



International Convention on the Elimination of All Forms of Racial Discrimination

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Summary record of the 2962nd meeting

Held at the Palais Wilson, Geneva, on Friday, 14 April 2023, at 10 a.m.

Chair: Ms. Shepherd

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Combined twenty-second to twenty-fifth periodic reports of the Niger (CERD/C/NER/22-25; CERD/C/NER/Q/22-25) (continued)

1. *At the invitation of the Chair, the delegation of the Niger joined the meeting.*
2. **Ms. Tebie** (Country Rapporteur) said that she would welcome information on strategies to manage the high mobility of nomadic groups while protecting their culture and traditions. She also wished to know whether health-care and education programmes on their behalf had been assessed, and whether more people were benefiting from mobile health and educational facilities. She asked whether steps had been taken to recognize indigenous peoples and their rights and include them in the country's legislation, and to mitigate the impact of climate change on indigenous peoples in order to protect their traditional lifestyles and livelihoods. She wondered what measures had been taken to improve the birth registration system, especially for children of slave descent. Recent data concerning the registration of such children would be appreciated.
3. The Committee would also appreciate information on the implementation of the national plan of action to combat statelessness adopted in 2019, the results of the study to identify the contours of the phenomenon, disaggregated data on affected population groups, and information on measures to facilitate their integration into society. Noting that the amended Nationality Code permitted citizenship to be granted to any child of unknown parents found in the country, she asked how many children had benefited from that possibility to date. As it had been revealed in November 2022 that around 700,000 persons living in the Niger remained stateless, she was interested in hearing about any cooperative action taken by the State party at the international and regional levels to protect its citizens in a situation of statelessness.
4. The Committee wished to know whether school and training curricula had been adjusted with a view to improving the transmission of culture, including traditional languages. It would also appreciate information on the achievements of the Ministry of Cultural Renaissance in terms of policies and strategies for promoting cultural customs and practices.
5. Noting the information in the State party's report on the promotion of human rights education, she asked whether issues of racial discrimination, especially those based on ethnicity or descent, were addressed in all school curricula, in teacher training and in public and private media programmes.
6. She would welcome updated information on the number of judges who had been familiarized with the human rights training manual, on the contribution of such training to the administration of justice in the area of racial discrimination, and on its impact in terms of understanding and tolerance between different ethnic groups.
7. She would appreciate information regarding the action plan (2016–2025) for the National Human Rights and Justice Policy and an assessment of its implementation. She also wished to know what action had been taken by the State party in the context of the International Decade for People of African Descent.
8. **Mr. Yeung Sik Yuen** (Country Task Force), referring to the section of the State party's combined periodic report on the exploitation of natural resources, said that the Committee would welcome information on the communities that had benefited from the measures taken, on the procedures for calculating the revenues from mining and on whether they were subject to verification. He wondered whether the State party was satisfied with the revenues that it obtained from its natural resources. He wished to know whether the June 2022 amendment to the 2017 Mining Act had altered the procedure for distribution of funds to affected communities and, if so, to what extent.
9. He asked whether consultation procedures had been introduced for communities, especially of indigenous peoples, that could be affected by the exploitation of natural

resources, whether any complaints had been received, and how they had been addressed. He wondered whether there were special arrangements for protecting the health of communities against radiation due to mining, particularly uranium. The Committee would also welcome statistical data concerning cases of compensation and damages, as well as their distribution by area and mine site.

10. The Committee wished to know what measures were taken to protect communities against land seizure and expropriation, and whether progress had been made towards enactment of the bill initiated in 2015. He asked whether the Rural Land-Use Code, the Act on pastoralism and diverse administrative procedures had reduced disputes between farmers and herders and provided remedies for corporal and material damage. He would welcome recent statistical data on such disputes. He was also interested in hearing about the reaction of diverse communities to the ancestral practice of “joking kinship” and the National Week of Joking Kinship. He asked whether the practice was used in large-scale disputes and, if so, with what results.

11. A boom in oil production was allegedly a source of ethnic conflicts. He wished to know what action was taken to terminate such conflicts. It would also be useful to know whether the State obtained an adequate share of the proceeds of the boom, so that the entire population could benefit from them.

