



**Convention on the Elimination  
of All Forms of Discrimination  
against Women**

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**Committee on the Elimination of Discrimination  
against Women**

**Consideration of reports submitted by States parties  
under article 18 of the Convention on the Elimination  
of All Forms of Discrimination against Women**

**Combined initial and second periodic reports of States parties**

**Niger\***

**Initial and second report of the Niger on the Convention on the  
Elimination of All Forms of Discrimination against Women**

**Final Document**

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\* The present report is being issued without formal editing.

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**Abbreviations**

ACTN	Association of Traditional Chiefs of the Niger
ADRI	Action for Integrated Rural Development
AFCEN	Association of Women Shopkeepers and Traders of the Niger
AFJN	Association of Women Lawyers
ANBEF	Family Well-being Association of the Niger
ANDDH	Human Rights Association of the Niger
ANED	The Niger Association of Women Teachers for Development
APAC	Association of African Women Communications Professionals
ASEFER	Support for social and economic activities of rural women
ASFN	Niger Midwives' Association
BEPC	Brevet d'études du premier cycle (school-leaving exam)
CE	Cours moyen (intermediate classes [of primary school])
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CFEPD	Certificat de fin d'études du premier cycle (school-leaving certificate)
CHD	Departmental Hospital Centre
CI	Cours d'initiation (introductory courses)
CM	Medical centre
CNOAB	National Commission on Orientation and Award of Scholarships
CONGAFEN	Coordination of NGOs and Women's Associations of the Niger
CONIPRAT	Committee of the Niger on Harmful Traditional Practices
CP	Cours préparatoire (first-year infants class)
CSMI	Maternal and Child Health Centre
CTPSF	Technical Unit for the Promotion of School Enrolment
DAFA	Directorate of Girls' Literacy
DLD	Democracy, freedom and development
EDS	Demographic and health survey
UNFPA	United Nations Population Fund
GAP	Private Assistance Group
GNAMASARI	Safe Motherhood Group of the Niger
IEC	Information, education and communication
INJS	National Institute for Youth and Sports



LUCOVFEN	Campaign to combat violence against women
MDS/P/PF/PE	Ministry of Social Development, Population, Advancement of Women and Protection of Children
MEN	Ministry of National Education
NGO	Non-governmental organization
ONPF	National Institute for Monitoring the Advancement of Women
PDS	Health development plan
PROSEF	Sectoral basic education project
UFEN	Niger Women Teachers Union

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## Introduction

In most countries of the world women constitute the majority of the population. In developing countries in general women contribute significantly to nation-building, but their contribution is often not taken into account. Furthermore, at the social and cultural levels, women face a variety of constraints which relegate them to a status of “second-class citizens” and their involvement in nation-building is not taken into account in national statistics. This situation is reflected by diverse forms of discrimination against them — discrimination mostly characterized by unequal enjoyment of human rights and economic benefits.

The United Nations has steadfastly maintained for several decades that in order for Third World countries to develop effectively, they must utilize the skills of each and everyone of their citizens who must be able to prosper within a framework which recognizes and applies the principle of equality among citizens, especially with respect to women, who must also be allowed to participate fully in all aspects of the life of the nation and see that their participation is recognized. Accordingly, many international agreements and conventions have been developed to that end.

The Convention on the Elimination of All Forms of Discrimination against Women, adopted by the United Nations on 18 December 1979, is one such agreement. The Niger acceded to the Convention only on 13 August 1999. Previously, it had ratified or acceded to several international instruments relating to human rights in general and women’s rights in particular. They include, inter alia:

- The Convention to Consent to Marriage, Minimum Age for Marriage and Registration of Marriages adopted by the United Nations on 7 November 1962 and ratified by the Niger on 1 March 1965;
- The Convention on the Political Rights of Women adopted on 20 December 1952, which the Niger ratified on 7 December 1964;
- The African Charter of Human and People’s Rights adopted by the Organization of African Unity in June 1981 and ratified on 15 July 1986 by the Niger;
- The international covenants relating to human rights, to which the Niger acceded on 7 March 1986;
- The Optional Protocol to the International Covenant on Civil and Political Rights, to which it acceded on 7 March 1986; and
- The International Covenant on Economic, Social and Cultural Rights, to which it acceded on 7 March 1986.

It should be noted that most of the provisions of the foregoing agreements are reflected in the Convention.

This initial report of the Niger is being submitted under article 18 of the Convention, which calls on States to submit a report on the legislative, judicial, administrative and other measures recommended in the Convention as well as on progress made in this respect.

The report is in two parts. Part one introduces, in accordance with the guidelines for drafting initial country reports, the general framework for the implementation of the Convention in the Niger. Part two provides specific information, including reservations, concerning each of the provisions of the Convention.

## **Part One**

# **General framework for the implementation of the Convention on the Elimination of All Forms of Discrimination against Women**

## **Chapter 1: Introduction to the Niger**

### **1.1 Territory, population and economy**

#### *1.1.1 Territory*

A large landlocked country in South-West Africa, the Niger covers an area of 1,267, 000 km<sup>2</sup>. It is located between the twelfth and twenty-fourth parallels of north latitude and has common borders with Burkina Faso in the south-west, Mali in the west, Algeria in the north-west, the Libyan Arab Jamahiriya in the north, Chad in the east, Nigeria in the south and Benin in the south-west.

The Niger has three climate zones: a desert and semi-arid zone, which covers some 67 per cent of its land area and which is attributable to the country's landlocked status and latitudinal location. These zones, mostly characterized by arid and semi-arid soils, receive little rain aside from some pockets of wetlands in the south-west; a Sahelian zone, which covers about 30 per cent of the territory. This is the zone where rain-fed farming and livestock rearing are practised; the Soudan zone which covers the south-west part of the country and which accounts for 3 per cent of the territory. It is noted for its abundance and wide variety of vegetation. The vegetation is composed of wooded, withered shrub-like or grassy savannah interspersed with some woodland.

#### *1.1.2 Population*

The population of the Niger is estimated at some 10 million inhabitants.<sup>1</sup> Women make up 50.3 per cent of the population. The population is characterized by rapid growth and a very high proportion of young people. In fact, one out of every two nationals of the Niger is younger than 15. The population is very unevenly distributed throughout the country; 75 per cent of the population inhabits one quarter of the country, thereby causing deep imbalances and accelerating the de facto deterioration of the soils and the environment. Life expectancy is 49 years for women and 48 years for men. The national illiteracy rate is 17 per cent. It varies among the regions and ranges from 12 to 60 per cent. Women are less literate than men, accounting for 12 per cent of illiterate persons versus 22 per cent for men.

#### *1.1.3 Economy*

The economy of the Niger is heavily dependent on subsistence farming, the occupation of almost 82 per cent of the population living in rural areas. Therefore, the Niger is an agricultural and livestock-producing country whose income is heavily dependent on the sales of agricultural and livestock products which are in turn subject to the vagaries of the weather. Per capita income is \$824, one of the

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<sup>1</sup> Projections based on the 1988 general population census. A new population census is under preparation.

lowest in the world (\$836 for men and \$671 for women). The per capita gross national product (GNP) is around \$850. With a human development index value of 0.298 in 1999, the Niger is ranked among the last countries in the world.

## **1.2 Legal and political system**

### *1.2.1 Legal system*

Under the country's legal system, there are three categories of norms including norms on individual human rights: The Napoleonic Civil Code is applicable to the Niger; The Act of 16 March 1962 on the organization and jurisdiction of the courts stipulates that the customary law of the parties shall apply provided that they are not contrary to public policy and to the free exercise of the rights of the individual and family; Islamic law.

Owing to these three categories of norms, issues concerning the family are surrounded by uncertainty because of the inherently negotiable nature of custom.<sup>2</sup>

### *1.2.2 Political system*

The Niger gained independence in 1960. Its political climate has been characterized since 1990 by upheavals which have considerably hindered nation-building efforts. Between 1990 and 2000 the country went through three Republics; held three presidential elections; elected four Heads of State; had two military coups; conducted four legislative elections; and dissolved the National Assembly once.

The Constitution adopted since 18 July 1999 has made the Niger a State governed by the rule of law and instituted a semi-presidential form of government in a comprehensive multiparty system (some 25 political parties are registered). There is a separation of powers under the Constitution of the Niger among all three branches.

#### *1.2.2.1 Executive branch*

The Constitution of the Niger provides for a dual executive:

- The President of the Republic shall be the Head of State. He shall embody national unity and guarantee national independence, national unity, territorial integrity, compliance with the Constitution and international treaties and agreements. He shall ensure the proper functioning and continuity of government. The President shall be elected for a five-year term, which may be renewed once by universal, free, direct and equal suffrage by secret ballot;
- The Prime Minister shall be appointed by the President from a list of three persons nominated by the majority. The President shall appoint or dismiss the other members of the cabinet upon the proposal of the Prime Minister. He may dismiss the Prime Minister upon the submission by the latter of a letter of resignation. The Prime Minister shall be the head of the cabinet and shall be accountable to the National Assembly. He shall determine and conduct national policy and shall be accountable to the National Assembly.

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<sup>2</sup> See the pilot Family Code awareness-raising campaign.

#### *1.2.2.2 Legislative branch*

In the Niger, legislative power is vested in an 83-member monocameral National Assembly. It is elected for five years. It shall enact laws, institute taxes and exercise oversight over the activities of the cabinet, against which it may move to have a vote of no-confidence.

The Constitution has provided for the relationship between the executive and legislative branches, including communications by the President of the Republic, statements by members of the cabinet and written or oral questions through which ministers provide information to deputies.

#### *1.2.2.3 Judiciary*

The Constitution vests judicial power as distinct from executive and legislative powers in the Constitutional Court, the Supreme Court and the constitutionally established courts. Justice is administered throughout the country on behalf of the people and in strict compliance with the rule of law and with the rights and freedoms of citizens.

##### *1.2.2.3.1 Constitutional Court*

It has jurisdiction over constitutional and electoral matters and rules on the constitutionality of laws and orders as well as on the conformity of international treaties and agreements with the Constitution. It interprets the Constitution. It verifies whether referendums and presidential, legislative and local elections are legal, transparent and fair. It rules on electoral disputes and announces the final results of elections.

##### *1.2.2.3.2 Supreme Court*

It is the highest court of the State in administrative, judiciary and public accounting matters. The Supreme Court rules inter alia on applications for judicial review and has original jurisdiction on appeals for abuse of power.

##### *1.2.2.3.3 High Court of Justice*

Has jurisdiction to try the President for treason and members of the cabinet for crimes and misdemeanours committed in the exercise of their duties.

#### *1.2.2.4 Administrative system*

The country's administrative system is based on centralization, devolution and decentralization. The central government is composed of as many ministries as are necessary, which are established by presidential decree. Decree No. 2000/01/PRN of 5 January 2000 set the number of such ministries at 23. Article 127 of the Constitution provides that territorial administration shall be governed by the principles of decentralization and devolution of power. The decentralized government is composed of field services based in the seven departments and the greater Niamey area. The departments are subdivided into districts (*arrondissements*) and subdistricts (*postes administratifs*) headed by prefects, sub-prefects and heads of subdistricts, who represent the executive branch at the grass-roots level. Decentralization is a process which has been under way in the Niger for several years, but is yet to be completed. Two laws were adopted in that connection:

Act No. 96-05 of 6 February 1996 establishing administrative districts and local communities and Act. No. 96-06 of 6 February 1996 on the fundamental principles of decentralized government of regions, departments and communes as well as their powers and resources.

### **1.3 Jurisdictional and non-jurisdictional mechanisms for the protection of human rights**

#### *1.3.1 Jurisdictional mechanisms*

That Constitution of the Niger reiterates the commitment of the sovereign people of the Niger to human rights as defined in the Universal Declaration of Human Rights of 1948 and the African Charter of Human and People's Rights of 1981 is a reflection of the embodiment of fundamental human rights principles in the Constitution. It is one of the few African Constitutions which dedicates an entire chapter to the rights and duties of the individual. Indeed, it boldly proclaims the principles that all citizens are equal without distinction as to race, gender or religion; the principle of *nullum crimen sine lege, nulla pena sine lege*; the principle that laws and regulations shall operate retroactively only where they grant rights and benefits to the citizens; the principle that the home and correspondence shall be inviolate; and the presumption of innocence until proven guilty.

Furthermore, many other rights are conferred upon individuals, including the right to a fair and due process. Thus, anyone shall have the right to effective recourse before national courts against acts which he or she alleges to be in violation of his or her fundamental rights under the Constitution and the applicable laws. Three types of redress are available: appeal before a criminal court for the enforcement of penalties provided for offences punishable under the Penal Code; appeal before a civil court to seek reparation for damage resulting from a violation of one's rights; to seek before an administrative court the annulment of administrative acts violating a right of the citizen.

Under the Constitution the President of the Republic, the President of the National Assembly or one tenth of the members of Parliament may refer legislation to the Constitutional Court so that it may rule on its constitutionality before coming into force.

With regard to the protection of the rights of citizens under the Constitution, any party to a case may challenge the constitutionality of a law before the court as an interlocutory motion. In such cases, the court will not rule pending a decision by the Constitutional Court within 30 days. Any provision ruled as unconstitutional as a result becomes null and void as a matter of law. The Supreme Court decision ruling a law unconstitutional shall be published in the Official Gazette as a matter of urgency.

