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الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
No. 31 Bijilo Annex Lay-out, Kombo North District, Western Region, P. O. Box 673, Banjul, The Gambia Tel: (220) (220) 441 05 05 / 441 05 06, Fax: (220) 441 05 04 E-mail: au-banjul@africa-union.org , www.achpr.org		

REPORT OF THE HUMAN RIGHTS PROMOTION MISSION TO THE REPUBLIC OF NIGER BY COMMISSIONER SOYATA MAIGA

18 – 27 July, 2011

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Finally, it would like to thank Madam Maïga **Zeinabou Labo**, Director of Human Rights and Social Policy at the Ministry of Justice as well as the staff at the Ministry of Foreign Affairs, Cooperation and Integration who accompanied the delegation throughout the mission and facilitated the various meetings.

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ACRONYMS

ACTN: Association of Traditional Rulers of Niger

AFJN: Association of Women Lawyers of Niger

AQMI: Al Qaeda in the Islamic Maghreb

ANDDH: Nigerien Association for the Defence of Human Rights

BEPC: General School Certificate (equiv.)

CAPA: Qualifying Certificate in Law

CEDEAO: Economic Community of West African States

CEDAW: Convention on the Elimination of All Forms of Discrimination Against Women

CNDH: National Human Rights Commission

CODDHD: Coordinator of the Federation of Organizations of Human Rights and Democracy

COGES: Management Committees

CPC: Criminal Procedure Code

CSC: High Communications Council

CSI: Integrated Health Centres

PRSP: Poverty Reduction Strategy Paper

UPR: Universal Periodic Review

FNIS: National Intervention and Security Forces

FSEJ: Faculty of Economics and Law

NG: National Guard

HNN: Niamey National Hospital

IDDH: Danish Human Rights Institute

INS: National Statistical Institute

MAN: Niamey Prison

OIF: International Francophonie Observatory

MDGs: Millennium Development Goals

ONC: National Communications Observatory

ONDH: National Human Rights Observatory

CID: Criminal Investigations Department

PNG: National Gender Policy

PNJ: National Youth Policy

UNDP: United Nations Development Programme

QUIBB: Unified Questionnaire of Core Welfare Indicators

DSG: Deputy General-Secretary

SDRP: Accelerated Development and Poverty Reduction

NER: Net Enrolment Rate

TGI: District Court

TPI: Court of First Instance

UEMOA: West African Economic and Monetary Union

I- INTRODUCTION

1. The African Charter on Human and Peoples' Rights (the African Charter or the Charter), adopted on 21 June, 1981 by the Assembly of Heads of State and Government in Nairobi, Kenya, came into force on 21 October, 1986. In Article 30 and subsequent articles, it establishes the African Commission on Human and Peoples' Rights (the African Commission or the Commission), which to date, is the principal body tasked with promoting and protecting human rights on the continent.
2. Under the African Charter, the African Commission has, among other things, been tasked with promoting human rights and fundamental freedoms guaranteed by the African Charter; ensuring their protection; ensuring the monitoring of the implementation of the Charter; interpreting the provisions of the African Charter and providing legal advice upon the request of the Authority of Heads of State and Government.
3. Article 45 of the African Charter tasks the African Commission with the promotion of human and peoples' rights, particularly through research, studies and undertaking visits to the States Parties in order to gather information on the implementation of the provisions of the Charter and to formulate principles and rules likely to serve as the basis for the drawing up of human rights laws and policies.
4. The Republic of Niger (Niger) ratified the African Charter on 15 July, 1986 and, therefore, undertook to cooperate fully with the African Commission, particularly within the framework of its promotion missions. The State has also complied with its obligation in respect of Article 62 of the African Charter by presenting its initial report during the 35th Ordinary Session of the African Commission held from 21 May to 4 June, 2004 in Banjul, The Gambia.

5. The human rights promotion mission undertaken in Niger from 18 to 27 July, 2011 occurred after the adoption of a new Constitution which was promulgated on 25 November, 2010 and provides a legal basis for the consolidation and promotion of human rights.
6. The mission was also undertaken just after the presidential elections in March, 2011, during which the Supreme Council for the Restoration of Democracy (CSRD) peacefully handed over power to the democratically-elected President, H.E. Mr. Mahamadou Issoufou.
7. It is, therefore, by virtue of the mandate conferred on it by Article 45 of the Charter that the African Commission undertook this promotion mission to Niger to find out the issues and challenges relating to the promotion of human rights and the progress made towards the protection of the rights guaranteed under the African Charter. The African Commission attaches great importance to dialogue with the Government of Niger and with all the other stakeholders involved in the achievement of human rights in Niger.
8. The mission provided the opportunity for the Commission to collect accurate information on the status of human and peoples' rights in Niger and to disseminate human rights instruments and documentation of the African Commission and the African Union as well as all other relevant international human rights instruments .It also afforded the opportunity for the African Commission to properly sensitize all State and non-State actors about its work and to enhance its visibility to the authorities and local Non-Governmental Organizations (NGOs).

II. TERMS OF REFERENCE OF THE MISSION

9. The objectives of the mission were to :

- Initiate dialogue with the Government of Niger on legislative and other measures taken to give full effect to the provisions of the African Charter, related Protocols and other duly ratified instruments;
- Hold discussions with the Government of Niger on the challenges it faces as far as the enjoyment of human rights by Nigerien citizens is concerned ;
- Meet State institutions and all the other stakeholders involved in the promotion of human rights to discuss ongoing policies and programmes and to elicit their appreciation of the human rights situation in the country ;
- Disseminate the African Charter, the Maputo Protocol, the Resolution on the granting of observer status to NGOs and the other relevant legal instruments of the African human rights system;
- Ensure that the special mechanisms of the African Commission are known through their composition and mandate by emphasizing the importance of establishing stronger synergy between these mechanisms and human rights' defence NGOs ;
- Obtain updated information on the status of Nigerien women, the programmes , action plans , legal reforms and all other measures that impact on the life of women ;
- Obtain information on government programmes and action plans, ongoing legal reforms and all other measures at the national level that have an effect on human rights in general ;

- Encourage closer collaboration between the African Commission and the State-Party that would reflect in the presentation of periodic reports in accordance with Article 62 of the African Charter ;
- Encourage the Government of Niger to present its periodic reports regularly in line with article 62 of the African Charter by addressing the challenges it faces and the areas of concern, while highlighting the progress achieved in implementing human rights ;
- Encourage closer collaboration between the African Commission and the State Party on the one hand, and the African Commission and civil society organizations on the other, particularly through regular participation in the ordinary sessions as well as in the other activities ;
- Share successful experiences and good practices identified elsewhere in Africa with the various stakeholders ;
- Inquire about the monitoring and implementation of the recommendations contained in the last initial report of Niger ;

III.COMPOSITION OF THE DELEGATION

10. The African Commission delegation to the Republic of Niger was made up of Honourable Commissioner **Soyata Maïga**, Commissioner responsible for human rights promotion in Niger and Special Rapporteur on Women's Rights in Africa, Head of Delegation.

11. Miss **Irene Désirée Mbengue Eleke** and Mr. **Lassana Koné**, Legal Officers at the African Commission Secretariat, assisted the Commissioner during the mission.

IV- PRESENTATION AND GENERAL BACKGROUND OF NIGER

A vast but land-locked territory

12. A vast Sahelo-Saharan country, Niger is completely land-locked¹ in the central-western part of Africa with Burkina Faso to the south-west, Algeria to the north-west, Libya to the north, Chad to the east, Nigeria to the south and Benin to the south-west. The territory covers a surface area of 1,267,000 km², more than two-thirds of which is found in the desert or semi-desert area. The massive surface area of Niger naturally predisposes this country to huge infrastructural requirements as a basis for socio-economic development².

A harsh physical environment

13. At the agro-climatic and ecological level, Niger is made up of three (3) major climatic zones :
- A desert or semi-desert zone situated in the northern part ;
 - A Sahelian zone which is the agro-pastoral area of rain-fed agriculture ;
 - A Sudanian zone which covers the south-western part of the country. It is characterized by the richness and vast variety of plant species.
14. This zoning predisposes Niger to a great deal of unsteadiness in terms of the agricultural climate. The surface area that is potentially suitable for subsistence agriculture is estimated to be less than 12% of the country's total

¹ The closest Port is more than 1,000 km away, in Cotonou, Benin.

² Ministry of Youth, Sports and Culture, National Youth Policy.

surface area. Agriculture employs more than 85% of Nigeriens. However, the drastic climatic conditions, the increase in land fallowing, the low level of irrigation, the reduction in soil fertility and the degradation of natural resources (water, land, grazing, forests) have contributed greatly to worsening the vulnerability of the population, particularly in the rural areas.

15. In terms of hydrography, the national network is one of the weakest in West Africa. Only one permanent water body, the River Niger, cuts across the country over a distance of about 500 km in the Western part.

Limiting demographic factors

16. In demographic terms, the population of Niger increased from 11,060,291 in 2001 to 15,203,822 in 2010³, with 79.6% of them living in the rural areas⁴. It is characterized by a high proportion of young people: more than half of the population of Niger is below 15 years (51.9%). The country's annual population growth rate is one of the highest in the world. This exponential growth rate is a combination of the high fertility rate of 7.1 children per woman⁵ (the highest in the world according to the INS) and the decline in infant mortality from 123 for every thousand in 1998 to 81 for every thousand since 2006.
17. The Nigerien population comprises nine (9) socio-ethnic and linguistic groups of varying numerical strengths: the Hausas, the Songhai-Zarma, the Tuaregs, the Peuhls, the Fulanis, the Kanuris, the Arabs, the Gulmances, the Tubus and the Budumas.

A state of widespread poverty

³ National Statistical Institute (INS) of Niger (2010)

⁴ Idem.

⁵ EDSN-MICS 2006

18. At the socio-economic level, the indicators of Niger show a situation of a nearly widespread poverty which constitutes a serious threat to the socio-political stability of the country and the sustainable management of natural resources. The survey on the basic human development indicators (QUIBB)⁶ conducted in 2005 by the National Statistical Institute (INS) showed that 62.1% of the Nigerien population is poor, with 42.5% of them being in the chronic poverty category and 19.6% in the transient poverty category.

Chronic Food Insecurity

19. The food situation in Niger is marked by chronic insecurity affecting almost 80% of the Nigerien population. This food insecurity, traditionally characteristic of the agro-pastoral areas, tends to spread to the agricultural and pastoral zones. Every year, 10 to 30% of the population runs short of more than 50% of their grain requirements. These recurring shortages are worsened by the high level of poverty among the population and the continuous degradation of the natural environment (almost 100,000 hectares become unproductive every year), a situation which is worsened by a high population growth rate.

Volatile economic growth

20. On the economic front, the configuration of the Nigerien economy highlights a low level of diversification and the predominant role played by the rural and informal sectors. Indeed, about 75% of GDP is generated by the informal sector. Furthermore, it is based essentially on agro-sylvo-pastoral production⁷, which is based on the use of outmoded and ineffective production techniques and technologies, on the one hand, and also subject to a high demographic growth and the vagaries of the climate, on the other.

⁶ QUIBB: Unified Questionnaire of Core Welfare Indicators.

⁷ The primary sector's component in the formation of GDP was 42.8% on the average per year between 2002-2006 (PRSP 2008-2012, page 25, October, 2007)

21. The growth of the Nigerien economy is extremely volatile as a result of the excessive dependence on the agricultural sector and the rainfall pattern. This volatility causes a great deal of uncertainties as far as the income of the population is concerned. Thus, the average economic growth rate of 5.25% recorded between 2001 and 2008 is grossly inadequate to ensure a significant reduction in poverty to enable Niger to achieve the Millennium Development Goals (MDGs) by 2015.
22. The average annual inflation rate is estimated at 11.3%. It is by far higher than the standard rate of 3% recommended by the West African Economic and Monetary Union (UEMOA), as part of compliance with convergence criteria by the Member countries.
23. In terms of public finance, the situation had been marked by worsening budget deficits related mainly to the decline in budget revenue.

An active political and institutional background being developed

24. At the political and institutional level, the nation is undergoing a democratization and decentralization process. The political situation was marked by unstable institutions. In fact, from 1958 to 2010, Niger has had seven (7) Republics and four (4) exceptional regimes.
25. At the administrative level, Niger has eight (8) regions administered by governors, thirty-six (36) departments headed by prefects, twenty-eight (28) administrative posts and two hundred and sixty-six (266) communes, 52 of them being in the urban areas and 214 in the rural areas.

V- METHODOLOGY AND ORGANIZATION OF THE MISSION

26. The mission was conducted in the form of meetings, discussions and working sessions with the highest authorities of Niger and with the other stakeholders involved in human rights promotion and protection in Niger.
27. Each of these meetings started with a brief presentation by Commissioner Soyata Maïga on the objectives of the promotion mission to the Republic of Niger and a presentation on the African Commission, particularly its organization, composition, mandate, running and subsidiary or special mechanisms. The discussions also touched on progress made by the African Commission since its establishment, the challenges it faces as well as the need to develop an enhanced collaboration with Niger, by way of further engaging the latter to favourably address human rights protection at the national, regional and international levels.
28. The mission was given very wide media coverage by the State print and electronic media. Some meetings or working sessions were punctuated with interviews granted by Commissioner Soyata Maïga to the State media or the public relations outfit of the institution concerned.