12. He wished to know how many persons had been prosecuted during the previous five years under the Act of 26 May 2015 on the smuggling of migrants, whether they were all citizens of the Niger and what penalties had been imposed. He also asked whether the State party made a distinction between migrant victims of trafficking and perpetrators. Article 30 of the Act, which referred to cases in which a trafficked migrant had been arrested, imprisoned or placed in pretrial detention, implied that the victim was deemed to be the perpetrator of a crime or an accomplice. He asked how that article could be reconciled with the objectives set forth in article 1 of the Act, which referred to preventing and combating the smuggling of migrants, and with the principle of freedom of movement espoused by the Economic Community of West African States (ECOWAS). He also wished to know what measures were being taken by the State party to remedy misguided interpretation and implementation of the Act by law enforcement officials and judges. It would be useful to know whether the State party had made progress towards the adoption of a comprehensive national migration management strategy.

13. He asked whether final decisions on appeals against decisions of the National Commission on Eligibility for Refugee Status were taken by the Minister of the Interior or a judicial authority. The Committee wished to know whether people smugglers had been prosecuted for serious ill-treatment of migrants or refugees. It would appreciate information on the estimated number of refugees and the action taken to meet their needs, such as ensuring appropriate reception conditions, protection of security and access to basic services, such as health care and education.

14. The Committee had been informed that refugees, asylum-seekers and migrants arrested in the area to the north of Agadez were imprisoned pursuant to the 2015 Act on combating illegal trafficking. It wished to know whether there was a monitoring mechanism to ensure that such detention was used only as a last resort and in a proportionate manner. The Committee would also appreciate up-to-date information on places of detention for foreigners and the prevailing conditions.

15. **Ms. Ali Al-Misnad** said she would like to know whether children of slave descent had access to education at various levels, and whether resolute action was taken to prevent them from being subjected to slavery or prostitution and from joining terrorist groups.

16. **Mr. Amir** said that village populations, especially women and children, could allegedly be treated as slaves by traditional leaders who imposed customary law. He therefore wished to know whether the State party was taking steps to ensure that the rule of law prevailed over customary law.

17. **Mr. Diaby** asked whether action had been taken to repeal Ordinance No. 84-06 of 1 March 1984, which had a negative impact on freedom of association.

18. Noting that the workload of the National Human Rights Commission had increased since it had assumed responsibility for the prevention of torture, he urged the State party to ensure that it had sufficient resources to fulfil its mandate.

19. The Committee had been informed that 40 per cent of births in the State party were not recorded in the birth registry. As such children faced the risk of statelessness, he wished to know whether the State party had adopted a national strategy to update the registry.

20. It would be useful to know what steps were being taken to identify obstacles to full and effective implementation of the law against slavery and when reforms would enter into force.

21. He wished to know what measures had been taken to protect nomadic groups during the coronavirus disease (COVID-19) pandemic.

22. **Ms. Esseneme** said that she wished to know whether foreign women who acquired the nationality of the Niger by marriage were required to renounce their nationality of origin and whether both men and women nationals of the Niger could transmit their nationality to a foreign national by marriage. The delegation might explain whether it was in fact the case that a customary marriage could take place without the consent of the parties to the marriage. Noting that the National Human Rights Commission was an independent body, she asked why it had been designated as the national mechanism for the prevention of torture when such mechanisms were expected to be government agencies. The Committee would be grateful to know what punishment was imposed on judges who based their decisions on customary law, rather than on national and international law, and what remedies were available to persons who had suffered harm because customary law had been unlawfully applied to them. She would welcome further information on the case in which the Ouallam *Tribunal de Grand Instance* (court of major jurisdiction) had prosecuted and convicted a citizen for the offence of slavery.

The meeting was suspended at 10.45 a.m. and resumed at 11.05 a.m.

