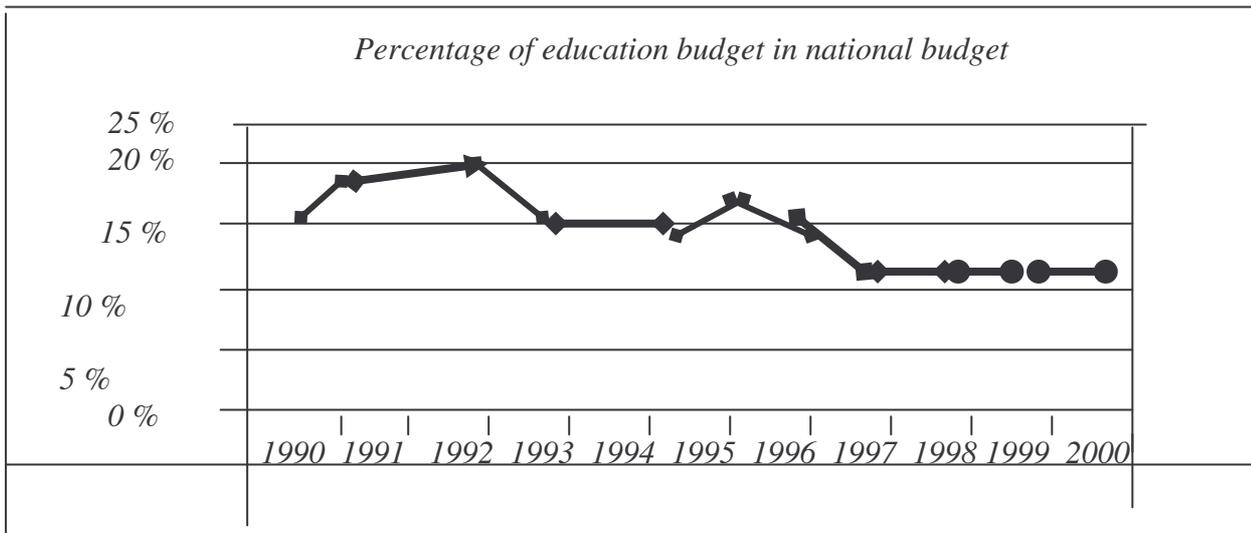
In the past, the state also contributed to the running of private institutions through subsidies. These have however been suspended due to the financial difficulties facing the state.

Table n°1: National education budget compared to national budget (*in millions of current CFA francs*)

	1990	1991	1992	1993	1994	1995	1996	1997	1998	1999	2000
Education Budget	17 916	20 354	25 075	17 851	24 376	26 776	26 387	24 848	25 037	25 756	26 35
National Budget	115 176	109 610	125 900	121 600	166 800	163 718	173 942	194 405	204 031	205 909	217 282

% Education Budget / National Budget	15.56	18.57	19.92	14.68	14.61	16.35	15.17	12.78	12.27	12.51	12.16
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Source: Ministry of Finance and DAF/MEB



Source: Ministry of Finance and DAF/MEB

Table N°2: GROWTH IN EDUCATION SPENDING AND GDP (IN THOUSANDS OF CFA FRANCS)

FROM 1987 TO 1996

Amount	Education spending	Gross domestic product (GDP)	% of Education spending/GDP
Years			

1987	13 977 675	662 800 000	2, 1
1988	14 700 765	658 600 000	2,23
1989	15 545 076	664 500 000	2,34
1990	21 397 454	643 400 000	3,32
1991	21 454 798	646 600 000	3,31
1992	25 075 000	646 100 000	3,88
1993	17 851 135	648 998 000	2 ;75
1994	24 376 362	792 698 000	3,07
1995	26 776 773	817 641 000	3,27
1996	26 386 757	844 955 000	3,12

Development agencies are involved in the promotion of basic education through various projects and programmes. NGOs, associations and bilateral cooperation agencies actively collaborate with the government, in particular in the area of extending access to education and improving the quality of teaching.

In spite of all this, the education system of Niger is faced with constraints of varying orders.

5) The constraints on development in Niger

5.1. Constraints on the development of preschool education

- Lack of resources and inefficient use of allocated resources.
- Absence of a planning and monitoring structure for preschool establishments.
- Absence of a body capable of designing and producing appropriate teaching tools that are adapted to the socio-cultural realities of young children.
- Inappropriate teaching programmes.
- Lack of effective means of cost recovery and high cost of education for rural dwellers.
- Absence of specialised preschool establishments and community establishments for young children.
- Lack of qualified staff.

- Absence of funding mechanisms capable of generating and supporting the involvement of private initiative in the development of school education.

5.2. Constraints on the development of primary education

- Insufficient education curricula, which are not adapted to the social, economic and cultural realities of the country.
- The high cost of schooling for children in rural areas, in particular for the girl child.
- Lack of reliable statistics and a harmonised programme of teaching in Koranic schools.
- The requirements of basic education are not taken into account in Koranic schools.
- Insufficient and even inexistent training and pedagogical supervision for teachers in Koranic schools.
- Absence of bridges between the non formal and formal education sectors.
- Lack of literature in national languages.

5.3. Constraints on the development of secondary education

- Insufficient human, financial and material resources allocated to the sub-sector.
- Inefficient resource management.
- Reluctance of parents to keep girls in school at this level.
- Reluctance of certain technical and financial partners to be involved in this sector of education.

5.4. Constraints on development of non formal education

- Lack of a literacy and post-literacy policy.
- High opportunity costs.
- Inadequate training programmes.
- Low mobilisation of national resources for funding the sub-sector.
- Insufficient basic training for school teachers.
- Lack of reliable statistics and a harmonised programme of teaching in Koranic schools.
- The requirements of basic education are not taken into account in Koranic schools.
- Insufficient and even inexistent training and pedagogical supervision for teachers in Koranic schools.
- Absence of bridges between the non formal and formal education sectors.
- Lack of literature in national languages.

6) Prospects for the future

In order to face up to all these challenges, the Ministry of Education has drafted a Ten Year Educational Development Programme of Niger, covering the period from 2002 to 2012, with the support of development partners.

This programme now serves as the overall reference framework for all action in this sector.

The programme is intended to attain the following general objectives:

- ❖ To strengthen and develop the institutional capacities of the Ministry of Education.
- ❖ To improve education, particularly in rural areas and for the girl child.
- ❖ To promote non formal education, in particular for girls and young women.
- ❖ To reform and adapt educational supply and demand in order to reduce the disparities between regions, between urban and rural areas and between boys and girls.
- ❖ To improve the quality of education by renewing the curricula.
- ❖ To strengthen and develop vocational and technical training.

The programme has specific goals for each sector, which are indicated for each section below.

6.1. Preschool

- To extend preschool education and raise the enrolment rate at this level from 1% in 1999-2000 to 5% in 2011-2012.

The following actions will be undertaken to attain this objective:

- ❖ Construction of 1068 classrooms in the public sector and 1089 activity rooms for community preschools.
- ❖ Rehabilitation of 166 classrooms in urban centres.
- ❖ Recruitment of 1210 preschool teachers and 2178 preschool assistants.
- ❖ Awareness raising within the rural population to generate their interest and involvement in the education and protection of young children.
- To improve initial and continued training of preschool teachers through:
 - ❖ The creation of a preschool branch in teacher training schools.
 - ❖ Improvement of continued training for preschool teachers (refresher courses for 570 teachers).
 - ❖ Training of 9 inspectors and 18 pedagogical advisors for preschool.
 - ❖ Strengthening of inspection services.
- Improve teaching conditions and environment through:

- ❖ Revising and adapting preschool study programmes.
- ❖ Providing teachers with reference documents and pedagogical materials (1248 teaching kits).
- ❖ Design and implementation of tools for assessing teaching.

6.2. Primary education

- Increase enrolment from 34.1% in 2000 to 70% in 2012 through the following actions:

- ❖ Design of basic education I curricula to make them more attractive to the population.
- ❖ Making the school calendar more flexible in order to respond to the requirements of the local population and the reality of the lives of school children.
- ❖ Improving the system of tests and examinations.
- ❖ Introducing bilingual teaching in the basic education I cycle.
- ❖ Building and equipping 19 485 classrooms, 5630 of which will be built with local materials, and rehabilitating 6 701 classrooms.
- ❖ Recruiting 25 063 teachers in the public sector (20 459 volunteers and 4604 civil servants).

- Increase enrolment in rural areas from 28% in 2000 to 65% in 2012 through:

- ❖ Implementing a policy of communication in favour of education in the rural areas.
- ❖ Building 140 classrooms with a capacity of 60 pupils each.

- Raise the enrolment of girls from 27% to 68% in 2012 by:

- ❖ Organising communication campaigns in favour of education for girls.
- ❖ Training teachers on the gender approach.

- Promote education for handicapped children through:

- ❖ The creation of 43 integrating schools.
- ❖ The creation of 5 schools for the hearing impaired.

- Improve the quality of initial training of teachers for basic education I by:
 - ❖ Revising the regulatory texts governing teacher training schools.
 - ❖ Increasing the intake capacity of teacher training schools.
 - ❖ Improving the teaching equipment in teacher training schools.
 - ❖ Drafting new curricula for teacher training schools.
- Improve continued training of teachers for basic education I by:
 - ❖ Restructuring and giving new dynamism to the pedagogical training units (CAPED).
 - ❖ Training 270 teachers for the integrating classes and 32 teachers for schools for the deaf.
 - ❖ Training of teachers on alternative forms of teaching for children with learning disabilities.
 - ❖ Training 147 teachers in handling multiple-level classes.
 - ❖ Improving the system of initial training for school inspectors and pedagogical advisors.

6.3. In the non formal education sector

- Set up a durable system of basic vocational training and develop it at national level through the following actions:
 - ❖ Survey of the training needs of the eight regions of the country with a view to drafting a plan for the design and establishment of training centres throughout the country.
 - ❖ Evaluate the performance of existing community training and development centres (CFDC).
 - ❖ Drafting governing texts for the CFDCs as components of technical and vocational education.
 - ❖ Creating 100 centres for training in community development.
- Ensure quality training and socio-economic interaction with communities through:
 - ❖ The development of a strategy of drafting training programmes in harmony with local, sub-regional and regional economic activities.