**MEETING WITH H.E. Mr. MAROU AMADOU, MINISTER OF
JUSTICE, KEEPER OF THE SEALS AND GOVERNMENT SPOKESMAN**

29. The delegation started its promotion mission with a briefing session at the Ministry of Justice where it was received by H. E. Mr. Marou Amadou who was assisted by the Director of Human Rights. After the welcome statement by the Minister who expressed satisfaction with the visit by the African Commission delegation, Commissioner Maïga, who is responsible for the promotion of human rights in Niger, expressed gratitude to him for the warm welcome extended to the delegation and went on with a brief

presentation of the African Commission, the main body tasked with promoting and protecting human and peoples' rights on the African continent.

30. Commissioner Maïga further expressed her willingness to meet the highest authorities in Niger with the aim of addressing all issues bordering on human rights with them. She indicated that Niger was not up to date with the submission of its reports under Article 62 of the African Charter. She indicated that Niger has 4 overdue periodic reports, since the country had not presented any report since the presentation of the combined initial report to the African Commission in 2004 in Banjul, The Gambia.

31. Talking on issues relating to the administration of justice in general, Commissioner Maïga deplored the lack of human and material resources as well as the non-existence of continuing education for judges as obtains in several countries. She regretted the co-existence of several sources of law, a situation which is a factor for legal insecurity, particularly with regard to the women's rights. The failure to repeal some colonial texts, and the fact that some national texts still in force in Niger are not consistent with regional and international instruments. She expressed concern about the cumbersome procedures in harmonizing the texts as a result of stereotypes, socio-cultural and religious inertia. On this issue, she indicated that one of the ways of addressing these constraints is to organize sensitization campaigns for traditional chiefs and religious leaders because, more often than not, misunderstanding, watered-down or distorted messages do not encourage the people to subscribe to legislative reforms. She also recommended to the Nigerien government to ensure the review of the Civil Procedure Code, particularly the provisions governing police custody, and to ensure a better regulation of preventive detention.

32. Concerning issues bordering on judicial organization, she regretted that the population was alienated from the decision-making centres and the public justice delivery systems. On this issue, she wanted to know the steps being taken to promote access to judicial services by the population and the efforts being made in the area of legal assistance to needy citizens.
33. Commissioner Maïga expressed satisfaction with the democratic gains made in Niger and encouraged the Nigerien authorities to continue steadfastly in that direction.
34. For his part, the Minister first thanked the African Commission delegation for the visit to Niger. He also commended Commissioner Maïga for the relevance of her analysis and for the way she was able to identify the human rights problems confronting Niger. The Minister then recognized the need for a review of some of the existing texts. He stated that Niger faces a similar problem as Mali. In fact, in his view, the Nigerien government is willing to disentangle women from the legal quagmire in which they have remained stuck with respect to the enjoyment of their rights, but every attempt made is opposed by conservative elements who mobilize themselves to make the population believe that the proposed reforms would be anti-Islamic.
35. Furthermore, the Minister made a commitment to make Niger the best student of the African Commission by catching up in the presentation of its periodic reports. He then indicated that the Nigerien government is open to all the mechanisms of the African Commission. He informed the delegation that Niger had just ratified the African Charter on Democracy, Elections and Governance.⁸

⁸ Adopted in Addis Ababa, Ethiopia on 30 January, 2007.

36. With regard to judicial organization, the Minister acknowledged that justice is still far from the population. He seized the opportunity to disclose the nomenclature of the judicial system in Niger which comprises a State court, a Council of State, an Audit Office, 10 District Courts (TGI) and 30 Courts of first instance (TPI). He however admitted that Niger had made a lot of efforts to establish courts. He disclosed that, eventually, the aim of the government is to establish courts, in particular courts of first instance in the 235 communes in Niger. In terms of efforts made by the government, he also revealed the establishment of two (2) Attorney's Offices in the countryside, especially in Zinder and Maradi. With regard to legal assistance, he recognized the role played by the Association of Women Lawyers and by legal assistants who are trained every year on fundamental concepts about the criminal procedure code (CPC).

37. He regretted that inertia in the Parliamentary procedure is impeding the determination of the State in matters of legislation. Furthermore, the Minister admitted the poor conditions in the Niamey Prison and indicated that his first visit as Minister was to the Niamey prison (MAN). To address this situation, the government has decided to construct a new prison.

38. For her part, Madam Maïga Zeinabou Labo, Director of Human Rights and Social Welfare at the Ministry of Justice, laid emphasis on the various support projects and programmes to provide access to justice. She indicated that mobile courts or mobile judicial hearings have been instituted with the support of development partners. A Reform Committee has been established within the Ministry of Justice with the main aim of reviewing the two Civil and Criminal Procedure Codes. She further revealed that a text on the fight against human trafficking was being prepared. She made it known that the phenomenon of human trafficking is still a worrisome issue in view of the fact that Niger is a country of origin, transit and destination. On the issue of periodic reports which are supposed to be forwarded to the

African Commission, she indicated that an Interministerial Committee was instituted in March, 2010 to prepare and present the various reports to the regional and international bodies. She made it known that the report to be presented to the Committee on Racial Discrimination was ready.

39. On the training aspect, she disclosed that an annual working programme had been designed in collaboration with the UNDP and UNFPA since 2009. This programme includes the training of magistrates, court clerks, police officers and gendarmes. To this end, a manual for police officers, commonly referred to as the National Intervention and Security Forces (FNIS), was prepared with the assistance of the Danish Human Rights Institute (IDDH)⁹.

40. Taking the floor once again, Commissioner Maïga indicated that the objective of the promotion mission to Niger by the African Commission is also to identify good practices in the area of the promotion of human rights. She, therefore, noted with satisfaction the new projects being undertaken in Niger and expressed happiness at the commitment of the Minister of Justice to the promotion of human rights. She also pleaded that the next Justice Summit scheduled for November 2011 will not be reduced to mere sessions for the exchange of opinions among the judges or serve as a pretext to put justice on trial, but will rather serve as the occasion for the identification of critical areas and obstacles that constrain the enjoyment of rights by citizens in order to find lasting and appropriate solutions to them. On the question of overcrowding in the prisons, she recommended that priority should be given to alternative punishments and mediation in criminal cases and that a regular and thorough monitoring of the Prosecutor's office with regard to preventive detention should be ensured.

MEETING WITH THE NATIONAL HUMAN RIGHTS OBSERVATORY

⁹ Manual on human rights for FNIS officers.

41. Commissioner Maïga stated that the objective of the mission to Niger was to find out the status of human rights, to assess the progress made and to take note of the difficulties encountered. In this respect, she indicated that the delegation was coming from the Ministry of Justice where it had met a man full of plans and ambitions for his country. She regretted that the African Charter is still unknown to civil society actors despite the fact that the African Commission was celebrating its 30th anniversary in 2011. Commissioner Maïga concluded her statement by expressing the hope that the National Human Rights Observatory (ONDH) will be transformed into a real National Human Rights Commission (CNDH), in keeping with the Paris Principles.
42. For his part, the President of the Observatory indicated that the coup d'Etat of 18 February, 2010, led to the suspension of Niger from regional and sub-regional bodies. He explained that the Observatory was sidelined and further stressed that the support of certain institutions such as the African Commission would have been decisive for it to fulfil its mandate. He further made it known that the International Organization of the Francophonie (OIF), one of its main partners, provided the Observatory with substantial support for the observation of all the national elections. He also indicated that the observations made by the Observatory were taken into consideration in the preparation of the Universal Periodic Review (UPR). However, he emphasized that the Observatory faces a real challenge in promoting and creating awareness among the various State and non-State actors.
43. He also mentioned a numerous challenges faced by his institution, particularly the inadequacy of national representation. According to him, as Niger is a vast country, there is the need to establish branches in the provinces and the countryside. The institution that is expected to become

the NHRC should also have its own head office in order to guarantee its independence.

44. Commissioner Maïga wanted to know whether the Observatory sometimes received complaints from individuals or NGOs. To this question, the President of the Observatory answered in the affirmative by stating that to date, his institution had received about thirty (30) complaints, with all of them relating to economic and social rights, particularly to food security and climate change. According to him, very few complaints come in the form of civil and political rights abuses. Reacting to the issue raised by Commissioner Maïga on the existence of an institutionalized platform for permanent dialogue with the Authorities, he indicated that his institution presents activity reports every three (3) months.

45. On the Protocol to the African Charter on Human and Peoples' Rights relating to the rights of the women in Africa (hereinafter referred to as the Maputo Protocol)¹⁰, which has not yet been ratified by Niger, Commissioner Maïga believed that it is unfathomable for an African State to ratify an international text, in this case the Convention on the Elimination of all forms of Discrimination against Women (CEDAW)¹¹, and not to do the same when it has to do with an African text. She requested the Observatory to enhance its advocacy role towards the ratification of this important instrument for the protection of the rights of women and girls.

**MEETING WITH H.E. MR. ABDOU LABO, MINISTER OF STATE,
MINISTER OF THE INTERIOR, PUBLIC SAFETY,
DECENTRALISATION AND RELIGIOUS AFFAIRS**

¹⁰ Adopted in Maputo, Mozambique, on 11 July, 2003 and came into force on 25 November, 2005.

¹¹ Adopted by the United Nations General Assembly by Resolution 34/180 of December, 1979 in New York, and came into force on 3 September, 1981.

46. “ *Seeing once is by far better than hearing a thousand times ...*”. It is with this African proverb that Commissioner Maïga presented the promotion mission to Niger which is part of country-visits which the Commission is duty-bound to undertake as part of its mandate to promote human rights on the continent. In connection with the human rights issue, she hoped to obtain detailed information on the situation in prisons in Niger, the involvement of communities in government programmes as well as challenges and prevailing good practices. Furthermore, Commissioner Maïga wanted to know the extent to which the passage of the law on the status of women had been hindered and the measures taken in the area of schooling and retention of girls in school.

47. Concerning the administration of prisons, the Minister of State, Mr. Abdou Labo, stated that this area rather falls within the jurisdiction of the Ministry of Justice. His department is only responsible for prison wardens. According to him, the main obstacles impeding the passage of the law on the personal status of women can be ascribed to the influence and activism of the Oulémas¹² who act behind the scenes and campaign for the status quo to be maintained so that texts on women’s rights are not adopted. The Minister of State revealed another critical problem concerning the administration of the national territory. According to him, administrative organization has not kept pace with population growth. From a figure of 16 at independence, Niger now has 36 administrative divisions. However, there are still sections of the territory where the State is not represented. He indicated that the people living in these remote regions may feel unconcerned about the administration of the central government. He underscored the fact that in these remote areas, both the young boys and girls find themselves in the same state of deprivation and lack of awareness of their fundamental rights. Such a situation makes a strong case for a better

¹² Spiritual and religious leaders.

involvement of all sections of the Nigerien society in national projects and plans at all levels.

48. Commissioner Maïga also wanted to know whether the State provided grants to Non-Governmental Organizations (NGOs) in support of their activities. On this matter, the Minister of State indicated that there is a grant meant exclusively for certain public welfare organizations. However, some NGOs sometimes turn to line Ministries for material and financial support.

**MEETING WITH H.E. MR. MOHAMED BAZOUM, MINISTER OF
STATE AND MINISTER OF FOREIGN AFFAIRS, COOPERATION,
AFRICAN INTEGRATION AND NIGERIENS ABROAD.**

49. Commissioner Maïga commended the Nigerien government for its recent ratification of the African Charter on Democracy, Elections and Governance. She also indicated that the mission to Niger was within the spirit of dialogue and collaboration of the African Commission with the new authorities in Niger. Its objective was to pursue its advocacy role for the ratification of other African instruments such as the Maputo Protocol, the African Union (AU) Convention for Protection and Assistance to Internally Displaced Persons (hereinafter referred to as the Kampala Convention)¹³; the AU Convention for Prevention of and Combatting Corruption¹⁴, as well as the Optional Protocol against Torture and Other Cruel, Inhuman or Degrading Punishments¹⁵. Finally, Commissioner Maïga wanted to have specific information on measures taken by Niger to present its periodic reports to the African Commission.

¹³ Adopted at the Special African Union Summit in Kampala, Uganda, on 23 October, 2009. That is the first International Treaty targeting Internally Displaced Persons.

¹⁴ Adopted in Maputo, Mozambique, on 11 July, 2003 and came into force on 5 August, 2006. The Advisory Board on Corruption, established within the African Union under the terms of article 22 of the Convention, held its inaugural meeting in May, 2009.

¹⁵ Adopted on 18 December, 2002 by the General Assembly of the United Nations in New York.

50. Reacting to the issues raised, the Minister of State indicated that the delay in ratifying certain regional and international instruments was mainly due to bureaucratic bottlenecks. In any case, according to H.E. Mr. Mohamed Bazoum, apart from the Maputo Protocol which remains a controversial topic, all the other relevant conventions will be ratified by the government of Niger in the ensuing months. He also made a commitment to take measures, collaboration with his colleague Minister at the Ministry of Justice, to prepare Niger's combined periodic report which will be presented very soon to the African Commission so as to catch up with the implementation of the country's obligations under Article 62 of the African Charter.
51. The Minister of State promised to reflect on the probability of Niger hosting an Ordinary Session of the African Commission soon.

