


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي <i>African Commission on Human &amp; Peoples' Rights</i>		UNIÃO AFRICANA <i>Commission Africaine des Droits de l'Homme &amp; des Peuples</i>
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**23<sup>rd</sup> Extraordinary Session  
13 to 22 February 2018, Banjul, The Gambia**

**Consideration of the Reports Submitted by States Parties Pursuant to Article 62 of the African Charter on Human and Peoples' Rights**

**Concluding Observations relating to the 14<sup>th</sup> Periodic Report of Niger (2014-2016) on the Implementation of the African Charter of Human and Peoples' Rights**

**I. Introduction**

1. The Republic of Niger is a State Party to the African Charter on Human and Peoples' Rights (The African Charter) which it ratified on 15 July, 1986.
2. In accordance with Article 62 of the African Charter, the Republic of Niger presented its 14<sup>th</sup> periodic report covering the period 2014-2016 at the 61<sup>st</sup> Ordinary Session of the African Commission on Human and Peoples' Rights (The Commission) held from the 1<sup>st</sup> to the 15<sup>th</sup> November, 2017 in Banjul, The Gambia.
3. The Report was presented by the Delegation of the Republic of Niger (The Delegation), led by **Mr. Marou Amadou**, Minister of Justice, Attorney-General and the Government's Spokesman. In this regard, he was accompanied by the following:
  - **Mr. Ousseini Djibage Maman Sani**, Permanent Secretary of the Inter-Ministerial Committee responsible for the drafting of initial and periodic reports for Treaty Organs and the Universal Periodic Review (Inter-Ministerial Committee);
  - **Mr. Oumaria Mamane**, Principal Adviser to the Prime Minister on Human Rights and member of the Inter-Ministerial Committee;
  - **Dr. Mounkaila Aichatou Seyni**, Director-General of the Human Rights, Social Work and Child Legal Protection Department of the

Ministry of Justice and Rapporteur of the Inter-Ministerial Committee,  
and

- **Madam. Oumal-Hairy Tassiou**, representative of the Ministry of Health and member of the Inter-Ministerial Committee.
4. The Report highlights the developments which took place in the Republic of Niger in the area of human and peoples' rights as well as the legislative, administrative and other measures taken towards the implementation of the provisions of the African Charter since the presentation of its Combined Eighth, Ninth, Tenth, Eleventh, Twelfth and Thirteenth Periodic Reports from 2003 to 2014 at the 56<sup>th</sup> Ordinary Session held from 21 April to 7 May, 2015 in Banjul, The Gambia.
  5. These Concluding Observations present the positive factors and those restricting the effective enjoyment of human rights and the areas of concern with regard to the respect for human rights. Thus, the Commission is making recommendations to the Nigerien Government for the strengthening of the enjoyment of human rights in the country.
  6. The Commission congratulates the high-level Delegation of the Republic of Niger for the frank and constructive dialogue which characterised the presentation of the periodic report before the Honourable Commissioners and appreciates the information provided in response to the questions and concerns expressed by members of the Commission.

## II. POSITIVE FACTORS

### **Ratification of International and Regional Human Rights Instruments**

7. Notes with appreciation the ratification of the following international human rights instruments:
  - International Convention for the Protection of All Persons from Enforced Disappearance of 2006;
  - Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 2002;
  - Convention on the Status of Stateless Persons of 1954;
  - ILO Conventions and Protocols, particularly ILO Convention No. 150 on Labour Administration of 1978, ILO Convention No. 181 on Private Employment Agencies of 1997, and the 2014 Protocol relating to the ILO Convention on Forced Labour of 1930.

## **Adoption of Legislative Measures aimed at Promoting and Protecting Human Rights in the Country**

8. Favourably welcomes the adoption of several critical legislative measures, particularly:
  - Law No. 2014-60 of 5 November 2014, on the Code of Nigerien Nationality which recognizes the transfer of Nigerien nationality from women to their foreign husbands;
  - Law No. 2014-64 of 5 November, 2014 on the amendment of the Law No. 2000-008 of 7 June, instituting a quota system for all the sexes for all elective and appointed positions which increased from 10% to 15% for elective positions;
  - Law No. 2014-72 of 20 November, 2014 determining the powers, functions and running of juvenile courts in Niger and prohibiting the death penalty for minors in particular;
  - Law No. 2015-23 of 23 April, 2015 on the Civil Procedure Code providing for mechanisms to ensure the swiftness of judicial procedures.
  - Law No. 2015-24 of 11 May, 2015 determining the fundamental principles for the consumer protection in the Republic of Niger;
  - Law No. 2015-36 of 26 May, 2015 on the illegal trafficking of migrants;
  - Law No. 2016-22 of 16 June, 2016 on amendment of the Penal Code;
  - Law No 2016-21 of 16 June, 2016 on amendment of the Criminal of Procedure Code;
  - Law No. 2017-05 of 31 March, 2017 instituting Community Work;
  - Law No. 2017-008 of 31 March, 2017 on the Fundamental principles of the Prison Regime in Niger; and
  - Decree No. 2014-408/PRN/MJ of 4 June, 2014 on pardon for punishments.
  
