

EXTERNAL

AI Index: AFR 43/01/91
SC/CO/GR/PO

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1. Introduction

The Niger Republic authorities have taken some significant steps over the past four years to ensure respect for the rule of law and for human rights. However, at times of political crisis, particularly in mid-1990 in the centre and north of the country, major human rights violations have been committed with apparent impunity by the armed forces. It is evident, therefore, that much remains to be done to safeguard human rights fully.

Since July 1991, the country has once again found itself at a political cross-roads, as a "National Conference" has been debating the Republic's political future. The National Conference has suspended the constitution and government prior to electing a Prime Minister to head a transitional government. The last major political change occurred in late 1987, following the death of President Seyni Kountché in November of that year. While President Kountché was in power, suspected government opponents were routinely tortured and detained outside the framework of the law without charge or trial. Following his death, his successor as head of state, Colonel Ali Saïbou, Chief of General Staff, ordered an amnesty for over 100 political prisoners in detention or under house arrest, many of whom had been detained without trial almost continuously since 1974, when President Kountché led a military coup. In December 1987 President Saïbou announced that other untried political detainees would be brought to trial, and commuted all outstanding death sentences.

Further political trials occurred in 1988 and 1991, in each case before the State Security Court (*Cour de sûreté de l'Etat*). However, when a political crisis erupted in 1990 in the Tuareg areas of central and northern Niger, the authorities' initial response was to detain hundreds of people for weeks or months without referring them to the judicial authorities. Many were tortured or extrajudicially executed. The authorities' response to complaints about the violations committed in the Tuareg areas in 1990 was to deny that any violations had occurred and to refuse to conduct any form of public inquiry. Several dozen individuals were eventually referred to the Procuracy for investigation in 1991 and the defendants were tried and acquitted. There are now at last signs that a serious inquiry by the National Conference is underway - a vital move if the Niger state is to come to terms with the behaviour of its security forces and to take realistic measures to prevent similar abuses in the future.

Respecting legal procedures and institutions will not in itself guarantee respect for human rights in Niger, for the law itself allows for many practices which result in human rights violations. For example, the State Security Court is neither independent nor impartial with the result that access to a fair hearing is restricted. The special detention procedures which it allows are inconsistent with international standards. Detainees who are suspected of offences against the security of the state (and who therefore might be referred to the State Security Court for trial) may be kept in incommunicado detention by the security forces (known as *garde à vue* detention in French) for up to two months before their cases are referred to any judicial authority. Moreover, in practice detainees are often kept in *garde à vue* detention beyond this statutory limit without access to families, lawyers or a judge. These

and many other procedures and institutions are in need of a major review to allow international human rights standards to be incorporated into both law and practice in Niger.

2. Human rights violations under the government of President Ali Saïbou

The treatment of the Tuareg prisoners arrested in 1990 represents the latest in a series of major human rights violations in Niger since the current government took power in 1987. Amnesty International's main concerns are:

- i) the detention of prisoners of conscience;
- ii) the detention of political prisoners for weeks or months without charge or judicial control often in military custody;
- iii) unfair trials;
- iv) torture;
- v) extrajudicial executions which have not been investigated by the relevant governmental authorities.

In contrast to the lack of investigations into the killings of Tuareg in 1990, the killing of three students by security forces during a demonstration in Niamey in February 1990 was the subject of an investigation which resulted in the arrest of six police officers. During the National Conference in July 1991, President Ali Saïbou accepted responsibility for the killings of the three students, although he denied giving orders to use live ammunition. The National Conference suspended four senior military officials for their involvement in the student killings and demanded the release on bail of the six police officers who had been arrested following the investigation.

The arrests of Tuareg had begun in mid-March 1990, when at least 28 people, including Attawa Egour and Karimoun Matachi, were arrested in the Iférouane and Agadez area. Hundreds more were arrested, with about 500 reportedly detained in the Tahoua area alone. Amnesty International received many reports of torture at Tahoua military barracks where prisoners were reported to have been stripped naked, beaten and subjected to electric shocks. At least four prisoners reportedly died in custody, including Abdoulmoumine Ag Mohamed, a teacher.

In May 1990, government troops were sent to the Tchín-Tabaraden area after an armed group of Tuareg attacked a prison and police station. Hundreds of extrajudicial executions were reportedly committed by the security forces, though these were denied at the time and no official investigation was mounted. Among those arrested at the time were prominent members of the Tuareg community such as Abdoulahi Mohamed, a former government minister, and Khamed Ibrahim El Moumine, a village leader. They appeared to be prisoners of conscience, detained because of their position in the community rather than for any involvement in the violence.

Amnesty International representatives visited Niger three times in early 1991 to meet government officials and to observe a trial. Both the government talks and the trial dealt with the cases of Tuareg citizens arrested in March and April 1990. Amnesty International's representatives were able to visit 44 untried political prisoners held at Kollo, but were instructed by the authorities not to travel outside the capital to places such as Tahoua and Tchín-Tabaraden where political arrests and extrajudicial executions had occurred in 1990. A visit to these areas would certainly have facilitated our investigations into these events.

