

NIGER 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

Niger is a multiparty republic. In March 2011 voters elected opposition leader Issoufou Mahamadou president in a poll characterized by international observers as generally free and fair. Observers also considered the 2011 National Assembly elections free and fair. Security forces reported to civilian authorities.

The most serious human rights problems in the country included harsh and life-threatening prison and detention center conditions, discrimination and violence against women and children, and forced labor and caste-based slavery among some groups.

Other human rights problems included attacks by armed groups that resulted in deaths. Arbitrary arrest and detention, prolonged pretrial detention, and executive interference in the judiciary continued. Infrequent restrictions on freedoms of press, association, assembly, and movement occurred. Official corruption was pervasive. Female genital mutilation/cutting (FGM/C), trafficking in persons, and child labor continued.

The government generally took steps to prosecute officials who committed abuses; however, impunity was a problem.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary or Unlawful Deprivation of Life

Unlike the previous year, there were no reports that the government or its agents committed arbitrary or unlawful killings.

The December 2011 case regarding the killings in Zinder of student demonstrator Laminou Mai Kanti by police and a female bystander the following day in another demonstration, by a stray bullet fired by a police officer, was settled via a traditional conciliation arrangement. The police officer whose bullet killed the woman was imprisoned for six months for involuntary homicide. He was released and reinstated in June after serving his full sentence.

Disputes over land rights and grazing areas continued and resulted in several deaths. On June 19, eight persons were killed in clashes between two farmer

communities (Peulh and Zarma) in Zouzou Sanay, Dosso Region, over a land use dispute. Security forces arrested 13 persons. Senior officials including the president, the minister of interior, the governor of Dosso, and traditional chiefs visited the two villages to restore peace. At year's end the 13 arrestees remained in prison while investigations continued before a trial date could be determined.

During the year, armed bandits -- most of whom entered the country from Mali on motorcycles, and some of whom were reportedly members of the Malian Tuareg rebel group, National Movement for the Liberation of Azawad (MNLA), or the al-Qaida affiliated Movement for Unity and Jihad in West Africa (MUJAO) -- attacked herder camps in Tillabery Region, resulting in deaths, injuries, and loss of livestock and other property. According to nongovernmental organization (NGO) sources, between January 31 and February 2, MNLA members attacked 12 villages in northern Tillabery, killing seven people and seriously injuring five while stealing more than 500 head of livestock. No investigations or prosecutions were conducted during the year into any of the attacks, and several human rights and community groups criticized government inaction.

b. Disappearance

There were no reports of politically motivated disappearances. However, four French hostages kidnapped in Arlit by al-Qaida in the Islamic Maghreb in 2010 remained in captivity and were believed to be in Mali.

On October 14, a dozen gunmen aboard two trucks, reportedly members of the MUJAO, kidnapped six humanitarian workers (five Nigeriens and one Chadian) in Dakoro, Maradi, and drove toward the Malian border. The Chadian hostage, who was shot during the kidnapping, died the following day. On November 3, the abductors freed and left the five Nigerien hostages near the Mali-Niger border. The government indicated that no ransom was paid to the kidnappers.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and law prohibit such practices; however, there were reports that security forces beat and abused civilians.

Authorities took no action on the May 2011 case of National Guard members in Aderbissinat who beat several persons over a personal dispute.

Prison and Detention Center Conditions

Conditions in the country's 38 prisons were harsh and life threatening. Prisons were underfunded, understaffed, and overcrowded.

Physical Conditions: Nutrition, sanitation, and health conditions were poor, although prisoners had access to potable water and were allowed to receive supplemental food, medicine, and other items from their families. Basic health care was available, and patients with serious illness were referred to public health-care centers. Ventilation and lighting were inadequate.

The country's prisons held 6,899 inmates, an estimated 3 percent of whom were female. The Niamey Civil Prison, built for 350, held 826 inmates. There were 3,318 convicted detainees, and the remaining 3,581 were awaiting trial. Deaths occurred during the year from HIV/AIDS, tuberculosis, and malaria, although no statistics were available. Pretrial detainees were held with convicted prisoners. Women inmates were held in separate quarters that were less crowded and relatively cleaner than men's quarters. Juveniles were held separately in special rehabilitation centers or in judicially supervised homes.

Administration: Recordkeeping on prisoners was inadequate, but some improvements were made. In 2010 the Ministry of Justice, in partnership with the Project to Support Justice and the Rule of Law, chaired a training session for prison wardens, bailiffs, and other penitentiary staff on penitentiary regulations, budget management, human resources management, and security and conflict management. In subsequent years the Ministry of Justice provided similar refresher and consolidation courses. There were reports that prisoners could bribe officials to leave prison to run personal errands, and some prisoners bribed officials to serve their sentences in the national hospital in Niamey instead.

Prisoners and detainees had reasonable access to visitors. All penitentiaries had places of worship, and prisoners were permitted religious observance. Prisons had no ombudsmen, but authorities generally permitted prisoners and detainees to submit complaints to judicial authorities without censorship.

The governmental Monitoring Unit on Human Rights and Fundamental Liberties (ONDHLF) and independent human rights groups made recommendations to the government throughout the year on alternatives to incarceration for nonviolent offenders. As provided by law, the government implemented the "general interest

work” programs in juvenile courts, which includes vocational training and community service.

Monitoring: Judicial authorities and the ONDHLF investigated and monitored prison and detention center conditions and credible allegations of inhumane conditions. Public and private media covered the ONDHLF visits. The Office of the National Mediator also investigated complaints about prison conditions. The ONDHLF published its conclusions.

