

NIGER

Harassment of government opponents has become systematic

A year ago, in May 1996, Niger adopted by referendum a new Constitution re-establishing the rule of law, which had been suspended by the military coup of 27 January 1996. In particular, the coup resulted in the removal of the democratically elected President, Mahamane Ousmane, the suspension of political parties, the dissolution of parliament and a ban on all political demonstrations and activity.

On 20 May 1996, a week after the adoption of the new Constitution, General Ibrahim Baré Maïnassara, the Head of State, made a public declaration before the diplomatic corps of his determination to respect the safeguards laid down by the Constitution, and in particular to "respect human rights and fundamental freedoms".

A year on, it is clear that these laudable commitments have not been kept. After numerous human rights violations committed with impunity by Niger's security forces during 1996, the early part of 1997 saw a new wave of arbitrary arrests, systematic intimidation and unfair trials.

As a clear sign of the step backwards criticized by Amnesty International in 1996, a State Security Court – set up at the time of one-party rule and posing a serious threat to respect for human rights – has been reactivated after several years in abeyance.

Even more worrying is the fact that uniformed members of the security forces, acting under orders or on their own initiative, have vandalized the premises of an independent radio station and have tortured and ill-treated government opponents after seizing them in the middle of the night.

In view of the serious nature of these events, Amnesty International urges the Nigerien Government to end the systematic human rights violations committed with impunity by the security forces since the January 1996 coup. Amnesty International also calls urgently for prompt, thorough and impartial investigations into all alleged human rights violations, especially into the involvement of members of the security forces in the torture and ill-treatment of members and supporters of opposition political parties, and for those responsible to be brought to justice.

On the first anniversary of the new Constitution, Amnesty International also calls on the Nigerien authorities to respect not only the safeguards written into this fundamental instrument but also Niger's international obligations on human rights, particularly with regard to arbitrary arrest, torture and ill-treatment and also the right to freedom of expression. These safeguards appear in particular in the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights, both ratified by Niger in 1986.

Amnesty International calls on the Nigerien authorities not to resort to the State Security Court, as this special jurisdiction falls short of international standards for the right to defence. The organization also calls for the trials of suspected opposition party supporters and strikers, which are held in ordinary courts, to meet international standards for fair trial.

Lastly, Amnesty International appeals for the immediate and unconditional release of all prisoners of conscience arrested in March and April 1997, and in some cases convicted, solely on the grounds of their alleged support for opposition parties or their opposition to plans for the privatization of state enterprises, and without evidence of their individual responsibility for criminal acts.

Attacks on freedom of expression and arbitrary arrests

Since coming to power in January 1996 the Nigerien military has repeatedly attacked the rights to freedom of expression and demonstration, despite the fact that these are guaranteed by the Nigerien Constitution of 12 May 1996 and the International Covenant on Civil and Political Rights.

In October 1996 Amnesty International published a report, *Niger: A major step backwards* (AI Index: AFR 43/02/96), in which the organization stressed that the arbitrary arrests, torture and ill-treatment carried out with impunity by the Nigerien security forces since January 1996 had jeopardized the freedoms of expression and association recognized and guaranteed when the rule of law was established in the early 1990s. Niger had then embarked on a long process of democratization which ended the one-party system. In July 1991 a national conference led to the appointment of a transitional government which remained in power until the first multi-party elections were held in 1993.

Since the publication of the 1996 report, harassment of government opponents has never really ceased and has become systematic since the beginning of 1997. Supporters of opposition political parties have been arrested solely for the non-violent expression of their opinions. At about 11.00 on the night of 13 October 1996 the security forces arrived without an arrest warrant at the home of Bello Tiousso Garba, leader of the *Union pour la démocratie et le progrès* (UDP), Union for Democracy and Progress, one of the parties belonging to the *Front pour la restauration et la défense de la démocratie* (FRDD), Front for the Restoration and Defence of Democracy – a coalition of eight opposition parties formed in September 1996 in the aftermath of the strongly disputed presidential election results of July 1996.