Lastly, the individual has the right of appeal in the Niger:

- Any citizen has the right to bring the same case before the proper courts which rule in first instance (trial court). Should the plaintiff be dissatisfied with a trial court decision, he may go before a court of appeal, which rules on appeals;

- The Supreme Court being the highest court in the land, shall rule on the law, which means that it does not review the facts of a case but only rules on the proper application of the law.

The Convention on the Elimination of All Forms of Discrimination against Women is an international agreement which relates to human rights and more specifically to the rights of women. The protection of rights which are recognized in the Convention benefits in principle from all existing mechanisms which enable citizens who have been wronged to assert their rights. Nevertheless, an international agreement must be incorporated into the domestic legal system to be enforceable as part of the domestic legal system.

### *1.3.2 Non-jurisdictional mechanisms*

Under the Constitution, the Government has a duty to disseminate and teach human rights and fundamental freedoms. It establishes a National Commission to promote the effective exercise of rights and freedoms enshrined in the Constitution and in accordance with the international agreements to which the Niger is a party. The following is a review of the steps taken by the authorities of the Niger to incorporate the Convention into the domestic legal order.

## **Chapter 2: Legal, political and administrative measures adopted within the framework of the implementation of the Convention on the Elimination of All Forms of Discrimination against Women**

### **2.1 Incorporation of the Convention into the Niger's domestic legal order**

To be incorporated into the legal order of the Niger, international conventions must be ratified by the President of the Republic. The Convention was ratified during the transition period and Order No. 99-14 of 1 June 1999 on the organization of public authority during the transition period granted to the Head of State total authority concerning negotiations on and ratification of international treaties. However, treaties which change domestic law may be ratified only by a law enacted by the legislative branch. During the transition period, such power was held by the Conseil de réconciliation nationale which authorized the Head of State to ratify the Convention. Since the Convention modified the laws of the Niger, Order No. 99-30 of 13 August 1999 authorized the Republic of the Niger to accede to the Convention on the Elimination of All Forms of Discrimination against Women.

#### *2.1.1 Place of the Convention in the domestic legal order*

In the Niger, the treaties or agreements which are ratified shall, upon publication, take precedence over laws, that is to say: a properly ratified convention shall have the same authority as the Constitution; under the principle of the hierarchy of laws, the national laws, statutes and regulations which are not in conformity with such agreement or treaty must be amended.

#### *2.1.2 Actions required as a result of ratification of the Convention*

All prior legislation must be reviewed in order to identify and abolish such provisions as are not in conformity with the Convention.



## **2.2 National mechanisms for the promotion of women**

### *2.2.1 Ministry of Social Development, Population, Advancement of Women and Protection of Children*

This Ministry is mainly responsible for developing and implementing national policy in the areas of social development, population, advancement of women and protection of children in accordance with Government policies. This policy has been in effect since December 1998.

### *2.2.2 National Institute for Monitoring the Advancement of Women*

Established by Decree No. 99-545/PCRNIMDS/PPF/PE of 21 December 1999, the National Institute for Monitoring the Advancement of Women is a body for dialogue and support for the implementation of the national policy on the advancement of women.

### *2.2.3 Advisers on Gender and Development to the President of the Republic and the Prime Minister*

These advisers shall provide advice and technical assistance for gender mainstreaming in developing and implementing development policies and programmes.

## **Part Two**

### **Specific information concerning each provision of the Convention**

#### **Chapter 1: Constitutional and legal framework for the protection of the rights of women (articles 1 to 3)**

Article 1 of the Convention reads:

**“For the purposes of the present Convention, the term ‘discrimination against women’ shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.”**

Article 2 reads:

**“States Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake:**

**“(a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;**

**“(b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;**

**“(c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;**

**“(d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;**

**“(e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;**

**“(f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;**

**“(g) To repeal all national penal provisions which constitute discrimination against women.”**

Article 3 reads:

**“States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for**

**the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.”**

### **1.1 Incorporation of the principle of equality between men and women as laid down in legal texts of the Niger**

A review of the Niger legal corpus shows that it proclaims the principle of equality.

#### *1.1.1 The Constitution*

Since independence, every constitution of the Niger has proclaimed the principle of equality. The preamble to the Constitution of 18 July 1999 recalls the attachment of the people of the Niger “... to human rights as defined in the Universal Declaration of Human Rights of 1948 and the African Charter on Human and People’s Rights of 1981 and as guaranteed by this Constitution”. In the operative part of the Constitution, article 8 stipulates that “the Niger is a State under the rule of law ... It guarantees equality for all under the law without distinction as to sex or social, racial or religious origin”.

The Constitution also declares that Niger citizens of both sexes are eligible to vote if they are 18 years of age by the date of an election.

#### *1.1.2 The Civil Code*

The Napoleonic Civil Code of 1804 was made applicable to the Niger immediately after independence, but has been applied only partially. Act No. 62-11 (Courts Act) of 16 March 1962 sharply restricted the scope of the Civil Code by giving precedence to customary law in most matters, such as:

- The ability to enter into contracts and bring legal proceedings;
- Marriage, divorce, direct descent, inheritance, settlement of assets, wills;
- Ownership or possession of real property, with the exception of registered real estate.

#### *1.1.3 The Penal Code (Act No. 61-27 of 15 July 1961)*

The Niger Penal Code establishes penalties and defines offences, making no distinction as to the sex of the perpetrator of an antisocial act. Article 260, for instance, imposes a penalty of imprisonment of one month to one year and/or a fine of 20,000 to 200,000 CFA francs on a father or a mother who abandons the family domicile without a serious reason for more than two months. The Penal Code also criminalizes certain forms of violence to which women and girls are subjected, in particular rape and the kidnapping of minors.

#### *1.1.4 The Labour Code (Order No. 96-039 of 29 June 1990) and the related regulations and convention*

Article 2 of the Labour Code defines a worker as any person, regardless of sex and nationality, who has undertaken to work professionally for remuneration under the direction and authority of another natural or legal or public or private legal person. Under article 5, employers are strictly prohibited from taking gender into consideration in hiring, management and distribution of work, remuneration,

granting of social benefits, imposition of disciplinary measures or termination of an employee's contract.

#### *1.1.5 The General Civil Service Regulations*

The Regulations make no gender distinction in the recruitment and promotion of civil servants. Female civil servants are recognized as having certain rights on the same footing as male civil servants, including the right to take periods of leave. Indeed, female staff are entitled to special leave for family reasons.

#### *1.1.6 The Electoral Code and the Charter for Political Parties*

Under the Electoral Code, the right to vote is granted to Niger citizens of both sexes who are 18 years of age or older or are emancipated minors who enjoy the right to vote and hold public office and are not legally incapacitated for any reason. In other words, any citizen who enjoys full civic rights and who is at least 18 years of age or has attained majority through marriage may vote in elections, without distinction on the basis of sex.

The Charter for Political Parties provides that no political party or group of political parties can be established or conduct activities on the basis of or with a view to:

- Sectarianism or nepotism;
- Adherence to one single religion, linguistic group or region;
- A restriction to one sex or one ethnic group.

Thus, under the Charter, political parties necessarily comprise both women and men.

#### *1.1.7 The Rural Code (Order No. 93-015 of 2 March 1993)*

Article 4 of the Rural Code states that "natural resources are part of the common heritage of the nation. All citizens of the Niger have an equal right to them, without discrimination as to sex or social origin". This text lays down the principle of equal access to natural resources for women and men.

#### *1.1.8 The Commercial Code (Order No. 92-48 of 7 October 1992 establishing the first book of the new Commercial Code)*

Article 1 of the Commercial Code defines a trader as "any natural or legal person who engages in trading activity in his own name or on his own behalf as his occupation".

The Code also states that "married women may engage in trading activity, but is not recognized as a trader unless her activity is separate from that of her spouse".

#### *1.1.9 The Nationality Code*

Article 8 of the Nationality Code provides that "a national of the Niger is any individual born in the Niger who is a direct descendant of a person also born there".

By a 1999 amendment, some provisions of the Code discriminatory to women were abrogated, namely, articles 11, 20, 21 and 29. Order No. 99-17 of 4 June 1999 in redrafting those articles re-established equality between men and women with

regard to the transmission of nationality to their children, legitimate or born out of wedlock.

Yet despite the existence of legislation and regulations on equal rights for men and women there are still some discriminatory provisions and practices.

## **1.2 Legal discrimination in the Niger**

Guaranteeing the principle of equality does not of itself suffice to change traditional ways of behaving and thinking acquired over the course of centuries, given the fact that written law and customary law coexist in the legal universe of the Niger. Consequently, even though there is legislation setting out the principles of equality between the sexes, it has to be said that in several areas the legal status of women leaves something to be desired.

### *1.2.1 De jure discrimination*

Discrimination in employment:

- The General Civil Service Regulations state that “certain bodies, because of their technical nature or the qualifications they require and their specific needs, may in their own regulations make exceptions to certain provisions incompatible with their normal operation”. This provision could block the access of women to certain bodies, even if in practice that is not always the case;
- In the field of labour law as in other fields, there is legislation which, though unconstitutional, nevertheless continues to be applied, including Decree No. 60-S/MFP/T regulating the remuneration and benefits of government officials, article 20 of which provides that an official may receive benefits or allowances only if he is the head of household. This automatically excludes any female official, who cannot receive such benefits even when her husband is not a civil servant or when he is unemployed. Such a situation can come up in practice because a woman is never recognized as the head of household, even when she is bringing up her children alone;
- The tax rates under the single tax on wages and salary constitute another source of inequality: in principle, children are deemed to be supported by the person who submits proof of support. Yet female civil servants bear a heavy tax burden because, in practice and in the public mind, it is only the head of household who supports the children, even though in many cases it is actually the woman who is providing for their support;
- Article 7 of Order No. 93-28 of 30 March 1993, establishing regulations for the traditional chieftancy system, recognizes entitlement on the basis of custom. Access to the chieftancy is thus given only to men, while female descendants of a chief or male descendants in a female lineage are barred;
- Act No. 62-11 of 16 March 1962, which regulates aspects of personal law and family law in the Niger, discriminates against women because it is based on the dictates of custom with regard to women, and custom holds that there is inequality between men and women.

### *1.2.2 De facto discrimination*

According to article 11 of the Constitution of 9 August 1999, “everyone has the right to life, health, liberty, security, physical and mental integrity ...”.

The Niger Penal Code establishes penalties for and criminalizes certain forms of violence to which women and girls are subjected (rape and the like). But in actual fact, the society continues to countenance practices that are a form of physical and moral violence against women. The authorities have already begun organizing workshops to prompt people to think about finding a lasting solution to the situation. The practices in question are most often the violation of a woman’s right to physical and moral integrity, as in the case of:

- Early marriage;
- Female circumcision;
- Forced marriage;
- Sexual abuse;
- Other forms of female genital mutilation;
- Taboos, including food taboos;
- Physical, moral or psychological violence;
- Limited access to inheritance and property;
- Limited access to credit;
- Limited access to certain posts, especially decision-making posts like those of prefect, deputy prefect, or department chief;
- Preference given to the education of boys;
- Limited access to health care.

There is also another kind of moral violence against women, when they are indirectly sold because of their status as slaves. This is a flagrant violation of the rights of the individual. Such “sales” sometimes take place as a kind of trafficking between the Niger and neighbouring countries, Nigeria in particular.

To remedy the situation in which women do not enjoy certain basic rights, the authorities, with the help of NGOs, are raising the awareness of all members of society. In the process, a whole range of measures designed to guarantee the full development of women are being put in place.

## **1.3 Institutional, political, social, economic and cultural measures to ensure the full potential, development and advancement of women**

The authorities have taken appropriate steps to create an institutional framework conducive to the advancement of women.

### *1.3.1 The establishment of a ministry responsible for the advancement of women*

The Department for the Advancement of Women was established in the Niger in 1981, and its main mission was to act to help promote women and integrate them into the country’s ongoing economic, political, social and cultural development. In

1987, the Department was made a State Secretariat for Social Affairs and the Status of Women. In 1989, the State Secretariat became the Ministry of Social Development and Advancement of Women, and, since November 1996, it has been the Ministry of Social Development, Population, Advancement of Women and Protection of Children (MDS/P/PF/PE). The Ministry's chief mission is to design and carry out the national policy for social development, population, the advancement of women and the protection of children, following government guidelines. The policy has been in effect since December 1998.

### *1.3.2 Adoption of a national policy for the advancement of women*

The national policy for the advancement of women was adopted by the Government in 1996, with the Department for the Advancement of Women in charge, in collaboration with all those involved in the field such as NGOs, associations and development partners.

The basic principles on which the policy is based are:

- Respect for the rights of women as citizens and active participants in the work of nation-building;
- Non-discrimination against women;
- Equality of the sexes;
- Equal opportunities;
- Protection of mothers and children and enhancement of their roles and their status within the family unit.