9. Takes note of the on-going formulation of certain draft laws and decrees that have a significant impact on human rights, particularly the draft Children's Code; the draft legislation on the protection of Older Persons; the draft law on the protection of the girl child attending school; the draft legislation criminalizing and specifically making torture an offence; the draft decree on the approval of the status of the Special Compensation Fund for persons who have fallen victim to human trafficking; draft decree on the establishment, organization and running of reception and protection centres for persons who have fallen victim to human trafficking; the draft legislation on the protection of data of a personal nature; the preliminary draft legislation on the protection

of human rights defenders; the preliminary draft decree on National Literacy and Non Formal Education Policy and the Draft Implementing Regulations of the Labour Code.

### **Institutional and Structural Measures for the Promotion of Human Rights**

10. Welcomes with satisfaction the establishment of new institutions responsible for human rights, particularly:
  - Traditional chieftaincy authorities with powers to reconcile parties in customary, civil and commercial matters;
  - The Nigerien Mutual Insurance Agency tasked with monitoring and controlling the authorized mutual organizations;
  - The National Gender Promotion Observatory (ONPG) with the mandate to promote gender and ensure that development policies, programmes and projects contribute to reducing the gaps and inequalities between men and women.
  - The National Working Group on Universal Health Coverage tasked with the orientation and coordination of stakeholders operating in this area and the Ethics Committee for Health Research.
  
11. Welcomes the fact that resources have been made available to the National Human Rights Commission (CNDH) to fully carry out its mission.

### **Human Rights Training**

12. Takes note of the dissemination and training activities on the international and regional human rights legal instruments carried out for law enforcement officers;
  
13. Appreciates the introduction of new human rights training modules, particularly in respect of child rights, for prison administration officers, the Criminal Investigations Department and for the Judiciary.

### **Prohibition of Discrimination and Equal Treatment for All**

14. Welcomes with satisfaction measures taken to repeal discriminatory provisions, particularly through the passage of the law on the Nigerien Nationality Code which now gives Nigerien women the right to transfer their nationality to their foreign husbands.

15. Expresses appreciation for the establishment of the National Gender Promotion Observatory tasked with promoting gender and ensuring that development policies, programmes and projects contribute to a reduction in the disparities and inequalities between men and women.

### **Right to Life**

16. Notes the continuation of the observance of the moratorium on the death penalty and encourages the organization of sensitization campaigns for the abolition of the death penalty.

### **Respect for Human Dignity and Prohibition of Exploitation and Slavery**

17. Welcomes the adoption of a 2014-2018 Action Plan as part of the fight against human trafficking and practices similar to slavery;
18. Welcomes with satisfaction measures taken to prevent and combat the human trafficking phenomenon, particularly of women and children, especially through the passage of Law No. 2015-36 on the illegal trafficking of migrants and the strengthening of the operational and institutional capacity of members of the bodies responsible for the fight against human trafficking, namely the National Commission on the Fight against Human Trafficking (CNCLTP) and the National Human Trafficking Agency (ANLTP).
19. Takes note of the establishment of reception centres for human trafficking victims within the jurisdiction of each High Court to ensure that victims, particularly women and children, are better protected and taken care of.

### **Respect for the Legality and Conditions of Detention**

20. Favourably welcomes the checks conducted periodically by the General Inspectorate of Judicial Services and the NHRC (CNDH) at the sessions of the latter body.
21. Welcomes the measures taken to decongest the prisons by passing the law on community work which will, in addition to first-time offenders, now be extended to juvenile habitual offenders and adults.
22. Takes note of the process for the formulation of a national reintegration strategy by the Prison Administration which takes into account all categories of prisoners at the national level.

23. Appreciates the opportunities offered prisoners who are school pupils to continue with their studies in the prison environment.

### **Administration of Justice and the Right to a Fair Trial**

24. Welcomes the legal and judicial assistance available to certain categories of vulnerable people, particularly women and the poor.
25. Further welcomes the establishment of new courts and the increase in the number of judges and court clerks, which measures have significantly contributed to the improvement in access to justice for the population.