**MEETING WITH THE COORDINATION OF NGOs AND WOMEN'S
ASSOCIATIONS OF NIGER (CONGAFEN)¹⁶**

52. Commissioner Maïga started the meeting with the various associations by recalling the two mandates vested in the African Commission which are structured into promotion and protection mandates. She then stated that the visit of the African Commission to Niger was within the context of its promotion mandate.
53. She also lifted a little corner of the veil concerning the history of the African Commission by stating that to date, out of the 11 members of the Commission, 7 are women, whereas from 1987 to 1993, there was no woman. According to Commissioner Maïga, this is a clear illustration that,

¹⁶ The CONGAFEN is a charitable, non-denominational and non-governmental organization. It is an association comprising 51 bodies. It was established in Niamey in December, 1994 and legally approved on 3 July, 1995 by Decree N° 140 /MI AT/ DAP/ SA. Its mission is to serve as a platform for dialogue for civil society, better organized in the area of lobbying/advocacy for the promotion of Nigerien citizenship.

over the years, African States have had to mainstream a gender dimension into the presentation of candidates for elections unto AU organs. She indicated that soon after the Beijing Conference in 1996, the African Commission established a subsidiary mechanism within its fold, which is the Special Rapporteur on Women's Rights in Africa, to ensure the better promotion of women and girls' rights in Africa.

54. Commissioner Maïga then focused on the coexistence of sources of law pertaining to women's rights, a situation which prevents the effective protection of their rights in Niger. In fact, she stated that the cohabitation of three (3) legal frameworks (customary, Islamic and civil) often leads to an erroneous interpretation of the provisions of the different sources. She also deplored the existence of discriminatory texts and the legislative voids which keep women in a state of subordination and inferiority¹⁷. The existence of provisions taking inspiration from Islamic law as well as customary practices and habits make it difficult to enforce legal texts which are favourable to the promotion of women's rights¹⁸.

55. She expressed happiness about the adoption of the Constitution of the 7th Republic of 25 November, 2010 which establishes the principle of non-discrimination in very strong terms. Indeed, Article 8 of the new Constitution specifies that *"the Republic of Niger shall be a State governed by law. It shall provide equality to all persons before the law without regard to sex, social, racial, ethnic or religious origin"*. Furthermore, Article 10 specifies that *"all Nigeriens shall be are born and remain free and equal in respect of rights and duties"*. According to Commissioner Maïga, one of the solutions is to ensure that the texts conform to the spirit of the Constitution in order to put an end

¹⁷ The interpretations of the custom and Islamic law, gender unfriendly in a sense, are encouraged by the fact that, beyond conservative or religious considerations, some people derive opportunities in the perpetuation of inequalities to the detriment of women in family matters, just like the allotment of estates or the exercise of power to unilaterally and discretionally break the conjugal relationship (repudiation).

¹⁸ Ministry of Women's Affairs and Children's Protection, *"Project for the Consolidation of Gender Equity: Ten Year National Gender Policy Implementation, 2009-2018, Final Report, June 2009"*.

to existing discriminations in the texts and the legal voids. On this issue, she said that the purpose of her visit was first of all to appreciate the contribution of CONGAFEN to the promotion of the rights of Nigerien women. According to her, one of the major problems faced in Niger is still the poor recognition of women's rights at the prescriptive level. Furthermore, there is also the issue of ignorance on the part of women themselves about their rights, a situation which equally applies to men.

56. On personal status, the concerns centred on several issues relating to women's rights in Niger. Thus, according to Madam Katambé Mariama, Vice-Chairperson of CONGAFEN and Chair of the Board of Directors (PCA) of the Women's Savings and Credit Union, the problem in Niger is that women have a legal status that hinders their socio-economic advancement. The fundamental law establishes the principle of equality among all citizens, but the applicable legal concepts have discriminatory clauses against women. That explains why the prospect of drafting of a new personal status code will help to address the coexistence of different sources of law, in particular customary law, Islamic law and modern or written law¹⁹. The new personal status Code will help to resolve issues bordering on gender equality, especially at the inception and dissolution of marriages, as well as on the obligations of spouses in the family and towards their children. It is expected that this Code will bring about definitive solutions to restrictions in terms of choice of spouse, consent to marriage, guardianship, adoption, curatorship and custody of children. Moreover, Madam Katambé Mariama indicated that the concept of discrimination has never been defined in Niger. On this issue, Commissioner Maïga reaffirmed how important it was for the Maputo Protocol to be ratified as it provides the definition of the concept of discrimination.

¹⁹ Ministry of Women's Affairs and the Protection of the Child, *"Periodic Report on the Implementation of the CEDAW in Niger, 2005 – 2008"*. Final Report.

57. On the ratification of the Maputo Protocol, Commissioner Maïga believed that women's NGOs needed to play an assertive advocacy role because, in her view, ratifying a text with reservations is better than not ratifying it at all. On this issue, she found it difficult to understand why the National Assembly had on two occasions failed to ratify the Maputo Protocol mainly because of unjustified reservations. According to her, once Niger has resolutely committed itself to consolidating its democratic process, the promotion of women's rights must be at the centre-stage of topical discussions. That is the reason why, in the opinion of the Commissioner, it would be strategic to include men in the awareness creation and advocacy campaigns. Indeed, the provisions of the Maputo Protocol relating to the age for marriage or reproductive health are key and sensitive issues that must be explained otherwise one may run the risk of being misunderstood and rejected. According to Madam Katambé Mariama, women's rights defence organizations played their role in support of the ratification of the Maputo Protocol but the Parliamentarians gave a negative connotation to the text during the parliamentary debates. The text was perceived as being contrary to the principles contained in the Holy Koran. Madam Katambé noted with some regret that if the Nigerien government should ratify the Maputo Protocol, it is certain that it would be doing so with the same reservations that characterized the ratification of the CEDAW. That explains why she encouraged the African Commission delegation to make a passionate plea during their next meeting with the Minister of Women's Affairs and the parliamentarians.

58. Madam Sidikou Fatoumata of the Association of Women Lawyers of Niger (AFJN), for her part, denounced the lack of political commitment on the part of the government and particularly the strategy/approach used in adopting the Maputo Protocol which she described as inappropriate. In her opinion, the text could be adopted without any hullabaloo, that is without having to involve religious groups. In short, there is the need to present a

done deal to them. The women's associations of Niger estimated that the national women's promotion policy, just as the national gender policy, has not really contributed to the advancement of women's rights in Niger.

59. On representation of women in decision-making bodies, Commissioner Maïga welcomed the adoption of the law on quotas by the Nigerien government but regretted that the estimated 10% is far below the 30% target set by the AU. On this issue, the women's associations deplored the lack of understanding of the law and regretted that it has been implemented half way. Some of them estimated that this law rather favours men because by stipulating that the proportion of elected candidates of either gender must not be below 10%, it strictly limits the number of women to this figure. At the political level, Commissioner Maïga expressed regret about the low representation of women in positions of responsibility at the State level and in local government authorities as well as the inadequate representation of women in the leadership structures of political parties.

60. With regard to the HIV law, the speakers deplored the fact that since its adoption in 2007, it is yet to be implemented as it was not adequately popularized and explained. This situation is all the more regrettable as HIV is still a cause for divorce and, indeed, domestic violence in Niger. In fact, according to certain leaders of women's associations, even when the husband is HIV positive, it is the woman who bears the brunt of stigmatization.

61. Concerning access by women to micro-finance, the discussants expressed regret about the fact that men still have greater access to investments and credit than women, although it is the latter who suffer the most from poverty and shoulder the burden of domestic chores, particularly in the rural areas.

62. On the situation of working women, the President of the Nigerien Women Teachers' Union indicated that the latter are victims of discrimination. For instance, she indicated that housing allowance is paid to men, but women are denied that facility. The same applies to family benefits.
63. In connection with grants by the State to civil society NGOs, the various representatives of NGOs and women's associations present at the meeting, indicated that they do not benefit from this facility from the State and sharply criticized the policy of double standards practised by the State as it offers grants to only religious organizations.
64. On strategies for collaboration and networking among women's associations, some of them denounced the logic whereby some NGOs dominate others, with each of them trying to exploit the situation unfairly, thereby leading sometimes to clashes, misunderstandings and, particularly, conflicts of interest.
65. The speakers indicated that women account for 80% of the illiterate population. As a result of ignorance and lack of confidence in herself, the Nigerien woman is more often a victim of stereotyping, prejudice as well as cultural and religious inertia. Commissioner Maïga emphasized the need for the women's associations to work on the development of leadership and the strengthening of the capacity of their members. The women's associations recognized the highly deplorable situation in the Dosso region where women cannot express themselves in public.
66. On the education of girls, although women commended the sensitization measures targeting the education of the former, they however regretted the non-existence of a text on the protection of schoolgirls. They, therefore, decried the phenomenon of early marriages and acknowledged that many

girls in school are given away in marriage before the legal age. A UNICEF-sponsored bill for the protection of girls in secondary schools is being prepared.

67. On the mainstreaming of the gender dimension into the process of formulating the Accelerated Development and Poverty Reduction Strategy Paper (ADPRS), the discussants said that it follows from the analysis established by the Poverty Reduction Strategy Paper (PRSP) adopted by the government in January, 2002 that poverty basically has a female face in Niger. As it is an accepted fact that women account for more than half of the Nigerien population, the above-mentioned analysis clearly reminds us that the development legitimately aspired to by the people cannot be attained as long as women continue to be marginalized on the basis of a prejudicial social construction²⁰. There is no doubt whatsoever that the cost of inequalities in Niger is very high for individuals and the society as a whole, thereby translating into a negative impact on the well-being of the people, low productivity of women and a reduced capacity to contribute to wealth creation.

68. On the conflict between female leadership and matrimonial life, the members of CONGAFEN revealed that as far as positions of responsibility are concerned, some women who earned promotions in the past were pressured by their husbands to turn them down. According to them, some men had clearly told their spouses to choose between their positions of responsibility and the continuation of their marriage bond. Thus, the women's leaders feel threatened because of the superiority of men over women, particularly in the home.

69. On the representation of women in Parliament, the women's associations said that currently there are 15 women parliamentarians out of an Assembly

²⁰ Ibid.

of 113 members. Unfortunately, these women do not contribute much during parliamentary debates. Commissioner Maïga recommended to the women's NGOs to develop training programmes in the areas of speaking and the responsibilities of parliamentarians for women. This practice obtains in several countries in collaboration with the Ministries in charge of women's affairs and the Inter-Parliamentary Union. In this respect, she gave the example of Mali where the Association of Women Lawyers provides training for women parliamentarians and on violence perpetrated against women for all parliamentarians.

70. In conclusion, Commissioner Maïga recommended to CONGAFEN to link up with NGO networks which enjoy observer status at the African Commission. Furthermore, she emphasized on the need for CONGAFEN to turn out massively at African civil society fora instead of turning their attention to Geneva or New York. She also requested that all aspects of the Constitution of the 7th Republic should be analyzed and that all the possible avenues and opportunities it offers to Nigerien women should be explored.

MEETING WITH THE ASSOCIATION OF WOMEN LAWYERS OF NIGER (AFJN)

71. The President of the AFJN, Madam Sidikou Fatoumata, indicated that the AFJN was established in 1991 and carries out training, information and capacity building activities in the area of women's and children's rights for the benefit of women in Niger. In the implementation of its programmes, the AFJN collaborates with the Bar Association, which to date remains its best partner. She indicated that with the financial assistance of the United Nations Development Programme (UNDP), the AFJN designed a practical guide on proceedings and means of redress as well as a study on the monitoring of recommendations of the CEDAW. Furthermore, with the support of the Economic Community of West African States (ECOWAS), a study was conducted on the discriminatory provisions contained in the

texts in Niger. Besides, she touched on the involvement of the AFJN in the Support Programme for Justice through legal assistance to needy women. The AFJN also participates in the deliberations of the Committee tasked with the drafting of the alternative reports of civil society organizations.

72. Commissioner Maïga believed that the AFJN should strengthen its programmes in the area of the training of police officers, the Gendarmerie, magistrates and parliamentarians. As an illustration of good practice, she cited the case of Mali where women's associations organize the media coverage of ceremonies where certificates are awarded to some police detectives at the end of training sessions. Moreover, the month of October has been declared as a solidarity month in Mali, and during this occasion, a day of solidarity is organized for women prisoners in collaboration with the Bar. The Association develops a programme to disinfect the prisons and to present soap and other sanitary products to detainees. Legal and counselling services are also provided.

73. On the issue raised by Commissioner Maïga concerning collaboration with the Ministry of Women's Affairs, Madam Sidikou Fatoumata believed that this collaboration is a very close one because the Ministry involves them in several activities. However, she expressed her opposition to the law on quotas because, according to her, some women who do not have the requisite profile have been coopted on the basis of this law. Commissioner Maïga explained that the quota is a temporary affirmative action intended to contribute to and ensure an improved representation of women in decision-making bodies. According to her, the actual challenge rather lies in the strengthening of the capacity of coopted women. She gave the example of Rwanda, where women, who constitute 56% of the National Assembly, are trained and assisted. She indicated that the most important thing is to appoint militant and committed women to positions of responsibility for the advancement of the cause of women.

74. Commissioner Maïga then recommended that the AFJN should institute a training programme for young girls who hold master's degrees in law from the universities and who are candidates for the competitive examinations to enter the School of Magistrates and the professional lawyer's certificate (CAPA). She also advocated for the development of a gender-friendly examination policy at the national level with the aim of promoting recruitment of women and girls into the legal professions. Under Resolution 1325²¹ of the Security Council, the Commissioner also recalled the need for the various Nigerien political actors to enhance the participation of women in decision-making bodies in the area of security and peacekeeping at the national and local level.

MEETING WITH DR. MAIKIBI KADIDIATOU DANDOBI, MINISTER FOR POPULATION, WOMEN'S AFFAIRS AND CHILD PROTECTION

75. In her opening statement, Commissioner Maïga briefly presented the African Commission whose mandate consists in promoting the rights prescribed in the African Charter. She indicated that she is responsible for the mechanism of the Special Rapporteur on Women's Rights in Africa at the African Commission and recalled the recurrent difficulties, the socio-cultural hindrances and challenges relating to religion which impede the ratification of the Maputo Protocol by the Authorities of Niger. She stated that 29 African States have ratified it but its implementation remains problematic because no State has so far produced a report on the instrument to the African Commission²². She urged the Minister to lobby for a change

²¹ Resolution 1325 of the United Nations Security Council on women, peace and security unanimously adopted on 31 October, 2000, is the very first resolution adopted by the SC devoted specifically to the impact of the war on women and to the contribution of the latter in conflict resolution and peacekeeping.