The International Committee of the Red Cross (ICRC), ONDHLF, human rights groups, and media representatives were generally granted access to most prisons and detention centers including police station jails and conducted visits during the year. The ICRC visits were conducted in accordance with its standard modalities.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the law prohibits detention without charge in excess of 48 hours; however, police violated these provisions.

Role of the Police and Security Apparatus

The armed forces, under the Defense Ministry, are responsible for internal and external security. The gendarmerie, also under the Defense Ministry, has primary responsibility for rural security. The National Guard, under the Interior Ministry, is responsible for domestic security and the protection of high-level officials and government buildings. The national police, also under the Interior Ministry, are responsible for urban law enforcement.

The police were ineffective, largely due to a lack of basic supplies such as vehicle fuel, radios, and other investigatory and law enforcement equipment. Patrols were sporadic, and emergency response time in Niamey could be 45 minutes. Police training was minimal, and only specialized police units had basic weapon-handling skills. Citizens complained that security forces did not adequately police border regions and remote rural areas. Corruption remained a problem (see section 4).

The gendarmerie is responsible for investigation of police abuses; however, police impunity was a widespread problem. In July 2011 the government created the High Authority to Combat Corruption and Related Crimes (HALCIA) under the President’s Office. In August 2011 the Ministry of Justice also established a

Bureau for the Fight against Corruption/Influence Peddling with an anticorruption hotline to report suspected official corruption cases. During the year the HALCIA investigated and uncovered several corruption and fraud cases involving civil servants, judges, and security forces, notably customs officers. The HALCIA referred most of the cases to state prosecutors for action.

Arrest Procedures and Treatment While in Detention

The constitution and law require arrest warrants, and authorities generally respected this law in practice; however, some persons reportedly were arrested first and subsequently charged during detention. The law allows individuals to be detained for an initial period of 48 hours without charge, and an additional 48 hours if police need more time to gather evidence, although detainees involved with sensitive cases were sometimes held longer than legally permitted. Security forces usually informed detainees promptly of the charges against them. There is a functioning bail system for crimes carrying a sentence of less than 10 years. Those arrested must be notified of their right to a lawyer within 24 hours, and law enforcement officials generally observed this provision. Indigents in civil and criminal cases were usually provided a lawyer by the government; however, widespread ignorance of the law and lack of funds prevented many from fully exercising their rights to bail and an attorney.

Arbitrary Arrest: Police controversially arrested a journalist (see section 2.a.) and occasionally conducted warrantless sweeps to detain suspected criminals.

On April 23, the Military Tribunal ordered the release of Second Lieutenant Ousmane Awal Hambali, Sergeant Oumarou Ibrahim, and Private Issoufou Barke, who were arrested in June 2011 for alleged conspiracy to assassinate President Issoufou. The court dismissed the case without trial.

Pretrial Detention: Lengthy pretrial detention was a problem. Although the law provides for maximum pretrial confinement of 30 months for serious crimes and 12 months for less serious offenses (with special extensions in certain sensitive cases), some detainees waited as long as six years to be tried. During the year 57 percent of the prisoners in Niamey's Civil Prison and 53 percent nationwide were awaiting trial. Judicial inefficiency, inadequate resources, staff shortages, and corruption contributed to trial delays.

Amnesty: The government continued to respect a 2011 amnesty law that includes a provision to grant amnesty to the "authors, coauthors, and accomplices" of the

February 2010 military seizure of power. The 2011 law omits amnesty for persons involved in the 1996 and 1999 coups.

e. Denial of Fair Public Trial

Although the constitution and law provide for an independent judiciary, the executive branch sometimes interfered with the judicial process. During the year some judges were reassigned to low-profile positions after they asserted their independence in handling high-profile cases or rendered decisions unfavorable to the government. Corruption and inefficiency remained problems. In civil matters there were reports that family and business ties influenced lower court decisions. In some instances judges granted provisional release pending trial to high-profile defendants, who were seldom called back for trial, had complete freedom of movement, and could leave the country.

Customary courts and traditional mediation do not provide the same legal protections as the formal court system. Traditional chiefs can act as mediators and counselors. They have authority to arbitrate many customary law matters, including marriage, inheritance, land, and community disputes, but not all civil issues. Chiefs received government stipends but had no police or judicial powers.

Customary courts, based largely on Islamic law and local tradition, are located only in large towns and cities and try civil law cases. A legal practitioner with basic legal training, advised by an assessor with knowledge of the traditions, heads these courts. The judicial actions of chiefs and customary courts are not regulated by formal law, and defendants can appeal a verdict to the formal court system. Women do not have equal legal status with men in customary courts and traditional mediation and do not enjoy the same access to legal redress.

Trial Procedures

The law affirms the presumption of innocence. Trials are public, and juries are used. Defendants are entitled to be promptly informed of the charges against them, and free interpretation assistance is provided for defendants who do not speak the official language. Defendants have the right to counsel, which is at public expense for minors and indigent defendants charged with crimes carrying a sentence of at least 10 years. Those arrested must be notified of their right to a lawyer within 24 hours of detention. Defendants also have the right to be present at trial, confront witnesses, and present witnesses and evidence on their own behalf. The government has a legal obligation to inform defendants of all evidence against

them, and defendants have access to government-held evidence. Defendants may appeal verdicts, first to the Court of Appeals and then to the Supreme Court. However, widespread ignorance of the law prevented many accused from taking full advantage of these rights. The constitution and the law extend these rights to all; however, due to the limited number of jurisdictions, staff shortages, and lack of resources, court cases experienced some delays, leaving a high number of detainees awaiting trial.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Muammar Qadhafi's adult son Sa'adi Qadhafi remained in government custody. Arriving in Niger seeking asylum in September 2011, he was placed under house arrest in Niamey at the request of the international community. After making threats against the Nigerien government, he was moved to a more secure facility. The government reported that it had released the 31 other Libyans connected to the Qadhafi regime who had arrived with him. Despite various purported attempts to move him to third countries, Qadhafi remained under house arrest at year's end.

