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Niger: Emergency legislation infringes non-derogable human rights

The emergency measures taken in response to the armed Tuareg opposition movement, the *Mouvement des Nigériens pour la justice* (MNJ), Niger People's Movement for Justice, have led to unjustified restrictions on certain fundamental human rights guaranteed by international instruments to which Niger is a state party.

Amnesty International has received corroborating information about the arbitrary arrest of dozens of civilians in the Agadez region, in the north of the country, some of whom have allegedly been tortured. At least five of them have been detained without charge at the Agadez military company headquarters for more than three weeks. They were transferred yesterday to the capital, Niamey, without having had the opportunity to see a lawyer and without their families knowing the charges made against them. Moreover, an unknown number of other people continue to be detained by the security forces without having been brought before a judge.

"Amnesty International calls on the Niger authorities to publish the names of all the civilians detained, as well as their place of detention and the charges made against them. These people must have access to their families and to a lawyer and be presumed innocent. Those against whom no charge is made must be immediately released," Erwin Van Der Borcht, Director of the Amnesty International Africa Program said today.

These violations, banned under international law, follow the decree issued by the President of Niger, Mamadou Tandja, on 24 August 2007, which announced a "*mise en garde*" (state of alert) in the Agadez region for a period of three months and gave the army and the police apparently unlimited powers.

Amnesty International is deeply concerned that the law issuing this "*mise en garde*" (Law 2002-30 of 31 December 2002 on the general organization of national defence) does not specify any of the powers granted to the security forces in this type of situation. The law only defines "*mise en garde*" as "*appropriate measures to ensure the government's freedom to act, reduce the vulnerability of populations or important infrastructure and guarantee the security of armed forces mobilisations and operations.*"

These vague provisions have allowed the security forces to arrest civilians in their own homes at any hour of the day or night. The Tuareg shopkeeper, Moustapha Karimoun, was arrested at his home in Agadez on 25 August 2007 at 3.10 a.m. He is among a group of five detainees transferred today to Niamey. Other individuals, arrested in Arlit (approximately 240 km from Agadez), have been detained for several weeks, apparently incommunicado, at the Madaweila military company headquarters.

In addition, on 31 August 2007, the *Conseil supérieur de la communication (CSC) du Niger*, Superior Communication Council of Niger, banned live radio debates on the situation in the Agadez region. Even before the "*mise en garde*" in the Agadez region, the authorities had violated the freedom of the press by threatening journalists, suspending the bimonthly Air-Info for three months and, on 19 July 2007, suspending the transmission of Radio France Internationale (RFI) broadcasts for one month.

“The Niger authorities must bear in mind that, by virtue of international law, certain fundamental laws cannot be suspended and must always be respected, whether a state of exception has been declared or not”, Erwin Van Der Borgh said today.

Among the rights (as set out in international instruments, including the International Covenant on Civil and Political Rights and the African Charter on Human and People’s Rights, to which Niger is a state party) that can in no circumstances be derogated are not only the right to life and the right not to be subjected to torture or to other cruel treatment but also the right not to be subjected to arbitrary arrest, the right not to be deprived of liberty and the right to be treated with humanity and with respect for the inherent dignity of the human person. Moreover, international law provides that derogations of the freedom of expression must be limited “to what is strictly required by the situation”.

Background information

A new Tuareg armed opposition movement, the *Mouvement des Nigériens pour la justice* (MNJ), Niger People’s Movement for Justice, appeared on February 2007 and launched attacks against the Niger military, killing about 40 soldiers and taking about another 70 soldiers hostage, many of whom were later released.

The MNJ is demanding better implementation of the peace agreement that put an end to the Tuareg insurrection in 1995, especially the social and economic provisions. Despite calls for negotiation made by civil society and several Niger political parties, President Mamadou Tandja has so far refused to negotiate with the MNJ, whose members he describes as “*bandits and drug dealers*”.