23. **Mr. Abdoulaye Mohamed** (Niger) said that the Government had prohibited cultural associations based on ethnic affiliation because associations were supposed to foster national unity and should therefore be open to everyone in the country. There were no stateless persons in the Niger but a study had determined that around 5,000 persons, including children living in nomadic communities and students at Qur'anic schools, were at risk of becoming stateless. Under national law, herders were not considered to own the land on which their animals grazed. Access to pastoral lands was granted by the local authorities.

24. **Mr. Labo** (Niger) said that, since 1984, development policy had been oriented towards protecting the population against the harmful effects of climate change and soil degradation, among other problems. Companies awarded mining concessions were subject to a code of conduct. Efforts were made to ensure that mining activities did not pollute the environment, and the quality of the air and water in areas close to mines was monitored to protect the health of the population. The Government was not aware of any complaints being filed in connection with extraction activities.

25. **A representative of the Niger** said that the National Agency for Legal and Judicial Assistance had been allocated 120 million CFA francs (CFAF) for 2022 and CFAF 125 million for 2023. Those sums had been shared between the Agency and the Bar Association. In the case concerning the dispute in Ouallam, the imam of the village had taken offence when another person had led the prayers in his absence. When the imam returned, he had gathered all the villagers together to tell them that the prayers led by the other man were invalid and that God would no longer accept their prayers until they had repented. According to the imam, the person who had led the prayers in his absence should not have done so because he was a slave. The villagers, who had felt threatened, had then decided to build their own mosque, which had brought them into further conflict with the imam and the head of the village. The case had eventually been brought before a criminal court, which had fined the imam and handed him a suspended sentence of 6 months' imprisonment.

26. The National Institute of Statistics had finished preparing the questions for the census that was meant to have taken place in 2022. That census would be conducted shortly. Act No. 2015-36 of 26 May 2015 on the smuggling of migrants had been amended to rectify the

shortcomings identified by the Special Rapporteur on the human rights of migrants. The amended Act was currently in the process of being adopted.

27. The Niger had a dual legal system consisting of statutory law and unwritten customary rules. Act No. 2018-37 established the areas of law to which customary rules could be applied, which included marriage, divorce and inheritance. All other areas were governed by statutory law. Couples who wished to marry could do so under customary rules or statutory law. Under customary rules, the parties to a marriage were not required to consent to the marriage, as consent could be provided by their parents or by other family members. Customary marriages did not take place before State officials but in a mosque or in the home of the bride's parents. Couples who entered a customary marriage could obtain a marriage certificate without having to undergo any other formalities.

28. **A representative of the Niger** said that the right to freedom of association was established in national law, under which thousands of associations had been lawfully created. If the law governing freedom of association had been unjust, it would have been challenged before the courts. Under the law, the organizers of demonstrations were simply required to inform the local authorities in advance that a demonstration would be taking place. Regionalist or ethnic associations were not permitted, since the State party was engaged in a process of nation-building and was concerned to avoid irredentism. Nomadic schools had been established to ensure access to education for children belonging to nomadic communities. Such communities also had access to health care at the many clinics established throughout the national territory.

29. Under article 213 of the Mining Act, 15 per cent of the revenue from mining activities was allocated to the local community, 15 per cent was allocated to a mining development fund and 70 per cent was allocated to the State. The right to own property was guaranteed by law. Herders generally did not own the land on which their animals grazed. However, land could not be expropriated from any person who held a legal title to it.

30. In February 2023, a number of civil society organizations had taken legal action against a mining company. In that case, the judge had ruled in favour of the organizations because the company involved in the case had failed to conduct an environmental impact study before commencing its operations.

31. Under the Rural Land-Use Code, bodies known as land commissions were responsible for resolving disputes between farmers and herders. Farming was prohibited in certain areas of land that were set aside for herders. No conflicts had occurred in connection with petroleum extraction, which provided financial benefits for local communities.

32. **A representative of the Niger** said that no resident of the Niger was officially recognized as stateless and, although there was a focal point for statelessness, no comprehensive study of the problem had been carried out. However, a study conducted in November 2022 had found that a number of children living in children's shelters in the Maradi, Tahoua and Zinder regions were at risk of becoming stateless. In order to eliminate that risk, training in birth registration had been provided to judges in the regions concerned and birth certificates had been issued to the children.