### **Right to Free Expression and Access to Information**

26. Notes with satisfaction the establishment of the National Press Freedom Day celebrated on 30 November every year.
27. Applauds the measures taken to strengthen the technical, material and editorial capacity of private media organs, particularly the increase in the media assistance fund.

### **Freedom of Movement: Rights of Refugees, Displaced Persons and Migrant Workers**

28. Takes note of the formulation of a National Action Plan (2014-2018) to prevent statelessness and to effectively combat this phenomenon.
29. Lauds the implementation of the Kampala Convention, particularly regarding the situation of displaced persons in the Diffa region.
30. Welcomes measures taken for the welfare of migrants, particularly the identification of and issuance of laissez-passer to migrants; reception, accommodation and transportation all the way to their places of origin with the support of the IOM and reintegration through income-generating activities (IGAs).
31. Takes note of the multilateral and bilateral cooperation agreements entered into with its partners in order to improve upon the management and security of borders and to combat the deep causes of irregular migration, in particular by providing migrants with economic alternatives.

## **Participation in the Conduct of Public Affairs**

32. Takes note of the passage of the law of 5 November instituting a quota system for either of the sexes in elective positions and appointments which increased the rate from 10 to 15% for elective positions.

## **Right to Work**

33. Welcomes the formulation and implementation of specific programmes for the creation and promotion of jobs for vulnerable groups – the youth, women and persons with disabilities.

## **Right to Health**

34. Welcomes measures taken to ensure the health coverage of the people, particularly through an increase in health infrastructure, conversion of health centres into Integrated Health-Care Centres (IHCs), continuation of free health care for children under five and pregnant women, posting of doctors to the IHCs, reinforcement of community-based strategies and the strengthening of the implementation of certain forms of health delivery in advanced, mobile and public strategies.
35. Further welcomes the creation of various budget lines to ensure the availability of medicines, particularly those which have to do with free care for certain categories of patients in order to improve access to basic medicines.
36. Also welcomes the implementation of certain health programmes (public surgery, malaria, tuberculosis, eye health, geo helminths, schistosomiasis, etc.) in order to facilitate access to health care by the people.
37. Takes note of the ARV budget line regularly included in the Financial Appropriations Act for the medical handling of the HIV/AIDS pandemic as part of the national response.
38. Takes note of the increase in the number of prescription sites for the care of persons living with HIV in the country.
39. Also welcomes the increase in the number of PMTCT sites as part of the mother-to child HIV transmission prevention process.

40. Takes note of the elimination of neo-natal tetanus since March 2016.
41. Takes note of the establishment of a health promotion Directorate and the formulation of strategic plans relating particularly to the promotion of health, as well as health in schools and universities for the period 2016-2020, mental health for the period 2015-2018 and the fight against tuberculosis - 2015-2018.
42. Welcomes with satisfaction the strategies adopted in the 2017-2021 Health Development Plan in order to ensure the development and integration of traditional medicine into the public healthcare system, particularly through the strengthening of the capacity of the departments in the area of technologies for the production of Improved Traditional Medicines (ITMs), supervision of traditional practitioners in the organization of the TM sub-sector and the introduction of a consultation framework between the MoH and the traditional practitioners' Associations.
43. Welcomes measures taken to combat Neglected Tropical Diseases (NTDs).
44. Further welcomes measures taken as well as policies and programmes implemented in order to improve upon maternal and child health and thereby reduce maternal and infant mortality, particularly ante-natal care, caesarean section, family planning, screening, handling of female cancers, obstetrical fistula and HIV/AIDS.
45. Appreciates the educational and sensitization programmes aimed at promoting equality, non-discrimination and respect for human dignity in order to facilitate access by the people to HIV-related health services, particularly the programme to combat HIV/AIDS among sex workers and men who have sex with other men as well as programmes aimed at removing the legal obstacles linked to HIV-related health services.

### **Right to Education**

46. Favourably welcomes the measures taken for the education of girls and their continued stay in school, particularly community sensitization campaigns, organization of a national excellence festival in support of female public primary school pupils, adoption of the National Education Policy and the training of girls as well as the setting up of an inter-ministerial group for the education of girls.



47. Further welcomes the measures taken to improve upon the learning conditions suited to the specific needs of girls, particularly through the establishment of a guidance system for girls whose educational progress has been delayed; distribution of dry rations to the mothers of girls in school in order to reduce the opportunity costs related to their education and the formulation of a national girl-child education strategy which aims at reducing the disparities between girls and boys in the area of access, continued stay and academic success.
48. Welcomes the measures taken to make higher education accessible, particularly through the establishment of three polytechnics and seven universities, with one in each region of the hinterland of the country.
49. Takes note of the continuation of the programme for the construction of 2,500 classes a year, teacher training colleges and community kindergartens in all the regions to ensure that all children have access to education.