Bello Tiousso Garba was taken to the headquarters of the *Renseignements généraux* (General Intelligence) in Niamey, the capital, where he was held for a day, apparently for having held a press conference during which he accused the government of corruption. He was only

freed after a protest by the other FRDD leaders, who went to give themselves up in order to secure his release.

After a period of calm, preceding and following the parliamentary elections that were boycotted by the opposition in November 1996 and overwhelmingly won by parties supporting the President, early in 1997 the authorities launched a fresh wave of arbitrary arrests, systematic intimidation and unfair trials of people who had protested against government policy: supporters of opposition political parties demonstrating peacefully and lawfully, lawyers, journalists and striking trade unionists.

From the beginning of 1997 the Nigerien authorities again attempted to prevent the opposition from publicly expressing its views. An opposition demonstration planned for 11 January 1997 was banned by the Prefect-Mayor of Niamey on the grounds that it might lead to a breach of the peace. The demonstration was to have been the first of a series of days of democratic initiatives organized by the FRDD to call for the restoration of democracy.

The opposition challenged the ban in the Niamey Court of First Instance, which found, in a decision given on 10 January 1997, the day before the demonstration, that "the plaintiffs [had] fulfilled the sole condition of prior announcement" and ordered the Prefect "to take all measures necessary for the exercise of a public liberty that the demonstration represents".

Despite the court's decision, which made the demonstration completely legal, on 11 January police attacked the demonstrators on the square before the National Assembly. According to information received by Amnesty International, the demonstration was proceeding peacefully when, at about 10.30 am, a town hall official came forward and told the demonstrators to withdraw in the name of the law. Then, without even allowing time for the demonstrators to leave the area, the police fired tear-gas straight into the crowd without warning and began beating male and female demonstrators indiscriminately, injuring about 20 people. After being driven back, the demonstrators set fire to tyres and held up the traffic in several districts. Similar demonstrations were also dispersed by force the same day in several other towns in the country, in Zinder and Diffa.

In the days following the demonstration of 11 January 1997, the security forces arrested dozens of supporters, some of them women, of political parties belonging to the FRDD coalition. As far as Amnesty International is aware, these people were arrested at their homes with no apparent evidence of their individual involvement in acts of violence and solely on the grounds of their support for opposition parties. Most of them were held without charge or trial for about 10 days. It would appear that the detainees were not ill-treated, in contrast to what occurred in July 1996 when many people were publicly subjected to degrading treatment, while some were deported to the north of the country and others were subjected to mock executions. (See *Niger: A major step backwards* (AI Index: AFR 43/02/96).)

A few hours after the demonstration of 11 January 1997, the Nigerien authorities also placed under house arrest the leaders of the three main opposition parties: former President Mahamane Ousmane, of the *Convention démocratique et sociale* (CDS), Democratic Social Convention, former Speaker of the National Assembly Mahamadou Issoufou, of the *Parti nigérien pour la démocratie et le socialisme* (PNDS), Nigerien Party for Democracy and Socialism, and the president of the former single party, the *Mouvement national pour la société de développement* (MNSD), National Movement for the Society of Development, Mamadou Tandja. All three had stood against General Baré Maïnassara in the July 1996 presidential election. To justify these measures the Nigerien authorities cited the existence of a "plan to destabilize the country", and publicly accused the opposition of deliberately committing acts of violence so that Niger's donors would suspend their assistance.

Three days later, on 14 January 1997, the three main opposition leaders were taken to a destination that was not revealed to their families or lawyers. The arrests followed the President's signing of a decree reactivating the State Security Court (see below).

Mahamane Ousmane and Mamadou Tandja were taken to the *Centre de documentation d'Etat* (CDE), Centre for State Research, a security service responsible directly to the Head of State. Mahamadou Issoufou spent two days at drug squad headquarters in Niamey before being taken to a military camp at Ekrafane, 300 km north of Niamey. This was where dozens of supporters of opposition political parties had suffered a whole range of torture and ill-treatment in July 1996. Mahamadou Issoufou remained at the camp for a day before being taken to Ouallam prison, 180 km north of Niamey, where he had to spend the night in a rat-infested cell. Eventually, on 19 January 1997, he was brought back to Niamey to rejoin the other two leaders in *garde à vue* detention at the CDE.