33. All children had an equal right to attend school, irrespective of their background or social status. Foreign women who acquired the nationality of the Niger by marriage were allowed to retain their nationality of origin. Both men and women were allowed to transmit the nationality of the Niger to a foreign national by marriage. In the areas of law to which customary rules applied, parties to legal proceedings could opt to be heard under those rules rather than under statutory law. Judges were not punished for respecting the choices that individuals made in such situations. All persons were entitled to seek redress if they were dissatisfied with a legal decision.

34. **Mr. Abdoulaye Mohamed** (Niger) said that he was puzzled by some of the questions that the Committee had asked. For instance, he could not understand the Committee's references to children of slave descent, as no official distinction was ever made between such children and other children. If children of slave descent were ever singled out, the State was unaware of it. No State records specified whether a person was of slave descent.

35. **A representative of the Niger** said that the law on child registration applied equally to all children, irrespective of their background. Any discrimination against persons of slave descent originated from communities and not from the State. The Rural Land-Use Code set out measures for mitigating the effects of climate change, which affected the entire population and not only nomads. The Code also defined zones assigned as pastoral land, in which farmers could not invest. As had previously been mentioned, 15 per cent of the revenue from extraction activities was distributed to the regions, local authorities and communes. The investment funds generated by such activities were used to establish services and infrastructure that benefited all persons and all communities in the area concerned.

36. No special measures had been taken to protect nomadic communities against the COVID-19 pandemic; they had been subject to the same measures as everyone else in the country. The resources allocated to the National Human Rights Commission had been increased since 2022. The Commission had been allocated new headquarters and equipped with new logistical systems to ensure that it could carry out its mandate.

37. **A representative of the Niger** said that he wondered what sources of information the Committee was using to formulate some of its questions. He had served as a mayor for 10 years but he had never heard of any child being registered as a descendant of slaves. State registry offices could be found in every commune, including in the remotest villages.

38. The Ministry of Finance was responsible for distributing the funds raised from mining activities. In considering how best to distribute them, the Ministry took into account any harm suffered by a community as a result of a mining operation. A certain percentage of the revenue generated from extraction operations was used to monitor whether investment funds were being used for their intended purpose. Before the launch of any mining project, an environmental impact assessment was undertaken to identify the potential positive and negative effects on the local community and how the latter could be mitigated.

39. **A representative of the Niger** said that the Government did not recognize the concept of indigenous peoples, and no such groups existed in the Niger. Education, like all basic services, was accessible to all, including children of slave descent. Moreover, the authorities had gone to great lengths to understand the root causes of slavery, and the incorporation of all relevant international instruments into the national legislation of the Niger had led to numerous reforms. The remaining isolated cases of slavery did not imply that the problem was widespread in the Niger. The country's cultural associations brought together all ethnicities to promote national unity, cohesion and harmony.

40. **Mr. Abdoulaye Mohamed** (Niger) said that there were around 255,000 refugees, 300,000 internally displaced persons and 47,000 asylum-seekers in the Niger. Owing to its position amid several conflict zones, the Niger received migrants and refugees across all its borders, from all directions. Rather than being judged for its actions, therefore, the Government should be assisted by the international community. The Niger had limited financial resources and should not be asked to increase its efforts to support displaced populations. The Committee should advocate for the Niger in that regard and make proposals and recommendations intended to encourage the international community to help address the phenomenon.

41. **A representative of the Niger** said that although the birth registration rate was low, civil registration had been free, obligatory and universal since the country had gained independence. The system had been reformed most recently in 2019, when legal provisions had been adopted to prohibit discrimination in access to the civil register and the treatment of users; children of slave descent therefore had unhindered access to it. Those reforms had also addressed statelessness, for example by allowing citizens of the Niger who had been unable to register births abroad and who had subsequently returned to the country to do so before a *tribunal de grand instance*. The list of persons who could declare a birth was extensive and included midwives. The sanction for failing to register a birth was set out in law.