### **Right to Food**

50. Takes note of the continuation of the implementation of the “Nigeriens Feed Nigeriens” 3N Initiative strategy, the overall objective of which is to contribute to sustainably keep the Nigerien population from hunger and ensure the provision of conditions for their fullest participation in national production and improvement in their incomes.
51. Welcomes the setting up of a Ministry for Humanitarian Work and Disaster Management which is tasked with the design, formulation, implementation, monitoring and evaluation of the national policy on humanitarian action and disaster management.
52. Further welcomes measures taken in the area of the prevention and management of food crisis, particularly the activities of the Early Warning System, the establishment of communal and community monitoring structures to determine the level of vulnerability and coordination of emergency responses and the adoption of the habbanaé cattle breeding programme.

### **Right to Culture**

53. Welcomes measures taken as part of the promotion of the cultural sector, particularly through the setting up of the Ministry of Cultural Renaissance, the Arts and Social Modernization, introduction of the “Entertainment Arts”

course at the Faculty of Arts of the Université Abdou Moumouni in Niamey and the institutionalization of the “Dalweizé” national festival to honour women’s songs.

### **Rights of Women and Girls**

54. Takes note of the legislative measures taken to combat sexual and domestic violence, particularly the launch of the process towards the formulation of a national strategy for the Prevention of and Response to Gender-based Violence and its Action Plan.
55. Takes note of measures taken to improve upon the living conditions of the population, particularly of women, especially through the implementation of projects on the empowerment of women and local development, the Sahel programme for the economic empowerment of women and the demographic dividend as well as the provision of equipment to women to facilitate domestic tasks, including ploughing equipment.
56. Welcomes measures taken by the Government to bring an end to the practice of the Wahaya culture, especially the dismantling of its networks and the prosecution and conviction of the alleged perpetrators.

### **Rights of Children**

57. Takes note of the establishment of a national consultation framework for stakeholders involved in the prevention and reduction of child labour in agriculture in order to eradicate child labour and the exploitation of children.
58. Also takes note of the on-going programmes aimed at combating child marriages, particularly the “Illimin” Female Adolescent Initiative which seeks to reduce the rate of child marriages and to delay early pregnancy.
59. Welcomes with satisfaction the establishment of reception centres for children in conflict with the law or at risk, with a mandate to receive children in distress and to offer them more promising prospects of reintegration.

### **Rights of Persons with Disabilities**

60. Welcomes the increase in school infrastructure for children with disabilities,

particularly schools for the visually-impaired.

61. Appreciates the adoption of a national mental health strategic plan for the period 2015 - 2018 and the establishment of a School Health Office at the Ministry of Basic Education whose objectives include the early screening of disabilities in children.
62. Welcomes measures taken to ensure the right to work of persons with disabilities by reserving for them a 5% quota of jobs in any public or private establishment employing at least 20 salaried workers.
63. Appreciates the provision of free health care for persons with disabilities in public hospitals.

### **Rights of Older Persons**

64. Takes note of efforts made by the government towards the promotion and protection of the rights of older persons, particularly through the formulation of a draft legislation determining the conditions and modalities for the social protection of older persons and the setting up of the Council of Older Persons.

### **Right to Peace and Security**

65. Takes note of the adoption of laws on the amendment of the criminal code and the criminal procedure code to enhance the management of terrorism-related crimes.
66. Takes note of the establishment of an institutional mechanism to combat terrorism and organized transnational crime, particularly comprising the National Security Council, Central Department for Combating Terrorism and Organized Transnational Crime; Specialized Judicial Division for Combating Terrorism and Organized Transnational Crime; National Committee for Combating Terrorism and Organized Transnational Crime and the National Committee for the Coordination of activities to combat Money Laundering and the Financing of Terrorism.

### **Extractive Industries and the Environment**

67. Commends Niger for:

- Entrenching in its Constitution specific provisions on standards regulating the exploitation of natural resources and environmental protection as provided for in the Constitution of Niger;
- The adoption and implementation of the Ordinance on Mining Law which regulates the taxation and export of minerals in order to prevent tax avoidance and ensure that the country receives a fair proportion of income from extractive industries;
- The initiative of the Ministry of Mines in terms of which companies have to give preference to local procurement and local labour for certain jobs on the basis of the Memorandum of Understanding (MoU) concluded with the Ministry;
- The establishment of a National Environment Fund to finance the implementation of the national environmental policy.