- ❖ Refresher courses for 400 trainers for the centres.
- ❖ The development of a support structure to enable graduates to find jobs.
- Reorganise Koranic schools into a dynamic structure for basic education by:
 - ❖ Drawing an inventory of fixed and stable Koranic schools.
 - ❖ Drafting teaching and training programmes.
 - ❖ Educating the population on the restructuring of Koranic schools and testing the new programme.

By drafting this vast programme of development of education for the period from 2002 to 2012, the government of Niger has reaffirmed its political will and its commitment to making education of children one of its first priorities.

b) The right to participate in the cultural life of the community

Ever since it attained independence in 1960, Niger has always accorded particular attention to the right to culture.

Like previous constitutions, the constitution of the 5th republic, promulgated on 9th August 1999, clearly enshrines this right. Article 3 of the constitution stipulates that “all the communities that make up the nation of Niger enjoy the freedom to use their language while respecting those of others”.

As a result of the desire of the leaders of Niger to make culture a factor of economic and social development, a national seminar was organised in Tillabery in July, 1985 to define a national cultural policy. The final document of that seminar remains the reference framework for accomplishing several activities.

Mention must be made of the creation of a Heritage and Museums Directorate within the Ministry in charge of culture. This Directorate has organised several events and publicised the intangible heritage of the country. Among these are the Dan-Gourmou Award, the Book Month, the national youth festival, festivals of traditional dance and music, the week of solidarity with artists of Niger, theatre week, etc.

The interest of the state in issues of cultural heritage has been manifested over many years, in particular with the creation of the internationally renowned National Museum of Niger in Niamey. It has also set up two Regional Museums in Zinder and Dosso; organised a general inventory of the cultural heritage and several studies whose results have led to the drafting of projects for three regional museums in the departments of Agades, Maradi and Tillabéry. The Wadata crafts centre in Niamey plays an important role in showcasing and selling traditional crafts products.

The Heritage and Museums Directorate has drawn up inventories and constituted a collection of cultural goods, with the collaboration of other institutions. This is part of a mission to safeguard the archaeological heritage and sites, as well as

historical monuments, objects, sacred places of worship, mythical tombs, and traditional festivals and sports. This has made it possible to rehabilitate and restore certain monuments. This is the case for the Sultan's palace in Zinder, and the Mosque and the Sultanate of Agades.

The document of the Tillabéry seminar defines culture as both a set of productive practices, social values, actions, behaviour, attitudes and ideological mind sets, and a set of social achievements and institutions through which a people ensures its existence, organises its life and bears witness to its identity.

There is a considerable legal arsenal governing cultural heritage. The main domestic texts are the following:

- The decree of 25th January 1944, relating to the classification and protection of historical monuments and on excavations in French West Africa.
- Decree n° 47 – 49 of 27th November 1947, outlining the regulations governing the export of classified objects and archaeological, zoological and scientific collections.
- Law n° 56 – 06 of 3rd November 1956, on the protection of historical, scientific, artistic or picturesque monuments, the classification of historical or scientific objects and the regulation of excavations.
- Ordinance n° 93 – 027 of 30th March 1993, relating to copyright, ancillary rights and expressions of folklore.
- Guideline law for the educational system of Niger.

Literature, poetry and drama also have varied and special roles to play.

In Niger, the cultural identity is promoted through traditional or folkloric groups, who are the clearest expression of this identity.

The Niger broadcasting office also plays a significant role in collecting, preserving and disseminating the intangible heritage.

Both its radio and television broadcasts include musical programmes. Among these, we may cite “Musical Awakening”, “Discovering our Traditional Artistes”, “Life and Culture”, “Getting to know the musical instruments of Niger” and “Music of Niger”, etc.

Over the past few years, several private radio and television channels (Ténére TV, Tal TV) and community radio have emerged and contribute in large part to the dissemination of the intangible heritage.

The Cultural Centres of the colonial period have been consolidated and transformed into Youth and Cultural Centres. Today, there are 40 such centres equipped with:

- Outdoor theatres.
- Libraries.
- Photography, sewing and painting workshops.
- Exhibition rooms.

The following themes feature among the various permanent temporary and itinerant exhibitions:

- Results of archaeological excavations in the west of Niger.
- The history of feathers.
- The Niger valley.
- Our common treasure.

The main objective of the National Youth Festival is to consolidate national unity by bringing young people together through cultural, artistic and sporting activities.

Several other activities are organised with the same objective. Among these are the *Cure Salée* and other annual encounters of herders, fairs, the International Festival of African Fashion, the Miss Niger pageant, the Traditional Wrestling Championship, etc.

In the area of bilateral and multilateral cooperation, Niger has signed several cooperation agreements and ratified conventions on cultural heritage adopted by the general conferences of UNESCO and ISESCO.

In the field of sports, the state in conjunction with local authorities guarantees the practice of sports to all individuals, without distinction of sex, age, race, ethnic group or religion, in order to ensure the harmonious development of individuals.

The organisation and practice of group sports and physical exercise fall under the competence of sporting groups and associations, supervised by the Ministry of Sports.

Where books, literature and reading are concerned, there is a clear political will, which is illustrated through some concrete action. Among these are the following:

- The institution of the Books, Literature and Reading Month.
- The institution of the Boubou Hama award, which is given to a cultural figure that has attained distinction in making known Niger and its values of civilisation.
- The adoption of the texts setting up the National Library and the copyright office.
- The creation of the Niger Publication Unit.
- The creation of an Arts and Libraries Directorate.

It must be noted that in addition to school and university libraries, international cooperation has enabled Niger to set up 35 libraries, most of them in rural areas, as part of the network of reading and cultural entertainment centres known as CLAC. These libraries represent a store of documents of more than 70 000 works.

The government of Niger has adopted several national texts on copyright with a view to protecting literary, musical, artistic, cultural and scientific works.

Among these are the following:

- Ordinance n° 93 – 027 of 30th March 1993, relating to copyright, ancillary rights and expressions of folklore.
- Law n° 95 – 019 of 8th December 1995, setting up a profession public establishment known as the Niger Copyright Office (BNDA).
 - Decree n° 96 – 434/PRN/MCC of 9 November 1996, approving the constitution of the BNDA.
 - Decree n° 157/MCI/MCC of 14th October 1997, outlining the tariffs of copyright, ancillary rights and expressions of folklore.
 - Decree n° 009 of 21st February 2000, outlining the creation and competence of the regional and local branches of the BNDA.
 - Decision n° 057/MCC of 8th September 1997, relating to the obtaining prior authorisation from the BNDA.

The mission of the National Copyrights Office is to ensure that the rights inherent to literary and artistic property are respected throughout all the national territory.

This office provides protection of the moral, material and financial rights of artistes, who receive regular payments of their rights, according to conditions set out by the abovementioned texts.

Other associations such as the National Association of Authors, Composers and Performers of Modern Music (ANACIMM) and the Association of Niger Writers (AEN) defend the rights related to their cultural domain.

Finally, we must indicate that Niger is looking forward to a major sporting and cultural event, the 5th *Jeux de la Francophonie* (Francophone Games) to be held in Niamey in December 2005. The sports sites chosen for the event are the following: the General Seyni Kountché stadium, the Municipal Stadium, the Traditional Games and Wrestling Arena, the Muslim Stadium, the National Institute for Youth and Sports, the University Stadium, and the Academy of Martial Arts (to be created).

Among the cultural sites are the Palais des Congrès, the Oumarou Ganda Cultural Centre, the National Museum of Niger, the Diado Sékou Cultural Centre, the Elhadji Taya Centre for Training and Promotion of Music, the Governor's Residence and the France-Niger Cultural Centre.

This also illustrates the existence of major sporting, cultural and socio-educational infrastructure that have been set up by the state of Niger.

Constraints:

- The reduction in film production due to lack of adequate means.
- The low level of interest of adults in the reading centres.
- Lack of financial means for the implementation of cultural heritage programmes.

- Absence of a data bank of the tangible and intangible heritage of the people of Niger.
- Insufficient specialised staff in the field of cultural heritage.
- Persistent plundering of cultural goods.

III) Group rights

This is the right to peace and a generally satisfactory environment.

A) The right to peace

In 1990, a certain number of citizens of Niger started a rebellion. This situation was discussed at length during the National Conference in 1991 and the political authorities made the restoration and consolidation of peace one of their first priorities.

Those citizens who started the rebellion rallied under the banner of the "Coordination de la Résistance Armée" (CRA) [Coordination of the Armed Resistance] and drafted a document entitled "Framework Programme of the Resistance" in February 1994, which served as the basis for negotiations with the government.

Through this document, the government was officially informed of the concerns of those citizens who had entered into rebellion.

Negotiations were favoured as the best way to arrive at peace. Thus a series of mediations was started, with the assistance of some friendly countries. This led the two parties to a peace agreement that was initialled in Ouagadougou in Burkina Faso on 9th October 1994 and signed in Niamey on 24th April 1995.

On this occasion, the discussions focused mainly on the right to peace for the people of Niger and the provisions of national legal instruments such as the constitution of 27th December 1992 and the resolution of the National Conference, as well as international instruments like the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights of 1981. These documents served as working documents.

Two other additional peace agreements were signed in Algiers and in N'djamena respectively on 28th November 1998 and 21st August 1999, between the government of Niger and the Toubou rebellion, another group that, like the first, felt excluded from the management of public affairs and from the enjoyment of the benefits of development actions.

The constitution of Niger in its articles 10 to 34 makes a number of stipulations relating to the Rights and Responsibilities of individuals.

Thus, according to article 10 "the human person is sacred. The state has an absolute obligation to respect and protect it and guarantees it full development". Article 11 states that "every individual has the right to life, to good health, to freedom, security, physical and mental integrity, to education and teaching under the conditions defined by law".

Likewise, article 23 of African Charter on Human and Peoples' Rights stipulates in its paragraph 1 that "all peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organisation of African Unity shall govern relations between States".