The policy seeks to achieve 13 objectives, including the following:

- Making the advancement of women a reality; and
- Improving the conditions under which women participate in economic and social activities;

### *1.3.3 National Women's Day (13 May)*

National Women's Day originated in the women's march held on 13 May 1991. The women on that march demanded better representation for women on the Preparatory Commission of the National Sovereign Conference.

Following the march, which resulted in the number of women on the Commission rising from one to five, 13 May was designated National Women's Day, under Decree No. 92-370/PRN/MDS/P/PF/PE, of 25 November 1992.

Every year, this day is devoted to activities to raise awareness about the status of women in the Niger.

### *1.3.4 Establishment of a committee to follow up the implementation of the Beijing recommendations*

To ensure effective action and to meet its commitments following the Fourth World Conference on Women, the Government established a committee, under Decree No. 95-214/PMIMDS/P/PF/PE, of 28 December 1995, to follow up the Beijing Platform for Action.

The Committee, which is answerable to the Ministry of Social Development, Population, Advancement of Women and Protection of Children, is mandated to

- disseminate and implement the Beijing recommendations;
- define priority strategies and objectives;
- follow up, monitor and evaluate activities;
- mobilize resources.

The Committee comprises representatives of the relevant ministries and civil society (NGOs and associations).

NGOs and associations, whose activities are encouraged by the State, work side by side with public bodies engaged in the promotion of women.

#### *1.3.5 Non-governmental organizations and associations*

There are a number of NGOs and associations working in different fields. These include:

- Economic development: Association of Women Shopkeepers and Traders of the Niger; Action for Integrated Rural Developments; and Support for social and economic activities of rural women, among others;
- Protection or promotion of women's rights: Human Rights Association of the Niger; Democracy, freedom and development; Democracy 2000; the Network for Law Integration and Dissemination in Rural Areas; and the Association of Women Lawyers, among others;
- Women's health: Niger Midwives' Association; Committee of the Niger on Harmful Traditional Practices; Safe Motherhood Group of the Niger; and the Family Well-being Association of the Niger, among others;
- Training: Niger Women Teachers Union and the Niger Association of Women Teachers for Development, among others;
- Social and cultural development: Association of African Women Communications Professionals, the Large Families Association of the Niger and the Mutual Aid and Cooperation Association, among others;
- Peace: Timidria (a Tuareg word) and the NGO Campaign to combat violence against women and children;
- Lobbying/advocacy: National Network of Women Ministers and Parliamentarians and the Association of Traditional Chiefs of the Niger.

Almost all these NGOs or associations were established around the 1990s. They are grievously short of funds. Many of them have no development experience simply for lack of resources.

Most NGOs and associations act collectively through such bodies as the Coordination of Women's NGOs and Associations of the Niger, Kassaï and the Private Assistance Group (GAP).



#### 1.4 Reservations

The Government of the Niger has expressed reservations with regard to article 2 (d) and (f).

### **Chapter 2: Temporary special measures aimed at accelerating de facto equality between men and women (article 4)**

*Article 4 of the Convention:*

**“1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.**

**“2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.”**

This article sets out the principle of special corrective measures that are to be applied until inequalities between men and women are eliminated. Once these inequalities diminish, the provisions of the article will no longer apply.

The Niger has adopted a number of specific measures, including legislative measures, to accelerate equality between men and women, namely:

#### 2.1 Education

(a) The Technical Unit for the Promotion of School Enrolment was set up under the Ministry of National Education, in cooperation with the World Bank, as part of the Sectoral basic education project, with a view to meeting the challenge of promoting education for girls.

The Unit has embarked on a range of activities with the aim of:

- Assessing sexist stereotypes in school books and protecting girls at risk of abuse;
- Promoting the teaching of practical and productive activities;
- Aligning the school calendar with the activities of rural areas;
- Lowering the school entry age so that girls can start at six rather than seven or eight years old;
- Promoting women’s activities by reducing workloads and income-generating activities to enable mothers to relieve their daughters of household chores and petty trading duties so that they can concentrate on their studies.

(b) Secondly, on 27 October 1996, the Ministry of Social Development, Population, Advancement of Women and Protection of Children set up a committee to monitor the schooling of girls.

It also conducted a study to identify the constraints that underlie discrimination against girls in education.

(c) To address female literacy, some 746 women's centres were set up in 1999 to promote traditional and functional literacy.

Literacy programmes for women were also introduced.

(d) Lastly, the Niger has adopted legislation on education policy (Act No. 98-12 of 1 June 1998), reaffirming the compulsory nature of primary education and non-discriminatory access to education for all.

The Government of the Niger has also adopted an educational policy the goal of which is essentially to meet the educational needs of all its peoples.

## 2.2 *Health*

The World Summit for Social Development, held in Copenhagen in March 1995, recommended that States should implement the 20/20 initiative, namely to earmark 20 per cent of budget expenditure and 20 per cent of external aid to financing essential social services. The Niger adopted that recommendation.

According to a study by the Ministry of Planning in 1997, however, entitled "Consideration of the possibility of mobilizing additional resources for essential social services", an analysis of the distribution of public expenditure showed that the proportion allocated to social expenditure was of the order of 30 per cent and to essential health services around 15 per cent. External resources allocated to essential health services, meanwhile, amounted to 11.6 per cent.

The resources thus directed towards the social sectors proved insufficient to have a real impact on human development. It is, of course, beneficial that the Niger adopted this recommendation, but its effective implementation calls for additional efforts.

## 2.3 *Special measures to promote women's involvement in decision-making bodies*

To ensure that women were more involved in decision-making bodies, the Government adopted Act No. 2000-008, which introduced a quota system for positions reserved for women in decision-making bodies, as follows:

– National Assembly	10 per cent
– Government	25 per cent
– Diplomatic missions	25 per cent
– Central and decentralized administration	25 per cent
– State companies	25 per cent

## Chapter 3: Role of the sexes and stereotypes

Article 5 (b) of the Convention reads:

**“States Parties shall take all appropriate measures to ensure that family education includes a proper understanding of maternity as a social function and the recognition of the common responsibility of men and women in the upbringing and development of their children, it being understood that the interest of the children is the primordial consideration in all cases.”**

### 3.1 Parental policy

(a) The Constitution of the Niger provides that parents have the right and the duty to raise and educate their children. They are supported in this task by the State and the public authorities. By tradition, a child’s upbringing is fairly structured through rites of initiation that are carried out at various ages, with the basic purpose of preparing a child for adult life.

(b) In order to take account of the higher interests of the child, the State has taken steps to involve parents in their children’s educational career. Thus, at every stage of education, the parents choose the subjects that their children should study, bearing in mind the various requirements but also giving their children the necessary advice. Where a child is being advised on the courses to follow, the parents’ views are taken into account, as far as possible. Children who do not attend school are generally steered by parents or older brothers and sisters into training for a particular occupation.

### 3.2 Parental responsibility

(a) The principle of joint responsibility means that parents must raise their children and the State must help them to perform that duty.

(b) The State faces numerous social and political constraints, which have the effect of considerably lowering living standards in the Niger.

These constraints have undermined the capacity of parents to discharge their responsibility, with the result that they are giving in to fatalism.

(c) Traditionally, a child is considered to be a “gift from God”, belonging to the whole community. The parents and the family make a collective effort to provide for a child’s education.

The State, meanwhile, is aware that education is the foundation of a child’s development.

### 3.3 Reservations

The Government of the Niger has expressed reservations on article 5 (a) with regard to the modification of social and cultural patterns of conduct of men and women.

The Government considers that social and cultural patterns of conduct that are deeply rooted in the collective consciousness cannot be modified simply by enacting legislation. Modifications can take place only gradually.

### 3.4 Declaration

The Government of the Republic of the Niger declares that the term “family education” which appears in article 5, paragraph (b), of the Convention should be interpreted as referring to public education concerning the family, and that in any event, article 5 would be applied in compliance with article 17 of the International Covenant on Civil and Political Rights.

## Chapter 4: Exploitation of women

Article 6 of the Convention reads:

**“States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.”**

### 4.1 Slavery and traffic in women

#### **Traffic in the guise of marriage**

“Sales are effected through a form of marriage known as Wahaya in the Hausa language. A girl is taken away from her family, whom she will never see again, and married to a man purely for breeding purposes. The master invariably pockets the dowry and the marriage is always arranged arbitrarily. Such marriages are practised in Tahoua, Illéla, Keïta and Madaoua.”

Boubé Saley Bali, “De l’esclavage au Niger”, *Haské*, 20 March 1998, p. 5.

#### **Trade in women commoners**

“Trade in women commoners is currently operating between our country and Nigeria. Sources indicate that it takes place in response to a demand from men who wish to fulfil their religious duty, namely to take a slave as their fourth wife so that they can then take another. According to the same sources, the Nigerian authorities have taken firm measures to put a stop to this shameful trade.”

*Haské*, 16 April 1998, p. 3.

### Slavery in the Niger: forms and procedures

“It may be said that there are in effect two forms of slavery in the Niger. One is passive slavery, which occurs among the Songhay-Zarma. It does not involve direct economic exploitation and the people concerned are entitled to own property, although not land. They are merely victims of prejudice and hypergamy, in the sense that marriage between a descendant of slaves and a free woman is still considered out of the question. They continue to work as weavers, blacksmiths, musicians or potters, following the occupations of their forebears.

“Among the Tuareg, the Toubou and the Fulani, slavery exists in its archaic form. Relations between master and slave are based on direct exploitation of the latter by the former. The slave undergoes torture, abuse and discrimination and is considered an animal that can be worked without pay, sold or given away as a wedding present. In the event of a slave’s leaving his master to work a plot of land on his own account, engage in trade or work in the civil service, he is subjected to what is known in the Tamajaq language as *susey*. When the harvest is over, the masters make the rounds of those they consider to be their slaves in order to recover what they call ‘the right of absence under direct control’. In the event of the slave’s death, the master takes possession of all his property, with no thought for the widow and children.”

Boubé Saley Bali, “De l’esclavage au Niger”, *Haské*, 20 March 1998, p. 5.

Slavery affects women, men and children. This barbarous practice persists in the Niger 50 years after the adoption of the Universal Declaration of Human Rights, of which the country is a signatory. According to Claude Segui, human beings are sold “in the same way that any other goods might be sold”. Slavery is practised in Azawak, the Téra district, Tagaza, Damergou, Tahoua and the town of Dosso. Apart from the Hausas, slavery is a living reality among virtually all ethnic groups, especially the Tuaregs, the Arabs and the nomadic Fulani.

Although no legislation or regulations have been adopted to curb the practice, awareness-raising activities have been conducted by NGOs and associations, such as the NGO Campaign to combat violence against women and children, the Association of Women Lawyers, the Human Rights Association of the Niger and the Network for Law Integration and Dissemination in Rural Areas.

Thus the Association of Women Lawyers has a legal aid centre in Niamey, while the Human Rights Association has set up four legal clinics, in Dosso, Niamey, Tahoua and Tillabéri.

The Integration and Dissemination Network, too, has set up three legal clinics, in Dakoro (in the Maradi region), Gaya (Dosso) and Téra (Tillabéri).

The introduction of these facilities has enabled women to obtain assistance.

Lastly, it should be added that some people accept their slave status because they derive some small advantages from it, at weddings and baptisms, for example.

#### 4.2 *Prostitution*

Prostitution is not a criminal offence in the Niger, but the law has provided for a legal mechanism to penalize any person who encourages prostitution or benefits from the proceeds of a woman's prostitution.

A person who incites, promotes or habitually furthers debauchery among young people under 21 may also be punished.

It is therefore prohibited to employ women in establishments that sell immoral writings, printed matter, posters, engravings, paintings, badges or pictures.

It is prohibited to employ women in work in which they are visible outside stalls or shops after 8 p.m.

Lastly, female apprentices who are minors may not lodge with their master unless his wife or another adult woman is on the premises (Labour Code regulations).

## **Chapter 5: Women in political and public life**

Article 7 of the Convention reads:

**“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:**

**(a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;**

**(b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;**

**(c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.”**

#### 5.1 *Participation in voting activities and women's eligibility for various posts*

Article 7.2 of the Constitution provides that “citizens of the Niger, of both sexes, aged 18 on the day of the poll, shall constitute electors, under the conditions determined by law”.

Article 8 states that “the Republic of the Niger is a State governed by the rule of law, guaranteeing every person equality before the law, without distinction as to sex or social, racial, ethnic or religious origin”. It should be noted that, from the point of view of the right to vote, there is absolutely no contradiction between the provisions of the Convention and the Constitution of the Niger. Moreover, all the

relevant national legislation is unambiguous in its assertion of equality between women and men.<sup>3</sup>

Thus, under the Electoral Code, citizens of the Niger of both sexes are eligible to vote and to stand for election, provided that they fulfil the conditions for doing so.

It is true that, in practice, the exercise of this right is limited by the various constraints faced by women. These constraints are due not to the absence of egalitarian provisions but to the weight of social expectations. In some areas, women are confined to their homes, which acts as a very real obstacle to their exercise of the right to vote. Moreover, men, owing to their dominant situation, often influence women by making them sign over their proxy votes.

As for eligibility to various political posts, the National Committee of the National Network of Women Ministers and Parliamentarians drew up a programme of action for the year 2000-2001. The programme made it a priority to raise awareness among women and political parties to ensure that as many women as possible were entered in the lists of candidates for legislative elections.

