

NIGER

CCPR A/48/40 (1993)

390. The Committee considered the initial report of Niger (CCPR/C/45/Add.4) at its 1208th and 1212th meetings, held on 23 and 25 March 1993 (CCPR/C/SR.1208 and 1212). (For the composition of the delegation, see annex XI).

391. The report was introduced by the representative of the State party who said that his Government regretted that it had been unable to submit the report to the Committee when originally suggested. He further added that a National Conference had been convened in 1991 as a result of which a transitional Government headed by an elected Prime Minister and a High Council of the Republic had been established. A new Constitution had been adopted by national referendum in December 1992 and many of the principles set out in the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights had been taken into account in its formulation. With the rejection of the single-party system, some 40 political parties had been formed and, in the recent legislative elections, candidates from 12 of those parties had run for office. Furthermore, eight parties had nominated candidates for the first round of the presidential elections which had taken place on 27 February 1993. All the necessary conditions for establishing a true democracy and an environment favourable to the promotion and protection of the rights of individuals and of society as a whole had thus been created during the past two years.

392. With regard to the constitutional and legal framework within which the Covenant was implemented, members of the Committee wished to receive further information on the status of the Covenant within Niger's legal system; on the extent to which the provisions of the Covenant had been incorporated into the new Constitution; on the remedies referred to in paragraph 13 of the report; on the organization of the judiciary; on the relationship between the National Conference and the Government and between the Constitution and the National Charter; on means used to disseminate information about the Constitution and human rights; and on difficulties experienced by Niger in implementing the provisions of the Covenant, such as extreme poverty or the high rate of population growth. It was also inquired what impact the Tuareg rebellion in the northern part of the country had on the human rights situation; whether there were any political detainees in the country, and, if there were any, what steps had been taken to ensure their release.

393. With regard to article 4 of the Covenant, members wished to receive additional information on the special security zones reportedly established in certain parts of the territory and asked whether any rights provided for in the Covenant had been suspended in those areas by virtue of article 4 and whether a state of emergency had ever been declared in Niger.

394. As to the prohibition of discrimination on various grounds, members wished to know what measures had been envisaged to address the imbalance between the sexes in such areas as school attendance and literacy; what steps were being taken to eradicate the practice of marriage of girls below the age of 14; whether any women had been appointed members of the National Conference; how many women had been elected during the recent parliamentary elections; whether the new

Constitution contained any provisions to ensure equality between the sexes; whether women had actually been demonstrating for their rights as citizens; what measures had been taken to prevent discrimination on ethnic grounds; whether the provisions of article 11 of the old Constitution, guaranteeing equality of all citizens without distinction as to origin, race, sex or religion, had been extended to include the other categories specified in the Covenant; and how the legal provisions regarding children were implemented in practice.

395. In connection with articles 6, 7, 8 and 10 of the Covenant, members of the Committee wished to know how often and for what crimes the death penalty had been imposed and carried out in the past years; to what extent the provisions of article 6, paragraph 5, of the Covenant were implemented in Niger; whether the allegations of extrajudicial executions, disappearances, torture and cruel treatment and arbitrary arrests by the army or the security forces, particularly of members of the Tuareg ethnic group, had been investigated and, if so, with what results; whether those found guilty of such violations had been pardoned and reinstated; whether the new constitutional system had established compensation for victims of past violations of human rights, such as torture or disappearance; what were the rules and regulations governing the use of firearms by the police and security forces; whether there had been any violations of these rules and regulations and, if so, what measures had been taken to prevent their recurrence; whether a new commission of inquiry into political crimes and abuses had been set up to investigate violations which had occurred during the 1991-1992 transitional period; and whether there was any institution investigating complaints from prisoners awaiting trial or convicted prisoners. Clarification was also requested on the underlying social problem addressed by Act No. 61-27 mentioned in the report, which seemed to suggest that slavery was a continuing social problem, particularly among the Tuareg people.

396. With reference to article 9 of the Covenant, members of the Committee wished to receive information on Niger's legislation governing arbitrary arrest or detention and on measures taken to ensure respect for the 48-hour limit on police custody.