68. Welcomes the formulation of programmes and activities to ensure a sustainable environment, particularly the reversal of trends in the area of land and water degradation in the River Niger Basin.

69. Further welcomes the adoption and implementation of strategies and plans, particularly the National Environmental Plan for Sustainable Development, National Anti-Desertification and Natural Resource Management Action Plan as well as the National Strategy and Action Plan on Climate Change and the Water and Sanitation Policy and Strategies.

70. Takes note of the adoption of the Strategic Investment Framework for Sustainable Land Management whose objective is to prioritize, plan and guide the implementation of investments in the area of Sustainable Land Management.

71. Takes note of the formulation and dissemination of best environmental practices for the extractive industries each year.

### **Periodic Reporting Obligation**

72. Welcomes the determination of the government to fulfil its obligations under the Charter by submitting its periodic reports regularly.

73. Welcomes the participatory and inclusive approach followed in the preparation of the periodic report under consideration.

74. Further congratulates the Republic of Niger for complying with the Guidelines for the presentation of periodic reports under the African Charter

and the Guidelines on reporting by State Parties on Economic, Social and Cultural Rights (Tunis Guidelines).

### **III - FACTORS RESTRICTING THE ENJOYMENT OF RIGHTS GUARANTEED BY THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS**

75. The weight of sociological and cultural factors, persistence of customary and religious rules and practices prevalent in the State Party as well as deeply-rooted prejudices, particularly against women, are obstacles impeding the full realization of the rights of Nigerien women.
76. In spite of measures taken to ensure the peace and security of the people, increased insecurity in the Sahelo-Saharan region as well as the Lake Chad Basin is a major concern which is likely to affect the effective promotion and protection of human rights in the State Party.
77. Rainfall and climate change-related problems which plunge the country into recurrent food crises as well as floods which affect the living conditions and the health of the population.

#### **AREAS OF CONCERN**

In spite of efforts made by the government of the Republic of Niger to promote and protect human rights, the Commission is still seriously concerned about the:

#### **Ratification of International and Regional Human Rights Instruments**

78. Non-ratification of Regional and International Conventions, particularly:
  - ✓ The 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women;
  - ✓ The 2016 Additional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons, and
79. The non-ratification of International Conventions, in particular:
  - ✓ The 1989 Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) aimed at Abolishing the Death Penalty.

80. The absence of a Declaration on Article 34 (6) of the Protocol on the Establishment of the African Court on Human and Peoples' Rights (The African Court) which enables individuals and Non-Governmental Organisations (NGOs) to refer cases directly to the African Court.

### **Adoption and promulgation of Codes, Laws and Decrees aimed at promoting and protecting Human Rights**

81. Delays observed in the passage of the Code on Personal Status formulated since 2010 and other draft laws awaiting passage, including several other draft laws with significant impact on the promotion and protection of human rights in Niger.
82. Inadequacy of legislative and regulatory enactments in the area of the private health sector.

### **Prohibition of Discrimination and Promotion of Equal Treatment for All**

83. The inheritance system between men and women is unfair under customary practice.
84. Persistence of inequalities and disparities between boys and girls in several areas of life, which situation is likely to prevent women and girls from attaining their potential and participating in the development of the country.

### **Right to Life**

85. Existence of provisions relating to the death penalty in the criminal code.
86. Reported breaches of the right to life following multiple terrorist attacks carried out in the northern part of the country.

### **Respect for Human Dignity and Prohibition of Exploitation and Slavery**

87. Persistence of allegations on the existence of slavery and discriminatory practices, particularly in the traditional and nomadic chieftaincy communities.
88. Persistence of the phenomenon of human trafficking, particularly of women and children.

## **Prohibition of Torture and Cruel, Inhuman and Degrading Treatment or Punishment**

89. Lack of a law and an independent national mechanism for the prevention of torture.
90. Lack of dissemination of the Robben Island Guidelines.

## **Respect for Legality and Conditions of Detention**

91. Delay in the implementation of Law No. 2017-008 of 31 March, 2017, on the increase in the allocation of the daily ration of prisoners to ensure an increase in the number of daily rations.
92. Non-compliance with the statutory time limits for pre-trial detention and overcrowding in prisons

## **Administration of Justice and Right to a Fair Trial**

93. Operational difficulties encountered by the National Legal and Judicial Agency (ANAJJ) owing to the misunderstanding between the Bar and the Ministry of Justice.