The Committee campaigned up and down the country during the most recent election campaign, in 1999.

The results fell short of expectations, but, if followed up, they should lead to a real increase in awareness among women and men.

## 5.2 *Participation in and the formulation of Government policy and the implementation thereof*

### 5.2.1 *Women and politics*

Women hardly participate in politics in the Niger. The Union des Femmes du Niger (UFN) (Niger Women's Union), established at the time of independence in 1961, aimed to bring women together in order to raise awareness of their role in nation building and to act on the authorities to promote women's participation.

The Union was dissolved in 1975 and was replaced by the Association des femmes du Niger (AFN) (Niger Women's Association).

Table 1  
**Women in the National Assembly**

<i>Year</i>	<i>Total members</i>	<i>Total women members</i>	<i>Comments</i>
1960-1974	—	0	No women elected to the National Assembly
1974-1987	—	5	During this period, the National Development Council fulfilled some of the functions of a parliament
1987-1991	83	5	Second Republic
1991-1993	—	3	During this period, the High Council of the

<sup>3</sup> See the Electoral Code, Order No. 96-114 of 16 April 1996.

<i>Year</i>	<i>Total members</i>	<i>Total women members</i>	<i>Comments</i>
			Republic acted as a transition parliament
1993-1996	83	3	Third Republic
1996-1998	83	1	Fourth Republic
1999-	83	1	Fifth Republic

Table 2

**Women in government, 1958 to 2000**

<i>Year/Regime</i>	<i>Number of Governments</i>	<i>Average number of Ministers, including office of Prime Minister</i>	<i>Number of women</i>
1958	1	12	0
1960-1974 First Republic	7	14	0
1974-1987 First military regime	16	25	0
1987-1989 Second military regime	3	25	1
1989-1990 Second Republic	3	25	2
1990-1993 First transition (civilian) government	3	22	2
1993-1996 Third Republic	4	25	5
1996-1997 Second transition (military) government	4	20	4
1997-1999 Fourth Republic	3	25	4
April-December 1999 Third transition (military) government	1	24	2
January 2000 Fifth Republic	1	24	2

*Source:* National Archives Directorate.

No women from the Niger held a ministerial portfolio between 1958 and 1986. The first woman minister was appointed in 1987 under the second military regime.

The number of women holding political office improved slightly during the initial stage of the democratization process (with five women in the Government and five women deputies in the National Assembly), but it has gradually fallen since then. Between 1991 and 1993 there were two women ministers and three out of the 15 members of the High Council of the Republic were women. There was one woman mayor and a woman was designated sub-prefect at Keita, but she was unable



to take up her duties owing to her rejection by the traditional chieftaincy. During the first Government of the Third Republic, there were five women ministers and three women deputies in the National Assembly. Three members of the “transitional” Government installed after the dissolution of the National Assembly in 1994 were women. In the year January 1995 to January 1996, two women were appointed ministers in the cohabitation Government and three were elected to the National Assembly during the same period. From 1996 to 1997, the first Government of the Fourth Republic had four women in it, including one minister of State. The second Government of the Fourth Republic had four women ministers, one of whom was a minister of State. The third Government of the Fourth Republic, which took office on 1 December 1997, contained three women, one of whom was a minister of State. During the same period, just one woman was elected to the National Assembly.

Although the transitional Government (1999) included only two women, it was the first time that a major portfolio, that of the Ministry of Foreign Affairs, had been entrusted to a woman.

After the elections in 1999, there was just one woman deputy in the National Assembly and two women joined the first Government of the Fifth Republic.

On the other hand, women make up a large percentage of the membership of political parties, but they are shut out of the party leadership and have no say in decisions. Their function is usually to boost the career of men in the latter’s quest for power.

### 5.2.2 Women in administration

The number of women holding strategic posts in public or private administrative bodies or in parastatal bodies is well below the 30 per cent agreed upon at the Fourth World Conference on Women, held in Beijing in September 1995, since 43 women are chairpersons and 3 are in charge of State-owned companies.

Table 3  
**Distribution of civil and public servants by category and sex as at 31 October 2000**

<i>Sex</i>	<i>A1</i>	<i>A2</i>	<i>A3</i>	<i>B1</i>	<i>B2</i>	<i>C1</i>	<i>C2</i>	<i>D1</i>	<i>D2</i>	<i>AUX</i>	<i>Total</i>
F	309	665	432	1 387	1 409	3 024	193	1 125	303	1 519	10 366
M	2 142	2 455	1 845	5 039	2 354	6 089	377	2 260	1 028	5 607	29 196
<b>Total</b>	<b>2 451</b>	<b>3 120</b>	<b>2 277</b>	<b>6 426</b>	<b>3 763</b>	<b>9 113</b>	<b>570</b>	<b>3 385</b>	<b>1 331</b>	<b>7 126</b>	<b>39 562</b>

*Source:* Table of indicators, Ministry of Labour and the Modernization of the Civil Service/  
Directorate General for the Modernization of the Civil Service/Directorate of Information  
and Statistics

### 5.2.3 Women in legal and other professions

In the legal profession, there are 21 women judges, 3 barristers, 5 notaries, 1 provincial bailiff and 1 tax expert in charge of a tax collection office. Several women also own schools and pharmacies.

#### *5.2.4 Women in political parties*

The political parties engage in their activities on the basis of the laws regulating them. Although every citizen, irrespective of their sex, is free to set up a political party, none of the 24 political parties existing in the Niger has been founded or led by a woman. In most of the political parties, women hold the post of officer in charge of women's affairs or officer in charge of organization.

And yet it must be noted that women do much of the work of campaigning and making practical arrangements.

Thus women have played an important role in the institution of a multiparty system. They have joined political parties and contributed their dynamism to them. The rank and file now comprise as many women as men.

Generally speaking, very few women have found their way into decision-making bodies, but the effective application of the law on quotas should remedy the situation in time.

#### *5.2.5 Women and NGOs*

Women's NGOs and associations have grown in size and diversity thanks to Act No. 84-06 of 1 March 1984 laying down the rules governing associations, which is, moreover, an extremely liberal text.

The vast majority of these NGOs and associations have been set up since 1990. The Association des Femmes du Niger (AFN) was the only association in existence before that year. The Rassemblement Démocratique des Femmes du Niger (RDFN) and many other associations have come into being since then.

It is difficult to put an exact figure to women's NGOs, because even the Ministry of Planning, under whose jurisdiction they fall, does not know precisely how many there are of them.

The emergence of NGOs and associations has prompted a real awareness among women of their own role and has triggered genuine social mobilization.

## **Chapter 6: Women and international participation**

Article 8 of the Convention reads:

**“States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.”**

While in the Niger women may carry out representative duties on equal terms with men, in reality they are poorly represented in the diplomatic service and few women from the Niger work in international organizations, as the figures below show.

### *6.1 Representation of women in diplomatic missions*

Few women hold positions of responsibility in diplomatic missions; only three out of nine ambassadors are women.

## 6.2 *Participation of women in the work of international organizations*

In the Niger, there is no legislation which hampers the participation of women in the work of international organizations. Women from the Niger have taken an active part in the deliberations of various international and regional conferences, especially those on women. For example, they have attended several international and subregional conferences organized by the United Nations, United Nations agencies or by African subregional organizations, to wit:

- Sessions of the United Nations General Assembly, including the special session on Beijing +5, which was attended by 17 delegates from the Niger, the majority of whom were women representing the Government or civil society (NGOs and associations);
- Meetings convened in 1990 and 1994 by the United Nations Conference on Trade and Development on the role of women in the development of the least developed countries;
- The Summit on the Economic Advancement of Rural Women, held in Geneva in 1992;
- The International Conference on Population and Development in 1994;
- The World Summit for Social Development in 1995;
- The Fourth World Conference on Women, held in Beijing in 1995.

Nevertheless, notwithstanding their participation in the deliberations of these conferences, few women from the Niger work for international organizations.

Even if they are employed by such bodies, they rarely hold positions of responsibility; only one woman from the Niger represents the United Nations Children's Fund in the subregion.

Many constraints hamper the access of women from the Niger to employment in international organizations — for example their low level of education and sociocultural impediments, such as the fact that, if a woman is married, she is frequently unable to pursue a career in an international organization if her husband lives in the Niger.

## **Chapter 7: Nationality**

Article 9 of the Convention reads:

**“1. States Parties shall grant women equal rights with men to acquire, change or retain their nationality. They shall ensure in particular that neither marriage to an alien nor change of nationality by the husband during marriage shall automatically change the nationality of the wife, render her stateless or force upon her the nationality of the husband.**

**2. States Parties shall grant women equal rights with men with respect to the nationality of their children.”**

### 7.1 *Brief summary of the law on nationality in the Niger*

On becoming independent, the Niger required a code on nationality. An act on the nationality of the Niger was therefore adopted on 12 July 1961 and supplemented by an implementing decree on 28 May 1962. Both texts were essentially liberal in nature and facilitated the acquisition of nationality of the Niger.

A woman automatically acquired nationality of the Niger by marriage without a previous declaration. At least this was the position if the law of her home country did not allow her to retain her original nationality after marriage.

Acquisition of nationality of the Niger was not therefore subject to any very stringent conditions. But this liberalism was to last only so long as the Government of the Niger considered that it was in its interests to maintain it. Once these interests had been served, the legal texts were adjusted to suit circumstances. This was true of naturalization. The purpose of making this easy when the country achieved independence was to offer the Government the vital human resources required to promote socio-economic development. Once this need became less pressing, acquisition of nationality of the Niger through naturalization was subjected to restrictions. That was the purpose of Act No. 73-10 of 27 February 1973.

This partial reform was followed, during the state of emergency, by a thorough reform introduced by Order No. 84-33 of 23 August 1984 establishing the code on nationality of the Niger. The salient feature of this code was the introduction of inequality in the transmission of nationality by men and women. For example, article 11 stated that a child born abroad of a mother with nationality of the Niger must prove that his or her father had nationality of the Niger. Furthermore, under article 22, a child born of a mother with nationality of the Niger and of a foreign father could opt for Niger nationality, whereas a child born of a father with nationality of the Niger automatically had Niger nationality.

Articles 11, 20, 21 and 23 of this text, which discriminated against women, were amended in turn in 1999. Order No. 99-17 of 14 June 1999 now constitutes the positive law on the nationality of the Niger.

### 7.2 *Granting of Niger nationality*

#### 7.2.1 *Through birth*

The rules governing the attribution of nationality of the Niger on the basis of *jus soli* are laid down in articles 8 and 10 of Order No. 99-17.

The first paragraph of article 8 states, "Any person born in the Niger of a first degree direct ascendant who was born in the Niger shall have nationality of the Niger".

The second manner in which a person may acquire nationality of the Niger by virtue of *jus soli* is covered by the first paragraph of article 10, which reads "a child born in the Niger of unknown parentage shall have nationality of the Niger".

In order to round off the consideration of the possible ways of acquiring nationality of the Niger through birth in the national territory, mention must be made of a similar provision contained in the last paragraph of article 10, which lays down that "a new-born baby found in the Niger shall be presumed to have been born in the Niger save for proof to the contrary".

The granting of nationality of the Niger through birth in the national territory has the unquestionable merit of avoiding cases of statelessness in the Niger.

### *7.2.2 Through filiation*

Articles 11 and 12 of Order No. 99-17 govern cases in which nationality of the Niger is granted through filiation.

Article 11 states, “The legitimate child of a father or mother who possesses nationality of the Niger and the natural child of a father or mother who possesses nationality of the Niger with whom filiation has been established shall have nationality of the Niger”.

This amended version of the article and this reform are a step in the right direction in that they have remedied an existing source of inequality between men and women with regard to the transmission of nationality to their children.

The earlier text did not allow children (either legitimate or natural) born of a mother with nationality of the Niger to acquire her nationality. This shortcoming was corrected by the reform.

### *7.3 Acquisition of nationality of the Niger*

#### *7.3.1 Through marriage*

Under Order No. 99-17, an alien woman who marries a man of the Niger may acquire the nationality of the Niger. The status of the alien female spouse is therefore protected. The order also protects the status of a woman of the Niger who marries an alien. If a woman of the Niger marries an alien and cannot acquire his nationality, she may keep her original nationality.

#### *7.3.2 Through naturalization*

The naturalization process in the Niger is as follows:

- The interested party must file an application;
- A background check is then conducted pursuant to the application;
- The Niger nationality is granted or rejected by decree.

#### *7.3.3 Through filiation*

Filiation is covered in articles 20 and 22. Article 20 (new) provides that “a child who has been legally adopted shall acquire the nationality of the Niger if the adoptive father or mother has the nationality of the Niger”. Article 21 (new) provides that “a child acquires the nationality of the Niger if his filiation is in accordance with the above-mentioned Order or custom”. This includes:

1. A legitimate or acknowledged minor whose father or mother has acquired the nationality of the Niger;
2. A natural minor, when the father or mother has proved descent and has acquired the nationality of the Niger.

As long as the father or mother have acquired the nationality of the Niger, it is irrelevant whether the filiation is natural or legitimate. The two conditions for

acquisition of nationality are: proven filiation between the child and the father or mother; and the fact that the child is still a minor.