Several Nigerien human rights organizations, including the *Association nigérienne de défense des droits de l'homme* (ANDDH), Nigerien Human Rights Defence Association and the *Ligue nigérienne de défense des droits de l'homme* (LNDH), Nigerien Human Rights Defence League, expressed concern about these incommunicado detentions and protested at the fact that, despite their requests, they were not allowed to visit the detainees.

When questioned about these arrests, the Minister of Justice, Boube Oumarou, confirmed that the three party leaders could be held in *garde à vue* detention for two months under the terms of the procedure in force for cases to be heard by the State Security Court, and that the charges against them ("threat to state security and the overthrow of the government") were punishable by life imprisonment.

On 23 January 1997, however, the Nigerien authorities decided to release all those in custody as a result of mediation by the governments of Togo and Benin, members, with Niger, of the

Conseil d'entente régional, a sub-regional organization of which Burkina Faso and Côte d'Ivoire are also members.

The releases were officially announced by the Head of State in a message to the nation broadcast on 23 January 1997, and were presented as a goodwill gesture aimed at opening a dialogue with the opposition. However, the Nigerien authorities did not state whether the releases were unconditional or provisional, or whether charges remained against these opposition party supporters. Nor has the threat of trial before the State Security Court been formally withdrawn.

It would seem that, throughout this affair, the decision to arrest hundreds of opposition party supporters and then release them some 10 days later was made entirely for political reasons, without reference to any judicial procedure. The judicial system had previously been ignored at the time of the July 1996 arrests. Amnesty International is extremely concerned at this situation, which severely undermines the establishment of the rule of law in Niger.

On 23 January 1997, the day of the release of all the opposition party supporters, one of the opposition leaders' lawyers, Maître Souleye Oumarou, was arrested and held in custody for three days for alleged involvement in a fraud. In fact it would appear that the authorities wanted to intimidate this lawyer who, together with several colleagues, had announced his intention of taking General Baré Maïnassara before the State Security Court for overthrowing the democratically elected President, Mahamane Ousmane, in January 1996.

Reactivation of the State Security Court

Three days after the demonstration of 11 January 1997, the Head of State signed a decree reactivating the State Security Court. This special court, established in November 1974, had been in abeyance since the establishment of the rule of law in the early 1990s.

The reactivation of this special court provoked protests from many Nigerien jurists and human rights groups, who stated that this special jurisdiction was unconstitutional and that its powers had lapsed. The Nigerien Government maintained, however, that the court was in no way incompatible with the Constitution, and that the 1974 ruling which established it remained in force as it had never been formally abrogated.

Amnesty International is seriously concerned about the reactivation of the State Security Court, as the ruling of 8 November 1974 by which it was established contains several provisions that contravene international standards for fair trial and respect for human rights. For instance, Article 19 of the ruling provides that "cases may only be submitted to the State Security Court by decree of the Head of State, who shall pronounce the indictment", which contravenes all recognized principles of the separation of executive and judicial powers.

In addition, Article 12 of the ruling provides for two months' *garde à vue* detention, considerably longer than the usual length laid down by the Nigerien Code of Criminal Procedure, which is 48 hours renewable once on the authorization of the public prosecutor or the examining magistrate. The possibility of keeping a suspect in *garde à vue* detention for two months carries all the more risk in that such a period of incommunicado detention, during which the prisoner is not allowed access to his family, his lawyer or a doctor of his choice, provides particular opportunity for torture and ill-treatment.

Finally, a person convicted by the State Security Court has no right of appeal against conviction to a higher court, which contravenes Article 14 of the International Covenant on Civil and Political Rights, which lays down that "[e]veryone convicted of a crime shall have the right to his conviction and sentence being reviewed by a higher tribunal according to law".

Amnesty International is also concerned by the fact that, in the past, the State Security Court sentenced several people to death for attempting to overthrow the government. Amnesty International believes that the death penalty violates the inalienable rights of the individual as set out in Articles 6 and 7 of the International Covenant on Civil and Political Rights, which acknowledge the right to life of every individual and stipulate that "[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". Consequently, the campaign for abolition of the death penalty is inseparable from the struggle for human rights.