Civil Judicial Procedures and Remedies

Individuals or organizations may seek civil remedies for human rights violations; they can also appeal decisions to the Court of Justice of the Economic Community of West African States.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution and law generally prohibit such actions, and the government generally respected these prohibitions; however, police may conduct searches without warrants when they have strong suspicion that a house shelters criminals or stolen property.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The constitution and law provide for freedom of speech and press, and the government generally respected these rights in practice.

Violence and Harassment: BBC-Hausa reporter Tchima Illa Issoufou alleged that on August 18, in Maradi, supporters of the ruling coalition attacked her for reporting on the country's food crisis and the high cost of living. The BBC subsequently transferred Issoufou to its Zinder office. No action was taken against the perpetrators.

Libel Laws/National Security: On July 2, a court sentenced Marcus Issaka Lawson, director of the newspaper *Jeunesse Infos*, to nine months in detention and a 500,000 CFA (\$1,000) fine for libel against the wife of former president Salou Djibo.

Actions to Expand Press Freedom

Pursuant to the 2010 law protecting journalists from prosecution and to President Issoufou's endorsement of the Declaration of Table Mountain, the country continued to improve press freedom during the year. The media regulatory body, the National Observatory on Communication, and the Independent Nigerien Media Observatory for Ethics, a voluntary media watchdog organization, helped to maintain a sound media environment.

The government doubled from 100 million CFA to 200 million CFA (\$200,000 to \$400,000) the press support fund, a subsidy established by law to support the public service function (education, information, and entertainment) of all media. The fund also encourages local media to play a role in promoting democracy. Unlike in previous years, the government invited private media to accompany and report on the president's official foreign trips.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Although individuals and groups could engage in the peaceful expression of views via the Internet, few residents had access to it. According to the International Telecommunication Union, approximately 1.3 percent of individuals in the country used the Internet in 2011.

Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The constitution and law provide for freedom of assembly; however, police forcibly dispersed demonstrators. The government retained authority to prohibit gatherings under tense social conditions or if organizers did not provide 48-hour advance notice.

On April 17, in Konni, police used teargas and made several arrests among protesters who wanted to prevent the destruction of a mosque, which local authorities were trying to move following a court ruling. On October 21, police forcibly seized loudspeaker-equipped vehicles used by some civil society groups planning to hold a rally and momentarily detained some of the organizers at a police station.

Freedom of Association

Although the law provides for freedom of association, political parties based on ethnicity, religion, or region are not permitted.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The constitution and law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and other persons of concern. In June the UNHCR, along with the International Organization for Migration, organized the voluntary relocation of thousands of Malian refugees from spontaneous settlements along the border to a refugee camp farther into Niger to better comply with the UNHCR regulations.

In-country Movement: Security forces at checkpoints throughout the country monitored the movement of persons and goods, particularly near major population centers, and sometimes demanded bribes. Transportation unions and civil society groups continued to criticize such practices. During the year gunmen robbed and killed travelers. In mid-October six humanitarian aid workers were abducted in Dakoro by an al-Qaida linked group that seized control of parts of northern Mali during the year. In November one worker was killed and five others were released.

Internally Displaced Persons (IDPs)

Food shortages and floods during the year resulted in the displacement of many persons. Beginning in July, flooding, especially in the regions of Dosso and Tillabery, affected approximately 500,000 people, displacing many of them from their homes. The government worked with foreign donors and NGOs to supply these IDPs with shelter, food, water, and other necessities. The government engaged in efforts to promote the safe, voluntary return, or resettlement of IDPs.

International humanitarian organizations reported that community conflict between farmers and herders, and rural communities and bandits--especially in northern Tillabery Region--resulted in displacement. Because of the pressures of desertification and population growth on subsistence farming and livestock herding, the main activities in this region, competition among farmers and herders for limited natural resources contributed to conflict. Incursions by armed rebels in Mali into Nigerien territory and sporadic acts of banditry on main roads also contributed to displacement.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and unlike in the previous year, the government has established a system for providing protection to refugees.

As of mid-December 70,238 persons were registered as having fled to Niger from conflict in northern Mali; they were granted prima facie refugee status. Refugees were hosted in three camps (Tabareybarey, Mangaize, Abala) and two official sites (Agando and Chinwaren). The government and humanitarian organizations provided assistance to refugees. In addition thousands of refugees were living in spontaneous settlements along the border, with limited access to humanitarian assistance.

Temporary Protection: During the year the government provided temporary protection to at least 450 individuals who may not qualify as refugees under the 1951 Refugee Convention or the 1967 protocol.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution and law provide citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, generally free and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: In March 2011 citizens elected Issoufou Mahamadou to a five-year presidential term with 58 percent of the vote in an election that international observers described as generally free and fair. A coalition composed primarily of parties that had been in opposition under the Tandja regime--including the Nigerien Party for Democracy and Socialism (PNDS), Movement for Democracy in Niger, Social Democratic Rally, Rally for Democracy and Progress, Nigerien Alliance for Democracy and Progress, and the Union for Democracy and the Republic--backed Issoufou and won 83 of 113 National Assembly seats in legislative elections held in January 2011. The pro-Tandja National Movement for a Development Society (MNSD) won 26 seats, and the Social Democratic Convention and the Union of Independent Nigeriens obtained three seats and one seat, respectively. Issoufou appointed PNDS party member Brigi Rafini as prime minister.