#### 7.4 *Loss of Niger nationality*

Nationality is lost in the following situations:

- The national has voluntarily acquired another nationality;
- A national who has an employment contract with the civil service of a foreign Government or a foreign army retains his/her nationality for six months after receiving an injunction from the Government of the Niger to terminate the contract. A decree revoking nationality shall be automatically issued upon failure by the citizen to comply within the six-month period and to provide sufficient proof that the contract could not be terminated.

#### 7.5 *Deprivation of Niger nationality*

Only those persons who have acquired the nationality of the Niger may be stripped of such nationality. An individual may forfeit his/her nationality during the 10 years following the acquisition of said nationality if:

- He/she has been convicted of a crime against State security;
- He/she has been sentenced to more than five years' incarceration for a crime;
- He/she has committed acts on behalf of a foreign State which are unworthy of a national of the Niger or are prejudicial to the interests of the Niger.

## **Chapter 8: Education**

Article 10 of the Convention reads:

**“States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:**

**(a) The same conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories in rural as well as in urban areas; this equality shall be ensured in pre-school, general, technical, professional and higher technical education, as well as in all types of vocational training;**

**(b) Access to the same curricula, the same examinations, teaching staff with qualifications of the same standard and school premises and equipment of the same quality;**

**(c) The elimination of any stereotyped concept of the roles of men and women at all levels and in all forms of education by encouraging co-education and other types of education which will help to achieve this aim and, in particular, by the revision of textbooks and school programmes and the adaptation of teaching methods;**

(d) **The same opportunities to benefit from scholarships and other study grants;**

(e) **The same opportunities for access to programmes of continuing education, including adult and functional literacy programmes, particularly those aimed at reducing, at the earliest possible time, any gap in education existing between men and women;**

(f) **The reduction of female student drop-out rates and the organization of programmes for girls and women who have left school prematurely;**

(g) **The same opportunities to participate actively in sports and physical education;**

(h) **Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning.”**

National legislation provides that primary education shall be compulsory and guarantees equal access to educational services. However, owing to sociocultural factors, some parents may encourage the education of boys rather than girls.

*Article 11 of the Constitution of 18 July 1999 provides that “everyone shall enjoy the right to education in accordance with the terms laid down by law”.*

Women and girls do not always exercise their right to education, due to stereotyped concepts of the roles of men and women and the division of labour. In fact, the school enrolment rate is 20.63 per cent for girls and 36.21 per cent for boys. The female illiteracy rate is a staggering 92 per cent.

#### *8.1 Conditions for career and vocational guidance, for access to studies and for the achievement of diplomas in educational establishments of all categories*

One of the characteristics of the educational system in the Niger is that, the higher the level of education, the lower the female enrolment. This trend is even more pronounced in science studies.

With respect to national laws and regulations, Act No. 98-12 of 1 June 1998 on the educational system stipulates that formal education constitutes a method of acquiring education and vocational training in a formal setting. The Act guarantees the right of the child to education and the obligation of the State to make primary education compulsory and free. The Act therefore makes education a national priority. The State has adopted an educational policy to assess the system and develop the necessary strategies.

##### *8.1.1 Preschool education*

Preschool education is not regulated by organic law and exists only in certain urban centres. Preschool is the only level of education for which fees are charged.

**Table 4**  
**The status of preschool education**

<i>Year</i>	<i>1998</i>	<i>1999</i>
Number of public and private institutions	123	
Number of classes/public and private	360	
Total number of pupils	11 764	11 564
Girls	5 919	5 779
Number of female teachers/public and private	494	
Number of inspections	2	
Number of educational counsellors	3	

*Source:* Ministry of National Education/Educational Statistics Yearbook 1998-1999.

**Table 5**  
**Number of children attending preschool**

<i>Year</i>	<i>Boys</i>	<i>Girls</i>	<i>Percentage of Girls</i>	<i>Total</i>
1994-1995	5 106	4 833	48.63	9 939
1995-1996	4 763	4 467	48.54	9 203
1996-1997	5 446	5 192	48.81	10 636
1997-1998	5 845	5 919	50.31	11 764
1998-1999	5 785	5 779		11 564

*Source:* Ministry of National Education/Statistic Yearbooks.

The statistics show that preschool attendance rose between 1994 and 1998, including among girls. However, the numbers dropped slightly in 1998-1999.

### 8.1.2 Primary education

Primary education is regulated by Order No. 25-76/IP of 22 August 1945, which was amended by Order No. 037/MEN/FP/SG of 17 March 1988. Primary education, which covers the first six years of schooling, is for children six to twelve years old.

**Table 6**  
**The status of primary school education in 1998 and 1999**

<i>Years</i>	<i>1998</i>	<i>1999</i>
Number of schools (public and private)	3 175	
Number of classes (public and private)	11 304	
Total number of pupils (public and private)	482 065	529 806
Number of girl pupils	186 488	207 559
Total number of teachers	11 545	



<i>Years</i>	<i>1998</i>	<i>1999</i>
Female teachers	3 651	
Number of inspections (including Franco-Arab schools)	50	
Number of educational counsellors	65	M
Total gross enrolment rates	30.35%	
Rates for girls	23.40%	
Rates in rural areas	22.85%	

*Source:* Ministry of National Education/Statistic Yearbooks.

### *8.1.3 Experimental education*

Classes in experimental schools are taught in the mother tongue. Although the *madradas* are covered under Order No. 005/MEN of 2 January 1960, there is no legislation mandating instruction in the national languages.

### *8.1.4 Secondary education*

Secondary education includes junior high or middle schools and high schools. Only middle schools are governed by an organic law, namely decree No. 64171/MEN of 21 August 1964.

**Table 7**  
**The status of secondary education: 1997-1998**

	<i>Middle school</i>	<i>High school</i>	<i>Total</i>
Number of institutions (public and private)	171	34	205
Number of classes (public and private)	1 772	448	2 220
Total number of students	79 664	17 873	97 537
Number of girls	30 265	5 439	35 704
Total number of teachers	2 383	1 121	3 504
Number of female teachers	539	150	689
Number of inspections			12
Number of educational counsellors			110

*Source:* Ministry of National Education.

**Table 8**  
**Number of enrolled students between 1994 and 1998**

Years	Middle school		High school		Total	
	Boys	Girls	Boys	Girls	Boys	Girls
1994-1995	48 156	26 199	9 478	3 208	57 634	29 407
1995-1996	50 248	27 661	9 628	3 716	59 874	31 377
1996-1997	51 499	29 877	10 704	4 255	62 203	34 132
1997-1998	49 399	30 265	12 434	5 439	61 833	35 704

Source: Ministry of National Education.

Female enrolment in middle school and high school rose considerably between 1994 and 1998 but remained significantly lower than male enrolment.

#### 8.1.5 Higher education

Higher education is regulated by:

- Order No. 84-003 of 12 January 1984 on the establishment of the Université de Niamey, a State university;
- Decree No. 82-142/PCMS/MES/R of 29 July 1982 on the missions of the schools and institutes of the University of Niamey;
- Order No. 064/MES/R/UNI of 7 January 1985 on the organization, operation and accreditation of the units of the faculties and institutes of the University of Niamey;
- Decree No. 92-232/PM/MEN/R of 19 June 1992 approving the statute of the University.

**Table 9**  
**Percentage of women and men in higher education**

Age group	Percentage of women	Percentage of men
15-19	0	0
20-24	0	0.7
25-29	0.5	2.4
30-34	0.4	3.1
35-39	0.4	2.1
40-44	0.3	3.2
45-49	0.2	0.7

Source: Demographic and health survey -II -1998.

The statistics show that the level of education is very low in general. The percentages for women are particularly alarming.

### *8.1.6 Technical and vocational education*

Prior to the adoption of the Act on the educational system, technical and vocational education in the Niger was regulated by a large number of bodies. The absence of a single coordinating body resulted in an inefficient system. However, the new Act on the educational system has settled the issue once and for all. Vocational education now comes under the Ministry of National Education.

### *8.2 Access to the same curricula, the same examinations, school premises and equipment of the same quality*

There is no gender discrimination in the Niger in the above-mentioned areas. The curricula, examinations and equipment are the same throughout the country for both girls and boys. Certain middle and high schools and teacher-training colleges, which were formerly segregated, have become co-educational.

### *8.3 Elimination of any stereotyped concept of the roles of men and women*

Basic education is necessary to ensure integration of individuals into their immediate environment and into society as a whole. Education is a key factor in the achievement of social justice and equality.

In the Niger, young children are brought up by the mother. The social education of boys is the responsibility of the men while the social education of girls is the responsibility of the women. The child therefore identifies with its own gender from a very early age. The status and preferred role of young girls are defined in accordance with custom. Young girls are taught the norms of behaviour which will prepare them for their role as a wife and mother, while young boys are taught from birth that they carry the family name and traditions. That is why parents prefer sending their sons to school, to the detriment of girls. However, parents are gradually becoming more aware of the value of female education.

### *8.4 Scholarships and Government study grants*

Applications from girls and boys are reviewed by the National Vocational Guidance and Scholarships Committee and are given the same consideration. Preference is given to science studies, without distinction as to sex.

### *8.5 Adult and functional literacy programmes*

With the assistance of the department of technical services as well as NGOs and other actors working in rural areas, the Adult Literacy and Education Department has been organizing annual literacy campaigns since 1970 in five national languages, namely Hausa, Zarma, Kanuri, Fulfulde and Tamajaq. The adult literacy programmes have been facilitated by the adoption of a common alphabet. Literacy rates are 19 per cent for men and 12.4 per cent for women.

Table 10  
Literacy statistics

Year	87-88	88-89	89-90	90-91	91-92	92-93	93-94	94-95	95-96	96-97	97-99
Centres	1 030	1 213	1 443	1 083	708	654	1 033	912	906	864	1 030
Men	6 701	7 425	9 317	5 371	4 587	3 875	2 952	1 996	4 580	2 930	5 846
Women	523	330	437	343	392	680	556	725	1 925	3 997	2 420
<b>Total</b>	<b>7 224</b>	<b>7 755</b>	<b>9 754</b>	<b>5 714</b>	<b>4 979</b>	<b>4 555</b>	<b>3 508</b>	<b>2 721</b>	<b>6 505</b>	<b>6 927</b>	<b>8 260</b>

Source: Ministry of National Education/Statistics Yearbook.

Table 11  
Achievements in the area of literacy

Number of centres	1 030
Total number of literates	8 266
Number of female literates	2 420
Percentage of adults who passed the final examination	46.70

Source: Ministry of National Education.

### 8.6 Special needs education

This includes schools for the handicapped and care facilities for abandoned children. These establishments are the responsibility of the Ministry of Social Development, Population, Advancement of Women and Protection of Children. Teacher training is provided by the Ministry for National Education. There is a school for the blind in Niamey, and three schools for the deaf in Niamey, Maradi and Zinder.

### 8.7 Reduction of female student drop-out rates

A performance review of the different education levels showed that a high percentage of students drop out in primary school (30 per cent) and that 42 per cent repeat grade six.

There is a low failure rate between grades one and six because students are automatically promoted to the next grade. The drop-out rate between grades one and six is also low. Grade six, the end of primary school, can be considered the grade in which students are chosen for the next cycle.

The percentages do not improve in secondary school, although the percentage of students who receive the Brevet d'Etude du Premier Cycle (School-leaving certificate) and the Baccalauréat (High school diploma) is slightly higher than the percentage of students who pass into Grade Six and receive the Certificat de Fin d'Etude du Premier Degré (Primary school diploma).

Table 12  
**Performance in primary school by grade between 1997 and 1999**

Levels		Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6
Girls	Promotion rate	86.7%	80.9%	80.9%	79.31%	75.6%	-
	Drop-out rate	11.4%	8.8%	8.5%	8.6%	10.1%	-
Boys	Promotion rate	86.1%	82.8%	80.6%	81.5%	76%	-
	Drop-out rate	11.9%	9%	9.1%	6.5%	9%	-
<b>Total</b>	<b>Promotion rate</b>	<b>86.5%</b>	<b>82.7%</b>	<b>80.8%</b>	<b>80.2%</b>	<b>75.7%</b>	-
	<b>Drop-out rate</b>	<b>11.6%</b>	<b>8.8%</b>	<b>8.8%</b>	<b>7.8%</b>	<b>9.7%</b>	-

Source: Ministry of National Education.

Performance rates for 1997-1999 reveal that the majority of both girls and boys consistently move up to the next grade until the end of Grade Six. Special schools have been set up for women and girls who are unable to finish their studies. There are currently 71 special schools where women can learn sewing, knitting and basketwork.

#### 8.8 *The same opportunities to participate actively in sports and physical education*

No child is prevented from participating in sports and physical education unless he/she has a medical condition or physical handicap. The National Institute for Youth and Sports, where sports coaches are trained, is open to both men and women. The only branch of the institute which is open to women only is "home economics". Girls participate in all sports except football and boxing. The State appoints and pays the sports and physical education instructors assigned to the regular educational establishments.