## **Right to Free Expression and Access to Information**

94. Persistence of challenges in exercising press freedom, particularly the inadequacies faced in the training of journalists in the very diversified media environment and failure to sign the inter-professional collective agreement of media workers.

## **Right to the Freedom of Association and Assembly**

95. Difficulties relating to the exercise of the freedom of association and demonstrations.
96. Non-existence of a specific law on the protection of human rights defenders

## **Freedom of Movement: Refugees, Displaced Persons and Migrant Workers**

97. Lack of management of migratory flows.

## **Right to Property/Right to Housing**

98. Existence of makeshift housing, including in the capital Niamey, and the difficulty in gaining access to property as a result the high cost of local authority housing, in spite of the measures taken by the Government.

### **Right to Work**

99. Lack of transparency in recruitments into the civil service.
100. Under-employment of the youth and lack of employment opportunities into both the public and private sectors.

### **Right to Health**

101. Inadequacy of the budget allocated to the health sector, direct payment of households as the first mode of health financing and weakness in resource mobilisation in the face of the ever-increasing health needs.
102. Lack of public health coverage for immunization of children.
103. Lack of necessary equipment in the surgical blocks of certain district hospitals, a situation which causes serious problems of access to emergency interventions like caesarean section and others.
104. Inefficiency of the private sector in the area of health due to the inadequate assistance on the part of the State, particularly for the establishment of health facilities and their regulation, including pricing that is commensurate with the purchasing power of the population.

### **Right to Education**

105. Inadequate budgetary allocation to the educational sector.
106. Delay in academic work in all the faculties particularly due to the problem of strikes, non-payment of bursaries to students, inadequate infrastructure and a host of grievances and claims by the teaching staff.
107. Inadequacy of student accommodation, in spite of the establishment of new universities.



108. Uncontrolled increase in school fees in the private educational institutions and institutes, without taking due cognisance of the purchasing power of the people.

109. Disparity between the gross rate of education of girls and that of boys at the primary level, particularly in the rural communities.

### **Right to Protection and Social Security**

110. Weakness of the social security protection system, especially in the area of health insurance.

### **Right to Water and Food**

111. Prevalence of acute malnutrition among children below 5 years of age, particularly in the rural areas.

112. Limited access to drinking water and sanitation faced by the population, particularly in the urban areas.

### **Right to Culture**

113. Lack of promulgation of the implementing Decree of Law No. 2014-48 of 16 October, 2014 on copyright, related rights as well as expressions of cultural and traditional heritage.

### **Rights of Women and Girls**

114. Existence of legal vacuums and discriminatory provisions against women and girls in certain laws.

115. Co-existence of multiple legal systems and standards that are not consistent with international and regional instruments duly ratified, particularly in the area of Family Law.

116. Persistence of a high rate of illiteracy and poverty, particularly among women.

117. The low quota reserved for women and girls in elective positions, which is given concrete expression by their inadequate participation and representation in decision-making bodies.

118. Persistence of harmful cultural practices against women and girls especially in the rural areas, with particular reference to early marriages, female genital mutilations, the practice of Wahaya and discriminatory practices relating to inheritance.

### **Child Rights**

119. Persistence of the phenomenon of child labour and child trafficking for purposes of exploitation

120. Persistence of child marriages.

### **Right to Peace and Security**

121. Resurgence of terrorist and criminal acts by organized gangs.

122. The issue of using American drones which has caused deaths among the civilian population.

### **Extractive Industries and the Environment**

123. The absence of a law which regulates artisanal and small-scale mining outlining environment, safety and labour protection to prevent the use of dangerous chemical products and prevalence of child labour in this sector.

124. The non-enforceability of the standards that Extractive companies use on corporate social responsibility.

125. The lack of provision of adequate information, guarantees and prior consultation with and participation of affected people in decision-making processes and issues of compensation in the case of dispossession of land.

126. The fast rate of desertification and siltation of River Niger.

127. The effect of uranium exploitation on the health, environment and life of the nearby communities in spite of the measures taken by Niger and its partners.

## V - RECOMMENDATIONS

In view of the foregoing, the Commission makes the following recommendations to the Government of the Republic of Niger:

### **Ratification of International and Regional Human Rights Instruments**

- i. Ratify the regional and international human rights instruments which have not yet been ratified in order to enhance the promotion and protection of human rights, particularly:

#### *At the regional level*

- The 2003 Protocol to the African Charter on Human and Peoples; Rights on the Rights of Women in Africa;
- The 2016 Additional Protocol to the African Charter on Human and Peoples Rights on the Rights of Older Persons.