²² Article 26 of the Maputo protocol makes it mandatory for States Parties to ensure its implementation at the national level and in the periodic reports submitted pursuant to Article 62 of the African Charter by indicating the legislative and other measures taken for the full implementation of the provisions of this Protocol.

of the law on quotas which she thinks is inadequate. She also recommended that the awareness creation campaigns should focus a little more on violence against women as well as the protection of reproductive health. She further underscored the importance of identifying information needs and sensitization of religious and community leaders on women's rights and providing adequate remedies. Moreover, she commended the basis laid by the Constitution of the 7th Republic of 25 November, 2010 with regard to the fight against discrimination. She wanted to obtain information on the Plan of Action, the prospects of the Ministry and the way the latter involves men in the awareness creation campaigns.

76. The Minister, Madam Dandobi, made it known that her ministry has evolved new guidelines in its programme. She admitted that apart from the law on quotas, very little has been accomplished in promoting women's rights in Niger. Moreover, she indicated that significant progress has been made in the integration of women into institutions such as the Army, the Police, the Gendarmerie and civil engineering. She stated that 13th May had been set aside to mark Women's Day in Niger. The theme chosen to mark this year's commemoration is: «Stocktaking after 20 years of Democracy».

77. The Minister made a brief presentation on the National Gender Policy (PNG). She indicated that the formulation of this policy seeks not only to operationalize the constitutional principles of equality and respect for human rights, but also to translate into reality the national and international commitments of the State towards the promotion of equity and gender.

78. On the situation of girls in terms of education, the following information was obtained: the rate of illiteracy among women is estimated at 88% as against 72% for men, with very high disparities between the rural and

urban areas where less than one out of 20 women is illiterate²³. The gross enrolment rate at the primary level was estimated at 47% for girls as against 67% for boys in 2007²⁴. At the secondary school level, the disparity widened with a Net Enrolment Rate (NER) of 8.6% for girls as against 13.2% for boys. At the higher level, only 1% of the total number is made up of girls. It is at the Koranic school level with a total number of 340,000 learners that the ratio favours girls²⁵. In addition to the inequality of access which greatly affects girls more, one must add the disparity relating to the stream options of pupils in the different courses, which is particularly characterized by gender roles. Most girls are sent to women's technical education centres which mainly focus on skills associated with reproductive activities, whereas the boys are steered towards the technical professions (building, mechanics, etc...)²⁶. It must also be noted that there is a higher dropout rate among girls as they climb the educational ladder because of gender roles and stereotyping as well as sexual harassment to which they are subjected at school²⁷.

79. In Niger, the causes most frequently mentioned to explain gender inequalities in the educational system are : the enhancement of the reproductive role of women by the society and its consequences, which include restriction of women to the domestic sphere and early marriages ; division of labour along sexual lines as well as sexual stereotyping at the family level ; socio-economic factors, especially the high cost of education, inadequate infrastructure, equipment and textbooks, lack of boarding school facilities for girls, unavailability of female teachers in the rural

²³ Ministry for Population, Women's Affairs and Child Protection, "*National Gender Policy*", May, 2008.

²⁴ Ibid.

²⁵ Ibid.

²⁶ Ibid.

²⁷ Ibid

communities ; and the negative image of the school considered by many people as a means of acculturation²⁸.

80. With regard to reproductive health, in spite of the efforts made by the State to improve the availability, accessibility and quality of health services, the health situation of women remains critical. It is characterized by indicators which highlight the precarious nature of the health of women of child-bearing age in particular: *a very high fertility rate* with a synthetic fertility index of an average of 7.1 children per woman. This state of affairs derives from early sex and early marriage as well as the low level of the use of contraceptive methods²⁹ ; *the maternal mortality rate* is also high, though it declined slightly from 671 in 1992 to 648 for every 100,000 live births in 2006; *high infant mortality rate* though there has been a net improvement. The infant mortality rate declined from 123.1 per thousand in 1998 to 81 per thousand in 2006; *a high prevalence of anemia* among women. In Niger, almost one out of two women and one out of four men are anaemic. 49% of women between 35 and 44 years suffer from severe anaemia; *a high rate of vulnerability to HIV/AIDS*. Some socio-economic practices such as levirate, sororate or excision, the low level of education and information of women, particularly in the rural areas, are some of the risk factors for women³⁰ ; *though female genital mutilation* declined by 5% in 1998 to 2.2% in 2006, the practice is still engaged in by some ethnic groups such as the Gourmantchés where 65.9% of women are circumcised. Among the Peuhls and the Arabs, the rates are 12.8% and 3.4% respectively. The most affected areas are Tillabéri, the Niamey urban community and Diffa.

81. Access to potable water is a concern of women in the rural communities. The main source of water supply for the entire country is the dependence on deep wells which are far from households. 60.8% of households use this

²⁸ Ibid.

²⁹ Demographic and Health Survey, Multiple Indicators (EDSN/MIC III, 2006)

³⁰ Ibid.

mode of supply. The provision of water for the family is the traditional responsibility of women who are assisted in this task by their daughters and sisters-in-law. In carrying out these tasks, they often cover long distances, particularly in the rural areas. Women are also the main victims of water shortages³¹.

82. At the national level, the institutional arrangement comprises :

- A Joint Committee made up of the Government and Private Technical and Financial Partners (TFPs) whose task will be to ensure that regular dialogue between the Government and the Technical and Financial Partners is maintained for the implementation of the NGP³²;
- An Interministerial Technical Committee tasked with preparing the sector gender reports of the various ministries as well as the annual gender report which will be submitted for validation by the Government/TFP Committee³³, and
- A Gender Unit will be set up at the Ministry for Population, Women Affairs and Child Protection and it will be the mainstay of the institutional arrangement for the implementation of the national gender policy³⁴.

MEETING WITH MADAM ALI MARIAMA ELH. IBRAHIM, MINISTER OF EDUCATION, LITERACY AND PROMOTION OF NATIONAL LANGUAGES

83. In her introductory statement, Commissioner Maïga made a brief presentation of the African Commission by stressing its mandate and

³¹ Ibid.

³² Ministry for Population, Women's Advancement and Child Protection, "Ten Year National Gender Policy Implementation Plan (2009-2018)" Final Report, June, 2009.

³³ Ibid.

³⁴ Ibid.

composition. She then brought up the problems relating to literacy and inadequate programmes for translation of texts into national languages. She hoped to obtain information on the situation in Niger and an estimate of the proportion of the national budget allocated to education. She ended by stating that the designation of the ministry provides ample hope with regard to the integration of the teaching of national languages into training programmes.

84. In her response, the Minister, Madam Ali Mariama Elh. Ibrahim, indicated that education is a national priority for Niger. As proof of this assertion, she stated that 25% of the national budget is allocated to this sector. She pointed out that the Ministry was recently reorganized, resulting in the addition of the literacy segment. She stated that schooling is free and compulsory in Niger from 4 to 18 years. In fact, Article 2 of the Law on the education system in Niger³⁵ provides that « (...) *The State shall guarantee education to children from four (4) to eighteen (18) years.* »

85. On the teaching of national languages in schools, the Minister, Madam Ali Mariama, stated that the dimension of national languages is included in the curricula. According to her, the only problem lies in the lack of monitoring of the experimental phase. The Ministry is now working on five (5) languages, while five (5) others will soon be tried out.

86. With regard to infrastructure and equipment, she regretted that there were still 22,000 classrooms made of straw and with no furniture. This compels pupils and students to sit on the floor. Performance regarding infrastructural development and equipment was poor over the period 2008/2010. This poor performance was particularly due to the delay in preparing technical, evaluation and contract award documents³⁶. To

³⁵ Law No. 98-12 of 1 June, 1998.

³⁶ Ministry of Education, *Ten-year Education Development Plan: Access Component*, December, 2010.

address this issue of inadequate school infrastructure, the President of the Republic made a pledge to have 2,500 classrooms built. Funding for the construction of 1,500 classrooms has already been obtained from donors. What remains for the government to do is to provide FCFA 10 billion to build the remaining 1,000 classrooms.

87. On the major constraints observed at the pre-school level, the Minister indicated that they are two-fold. First is the low qualification of teachers and supervisors, then the poor teaching environment. In fact, the majority of pre-school institutions find themselves in a very poor environment characterized mainly by inadequate teaching materials, the proliferation of classes operating under huts and inadequate school furniture.³⁷.

88. On literacy, she specified that the content of the literacy programme is skewed more in favour of functional literacy, that is ensuring that citizens focus on their obligations towards the State.

89. With regard to the teachers' recruitment programme, the Minister indicated that 3,900 teachers on contract will soon be integrated into the public service and 5,000 others will be integrated into the system the following academic year. Priority is given to student-teachers who have passed out of Teacher Training Institutes. Every year, a monitoring and evaluation Directorate carries out surveys on pupils' performance. Regular inspections are also carried out by school inspectors.

90. Management Committees (COGES) have been put in place as part of the decentralized school management process. With the development of the phenomenon of contract workers, the latter play a key role due to their

³⁷ Ministry of Education, *Ten-year Education Development Programme: Quality Component*, December, 2010.

personal commitment. Sometimes, they condemn the lackadaisical attitude of some teachers.

MEETING WITH H.E. MR. SOUMANA SANDA, MINISTER OF HEALTH

91. Commissioner Maïga indicated in her introduction that the visit by the African Commission was part of the process of establishing a sustainable partnership and building a constructive dialogue with the new Nigerien Authorities. In addition, she recalled that in seeking to achieve human rights in Africa, the right to health stands out prominently. In this respect, she wanted to know the greatest challenges faced by Niger, particularly the accessibility of health centres to the people. In conclusion, she hoped to obtain specific information on the proportion of the national budget allocated to health.

92. The Minister, Mr. Soumana Sanda, indicated that his department is in the process of consolidating human rights as far as health is concerned. However, he acknowledged that Niger is a very vast country and that it is difficult to cover the entire country to provide its health needs because of inadequate resources. He stated that the ongoing health development programme seeks to attain 75% national coverage. 450 doctors were recruited as part of this programme. It is also projected that 1,158 midwives, nurses and laboratory assistants will be recruited. Efforts are being made to reduce the currently high maternal and child mortality rate at the national level. He revealed that the proportion of the national budget allocated to health is 15%. Moreover, the President of the Republic has just reaffirmed his commitment to the promotion of the right to health through the establishment of Integrated Health Centres (CSI) and pledge to improve the salaries of health personnel. The Minister pointed out that every patient must be respected and catered for with dignity. Towards this end, a guide on patients' rights is being drafted.

93. On the issue of challenges relating to family planning, he indicated that the rate of modern contraception is 16%. Moreover, there is a school health programme in collaboration with the Ministry of Education. Measures are being taken to ensure access to information and family planning by young girls. Centres referred to as “ *Friends of the Youth*” have been provided to the public for all issues relating to reproductive health.
94. With regard to HIV/AIDS, the Minister said that there is a Convention in Niger for the protection of persons living with HIV. Through assistance provided by the Global Fund, systematic screening sessions are being organized systematically.
95. On the issue of free health care, the Minister reassured the delegation that generally, free health care is a reality in Niger. This free health care applies to children under five (5) years, expectant mothers and cases of Caesarian section and cancer. However, the Minister stated that as the health coverage rate is 50%, it is difficult under these conditions to provide free health care throughout the country.
96. On assistance to older people, according to the Minister, family care alone is inadequate to meet their needs. He added that this explains why the solidarity of the State is needed as part of its obligation. In this particular area, the demand for care mostly applies to prostate and cataract.

MEETING WITH HUMAN RIGHTS DEFENCE NGOs

97. The meeting which was held at the head office of the Nigerien Human Rights Defence Association (ANDDH) started with presentations by the various NGO representatives. Commissioner Maïga then briefly presented

the African Commission and expressed satisfaction at the promotion visit to Niger. In her opinion, the African Commission decided to wait for the right time to undertake the mission, that is after the inauguration of the newly elected authorities. By so doing, it would be easier to engage them by making relevant recommendations to them. She recalled that the difficulties relating to the implementation of recommendations were mainly due to the lack of a monitoring mechanism at the national level in the State parties. She reiterated the desire of the African Commission to collaborate with the NGOs, and indicated that the relevance of this meeting was to listen to them, consider their concerns and key challenges and to assess their level of collaboration with the government.

98. The speakers indicated that there are serious security challenges posed by the activism of some groups such as the Al Qaeda in the Islamic Maghreb (AQIM). Furthermore, there are inter-community and inter-communal conflicts between Mali and Niger. The former rebels have indeed laid down their arms in Agadez, but if no steps are taken to reintegrate them into the society, they will be a potential risk. At a time Niger when is emerging from a transitional period characterized by several human rights violations, the deepening of democracy also remains one of the key challenges.

99. On the granting of approvals, Mr. Zakari Hamadou, Coordinator of the Federation of Organizations of Human Rights Defence and Democracy (Coddhd), brought up a list of difficulties faced by the Federation since its establishment in 2000. According to him, it was just in 2010 that the Coddhd was able to receive its legal recognition licence. He specified that for ten (10) years, the Federation has done all in its power to maintain its independence and that it was only during the transition period that it was approved. He also revealed that in 2008, during the Ordinary Session of the African Commission in Abuja, Nigeria, the request for observer status by Coddhd was rejected due to the lack of recognition at the national level.