#### 8.9 *Access to specific educational information to help to ensure the health and well-being of families, including information and advice on family planning*

The Niger repealed the Act of 31 July 1920 on propaganda against birth control and adopted Order No. 88/19 of 7 April 1988 on birth control, which authorizes more permanent birth control methods including tubal ligation for women 35 years of age and over who have at least four living children.

Gynaecologists, obstetricians and general practitioners who have received appropriate training are authorized to provide contraceptive services of all kinds. Doctors, midwives, health assistants and nurses may prescribe oral and injectable contraceptives.

In February 1992, the Niger adopted a population policy declaration which is aimed primarily at:

- Increasing the rate of health coverage;
- Reducing mortality, especially maternal and child mortality;
- Increasing the rate of birth control use in both urban and rural areas.

Under that policy, the Government has implemented a number of projects financed by the United Nations Population Fund (UNFPA).

- The reproductive health and family planning project, which is aimed at improving the quality of health services, providing training and setting up community family planning centres and health huts;
- The adolescent/reproductive health project, which is aimed at promoting the participation of a large number of young people in sports and socio-educational activities, with a view to increasing their awareness of reproductive health issues;
- The reproductive health/Islam project, which is aimed at involving religious leaders in population policy decisions, particularly decisions concerning reproductive health.

The joint implementation of these projects has led to:

- The effective inclusion of family planning in the minimum package of health services;
- Improved prenatal care;
- Increased birth control use.

Thus, according to the Demographic and Health Survey (DHS II) contraception is more widely used by men than women, the figures being 8 per cent for the latter and 11 per cent for men, essentially due to their much greater recourse to condoms (3 per cent as opposed to under 1 per cent).

Overall, the use of contraception, whether of the modern or traditional type, increases very significantly as educational level rises.

#### *8.10 Obstacles to schooling for girls*

These have been the subject of a number of studies. The main explanations are: schools are perceived as culturally alien, especially in rural areas; in highly patriarchal societies sending boys to school is more useful; schools do not take into account the fact that the vast majority of girls are heavily burdened with domestic tasks; schools are often far from the places of residence; there is a shortage of teachers, particularly in rural areas.

### **Chapter 9: Women and employment**

Article 11 of the Convention reads:

**“1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of employment in order to ensure, on a basis of equality of men and women, the same rights, in particular: (a) the right to work as an inalienable right of all human beings; (b) the right to the same employment opportunities, including the application of the same criteria for selection in matters of employment; (c) the right to free choice of profession and employment, the right to promotion, job security and all benefits and conditions of service and the right to receive vocational training and retraining, including**

apprenticeships, advanced vocational training and recurrent training; (d) the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work; (e) the right to social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as the right to paid leave; (f) the right to protection of health and to safety in working conditions, including the safeguarding of the function of reproduction.

2. In order to prevent discrimination against women on the grounds of marriage or maternity and to ensure their effective right to work, States Parties shall take appropriate measures:

(a) to prohibit, subject to the imposition of sanctions, dismissal on the grounds of pregnancy or maternity leave and discrimination in dismissals on the basis of marital status;

(b) to introduce maternity leave with pay or with comparable social benefits without loss of former employment, seniority or social allowances;

(c) to encourage the provision of the necessary supporting social services to enable parents to combine family obligations with work responsibilities and participation in public life, in particular through promoting the establishment and development of a network of child-care facilities;

(d) to provide special protection to women during pregnancy in types of work proved to be harmful to them.

3. Protective legislation relating to matters covered in this article shall be reviewed periodically in the light of scientific and technological knowledge and shall be revised, repealed or extended as necessary.”

#### *9.1 The rights of women exercised in the same conditions as the rights of men*

##### *9.1.1 The right to work*

- Article 25 of the Constitution. The State recognizes that all citizens have the right to work, and is taking steps to create conditions in which this right can be effectively enjoyed and which guarantee to the worker a fair remuneration for his or her services or his or her output;
- Niger has ratified a number of international conventions protecting women’s rights in the field of work, in particular:
  - the Equal Remuneration Convention (Convention No. 100), on 9 August 1966;
  - the Workers with Family Responsibilities Convention (Convention No. 156), on 5 June 1985.

All citizens of the Niger have the right to work, regardless of gender.

Thus, the enactments of the Niger, in particular the Labour Code and the General Civil Service Regulations, guarantee everyone the right to employment.

### *9.1.2 The same employment opportunities*

In general, given equal qualifications, all citizens of the Niger have equal opportunities of access to employment. Equal opportunities of access to the civil service and the private labour sector are guaranteed regardless of gender.

### *9.1.3 The right to free choice of profession and employment*

Overall, legal provisions do not discriminate against women as regards choice of profession or employment (cf. Article 25 of the Constitution, Article 5 of the Labour Code).

### *9.1.4 The right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value*

Remuneration is equal for all in the same occupational category, regardless of gender (Article 148, Order No. 96-039 of 29 June 1996).

It should be noted that, in addition to having national enactments which guarantee to all equal treatment for equal work, on 9 August 1966 the Niger ratified International Labour Organization Convention No. 100 concerning equal remuneration.

### *9.1.5 The right to the protection of health, to the safeguarding of the working conditions and the safeguarding of the function of reproduction*

Taking into account the physical status of women, labour legislation in the Niger provides for special treatment of women and children. Thus, the Labour Code provides that the rest period for women and children must last at least eleven (11) consecutive hours.

Moreover, the Labour Inspector has the power to require women and children to be examined by a qualified doctor to verify whether the work they are doing does not exceed their strength. Should it do so, the woman or child must be assigned to another post, otherwise the contract must be terminated with payment in lieu of notice.

According to the Labour Code agricultural or commercial establishments, whether public or private, and individual employers are forbidden to use female employees for work that exceeds their strength or damages their moral character. Moreover, women may not be required to carry or haul loads exceeding 25 kilograms in weight and to transport by wheelbarrow loads weighing between 40 and 130 kilograms. In general, labour of a kind that may impair the procreative capacity of women is forbidden.

Thus, the legislation of the Niger fully takes into account the concern to protect the health and working conditions of women. However, the implementation of these provisions can be effective only when the oversight mechanisms in place are efficient, which is not always the case, especially in view of the limited number of Labour Inspectors responsible for ensuring the relevant norms are rigorously respected.



## *9.2 Legal protection of women workers*

### *9.2.1 Prohibition of dismissal on the grounds of pregnancy*

Order No. 96-039 of 29 June 1996 concerning the Labour Code of the Niger provides that a woman's pregnancy shall not justify her dismissal. Furthermore, Article 102 specifies that any pregnant woman whose condition has been medically certified or who is visibly pregnant may leave her job without as a result having to pay a fine for breach of contract.

Childbirth entitles every woman to suspend work for fourteen (14) consecutive weeks, of which eight (8) after delivery. Such suspension may be extended by three (3) additional weeks in case of illness which has been duly certified and is the result of pregnancy or childbirth.

This suspension of service may not be considered a reason for severance of contract.

(Article 103).

### *9.2.2 Maternity leave*

Under the terms of article 112 of the decree implementing the Order on the General Civil Service Regulations, leave for confinement and lactation is granted to women civil and public servants on request, subject to the presentation of a medical certificate issued by a civil service doctor.

Furthermore, if, at the end of maternity leave, a woman is not fit enough to return to work, she is given sick leave subject to the opinion of a health adviser.

Article 115 adds that the woman's post may not be assigned to another person.

Article 103 of the Labour Code provides that a pregnant woman is entitled to take leave of absence and that this time off work may not be regarded as grounds for dismissal. Hence article 15 of Decree No. 86-154/PCMS/SEM of 23 October 1986 laying down the staff regulations for employees of industrial and commercial public corporations, State-owned companies and part-State-owned companies states, "Any female employee, whose pregnancy has been officially certified, must receive confinement leave, the duration of which shall be established by current laws and regulations. On returning to work, the woman must be allowed daily rest periods for breastfeeding, the length of which shall be established by existing texts".

### *9.2.3 Ban on night work*

The decree regulating the implementation of the Labour Code has determined women's working hours and the shifts they may work. It lists the jobs which women may not do. Most of these consist of work which might impair their ability to procreate or, in the case of a pregnant woman, which might affect her health or that of her child.

## *9.3 Exercise of women's rights in practice*

Although there is no legislation that discriminates against women, generally speaking the exercise of women's rights is limited in practice. For example, bosses usually give preference to men in some posts, but they also do so because of certain

cost factors, such as those associated with maternity leave. For this reason, women rarely occupy senior management positions.

#### *9.4 Periodic revision of laws*

Although there is currently no formal requirement to review obsolete and unsuitable laws at regular intervals, the Ministry of Justice is in the process of recasting laws and regulations. This entails making a list of all the texts and contemplating reform.

## **Chapter 10: Access of women to primary health care**

### **Article 12 of the Convention on the Elimination of All Forms of Discrimination against Women**

**“1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.**

**2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”**

#### *10.1 Sectoral policy on health and the health development plan*

The Niger has embarked on a huge and ambitious programme of economic and social reforms, which was reflected in the adoption, in 1994, of a health development plan 1994-2000, whose main objectives are:

- To promote maternal and child health and family planning, in order to reduce maternal, infant and child mortality;
- To promote a healthy diet and sound nutrition;
- To increase investment in infrastructure, facilities, equipment and human resources in the health sector.

According to the 1994 health development plan, the number of formal health-provision services is as follows:

- 220 rural dispensaries and 31 health posts in outlying areas;
- 39 medical centres;
- 31 mother and child health centres and 24 neighbourhood dispensaries;
- 14 neighbourhood maternity homes, 4 maternity reference units and 3 specialized centres (tuberculosis centre, leprosy centre and reproductive health centre at Niamey);
- 5 departmental hospitals;
- 2 national hospitals and 1 university hospital.

The private sector comprises:

- 3 hospitals;
- 15 medical practices;
- 2 psychiatrists' practices;
- 3 obstetricians' practices;
- 48 medical stations;
- 7 medical centres run by the National Social Security Fund;
- 1 public health consultancy.

Medicinal and pharmaceutical products are distributed through the following:

- 24 public pharmacies;
- More than 40 private pharmacies in Niamey and elsewhere in the country;
- 245 supply points for medicinal and pharmaceutical products, 86 of which belong to cooperatives.

Given the above-mentioned infrastructure, the Niger has on average:

- 1 maternity home for 24,505 women of childbearing age;
- 1 mother and child health centre for 34,732 women of childbearing age and 26,940 children under the age of 5.

The health development plan also uncovered the weakness of national health-care coverage (32 per cent), entailing poor health-care management, with only one doctor for more than 75,000 inhabitants, whereas the World Health Organization (WHO) norm is one doctor for 1,000 inhabitants. Women's health is in a precarious condition, because of a number of interrelated factors, such as successive childbirths, food taboos, harmful traditional practices, heavy domestic and farm chores, that adversely affect their capacity to work and undermine their health. The only way to improve their nutrition and health is to devise strategies to resolve those problems.

The main objective of the sectoral health policy adopted in 1995 is, indeed, to improve the health of the population by the year 2000. In order to do this, the Government has made a commitment to launch public information and awareness-raising campaigns, promote more hygienic living conditions, expand immunization coverage, and redirect investment towards better health-care coverage throughout the country.

Special attention, for instance, will be given to protecting and safeguarding mothers and children under an appropriate family planning policy.

The policy on medications will be to make essential, high-quality and affordable generic drugs available to the people, and to improve production techniques and supply policies.

### *10.2 Identification of stakeholders*

In the Niger, both public and private stakeholders are involved in the field of health.

### 10.2.1 Public stakeholders

It is the responsibility of the Ministry of Health to carry out the health policy, with the collaboration of other ministries. Among the Ministry of Health departments is the Family Planning Department.

Women are quite well represented among the health-care personnel in the various professions.

Table 13

#### Health-care personnel by speciality and sex as at 22 November 2000

<i>Profession</i>	<i>Men</i>	<i>Women</i>	<i>Total</i>
Doctors	196	67	263
Pharmacists	5	8	13
Nurses	1 117	1 031	2 148
Midwives	0	374	374
Dental surgeons	19	2	21

*Source:* DFGP/MSP Information Service.

Forty-eight per cent of all health-care personnel, including all categories and specialities, are women, whereas 52 per cent are men.

The other ministries involved in the field of health are the following:

- The Ministry of Social Development, Population, Advancement of Women and Protection of Children, through its work in monitoring and social mobilization;
- The Ministry of National Education, through its coordination of health and social activities in schools, in collaboration with the Ministry of Health;
- The Ministry of Planning, as coordinator of programmes and projects having to do with women's health;
- The Ministry of Communication, through its information, education and communication strategies.

Other ministries play a no less important role, as do private stakeholders.

### 10.2.2 Private stakeholders

NGOs, associations and humanitarian organizations have taken various initiatives worthy of note. Also, traditional health practitioners play a considerable role in dealing with health problems.

## Chapter 11: Economic and social rights of women

Article 13 of the Convention reads:

**“States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:**

- (a) The right to family benefits;**
- (b) The right to bank loans, mortgages and other forms of financial credit;**
- (c) The right to participate in recreational activities, sports and all aspects of cultural life.”**

### *11.1 Economic rights*

#### *11.1.1 Commercial law*

Article 1 of the new Commercial Code<sup>4</sup> provides that “a trader is any natural or legal person who engages in trading activity in his name or on his own account as his occupation”. The Code represents a considerable advance for married women who in the previous text had not been able to engage in business activities without authorization from their husbands. Under the new law, “a married woman may engage in business trading activity but is not recognized as a trader unless her activity is separate from that of her spouse”.