397. Regarding article 14 of the Covenant, members of the Committee wished to receive further information on the independence and impartiality of the Judiciary; on the safeguards to guarantee the rights provided for in article 14 of the Covenant; on the right to legal representation; and on the availability of free legal assistance. It was also asked whether magistrates were subject to removal from office; whether the current legislation criminalizing unlawful enrichment embodied a presumption of guilt contrary to the provisions of article 14, paragraph 2, of the Covenant; whether the High Court of Justice set up under the transitional regime was still in existence; whether the State Security Court, reinstated in 1992, would continue to exist under the new Constitution and what the status, competence and composition of that court were.

398. In connection with articles 17, 18, and 19 of the Covenant, additional information was requested on the relationship between the independent and the State-run press. It was inquired whether any subsidies were provided to independent press organs; whether a commission of inquiry had been set up to investigate alleged violations of privacy during the transitional period, including searches without warrants and illegal searches; and whether private non-governmental organizations were able to publish and distribute newsletters about the human rights situation in the country and had access to public broadcasting.

399. With reference to article 25 of the Covenant, members of the Committee wished to receive additional information on the legal provisions for the establishment of political parties, on the meaning of "provisionally" authorizing political parties, and inquired whether political parties were formed on the basis of ethnicity or language.

400. Regarding article 27 of the Covenant, members of the Committee wished to receive additional information on the size and situation of the various ethnic groups, on conflicts, if any, between such groups and on their representation in the Government and the civil service.

401. In his reply, the representative of the State party emphasized that many problems experienced in Niger with regard to the exercise of civil and political rights were due to the upheavals caused by the dismantling of the old order and the institution of a new order committed to the building of democracy and the protection of human rights. The media had an important role to play in disseminating knowledge of human rights and in creating an atmosphere more conducive to awareness of national and international legal instruments in that area.

402. There were no political prisoners in the country. The Tuareg rebellion had complex historical roots which could be dated back to the accession to power of General Ali Saïbou in 1987 who had proclaimed a policy of relaxation of ethnic tension and issued a general amnesty. That policy had led to the return of many refugees who had fled the country in the 1980s because of the drought. However, these persons had been unable to resume their previous economic activities. In addition, the northern part of the country had been in a state of considerable upheaval caused by the conflict between two neighbouring countries, into which some of those people who had returned to Niger in 1987 had been drawn. All those factors had combined to bring about the acts of insurrection in that part of the country which, in turn, had been exploited by certain politicians to further their own ambitions. The representative however emphasized that a cease-fire had been declared with the "Front de Libération de l'Aïr et de l'Azaouad" (FLAA) effective from midnight on 20 March 1993. Although the Government had released several rebel prisoners little information was available on hostages in rebel hands.

403. Referring to questions relating to the status of the Covenant, the representative of the State party explained that, under article 120 of the new Constitution, duly ratified treaties prevailed over domestic law. Furthermore, if the Supreme Court was appraised that an international commitment contained a clause contrary to the country's Constitution, ratification could only proceed once the Constitution had been revised. The provisions of the Covenant and of the Optional Protocol were directly applicable by the courts. However, victims of human rights violations often preferred to seek redress before traditional bodies.

404. With regard to questions relating to the status of women, the representative of the State party said that there was a certain interaction between the precepts of Islam and the provisions of positive law. Although two new women's organizations had been established since the onset of the democratic process no significant progress had been achieved in that area due to the extreme poverty in the country and a general lack of political will. However, efforts were being made to draft a new family code and a rural code and, in recent years, many women had been appointed to positions of high responsibility. Campaigns to remedy the low literacy rates in the country had been mounted by women's associations and non-governmental organizations and considerable progress had been

made in endeavours to eradicate such practices as marriage of very young girls. All unacceptable customs regarding the status of women within society were widely condemned by the authorities but difficult to combat because of the covert manner in which they were practiced.

405. Turning to questions relating to the rights of the child, the representative explained that a legislation enacted in 1967 defended the civil rights of minors brought before the judicial authorities and provided for mandatory counsel to ensure the defense of children in such instances. Furthermore, rehabilitation of young offenders was carried out at special boarding institutions, usually with the approval of the family, where technical skills were taught. Niger had ratified the Convention on the Rights of the Child in 1990.