Participation of Women and Minorities: The law mandates that women fill at least a quarter of senior government positions and at least a tenth of elected seats. There were five female ministers in the 26-member cabinet, and seven of the 30 chiefs of overseas diplomatic missions were women. A total of 14 women held National Assembly seats. All major ethnic groups were represented at all levels of government. There were eight seats in the National Assembly designated for representatives of "special constituencies," specifically ethnic minorities and nomadic populations.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials often engaged in corrupt practices with impunity. The World Bank's most recent Worldwide Governance Indicators reflected that corruption was a severe problem. The government publicly acknowledged corruption was a problem.

Civil servants often demanded bribes to provide public services. A poorly financed and trained law enforcement system and weak administrative controls compounded corruption. Other underlying causes included poverty; low salaries; the politicization of the public service; the influence of traditional kinship, ethnic, and family ties on decision making; a culture of impunity; and a lack of civic education.

On February 15, the Transitional Constitutional Council ruled that former parliamentarian Amadou Oumarou Mainassara had won two government contracts, worth 10.8 billion CFA (\$21.6 million), while still a member of the National Assembly, in violation of the constitution. Mainassara resigned from the National Assembly but had not been charged by year's end. The government cancelled the contract in question.

On April 2, the National Assembly voted to lift the parliamentary immunity of eight legislators involved in corruption cases. Parliamentarian Zakou Djibo resigned before his immunity was lifted. None of the legislators were criminally charged.

Also on April 2, President Issoufou removed three ministers implicated in corruption scandals. Minister of Finance Ouhoumoudou Mahamadou and Minister of Transport Kalla Hanouraou were involved in a government contract illegally awarded to parliamentarian Amadou Oumarou Mainassara. Minister of Equipment Salami Maimouna Almou reportedly assigned a political crony to the national Council of Transport Users in Cotonou, Benin. None were criminally charged or had any action taken against them.

The HALCIA forwarded several corruption cases to the Ministry of Justice, including one that led to the March 2 arrest of 14 persons, some of them customs officials. When a judge released the customs officials, he was censured by the High Council of the Magistracy, a judicial oversight body headed by the president.

On February 14, the Court of Appeals dismissed embezzlement charges from a 2010 case against opposition leader Seini Oumarou, former minister of commerce

Sala Habi, and Ministry of Commerce officials Amadou Soumana Gouro and Addo Mahamane.

From January to May, the government's new anticorruption hotline generated 132 cases investigated by the Ministry of Justice, including several against judges. The Ministry of Justice submitted its findings to state prosecutors to determine the appropriate course of action.

The State Inspectorate, the HALCIA, and the courts are responsible for combating government corruption. The State Audit Court regulates public finances and provides for transparency in the management of public funds. The court oversees the management of all government agencies and development projects funded by external resources, as well as the implementation of the budget. It also oversees the accounts of political parties and government officials' statements of personal assets submitted to the Constitutional Court. If requested by the National Assembly, the State Audit Court may conduct investigations regarding the implementation of public revenues and expenses. The court also has authority to sanction any fraud in the management of public resources.

The HALCIA, under the oversight of the President's Office, is charged with monitoring the government's anticorruption programs; it included government, private sector, and civil society representatives. On September 28, the HALCIA began the process of elaboration for a National Anti-Corruption Strategy that would enlist assistance from the World Bank and European Union, among others.

The constitution requires the president of the republic, presidents of other government institutions, and cabinet members to submit written statements of their personal property and other assets to the Constitutional Court upon assuming office, and this occurred in practice. The requirement does not apply to spouses and children. The disclosure includes financial and material assets. These statements are to be updated annually and at the end of an individual's tenure. Initial statements and updates are published in the National Register and the press. Copies of the statements are forwarded to the government's fiscal services. Any discrepancies between the initial and the updated statements must be explained. The Constitutional Court has authority to assess discrepancies. The designated officials are not allowed to purchase or rent, by themselves or through other parties, any government-owned property or to bid for government contracts. The HALCIA and the State Inspectorate have investigative roles, with the State Inspectorate being more administrative.

The law provides for access to public information and administrative documents, and this occurred in practice; many documents could also be obtained from individual ministries and the National Archives. The law provides a list of “communicable” and “noncommunicable” documents and defines modalities for access to them as well as related costs. If access to an official document is denied, officials are required to notify the requestor in writing and provide the legal grounds for denial. The law provides an appeal mechanism for review through the National Mediator; legal complaints are referred to the Administrative Court. It also provides for sanctions against agencies, individual civil servants, and users for noncompliance.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

UN and Other International Bodies: A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views, but insecurity in some northern areas limited the ability of human rights groups to investigate human rights violations there.

Government Human Rights Bodies: The ONDHLF investigated and monitored prison and detention center conditions; however, it lacked resources to implement an action plan. The Mediator of the Republic served as an official government ombudsman, including on some human rights issues. The ONDHLF and the mediator operated without government interference; however, they often lacked the resources necessary to conduct their work and were generally considered ineffective.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status; however, the government did not generally enforce these provisions, in large part because victims did not report discrimination or were pressured into handling it through traditional dispute mechanisms.

The constitution enacted in 2010 provides for new and strengthened democratic institutions. It also provides for the elimination of all forms of discrimination against women and introduces basic standards of respect for economic and social rights, such as the right to safe and adequate food and drinking water.