The new Commercial Code is fully in line with the principle of equality established by the Constitution of 18 July 1999. In practice, however, this right of women is limited by the sexual division of labour, whereby women are confined to the role of housewives, as well as by their extreme poverty and the unavailability of bank credit. Despite all the problems, women in almost every ethnic group in the Niger do carry out income-generating activities.

#### *11.1.2 The right to credit and to bank loans*

Although the legislation in force in the Niger does not discriminate against women, there are a number of factors that prevent most women from gaining access to formal credit. For several decades now, the society of the Niger has been undergoing tremendous transformations, both economic and social. Women are now taking over expenses that had traditionally been the responsibility of men.

Women’s activities are playing an increasingly important part in maintaining economic stability in the society. This new development explains why so many women are applying for loans. In most cases, however, the amounts received by women in the Niger are laughable, and there are differences from one financial institution to another.

The amounts of credit granted are determined on the basis of socio-economic studies designed to estimate the amount that would be useful and the payment capacity of women. Loans enable women to maintain acceptable levels of income,

<sup>4</sup> Order No. 92/48 of 7 October 1992, establishing the first book of the new commercial code.

but given the small amounts involved, they do not encourage accumulation in the economic sense of the word. They do, however, provide a certain degree of financial flexibility. However, the overwhelming majority of women do not have access to bank loans because they cannot provide collateral. Rather, this form of credit is the prerogative of only a few women. Most women have difficulty meeting the eligibility requirements established by the banking institutions, because:

- They lack basic training in management and accounting;
- They have a poor understanding of the idea of the profitability of credit;
- They lack information on banking and tax procedures;
- They cannot provide real collateral.

To mitigate these difficulties and obstacles, certain measures have been taken, including the implementation of the framework programme on promotion of the private sector which was drawn up in 1997. Under this programme, action was taken to help women entrepreneurs, including a train-the-trainer workshop in 1998 to teach women techniques for negotiating with their partners (taxes, banking, customs, insurance). In addition, a study on organizing women entrepreneurs was conducted which stressed the need for women to start groups for those who have common interests.

## *11.2 Social rights*

### *11.2.1 Entitlement to family benefits*

Under Decree No. 65-116 of 18 August 1965, establishing regulations for the family benefits system of the National Social Security Fund, the following family benefits are provided: prenatal allowance, maternity allowance; workers' household allowances; family allowance; maternity leave for women wage earners at all levels; reimbursement of delivery expenses of women wage earners.

Article 16 of the same Decree stipulates that family benefits shall be paid to the mother. All women wage earners or spouses of wage earners are entitled to prenatal allowance from the day that pregnancy is confirmed. All women wage earners or spouses of wage earners who give birth receive medical care for an infant born alive that is duly registered in the family record book. They are entitled to a maternity allowance that is payable in three segments (article 29).

Household allowances are also granted to workers upon the birth of each of the first three children of a marriage that has been formalized in the presence of the Registrar of births, marriages and deaths or of a subsequent marriage if the death of the previous spouse was officially declared (article 37).

Family allowances are granted to workers for each dependent child (article 38).

### *11.2.2 The right to work*

As far as employment is concerned, the fundamental legislation of the Niger guarantees equal access to employment opportunities. Since 1 January 1990, there has been no discrimination as regards the access of women to the civil service.

However, article 2 of Ordinance No. 89-18 establishing general civil service regulations provides that “as regards certain organizations and owing to their technical nature or to competencies and needs that are unique to them, special regulations may override individual provisions that are incompatible with the normal functioning of the said organizations”.

There are no provisions that discriminate against women in the private sector either. In practice, however, managers prefer men for their own particular reasons such as the high cost of prenatal and post-natal leave. Women hold management posts only very rarely.

#### *11.2.4 The right to health*

Article 11 of the Constitution of the Niger: “All persons have the right to health ...”

Article 12 of the Convention reads:

**“1. States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care in order to ensure, on a basis of equality of men and women, access to health care services, including those related to family planning.**

**2. Notwithstanding the provisions of paragraph I of this article, States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation.”**

Despite this constitutional provision, women continue to be a vulnerable group from the point of view of health. Seven women out of every 1000 die for reasons relating to pregnancy and childbirth and there is one midwife for every 1857 assisted births. The vulnerability of women from the point of view of health is a result of poor hygiene conditions coupled with the country’s economic problems and traditional practices, in particular early marriage, early motherhood and the refusal to attend health centres where they exist. One of the consequences of such traditional practices, particularly early marriage, is obstetric fistula.

It emerges from the situation described above that the women of the Niger continue to suffer from discrimination, particularly in the area of family rights, because a particular law has not been brought into line with, and indeed contravenes, positive law. The law in question — the law of 1962 — encourages all abuses for sociocultural reasons. The very strong sexist stereotypes that exist in the Niger are also found among certain politicians, most often men, who are either reluctant or unwilling to adopt or apply the necessary provisions.

### *11.3 Cultural rights*

#### *11.3.1 The right to recreational activities, sports and all aspects of cultural life*

In the Niger, the State guarantees both men and women access to sports and leisure.

### *11.3.2 Sporting activities*

In the past, the women of the Niger practised only a few sports; today, they participate in almost all sporting disciplines. However, their level of participation remains low overall. For example, the Niger has no women's football team. Ignorance about the issue has profoundly influenced women's participation in sports. Other obstacles include early motherhood and early marriage, which put a premature end to girls' sporting careers; an insufficient sporting infrastructure in general; timidity on the part of young girls; and the lack of adequate resources for families.

### *11.3.3 Other cultural activities*

Women stand out in a number of fields, including handicrafts, singing, theatre and dance. Apart from marriage and baptism ceremonies, where they play a relatively important role, the low participation rate of women in cultural activities in general must be deplored. Such a situation can be explained by sociocultural factors, women's insufficient economic resources and a lack of leadership.

## **Chapter 12: Rural women**

Article 14 of the Convention:

**“1. States Parties shall take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families, including their work in the non-monetized sectors of the economy, and shall take all appropriate measures to ensure the application of the provisions of the present Convention to women in rural areas.**

**2. States Parties shall take all appropriate measures to eliminate discrimination against women in rural areas in order to ensure, on a basis of equality of men and women, that they participate in and benefit from rural development and, in particular, shall ensure to such women the right:**

**(a) To participate in the elaboration and implementation of development planning at all levels;**

**(b) To have access to adequate health care facilities, including information, counselling and services in family planning;**

**(c) To benefit directly from social security programmes;**

**(d) To obtain all types of training and education, formal and non-formal, including that relating to functional literacy, as well as, inter alia, the benefit of all community and extension services, in order to increase their technical proficiency;**

**(e) To organize self-help groups and co-operatives in order to obtain equal access to economic opportunities through employment or self employment;**

**(f) To participate in all community activities;**



**(g) To have access to agricultural credit and loans, marketing facilities, appropriate technology and equal treatment in land and agrarian reform as well as in land resettlement schemes;**

**(h) To enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.”**

In the Niger, according to the analysis of the situation of women and children conducted in 1998, about 82 per cent of women live in rural areas. As well as carrying out domestic tasks, rural women take part in all socio-economic activities, including agriculture, stock-raising, handicrafts and petty trade. They dedicate between 16 and 18 hours a day to these domestic chores and socio-economic activities.

### *12.1 Rural women and participation in decision-making*

Niger society is a society where the man predominates. In most cases, the man is the head of the family. In rural areas, the woman is consulted on some decision-making within the family. However, this participation is not always visible. Traditionally, certain women with the experience of age play a specific role: they have decision-making power within the family, particularly regarding marriages and all family issues. Thus, the limited exercise of women's rights has repercussions in the community, where women cannot participate in decision-making or share it with men.

Rural women's low level of participation in decision-making both within the family and in society stems mainly from sociocultural inhibitions and attitudes, a lack of civic and economic education, a lack of financial resources, passivity and timidity on the part of women and the excessive demands on their time owing to their multiple roles as mothers, wives and agents of development.

### *12.2. Rural women and access to adequate health services*

According to the Demographic and Health Survey (DHS/1998), more than two out of five inhabitants of the Niger (42 per cent) live near a health establishment while one fifth of women (20 per cent) live very far from one, the establishment being at least 15 kilometres from their place of residence.

In urban areas, all women live less than five kilometres from a health establishment. However, for all other infrastructures, rural areas are at a disadvantage, with 28 per cent of women living less than five kilometres from a health establishment, 29 per cent living far from one and 24 per cent living very far from one.

Table 14  
**Distribution of urban and rural women by distance from the nearest health facilities**

<i>Distance (in km)</i>	<i>Urban areas</i>	<i>Rural areas</i>	<i>Total</i>
<b>Near</b>			
On the spot	77.3 %	14.7 %	27.4 %
1-4	21.9 %	12.9 %	14.7 %
<b>Far</b>			
5-9	0.8 %	14.9 %	12 %
10-14	0 %	13.8 %	11 %
<b>Very far</b>			
15-29	0 %	20.5 %	16.3 %
over 30	0 %	3.9 %	3.1 %

Source: DHS-11-Niger 1998

### 12.3 Rural women and social security

Social security systems in the Niger do not reach rural women. However, owing to a lack of information and resources, rural communities do not have sufficient access to the social security system guaranteed by insurance.

### 12.4 Rural women and access to different types of education and training

In legal terms, there is no discrimination between men and women regarding access to education and training facilities. In general, rural women face the following difficulties in terms of education and training: sexist choice of parents; the excessive demands on women's time; ongoing sociocultural constraints; and early marriage.

### 12.5 Rural women and organizational structures

In the past, women of the Niger got together regularly for celebrations. These events had no other express purpose than to enjoy an important event together. Only the practice of the *tontine* — a voluntary system of group savings — was intended to meet social expenses. Today, the establishment of several thousand women's groups throughout the country responds to the concern of development agencies to organize the recovery of loans granted to women on the basis of solidarity group lending schemes. The establishment of these women's groups has enabled women to demonstrate their dynamism, determination, level of commitment and their aptitude for undertaking significant economic and social projects.

The women's groups governed by Ordinance No. 96-067/PNR/MAG/EL of 9 November 1996 enable women to acquire collective assets, services and resources; provide a framework for discussion and exchange of views; enhance women's skills; empower women by helping them realize that they can play an active role in decision-making, management and monitoring of development activities.

### *12.6 Access of rural women to credit, loans for poultry farming and marketing services*

Rural women continue to have limited access to productive resources despite their important role in economic activity. The capital held by rural women comes mostly from petty trade, small livestock and farming. In order to put together seed money, women organize themselves through the *tontine* system and other forms of saving. They also organize themselves within women's groups, of which there are approximately four thousand (4000) to date throughout the country.

Consequently, despite women's commitment to carrying out an income-generating activity, they do not mobilize enough resources to undertake activities on a larger scale. They also face difficulties when it comes to the distribution and sale of produce and the supply of inputs. This is because women do not benefit very much from technological progress in this area, as they rarely have access to the infrastructures and resources needed to modernize agricultural production.

### *12.7 Rural women and land ownership*

In theory, and in line with the new rural code, women may own, buy or alienate land. However, in practice, women of the Niger do not have real access to land ownership, as they rarely own the land on which they work. In rural areas, land is the most highly valued asset. Land speculation, however, continues to be restricted. The relationship of women to land is based on traditional values of family ownership of land where usufruct is most common.

### *12.8 Housing, sanitation, electricity, drinking water, transport and communications*

#### *12.8.1 Housing*

According to the study entitled "Analyse de la situation des femmes et des enfants au Niger" (An analysis of the situation of women and children of the Niger — 1998), over 77 per cent of the population of the Niger live in houses whose walls are made of adobe (clay). In rural areas, straw is frequently used to build the walls of people's homes.

#### *12.8.2 Sanitation and drinking water*

It is hard for people to get access to drinking water owing to the high cost of water and unsatisfactory storage and transportation conditions. At the moment, sanitation essentially boils down to systems for the disposal of all kinds of solid or liquid waste.

#### *12.8.3 Access to the media*

Data relating to women's access to the media are particularly important when it comes to implementing programmes relating to education and the dissemination of information in all areas. According to the Demographic and Health Survey 1998, 54 per cent of women listen to the radio at least once a day while only 25 per cent watch television at least once a week and only 5 per cent read the newspaper on a regular basis. Even if radio stations are on the increase in rural communities, the reception of most private radio and television stations is limited only to the city of Niamey.

#### *12.8.4. Access to electricity*

In general, there is no electricity in rural areas of the Niger. Rural women do not therefore have the privilege of using this source of energy. One company is responsible for producing and distributing electricity in the Niger and it covers only the main urban centres.