42. Other measures adopted to improve birth registration rates included the digitization of the civil registry, awareness-raising sessions and the development of a technical methodology. The more than 15,000 local registration centres located across the country were managed by village chiefs with the assistance of officials who transferred declarations to

centres in the communal capitals. Registration centres had also been established in all health facilities and camps for internally displaced persons, and mobile registration teams had been created. The deadline for registration had been extended to two months for all births.

43. Although no stateless persons had yet been detected in the Niger, many measures had been adopted under an action plan on statelessness adopted in 2019, often with the assistance of international organizations and non-government organizations (NGOs). Those measures included the establishment of mobile courts that had provided birth certificates to thousands of children, particularly in areas with very low registration rates. Those courts had also been deployed prior to elections. Although there were no precise figures on the number of persons at risk of statelessness, displaced groups and persons living on the street were believed to be at particular risk, and action was being taken to assist them. The law on asylum was under review with the intention of incorporating provisions on the determination of statelessness.

44. Despite the significant mixed migration that it experienced, the Niger continued to welcome persons in need of international protection. The Niger had been the first African country to sign a memorandum of understanding on an emergency transit mechanism under which extremely vulnerable persons fleeing Libya received temporary shelter in the country before being resettled in Europe; 6,000 individuals had so far benefited. In 2020, the Government had adopted a national migration strategy, accompanied by a five-year action plan, that guided all migration-related activity. The strategy's broad scope encompassed three main areas of action: the management of migration flows, which included the smuggling of migrants, trafficking in persons and statistics; protection for migrants and refugees; and management of the opportunities offered by migration. Decisions on refugee status could be appealed first before the National Commission on Eligibility for Refugee Status, then before another committee presided over by the same body and, finally, before the Council of State. Refugees were not above the law and, if they committed a crime, they would be arrested and tried on an equal footing with citizens of the Niger. The Government worked with international organizations and NGOs to ensure that they received fair and equitable treatment in the justice system.

45. **Mr. Abdoulaye Mohamed** (Niger) said that refugees were only detained in prison if they were convicted of a crime.

46. **Mr. Labo** (Niger) said that the Government had invested more than CFAF 760 billion in its multisectoral COVID-19 pandemic response plan, including CFAF 331 billion for specific measures for herders and farmers. The effects of the pandemic, combined with the worsening security situation that had necessitated the mobilization of huge amounts of State resources, meant that budget cuts had been required in all State sectors, including the National Human Rights Commission. The State nevertheless remained determined to grant all human rights institutions the necessary resources to carry out their mandates.

47. **A representative of the Niger**, noting that the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment did not specify that national preventive mechanisms must be State bodies, said that the Government had decided to establish the mechanism under the aegis of the National Human Rights Commission given its existing mandate in that area, such as conducting prison visits. The Commission was working to set up the mechanism with the assistance and financial support of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

48. Following the visit to the Niger of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the National Human Rights Commission had begun work on amendments to Ordinance No. 84-06 of 1 March 1984, containing the rules governing associations, and would submit its findings to the Government.

49. In 2020, proceedings had been launched against 84 persons, all of them men, for crimes of trafficking in persons and the smuggling of migrants. That same year, 35 men had been tried and 31 convicted. In 2021, proceedings had been launched against 21 persons, including 2 minors and 18 women, for the same crimes. That year, 15 men and 4 women had been tried, and 4 men and 4 women convicted.

50. Although the Niger had withdrawn from the Extractive Industries Transparency Initiative in 2017, its membership had been reinstated in 2020 after it had rectified shortcomings related to some of the Initiative's standards, including the publication of mining contracts in the official gazette.

51. **A representative of the Niger** said that the Government promoted the traditional values and practices that it deemed to be positive, while raising awareness of the need to bring to an end those that were negative, for example female genital mutilation, slavery and early and forced marriage.

52. **A representative of the Niger** said that most smugglers in the country were from the Niger, but some were from Libya and Nigeria. The 2015 Act on the smuggling of migrants differentiated between smugglers and migrants who had been smuggled, meaning that smugglers were liable for prison sentences but smuggled migrants found by State authorities were instead considered to be victims and were sent to receive care from support centres. On rare occasions, migrants could also receive prison sentences if they had been convicted of crimes such as smuggling drugs or if they were acting as people smugglers and had committed crimes related to trafficking in persons.

