



**Niger’s Compliance with the Convention on the Elimination of All Forms of
Discrimination Against Women: The Death Penalty**

Submitted by the Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996

and

The World Coalition Against the Death Penalty

and

Niger Coalition against the death penalty -CONICOPEM NIGER

and

Réseau Progrès Et Développement Humanitaire du Niger

and

SYNAFEN Niger

**for the 87th Session of the Committee on the Elimination of All Forms of Discrimination
Against Women**

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The Advocates for Human Rights (The Advocates) is a volunteer-based nongovernmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law. Established in 1983, The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publications. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. A growing number of victims fleeing **the death penalty in Niger** have requested legal assistance from The Advocates in applying for asylum in the United States. First-hand information from asylum-seekers about the human rights violations that they experienced in **Niger** has been used in this submission with their permission.

The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence.

In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

Niger Coalition against the death penalty (CONICOPEM-Niger) pursues the following objectives against the death penalty; contribute to international action for the abolition of the death penalty the death penalty, leading and coordinating advocacy/lobbying actions; fighting against torture and all degrading acts; campaign for fair and equitable trials; contribute to the promotion of human rights human rights through education and training.

REPRODEVH-Niger was founded in 2011 by young people and structures concerned with defending human rights, the Réseau Progrès Et Développement Humanitaire du Niger is a collective of NGOs whose aim is to democracy and good governance, through the promotion of health, education, human dignity for all human dignity for all, and the fight against the death penalty, torture and related offences.

The National national des agents de la formation et de l'éducation du Niger (SYNAFEN-NIGER) was founded on March 2006 and has 3845 members. It is present in the eight regions, 66 departments and departments and 266 communes. SYNAFEN brings together education and training players. It collaborates with education unions and other civil society organizations both nationally and internationally to promote the well-being of educational communities, defend the right to education, access to health care and the extension of solidarity-based social protection for all. SYNAFEN, with the support of its members, is committed to solving a wide range of problems, including the promotion of human rights, workers' rights, discrimination against women, and the fight against the death penalty and torture. Affiliated with the World Coalition Against the Death Penalty since 2010.

EXECUTIVE SUMMARY

1. Death penalties in Niger, particularly those against women, should be abolished in light of the lack of adequate provisions to protect victims of domestic violence or of other forms of gender-based violence.
2. This report examines the application of the death penalty in Niger, focusing on its impact on women, particularly those involved in cases of gender-based violence. It discusses the lack of protective legal measures for women in situations of domestic violence, which often escalates to instances where they face the death penalty.
3. There are significant challenges in accessing information about women on death row and a general disregard for gender issues in legal proceedings. There are also concerns about women's health while deprived of their liberty.
4. This report highlights Niger's non-compliance with international standards on women's rights and recommends (1) the abolition of the death penalty, (2) legal reform to recognize a domestic violence defense in murder cases, and (3) gender sensitivity training for criminal justice systems actors.

I. Niger's retention of the death penalty invites discrimination against women experiencing gender-based violence (List of Issues Prior to Reporting para. 11).

5. The Committee asked Niger to provide information on what measures it had specifically taken to address all forms of gender-based violence against women, including sexual violence against women and marital rape. It also asked for information about what measures the Government had taken to train judges, prosecutors, and law enforcement on gender-sensitive responses to gender-based violence.¹
6. The Government of Niger noted that it had engaged in “[i]nformational and awareness-raising activities,” but it did not report any training of actors within the criminal justice system.² Nor did the Government make mention of domestic violence as part of its campaign to reduce gender-based violence against women. Domestic violence is classified as assault and battery, but not considered a specific criminal offense.³
7. The Government further noted that there is no crime of marital rape in the Criminal Code but appears to imply that marital rape would be covered under Article 283 of the Criminal Code, which defines rape “in a general manner.” It is unclear, however, whether law enforcement and courts recognize, investigate, and prosecute rape within marital unions.⁴

¹ Committee on the Elimination of Discrimination against Women, *List of issues and questions prior to the submission of the fifth periodic report of the Niger*, (July 22, 2021), U.N. Doc. CEDAW/C/NER/QPR/5, ¶ 11.