For the reasons stated above, Amnesty International considers that a preliminary investigation and trial conducted by the State Security Court fail to provide adequate guarantees of respect for internationally recognized standards. Amnesty International therefore calls on the Nigerien authorities to refrain from using this special court which poses a threat to the respect of human rights.

Unfair trials

Although the reactivation of the State Security Court has so far remained as a threat to intimidate the opposition, Amnesty International is disturbed at the resurgence of unfair political trials of suspected supporters of opposition political parties, who may be prisoners of conscience.

In a trial held on 18 March 1997, nine people were sentenced to two months' imprisonment for "unlawful armed assembly". They had been arrested on 9 March 1997 after an opposition demonstration that had been banned by the authorities. It would appear that most of these people were arrested in the market or in the street, some distance away from where the demonstration was taking place, and that there was no evidence of their involvement in acts of violence. A butcher, Kadade Kirgo, who was selling meat in the market, was arrested simply because someone who was being chased by the police hid under his stall. The police officers asked the

butcher to bring his knife, which was exhibited at the trial as evidence that the accused had taken part in an unlawful armed assembly.

Other people who were convicted had not been involved in the demonstration at all. Tiémogo Batchiri, an itinerant poet and musician, was arrested after arriving at the scene of the demonstration in the hope of earning a little money by performing songs. Similarly, among those convicted was Yaye Karimou, a man who had merely hired out his vehicle to carry demonstrators to the venue.

At the trial, the prosecutor ignored these points and called for the conviction of the entire group of defendants as an example. He asked the court "to be extremely severe with the demonstrators, as a lesson to future demonstrators", adding that there was a "strategy" and that there would be "other demonstrations".

Defence lawyers also drew attention to several breaches of the law. In the first place, the defendants were tried under the *flagrant délit* procedure, for which the accused must be tried within 48 hours, otherwise the case must be passed to an examining magistrate, who is obliged to open an investigation. The people who were arrested on 9 March 1997 were tried nine days later by a judge of *flagrant délit* cases who was no longer competent to hear the case because the trial had not taken place within the period prescribed by law.

In addition, the defence lawyers pointed out that for "unlawful armed assembly" to have taken place, it is essential for the police to have issued prior warnings requesting people to leave the scene of the demonstration; this was not done on 9 March 1997. Despite the lack of this essential element of the offence, the judge convicted the nine defendants on the basis of this charge.

Amnesty International is also concerned about the conditions under which the trial was held. The courtroom was filled by members of the security forces and closed to the press and public. This was the first time since the establishment of the rule of law in the early 1990s that a political trial had been held effectively *in camera* and under such police surveillance. Amnesty International sees this as a further sign of the major step backwards taken in the rule of law in Niger since the military coup of January 1996.

Amnesty International objects strongly to the principle of such convictions "as an example", which can only result in unfair trials and the conviction of people against whom there is no evidence that they are individually guilty of any actual offence. Amnesty International considers some, if not all, of these people to be prisoners of conscience convicted for their presumed support for opposition parties, without evidence of their individual involvement in acts of violence. The organization therefore calls for their immediate and unconditional release.

On 10 April 1997, 22 trade unionists appeared in another trial which ended in four of them receiving prison sentences ranging from two months to two years. They were arrested in connection with a wave of strikes that has swept Niger since the beginning of 1997. Some strikers, employees of the Nigerien electricity company (NIGELEC), were arrested after a wildcat strike in March 1997 that deprived Niamey of electricity. At the time, the government claimed that the strikers had been caught "red-handed in acts of sabotage", in particular on the power line from Nigeria.

Other trade union leaders, such as Maman Mansour Dabo, Deputy Secretary General of Niger's main trade union, the *Union des syndicats de travailleurs du Niger* (USTN), Union of Workers' Unions of Niger, and Mamadou Soumaila, Deputy Secretary General of the *Syndicat national des travailleurs de l'énergie* (SYNATREN), National Union of Energy Workers, were arrested in late March 1997 in the middle of a meeting at the trade union centre where the USTN has its headquarters.