Women

Rape and Domestic Violence: Rape was a widespread problem. It is punishable by 10 to 30 years in prison, depending on the circumstances and age of the victim. The Court of Appeals tried several criminal rape cases during the year, but most cases went unreported due to the victims' fear or shame. The law does not explicitly recognize spousal rape, which was seldom prosecuted. Survivors often sought to resolve the issue within the family or were pressured to do so, and many victims did not report spousal rape due to fear of retribution or loss of economic support.

Domestic violence against women was widespread, although reliable statistics were not available regarding numbers of occurrences, prosecutions, or convictions. Husbands commonly beat their wives. The law does not explicitly prohibit domestic violence per se; however, a woman can sue her husband or lodge criminal charges for battery, penalties for which ranged from two months in prison and a 10,000 CFA (\$20) fine to 30 years' imprisonment. The government tried with limited success to enforce these laws; courts prosecuted cases of domestic violence when they received complaints. Charges stemming from family disputes were often dropped in favor of traditional dispute resolution mechanisms. While women have the right to seek redress for violence in the customary or modern courts, few did so due to ignorance of the redress offered by the legal system and fear of repudiation, further violence, or stigmatization. The Ministry of Population, Women's Promotion, and Children's Protection, international organizations, NGOs, and women's organizations conducted public awareness campaigns on violence against women and the recourse available through several events that received wide media coverage.

Female Genital Mutilation/Cutting (FGM/C): (see section 6, Children--Harmful Traditional Practices.)

Sexual Harassment: Sexual harassment is a crime punishable by prison sentences from three to six months and fines of 10,000 to 100,000 CFA (\$20 to \$200). If the violator is in a position of authority over the victim, the prison sentence is three months to one year and the fine is increased to 20,000 to 200,000 CFA (\$40 to \$400). Sexual harassment was common. Courts enforced applicable laws in the small percentage of cases reported.

Reproductive Rights: The government recognized the basic right of couples and individuals to decide freely and responsibly the number, spacing, and timing of their children; however, information regarding reproductive rights was not readily available. There were no restrictions on the right of access to contraceptives. Health clinics and local health NGOs were permitted to disseminate information on family planning freely under the guidance of the Ministry of Public Health. The UN Population Fund estimated that only 5 percent of women ages 15 to 49 used a modern method of contraception in 2011.

Since 2007 the government has provided free health care for children up to five years of age, which contributed to increased access to health centers for women's general and essential obstetric and postpartum care, including prevention of mother-to-child transmission of HIV. Due to a shortage of skilled health professionals and limited resources, many women used traditional midwives (matrones) during childbirth and were referred to hospitals only when the mother or child suffered health complications. According to the Ministry of Public Health, in 2009 skilled personnel attended 34.8 percent of births. According to the World Health Organization, the maternal mortality ratio (the number of maternal deaths per 100,000 live births) dropped from 720 in 2005 to 590 in 2010. In 2010 a woman's lifetime risk of maternal death was one in 23. Major factors influencing maternal mortality included lack of prenatal care, child marriage diseases during pregnancy, infections after birth, malnutrition, and accidents during childbirth.

Discrimination: Although the constitution provides for equal rights regardless of gender, women do not have the same rights as men under family law, which is usually adjudicated in customary courts. Typically, in customary law legal rights as head of household apply only to men; a divorced or widowed woman, even with children, was not considered to be a head of household. Traditional and religious beliefs resulted in discrimination in education, employment, and property rights. Discrimination was worse in rural areas, where women helped with subsistence farming and did most of the childrearing, cooking, water- and wood-gathering, and other work. In the absence of a formal will stating otherwise, a woman's share would be one-third the size of a man's share of a deceased parent's property. In the east there were reports that some husbands cloistered their wives and prevented them from leaving their homes unless escorted by a male relative, and even with an escort, they were usually permitted to leave the house only after dark.

The government had programs to provide microcredit, access to clean water, and access to health services for women.

Children

Birth Registration: Citizenship is derived from one's parents. Birth registration, especially in remote rural areas and in nomadic communities, did not take place promptly due to parental poverty, lack of awareness, and distance from government services. With the support of UNICEF, the government worked to address this problem, and several NGOs encouraged birth registration. The government's failure to register births did not result in denial of public services, although it complicated the process of qualifying as a candidate for public office. According to UNICEF, 32 percent of children less than five years old had their births registered in 2000-10.

Education: In principle six years of elementary education were compulsory, tuition-free, and universal from the age of six; in practice 63 percent of relevant children attended school (based on the 2007-08 school year). Students were often required to buy their own books and supplies. According to the 2012 World Development Report, the primary school completion rate for girls was 75 percent lower than that for boys in 2008. Most parents kept young girls at home to work, and girls rarely attended school for more than a few years. No laws were promulgated during the year to enforce the president's 2011 pledge to provide tuition-free education to children until the age of 16.

Child Abuse: Violence against and abuse of children was common. The penal code prescribes penalties for child abuse. For example, parents of minors who usually engage in begging, or any person who encourages children to beg or profits from their begging, can be sentenced to six months to one year of imprisonment. The abduction of a minor under 18 years of age is punishable by two to 10 years of imprisonment. The penalty for abduction for ransom is life imprisonment.

Each of the 10 district courts and 36 magistrate courts had at least one judge who addressed children's issues, including child labor. All judicial police sections at the regional and district levels may handle cases involving juveniles and refer them to judges. The government also collaborated with UNICEF and the International Labor Organization (ILO) in programs designed to improve enforcement of the law and sensitize civil servants, parents, traditional chiefs, and other key actors on children's rights.