However, he admitted that despite the divergences in opinions, the CODDHD has cooperated a lot with the authorities. The CODDHD contributed greatly in the area of awareness creation during the last elections. The Federation also hopes to strengthen its collaboration with the African Commission.

100. Some speakers mentioned the lack of progress in the area of capacity building. According to Mr. Ibrahim Inaboutou from the Trinidria NGO, the major challenges in Niger are, therefore, the lack of information for the citizenry and the inadequacy of government programmes in the area of the promotion of and information on human rights. Furthermore, the general public still does not know about the Constitution. On this particular issue, Commissioner Maïga recommended the establishment of mobile human rights clinics with the aim of popularizing and disseminating key human rights instruments. For his part, Mr. Harou Bachir, representing the NGOs, believed that the State is not playing its public education role, to the extent that civil society is compelled to do so on its behalf. However, there are no resources to cover the entire country. Furthermore, the problem of funding is another challenge faced by civil society organizations. He also regretted the fact that the General Policy Declaration is not being effectively implemented. He informed the delegation that the draft bill on the abolition of the death penalty is still before the National Assembly. Finally, he deplored the lack of adequate protection of children's rights.

101. For her part, Madam Halima Amadou indicated that the outfit she represents, the WANEP-Niger Chapter, comprises six (6) bodies and that it obtained its approval on 7 May, 2010. With such recognition, WANEP-Niger hopes to reactivate its operations. It was therefore appropriate that a conference on the fight against violence perpetrated against women was scheduled for 27 July, 2011. She further disclosed that there is a platform for dialogue on violence against women between the Ministry of Women's

Affairs and the NGOs. On this issue, Commissioner Maïga recommended that a table comprising of the different types of violence and the types of partners likely to express interest in this problem must be drawn up. She, therefore, touched on the issue of Elders, an NGO made up of famous persons such as Nelson Mandela and Mary Robinson, former United Nations Human Rights Commissioner, who had just organized a conference on early marriages in Addis Ababa. Such an action fosters understanding not only at the civil society level, but also with the various Ministries. In addition, she underscored the need for NGOs to ensure greater involvement of men in the awareness creation campaigns on family planning and the issue of gender-based violence.

102. On legal clinics and needs in terms of legal assistance to needy persons, Mr. Khalid Ikra, President of the National Human Rights Association (ANDDH), which was established in the aftermath of the Sovereign National Conference, said his institution was working for the promotion of the rule of law, human rights and capacity building of NGOs. The ANDDH covers the entire country and has eight (8) legal clinics facilitated by legal officers who hold a master's degree in law. These legal clinics play the role of directing complainants to the courts of competent jurisdiction. He indicated that often there are assistance agreements between his outfit and the Bar. Furthermore, the ANDDH, in collaboration with the UNDP, initiated an access to justice programme. This is a beneficial partnership because for the first time, a human rights defence NGO is not at loggerheads with the State, but is rather collaborating with it. Commissioner Maïga recommended to the Federation to reassert its credibility for example, by making the beneficiaries testify about the legal assistance provided them during meetings with donors. According to the President of the ANDDH, there is a draft bill on the establishment of a legal assistance fund.

103. On extractive industries, the NGOs indicated that they were involved in the awareness creation campaigns among the people living around industrial units. They denounced the degradation of pastoral lands and the numerous relocations carried out without prior compensation to the people. One particular example is the Arlit site. Today, this area has made significant progress as one is compelled to carry out an Environmental Impact Assessment (EIA), which was not previously the case. However, recurring testimonies of victims of maltreatments in the mines or on project sites must be a challenge for civil society organizations on the need to pursue the awareness creation campaigns towards the improvement of the living and working conditions of these workers. In short, the exploitation of natural resources should benefit the population. Commissioner Maïga informed them about the existence of a Working Group (WG) on Extractive Industries and Human Rights at the African Commission which works with NGOs and governments on the matter.

104. On NGO-African Commission collaboration, Commissioner Maïga urged NGOs in Niger to get closer to the African Commission by applying for observer status. Moreover, the sessions of the African Commission are the opportune time to become familiar with the African human rights protection system. According to her, these sessions are public discussion fora of the States, and the usual NGO Forum which is held on the sidelines of the African Commission Sessions constitutes an enriching initiation mechanism for the capacity building of civil society organizations. When NGOs participate in an Ordinary Session of the African Commission, they must provide feedback information once they get back to their countries. Regarding the concern expressed by some speakers about the lack of visibility of the African Commission, she recommended to Nigerien NGOs enjoying observer status to play the role of focal points of the African Commission and to inform the other NGOs about the activities, procedure and mechanisms of the African Commission. She raised the fact that the African Commission is used more effectively by the Anglophone NGOs

who are better organized and are more proactive. In conclusion, she added that the subsidiary mechanisms of the African Commission are at the disposal of NGOs. These outfits must also be active and look for information at the African Commission's website.

105. The President of the ANDDH concluded by saying that national wealth should be distributed equitably among all citizens of Niger. He welcomed the General Policy Declaration by the Prime Minister and the programme of the President of the Republic as being attractive and a sign of hope. However, he acknowledged that the support of civil society is decisive for the effective and efficient implementation of all these programmes. One of the major challenges in this area remains the issue of capacity building of citizens in the rural and urban areas. Civil society is also duty-bound to close their ranks, heal their wounds and to join forces around the common concern of defending the rights of the people of Niger.

MEETING WITH THE NATIONAL COMMUNICATIONS OBSERVATORY

106. In her opening statement, Commissioner Maïga recalled that the National Communications Observatory (ONC) occupies a key place among the Institutions participating in the promotion of human rights. She hoped to receive clarifications on the legal arsenal relating to press freedom, the decriminalization of press offences as well as the challenges faced by journalists in Niger.

107. Mr. Ali Ousseini Sountalma, Vice-President of the Observatory, made a brief presentation on his Institution. Thus, he indicated that the Observatory was established by Order No. 2010-018 of 15 April, 2010. It is an independent administrative authority tasked with regulating the media, with its remit extending to areas such as the print media, electronic

communication and media advertisement. The ONC comprises thirteen members from diverse professional backgrounds and its key mission is to ensure the freedom of information, communication and the independence of the public and private media.

108. He emphasized that Order no. 2010-35 of 04 June, 2010 on the freedom of the press not only establishes the freedom of opinion, but also decriminalizes press offences. Thus, common offences such as insults or defamation have been decriminalized. However, Mr. Ali Ousseini indicated however that the lawmakers have maintained the regime of fines for such offences. He also touched on the Charter on Access to public information and administrative documents³⁸ by stating that the two above-mentioned texts establish the determination of the Nigerien authorities to promote access to information. He however recalled that these two Orders have some inadequacies; that is the Minister of Communications reserves the right to appoint the President of ONC as well as the Secretary General. In conclusion, he indicated that the Constitution of the 7th Republic provides for a High Council on Communications (CSC) to replace the ONC.

109. Mr. Tinni Hamma, Secretary General of the ONC, spoke about the issue of individual and group rights. Thus, he indicated that one of the first missions of the ONC is to ensure respect for schools of thought and to ensure equal and free access to the media during elections. This is expressed by public declarations and press statements. Equality is also expressed through the granting of air time to the various candidates. Moreover, he indicated that decisions taken by the ONC are administrative acts subject to appeal. According to him, the ONC espouses transparency and a participatory approach. It is a deliberative body. On the issue raised by Commissioner Maïga regarding the challenges faced by the ONC, he indicated that they relate to inadequate resources in an electronic space

³⁸ Order no. 2011-22 of 23 February, 2011

which is growing by the day. Another difficulty remains the control of frequencies because regulation is supposed to be a permanent process.

110. On penalties, he stated that the most common ones are formal notifications and suspension. He then touched on the penalty slapped on a Nigerien daily for plagiarism and the suspension of five others because of a dispute with a telephone company, MOOV-Niger. Finally, the SG of the ONC touched on the Media Assistance Fund whose modalities are determined by a decree³⁹.

MEETING WITH H.E. MR. KOUNOU HASSANE, MINISTER OF YOUTH, SPORTS AND CULTURE

111. In her introductory remarks, Commissioner Maïga indicated that the last AU Summit held in Malabo, Equatorial Guinea was dedicated to the problems of the youth in Africa. This means that youth issues are real and current problems. She wanted to know the remit of the Ministry of Youth and the correlation with the promotion of the rights of the youth.

112. When he took the floor, the Minister, Mr. Kounou Hassane, expressed happiness about the fact that the delegation of the African Commission included the Ministry of Youth in the human rights concerns in Niger. He stated that he was in Malabo during the Summit devoted to youth concerns. With regard to the duties and responsibilities of the Ministry, he, among others, listed employment creation for the youth, the formulation and implementation of youth policies and the establishment of technical and vocational institutions. In his view, an idle youth cannot be responsible. That is why several ongoing projects seek to include the youth in government programmes like the one on reproductive health. This project

³⁹ Decree No. 2010-723/PCSRD/MCNT/C of 21 October, 2010 determining the modalities of financing and use of donor funds and indirect media support measures.

which was jointly designed with the Ministry of Health costs about seven (7) million Euros and is funded by some partners such as the UNFPA and Luxembourg. The Minister of Youth also indicated that issues of violence against women are also taken into account by the projects and programmes of his Ministry.

113. According to the Minister, there are four (4) youth centres under the Youth Ministry, while six (6) others are administered by the communes. These are neighbourhood centres which serve as relay centres for the implementation of youth programmes.

114. Youth with disabilities are also taken care of by his Ministry. Moreover, some of them participated in the Rome Games where they won medals. They manage certain income-generating activities (IGAs) such as the manufacture of balls or the weaving of chairs.

115. He indicated that the National Youth Policy (PNJ), falls coherently into the Accelerated Development and Poverty Reduction Strategy (SDRP) which is the general reference framework for the economic, social and cultural development of Niger⁴⁰. It is a demonstration of the desire of the Government of Niger to ensure better inclusion and participation of the Nigerien youth in the achievement of the Millennium Development Goals (MDGs) and the other regional and international conventions and strategies to which Niger is a party⁴¹.

116. Despite the remarkable efforts made by the authorities and the other stakeholders for the benefit of the youth, as a result of the decisive role the latter plays and will continue to play in the socio-economic development of Niger, the youth sector still faces numerous constraints. Indeed, with the

⁴⁰ Ministry of Youth, Sports and Culture, "National Youth Policy Paper of Niger".

⁴¹ Ibid.

youth constituting a very high proportion of the population, Niger finds itself in a situation where there is a high demand of services by the youth whose needs and aspirations affect all areas of socio-economic and cultural development of the country : health ; education ; culture ; employment and employability ; sports and leisure, etc. In the face of a national context characterized by more or less huge deficits in all areas, it follows, therefore, that demand for services by the youth does not match supply⁴².

117. According to him, there are constraints related to overlapping between public bodies responsible for oversight and care for the needs of the youth. A case in point is that of the Ministries of Youth, Health and Education, Public Service, Labour and Employment, Trade, Industry and Promotion of Youth Entrepreneurship as well as the Ministry for Population, Women's Affairs and Child Protection. The various government stakeholders act within the context of their mandates regarding the specific areas relating to the needs of the youth.

**MEETING WITH MR. SIRFI ALI MAIGA, PRESIDENT OF THE BAR
ASSOCIATION OF NIGER.**

118. In her introductory remarks, Commissioner Maïga made a brief presentation on the African Commission. She emphasized its protection mandate and said the Commission takes a lot of decisions but that it is still subject to the centralized political body. The procedure for communications/complaints at the African Commission is a contradictory procedure which allows parties to share and discuss findings. She further made it known that the African Commission had developed a lot of jurisprudence on the notion of exhausting local remedies. Concerning the enforcement of the decisions of the African Commission, Commissioner Maïga indicated that the States are increasingly contributing to the

⁴² Ibid.

implementation of decisions which concern them. She underscored the need for the Bar to show interest in the African human rights protection system. She regretted that in several African countries, the Bar still does not enjoy good relations with the Ministry of Justice. Moreover, she denounced the fact that the Bar is excluded from grants given by the State to other entities such as the Media and political parties in several countries. She regretted the lack of training of some lawyers on the regional and international conventions and regulations ratified by the country and which, as a result, are not invoked before the national courts. Finally, she indicated that the Bar should also think about alternative solutions for the improvement of some texts, particularly those relating to legal assistance and preventive detention.

119. “We are Lawyers. We are human rights defenders”. It is with these words that the President of the Bar Association of Niger, Mr. Sirfi Ali Maïga, started his statement. He then acknowledged the lack of training within the profession but further stated that for some time now, lawyers have been receiving human rights training, as proved by the numerous seminars and workshops organized for them. He then touched on the active involvement of the Bar in the case involving children contaminated in Tibiri⁴³. He indicated that there are situations where the Bar can take up a case by setting up committees on certain specific matters. That was the case with the issue of slavery in Niger. He was happy about the fact that the law now criminalizes the practice of slavery in Niger, but regretted the existence of loopholes in the law in the area of violence against women. Mr. Ali Sirfi

⁴³ An international fact-finding mission report of the International Federation on Human Rights (FIDH) clearly establishes the responsibilities in the tragedy faced by children in Tibiri (a region in Niger), who were contaminated for more than fifteen (15) years by the water of a well drilled in 1983 and commissioned in 1985. Its fluoride content (higher than 3mg/litre and sometimes sharply rising to 6.9 mg/litre), by far higher than the recommended level by the World Health Organisation (WHO) of 1.5 mg/litre, caused disabilities among a whole generation of children aged between 15 months and 15 years at the beginning of the century, disabilities ranging from discoloration of the tooth enamel leading to mineralization; and for about 500 of them, it caused a very serious form of bone malformation.

