



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Information received from the Niger on follow-up to the
concluding observations on its initial report***

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* The present document is being issued without formal editing.



Act No. 2020-02 of 6 May 2020 amending Act No. 2012-44 of 24 August 2012 on the Composition, Organization, Powers and Functioning of the National Human Rights Commission

Having regard to the Constitution of 25 November 2010,

Having regard to the Convention against Torture of 10 December 1984,

Having regard to the Optional Protocol of 18 December 2002 to the Convention against Torture,

Having regard to Act No. 2012-44 of 24 August 2012 on the Composition, Organization, Powers and Functioning of the National Human Rights Commission,

After consideration by the Council of Ministers, following deliberation and adoption by the National Assembly, the President of the Republic promulgates the following law:

Article 1

1. Articles 21-1, 21-2, 21-3, 21-4 and 21-5 shall be inserted after article 21 of Act No. 2012-44 of 24 August 2012 on the Composition, Organization, Powers and Functioning of the National Human Rights Commission.

Article 21-1

2. Pursuant to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the National Human Rights Commission shall carry out the mandate of the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment.

3. As such, it shall have the following tasks:

- Carrying out regular scheduled or unscheduled visits, without notice, at any time and in any place where there are or may be persons deprived of their liberty, in order to determine the conditions of their detention and ensure that they have not been subjected to torture or other cruel, inhuman or degrading treatment or punishment
- Regularly examining the treatment of the persons deprived of their liberty in places of detention, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment

Article 232.5

4. Any public official, member of the defence and security forces or other person responsible for providing a public service or vested with public office who consents or acquiesces to, orders or commits practices amounting to torture shall be liable to a term of imprisonment of 1 to 5 years and a fine of 100,000 to 500,000 francs.

5. Any treatment by which severe mental or physical suffering not provided for by article 232.4 above is inflicted on a person for such purposes as obtaining information or a confession from him or her, punishing him or her, coercing or intimidating that person or a third person and/or any treatment which causes the person subjected to it severe humiliation or debasement in the eyes of others or in his or her own eyes shall be considered a practice amounting to torture.

6. If practices amounting to torture committed intentionally without intending to cause death nonetheless result in death, the perpetrator shall be liable to a term of imprisonment of 10 to 20 years.

Article 232.6

7. Any other individual not endowed with the capacities set out in articles 232.4 (1) and 232.5 (1) above who tacitly or expressly orders or commits an act of torture or an act

amounting to torture against a person shall be liable to a term of imprisonment of 1 to 5 years and a fine of 100,000 to 500,000 CFA francs.

8. If the above-mentioned acts committed intentionally without intending to cause death nonetheless result in death, the perpetrator shall be liable to a term of imprisonment of 10 to 20 years.

Article 232.7

9. Any person found guilty of acts of torture or practices amounting to torture shall be liable to a term of imprisonment of 2 to 10 years and a fine of 200,000 to 1 million CFA francs, in the following circumstances:

- The victim is under the age of 18 years
- The victim has a disability
- The victim is a pregnant woman
- The victim is over the age of 65 years
- The acts were premeditated or led to amputation, mutilation, the loss of use of a limb, blindness, the loss of an eye or other temporary or permanent disabilities

Article 232.8

10. No exceptional circumstances whatsoever, whether a state of war or threats of war, internal political instability or any other public emergency, may be invoked as a justification of torture or practices amounting to torture.

11. The National Human Rights Commission shall act as interface with the United Nations Subcommittee on Prevention of Torture. It shall communicate freely with regional and international human rights mechanisms.

Article 21-4

12. The National Human Rights Commission may call on any person whose expertise it requires to consider confirmed cases or allegations of torture and other cruel, inhuman and degrading treatment or punishment.

Article 21-5

13. Persons who provide information about torture may not be prosecuted, punished or subjected to reprisals.

Article 2

14. Any previous provisions contrary to the present Act shall be repealed.

Article 3

15. The present Act shall be published in the Official Gazette of the Republic of the Niger and enforced as a law of the State.