² Committee on the Elimination of Discrimination against Women, *Fifth periodic report submitted by the Niger under article 18 of the Convention, due in 2022*, (Mar. 30, 2023), U.N. Doc. CEDAW/C/NER/5, ¶¶ 46-47.

³ UN Sustainable Development Group, *Violence and control in lockdown: more support needed for women and girls in Niger*, May 2021. Available online at <https://unsdg.un.org/latest/stories/violence-and-control-lockdown-more-support-needed-women-and-girls-niger>

⁴ Committee on the Elimination of Discrimination against Women, *Fifth periodic report submitted by the Niger under article 18 of the Convention, due in 2022*, (Mar. 30, 2023), U.N. Doc. CEDAW/C/NER/5, ¶ 53.

8. In a 2018 study, the Cornell Center on the Death Penalty Worldwide found that, in the global context, women are more vulnerable and most likely to be sentenced to death for criminal offenses committed within the context of gender-based violence⁵ and manipulative or coercive relationships with male co-defendants.⁶ Cornell's data indicate that women who are under sentence of death for allegedly committing murder have overwhelmingly experienced prolonged domestic violence at the hands of a partner, spouse, or another family member.⁷ Many women under sentence of death are survivors of gender-based violence and come from disadvantaged socio-economic backgrounds.⁸ At a global level, sentencing courts typically fail to take into account a defendant's experience as a survivor of gender-based violence or a victim of a manipulative or coercive relationship (for example, in cases where women are pressured or tricked into transporting drugs) as mitigating factors during sentencing.⁹ Research also indicates that courts fail to account for power dynamics and tactics of coercive control that may affect a woman's involvement in and culpability for a crime.
9. Cases documented by the Cornell Center on the Death Penalty Worldwide have shown that many women charged with death-eligible crimes experience violations of their right to a fair trial. A 2021 follow-up study demonstrated that "fair trial principles dictate that courts should consider all relevant mitigating circumstances before imposing a sentence. In practice, however, many courts neglect gender-specific mitigation."¹⁰ The Bangkok Rules require courts to consider mitigating factors when sentencing women, "such as lack of criminal history and relative non-severity and nature of the criminal conduct, in the light of women's caretaking responsibilities and typical backgrounds."¹¹

⁵ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018). Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁶ Cornell Center on the Death Penalty Worldwide, "*No One Believed Me*": *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 6, 2021), 6. Available online at <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

⁷ Cornell Center on the Death Penalty Worldwide, "*No One Believed Me*": *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 6, 2021), 11. Available online at <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.; Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 4. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁸ Cornell Center on the Death Penalty Worldwide, *Judged for More Than Her Crime: A Global Overview of Women Facing the Death Penalty* (Sept. 4, 2018), 4. Available online at <https://www.deathpenaltyworldwide.org/wp-content/uploads/2019/12/Judged-More-Than-Her-Crime.pdf>.

⁹ Cornell Center on the Death Penalty Worldwide, "*No One Believed Me*": *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 6, 2021). Available online at <https://deathpenaltyworldwide.org/wp-content/uploads/2021/10/No-One-Believed-Me-A-Global-Overview-of-Women-Facing-the-Death-Penalty-for-Drug-Offenses.pdf>.

¹⁰ Cornell Center on the Death Penalty Worldwide, "*No One Believed Me*": *A Global Overview of Women Facing the Death Penalty for Drug Offenses* (Sept. 6, 2021). Available online at <https://deathpenaltyworldwide.org/publication/no-one-believed-me-a-global-overview-of-women-facing-the-death-penalty-for-drug-offenses/>.

¹¹ UN General Assembly Resolution 65/229, ¶ III.61, U.N. Doc A/RES/65/229 (Dec. 21, 2010).