Maïga further acknowledged the problem of the quest of remedies for socio-economic rights in Niger. On relations between the Bar and the Criminal Investigations Department, he noted that there is a marked improvement with the reform of the Penal Code in 2003.

120. On the issue of violence against women, Commissioner Maïga recommended that the interest of partners be should be stimulated by initiating conferences and laying emphasis on communication. For instance, «hot lines» could be instituted for citizens whose rights have been violated. The Bar could also form strategic alliances with some associations such as the Association of Women Lawyers. They should also think about setting up an internal committee to record acts of violence perpetrated against women and to offer victims free legal assistance.

**AUDIENCE WITH H.E. MR. ISSOUFOU MAHAMADOU, PRESIDENT
OF THE REPUBLIC, HEAD OF STATE AND CHAIRMAN OF THE
COUNCIL OF MINISTERS**

121. The delegation of the African Commission was received in audience on Friday 22 July, 2011 at 11 a.m. at the Presidential Palace. For the occasion, the President of the Republic, H.E. Mr. Issoufou Mahamadou, was assisted by his close aides and the Minister of Justice, Keeper of the Seals and Spokesman of the Government, Mr. Marou Amadou.
122. In her introductory statement, Commissioner Maïga sincerely thanked the President of the Republic for the honour he had done the ACHPR delegation by sparing some of his precious time to receive the delegation. She indicated that it was the normal practice during promotion missions by the African Commission to pay a courtesy call on the President of the Republic and to bring some areas of concern on the human rights situation in the country to his attention. She briefly touched on the various

discussions she had had so far with the Highest Authorities in Niger in her capacity as Commissioner responsible for the promotion of human rights. She commended the political will displayed as well as the vibrant commitment of the ministers and other administrative authorities they had met thus far. She was glad that the visit of the African Commission coincided with the first hundred (100) days in office of the new government which was inaugurated on 7 April, 2011. The Commissioner indicated that the speech delivered on this occasion by the President of the Republic provided a comprehensive overview of his roadmap for the months ahead. She then made an impassioned plea for the upcoming ratification of the Maputo protocol by Niger. She indicated that the new Constitution of 25 November, 2010 provides an opportunity to initiate the ratification by, where necessary, expressing reservations about the provisions which still problems in Niger. With regard to the concern of the Minister, Mr. Marou Amadou, regarding the opposition by the oulemas/witch doctors to the adoption of the said text, she indicated that the latter are not Parliamentarians.

123. While expressing gratitude to Commissioner Maïga for the visit, H.E. Mr. Mahamadou Issoufou reaffirmed his commitment and determination to promote and ensure respect for human rights in Niger. In this regard, his government is committed to complying with the obligations under the new Constitution. According to him, relations between the citizenry and the State will henceforth be governed by law. He stressed that in the new Niger, there will be no place for arbitrariness. He then mentioned his highly ambitious employment creation programme of 50,000 jobs per year. On the question of press freedom, he stated that after 100 days of governance, no journalist has been arrested or persecuted. The same goes for opponents. He indicated that his desire is to create conditions for a peaceful political climate. He added that this is to demonstrate to the people that «the stance we took while we were in opposition was sincere. »

124. Commissioner Maïga thanked H.E. Mr. Issoufou Mahamadou for the interview. She concluded by urging him to give a new boost to diplomatic efforts made to give Nigerien citizens a greater presence in AU bodies such as the African Commission , the African Court or even the Committee on the Rights and Welfare of the Child. The visit of the delegation received wide coverage in the State media and was crowned with interviews Commissioner Maïga granted Niger television.

**MEETING WITH CHIEF SUPERINTENDENT OF POLICE
SOULEYMANE GARBA, DIRECTOR GENERAL OF THE NATIONAL
POLICE SERVICE**

125. Commissioner Maïga briefly presented the African Commission and dwelt at length on the role of the Criminal Investigation Department (CID) in the respect for human rights and the protection of citizens. She then wanted to know about the particular challenges faced by the CID with regard to the understanding and enforcement of the laws and conventions on human rights.

126. The Director General of the National Police Service informed the delegation about the existence of a joint human rights programme with the ANDDH since 2002. Furthermore, human rights have been incorporated into the training programme at the Police College. A great deal of attention is being paid to the behaviour of policemen, especially for them to do away with unnecessary violence in maintaining order. Efforts have also been made in the area of training to raise the level of police officers. They are permanently conscientized and constantly reminded about the respect for human rights.

127. On the issue of the number of women in the Police Service, he answered that they account for 7% of the total. There are 2 women superintendents out of the 114 at post. Moreover, there is a Unit in charge of violence against women. The DG specified that, in partnership with UNICEF, a structure has been put in place for the prevention of violence against women and the protection of women and children. In all the police units, he disclosed that there is an Inspector in charge of women's and children's affairs. Commissioner Maïga however recommended that the gender policy should be strengthened in the national Police Service.

128. With regard to custody facilities, the DG admitted that they are in a very deplorable state.

129. On issues relating to the use of torture and cruel, degrading and inhuman treatments, he intimated that there is a disciplinary committee to crack down on such acts. He added that all infringements of the Code of Ethics of the Police Service are severely punished.

VISIT TO THE NIAMEY PRISON

130. Statistics as at 22 July, 2011.

Prison population: 890

Convicts: 373 – 3 women and 370 men

Remand prisoners: 517 – 456 men, 30 women and 31 minors

131. **Visit to the minors' section :**

- Date of establishment : 16 June, 1998
- Population : 33 (all in preventive custody)

- Recurrent offences: theft, rape and murder.
- Average age : 13 to 18 years

132. The African Commission delegation was welcomed to the Niamey Prison (MAN) by Captain Alhousseini Emakachaou, the superintendent of the MAN. The delegation realized that the minors' section had three cells with 8 mattresses in each of them. The superintendent indicated that the State spends an average of FCFA 300 a day on each detainee for feeding. In the area of education, the minimum conditions are guaranteed. This explains the success of a detained minor in the General Certificate of Secondary Education (BEPC). The NGO called *Prisonniers sans frontières* (prisoners without borders) is very active in supporting the prisons. The delegation also observed cases of prolonged detention without trial. That is the fate of a person by name Bachir Hanza who was arrested at the age of 17 years and is now 22.

133. On the right to recreational activities, the delegation observed that the minors in detention have a garden, a television hall and a playground.

134. The delegation also noted the existence of a listening centre for the detainees. This centre carries out a study sponsored by UNDP and produced in collaboration with the National Guard (NG). This programme highlights the detention conditions for appreciation by the authorities and for them to intervene more positively. Thus, the listeners have a questionnaire for the detainees. They question them on their sanitation, health and feeding conditions; the duration of their detention and the reason for their imprisonment. A questionnaire is also given to the NG. At the end of the interview, the listeners produce a report and make recommendations for the attention of all stakeholders concerned, especially judges, lawyers as well as the NG. The listening centre of the MAN is at a

trial phase and the experiment will soon be extended to the whole of the country.

135. With regard to health and hygiene, the delegation observed open septic tanks and a refuse disposal site situated at the entrance of the prison.

136. Visit to the male section :

- Capacity: 350
- Prison population : 908
- Convicts : 380
- Remand prisoners : 528

137. According to the Director of the MAN, the original capacity of a cell was 70 detainees, but today it is 110. On entering the male section, the delegation noted that the officers were wielding whips. When Commissioner Maïga questioned the superintendent about the whips, he stated that it was simply a dissuasive mechanism as a result of the overpopulation in the prison as compared to the reduced number of wardens.

138. There is a library at the MAN which was inaugurated on 6 June, 2006. It is equipped with tapes, books covering general literature as well as religious books. Commissioner Maïga recommended to the superintendent to request the print media to kindly provide the library with copies of their newspapers on a daily basis.

139. On feeding and sanitation, the delegation observed that the food for the detainees is insufficient, given the amount of FCFA 150 a day provided for each detainee. The sanitation conditions are very worrying because about 400 detainees share 3 toilets.

140. The delegation was able to identify problems faced by most of the detainees at the MAN, namely: prolonged detention, lack of legal and judicial assistance and excessive adjournments by the magistrate's courts and tribunals. Thus, some detainees stated that cases can be adjourned between 20 and 36 times before judgment is given.

141. As regards the infirmary at the MAN, the delegation observed that it is in a good state and has essential drugs as well as an air-conditioned consulting room, to the extent that the people living nearby go there for consultation. On this point, Commissioner Maïga recommended that patients living nearby should be referred to other health centres because the infirmary is supposed to be exclusively reserved for detainees who have pressing needs.

142. **Visit to the female section :**

- Date of establishment : 12 January, 2008
- Population : 32
- Convicts : 3
- Remand prisoners: 29
- Cells : 8 mattresses
- Recurrent offences: infanticide, murder...
- Leisure activities: sports - two times a week, Koran classes, dressmaking and manufacture of soap.

143. The delegation observed that women detainees are free to engage in some activities like dressmaking, dyeing or even the manufacture of liquid soap. Commissioner Maïga however expressed concern about dyeing which is likely to cause a real long-term health problem if the waste water from this activity is not collected and carefully treated or disposed of.

144. Following the visit to the various sections, the delegation had a discussion with the superintendent of the MAN. Commissioner Maïga seized the opportunity to take stock of the visit to the various sections. According to her, the main problems are: overcrowding, malnutrition and squalor. In addition to these are concerns about red tape regarding justice delivery which is characterized by the numerous adjournments by the courts and the high number of cases under investigation. To address the various problems, she indicated that the Government of Niger should appeal for support from development partners. There is the need to provide enough financial resources to increase the number of prisons and to improve the feeding, health and education of prisoners.

145. Captain Alhousseini Emakachaou indicated that one of the major problems remains the geographical location of the prison which is situated in the centre of Niamey. That is why he pointed out that it was urgent to fast-track the projected construction of two prisons in Niamey and Maradi. He further deplored the fact that adult detainees are kept in the same cells as delinquent minors and criminals. The consequence of this crowding is that delinquent minors often go back with some expertise in crime and organized crime. He also deplored the fact that the sector Ministry that the authorities do not provide him with a fixed budget. He stressed that every quarter, his budget varies between FCFA 600,000 and FCFA 1,000,000. He further decried the inadequate staffing position and the fact that the staff is not always trained to manage the prison population. In view of the overcrowding in the prison, the frequency of violence within the MAN is high. There are always prisoners who get seriously injured. Load shedding and excessive power outages also create total insecurity in the prison which has no generators, let alone an emergency exit. In conclusion, he mentioned HIV positive detainees, some of whom have received presidential pardon. He indicated that most of the HIV positive prisoners are habitual offenders. Voluntary screening sessions are organized in the prison. The last of such

sessions took place in 2009. ARVs are provided to detainees thanks to the existing collaboration with some NGOs. However, these NGOs have stopped their assistance since the transitional period.

**MEEING WITH PROFESSOR MAHAMAN TIDJANI ALOU, DEAN OF
THE FACULTY OF ECONOMICS AND LAW (FSEJ)**

146. The Dean of the Faculty of Economics and Law (FSEJ) welcomed the delegation and indicated that a meeting should have taken place with students but they were on vacation. He then stated that the FSEJ has a programme on human rights and expects to award certificates for training in human rights very soon. In this regard, a team of students recently participated in the African human rights advocacy competition organized by the University of Pretoria. Furthermore, his department organizes a programme on the economic rights of women, particularly access to water. According to him, the successive coups d'état have not affected the morale of Nigeriens who still believe in human rights.

147. For her part, Commissioner Maïga expressed concern about the rate of access of girls to higher education and about the challenges relating to this sector in Niger, such as the delicate issue of well-trained human resources. She also wanted to know about the relationship between the FSEJ and the private sector. In the choice of topics for dissertations, she wanted to know whether there was a partnership with the State departments. She concluded by saying that there was the need to think about an incentive policy for girls at the higher education level by setting a quota, for example, for the various examinations for some girls graduating from the University.

148. On the issue of human resources, the Dean of the FSEJ ironically stated that the government has a mining policy just like AREVA, because every

minister who comes in induces a brain drain to the technical departments of his ministry. Thus, they take away the well trained human resources and the Faculty has practically nothing left. He announced that the FSEJ will soon receive the Justice Documentation Centre. He further indicated that the example of Madam Bazeye⁴⁴ during the *Tazartché* made people to recognize that a judge of the Constitutional Court can at any time challenge violations of the Constitution. However, he hoped to have better relations with the Ministry of Justice. For the past four (4) years, the FSEJ has been running the Bachelor's-Master's-Doctorate system (LMD). The objective is to offer for continuing education courses and to award professional degrees in human rights. According to the Dean, the plan is to institute academic activism within the FSEJ. He admitted that the gender dimension is still an unresolved issue because there are few women teaching at the higher education level. According to him, the University is no longer able to attract many people, while the youth prefer to take courses in banking.

VISIT TO THE NIAMEY NATIONAL HOSPITAL

149. The visit started with an introduction of the staff of the Niamey National Hospital (HNN) to the delegation by the Director General (DG) of the Hospital, Mr. Seydou Maiguizo. Commissioner Maïga then wanted to know the key challenges faced by the HNN, conditions of access to drugs by the people and, possibly, if there was a continuing training programme.
150. The DG responded by saying that the difficulties faced by the HNN are mainly structural because the grant is grossly inadequate to meet the needs of the hospital facility. Comparative studies have shown that the Ouagadougou Hospital gets FCFA 5 billion as against 1.5 billion by Niamey. The wage bill of the HNN is FCFA 1.9 billion, a situation which leaves little room for investment because whatever allocation is given by the

⁴⁴ President of the Constitutional Court in 2009.