In its paragraph 2, the same article indicates that "for the purpose of strengthening peace, solidarity and friendly relations, the States parties to the present Charter shall ensure that:

a) Any individual enjoying the right to asylum under article 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State party to the present Charter.

b) Their territories shall not be used as bases for subversive or terrorist activities against the people of any other State party to the present Charter".

Finally, freedom, equality, justice and dignity are considered as essential objectives for attaining the legitimate aspirations of African peoples. This is reason to set up international protection so that with the reality and respect of peoples' rights, human rights would be guaranteed.

However, the enjoyment of rights and freedoms also implies the accomplishment of certain duties for each individual. Since civil and political rights cannot be dissociated from economic and socio-cultural rights, and since the satisfaction of these rights guarantees the enjoyment of the right to peace, freedom and dignity and the elimination of all forms of aggression and discrimination, the peace agreement signed on 24th April 1995, between the government and the armed resistance strongly emphasised the socio-economic dimension as one of the reasons for the rebellion.

Nevertheless, in order to have a better understanding of the procedure and the preliminary measures taken before and after the signing of the first peace agreement, one needs to have a brief presentation of the history of the rebellion and the implementation of the provisions of the peace accord for its final resolution.

a) History of recent conflicts in Niger and their main characteristics

It is possible to classify the conflicts in Niger by type, taking into account their inherent nature. This makes it possible to distinguish between rebellions and the other forms of armed conflict. These other forms may be conflicts between communities in the same region, for example, the Toubou against the Peulh and Arab communities of Diffa. They may also be community conflicts relating to the management of natural resources; institutional and political conflicts, or socio-economic crises.

1. Armed rebellion

Within the limited framework of this analysis, rebellion may be defined as a violent attack against the representatives of the public authority, acting to enforce the laws or orders of this authority.

In the light of this definition, there have only been two forms of armed rebellion in Niger; the Tuareg rebellion and the Toubou rebellion.

1.1. The Tuareg rebellion

Views differ greatly as to the causes of the Tuareg rebellion. We may however consider those causes identified by the liaison committee in charge of negotiating with the leaders of the rebellion. The committee identified two categories of causes: internal and external.

1.1.1. Internal causes

- An inadequate administration service, tainted with a mentality inherited from the colonial period.
- The absence of a specific planning policy for each region.
- Exploitation of regionalism and ethno-centrism by certain intellectuals for their personal objectives.
- Mismanagement of projects due to the absence of participation of the local population in decision making.
- Failed re-insertion of people repatriated from Algeria or expelled from Libya.
- Covering up of the outcome of the so-called Tchintabaraden case in May 1990. This was a case where elements of the regular army carried out a reprisal action against a Tuareg community after an attack had been waged on symbols of the State from that area and in particular the sub-prefecture, by a group of Tuaregs. The victims of this action petitioned the national conference to have the perpetrators of the violence they had suffered punished, but to no avail.

1.1.2. External causes

It may also be noted that at the time, the geopolitical context was characterised by the presence of various pockets of tension in the sub-region: the Saharaoui war and the fighting in Mali, Chad, etc.

Alongside these causes, there are a number of compounding factors that need to be taken into account and which relate to the fact that the conflict essentially affected the northern region of the country, which is a pastoral zone and very remote, leading to the isolation of populations in the region.

In addition, there was the particular crisis of nomadism following unfavourable climate conditions (repeated droughts) and their induced effects, with emigration and the change of mentality that it implies.

1.2. The Toubou rebellion

The causes and compounding factors mentioned above for the Tuareg rebellion also apply to the Toubou rebellion.

In addition, it must be pointed out that the North-Eastern part of Niger served as the rear base for the Chadian armed movements and this influenced the behaviour of the populations in that zone.

It must also be emphasised that one of the indirect causes of all these armed rebellions was the management of natural resources; uranium in the North and oil in the East.

2. Community conflicts

These conflicts may be broken down into two categories.

2.1. Conflicts between farmers

These may arise from several causes.

- Joint ownership of a piece of land by various members of a family.
- Disputes about land limits among farmers, families, villages, cantons and arrondissements.
- Disputes about mortgages, liens or donations of land where there is no written proof or credible witness.

2.2. Conflicts between farmers and herders

The principal causes are linked to various factors.

- Non compliance with the corridors for passage.
- Environmental degradation following repeated droughts and impoverishment of the soil in the agricultural south, which have led to the emergence of new sources of conflict in the habitually pastoral zones of the north, with farmers moving into pasture zones and setting up sedentary villages.
- Non compliance on the part of herders with the texts that prohibit their migration to the south before the end of the harvest.

3. Institutional political conflicts

These are caused by differences of opinion between majority political parties or groups and the opposition. On two occasions, these disputes have compelled the armed forces to intervene on the political scene.

4. Socio-economic crises

These are caused by union demands, which have in the past led to repeated workers' and students' strikes.

We must emphasise that all these conflicts, be they armed conflicts, conflicts relating to the management of natural resources, political conflicts or economic and social conflict, are all sources political and social instability that threaten the peace and security of individuals and property. They are an obstacle to the economic development of the country because they compromise the chances of success of development programmes. Certain conflicts may even be seen as a threat to the integrity of the State.

b) The peace process in Niger

1. Implementation of the various peace accords

Niger was faced with the phenomenon of rebellion at the beginning of the 1990s.

The recounting of this rebellion received widespread media coverage and what is of concern today is the implementation of the provisions of the peace accords.

It may be recalled however that the rebellion rose out of mainly social, economic and political demands. It began in the regions of Aïr, Azawak, Kawar and Manga and involved mainly the Tuaregs and Toubou communities.

It also led to the creation of self-defence movements in the Arab and Peulh communities.

Faced with the growing insecurity, which seriously threatened the economic and social development of the Agades, Diffa and Tahoua regions, and in the desire to restore peace and tranquillity, the government undertook to negotiate a settlement with the various Fronts of the rebellion, with the support of friendly countries like France, Algeria, Burkina Faso and Chad.

Today, the issue has been settled, since the government of Niger and the former resistance army, a group of 17 Fronts, Movements and Self-defence Committees have concluded three peace accords as follows:

- ❖ The Peace Accord of 24th April 1995.
- ❖ The Algiers Additional Protocol of 28th November 1997.
- ❖ The N'Djamena Peace Accord of 21st August 1998.

The peace accords focus on four main points:

- Decentralisation
- Management of security in the regions affected by the armed conflict.
- Development of the regions affected by the armed conflict.
- Integration and socio-economic reinsertion of former combatants and the return of refugees who fled to other regions.

In addition to these four main points, there are a number of measures designed to create an enabling environment for mutual trust:

- Amnesty and freeing of prisoners.
- Reintegration of those who left their posts as civil servants and those who left schools.
- Eradication of the action of armed groups and bands.
- Effective disarming of former combatants.

The High Commission for Restoring Peace and other State bodies are in charge of implementing the provisions of the accords.

To date, a number of actions have been undertaken as part of the process of restoring and consolidating peace, in line with the commitments made by the parties involved.

Government action

- Decentralisation

Decentralisation is one of the main thrusts of the accords. It has been a major concern in Niger since 1964.

This process received new impetus as a result of the commitments made in the peace accords.

A commission including representatives of the former resistance army was set up to examine the delimitation of administrative regions.

The deliberations of the commission led to the adoption of the following laws:

- Law n° 96-05 of 06th February 1996, creating Administrative constituencies and Territorial communities.
- Law n° 96-06 of 6th February 1996, defining the fundamental principles of the free administration of the regions, departments and districts, as well as their areas of competence and resources.
- Laws 98-29 to 98-33, all dated 14th September 1998, creating the districts, setting their borders and indicating the names of their capitals.
- Law n° 98-35 of 14th September 1998, limiting the plurality of offices.
- Law n° 98-36 of 14th September 1998, setting the number of seats in local deliberating bodies.
- Law n° 2002-13 of 11th June 2002, transferring competence to the regions, departments and districts.
- Law n° 2002-14 of 11th June 2002, creating the districts and indicating the names of their capitals.
- Law n° 2002-15 of 11th June 2002, creating the urban community of Niamey.
- Law n° 2002-16 of 11th June 2002, creating the urban communities of Maradi, Tahoua and Zinder.
- Law n° 2002-17 of 11th June 2002, defining the financial regime of the regions, departments and districts.

As far as the government is concerned, all the arrangements relating to decentralisation have been set up. Only local elections remain to be organised.

- Management of security in the areas affected by the armed conflict

As part of the management of security in the areas that had been affected by the conflict, the 24th April 1995 peace accord provided for the setting up of special forces called the Saharan Security Units (USS), made up of former combatants of the armed resistance and citizens of the regions involved.

All four of these Saharan Security Units have now been created and are operational in Aïr, Azawak, Manga and Kowar.

- Development of the regions affected by armed conflict

Article 23 of the 24th April 1995 peace accord provides for the organisation of a round table meeting on the emergency programme.

In compliance with the undertaken made, the Government of the Republic of Niger, in collaboration with its development partners and with the assistance of UNDP, organised this meeting on the pastoral zone of Niger, from 30th to 31st October 1995 in Tahoua.

A development programme for the zone was drafted and adopted by a forum held in Niamey on 27th and 28th June 2000. This programme is taken into account as part of the special programme of the President of the Republic.

- Integration and reinsertion of former combatants

. Integration

The peace accords provided for the integration of certain ex-combatants in various State structures after demobilisation.

Working meetings made it possible to identify those to be integrated and 3014 of them have been integrated.

To date, the situation is as follows:

CORPS	EXPECTED NUMBERS	NUMBERS INTEGRATED	REMAINDER	REMARKS
Niger Armed Forces	274	274	0	
National Gendarmerie	66	66	0	
USS	1602	1602	0	
GR	91	91	0	
POLICE	107	107	0	
Customs	120	120	0	
FOREST/FAUNA	112	112	0	
SUB/TOTAL 1	2372	2372		
UNIVERSITY	152	152	0	
SCHOOLS & COLLEGES	160	140	20	
TEACHER TRAINING SCHOOLS	84	84	0	
E.N.S.P.	65	65	0	
ENA-IFTIC AND IPDR KOLLO	61	61	0	
DIRECT INTEGRATION INTO THE CIVIL SERVICE	7	7	0	
AUXILIARIES (MEN)	73	63	10	
AUXILIARIES (MSP)	40	36	4	
<u>SUB/TOTAL 2</u>	642	608	34	
GRAND TOTAL	3014	2980	34	

NB: The column “expected numbers” takes into account the numbers provided by:

- The 24th April 1995 Peace Accord.
- The Register of Conclusions of 02/06/99 concerning the FARS.
- The Register of Conclusions of 19/08/99 concerning the FDR.
- The Register of Conclusions of 07/02/2000 concerning the Peulh Militia.