53. **Ms. Tebie** said that the questions asked of the delegation would help the Committee to better understand the reality of the situation in the Niger and were not intended as accusations against the State party.

54. **Mr. Yeung Sik Yuen** said that, while the Niger had made significant efforts to address the issue of slavery, notably through the introduction of a bill with 22 relevant articles, further work could be done. The Committee now understood that the complaint of slavery brought by Ms. Hadijatou Mani Koraou before the Court of Justice of ECOWAS had originally been lodged with the general prosecutor of the Konni High Court but it would still be useful to know the current status of the case.

55. The delegation had been unable to provide disaggregated data on the different ethnic groups living in the State party because relevant questions had not been asked in the most recent national census, which was the reason that had also been given in the previous dialogue with the State party. In view of the fact that data were available from alternative sources, such as Laval University and the official website of the President of the Niger, he wondered why the delegation was reluctant to provide the data to the Committee.

56. He disagreed with the delegation's assessment that article 269 of the Criminal Code referred exclusively to the offence of deprivation of freedom, that article 270 referred exclusively to the offence of slavery and that the two offences were different to one another. Not only were both articles included under the heading of "Deprivation of freedom", indicating that slavery was not a separate concept under the Code, but article 269 also referred specifically to the treatment of a person as property and was clearly therefore linked to the concept of slavery.

57. **Mr. Guissé** said that questions of slavery and colonization were of extreme importance for the Committee. Although the delegation had suggested that the difficulties faced in that connection originated from society and its evolution, rather than from the State itself, the State nevertheless had a responsibility to help change societal attitudes through training and education. Customary law was an important element in the legal system of the Niger and covered important issues, such as marriage and inheritance, but greater efforts needed to be made to ensure that customary law could exist effectively alongside positive law. He wished to know whether Niger was receiving technical assistance in that regard.

58. **Ms. Ali Al-Misnad** said that her question regarding the education of children of slave descent had not been intended as an accusation of discrimination in the education policy of the Niger. Data regarding the number of children of slave descent and the number of those children who attended school and graduated from formal education would be important for the Government's work to tackle slavery in all aspects.

59. **Ms. Esseneme** said that the Committee had received clarification on the definition of the offence of slavery as understood in the context of the decision by the Ouallam *tribunal de grande instance*. Nevertheless, she would welcome further information on damages awarded to persons considered to be slaves who had been banned from attending mosques or

building their own places of worship and on whether the problem had been resolved in other ways.

60. **Mr. Diaby** said that, although the National Human Rights Commission had seen its mandate expanded and had received increases in its budget allocation, more than two thirds of its funding was used to meet costs such as salaries and maintenance, leaving few resources for activities. It would therefore be important to ensure that the Commission received sufficient resources. The draft amendments to Ordinance No. 84-06, which currently curtailed freedom of association, should be swiftly brought before parliament so that they could be passed into law.

61. **Ms. Tebie** said that she wished to know what impact customary law had had on positive law. In view of the persistence of harmful traditional or customary practices, she would also be interested to know what awareness-raising activities had been carried out among traditional and religious leaders, particularly with regard to practices that demeaned women.

62. The interactive dialogue with the delegation had been fruitful and had allowed the Committee to understand the reality of society in the Niger from a sociological, cultural, historical and demographic perspective. She encouraged the State party to make greater efforts to combat practices such as slavery and descent-based discrimination.

63. **Mr. Abdoulaye Mohamed** (Niger) said that, regardless of his country's determination in striving to promote and protect human rights, great challenges and obstacles still had to be overcome. Nevertheless, no country had achieved perfection in its protection of human rights, and the Niger was seen as a positive example of compliance with its international obligations. The progress made in the Niger, which had been recognized by the Committee during the interactive dialogue, was due to the importance attached to the promotion and protection of human rights by State authorities. The Committee's observations, questions and expertise would help to further improve legislation and practices in the country. The Niger would spare no effort to implement all the Committee's recommendations.

The meeting rose at 12.55 p.m.