

The Situation of Human Rights Defenders in

Niger

UPR Briefing paper – June 2015

In its last Universal Periodic Review (UPR) in May 2010, Niger accepted all six recommendations in relation to freedom of expression, including a specific recommendation calling for respect and protection of human rights defenders (HRDs). Niger has transitioned from military rule to democracy, establishing a new Constitution in October 2010, enacting the 2010 Press Law and holding free and fair elections in 2011. However, the treatment of HRDs indicates disconnect between this development and the reality on the ground. HRDs, in particular those working on corporate accountability and transparency issues, typically face arrest, arbitrary detention and spurious charges.

1. Risks facing human rights defenders

- The lack of police knowledge of Law 2010-35 (2010 Press Law), which decriminalises defamation, appears to have resulted in arbitrary arrests and detention being used to silence journalists and HRDs. The Committee to Protect Journalists reported that in January 2014, following a warning of a crackdown, several journalists critical of the Government were arrested and charged with threatening national security.¹
- Despite Article 11 of the Constitution allowing assemblies without prior authorisation, the police use excessive force, arrest and detention to repress peaceful protest. Amnesty International reported that in May 2014 police used excessive force to disperse student demonstrations over late payment of scholarships. At least 30 students were injured and 72 arrested. The students were charged with acts of vandalism and attacks on public property.²
- HRDs seeking greater transparency and fairness in dealings between the Government and extractive industries have faced arbitrary arrest and detention. A particularly concerning case resulted in the arrest of HRDs advocating for transparency between French uranium mining company Areva and the Niger Government.³
- According to information gathered by Amnesty International, in the wake of violence perpetrated by Boko Haram in the Diffa region, security forces have used anti-terrorism measures to curb legitimate criticism. Amnesty reported that Moussa Tchangari was arrested by Niger's anti-terrorist brigade for 'failure to co-operate' with authorities in the fight against Boko Haram, after criticising the indictment of six village leaders. At the time of writing, Tchangari had not been charged and was being held in the anti-terrorist brigade's station.⁴

2. Official restrictions on the space for human rights defenders

- While the Constitution protects the rights of HRDs and there is little legislation which formally restricts their activities, the actions of the Government on the ground however appear to restrict the space for HRDs.
- The 2010 Press Law, which decriminalises defamation and bans pre-trial detention of journalists for offences relating to their work,⁵ the 2011 Declaration of Table Mountain and the creation of World Press Freedom Day signify progress in the area of press freedom⁶. Notwithstanding this, as mentioned above HRDs and journalists continue to face arbitrary arrest and detention.⁷
- As reported by the Africa Report a strike at one of Areva's mines in 2014 was declared 'illegal' and employees forced back to work.⁸ Article 320 of the Labour Code Law no. 2012-45 guarantees the right to strike and protection from reprisals.⁹
- Press accreditation procedures, although improved, pose problems. The Committee to Protect Journalists reported on Al-Jazeera journalists investigating the condition of refugees fleeing violence in Nigeria being arrested without charge and accused of espionage. The authorities later stated that the journalists lacked official accreditation, having only regular visas.¹⁰
- The Interdepartmental Committee of Niger alleged that the increase in associations, non-governmental organisations (NGOs), trade unions and political parties since 2010, indicates a welcome improvement to the right to freedom of association.¹¹ However, arrests of HRDs, as reported by the African Commission on Human and Peoples' Rights (ACHPR) Special Rapporteur on HRDs (ACHPR-SR),¹² arguably puts into doubt the impact these organisations have on government policy.
- While article 30 of Constitution states that 'every person has the right to freedom of thought, opinion and expression',¹³ these rights must be 'exercised by respecting public order, social peace and national unity'.¹⁴ These vague restrictions provide the authorities with the power to arbitrarily limit these rights.
- While the 1961 Criminal Procedure Code guarantees a fair trial, detained HRDs are denied access to lawyers. In addition, 95% of lawyers are based in the capital; while some regions it is rare to find lawyers.¹⁵

3. Intimidation and reprisals against defenders accessing international human rights mechanisms

- Following a long period of inactivity, in August 2014, Niger submitted its second, and combined, periodic report for 2003-14 to the ACHPR.¹⁶ Four days earlier, on 11 August 2014, the ACHPR-SR expressed deep concern

about the situation of HRDs in Niger, in particular the arrest of transparency activist Ali Idrissa and other activists working on issues associated with the French uranium mining company Areva.¹⁷