10. In Niger, courts most frequently sentence women to death for murder, intentional homicide, or parricide.¹²
11. Although Niger has *de facto* abolished the death penalty, in 2022 the Nigerien Government began “impos[ing] death sentences after a hiatus.”¹³ The Government of Niger ratified the International Covenant on Civil and Political Rights (ICCPR) in 1986,¹⁴ and has taken steps to abolish the death penalty, including approving a domestic bill that authorizes its accession to the Second Optional Protocol to the ICCPR (“Second Optional Protocol”) in October of 2014.¹⁵ Niger also voted in favor of the UN General Assembly resolution to establish a moratorium on executions with a view to abolition the death penalty globally in 2018, but subsequently abstained from the same resolutions in 2020 and 2022. Accession to the Second Optional Protocol has yet to take place.¹⁶
12. There have been no executions in Niger since 1976.¹⁷ In 2017, there were 11 people on death row in Niger and “no new death sentences were reported in 2018.”¹⁸ In 2021 there were four “people known to be under sentence of death at the end of 2021.”¹⁹
13. Although the Government has not implemented the death penalty and governors have granted pardons or commuted sentences for several inmates, judges continue to sentence people to death.²⁰
14. Proposals to formally abolish the death penalty have failed.²¹
15. As of December 2023, there is at least one woman – Rachida Seini – on death row. Seini is a 29-year-old woman who remains in detention and under sentence of death following convictions for murder, manslaughter with a bladed weapon, and complicity. She was previously detained at Niamey Civil Prison between 26 August 2014 and 13 March 2020,

¹² Email from NGO to The Advocates for Human Rights (Dec. 27, 2023) (on file with authors).

¹³ Death Penalty Information Center, “*Executions Around the World: 2022*,” accessed Jun. 26, 2023, <https://deathpenaltyinfo.org/policy-issues/international/executions-around-the-world>.

¹⁴ Parliamentarians for Global Action, “*Niger and the Death Penalty*,” accessed Jun. 26, 2023, <https://www.pgaction.org/ilhr/adp/ner.html>.

¹⁵ Amnesty International, “*Niger National Security too Often a Justification for Human Rights Violations, Amnesty International Submission to the UN Universal Periodic Review, January - February 2016*,” accessed December 28, 2023, <https://www.amnesty.org/en/wp-content/uploads/2021/05/AFR4318142015ENGLISH.pdf>.

¹⁶ Parliamentarians for Global Action, “*Niger and the Death Penalty*,” accessed Jun. 26, 2023, <https://www.pgaction.org/ilhr/adp/ner.html>.

¹⁷ Cornell Center on the Death Penalty Worldwide, “*Cornell Database on the Death Penalty: Republic of Niger*,” (Ithaca: Cornell Law School, March 2012). Available online at <https://deathpenaltyworldwide.org/database/#/results/country?id=52>.

¹⁸ Cornell Center on the Death Penalty Worldwide, “*Cornell Database on the Death Penalty: Republic of Niger*,” (Ithaca: Cornell Law School, March 2012). Available online at <https://deathpenaltyworldwide.org/database/#/results/country?id=52>.

¹⁹ Amnesty International, *Amnesty International Report 2020/21: The State of the World’s Human Rights* (London: Peter Benenson House, April 2021). Available online at <https://www.amnesty.org/en/documents/pol10/3202/2021/en/>.

²⁰ United Nations Office of the High Commissioner, “*Committee Against Torture Reviews Report of Niger, Experts Urge Respect for Human Rights in Counter-terrorism and Migration Contexts*,” accessed Jun. 26, 2023, <https://www.ohchr.org/en/press-releases/2019/11/committee-against-torture-reviews-report-niger-experts-urge-respect-human>.