Child Marriage: Child marriage was a problem, especially in rural areas. The law allows a girl deemed to be "sufficiently mature" to marry at 15. Some families entered into marriage agreements under which rural girls 12 or even younger were

sent to their husband's families under the "supervision" of their mothers-in-law. The Ministry of Population, Women's Promotion, and Children's Protection cooperated with women's associations to sensitize traditional chiefs and religious leaders of rural communities to the problem of underage marriage. According to UNICEF, 36 percent of women 20-24 years old were first married or in union before they were 15 years old and 75 percent were married or in union before they were 18 years old. According to UN Population Fund, the adolescent birth rate in 2011 was 199 births per 1,000 girls ages 15-19.

Harmful Traditional Practices: FGM/C was practiced on young girls, with clitoridectomy the most common form. Danguouria, a form of FGM/C found only in Niger, was also common. It consists of cutting away the hymen of newborn girls by traditional barbers known as wanzam. FGM/C is against the law and punishable by six months to three years in prison. If an FGM/C victim dies, the practitioner can be sentenced to 10 to 20 years' imprisonment. Certain ethnic groups practiced FGM/C, predominantly the Fulani and Djerma in the west. According to UNICEF, the FGM/C rate decreased from 5 percent in 1998 to 2.2 percent in 2006. Among girls 15-19, the rate decreased to 1.9 percent. A 2008 UN Office for the Coordination of Humanitarian Affairs report stated that "excisers" traveled from Burkina Faso to Niger to carry out FGM/C on nomadic Gourmantche girls as part of a rising trend of cross-border FGM/C.

Sexual Exploitation of Children: Although the law criminalizes the procurement of a minor for the purpose of prostitution, child prostitution was a problem. The penal code provides for two to five years' imprisonment and a fine of 50,000 to 500,000 CFA (\$100-10,000) for the prostitution of children. The law does not provide a minimum age of consensual sex, although it prohibits "indecent" acts toward minors (under age 18). It was left to judges to determine what constituted an indecent act. Such activity and a corollary statute against "the incitement of minors to wrongdoing" were punishable by three to five years in prison. This provision also applies to child pornography. There were reports that girls in particular were trafficked for forced prostitution along the main East-West highway, particularly between the cities of Birni n'Konni and Zinder along the Niger-Nigeria border. Families of victims were often complicit in child prostitution.

Infanticide or Infanticide of Children with Disabilities: Infanticide occurred, and at least half of the female prison population was incarcerated for this crime, which was often committed to hide the fact of having become pregnant out of wedlock.

Displaced Children: Many displaced boys from rural areas were indentured to Islamic schools and begged on the streets of larger cities. Displaced children had access to government services.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

Anti-Semitism

There was no significant Jewish community, and there were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The constitution and law prohibit discrimination against persons with physical and mental disabilities in employment, education, and access to health care and other government services, and the government generally enforced these provisions. The new labor code adopted on September 25 calls for the promotion of employment opportunities for persons with disabilities. The law mandates that the state provide for such individuals, but there were no specific regulations mandating accessibility to buildings, transportation, and education for persons with disabilities. The government provided limited health care to persons with disabilities. Societal discrimination existed against persons with disabilities, particularly mental disabilities and leprosy. The Ministry of Population, Women's Promotion, and Children's Protection is responsible for protecting the rights of persons with disabilities, including those with sensory or intellectual disabilities. On July 31, the ministry celebrated the National Day of Handicapped Persons with events on the theme "Handicapped Women's Role in the Development of Niger: Rights, Responsibilities, Challenges."

Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There was a strong societal stigma against same-sex sexual activity. There are no laws criminalizing consensual same-sex sexual activity in general. However, the

law states that an “unnatural act” with a person of the same sex who is under 21 is punishable by six months to three years in prison and a fine of between 10,000 and 100,000 CFA (\$20-\$200). Although there was no record of this law being applied, gay men and lesbians experienced societal discrimination and social resentment. There were no known organizations of lesbian, gay, bisexual, or transgender (LGBT) persons and no reports of violence against individuals based on their sexual orientation or gender identity. International organizations and NGOs continued their awareness-raising efforts in this regard, focusing on social stigma in general.

The constitution provides for equal access to employment for all citizens. On March 16, the minister of population, women’s promotion, and child protection launched a public awareness campaign on ILO conventions 100 (equal pay for men and women performing the same job), 111 (gender equality), and 183 (maternity protection as a working women’s right). While not specific to LGBT rights, the campaign was addressed to all the citizenry. There were no documented cases of discrimination in employment, occupation, housing, statelessness, or access to education or health care based on sexual orientation. Stigma or intimidation was a likely cause in preventing incidents of abuse from being reported.

Other Societal Violence or Discrimination

Persons with HIV/AIDS experienced societal discrimination, although there were strong government efforts to discourage such discrimination. The government continued its antidiscrimination campaign in conjunction with several other organizations working on HIV/AIDS issues. The new labor code provides for protection against discrimination for people suffering from diseases such as HIV/AIDS and sickle cell anemia.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The constitution and law provide for the right of workers to form and join independent unions, conduct legal strikes, and bargain collectively. The constitution and law provide for the right to strike, except for police and other security forces. The law restricts the right to strike by public servants in management positions and workers in certain “essential services,” the scope of which term was broader than that originally envisioned by the ILO convention.

The new labor code adopted on September 25 does not impose more restrictions on the right to strike. However, Ordinance 96-009 of 1996 remained in effect pending completion of the Labor Consultative Council's efforts to make the code compliant with international standards. Ordinance 96-010 of 1996 defines strategic and/or essential services that require minimum service during a strike, including: telecommunications, health, state media, water supply, electricity distribution, fuel distribution, air traffic control, financial services, public transportation, garbage collection, and state authority services.