In July 1991 a National Conference, set up in Niger to discuss fundamental political reforms, attempted to address concerns over human rights issues. The conference has set up six commissions, one of which, the *Commission des crimes et abus politiques*, Commission into Political Crimes and Misdemeanours, is finally examining the question of Tuareg arrests and killings in 1990. As a result

of the Commission's activities, some senior army officials have already been dismissed, although the Commission is still continuing its work and has not published any findings to date.

3. Unfair trial proceedings of prisoners detained in violation of laws requiring prompt charge and trial

An Amnesty International observer attended the third and final day of a major political trial in April 1991, when the cases were heard of those arrested after the attack of 7 May 1990 on Tchín-Tabaraden prison. The attackers evidently aimed to secure the release of detained Tuareg who had been publicly ill-treated the previous day; the attack resulted in the deaths of three civilians and three officials. Amnesty International's observer was not present at earlier trial proceedings concerning the 28 people arrested in March 1990 in the Iférouane and Agadez areas on suspicion of being responsible for attacks on mining installations at Arlit, and of a further 13 people from Abalak, who were arrested while on their way to a wedding in Tounfaminir and charged with planning an attack on government or other important installations.

The three-day trial before the State Security Court (*Cour de sûreté de l'Etat*) of those prisoners detained before and after the May 1990 Tchín-Tabaraden events eventually began, after two postponements, on 25 April 1991 at the Palais des Sports (Sports Stadium). Amnesty International welcomed the fact that the proceedings were open to the public, and the organization's observer noted that the defendants and their lawyers were given adequate opportunity to express themselves freely before the court. However, notwithstanding the acquittal of all 45 defendants, Amnesty International expressed concern about several aspects of the trial procedures.

1. The prisoners were detained beyond the two-month period of *garde à vue* detention allowed by the legislation establishing the State Security Court; such unlawful detention contravenes both national law and international treaty obligations accepted by Niger. It was during this period, when the security forces can detain suspects incommunicado for the purposes of interrogation before referring their cases to the Procuracy, that many of the detainees were reportedly tortured and some died as a result. The two-month period of *garde à vue* allowed by law, which is already extraordinarily long, was in practice exceeded in the case of these Tuareg detainees. They were arrested between March and May 1990, but were not formally remanded in custody until late July and August 1990; it was not until 7 February 1991 that they were formally charged with an offence.
2. A second area of Amnesty International concern is that the accused were not allowed to have lawyers present when they were questioned during the pre-trial judicial investigation of their cases (known in French as the *instruction*) and that the lawyers were only allowed access to the lengthy prosecution dossier three days before the first hearings began in March 1991; even then, they were not allowed to have their own copy of the dossier. These restrictions limited the ability of both the accused and their lawyers to prepare and conduct their defence.
3. With regard to the composition of the court, the fact that the judges are, under the terms of *Ordonnance* No 74-27 of 8 November 1974 (under which the court was set up), appointed by the Head of State on the basis of their "political competence" as well as their judicial and administrative abilities ("*ils*) sont nommés" ... "*parmi les personnalités de nationalité nigérienne*", .. "*connus pour leur compétence en matière politique, juridique ou administrative*") calls into question the independence of the court. Furthermore, three judges were senior members of the executive. The bench comprised a President and six judges, three of whom, including the President, were

members of the *Conseil Supérieur d'Orientation Nationale*, CSON, the country's supreme ruling council.

4. Another Amnesty International concern is the limited right of appeal available to those convicted by the State Security Court; the right to appeal is restricted to points of law, *Pourvoi en cassation*, and, if ruled admissible, is heard by the same court, albeit with a different bench. This falls short of the full scope of the guarantee in Article 14 of the International Covenant on Civil and Political Rights, that "everyone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law".

4. Prisoners tortured while held in violation of laws prohibiting incommunicado detention

It was during their extraordinarily long period of unlawful and incommunicado *garde à vue* detention in 1990 that many Tuareg detainees were reportedly tortured and some died as a result. During the year and a half since their deaths, no progress in the legal inquiry into these cases has been reported and there has been no public investigation into the deaths in custody. Amnesty International has urged the government to initiate an investigation, for example, into the reported extrajudicial execution in detention of Abdoulmoumine Ag Mohamed: the official explanation that he was trying to seize a gun from a guard when he was shot has been disputed by several sources. Relatives of the victims are known to have lodged formal complaints which should be the subject of an inquiry by the Procuracy. In addition, a Commission set up by the National Conference which opened in July 1991 is now investigating what happened to Tuareg prisoners arrested last year. The terms of reference of this Commission and its powers are not known. It has not yet published a report as its work is continuing.

During the April 1991 trial, the defendants spoke out about the ill-treatment and torture they had experienced during the period they were held in *garde à vue*. Amnesty International considers these and other reports of torture to be credible and considers there is an urgent need for the authorities to take steps to prevent torture, in order to meet their obligations under both national and international law.

There is also still a pressing need for a full inquiry into reports of extrajudicial executions in 1990 in In-Gal and the area around Tchén-Tabaraden. Equally, the allegations that some 25 people were summarily executed in May 1990 while detained at the Compagnie de gendarmerie in Tilia should be thoroughly and independently investigated with a view to bringing to justice those responsible for the reported deaths.