- The Register of Conclusions of 30/05/2000 concerning the Arab Militia.

. Socio-economic reinsertion of former combatants

The 24th April 1995 peace accord provides for the social reinsertion of demobilised ex-combatants and the Register of Conclusions dated 4th July 1996 more specifically speaks of 3500 ex-combatants.

In addition to these, there are 250 other ex-combatants to be reinserted, from the Register of Conclusions between the HCRP and the FDR, the Peulh Militia and the Arab Militia of N'Guigmi.

Furthermore, in September 2000, 300 ex-combatants who should have been recruited in companies, accepted to be reoriented towards socio-economic reinsertion.

A total of 4050 are thus involved in the socio-economic reinsertion exercise in the four regions affected by the conflict. (Aïr, Azawak, Kavar and Manga).

The exercise has already started in the Manga region through the project called "Consolidation of peace in the Diffa region". It has the support of the French Cooperation department, the UNDP and the UNVP. This exercise involves 660 former combatants from the self-defence fronts and militia that operated in the area.

For Kavar, funding for the reinsertion of 230 ex-combatants has been obtained with the assistance of the same partners as in the Manga project. The programme was launched on 18th March 2002.

For Aïr and Azawak, a programme of reinsertion of 3160 former combatants is currently under study.

The results of the study will be submitted to development partners for financing.

In another area, two HIMO projects have been carried out with funding from the UNDP, to provide temporary employment to ex-combatants.

Where the leaders of these Fronts and some of their commanding staff are concerned, the Steering Committee that was set up on 22nd April 1998 decided to treat their cases separately. They have the possibility of being integrated into any State corps, of being given a political appointment or of opting for socio-economic reinsertion in the form of an allowance corresponding to the amount paid to civil servants going on voluntary retirement.

Those who chose the latter option have almost all received the amounts involved. Only some members of the Arab Militia of N'Guigmi are still awaiting their settlements.

The ex-resistance movement:

By 5th June 2000, laying down of arms had effectively been carried out in all the areas previously affected by the armed conflict.

The culminating point of these activities was the "Flame of Peace" ceremony organised on 25th September 2000 in Agades, where arms were symbolically burnt and the different Self-defence Fronts and Movements were officially dissolved.

1) General prospects for management of the peace process

Peace needs to be consolidated through the following actions:

- Finalising the process of socio-economic reinsertion of former fighters.
- Promoting a culture of peace.
- The harmonious development of the regions.

B) The right to a generally satisfactory environment (article 24)

Article 27 of the constitution of Niger enshrines the right to a generally satisfactory environment in the following terms: “Every individual shall have the right to enjoy a healthy environment. Every individual must contribute to safeguarding and improving the environment in which they live”.

The storage, manipulation and evacuation of toxic or pollutant waste from factories or other industrial or artisan installations on the national territory shall be governed by Law. Transporting, importing, storing, burying and discharging of any toxic or pollutant waste of foreign origin on national territory, and all agreements relating to such activities shall constitute a crime against the nation, punishable by law”.

The outline-law on the environment (law n°98-56 of 29th December 1998) sets out the basic principles for rational management of the environment and natural resources in its article 3. Those principles are as follows:

- a) The principle of prevention, according to which it is better to foresee and prevent possible damage to the environment.
- b) The principle of caution, whereby the absence of scientific or technical certitude should not prevent the adoption of effective and appropriate measures to prevent serious damage to the environment.
- c) The polluter-pays principle, whereby the polluter bears the cost of preventive action against pollution and the measures adopted to fight pollution, including the rehabilitation of polluted sites.
- d) The principle of accountability, according to which any person who by their action creates conditions that could be harmful to human health and to the environment, is obliged to take the necessary measures to bring an end to the harm caused.
- e) The principle of participation. Each citizen has a duty to protect the environment and contribute to its improvement. To this end, public authorities are expected to facilitate access to information on the environment and also to act in consultation with the groups and populations concerned.
- f) The principle of subsidiarity. In the absence of a rule of written law to protect the environment, tried and proven customary standards and traditional practices of the land apply.

Under articles 6, 7, 9 and 10 of the abovementioned law, natural resources, in particular, water, forest, animal and fish resources and the environment in general are part of the common heritage of the nation.

The State exercises a sovereign right over the genetic resources found on the national territory and access to these resources requires prior consent of the State.

Protection of the natural environment and landscape; conservation of animal and plant species; maintaining the biological balances that they represent; protecting natural resources and the environment in general are considered actions in the general interest that contribute to sustainable development.

As part of their regular activities, private and public institutions have a duty to educate the population about environmental issues. In this way, they enable citizens to be better informed, thus facilitating their involvement in management of the environment.

Associations working in the field of the environment are recognised as being of public utility and enjoy the advantages attendant to this status. They may thus file suit for damages before the courts, concerning cases where there have been violations of the provisions of the law relating to the management of the environment and where such violations have caused direct or indirect harm to the collective interests that they defend.

Government has the responsibility for drafting and implementing environmental policy. It must therefore do the following:

- Set standards for the quality of air, water, soil, as well as the general standards for the conservation of human health and the environment.
- Ensure the drafting and implementation of a national environmental plan for sustainable development.
- Initiate and coordinate the required action to prevent major catastrophes and all other situations of environmental emergency.
- Ensure the drafting and publication of periodic reports on the state of the environment.
- Draft and ensure the implementation of research programmes on improving the environment.
- Publish information about the environment.
- Take all necessary measures to ensure the effective enforcement of the law.

A national environment fund has been set up to finance the national environment policy. The fund is made up of grants from the State and part of the income from fines, settlements and confiscations made for violations of the law.

The resources of the fund are used for various activities:

- Support, research and education on the environment.
- Support to programmes to combat desertification, in particular reforestation programmes; the fight against bush fires; improvement of cultivation techniques and the use of sources of fuel other than firewood.
- Promotion of the use of renewable sources of energy and clean technologies.

- Support to local initiatives in the area of environmental protection and sustainable development.
- Support to environmental protection associations that carry out significant activities in this field.
- Support for the activities of public departments, local authorities and individuals in the area of protecting and improving the environment.

As part of the protection of the atmosphere, article 37 of the outline-law prohibits the emission in the air of any polluting substance, in particular toxic, corrosive or radioactive smoke, gases, or dust, beyond the legal limits. It is also forbidden to emit odours which by their intensity or nature are unpleasant, in particular for people.

Article 45 deals with the protection of water resources. It prohibits the discharging, depositing, and burying of waste, used solid or liquid bodies and, more generally, anything that could directly or indirectly affect the quality of ground water.

Mining and quarrying activities must be carried out in such a way as to ensure the rational use of national resources and the protection of the environment. To this end, companies must carry out their activities using the tested techniques of the mining industry and must take all necessary measures to prevent pollution of the environment, process waste, and preserve the forest, animal, fish and water resources. Holders of mining and quarrying concessions have an obligation to restore operated sites. The competent authority is charged with supervising this activity. Such companies may also choose to pay for the financial cost of rehabilitation operations, which are carried out by the appropriate authority.

Several specific texts have been adopted with a view to strengthening the regulations in the field of the environment.

- Law n° 74-7 of 4th March 1974, setting out the forestry legislation and its decree of enforcement.
- Ordinance n°92 – 037 of 21st August 1992, outlining the organisation of trade and transport of timber in large cities and the attendant tax regime.
- Ordinance n°93 – 16 of 2nd March 1993, the mining law and its decree of enforcement.
- Ordinance n°93- 014 of 2nd March 1993, setting out the water legislation, amended by law n° 98-041 of 7th December 1998. The main objective of the State in this area is to make good quality water available in abundance for all.
- Law n° 98 – 07 of 29 April 1998, governing hunting and protection of the fauna.

In spite of this legal arsenal, the current situation of the environment is characterised by desertification and the irrational exploitation of natural resources, leading to harmful consequences for the environment.

A number of activities have been undertaken to face these challenges. In 1975, the anniversary date of the country's independence, 3rd August, was designated as the day for trees. In 1998, a national environmental plan for sustainable development was adopted. It pursues four basic objectives:

- To ensure the rational management of natural resources as part of the fight against desertification.
- To include environmental concerns in the definition of development policies, programmes and projects.
- To foster the involvement, participation and empowerment of populations in the management of natural resources and their living environment.
- To promote the development of effective partnership among those interested in environmental issues, for sustainable development.

CHAPTER VI

Efforts deployed by the government with a view to improving the conditions of women, children and the handicapped

Background

The very first social action structure was set up in Niger as far back as 1958. This was a social centre whose activities were mainly directed at education for women in the areas of nutrition and hygiene, domestic studies, etc.

In 1959, a social affairs department was set up with the mission of providing education and protection for women and children. It was also charged with providing assistance to the under privileged in the society and to train social workers and social assistants.

In 1965, the social affairs department, which until that date had been under the authority of the Ministry of Labour, was attached to the Ministry of Public Health. Later on, between 1969 and 1988, a Social Affairs and Maternal and Infant Protection (PMI) Directorate was set. During this time, social workers, who did not have their own structures, worked alongside health workers such as midwives and nurses.

To begin with, social action was limited to ad hoc assistance in the form of financial aid and/or donations in kind (clothes, blankets, and food aid) for a few “marginalised” persons or the victims of certain catastrophes. But given the complexity of social problems it became necessary to go beyond this somewhat simplistic picture of social action and take into account its multidimensional and overall character.