The constitution and law recognize workers' right to establish and join trade unions without previous authorization or excessive requirements, and workers exercised this right. The labor code clearly defines the employers' and employees' contractual obligations, which allows the two parties to maintain better work relations. There were no prohibitions on strikes or limits to collective bargaining in nonessential service. Legal restrictions usually relate to requisitioning civil servants to report to work during a legally notified strike. Workers need to give employers at least three days' advance notice. The law allows unions to conduct their activities without interference. The law prohibits antiunion discrimination and provides for damages (instead of reinstatement) for workers dismissed for union activity. These laws are intended to protect all workers and the government effectively enforced applicable laws in the formal sector. However, enforcement in the informal sector was limited because this sector was largely nonunionized.

These rights were respected and workers exercised them in practice. Worker organizations were generally independent of the government and political parties. However, approximately 80 percent of the workforce was employed in the nonunionized subsistence agricultural and small trading sectors. During the year unions exercised the right to bargain collectively for wages above the legal minimum and for more favorable working conditions.

During the periods of October 6-8 and 12-16, taxi drivers went on strike to protest high fuel prices and vehicle taxes; police arrested 39 strikers, including 11 union leaders in Niamey and several more in Zinder. The government used intimidation and arrests to break the strike, with limited success; then it lodged a request to the Niamey Tribunal to declare the taxi drivers' strike illegal for infringing others' freedom of movement and right to work, as well as the use of violence and intimidation. An October 10 decree noted that the government's actions were to counter the union's "unilateral and illegal pricing of urban and suburban transport." Meanwhile, government officials publically discredited and discouraged support for the strike. On October 17, the court halted the strike but

released the defendants for lack of evidence. On October 25, the governor of Niamey warned that taxi drivers who continued to charge higher than usual fares would have their vehicles impounded. By October 29, authorities impounded more than 50 vehicles, all of which were eventually returned to their owners.

b. Prohibition of Forced or Compulsory Labor

Article 4 of the labor code prohibits most forms of forced or compulsory labor. The term “forced or compulsory labor” means “any labor or service required of a person under the threat of punishment and for which the individual has not given full consent.” The law does not specifically prohibit forced or compulsory labor by children. Per article 333 of the labor code, violations of article 4 are subject to fines from CFA 20,000 (\$40) to 200,000 (\$400) and six days’ to one month’s imprisonment. The government did not effectively enforce these laws.

The new labor code addresses issues such as the worst forms of child labor, discrimination, and forced labor and imposes more stringent penalties for labor violations. Although detailed information on the number of victims removed from forced labor was not available, the national police rescued 22 children from situations of exploitation, including trafficking.

The government, particularly the Ministry of Interior and the Ministry of Labor and Civil Service, made efforts to reach out to administrative heads and religious and traditional chiefs to discourage forced labor, especially traditional slavery. However, enforcement of the laws was sporadic. The National Committee to Combat Forced Labor and Discrimination did not develop an action plan. Ministry of Labor officials indicated, however, that they had started implementing some aspects of the plan even before its adoption. Nonetheless, following the drafting of a national action plan to combat trafficking in October 2011, in March and April, the Ministry of Justice formally established a new interministerial antitrafficking commission and an antitrafficking agency, and it stated its commitment to the formal adoption of the national action plan by the end of 2012. The Ministry of Labor and Civil Service’s Forced Labor Commission is responsible to coordinate with the new antitrafficking commission and the implementing agency. The commission stopped its activities with the closing of the Project Against Forced Labor and Discrimination in 2009. The government reinstated the commission during the year with more prerogatives; executive members are now appointed by presidential decree rather than the minister of labor.

Forced labor remained a problem. A study conducted by the government and the ILO concluded that in 2009 the prevalence of forced labor was 1.1 percent among the adult population (an estimated 60,000 persons) and 2.8 percent among working children (an estimated 55,000). These percentages were higher in the regions of Tillabery, Tahoua, and Maradi. A traditional form of caste-based servitude or bonded labor was still practiced by the Tuareg, Djerma, and Arab ethnic minorities throughout the country, particularly in remote northern and western regions and along the border with Nigeria.

Persons born into a traditionally subordinate caste sometimes worked without pay for those above them in the social order. Estimates of numbers varied widely, from a 2004 estimate of 8,800 persons to a 2003 estimate of 43,000. Such persons were forced to work without pay for their masters throughout their lives, primarily herding cattle, working on farmland, or working as domestic servants. Children became the property of their masters and could be passed from one owner to another as gifts or part of a dowry. Girls were forced to start work as domestic servants at a very young age. Girls could be sexually abused by men in the household or forced to marry at a young age. Children's work included tending animals, gathering firewood, fetching water from wells or ponds, and running other domestic errands.

There were reports that some local religious teachers and loosely organized clandestine networks forced young boys to work as beggars and manual laborers and young girls to work as involuntary domestic servants, sometimes with the complicity of their families. Children were also forced to work in granite quarries and artisanal gold, salt, trona, and gypsum mines (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the use of child labor and the employment of children under the age of 14, except as authorized by decree. Children under the age of 12 are prohibited from working. Twelve- and 13-year-olds may perform nonindustrial light work for a maximum of two hours per day outside of school hours with a labor inspector's authorization, as long as such work does not impede their schooling. Light work is defined as including some domestic work, fruit picking and sorting, and other light, nonindustrial labor. Children 14 to 18 years of age may work a maximum of 4.5 hours per day. Children may not perform work that

requires force greater than their strength, may damage their health or development, is risky, or is likely to undermine their morality. The law requires employers to provide minimum sanitary working conditions for children.