#### *At the international level*

- The 1989 Second Optional Protocol to the International Covenant on Civil and Political Rights aimed at Abolishing the Death Penalty.

- ii. Incorporate duly ratified regional and international human rights instruments into domestic legislation and embark on their dissemination by providing related modules for the curricula of secondary and university education.

- iii. Make the Declaration under Article 34(6) of the Protocol on the Establishment of the African Court on Human and Peoples' Rights to enable individuals and NGOs to have direct access to it;

### **Adoption and Promulgation of Codes and Laws for the Promotion and Protection of Human Rights**

- iv. Take adequate measures for the adoption of a Code on Personal Status.
- v. Accelerate the process of adopting and promulgating codes, laws and decrees which are still awaiting passage, particularly the draft Children's Code; the draft legislation on the protection of Older Persons; the draft law on the protection of the girl child attending school; the draft legislation criminalizing and specifically making torture an offence; the draft decree on the approval of the status of the Special Compensation Fund for persons who have fallen victim to human trafficking; draft decree on the establishment,

organization and running of reception and protection centres for persons who have fallen victim to human trafficking; the draft legislation on the protection of data of a personal nature; the preliminary draft law on the protection of human rights defenders; the preliminary draft decree on National Literacy and Non -Formal Education Policy and the Draft Implementing Regulations of the Labour Code.

- vi. Pass the necessary legislative enactments to enhance the regulation of the private health sector.

### **Prohibition of Discrimination and Equal Treatment for All**

- vii. Take the necessary measures to resolve the existing inequalities between men and women in all areas of life, particularly in respect of the customary inheritance system.

### **Right to Life**

- viii. Continue to observe the moratorium and take the necessary measures to abolish all provisions relating to the death penalty, particularly through awareness raising campaigns and training of all stakeholders concerned with this issue.
- ix. Effectively combat the violations of the right to life and terrorist attacks carried out against civilians and the military in the northern part of the country, by drawing inspiration from the directives and principles of the Commission on Human and Peoples' Rights in Combating Terrorism in Africa.

### **Respect for Human Dignity and Prohibition of Exploitation and Slavery**

- x. Strengthen existing policies and programmes in order to permanently eradicate the practice of slavery and its effects, especially within the traditional nomadic chieftaincy circles.
- xi. Combat the phenomenon of trafficking in human beings, particularly among women and girls, by strengthening the operational and institutional capacity of bodies tasked with preventing and combating this practice.

### **Prohibition of Torture, Cruel, Inhuman and Degrading Treatment or Punishment**

- xii. Pass a specific law on the definition and elimination of torture, in accordance with the International Convention against Cruel, Inhuman and Degrading Treatment or Punishment.
- xiii. Establish an independent national mechanism for the prevention of torture;
- xiv. Take measures aimed at disseminating the Robben Island Guidelines, particularly for Officers tasked with the application of the laws, and ensure the observance of the said guidelines during the preparation of subsequent periodic reports;

### **Respect for Legality and Conditions of Detention**

- xv. Allocate adequate budgetary resources for the implementation of Law 2017-008 of 31 March, 2017 with a view to increasing the number of daily rations of prisoners in accordance with international normative standards and practices
- xvi. Take all legal measures to ensure compliance with the statutory time limits for pre-trial detention and take all legislative, administrative and other appropriate measures to reduce overcrowding in the prisons.

### **Access to the Administration of Justice and Right to a Fair Trial**

- xvii. Take appropriate measures to make the National Legal and Judicial Assistance Agency (ANAJJ) operational.

### **Right to Free Expression and Access to Information**

- xviii. Strengthen the training of journalists and media professionals and ensure the signing of the inter-professional collective agreement among media workers.

### **Right to the Freedom of Association and Assembly**

- xix. Accelerate the process leading to the adoption of a specific legislation on the protection of human rights defenders based on the Directive Principles of the Commission on Freedom of Association;

### **Freedom of Movement: Refugees, Displaced Persons and Migrant Workers**

- xx. Adopt an implementing law on the African Union Convention on the Protection and Assistance of Internally Displaced Persons in Africa (The Kampala Convention)
- xxi. Strengthen border controls, including at reception centres and identify migrants and asylum seekers as part of the management of mixed migratory flows.

### **Right to Property/Right to Housing**

- xxii. Take appropriate measures to facilitate access to decent housing by low-income earners.

### **Right to Work**

- xxiii. Take the necessary measures to address the issue of fraud, corruption and influence peddling in the recruitment of workers into the civil service.
- xxiv. Strengthen employment creation opportunities and programmes for the youth.