In 1987, a State Secretariat specifically in charge of social affairs and the condition of women was created, a further illustration of the government’s commitment to take the social sector into account in its policies. Furthermore, in 1988, sector social services departments were set up in the city of Niamey, as well as social action services within the regional departments. In 1989, the State Secretariat became the Ministry of Social Affairs and the Promotion of Women. In 1991, it acquired the name of Ministry of Social Development, the Population, and Promotion of Women.

Since November 1996, this ministry is called the Ministry of Social Development, the Population, Promotion of Women and Protection of Children.

Its missions are to draft and implement a national policy in social development, the population, the promotion of women and the protection of children.

In line with the objectives of the present report, we shall first look at the situation of women in Niger (I), followed by that of children (II) and handicapped persons (III).

I) Women

According to the general census of 1988, women represented 50.3% of the population. 82% lived in rural areas, 49% were under 15 years of age and about 40% were aged between 15 and 44. It must be pointed out that the figures of the last census in 2001 are not yet available.

Women constitute a very important productive resource for the national economy. However, their socio-economic situation makes them vulnerable and is thus of great concern. For this reason, a National Policy for the Promotion of Women was drafted. It covers the following main objectives:

- Make the promotion of women a reality.
- Develop and strengthen documentary information on women.
- Respect the rights of female citizens within the framework of democracy.
- Set up an enabling institutional framework for the implementation of the policy of promoting women and girls.
- Improve the conditions of participation of women in economic and social activities.
- Facilitate women's access to production tools.
- Improve the legal status of women.
- Promote women's access to loans.
- Improve the conditions of work, employment and education of women and girls.
- Eliminate practices founded on the idea of the inferiority of women.

The government has given substance to the commitments made at national and international levels through several forms of institutional, political, socio-economic, legal and cultural action. The most recent have been implemented through the Poverty Reduction Programme of His Excellency President Tandja Mamadou, President of the Republic.

a) Institutional action

A number of institutions have been created as part of action to ensure the promotion of fundamental rights for women. The following may be noted:

- Adoption of the national policy for the promotion of women on 9th September 1996.
- The emergence of associations and NGOs working for the well-being of women.
- The establishment of a mechanism for coordinating the actions of associations and NGOs. There are three of them: CONGAFEN, Kassai, GAP.
- The creation of a multitude of women's groups.
- The creation of a national network of women ministers and members of parliament on 30th October 1995.
- Creation of regional offices for the protection of women.

- Creation of the National Observatory for the Promotion of Women (decree N°99-545 of 21st October 2000).
- Creation of a post of gender advisor in the offices of both the President and the Prime Minister.
- Observance of World Women's day on 8th March.
- Institution of a national women's day on 13th May.
- Observance of the pan-African women's day on 31st July.

The creation of this institutional framework and the competence given to it are a clear expression of the desire of public authorities to place women at the centre of development by taking into account their principal concerns.

b) Socio-economic action

Socio-economic data about the situation of women is very limited although they undeniably play an important role in economic activities both in rural and urban areas. National statistics tend to under evaluate women's activities. It is estimated that in the production sector women represent 55.5% of workers, 78.3% in the crafts sector and 57.93% in domestic activities, (carrying water, firewood, pounding, etc.)

With this in mind, a policy has been drafted to enhance the participation of this under-privileged group in the economic sector. The aim of the policy is mainly to give women a greater place in the economy through income generating activities.

b) Political action

In this area, women have often been relegated to the background. They do not participate fully in the designing of programmes that have an impact on their life and the life of the society as a whole. They are insufficiently represented in parliament and thus hardly participate in the passing of laws.

Women's representation at the policy decision making level is low. Today, there is only one female member of the National Assembly, out of a total of 83; only four female ministers out of 23, and only two women ambassadors. Women are however well represented in the executive organs of political parties and unions.

d) Legal action

Women enjoy fair access to legal and judiciary services. Several texts have been adopted in their favour:

- The 1999 constitution.
- The Convention on the Elimination of All forms of Discrimination Against Women (CEDAW), ratified by Niger on 13th August 1999.
- Law n°2000-0008, instituting a system of quotas in elective office, government and the State administration.

Certain texts have been amended to abrogate provisions that were discriminatory against women. These are mainly the following:

- Article 1 of code of commercial law.

- The code of nationality (children acquiring nationality through the mother).
- The rural code.
- The draft reform of the code of criminal law, which takes into account new offences such as genital mutilation, slavery and sexual harassment.

e) Action in the field of education

An analysis of the situation of women shows a major area of concern relating to the education of girls and training of women. In 2001 the school enrolment rate for girls was 29.6%, whereas the illiteracy rate for women was 91%.

To tackle this situation, Niger adopted a law setting guidelines for the educational system, which provides for equal access for all citizens of Niger, irrespective of their sex.

f) Action in the area of health

Article 11 of the constitution guarantees the right to health. But despite this, and despite the existence of a health development policy aimed at promoting the health of mother and child in order to reduce the rates of mortality among women and young children, the situation remains precarious. Much effort is being deployed in this area with a view to eradicating certain diseases that represent the primary cause of death in Niger.

Niger's partners are providing strong support in the area of policy for the promotion of women. To varying degrees, they have initiated action that directly or indirectly affects women. Some have contributed fully to the implementation of government defined policy in favour of women.

The efforts deployed to improve the living conditions of women in Niger are an illustration of the importance that the government of Niger attaches to the policy of promoting the fundamental rights of women. Nevertheless, much remains to be done, due to the lack of sufficient resources and a certain sluggishness of the strategies envisaged.

Outlook for the future

Today, the issue of improving the situation of women is one of the priority axes of any government development strategy. The programme of action of the Women's Promotion directorate focuses mainly on the following activities:

- Translating CEDAW into images, to facilitate vulgarisation.
- Drafting programmes for the participation of women in the development process.
- Harmonising domestic law with CEDAW.
- Informing, Educating and Communicating (IEC) on women's rights.
- Gender training and its integration in the development process.

II) Children

Like other countries, Niger has set up a Directorate for the Protection of Children. The basic mission of this body is to implement programmes of action directed towards young children and children in difficult life situations. The latter are abandoned children,

children who have violated the law, child prostitutes, young drug addicts, handicapped children, street children, and children on the streets.

It is important to note that although social development has a multi-sectoral approach, it is not enough to attain all the objectives of ensuring the survival and development of children. That mission is part of the national objectives defined by given sectors (health, nutrition, water and sanitation, education). The social development sector can contribute to these activities through IEC.

The National Policy on the Protection of Children aims at the following objectives:

- Raising awareness within the population about issues of maternal and child health.
- Empowering communities and particularly women, in the fight against malnutrition.
- Strengthening the legal and institutional framework for the protection of children.
- Improving knowledge among the population about texts relating to children's rights.
- Reducing the practice of abandoning children.
- Ensuring the survival, development and protection of abandoned children.
- Protecting and promoting children in difficult life situations.

Where young children are concerned, the Directorate works to ensure the survival of children and alleviate the difficulties encountered by some mothers. Activities in the rural areas are channelled through the departments and committees set up in the regions.

For children in difficult life situations, the work of the Directorate consists of carrying out social enquiries, and finding the original family or a foster family for them.

It may be noted that the policy of the Directorate for the Protection of Children covers both legal and social protection.

This political will to provide legal protection for children was manifested very soon after Niger's independence in 1960 through the accession to the Universal Declaration of Human Rights of 1948 and the tacit renewal of colonial texts that contained particular clauses that were favourable for children. This is particularly true of the code of criminal law; the code of civil law; the State ordinances on civil status and nationality, and finally, the labour code. These texts protect the right to life of the child by punishing abortion and infanticide in the criminal code. Also, the right to education and care and the right to a name and nationality are protected through the civil code inherited from the colonial past, whose provisions are broadly repeated in ordinance N°85-05 of 25th March 1985 and ordinance N°84-83 of 23rd August 1984.

The criminal code protects children against sexual abuse and violence, in particular assault and battery, and against being deprived of food or care in a way as to compromise the health of children less than 13 years.

The texts in force today prohibit the employment of children under the age of 14, slavery and forced labour (article 12 of the constitution). They also have special provisions concerning children relating to the death sentence and life imprisonment. A death sentence

passed on a child below the age of 18 years is commuted to a sentence of imprisonment of 10 to 30 years. Children of less than 13 years are not liable for crimes.

Unfortunately, it has not yet been possible to adopt the draft code of family law, which would go to strengthen the legal protection of children in areas relating to their personality, identity, marriage, divorce, parental authority and inheritance. The text is faced with opposition from certain religious circles and opinion leaders.

Furthermore, it must be indicated that due to a lack of resources among other things, existing texts are not fully enforced. The necessary structures have not been set up to provide assistance, protection and education. On the other hand, many NGOs and associations work to ensure the legal protection of children.

In addition to this legal arsenal, there is the convention on the rights of the child and resolution 182 on the abolition of the worst forms of child labour, adopted by the United Nations General Assembly, and which have duly been ratified by Niger.

A number of mechanisms have been set up to implement the provisions of the convention. Their objectives include raising awareness within the population about issues affecting the recognised rights of children, and the supervision and development of a national programme of action for the survival, protection and development of children. Among these mechanisms are the National Committee for the Survival, Protection and Development of Children and the Niger Committee against Harmful Traditional Practices for the health of Children (excision, scarification and food taboos).

Niger has also undertaken action to inform and educate public opinion on the rights of the child. These include:

- Celebration of the day of the African child.
- Organising workshops and seminars.
- Radio and television programmes on the children's rights.
- Translating the convention on the rights of the child into four national languages (Hausa, Djerma, Tamachek, and Kanouri).

As part of the process of harmonising sectoral policies, several institutions in Niger are involved in the field of child protection:

- The Child Protection Directorate, which is in charge of analysing the problems of children and seeking solutions to them as far as it is capable of doing.
- Decentralised departments of the Ministry of Social Development, the Population, the Promotion of Women and the Protection of Children.
- The Dakoro (Maradi region) reform centre for young prisoners.
- The school social services unit in the Urban Community of Niamey. This centre is not operational due to lack of means, but its vocation is to assist in providing for the needs of poor students.
- The home in the Urban Community of Niamey that was created in 1979 to receive children abandoned at birth.
- The SOS Village, a real socio-educational complex that recreates a family environment and provides abandoned children and orphans with food security, school education and the warm affection that they require to truly flourish.