406. With reference to articles 6, 7 and 10 of the Covenant, the representative of the State party explained that, following the events in Tchín-Tabaraden in May 1990, measures had been taken against the highest echelons of the army and public service who had been directly or indirectly responsible. Other excesses committed by the army had been investigated and the culprits brought to justice. Those measures had, however, still been insufficient to satisfy certain extremists who, for their own part, were unwilling to make any concessions.

407. While capital punishment was still a theoretical possibility in Niger, it had not been administered for more than 10 years and those persons who had been sentenced to death in that period had received a presidential pardon. Training was provided for police and members of law enforcement agencies at the police college in Niamey, whose curriculum included a course on human rights and fundamental freedoms.

408. Regarding article 8 of the Covenant, the representative of the State party explained that the existence of the practice of slavery was difficult to establish because of the conditions prevailing in the northern part of the country.

409. With respect to article 9 of the Covenant, the representative of the State party explained that the Government had joined all the various organizations involved in the defence of human rights in order to reach a settlement of the problem of arbitrary arrests and for the freeing of all those held without charge. Those efforts had led to the release of all but 60 detainees, whose cases had been referred to the judicial authorities.

410. Referring to questions relating to article 14 of the Covenant, the representative of the State party said that a special association for magistrates had been established to ensure their independence *vis-à-vis* the Executive branch. A commission on political, economic and other crimes and abuses had been established to investigate social abuses, misappropriation of funds and other illegal practices. The Commission carried out its inquiries through regular channels, transmitting the results of its investigations to the High Council of the Republic. A law enacted in 1991 guaranteed legal aid for those who lacked the resources to exercise their right to justice as plaintiff or defendant.

411. In response to questions relating to articles 17, 18 and 19 of the Covenant, the representative of the State party said that the press was free and received no State subsidy. It experienced certain financial difficulties which affected the quality of its output and its role was limited by illiteracy.

412. Fifteen political parties had been provisionally authorized under the 1989 Constitution, because it made no provision for a multi-party system. Those parties had therefore been approved pending a new law on political parties and the adoption of a new Constitution. The only remaining restriction on the establishment of political parties and associations was that no political party could be formed on the basis of ethnicity or religious affiliation.

413. In connection with articles 25 and 27 of the Covenant, the representative of the State party explained that the country was currently engaged in the second round of presidential elections, in which two major political groups had emerged. All ethnic groups were represented in the different political parties, although, inevitably, their leaders derived more support from their native regions. Niger had eight major ethnic groups which were closely interrelated and 90 per cent of the population was Muslim. Consequently, issues were generally settled among those groups in a peaceful manner and following the concept of Ummah and the precept of tolerance. Popular participation in the recent election had been as low as 8 per cent in the north, as compared to 31 per cent country-wide. The Government had established a new Ministry of State for National Reconciliation, with a view to entrusting problems of national unity and the participation of minority populations in public affairs to a single political structure.

Concluding observations by individual members

414. Members of the Committee thanked the representative of the State party for his cooperation in presenting the report and for having endeavoured to respond to questions raised by members. However, the report lacked information on laws and regulations relating to the implementation of the Covenant, and on factors and difficulties impeding the application of the Covenant.

415. Members noted with satisfaction the move to establish a multi-party democracy in Niger, the adoption of a new Constitution, the establishment of local human rights groups, the attempts to overcome religious and ethnic divisions in the country, the release of many prisoners and the signing of a cease-fire agreement with a view to ending the Tuareg rebellion.

416. At the same time, it was noted that some of the concerns expressed by members of the Committee had not been fully allayed. Deep concern was expressed over the fact that there had been no investigation of cases of extrajudicial executions, disappearances, torture and arbitrary arrests by the army and members of the armed forces in 1990-1991, particularly of members of the Tuareg ethnic group. Members also expressed concern at persisting discrimination against women in some respects; the excessively long periods of detention in custody and pre-trial detention; the actual implementation of articles 10, 14 and 19 of the Covenant; and the low level of popular participation in the recent elections.