The government did not effectively enforce child labor laws, in part due to resource constraints that limited inspectors of the Ministry of Labor and Civil Service. The laws were rarely applied to work performed by children in the nonindustrial/informal sector. The government worked with international partners to provide relevant education as an inducement to parents to keep their children in school. The Ministry of Education conducted training sessions to help educators meet the special needs of child laborers. The government continued its cooperation with ILO to eliminate child labor in the mining sector and, along with NGOs, was reportedly able to remove 600 children from mining work and enroll them in school.

The use of child labor was prevalent. A study published by UNESCO indicated that in 2011, 41.5 percent of children between the ages of five and 14 years old were engaged in labor, and 15.8 percent split their time between work and school. The report found that both the implementation and enforcement of policies were not as strong as needed and noted particular concern over the use of child labor in the mining and agricultural sectors.

Children worked in the agricultural, commercial, handicraft, mining, and domestic service sectors. The majority of rural children regularly worked with their families from an early age helping in the fields, pounding grain, tending animals, gathering firewood and water, and doing similar tasks. Some boys were kept out of school to work as beggars alongside blind relatives. Others were sent to Islamic schools where their teachers made them beg and do manual labor. Child labor also occurred in largely unregulated artisanal gold mining operations, as well as in trona (a source of sodium carbonate compounds), salt, and gypsum mines. The artisanal gold mines at Komabangou, Tillabery Region, continued to operate using many children, particularly adolescent boys and some girls, under hazardous health and safety conditions. The use of cyanide, introduced over the past two years, further complicated the health hazards. Komabangou miners, other residents, and human rights groups expressed deep concerns about poisoning and groundwater contamination, but the practice remained widespread. Young boys from neighboring countries were trafficked into the country to work in mines, in quarries, on farms, as mechanics, or as welders. Children were also procured for prostitution.

Also see the Department of Labor's *Findings on the Worst forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

The labor code establishes a minimum wage only for salaried workers in the formal sector with fixed (contractual) terms of employment. Minimum wages are set for each class and category within the formal sector. The lowest minimum wage was 30,047 CFA (\$60) per month, with an additional 1,000 CFA (\$2) added per child per month. The government used 1,000 CFA (\$2) per day as the poverty income level. In 2010 the government reported that 59.5 percent of citizens lived below that level.

The formal sector legal workweek was 40 hours with a minimum of one 24-hour rest period; however, the Ministry of Labor and Civil Service authorized longer workweeks of up to 72 hours for certain occupations such as private security guards, domestic workers, and drivers. The new labor code provides special arrangements regarding the mining and oil sectors whereby the Ministry of Labor may grant waivers regarding work hours based on these two sectors' specific nature and makes allowances for working larger blocks of time in exchange for time off. Workers may work for two weeks beyond normal work hours; in compensation they are allowed two weeks' rest. Premium pay must be paid for overtime, although the rate is not set by law; employees of each enterprise or government agency negotiate with their employer to set the rate. The labor code establishes occupational safety and health standards. Workers have the right to remove themselves from hazardous conditions without fear of losing their jobs. There are no exceptions from such protections for migrant or foreign workers.

The Ministry of Labor and Civil Service effectively enforced minimum wages and workweek laws only in the regulated formal sector. The ministry is responsible for enforcing these standards, although staff shortages caused inspectors to focus on safety violations only in the most dangerous industries: mining, building, and manufacturing. The government effectively enforced standards within these three industries, except that gold mining was largely unregulated. The Ministry of Labor and Civil Service had approximately 100 inspectors deployed nationwide who were responsible for enforcing the labor code. The ministry had very limited resources in relation to its needs for transportation, fuel, and other basic resources in order to effectively carry out inspections. As a result, the number of investigations and prosecutions was not adequate compared to the size of the country's labor problems, and as the ministry's officials observed, sanctions were

not stringent enough to deter violations. However, the new labor code extends labor inspectors' authority and provides for more stringent sanctions, including a mandatory appearance before labor inspectors in resolving labor disputes.

During the year the government and labor unions agreed to several measures intended to improve workers' living conditions, including 5 to 10 percent salary and fringe benefits increases, and the reduction of utility prices.

On May 27-31, the ILO office met with various stakeholders to prepare a tripartite workshop on sensitizing and capacity building for concerned ministries, labor inspectors, and labor unions on child domestic labor, drafting a national law on domestic labor, and ILO Convention 189.

Violations of wage, overtime, and work conditions were reported in the petroleum and mining sectors, including gold mines, oil wells, and oil refining. Groups of workers in hazardous or exploitive work conditions included mine workers including children, domestic workers, and people in traditional slavery. In the traditional gold mining sector, the use of cyanide posed serious health hazards for workers and the outlying communities. Investors could rent a tract of land and the right to mine it for 20,000 CFA (\$41). Typically they then hired foremen who assembled a team of miners. When ore was collected, the foremen and miners receive a share of the ore--typically their only direct payment for their labor. It was estimated that 80 percent of the workforce worked in the informal sector. The Ministry of Labor could not confirm the accurate figures on the informal sector but indicated that the National Statistics Institute was conducting a study on this sector. Although generally satisfied with the safety equipment provided by employers, citing in particular adequate protection from radiation in the uranium mines, union workers in many cases did not receive information about the risks posed by their jobs. According to the Ministry of Labor, there were 227 work-related accidents, including 17 fatalities (two on the job and 15 on the way to work). All 17 cases were compensated as required by law. Most accidents related to the mining sector. There were two cases of professional illness. In the nonunionized, informal sector, despite the law it was unlikely that they could exercise this right without jeopardizing their employment.