- The study centre of the National Museum of Niamey, which is open to street children and handicapped children. It provides them with school and vocational training in art and production.

In addition to these public institutions, NGOs (CARITAS, AMIN, CARE INTERNATIONAL, ORSTOM, THE RED CROSS, AID-ACTION, AFVP, the Swiss Cooperation agency, etc.) are also involved in the field of protecting children. Most of these NGOs work to ensure reinsertion within the family, or socio-professional reinsertion for young people in difficult life situations, by receiving and listening to them. They also provide supervision, literacy and vocational training programmes, or assist them in the creation of income generating activities.

In spite of all these actions to ensure better social and legal protection of children, there still remains a lot to be done in almost all the areas that serves as the basis for evaluating the Human Development Index.

Future prospects

A number of other activities are being undertaken or envisaged to strengthen the efforts made in favour of child protection. These involve:

- Information bulletins on children's rights.
- Studies on the sexual exploitation of children.
- Training courses in various subjects for nursery attendants in charge of child care centres.
- Creation of a children's parliament in Niger (setting up).
- Drafting of regulations governing child care centres.
- Awareness campaigns on the importance of education for the girl child.
- Activities to ensure the survival, protection and development of children.
- Surveys on the practice of early marriages.

Child protection has also received particular attention as part of the special programme of the President of the Republic for the reduction of poverty. This programme touches on various sensitive areas such as health, education and nutrition. The programme has a number of specific objectives:

- Reduction of infant and young child mortality from 318‰ to 212‰.
- Prevention of all forms of childhood diseases.
- Raising school enrolment to 50%.
- Reducing the gap between school enrolment of boys and that of girls.
- To reach 60% in coverage of sanitation requirements.
- Reduction of all forms of malnutrition in children.
- Attain 100% coverage in sanitation in urban and rural areas.

III) Handicapped people

The situation of handicapped people in Niger is governed by a number of domestic legal texts, of which the most important is the constitution. This clearly shows the interest and consideration accorded by public authorities to this very fragile category of the population. Non-discrimination against handicapped people is raised to the rank of a

sacrosanct principle, as is the equality of opportunities, in order to enable their promotion and/or social reinsertion.

Ordinance n°93-012 of 2nd March 1993 on the social protection of handicapped persons goes even further and provides for positive discrimination in their favour by according them enormous advantages in particular in the area of employment and socio-economic reinsertion.

This ordinance has been supplemented by decrees of enforcement. These are decrees n° 96-264 of 25th August 1996 and n° 97-404 of 10th November 2002. The latter decree sets up the National Technical Committee for the Promotion of Handicapped Persons, under its article 4. This committee is in charge of organising and coordinating various activities to enable handicapped persons adapt or readapt to society. In addition to the technical committee, the decree lays down the provisions for preventing childhood handicaps and for specialised education, orientation and training.

Where specialised education is concerned, the State bears the costs of public specialised institutions and grants subsidies to those in other categories. As to orientation and training, any handicapped person who has the capacity to learn is oriented towards the appropriate training centre.

The objective of specialised education, under article 42 of law N°98-12 of 1st June 1998, setting out the orientations of the educational system, is to educate or re-educate and train physically or mentally handicapped citizens in order to facilitate their social insertion or reinsertion.

Still in the area of improving the conditions of life of handicapped people, by ordinance n°99-68 of 20th December 1999, the State of Niger set up a national support fund for the handicapped, in accordance with article 22 of ordinance n° 93-012. This fund is run by a management committee and its purpose is to assist handicapped people either individually or as a group, by providing them with financial and/or material support. Decree n°99-540 of 21st December 1999, sets the rules of management of the fund.

A management committee on sports for handicapped people was created by decree n°102 of 26th June 1992. This was done as part of a desire to improve their health and ensure the physical development of handicapped people. The committee is in charge of organising the practice of sporting and physical activities for handicapped persons.

Finally, it must be noted that a School Certificate for the Visually Impaired has been created in the 1st and 2nd cycles. The rules governing this certificate are laid down in decree n° N°98-140 of 6th July 1998.

On the international scene, Niger has ratified a certain number of texts relating to handicapped persons. Among these are the following:

- United Nations General Assembly Resolution n° 37/53 of 3rd December 1982 on the world action programme for the handicapped.
- United Nations General Assembly Resolution of 9 December 1975 on the declaration of the rights of handicapped persons.

- Convention n°19 of the General Conference of the International Labour Organisation on the professional re-adaptation and employment of handicapped persons.
- United Nations General Assembly Resolution n°48/96, adopted at the 48th session, on 20th December 1993 on the rules for equalising opportunities.

Niger has a number of structures that work in the area of promotion of handicapped peoples, to help it fulfil the commitments made at both national and regional level:

- CARITAS, AMIN/Polio through the aid, assistance, training and insertion components.
- KARKARA NGO, through its training centre for those with locomotive disabilities.
- Helen Keller International (HKI).
- The African Re-adaptation Institute, of which Niger is a member, by ordinance n°99-42 of 5th November 1999.
- The Niger Rehabilitation Project for the Blind and other Handicapped Persons (PRAHN).
- The orthopaedic centre of the National Hospital in Niamey.
- Schools for the deaf (Niamey, Maradi, Zinder).

In addition to these bodies, there are the integrating classes for blind pupils in Tahoua, Agades, Konni, Maradi and Zinder. The National School of Administration (ENA), and the general education secondary schools, also accept handicapped students each year.

We must also highlight the fact that, with the assistance of PRAHN, a Programme of Community Based Re-adaptation has been set up. The project contributes to the integration of handicapped persons by providing them with specific services, using the available human and material resources. These services are delivered in homes in nine regions.

Through the strategies and action plans of the National Social Development Policy, handicapped persons receive aid from the National Budget and certain partners such as the African Islamic Agency, SOS Sahel International, the Red Cross, etc.

Each year, handicapped persons commemorate a certain number of days that are set out in national and international instruments.

On the domestic scene, decree N°92-255/PM/MDS/P of 6th July 1992 set up the national handicapped people's day, which is celebrated on 31st July each year.

From international instruments, each year, the last Sunday of January is celebrated in Niger as World Leprosy Day and 3rd December each year is the International Handicap Day.

In addition to efforts made by the State of Niger, certain associations and NGOs contribute to strengthening the fundamental rights of handicapped people. Among these, we may cite the following:

- The National Union of the Blind (UNAN). Created in 1974, it was originally named the Niger Association for the Promotion of Blind People.
- The Niger Association of the Deaf (ASN), created in 1979.
- The National Association of People with Locomotive Handicaps (ANHL), created in 1983.
- The Niger Association for the Promotion of the Mentally Ill (ANPMM), created in 1989.

- The Raoul Follereau Association of Niger (ANRF), created in 1989.
- The Niger Association of Sports for the Blind and the Visually Impaired (ANSAM), created in 1999.

Among the NGOs working in the interest of this category of people, there is the NGO, Readapt Niger, and the NGO, Action for Handicapped Women (AFEHA).

It is clear then that handicapped people benefit from attentive protection. Nevertheless, the State of Niger needs to do even more to improve the living conditions of handicapped people, who have long been marginalised.

The future

Future action in favour of this underprivileged target group includes:

- Dissemination of texts relating to handicapped people.
- Drafting of texts to set up sub-regional technical committees for the handicapped.
- Conducting a census of handicapped persons.
- Education and re-education for handicapped children.
- Creating credit lines and groups in order to foster their socio-professional reinsertion.
- Implementing a programme of community based re-adaptation.
- Equipping the existing structures.
- Training seminars with a view to building the management capacities of leaders of Handicapped Peoples' Organisations.

CHAPTER VII

Measures taken to protect families and ensure their cohesion

In Niger, the cohesion of the family unit is guaranteed both by customary law and by modern law. The family in Niger means all the relatives in the ascending line and descendants in the same lineage.

1. The state of regulations

Tradition, which is very often close to the Moslem religion, places the man at the centre of the family. He is the guardian of cohesion in the home and assumes moral and financial responsibility for the household. The mission of the woman is limited to raising children and to household chores.

Divorce, according to custom is very simple. When the initiative comes from the husband, that generally ends the marriage. The wife is sometimes repudiated without any plausible justification, despite the formal procedure defined by Islam. A woman cannot be separated from her husband on her initiative without a court ruling. If she is divorced or repudiated, it is extremely difficult for her to obtain a share of the goods acquired together, because she is not considered to have contributed to household expenses.

Several possible situations may arise after a divorce:

1. If the divorce is at the initiative of the wife and she does not have children, she must refund her dowry.

2. If it is the husband who repudiates his wife, and if he has not yet settled the full amount of the dowry, he is obliged to do so if he has children and wants to preserve his paternity. If the dowry has been paid in full, he does not have to refund anything.

Once the break is final, young children remain in the custody of the wife. When they are around seven (7) years of age, they go back to their father. In certain cases, the separated spouses come to an agreement about custody of the children. During the time that children live with their mother, the father may go to visit them.

Where inheritance is concerned, the only law that exists is the civil code, which provides for fair distribution. However, the provisions of Islam are also applied and thus, when a parent dies, a daughter inherits one share, while her brother inherits two. The wife of a polygamous husband is only entitled to 1/8th of his property. In a monogamous couple without children, the wife is entitled to 1/4 of her spouse's property, the other 3/4 going to the family of the deceased. In some cases, the wife inherits nothing at all because all the possessions are seized by the family of the deceased husband. She returns destitute to her original family.

2. Measures taken or planned, with a view to protecting families and their cohesion

In the area of social affairs, over the past two decades, the government of Niger has envisaged a process of promoting the well being of families. Some of the objectives of this process have been in reproductive health and family planning. This ambitious programme seeks to raise awareness within the population about the importance of spacing births. In order to achieve this, information, education and communication (IEC) tools and strategies have been applied.

Where modern law is concerned, we can cite first of all, the African Charter on Human and Peoples' Rights, to which Niger is a party. Article 18 of the Charter states that "the family shall be the natural unit and basis of society. It shall be protected by the State, which shall take care of its physical and moral health. The State shall have the duty to assist the family, which is the custodian of morals and traditional values".