417. The representative of the State party assured the members of the Committee that the comments that had been made would be transmitted to his Government.

418. In concluding the consideration of the initial report of Niger, the Chairman thanked the delegation for having engaged in a constructive dialogue with the Committee.

Comments of the Committee

419. At its 1232nd meeting (forty-seventh session), held on 8 April 1993, the Committee adopted the following comments.

Introduction

420. The Committee expresses its appreciation to the Government of the State party for its report and for engaging in a dialogue with the Committee on the implementation of the Covenant in Niger. The Committee regrets, however, that the report, which is extremely succinct, was not drawn up in accordance with the Committee's general guidelines on the drafting of initial reports. The lack of information both on legal norms and the practice concerning human rights, in particular the new Constitution, as well as on the factors and difficulties impeding the implementation of the provisions of the Covenant, prevented the Committee from gaining a clear idea of the real human rights situation in the country. The Committee nevertheless thanks the delegation of Niger for endeavouring to reply to the questions raised and thus make up for the report's shortcomings.

Positive aspects

421. The Committee notes that new developments recently took place in Niger, which had a positive impact on the human rights situation in the country. A process of democratization is under way; it has been marked by the meeting of a National Conference, the adoption of a National Charter and then a new Constitution, the establishment of a multi-party system, the organization of general elections, the relaxation of control over the press, and the recent truce with Tuareg movements. Thus, there are positive factors that should lead to the establishment of a pluralist democracy in Niger, particularly since one can point to other elements such as greater access on the part of women to high-level civil service posts and the training of law enforcement agents with regard to human rights and public freedoms.

Factors and difficulties impeding implementation of the Covenant

422. The Committee notes that the events that occurred in the north of the country in 1991 and 1992 and brought the government forces into conflict with Tuareg movements had a very negative impact on the human rights situation throughout the country. The representative of Niger indicated that, owing to the continued existence of certain traditions and customs, Niger is not fully complying with its obligations under the Covenant.

Main subjects of concern

423. The Committee is extremely concerned about the cases of extrajudicial executions and torture that occurred in the context of the disturbances in 1991 and 1992 in the north of the country and deplors the fact that these cases have not, to date, been the subject of investigations or compensation on the part of the authorities. The Committee recalls in this regard that the Covenant does not authorize, in any case, derogations from articles 6 and 7 of the Covenant. The Committee stresses that the implementation of articles 9, 10 and 14 of the Covenant, particularly with regard to the duration of police custody, the conditions of detention for persons deprived of freedom and available recourse in cases of human rights violations is not satisfactory.

424. The Committee is concerned at the situation of women who continue to be the object of discrimination. It is also concerned about the shortcomings in observance of articles 18 and 19 of the Covenant. It regrets that article 27 is not fully implemented in Niger as well as the particularly low level of participation during the recent elections, especially in the north of the country.

Suggestions and recommendations

425. The Committee recommends to the State party that investigations should be conducted into the cases of extrajudicial executions which were carried out in the context of the disturbances in 1991 and 1992 in the north of the country and of the torture and maltreatment of persons deprived of their freedom. The Committee considers that the agents of the State responsible for such human rights violations should be tried and punished. They should in no case enjoy immunity, inter alia, through an amnesty law, and the victims or their relatives should receive compensation.

426. The Committee further recommends that the State party should firmly endeavour to bring its domestic legislation and practice into line with the provisions of the Covenant and, in particular, provide full protection for the rights of women and the rights of ethnic or religious minorities living in the country.

427. It is also recommended that Niger should draw up its second periodic report and the basic document in accordance with the Committee's general guidelines regarding the form and contents of periodic reports (CCPR/C/20/Rev.1) and the consolidated guidelines for the initial part of the reports of the States parties (HRI/1991/1) and provide complete information on measures taken, both in law and in practice, in order to implement the provisions of the Covenant. The Committee suggests that in implementing the recommendations contained in paragraph 426 and the present paragraph, the State party should request the assistance of the United Nations Centre for Human Rights.