4. Human rights defenders facing particular risks

- HRDs working on transparency issues face particular risk. The 2007 Tuareg uprising was accompanied by demands for a larger share in uranium revenue. Further articles 148, 149, 152 and 153 of the Constitution guarantee 'transparent' exploitation of natural resources and 'public ownership' of revenue.¹⁸ In July 2014, several members of Niger's civil society were arrested in Niamey after having urged greater transparency and fairness in dealings between the Government and extractive industries. Among the activists who were arrested was Ali Idrissa, the national coordinator of the Network of Civil Society Organizations for Transparency in Extractive Industries and Budgetary Analysis (ROTAB) and of Publish What You Pay-Niger, as well as a member of the board for Niger's Extractive Industries Transparency Initiative. Solli Ramatou, national coordinator of the Group for Reflection and Action on Extractive Industries in Niger (GREN) was also among those arrested, as well as Naomi Stansley, Maikoul Zodi, Halidou Mounkaila, Boubacar Illiassou (members of ROTAB) and Bozari Boubacar (a member of GREN). These advocates were released later the same day.¹⁹
- Journalists critical of the Government have faced risk, including those reporting on famine and food shortages, the conditions of refugees, Boko Haram and the relationship between the Government and extractive industries.²⁰ Frontline Defenders reported on the arrest of Ali Abdoulaye in 2014 detained for 38 days for denouncing the famine in the Oualam region, following a radio statement by police radio that there would be consequences for those who reporting on the famine.²¹
- Although same-sex activity is legal, the International Lesbian, Gay, Bisexual, Trans and Intersex Association states that there are punishments for people in male to male relationships.²²
- In its last UPR, Niger accepted 29 recommendations relating to women's rights,²³ indicating the vulnerability of women and women HRDs. Further, it is alleged that the Civil Code discriminates against women²⁴ and traditional practices, coupled with slow progress to protect and guarantee women's rights, reduce opportunities for women to seek protection. Further, violence against women, domestic violence and female genital mutilation, is common.²⁵

5. The Response of the State regarding the protection of human rights defenders

- In theory, Niger's new Constitution and the 2010 Press Law provide a solid framework for the protection of HRDs. In practice, however, as stated above, rights are not protected.

6. Recommendations to the Governments of Niger

- Immediately and unconditionally release arbitrarily detailed HRDs, including Moussa Tchangari.
- Refrain from criminalising the legitimate activities of HRDs and repeal or amend all laws and policies which restrict their activities and rights, including by ensuring that anti-terrorism legislation is not misused.
- Develop and enact specific laws and policies that recognise and protect the work of HRDs and especially transparency activists and which give full force and effect to the Constitution and the international Declaration on HRDs at the national level.
- Combat impunity by ensuring prompt, thorough and transparent investigations of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims.
- As an 'Extractive Industries Transparency Initiative' compliant country and in pursuance of Article 149 of the Constitution, guarantee transparency and ensure civil society engagement in connection with the extractive industry.
- Ensure companies conducting operations in Niger, including Areva, respect human rights and the activities of HRDs, in line with the UN Guiding Principles on Business and Human Rights and the UN Declaration of HRDs.
- Publicly state opposition to restrictions on the activities of HRDs working to ensure transparency in relations between the Government and extractive industries.
- Respond to the concerns of HRDs working on transparency issues and involve them in inter-governmental meetings and business negotiations.
- Allow workers, and ensure that businesses operating in Niger allow their employees, to legitimately exercise their right to strike in accordance with Article 30 of the Constitution and Law No. 2012-45 of the Labour Code.

Although Niger has made significant progress in its transition to democracy, the Government must ensure that those developments are implemented on the ground and the activities of HRDs are protected, in particular those working on transparency issues.

¹ <https://cpj.org/2014/01/niger-authorities-crack-down-on-critical-journalis.php>

² <https://www.amnesty.org/en/countries/africa/niger/report-niger/>

³ <http://www.theguardian.com/global-development/2014/jul/18/niger-activists-arrested-areva-francois-hollande-france-uranium>

⁴ <https://www.amnesty.org/en/articles/news/2015/05/niger-fight-against-boko-haram-not-an-excuse-to-violate-free-speech/>

⁵ http://en.rsf.org/IMG/pdf/niger_quinee_fr.pdf

⁶ <http://www.achpr.org/press/2013/05/d153/>

⁷ *Supra* No.1.

⁸ <http://www.theafricareport.com/West-Africa/niger-areva-workers-strike-is-illegal-says-court.html>

⁹ <http://www.ilo.org/dyn/natlex/docs/MONOGRAPH/91382/105953/F1917393249/NER-91382.pdf>

¹⁰ <https://cpj.org/2013/06/al-jazeera-tv-crew-briefly-detained-in-niger.php>

-
- ¹¹ http://www.achpr.org/files/sessions/56th/state-reports/2-2003-2014/niger_state_report_eng.pdf
- ¹² <http://www.achpr.org/press/2014/08/d220/>
- ¹³ Supra No. 1
- ¹⁴ ibid
- ¹⁵ <https://www.unodc.org/tldb/showDocument.do?documentUid=6839&country=NER&language=FRE>
- ¹⁶ http://www.achpr.org/files/sessions/56th/state-reports/2-2003-2014/niger_state_report_eng.pdf
- ¹⁷ <http://www.achpr.org/press/2014/08/d220/>
- ¹⁸ https://www.constituteproject.org/constitution/Niger_2010.pdf
- ¹⁹ <http://www.ishr.ch/news/niger-protect-human-rights-defenders-working-issues-corporate-transparency-and-accountability>
- ²⁰ Supra No. 10; Supra No. 4; Supra No. 1; Supra No. 19.
- ²¹ <https://www.frontlinedefenders.org/node/26166#sthash.FaZv3pu1.dpuf>
- ²² <http://ilga.org/country/niger/law/>
- ²³ http://www.upr-info.org/database/index.php?limit=0&f_SUR=126&f_SMR=All&order=&orderDir=ASC&orderP=true&f_Issue=All&searchReco=&resultMax=300&response=&action_type=&session=&SuRRgrp=&SuROrg=&SMRRgrp=&SMROrg=&pledges=RecoOnly
- ²⁴ <http://genderindex.org/country/niger>
- ²⁵ http://www.makeeverywomancount.org/index.php?option=com_fjrelated&view=fjrelated&id=58&Itemid=120