With this in mind, article 18, paragraph 1 of the constitution of 9th August 1999 states that "marriage and the family shall constitute the natural and moral basis of the human community. They shall be protected by the State".

Family issues are also governed by the code of civil law in force in Niger. The code sets out the conditions for divorce and makes a distinction between peremptory causes and optional causes of divorce. Peremptory causes include adultery or being sentenced to a punishment involving death, personal restraint or penal servitude or loss of civil rights. Optional causes include insults, excesses and ill treatment. In the latter case, the judge has broad powers of appreciation. The code of civil procedure, for its part, makes it mandatory for the two parties to hold consultations before the divorce becomes final.

In order to preserve the cohesion of the family, the code of criminal law protects it against desertion by one spouse or the other. It is for the same reason that abandoning certain persons in the conjugal family has been made an indictable offence. Article 260 of the criminal code stipulates that "any father or mother who abandons the family residence for more than two months without serious reason, and neglects all or part of the moral and material obligations arising from holding paternal or legal authority shall be sentenced to a

term of imprisonment”. The same applies to a husband who abandons his wife, whether she is pregnant or not.

Likewise, the code sanctions the wife who voluntarily abandons the marital home for more than three months. A father or mother who abandons a home where there are young children is also liable to be sanctioned. Other punishable offences are the misconduct of fathers and mothers who by ill treatment or grave misconduct, seriously compromise the health and morals of their children (article 260 paragraph 5). Even financial abandonment, that is the refusal to pay an allowance to a spouse, to children or to parents, is subject to criminal sanctions (article 261).

Where adultery is concerned, the criminal code stipulates that proceedings may only be instituted by one of the spouses. In other words, only a husband can file suit against his wife for adultery and, in the case of the husband, suit may only be filed by his legitimate wife or wives. In addition, if the injured party withdraws the case, that brings an end to the suit. If the injured party forgives the other party, that puts an end to the sentence. All these provisions have been set up to guarantee the cohesion of the family.

One factor however still undermines the basis of the family and that is the consecration of repudiation. This is the unilateral and discretionary decision by which men are allowed to break the tie of marriage. For this reason, defenders of the rights of the family have long sought the adoption of a law that will stabilise the family tie and ensure cohesion in the family. However, the draft family code drawn up in 1992 was condemned by a section of the population of Niger, with religious fundamentalists in the forefront. After several fruitless attempts to have it adopted, this draft is today relegated to the background.

Looking at the future, concrete government action is directed at ensuring the well being of mother and child, and awareness campaigns on family planning and reproductive health.

CHAPTER VIII

Efforts undertaken in the area of education about Human Rights

The right to education on Human Rights falls within the obligations placed upon States parties to the African Charter on Human and Peoples’ Rights to ensure the promotion and protection of human and peoples’ rights and liberties on their national territory.

To attain this objective, article 33 of the constitution of 9 August 1999 indicates that the State shall have the duty to translate the constitution into national languages and ensure that it is disseminated and taught, along with teaching about the rights of individuals and fundamental freedoms.

The principal cause of the violation of rights and liberties is ignorance about such rights and liberties. Education about human rights should therefore be aimed at ensuring that individuals constantly bear such rights and liberties in mind, and that they are capable of respecting them.

To this end, institutions have been set up to ensure the promotion of human rights and several meetings have been organised.

I) Institutions charged with promoting human rights

A) The Human Rights and Social Action Department

The ministerial department in charge of justice was made the Ministry of Justice and Human Rights by decree n° 96-069/PCSN/MJ/DH of 21st March 1996. Consequently, a human rights department was created within the Ministry. Its attributions are defined by the same decree. The department was transformed into the human rights and social action department by decree n°2001 – 191/PRN/MJ of 19th October 2001.

1. Attributions

The department is charged with various missions:

- To ensure the effective application of both national and international human rights legal instruments.
- To implement measures aimed at preventing human rights violations and propose the appropriate solution in case of violation of these rights. To this end, it drafts periodic reports on such violations.
- Provide information and education about human rights.
- Serve as a liaison and monitor the relations between the Ministry of Justice, civil society, associations, non-governmental organisations, the National Commission on Human Rights and Fundamental Freedoms and all other national and international human rights organisations.
- Carry out prospective studies, planning and evaluation in the area of human rights and social action.
- Provide jurisdictions with the social, moral, affective and educational information they require to assess cases and allow them to make the right decisions, taking into account the interest of each individual, the family and the society.

As part of this, on the request of magistrates, the department may undertake action in the form of:

- Surveys concerning minors in moral or material danger.
- Investigations to establish paternity, on the orders of the civil court judge.
- Monitoring the strict application of domestic texts and of international conventions relating to child protection and the family environment.

- Studying the factors that influence education, health and the development of the child, as well as defining the appropriate legal framework to combat these factors

The department of human rights and social action appears therefore to be the technical instrument for enforcing and implementing national human rights policy.

a. Activities carried out

The creation of this department enabled the Ministry of Justice to set up a policy to ensure the protection and effective enjoyment of human rights in Niger.

Several activities have thus been carried out, the most recent being the following:

- Amendment of article 11 of the nationality law, to allow children born of a mother who is a citizen of Niger to obtain the same nationality, as is the case of children whose father is from Niger.
- Adoption of the texts governing the creation of jurisdictions for minors, the objective being to protect children.
- Adoption of two decrees aimed at improving the conditions of life and of detention for prisoners. These are decree n° 9 – 368/PCRN/MJ/DH of September 1999, the rules of procedure of penitentiary institutions, and decree n° 99-369/PCRN/MJ/DH of 3/9/1999, defining the status of staff in penitentiaries. This decree is designed to create a corps of specialised staff in the prison administration.
- Effective installation of the National Commission on Human Rights and Fundamental Freedoms, with a view to guaranteeing the enjoyment and respect of fundamental freedoms.
- Training of trainers in human rights: 15 judges were trained in Belgium between 1999 and 2001.
- Holding of five days of reflection on international humanitarian law, with the support of the ICRC.
- Setting up a legislative reform commission on criminal, civil and commercial law. The mission of this commission is to amend existing texts in such a way as to include in them the provisions of the international instruments ratified by Niger, and to introduce concepts in line with the democratic context of the State, and the rule of law. For example, limiting the duration of preventive custody in each category of offence; doing away with the presumption of guilt that existed in certain cases as well as the presumption of guilt after the fact. This is in order to guarantee the principle of the presumption of innocence. The draft rules of criminal procedure also provide for the possibility of having the assistance of a lawyer right from the stage of the preliminary investigation.
- It must be pointed out that each time it has been informed of a case, the human rights and social action department has played an important role in having legal investigation started into acts that constituted violations of human rights.

B) The National Commission on Human Rights and Fundamental Freedoms (CNDHLF)

This institution is defined as an independent administrative authority. It was created to respond to the State's concern to guarantee the promotion and effective enjoyment of human rights.

1) Institutional framework

In compliance with article 26 of the African Charter on Human and Peoples' Rights, Niger has created its national institution for the protection and promotion of human rights, under the constitution of 9th August 1999 (article 33, paragraph 2). The mission of this body is to ensure the promotion and effective enjoyment of rights and liberties. Law n°98 – 55 dated 29th December 1998 was passed to set the competence, membership, and functioning of this commission and decree n ° 99-530/PCRN/MJ/DH of 21st December 1999 defines and specifies its structure and functions.

2) Missions of the CNDHLF

In creating the CNDHLF, the constitution of 9th August 1999 assigned it with the general and vital mission of making effective the rights and fundamental freedoms enshrined in its chapter II, in compliance with the international agreements entered into by Niger.

Article 2 of law n° 98-55 of 29 December 1998 specifies the missions of the CNDHLF, which are as follows:

- To ensure the promotion of human rights throughout the national territory through the organisation of studies, seminars, meetings and all other means that could enable the civic education of the population on issues of human rights and fundamental liberties. The objective is to ensure that in the middle or long term, this population will automatically respect human rights and defend them when they are violated.
- Ensure the protection of human rights through laws to be drafted for submission to the executive and the legislature with a view to ensuring better protection of citizens.
- Defend human rights and fundamental freedoms throughout the national territory. The commission must proceed to verify each case of human rights violations. The CNDHLF is seized by the victim, or by a third person who was an eyewitness of the violation, or by an association. The commission may also decide to be seized automatically of a case of violation of human rights.
- Upon the request of the authorities or on its own initiative, to make its views known about human rights and fundamental freedoms.
- Draft an annual general report on human right in Niger. This report must be broadly circulated.

3) Powers of the commission

The law accords the commission certain powers, to allow it to carry out its mission. Its members may request the assistance of any state, para-state or private body in their

investigations. Such a body is obliged to assist. If the body hampers the investigation by its action, inertia or refusal to comply, or by any other means, the person guilty of such behaviour shall be liable to a prison sentence of between six months and one year and a fine of CFA 10 000 to 100 000F, or to one of these two sanctions (article 20 of law n°98-55 of 29th December 1998).

Members of the commission enjoy legal immunity under the terms of article 6 of the constitution. They may not be sued, declared wanted, arrested, detained or tried for views or votes expressed in the exercise of their function.

The initial membership of the commission numbered 19, but this number was reduced to 17 under law n° 2001-05 of 20th April 2001, amending the abovementioned constitution in its articles 3 and 4 of Chapter III. Most members of the commission are elected from civil society and appointed by decree of the President of the Republic for a 3-year term of office. This mandate was for 4 years in the past, but was also reduced to 3 years by the amending law cited above. After their appointment, Commissioners swear an oath of office before the Supreme Court, prior to assuming office. They are protected by the provisions of the criminal code, which sanction any threats, violence and acts of contempt against the representatives of public authority.

4) Some of the activities carried out by the CNDHLE

Right from its inception, the CNDHLE assigned itself the mission of informing national opinion of its attributions and of the possibility now offered to victims of human rights violations, to submit a complaint to it. Members of the commission therefore participated in broadcasts and gave interviews not only to the written press, but also to the audiovisual, private and public media. Following this awareness raising campaign, from the very first months of its existence, the commission received numerous complaints from people who felt that their rights had been violated and many of these complaints were dealt with.