State goes into the payment of salaries. He also deplored the lack of staff because increasingly fewer doctors and nurses are being posted to the HNN. The referral hospitals like those in Niamey and Zinder are not included in the EU Common Fund which supports some African States.

151. On the issue of investments, the DG also deplored the low level of investments because the HNN facilities require serious renovations and replacement of equipment. In fact, for instance the X-ray department which dates back to 1984 needs new equipment because its equipment pool which has already become obsolete has been seriously affected by the load shedding exercise. He, therefore, recommended to the government to invest more in health equipment at the HNN.

152. Free medical care applies to children between 0 and 5 years and to childbirths by Caesarian section. This facility also applies to gynaecological cancers and the supply of ARVs. Medical care coverage provided to public service staff by the State is 80%. On this medical care, the DG revealed that the State to date owes HNN an amount of FCFA 1.4 billion. This shortfall has serious repercussions on the smooth operations of the hospital. The pharmacy management system in place at HNN gives room for more competitive prices and even the lowest prices in all the hospital facilities. The public health pharmacy system has both generic and patented medicines. He however regretted that there is no free care for social cases such as persons with disabilities or older persons, so much so that in 2010, the HNN had to spend nearly FCFA 2 million on this category of patients without receiving any reimbursement from the State.

153. He disclosed the need for the government to recruit more doctors, nurses and other paramedical staff. He indicated that the current nomenclature of the public service has 3 categories of personnel, particularly public servants, agency workers and seconded workers.

However, agency or seconded workers find themselves in a state of insecurity. According to him, 30% of those who take the competitive examination are personnel from the hospital. The Ministry should, therefore, place these officials so recruited at the disposal of the hospital, depending on the identified requirements.

154. As part of the modernization of public services, the DG indicated that two (2) documents are expected to be validated soon, especially the document on the rights and duties of the client and the Charter on in-patients.

MEETING WITH MR. YAYE OUMAROU, PRESIDENT OF THE STATE COURT

155. In her introductory statement, Commissioner Maïga emphasized the challenges relating to the administration of justice in Niger as a result of the vastness of the country. She wanted to know how rights are exercised in very remote or landlocked communities. She also touched on issues relating to the lack of personnel and the need for capacity building for the existing staff. Finally, she wanted to know the public perception about justice. In short, the image portrayed by the justice system in Niger.

156. Reacting to the concerns of the Commissioner, Mr. Yaye Oumarou indicated that the following types of courts exist in Niger :
- One (1) State Court (CE)
 - Two (2) Courts of Appeal
 - Eight (8) Regional Tribunals

157. According to him, these figures are insignificant for a country as vast as Niger. Another concern can be summed up as the low income of citizens which sometimes makes it difficult to access justice, particularly at the CE. He regretted moreover that the decisions of the CE are not available. He emphasized that the last publication of the Court's bulletin dates back to 2005. As far as perception of the public about the judicial system is concerned, he indicated that, rightly or wrongly, this image is negative. According to him, this is due to ignorance of the rules of procedure. That explains why it would be necessary to simplify the existing rules of procedure. On the issue of working conditions, he indicated that the emoluments of judges are reasonable because he thinks that their income is sometimes double that of some categories of public servants with the same qualifications. With regard to relations with the Bar, he admitted that they were not good. Furthermore, most lawyers have their chambers in Niamey and only about three can be found in the countryside.

**MEETING WITH MADAM MANOU FASSOUMA, JUDGE AND
PROSECUTOR GENERAL OF THE STATE COURT**

158. The Prosecutor General at the State Court welcomed the delegation and quickly addressed certain concerns raised by Commissioner Maïga. Thus, she said that the timeframe for preventive detention poses serious problems. She deplored the fact that the lack of training for judicial staff is a hindrance to law enforcement. She also regretted that the number of women in the judiciary was insignificant despite the existence of the law on quotas.

MEETING WITH THE DIRECTOR OF THE PRISONS SERVICE

159. In her introductory remarks, Commissioner Maïga recalled that the delegation had over the weekend visited the MAN which, according to her, reflects the same realities that characterize most prisons in Africa, namely overcrowding, malnutrition, precarious conditions, ageing infrastructure and the high number of prisoners awaiting trial.
160. Reacting to these issues, the Director indicated that the management of the prisons service comes down to managing the daily problems of the prison.
161. According to her, with regard to the budgetary allocation to prisons, the main challenge facing the service is the inadequacy of resources. She indicated that the prison service receives only 40% of the Ministry's budget. The bulk of this budget is spent on the rehabilitation of the prison facilities to the detriment of social reintegration. The State has entirely left this aspect to partners or stakeholders in the private sector. With support from UNICEF, a programme for the reintegration of prisoners was developed in 2008. However, the implementation of this programme is yet to take off.
162. The Director said that the second challenge has to do with personnel. She made it known that the NG is under the Ministry of the Interior and not the Ministry of Justice, a situation which explains the problems encountered in the management of the funds allocated to them. They do not account for the uses to which these funds are put. Besides, they are appointed or dismissed by their supervisory authority before the latter informs the prisons' service. In this regard, she strongly recommended that such staff (NG) should be seconded and brought under the Ministry of Justice. By so doing, they can account for the requirements for the smooth running of the prisons service. Besides, with regard to the NG, qualified persons are not always recruited.

163. The third challenge is related to the training of prison guards in human rights. Here too, most of the training is provided by the partners. Some of the personnel of the NG are illiterate. The lack of adequate training could also be as a result of the lack of a penal and correctional policy.
164. The fourth challenge has to do with the lack of prison infrastructure. For instance, the MAN which was built in 1945 to house 300 inmates now has 900. The Director recalled that it is difficult to pursue a humanization policy in such conditions. With a significant number of second offenders, the MAN has become a school of crime. The transfer of inmates as the only means of decongesting the MAN is not enough. Provision should also be made for alternative penalties so as to make imprisonment an exception.
165. On the way forward, she was of the opinion that there is the need to envisage the development of a penal and correctional policy, to establish a modern prisons service and to make provisions for the construction of new prisons. In this regard, it is projected that two (2) new prisons will be built, with a capacity of 1,500 inmates each. There should also be plans for the establishment of prison farms, the computerization of all prison registries, the introduction of a warning system against arbitrary and prolonged detentions, the creation of mechanisms to alert relatives, the appointment of a judge to handle the enforcement of sentences and the establishment of a better relationship between public prosecutors and prisons superintendents on the transmission of lists.
166. Commissioner Maïga cited the case of Mali, where the prisons service holds an annual inmates' week. The week is not only an opportunity for them to exhibit their products (sewing ; hairdressing, carpentry...), but also a way for the Ministry of Justice to making the public aware that going to prison is not an accident of fate and that it is not always because you are a

bad person that you end up in prison. At the end of this fair which is open to the public, an assessment is presented on television.

MEETING WITH THE ASSOCIATION OF TRADITIONAL RULERS OF NIGER

167. The Delegation was welcomed at the headquarters of the Association of Traditional Leaders of Niger (ACTN) by Mr. Amirou Assoumana Alhassane Baldé, the Deputy General Secretary (DGS), Amirou Assoumana Alzouma, Head of the Liboe District, and Chief Garba Yayi, President of the Regional Office.

168. In her opening remarks, Commissioner Maïga said that traditional leaders are important stakeholders in social and administrative organization. In this respect, she touched on the preamble of the African Charter, which refers to the virtues of historical traditions and values of African civilization which should inspire and characterize reflections on the concept of human and peoples' rights. Thus, she wanted to know the relationship between the ACTN and the State actors and civil society organizations as well as the extent to which the ACTN is involved in dispute resolution.

169. Chief Amirou Alhassane Baldé said that the ACTN has a better understanding of human rights today. However, he acknowledged the need for improvement. One of the strengths of the traditional chieftaincy is that 99% of them are former senior public servants. According to Chief Amirou Assoumana Alzouma, chieftaincy faces two challenges, namely: the conflict between custom and religion. Under Order no. 93/28 of 30 March 1993, supplemented by the law no. 2008/22 of 23 June 2008, traditional chieftaincy remains the only institution vested with conciliatory powers. Chief Yayi Garba said whenever the ACTN arrives at a negotiated solution in the resolution of a conflict, it prepares a conciliation report which is

implemented by the court. He further stated that in 1998, the ACTN supported UNICEF at a time when this specialized agency had problems with its polio immunization campaigns because parents were less enthusiastic about it. Then in 1999, a memorandum of understanding that sought to involve the traditional rulers in the campaign was signed. That same year, 375,000 children were immunized, with 25,000 of them in Zinder. Those children had never been immunized. Thanks to the support from the ACTN, Niger emerged from the category of countries considered to be the most affected by poliomyelitis. However, according to the traditional leaders, the programme was discontinued in 2008 because of a misunderstanding and a disinformation campaign to make people believe that through these vaccines, the Europeans wanted to reduce the Muslim population. Today, the Ministry of Health is responsible for the matter.

**MEETING WITH MADAM SALIFOU FATIMATA BAZEYE,
PRESIDENT OF THE CONSTITUTIONAL COURT**

170. In her introductory remarks, Commissioner Maïga briefly presented the Commission and also explained the two core mandates – the promotion and protection of human rights. Regarding the protection mandate, she said that the African Commission receives complaints from individuals and NGOs against States Parties and makes decisions which are appended to the Activity Reports submitted to the Authority of Heads of State and Government for adoption. She regretted the absence of Niger from the regional bodies. The Commissioner indicated that her delegation has observed the activism of the civil society organizations and the many complaints about the extractive industries. She also indicated the need for continued advocacy for the ratification of the Maputo Protocol, for, in her opinion, it is better to ratify with reservations than to refuse to ratify altogether. With such a progressive Constitution, Niger cannot afford to move backward.

171. For her part, Madam Bazeye indicated that the Constitutional Court (CC) is made up of 7 members who are also human rights defenders. As such, the CC invokes the relevant legal instruments relating to the protection of human rights in its various decisions. In addition, she regretted the congestion within the judicial investigation offices, a situation which creates problems in the area of preventive detention. She also raised other challenges relating to the staffing problem (insufficient judicial staff), the lack of infrastructure, population growth as well as the inertia associated with land dispute proceedings.

**MEETING WITH HIS H.E MR. HAMA AMADOU, SPEAKER OF THE
NATIONAL ASSEMBLY**

172. The delegation was received by His Excellency Mr. Hama Amadou, Speaker of the National Assembly (NA), in his office. The Commissioner briefly presented the African Commission and indicated that its primary objective in visiting the House was to sensitize the elected representatives on the ratification of African texts, particularly those concerning the status of women, e.g. the Maputo Protocol. She congratulated the Speaker for the recent ratification of the African Charter on Democracy, Elections and Governance and expressed the wish that other texts will also be ratified soon, particularly the Convention on Preventing and Combating Corruption; the AU Convention for the Protection of and Assistance to Internally Displaced Persons (Kampala Convention) and the Optional Protocol to the Convention against Torture and Cruel, Inhuman and Degrading Treatments.

173. The Speaker of the National Assembly responded by saying that the legal instruments referred to will be easily adopted by the new Parliament.

He added that when the Maputo Protocol was rejected by Parliament, 67 out of the 113 members were illiterate and they opposed it. He stated that today, things have changed positively and hoped that ratification, even with reservations, can be easily explained and understood by the members of the current Parliament.

MEETING WITH THE VARIOUS PARLEMENTARY GROUPS

174. Commissioner Maïga provided the honourable members with information on the objectives of the promotion mission of the African Commission to Niger. She then paid tribute to the presence of women in Parliament. She said she was particularly happy that the debate on the status of women is still an issue in Niger because of the legal insecurity created by the overlap of several sources of law. On this issue, she stated that although the constitution of the 7th Republic of 25 November, 2010 offers numerous opportunities with regard to the protection of the citizen's rights, it still needs to be complemented by other relevant international and regional texts. Thus, she recalled that the Maputo Protocol ratified by 29 African States has not yet been ratified by Niger.

175. Speaking after the Commissioner, an MP, Tidani Abdoukadi, thanked her for the interest shown in the Nigerien parliament, a newly installed parliament. He indicated that the new MPs are not yet fully abreast of the issue of human rights and the realities of the African human rights protection system. For her part, another MP, Kane Assamaou, criticized the delays in the transmission of the texts to Parliament. According to her, the government signs agreements which it does not forward to Parliament on time. Honourable Madam Hambally Nana Haouaou Abdou indicated that the number of women in Parliament, 18 as against 88 men, is still woefully inadequate. On the Maputo Protocol, she

stated that five (5) major provisions are an obstacle to its ratification, particularly the one relating to succession. According to Honourable Madam Alhousseini Adiza Dadi, the reservations of Niger on the CEDAW are contrary to the principle of equality stipulated in Article 8 of the Constitution of the 7th Republic.

176. Some MPs had misgivings about the ratification of the said Protocol because, in their opinion, the current environment in Niger does not favour it. Thus, according to one MP, Mahaman Sani Amadou, there are rumours that H.E President Issoufou Mahamadou was elected through external financing in order to have the Family Code passed. The culture of every nation must be taken into account and the importation of western ideas which are remote from African realities must also be avoided. Another reason for the reluctance of some Members of Parliament to ratify the Maputo Protocol could be the fear of being labelled as "*Kaffirs*"⁴⁵. Commissioner Maïga explained extensively that it is an African text formulated by Africans and that it takes the multiple facets of African realities into account. She urged the MPs to ratify the text, knowing that they have the latitude to express reservations on provisions which still do not meet the approval of the people of Niger.