### **Right to Health**

- xxv. Increase the budget allocated to the health sector in accordance with the Abuja Declaration and mobilize the necessary financial and other resources to ensure that the people enjoy the right to health.
- xxvi. Ensure compulsory immunization coverage for all children.
- xxvii. Strengthen the health infrastructure and ensure that qualified staff man all the district hospitals to enable all the necessary surgical operations to be carried out.
- xxviii. Put in place minimum standards and practices to regulate the private health sector.

### **Right to Education**

- xxix. Increase the budget allocated to the educational sector in order to address the emerging challenges, particularly the problem of university residential accommodation, non-availability of teachers and the inadequacy of educational infrastructure.

- xxx. Adopt regulations and other necessary measures in order to combat delays in academic work and recurrent strikes.
- xxxi. Provide support for the private educational sector and ensure that pricing of school fees in the private educational institutes and establishments takes into account the purchasing power of the population.
- xxxii. Strengthen legislative, administrative and other measures to resolve the issue of disparity between girls and boys in the area of education, particularly in the rural communities.

### **Right to Protection and Social Security**

- xxxiii. Strengthen the social security system in order to ensure adequate social protection for all segments of the population.

### **Right of Access to Water and Food**

- xxxiv. Strengthen existing measures as part of the 3N Initiative in order to guarantee the right to food by the population, in particular the vulnerable segments of the population.
- xxxv. Ensure access to potable water and sanitation for all sections of the population for improved hygiene and living conditions.

### **Right to Culture**

- xxxvi. Ensure the passage of the enforcement decree of Law No. 2014-48 of 16 October, 2014 on copyright, related rights and expressions of traditional cultural heritage for its effective implementation.

### **Rights of Women and Girls**

- xxxvii. Repeal all discriminatory provisions against women and girls contained in the enactments and take all the necessary measures for the adoption of the Code on Personal Status in order to close the existing legal gaps.
- xxxviii. Strengthen sensitization campaigns on the rights of women and girls among all stakeholders, particularly among religious and customary authorities in order to accelerate the change in the mentality of the people.

- xxxix. Put in place operational plans, programmes, policies and strategies towards the eradication of illiteracy and poverty among women
- xl. Raise the quota for women and girls to 30% to ensure a higher representation in elective positions and in decision-making bodies.
- xli. Develop programmes of self-reliance for women and girls in order to reduce their vulnerability and ensure a qualitative contribution on their part in the development of the country.
- xlii. Adopt legislative, corrective and positive measures to eradicate all forms of negative customary practices against women.

### **Rights of Children**

- xl.iii. Strengthen the protection of children and fight against their exploitation in all its forms.
- xl.iiii. Pass laws and take administrative and other measures in order to combat forced marriages of children.

### **Right to Peace and Security**

- xl.v. Develop and strengthen existing measures aimed at combating terrorism and organised crime by drawing inspiration from the principles and directives of the Commission on Human and Peoples' Rights on Combating Terrorism.
- xl.vi. Ensure respect for international human rights and humanitarian law, particularly regarding the use of combat drones and carry out independent and impartial investigations into all deaths caused by drones and bring the alleged perpetrators to justice, including payment of compensation to the victims and members of their family.

### **Extractive Industries and the Environment**

- xl.vii. Formalise the corporate social responsibility of companies into legal obligations enforceable through legislation, in order to ensure local involvement and beneficiation from extracted resources as well as to contribute to the development needs of the host communities;
- xl.viii. Adopt legislation regulating the artisanal and small-scale mining sector and promote sensitization amongst small-scale miners in order to ensure better labour standards, human rights and environmental protection;



xlix. Provide information on plans for and activities of Extractive Industries, guarantees of rich and rigorous participation of communities in the process of granting licences and issues of compensation in the case of dispossession of land.

l. Adopt strategies to combat desertification in order to preserve the environment and restore degraded areas.

li. Strengthen the legislative, regulatory framework as well as the existing measures in the area of protecting nearby populations from the effects of uranium exploitation.

### **Periodic Reporting Obligation**

lii. Ensure the respect of the deadline for submission of periodic reports on the implementation of the African Charter on Human and Peoples' Rights and other subsequent texts.

liii. Inform the African Commission, in its next periodic report, of measures taken to ensure the implementation of the recommendations contained in these Concluding Observations and the recommendations contained in previous Concluding Observations which have not yet been implemented.

**Adopted by the African Commission on Human and Peoples' Rights at its 23<sup>rd</sup> Extraordinary Session held from 13 to 22 February, 2018 in Banjul, The Gambia.**