The procedure set up for dealing with such complaints however needs to be better defined. To this end, the commission carried out a study in 2001 in collaboration with the Danish Human Rights Centre, with a view to furnishing itself with a real procedure for complaints and possibly a code of complaints procedure as well.

Furthermore, in 2000 and 2001, the commission organised several training seminars for its members and members of civil society, in particular members of human rights defence associations and journalists, as well as members of law enforcement agencies. These seminars focused on the different systems of protection of human rights and were aimed at enabling civil society to better defend human rights. The main texts studied in these training seminars were the African Charter on Human and Peoples' Rights, the European Human Rights Convention, the Universal Declaration of Human Rights, International Humanitarian Law, and many other conventions adopted by the UN and ratified by Niger.

Over the past two years, the commission has carried out two investigations, one on its own initiative, and the other following a complaint filed. In both cases, human rights violations were noted and recommendations were made to the authorities.

The programme of action for 2002 emphasises teaching about human rights in schools and education and training on human rights for high level civil servants, traditional authorities and law enforcement agencies.

II) Meetings organised as part of human rights education

As part of human rights education, the government of Niger, with the support of development partners, has organised seminars, workshops and meetings.

- Meeting on the topic, “The armed forces and democracy in Africa: the case of Niger”, from 6th to 9th December 1999 in Niamey.
- Five national seminars on “Implementing International Humanitarian Law in Niger”, between 1999 and 2002, with the support of the International Committee of the Red Cross and the Red Crescent (ICRC).
- National forum on “Rural land conflict management in the context of decentralisation”, organised in Niamey on 10th and 11th April 2000.
- Training seminar for judges sitting in juvenile court and officers of the Criminal Investigation Department on the convention on the rights of the child and the African Charter on the rights and well-being of the child, organised in November 2000 under the patronage of UNESCO.
- Training seminar for traditional judges in December 2000, with funding from UNICEF.
- National forum on conflict prevention, held in Agades from 23rd to 27th July 2001, under the auspices of the UN.
- Workshop on civic education in barracks in Niger, organised from 7th to 10th August 2001 in Niamey.
- National forum on early marriage, organised in Maradi from 16th to 19th January 2002 by the Association of traditional chiefs of Niger, with the support of UNICEF.
- Training seminar for delegated judges on the regulations on early marriage, organised from 28th February to 2nd March 2002, with funding from UNICEF.
- Workshop on the drafting of a plan of action for education on peace, non violence, human rights and democracy, held from 9th to 11th July 2002 with the support of UNESCO.

CHAPTER IX

Difficulties encountered in implementing the Charter, due to political, economic and social conditions

Over the last ten years, Niger has been subjected to a series of socio-political crises. Indeed, the period was marked by several political events that led to the breakdown of institutions: one sovereign national conference, two coup d’Etats, two military regimes, to which must be added two armed rebellions in the north and the east of the country.

These crises led to political and institutional instability, which made it impossible to restore public finances and bring about economic recovery. Even worse, they led to the degradation of the economy, the public budget and natural resources. They also hampered the implementation of structural reforms and development programmes.

These political and economic constraints have been a major obstacle to Niger in seeking to apply correctly the provisions of the African Charter on Human and Peoples’ Rights. This is seen in particular in the considerable delay in drafting periodic reports and

the incapacity of the State to ensure effective enjoyment of the rights and liberties set out in the Charter, such as the right to health, to education and to employment.

The same may be said of the right to a fair and just trial, which is affected by the malfunctioning of the judicial apparatus, mainly as a result of the lack of qualified staff or the lack of material and financial means, coupled with the low level of coverage in judicial services in the country.

In the field of the economy, the difficulties encountered may be explained by a low growth rate, with the annual rate being an average of 1.9% from 1990 to 2000. This is compounded by the continuing and increasing budget deficit and the negative balance of payments.

In social issues, the situation is characterised by the growth in unemployment, low salaries, reduced grants and pensions and the reduction of the purchasing power of workers. All this is further worsened by the upsurge of infectious diseases such as malaria.

In culture and education, mention may be made of the increased malfunctioning of the system, with low school enrolment rates, suspension of national cultural and sporting activities, inadequate training, employment, etc.

It must be emphasised however that in spite of these constraints, the government of Niger is deploying considerable efforts in the area of compliance with the Charter, in particular in its relations with external partners.

CHAPTER X

Respect of the Charter by Niger in the conduct of its international relations

Niger respects the basic principles of human rights as laid down in the international legal instruments that it has signed. These are mainly the 1945 United Nations Charter, the 1948 Universal Declaration of Human Rights and the Charter of the Organisation of African Unity of 1963. Those principles are proclaimed and guaranteed by the Constitution of 9th August 1999.

The Republic of Niger is deeply attached to the principles of good neighbourliness and non-aggression, peaceful co-existence and non interference in the internal affairs of other States. It is also attached to the principle of intangibility of the borders inherited from the colonial period. Niger has subscribed to the principle of recourse to prevention, and of dialogue and negotiation as the means of resolving conflicts.

Niger cooperates with all States that share its ideals of peace, liberty, justice and fraternity, on the basis of the principles of equality, mutual respect, sovereignty and territorial integrity, as outlined in international legal instruments.

CONCLUSION

Given the socio-economic and political crises that the country has suffered in the recent past, Niger has found it difficult to implement the African Charter on Human and Peoples' Rights.

The return of normal constitutional life in the country, following the constitutional referendum of 18th July 1999 and the legislative and presidential elections in November and December of the same year nevertheless represents an important step towards establishing the rule of law, democracy and the respect of human rights and fundamental liberties.

To attain this objective, several programmes have been initiated, with the support of the international community. Among these are the poverty reduction strategy, the special programme of the President of the Republic and the programme of support to legal reforms.

1°) The poverty reduction strategy

Faced with the situation of generalised poverty in which the population of Niger subsists, the government undertook, right from the middle of the 1990s, to make the strategy of sustainable human development and poverty reduction the main focus of its policy of economic and social development.

Thus, in 1997, the authorities launched the drafting and then the implementation of an important framework programme to combat poverty (PCLCP), with the active participation of all development agents (the administration, the private sector, civil society and development partners). This programme, which was formulated and validated through a participative process, received the support of a large number of countries and institutions present at the meeting of funding agencies held in Geneva in 1998.

In spite of an unfavourable political context in 1999, with the coup d'Etat, encouraging results were registered in implementing the PCLCP.

However, even this programme did not make it possible to meet the challenge of reducing poverty in a significant proportion. That requires a concerted and consensual overall reference framework that would enable the implementation of effective strategies for economic and social development.

The ambition of the Poverty Reduction Strategy (PRS) that was prepared within the context of the Highly Indebted Poor Countries (HIPC) initiative is to meet the challenge of development. It is not substituting for framework programmes and sectoral strategies that already exist or are being finalised. Rather, it includes them in the logical structure of government priorities in order to constitute a major orientation document for economic and social policy. In this way, the objectives set by Ministers for each sector are confirmed.

Drafting of the PRS was done with the participation of all levels of the society in Niger. This illustrates the transparency of the process initiated. This is the only way in which one can be certain that the population will accept the whole poverty reduction strategy at all levels.

The PRS sets itself ambitious objectives for economic growth, reduction of poverty and extreme poverty and access of poor people to basic social services. It proposes four main axes:

- Sustainable and sustained economic growth.
- Development of the productive sectors.
- Guaranteed access of the poor to basic social services.
- Human and institutional capacity building, promotion of good governance and decentralisation.

The PRS was drafted on the basis of a diagnosis of poverty, using the quantitative data from a perception survey within the population. This diagnosis made it possible to identify the overall objectives of the PRS in the medium and long terms and to define the appropriate strategies for attaining these objectives. Subsequently, priority actions for the period 2002 – 2004 were identified. Finally, a detailed and quantified plan of action was drafted and will serve as the basis for implementing the PRS. It must be pointed out however that this is a preliminary and movable plan of action, since it will be supplemented and corrected as the PRS is being implemented.

2°) The special programme of the President of the Republic

In 2001, Niger received about CFA 8.8 billion as part of the interim assistance under the framework of the HIPC initiative. These resources are regularly paid into a special account opened with the BCEAO bank and have served to finance a special poverty reduction programme identified in drafting the interim poverty reduction strategy. This programme was launched at the beginning of 2001 on the initiative of the President of the Republic. It provides for the construction of 1000 health huts, 1000 primary school classrooms, 100 pastoral wells, 100 mini-dams, and launches a number of actions specifically in favour of women. The programme will be carried out in several phases and is designed as a community work project where each and everyone must make their contribution to nation building.

The first phase of the programme is expected to see the completion of 944 health huts, 989 classrooms, 26 mini dams, 42 irrigation points, 108 pastoral wells and 18 boreholes by 31st August 2002.

If this programme is well executed, it will allow Niger to advance towards satisfying the conditions for reaching the completion point under the HIPC initiative, which is set for the end of 2002.

The implementation of the special programme of the President of the Republic is an individual consecration of the promise made by African leaders to eradicate poverty and place their countries individually and collectively on the path to growth and sustainable development while participating actively in the economic and political life of the world community.

This promise is based on a common vision and a firm and shared conviction and was made within the framework of the New African Initiative. Collective activities are also planned and Niger is involved in the process.

3°) Programme of support to legal reforms

Since 1999, Niger has been engaged in a process of legal reforms supported by some development partners; the European Union, French Cooperation, Denmark, UNDP, etc. The objective of the programme is to provide support to the government in its efforts to implement reforms to the judicial system as a means of strengthening the process of democratisation, and to contribute to the political stability of the country.

Emphasis will be placed on the following:

- Amending procedures to make them more efficient.
- The performance of high level staff involved in the administration of justice.
- Changing standards and behaviour of the authorities towards citizens.
- “Cleaning up” legal texts to make them clearer and more operational.

The aim of this programme is to make the supremacy of law a constant and fundamental factor of democracy, while taking into account the need to have a reform that seeks to improve the efficiency and effectiveness of the judicial system of Niger.

The implementation of all these programmes requires the assistance of the international community and in particular the African Union.