MEETING WITH MR. GARRY CONILLE, RESIDENT COORDINATOR OF THE UNITED NATIONS SYSTEM AND UNDP RESIDENT REPRESENTATIVE

177. In her introductory remarks, Commissioner Maïga recalled the general interconnection of the various projects and initiatives developed by the African Commission. She said that, in its advocacy with the authorities, the African Commission always emphasizes the concerns of civil society and ensures the harmonization of both State and NGO initiatives. She then wanted to know about the main areas of UNDP intervention in Niger. She

⁴⁵ Unbelievers, people who have turned their backs on Islam.

also wanted to know the difficulties and challenges faced by the Office in Niger, while touching on the new opportunities available since the swearing in of new authorities under the 7th Republic.

178. Mr. Garry Conille thanked the Commissioner and indicated that she had correctly outlined the context and the current situation of Niger. According to him, the UNDP's approach is an integrated one. His office also intends to take advantage of the opportunities offered with the coming into office of the new authorities through popular legitimacy. He said that in his discussions with the government, he noted both the good understanding and good intentions with regard to the improvement of the status of women. This is why he welcomed the good spirit of cooperation existing between the United Nations system and the government agencies. He underscored the fact that it was a good window of opportunity which should be capitalized upon.

179. He also informed the delegation that the UNDP's work in Niger is part of a technical support arrangement for development. For this purpose, it is worth noting that this intervention involves two (2) main areas, namely: all human rights components, brought about by capacity building and support for the ratification of treaties; and promotion of women's rights through the Gender and Human Rights Thematic Group. According to Mr. Conille, these interventions resulted in the development of a common gender programme that relies on the implementation of the National Gender Policy as well as the capacity building of some members of the government, civil society and development partners. Regarding the promotion of women's rights, he believed that it is an ongoing dialogue. In this regard, he wished to involve the Commissioner in the programmes and activities of the United Nations System in Niger, particularly in the area of awareness creation and the training of the various social actors. He concluded by saying the 3N⁴⁶

⁴⁶ Nigeriens feed Nigeriens

policy envisaged by the government cannot be achieved if women's rights are lagging behind.

180. Commissioner Maïga said that her expertise as the Special Rapporteur on women's rights in Africa could indeed be useful to the Resident Representative. She also urged Mr. Conille to encourage competition among girls in the schools by creating a framework for exchange and collaboration with the Association of Women Lawyers in Niger. One should also not neglect the First Ladies of the continent as well as the Network of Women Parliamentarians who also constitute a very important channel. In addition, she recommended that the authorities should be lobbied for the law on quotas to be reviewed because in its current state, it does not augur well for the representation of women in decision-making bodies. Indeed, the law stipulates 10%, whereas an average of 30% is required by the African Union.

OBSERVATIONS AND ANALYSIS

181. In this section, the African Commission analyzes the human rights situation in Niger based on information gathered during interviews and meetings that the delegation had with leaders of the various institutions and the other stakeholders involved in the promotion and protection of human rights.

182. It should be noted that interviews with national and local human rights officials, and Agencies of the United Nations system, as well as meetings with civil society organizations and stakeholders from both the public and private sectors are the primary source of information for the compilation of this report. This report is meant to be a first step towards the restoration of dialogue between Niger and the African Commission and an essential tool for the evaluation and consolidation of human rights in Niger. These observations or findings focus on the implementation of all the human

rights contained in the African Charter, with particular emphasis on specific thematic areas relating to the situation of women and the difficulties with the adoption of a Personal Status Code; prisons and the practice of torture in Niger; the situation of HRDs; the realization of economic, social and cultural rights, and the management of extractive industries.

183. Finally, it should be recalled that the mission to Niger falls within a post-electoral context in which the effective fulfilment of electoral promises necessarily comes up against challenges. That is why, through this report, the African Commission makes relevant recommendations to the highest authorities in Niger to explore all the opportunities offered by the Constitution of the 7th Republic for an effective implementation of the rights guaranteed by the African Charter. It also seeks to open an inclusive dialogue with all stakeholders involved in the national development process.

184. The report identifies positive factors identified in the implementation of human rights in Niger, reviews the main challenges or areas of concern and makes appropriate recommendations to the government of Niger. In short, it is a strong advocacy from the African Commission for a renewed commitment by the government to ensure that the African Charter is effectively implemented in Niger.

POSITIVE FACTORS

The African Commission welcomes:

185. The political will displayed by the Highest Authorities of Niger during the various meetings and interviews to make the rule of law prevail in Niger ;

186. The Declaration of the Government General Policy coupled with the commitment to build strong, credible, and sustainable democratic institutions and to ensure the safety of goods and persons throughout the country ;
187. The promulgation of a new constitution on 25 November, 2010 which protects human rights more than the previous ones ;
188. The relevant innovations contained in the constitution of 25 November, 2010, in particular those aimed at achieving fundamental rights such as “the right to food” and “the right to drinking water” as well as those relating to the protection of specific women and children’s rights;
189. The establishment of a High Council for Combating Corruption ;
190. The ratification by the government of Niger of the African Charter on Democracy, Elections, and Governance;
191. The efforts made by the authorities of the 7th Republic towards the mass recruitment of doctors, midwives, nurses and teachers, and the consideration of the concerns of the youth through a comprehensive youth reintegration programme;
192. The commitment by the President of the Republic to have 2,500 classrooms built at the primary level;
193. The establishment of a Commission tasked with the review of internal legal texts, including the Civil and Criminal Procedure Codes ;
194. The existence of a bill on the establishment of a legal assistance fund;
195. The projected construction of two (2) new referral prisons in Niamey and Zinder;
196. The establishment in March, 2010 of the Interministerial Committee for the preparation and submission of periodic reports due as part of the international and regional obligations of Niger;
197. The existence and sustainability of a training programme in human rights for the law enforcement agencies (OPJ, NG, lawyers, bailiffs, etc.);
198. The decriminalization of press offences;

199. The existence of a Charter on access to public information and administrative documents;
200. The existence of measures taken in favour of free and compulsory education until the age of 18;
201. Free health care for Caesarean section cases, pregnant women, children under five years of age as well as women suffering from cancer;
202. The eligibility of Niger for the Extractive Industries Transparency Initiative (EITI) ;
203. The dynamism and activism of civil society organizations in Niger which have made a tremendous contribution to the return to democracy and the strengthening of the rule of law;
204. The effective collaboration between the State, technical and financial partners as well as NGOs on programmes involving human rights.

AREAS OF CONCERN

205. In spite of the progress made, the African Commission notes that numerous challenges still remain to be addressed, particularly :
206. The non-ratification by Niger of several international and regional texts which have an impact on the promotion and protection of human rights in general and women's rights in particular ;
207. The absence of a law on personal status (Family Code);
208. The coexistence of several sources of law: customary, religious and modern law in essential areas like family law;
209. The absence of a legislation to protect school girls from sexual violence;
210. The ineffectiveness of the law on HIV/AIDS adopted in 2007;
211. The high illiteracy rate which affects women in particular and constitutes an obstacle to the enjoyment of rights by the citizenry;

212. The inadequacy and poor state of educational structures and health centres;
213. The remoteness of the people from the public justice system and government departments;
214. The worrying situation of the Niamey prison which is linked to overcrowding, poor sanitation, non-separation of prisoners and inadequate feeding;
215. The structural difficulties of the Niamey Hospital which are linked to the lack of personnel and financial resources as well as the obsolete health facilities;
216. The lack of free health care for the needy and social cases;
217. The high fertility rate and poor access to family planning services by women and young girls;
218. The high maternal and infant mortality rate ;
219. The persistence of harmful traditional practices, particularly early marriage and female genital mutilation;
220. The poor representation of women in Parliament, Government, the Judiciary, the Police and the other decision-making bodies;
221. The inadequacy of legal and judicial services for needy citizens;
222. The concerns relating to insecurity and cross-border banditry;
223. The issue of human trafficking;
224. The persistence of land disputes between stockbreeders and farmers;
225. Environmental issues such as desertification and the siltation of the River Niger;
226. Food insecurity and the problems relating to climate change;
227. The violation of rights relating to the exploitation of the extractive industries;
228. The degradation of grazing lands and relocation without adequate compensation, particularly on the Arlit site;

RECOMMENDATIONS

229. In view of the challenges observed, the African Commission makes the following recommendations :

To the Government:

On legal and political conventions and instruments

1. Ratify all international, regional instruments on the promotion and protection of human rights, particularly the Protocol to the African Charter on Human and Peoples' Rights relating to women's rights in Africa (Maputo Protocol) ; the African Union Convention on the protection and assistance to internally displaced persons (the Kampala Convention) ; the African Union Convention on Preventing and Combating Corruption ; the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Punishments and Treatments ;
2. Make the Special Declaration stipulated in Article 34(6) of the Protocol on the establishment of the African Court on Human and Peoples' Rights;
3. Fasttrack the establishment of a National Commission on Human Rights, in accordance with the Paris Principles, and provide it with adequate human and material resources;
4. Continue the discussion with all stakeholders on the issue of the abolition of the death penalty, the problem of security and the conditions for a return to sustainable peace;
5. Adopt a law to criminalize the practice of torture ;
6. Accelerate the process for the adoption of the law to combat human trafficking;

On justice and human rights

7. Fasttrack the adoption of the bill on the establishment of a legal assistance fund;
8. Ensure the presence of counsel right from the preliminary hearing;

9. Strengthen and increase the number of training programmes in human rights for magistrates, lawyers, court clerks and other court officials;

10. Introduce a module on human rights during the initial training of officers of the Prisons Service and the Criminal Investigation Department;

11. Organize the system for the amicable settlement of disputes and ensure the mentoring and training of traditional conciliators, in accordance with the law and respect of human rights;

12. Incorporate the teaching of human rights into the school and training curricula, and popularize the African Charter on Human and People's Rights and the other regional and international legal instruments for the promotion and protection of human rights ratified by Niger.

On women's and girls' rights

13. Adopt a non-discriminatory Family Code which protects the rights of women and girls;

14. Adopt a law on female genital mutilation;

15. Institute national awareness campaigns to promote the education of girls and their retention in school;

16. Increase the number of school canteens as well as first and second cycle schools in the villages and the rural areas to help keep girls in school for them to pursue their education at the secondary school level;

17. Ensure the protection of women's reproductive health and ensure that they get access to adequate health services at affordable costs and at reasonable distances;

18. Adopt legislative and other measures to ensure that both women and girls get access to employment;

19. Establish and/or strengthen socio-economic programmes with adequate budgetary resources for both women and young girls in the rural areas;

20. Promote women's access to credit, training and extension services in both rural and urban areas;
21. Ensure the social protection of women working in the informal sector;
22. Establish a fund for the economic empowerment of women and introduce a national support programme for the development of female entrepreneurship;
23. Create a permanent framework for exchange and dialogue with civil society organizations, religious bodies, the media and community leaders to highlight the status of women and the elimination of harmful traditional practices;
24. Organize awareness campaigns for both men and women in the communities on the harmful effects of early marriage, female genital mutilation and other forms of violence against women;
25. Introduce a training programme for young girls who have earned a master's degree from the University and who are candidates for the competitive examination for entrance into the School of Magistrates, as well as the Professional Law Certificate Examination (CAPA);
26. Raise the quota on the representation of women in political and administrative positions to 30% ;
27. Increase the level of the recruitment of women into the Police Service;
28. Provide statistical data on the situation of women and girls in order to facilitate the inclusion of their specific needs in development plans, policies and programmes.

On prisons

29. Reduce overcrowding in the prisons through the adoption of appropriate measures such as alternative punishments, reform of the prison system and the adoption of an appropriate penal policy;
30. Fasttrack the building of new prisons;

31. Ensure the improvement of the living and detention conditions of prisoners through the provision of adequate food, appropriate health care, recreation and literacy programmes;
32. Strengthen programmes on social rehabilitation and the improvement of prison conditions;
33. Train court clerks to regularly monitor preventive detention cases to ensure that the provisions of the Criminal Procedure Code are respected;

On food security

34. Ensure food security for all and build grain reserves in the localities of the country and also ensure the availability of foodstuffs and other necessities at affordable prices;

On periodic reports

35. Ensure greater involvement of NGOs in the preparation of periodic reports;
36. Present its four (4) overdue periodic reports during subsequent Ordinary Sessions of the Commission;
37. Provide in the next report, all the information on the effective implementation of the recommendations made;

To the NGOs

1. Engage in advocacy for the formulation of a bill on the status and protection of HRDs;
2. Continue the dialogue with the government and create conducive conditions for the establishment of a National Human Rights Commission, in line with the Paris Principles;
3. Take the necessary steps to obtain observer status at the African Commission
4. Resort to the various special mechanisms available to them at the African Commission;

5. Build and run legal support centres to ensure equal justice for needy citizens;
6. Help to humanize conditions in the prisons through the learning of petty trades;
7. Establish a mechanism through which victims of sexual violence and other human rights violations can contact NGOs during emergencies;

To the specialized agencies of the United Nations system

The African Commission invites the international community to:

1. Provide all the necessary support to the efforts of the government of Niger to promote human rights, fight against insecurity and consolidate democracy;
2. Support the government to enhance the operational level of health centres;
3. Provide adequate funding and the needed expertise for the human rights training of police officers, prison officers and legal practitioners;
4. Support NGOs in sensitization activities and human rights training programmes.