### **Chapter 13: Equality of men and women before the law**

**Article 15 of the Convention reads:**

**“1. States Parties shall accord to women equality with men before the law.**

**2. States Parties shall accord to women, in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.**

**3. States Parties agree that all contracts and all other private instruments of any kind with a legal effect which is directed at restricting the legal capacity of women shall be deemed null and void.**

**4. States Parties shall accord to men and women the same rights with regard to the law relating to the movement of persons and the freedom to choose their residence and domicile.”**

#### *13.1 Equality of men and women before the law*

##### *13.2.1 In principle*

The Republic of the Niger is governed by the rule of law. Under the Constitution (article 8), the State guarantees all persons equality before the law, without distinction as to sex, origin or religion. Because the Constitution is the supreme law of the State, other inferior laws should not and cannot contradict it without running the risk of being declared null and void.

However, although this principle is observed in texts, in practice this is not always the case.

##### *13.2.2 In practice*

In the Niger, some aspects of family law are governed by modern law, custom and Islam. This situation perpetuates discrimination against women owing to the discriminatory nature of certain customs. For example, in some regions customary law denies women the right to access land. This is linked to traditions and to the division of land in the smaller units, which means that the “head of the family”, who is always identified as the man or the husband, continues to be favoured.

Thus, there are a number of customary practices that constitute an infringement of the principle of the equality of citizens before the law. They include: forced marriage, a common practice which is perpetuated for various reasons, particularly material ones. Young girls are often married to older men

without their consent; marital violence, which can take the form of moral violence by a man against his wife (for example, repudiation) or physical violence (for example, assault and battery), as some Islamic customs (for example, among the Hausa, Zarma and Kanouri peoples) tolerate wife-beating; confinement, which is a way of violating a woman's freedom to leave the conjugal home. This practice often denies women access to essential health services.

While all of these practices are punishable by law, they are rarely reported by the victim owing to considerations of a social nature, such as dignity.

### *13.2 Legal capacity of women*

Legal capacity is understood to mean a person's power to exercise his or her rights.

#### *13.2.1 In principle*

In the Niger, the legal capacity of both men and women is recognized by law. Article 216 of the Civil Code provides that: "A married woman has full legal capacity. The exercise of such capacity shall be limited only by the marriage contract and by the law." However, in line with various laws and regulations, a married woman may be a party to legal proceedings, enter into a contract, conduct a commercial activity on an equal footing with men, exercise a profession of her choice, participate in elections and be elected. However, in practice women do not really enjoy these rights.

#### *13.2.2 In practice*

The limited if not non-existent exercise of women's individual rights can be seen in the way in which laws which are egalitarian in principle are implemented. This is because Niger society continues to be highly conditioned by traditions and customary practices that do not offer equal rights to men and women. Rather, society merely offers them certain prerogatives in their respective spheres on the basis, above all, of strict respect for extremely complex rules, roles and hierarchies. As a result of these various factors combined, in legal terms women of the Niger do not fully enjoy their recognized rights.

### *13.3 Invalidity of contracts limiting the legal capacity of women*

In principle, if a woman believes that an administrative act discriminates against her, she may ask the administrative judge to annul it. In the case of a discriminatory private contract, she may request the ordinary courts to annul it. However, in reality, women rarely initiate proceedings, either because they lack knowledge of legal texts or for reasons of a sociocultural nature, according to which no one should take their own family to court.

### *1-4 Reservations*

The Government of the Niger hereby declares that it can be bound by the provisions of article 15, paragraph 4, particularly those concerning the right of women to choose their residence and domicile, only insofar as those provisions refer only to unmarried women.

The provisions of this paragraph are contrary to existing customs and practices which, by their very nature, cannot be modified by an act of authority.

The Government of the Niger has also expressed a reservation concerning article 29, paragraph 1. In its view, a dispute of this kind can be submitted to arbitration only with the consent of all the parties to the dispute.

## **Chapter 14: Women and family rights**

### **Article 16 of the Convention:**

**“1. States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and in particular shall ensure, on a basis of equality of men and women:**

- (a) The same right to enter into marriage;**
- (b) The same right freely to choose a spouse and to enter into marriage only with their free and full consent;**
- (c) The same rights and responsibilities during marriage and at its dissolution;**
- (d) The same rights and responsibilities as parents, irrespective of their marital status, in matters relating to their children; in all cases the interests of the children shall be paramount;**
- (e) The same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights;**
- (f) The same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children, or similar institutions where these concepts exist in national legislation; in all cases the interests of the children shall be paramount;**
- (g) The same personal rights as husband and wife, including the right to choose a family name, a profession and an occupation;**
- (h) The same rights for both spouses in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property, whether free of charge or for a valuable consideration.**

**2. The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory.”**

#### *14.1 The rights of women in the family*

In practice, civil rights in the Niger are based essentially on customary law, Islamic law and, to a lesser degree, the Civil Code. This situation recognizes and perpetuates discrimination against women. Such discrimination is completely unjustified and, moreover, prohibited by the Constitution.

#### *14.1.1 Customary law: Order No. 63-11 of March 1962*

In the Niger, the core of human and family rights is subject to customary law in accordance with Act No. 62-11 of 16 March 1962 on the organization and competence of the courts.

- Act No. 62-11 of 1962 covers issues of personal status. In accordance with articles 51 and 52 of this Act, “subject to legislation or basic rules concerning public order or human rights, courts shall apply the customary law of the parties as follows:
  - (i) In matters concerning their capacity to enter into contracts and to go to court, personal status, the family, marriage, divorce, filiation, inheritance, donations and wills;
  - (ii) In matters concerning property or ownership of real estate and the rights deriving these from them, except when the dispute relates to registered land or right of acquisition or when there was a transfer by a method established by law;
  - (iii) In matters pertaining to marriage and divorce or child custody and the situation of the wife in the event of marital break-up through divorce or repudiation of one of the spouses, in the event of conflict of customary law, rulings shall be based, according to article 52, on the wife’s customary law, if she is a national of the Niger, otherwise, they shall be based on the customary law of the husband;
  - (iv) According to the customary law of the deceased for matters relating to inheritance and wills.

The Act of 1962 covers human and family rights in the Niger. As it is based on the customary law of the woman and as customs vary from one ethnic group to the other, the Act introduces inequalities between individuals and between men and women, in particular. Since according to customary law men are superior to women, there can be no equality between men and women in any circumstances. Neither is there equality among women themselves, as customs differ and vary in intensity and rarely resemble one another. This obsolete and inadequate Act is unconstitutional and void (article 130 of the Constitution). The women of the Niger are therefore second-class citizens, despite provisions to the contrary in the Constitution, subjected to the capriciousness and injustice of customary practices. To complicate matters further, assessors in customary courts tend to refer to Islamic law, which has been distorted in practice and by various interpretations. For example, there are very specific rules governing repudiation under Islam; in practice, a husband who wishes to repudiate his wife tells her, without warning, to leave the matrimonial home immediately.

#### *14.1.2 Constraints related to the application of customary law*

Even if the above-mentioned provisions do not expressly refer to the gender of the litigant, in practice this Act institutes inequality between men and women. The customs of the Niger, which differ from one ethnic group to the other, institute inequality among individuals and between men and women, on the one hand, and among women themselves, on the other.

Under the systems of customary law, men are considered superior to women. Moreover, given the huge differences, these customs institute inequality among women in that they are not treated as equals from one custom to another. Examples include the fact that women are generally granted the right to inheritance and access to land, but in practice and in some particular regions they may never inherit land, which is considered common family property. Furthermore, under most customs, the mother is granted custody of her sons until the age of puberty and her daughters until they marry; however, quite often, mothers may, at best, have custody of the children only until they are seven years old. In the worst case scenario, custody is denied regardless of the child's age.

#### *14.1.3 Actions undertaken*

The authorities decided in 1975 to begin drafting a family code to address this legal limbo and consequent discrimination. The most recent version of the draft code is dated January 1993. This code has not yet been adopted for reasons which are described below. Nevertheless, the code has a potential impact on the legal status of target groups. It could have brought the implementing legislation of the Constitution of the Niger in line with the Constitution. The code includes, inter alia: full recognition of women's civil capacity; recognition of women as heads of household in some situations, which derives from the legal obligation to contribute to the upkeep of the household; equality with the husband for child custody rights in the event of divorce according to the child's interests and entitlement to family allowances; prohibition against repudiation.

Unfortunately, this code has not yet been adopted because of a lack of consensus among religious leaders. The need to adopt a family code should be emphasized in the light of the true position that women hold in a law-based State.

#### *14.1.4 The Civil Code*

The Niger has a Civil Code inherited from the former colonial Power: the Code of 1804. Although it is in force in the Niger, this Code is applied to a limited extent only. It is rare for couples from the Niger to marry in accordance with this Code. Nevertheless, every citizen may, prior to entering into marriage, opt for a civil or a customary wedding with his or her spouse.

#### *14.2 Child marriages*

There is no set legal age for marriage under customary law, which suggests that early marriages and their consequences are widespread. However, article 144 of the Civil Code sets the minimum age of marriage for women at 15 years. Therefore, women may not enter into marriage before the age of 15. Moreover, while the Civil Code specifies that parental consent is needed in the event of the marriage of minors, under most systems of customary law, given that marriage is a family matter, the consent of the persons concerned is only of symbolic importance. Under the Civil Code, consent is a prerequisite for any marriage to be considered valid whereas under customary law it is not always required.

#### *14.3 Marriage registration*

In accordance with Order No. 85-05 of 29 March 1985 on the organization and functioning of civil status, marriages performed by civil status registrars in major



centres are immediately registered; marriages performed according to customary law must be declared not later than 10 days after the marriage ceremony (article 34). The registration of marriages is mandatory and failure to do so is punishable by a fine prescribed by regulations (article 85). Although marriage registration is required by law, a good number of citizens, particularly in rural areas, are still unaware of it.

### *1.5 Reservations*

The Niger expressed reservations concerning paragraphs 1 (c), (e) and (g) of article 16, particularly the provisions concerning the same rights and responsibilities during marriage and at its dissolution, the same rights to decide freely and responsibly on the number and spacing of their children and the right to choose a family name.

## **Chapter 15: Recent developments**

The Niger acceded to the Convention in August 1999. Since that time, there has been no major breakthrough which has improved the status of women, but the actions taken deserve particular attention. A Quota Act was adopted to increase the number of women in decision-making bodies, and a National Institute for the Promotion of Women was established to enhance coordination of activities that contribute to the advancement of women of the Niger.

### *15.1 Quota Act*

Upon the proposal of the Government of the Niger, the National Assembly adopted on 7 June 2000 Act No. 2000-008 on a quota system for elective offices in the government and State administration.

#### *15.1.1 The notion of quotas*

Under article 3 of Act No. 2000-08, a quota is an affirmative-action measure designed to enable all citizens without any distinction:

- To take part in the conduct of public affairs, directly or through freely chosen representatives;
- To have access, on general terms of equality, to public service.

Article 1 specifies that quotas are a temporary measure.

#### *15.1.2 Quotas for women*

##### *15.1.2.1 Elective office*

Under article 3, during local legislative elections, the lists submitted by each political party or group of political parties or group of independent candidates must include candidates of both genders. The proportion of elected candidates of either gender must not fall below 10 per cent.

#### *15.1.2.2 Cabinet and State administration*

Article 4 stipulates that in the cabinet and senior civil service posts the proportion of persons of either gender must not be less than 25 per cent.

#### *15.2 Establishment of the National Institute for Monitoring the Advancement of Women (ONPF)*

Created by Decree No. 99-545/PCRNIMDS/PPF/PE of 21 December 1999, the Institute is a body fostering dialogue and support for the implementation of the national policy for the promotion of women.

##### *15.2.1 Responsibilities and functions of ONPF*

The Institute is responsible for organizing and coordinating activities that contribute in a coherent manner to the implementation of a national action plan relating to the national policy for the promotion of women. The main functions of the Institute are to: ensure the implementation of the actions plan; ensure the smooth development of the various components of the action plan; and ensure follow-up and evaluation of the plans and programmes for the advancement of women.

##### *15.2.2 Composition and bodies of the Institute*

The Institute is composed of all the relevant ministries; a representative of the President of the Republic; a representative of the Cabinet of the Prime Minister; a representative of each parliamentary caucus at the National Assembly; the coordinator of each development programme; representatives of NGOs, associations and trade unions; representatives of bilateral and multilateral cooperation partners; and representatives of the regions. The Institute has a bureau and a permanent secretariat. The bureau is presided over by the Minister responsible for the Advancement of Women. The permanent secretariat is under the Department for the Advancement of Women. Lastly, the Institute includes decentralized offices called regional institutes for the promotion of women.

##### *15.2.3 Functioning and resources of the Institute*

The Institute prepares each year a mandatory report on the status of the promotion of women in the Niger. The resources needed for the regular functioning of the Institute are provided by contributions from the State, development partners as well as any national or foreign individual or corporation.

#### *15.3 The post of gender adviser to the Cabinets of the President and the Prime Minister*

The post of gender adviser to the President and the Prime Minister was created on 7 December 2000. The adviser is responsible for providing advice or technical assistance with respect to gender mainstreaming in the development and implementation of development policies and programmes. The adviser must also develop information, education and communication strategies as well as lobbying and advocacy strategies with a view to the integration of gender in all development issues and the promotion of a more balanced access to factors of production.

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