Act No. 2020-05 of 11 May 2020, amending Act No. 61-27 of 15 July 1961 establishing the Criminal Code

Having regard to the Constitution of 25 November 2010,

Having regard to Act No. 61-27 of 15 July 1961 establishing the Criminal Code and subsequent amendments thereto,

Having regard to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (General Assembly resolution No. 39/46),

After consideration by the Council of Ministers, following deliberation and adoption by the National Assembly, the President of the Republic promulgates the following law:

Article 1

16. Section III (ter) shall be added after section III (bis) of part III, chapter II of book II of the Criminal Code, and shall be entitled:

Section III (ter): Acts of torture and other cruel, inhuman or degrading treatment or punishment

Article 232.4

17. Any public official, member of the defence and security forces or other person responsible for providing a public service or vested with public or elective office who consents or acquiesces to, orders or commits any act or omission by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or her or a third person information or a confession, punishing him or her for an act he or she or a third person has committed or is suspected of having committed, or intimidating or coercing him or her or a third person, or for any reason based on discrimination of any kind is guilty of an act of torture and shall be liable to a term of imprisonment of 1 to 5 years and a fine of 100,000 to 500,000 francs.

18. If acts of torture committed intentionally without intending to cause death nonetheless result in death, the perpetrator shall be liable to a term of imprisonment of 10 to 20 years.

19. Pain or suffering arising only from, inherent in or incidental to lawful sanctions shall not be considered acts of torture.

Article 232.5

20. Any public official, member of the defence and security forces or other person responsible for providing a public service or vested with public or elective office who consents or acquiesces to, orders or commits practices amounting to torture shall be liable to a term of imprisonment of 1 to 5 years and a fine of 100,000 to 500,000 francs.

21. Any treatment by which severe mental or physical suffering not provided for by article 232.4 above is inflicted on a person for such purposes as obtaining information or a confession from him or her, punishing him or her, coercing or intimidating that person or a third person and/or any treatment which causes the person subjected to it severe humiliation or debasement in the eyes of others or in his or her own eyes shall be considered a practice amounting to torture.

22. If practices amounting to torture committed intentionally without intending to cause death nonetheless result in death, the perpetrator shall be liable to a term of imprisonment of 10 to 20 years.

Article 232.6

23. Any other individual not endowed with the capacities set out in articles 232.4 (1) and 232.5 (1) above who tacitly or expressly orders or commits an act of torture or an act

amounting to torture against a person shall be liable to a term of imprisonment of 1 to 5 years and a fine of 100,000 to 500,000 CFA francs.

24. If the above-mentioned acts committed intentionally without intending to cause death nonetheless result in death, the perpetrator shall be liable to a term of imprisonment of 10 to 20 years.

Article 232.7

25. Any person found guilty of acts of torture or practices amounting to torture shall be liable to a term of imprisonment of 2 to 10 years and a fine of 200,000 to 1 million CFA francs, in the following circumstances:

- The victim is under the age of 18 years
- The victim has a disability
- The victim is a pregnant woman
- The victim is over the age of 65 years
- The acts were premeditated or led to amputation, mutilation, the loss of use of a limb, blindness, the loss of an eye or other temporary or permanent disabilities

Article 232.8

26. No exceptional circumstances whatsoever, whether a state of war or threats of war, internal political instability or any other public emergency, may be invoked as a justification of torture or practices amounting to torture.

27. An order from a superior officer or a public authority may not be invoked as a justification of such acts.

Article 232.9

28. Any attempted act of torture or practice amounting to torture whose execution has been initiated, if it is aborted or fails to achieve its effect only for reasons beyond the control of the perpetrator, shall be punishable by the same penalties as the offence itself.

Article 232.10

29. Any person complicit in acts of torture or practices amounting to torture shall be liable to the same penalties as the main perpetrator.

Article 232.11

30. No statement obtained as a result of acts of torture or practices amounting to torture may be used as evidence in any proceedings, except to establish the liability of the perpetrator of the offence.

Article 232.12

31. Any person found guilty of or complicit in acts of torture or practices amounting to torture may also, in accordance with the provisions of article 25, be deprived of some or all of the rights mentioned in article 21 of the present Code.

Article 2

32. Any previous provisions contrary to the present Act shall be repealed.

Article 3

33. The present Act shall be published in the Official Gazette of the Republic of the Niger and enforced as a law of the State.