The court eventually sentenced two people to two years' imprisonment: Rabiou Mamadou Arma Yaou, a meter reader working for NIGELEC, who admitted causing a short circuit in order to cut off the city of Niamey's electricity supply, and Abdou Bagué, a member of SYNATREN's national executive, who was convicted of complicity in criminal damage. In the latter's case, however, it would seem that no evidence was presented of his personal responsibility for incitement to acts of violence or sabotage.

Two other trade unionists, Boubacar Aba Gana and Maman Bouhari, were sentenced to two months' imprisonment for refusal to comply with a requisition for a minimum service to be provided in the event of a strike. These two people were convicted despite the fact that the defence was able to establish that they had not received any official notification of such a requisition.

Although acquitted, the other 18 trade unionists remained in detention following an appeal by the prosecutor against the verdict on the grounds of excessive leniency. At the time of writing, the Appeal Court which was to rule on their continued detention had not yet delivered its verdict, and these 18 people were still in prison.

Looking beyond the charges of sabotage, which in any case were largely rejected by the court, since it dismissed NIGELEC's case for the award of damages in the absence of any material proof of criminal damage, it would appear that the arrests reflect the determination of the Nigerien authorities to suppress any trade union opposition to the privatization plans that Niger has undertaken to implement in agreement with the Bretton Woods institutions. Some trade unionists were arrested solely for opposing a plan to privatize NIGELEC under the Structural Adjustment Program agreed between Niger and the International Monetary Fund (IMF). This is true in particular of Adamou Boukary, a NIGELEC engineer who had recently

been transferred for expressing his disagreement with the privatization plan. Adamou Boukary, who suffers from diabetes and high blood pressure, is still being held despite his acquittal and is currently receiving treatment at the National Hospital in Niamey.

While condemning any attempts at sabotage aimed at putting power stations out of action, Amnesty International believes that some, if not most, of the trade unionists who were convicted or remain in detention were arrested because of their opposition to plans to privatize the industry for which they worked, and without any evidence of their individual responsibility for criminal acts. Amnesty International regards these people as prisoners of conscience and calls for their immediate and unconditional release.

Torture and intimidation of government opponents

Amnesty International is also particularly concerned about torture and ill-treatment for which uniformed members of the security forces, acting under orders or on their own initiative, have been responsible. An opposition party supporter and an academic who writes for the independent press were seized in the middle of the night and severely beaten. The equipment of a privately owned radio station was vandalized in an obvious attempt to silence this medium of the independent press.

On 3 February 1997 an FRDD member, Elhadj Oumarou Oubandawaki, aged about 60, was arrested at his home by six uniformed police officers just after the breaking of the fast of Ramadan. He was taken out along the road to Ouallam, several kilometres from Niamey, and abandoned there after being beaten. The doctors who treated him noted cranial traumatism, lost teeth, facial swelling and a broken arm.

This same opposition member had been beaten at the offices of the judicial police at the time of his arrest after the events of 11 January 1997. On that occasion he had been threatened by the Nigerien security services because of his repeated criticisms of the government on the radio.

There were several indications of involvement by members of the security forces. Elhadj Oumarou Oubandawaki recognized one of his uniformed attackers and stated that he was put into a four-wheel-drive vehicle belonging to the army. His lawyers have lodged a complaint for assault, but it would appear that some judges are somewhat reluctant to investigate a case in which members of the security forces may be implicated.

Another physical assault preceded by kidnapping occurred on the night of 9–10 April 1997. A Nigerien academic, Souley Adji, who teaches at Niamey University and contributes to several independent newspapers, was seized around half past midnight by four men, of whom one was in military uniform and the others in civilian clothes. He was taken out along the road to Ouallam, several kilometres from Niamey, not far from the place where Elhadj Oumarou Oubandawaki

had been beaten two months earlier. There he was stripped naked and beaten until he lost consciousness.

Souley Adji had previously been arrested at his home by members of the security forces a year before, in April 1996, and had been held for three days for writing an article criticizing the military government. (See *Niger: A major step backwards* (AI Index: AFR 43/02/96).) Ten days before this assault, in the independent newspaper *Le Citoyen* (The Citizen), he had published an article which was highly critical of the authorities under the heading "Sadism, childhood disease of democratic renewal".

On the night of 1 March 1997, military personnel also vandalized the premises of the independent radio station "Anfani". The station had been closed by the Nigerien authorities for three weeks in July 1996 for allowing an opposition candidate to give an interview while polling for the presidential election was still in progress.

According to information received by Amnesty International, the commando group that wrecked Radio Anfani consisted of five men carrying arms and wearing military uniform. The attackers left prints of military boots, and at the time of the attack witnesses at the scene saw an army jeep which could have been the same vehicle as the one in which Elhadj Oumarou Oubandawaki was kidnapped.

In spite of this overwhelming body of evidence, no investigation into the possible involvement of individual military personnel has been mounted, as far as Amnesty International is aware, even though a complaint was formally lodged by Radio Anfani.

On the contrary, about a fortnight after the wrecking of the radio station, five employees of Radio Anfani, including the station's general manager, Gremah Boucar, were arrested in connection with a complaint for defamation brought by the army. All were released except Gremah Boucar and Harouna Issoufou, the night watchman who witnessed the attack, who were charged with "fraud" on 20 March 1997. These two people were accused of organizing the destruction of their radio station themselves in order to obtain funds from international agencies and foreign embassies. The day after being charged, the two men were conditionally released. Gremah Boucar immediately withdrew his complaint and, in a broadcast statement, made an official apology to the Nigerien army for accusing troops of vandalizing his radio station.

There has been no further consideration of security force responsibility for these attacks. The army has merely acknowledged that it has a vehicle similar to the one described by Elhadj Oumarou Oubandawaki as being used during the attack on him, but military officials have claimed that the vehicle in question was broken down at the time of the incident.

In these cases, which are extremely serious since individual members of the security forces are clearly implicated, Amnesty International believes that it is vital to set up an independent and impartial commission of inquiry with full scope to hear all witnesses, free of any pressure, and able to make its findings public. If it transpires that members of the security forces were involved in these incidents in one way or another, they should be promptly brought to justice.

Amnesty International also calls on the Nigerien Government to ratify, as soon as possible, the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which sets out all international safeguards for protection against torture.

Conclusion

Since the military coup in January 1996, Amnesty International has noted with concern the persistence of human rights violations committed with impunity by the Nigerien security forces. Interviewed in February 1997 by *Le Républicain*, an independent Nigerien weekly, about Amnesty International's report published in October 1996, the Head of State, General Baré Maïnassara, attributed these human rights violations to "excesses which are often due to the irresponsible attitude of individual agents of the security forces". The Head of State also expressed the hope that Amnesty International "[would] not restrict itself to denouncing the arrests but [would] try to understand the reasons for them".

Amnesty International does not support or oppose any type of government, but it insists that governments should respect human rights. In the case of Niger, it notes that, although the arrests in 1997 have not led to the torture and ill-treatment recorded in 1996, harassment and intimidation of anyone who protests against or opposes government policies have become systematic since the beginning of the year and cannot be explained as individual excesses.

Amnesty International urges the Nigerien Government to end the human rights violations that are being committed with impunity by its security forces. It is also particularly concerned at the latest development of physical assault committed by members of the security forces. Amnesty International calls on the Nigerien authorities to investigate these cases thoroughly and to give clear orders to its security forces to the effect that such acts are illegal and that those responsible will be prosecuted.

Amnesty International also calls on the Nigerien Government to respect international human rights standards, in particular the right to freedom of opinion and expression as guaranteed by Article 19 of the International Covenant on Civil and Political Rights. Amnesty International also calls on the government not to reactivate the State Security Court, which poses a threat to human rights, and to ensure that the trials conducted by ordinary courts respect international standards for fair trial and the right to defence.

Amnesty International is particularly concerned about the two unfair trials that took place in March and April 1997 and led to the conviction of possible prisoners of conscience. The organization calls for the immediate and unconditional release of all people who have been arrested for their opinions and convicted solely on the grounds of their suspected support for opposition parties or of their opposition to plans for privatizing state enterprises without evidence of their individual involvement in criminal acts.