²¹ United Nations Office of the High Commissioner, “*Human Rights Committee Examines Niger’s Efforts to Implement Civil and Political Rights*,” accessed Jun. 26, 2023, <https://www.ohchr.org/en/press-releases/2019/03/human-rights-committee-examines-nigers-efforts-implement-civil-and-political>.

when the Government transferred her to Tillabéri Detention Center. This period of detention also includes pre-trial detention because Seini apparently confessed in criminal proceedings in the Niamey Court of Appeal in May 2019.²²

16. Nigerien NGOs note that there is a considerable lack of information about the number and demographic information of people currently under sentence of death, the crimes of which they have been committed, and where they are currently being detained. Given this lack of information, it is possible that there are more women currently under sentence of death.
17. It is difficult to obtain information about women on death row, especially compared to the data present and available regarding men sentenced to death.²³ This is likely attributed to the lack of attention paid to gender-specific abolitionist work.²⁴ According to a 2023 report by the World Coalition Against the Death Penalty, Niger does not necessarily have a high number of death row inmates, but it is included in the list of countries with a high proportion of women on death row.²⁵
18. In 2022, women made up 12.5% of inmates on death row in Niger.²⁶ The general lack of information about women's convictions and the statistically high proportion of women on death row in Niger suggests that judges and prosecutors routinely ignore a gender lens in legal proceedings. The World Coalition Against the Death Penalty notes that globally women who experience gender-based violence – and specifically domestic violence – are over-represented on death row.²⁷
19. Additionally, cultural and societal norms have contributed to the belief that domestic violence is acceptable. In Niger, six in ten women believe it is justifiable for a man to beat his wife.²⁸ In 2022, gender-based violence against women was reportedly widespread and it was common for husbands to beat their wives.²⁹ In 2018, 12.9% of women aged 15-49 years reported that they had been subject to physical and/or sexual violence by a current or former intimate partner in the previous 12 months.

²² Email from NGO to The Advocates for Human Rights (Dec. 27, 2023) (on file with authors).

²³ World Coalition Against the Death Penalty, *World Coalition Publishes Country Mapping Report on Women on Death Row*, Sep. 2023. Available online at <https://worldcoalition.org/2023/09/08/world-coalition-publishes-country-mapping-report-on-women-on-death-row/>

²⁴ World Coalition Against the Death Penalty, *World Coalition Publishes Country Mapping Report on Women on Death Row*, Sep. 2023. Available online at <https://worldcoalition.org/2023/09/08/world-coalition-publishes-country-mapping-report-on-women-on-death-row/>

²⁵ World Coalition Against the Death Penalty, *Data Mapping: Women on Death Row*, June 2023, p. 17. Available online at https://worldcoalition.org/wp-content/uploads/2023/08/ENG_Country-Mapping-report_Women-on-Death-Row.pdf

²⁶ World Coalition Against the Death Penalty, *Mapping of Women on Death Row*, June 2023, p. 16. Available online at <https://worldcoalition.org/2022/11/25/reflecting-on-the-links-between-the-death-penalty-and-gender-based-violence/>

²⁷ World Coalition Against the Death Penalty, *Reflecting on the links between the death penalty and gender-based violence*, Nov. 2022. Available online at <https://worldcoalition.org/2022/11/25/reflecting-on-the-links-between-the-death-penalty-and-gender-based-violence/>

²⁸ UN Sustainable Development Group, *Violence and control in lockdown: more support needed for women and girls in Niger*, May 2021. Available online at <https://unsdg.un.org/latest/stories/violence-and-control-lockdown-more-support-needed-women-and-girls-niger>

²⁹ 2022 Country Reports on Human Rights Practices: Niger, *Executive Summary*, 2022, p. 17. Available online at https://www.state.gov/wp-content/uploads/2023/03/415610_NIGER-2022-HUMAN-RIGHTS-REPORT.pdf

II. Overcrowding in prisons violates women’s right to health (List of Issues Prior to Reporting para. 19).

20. The Committee also asked for any information on steps taken regarding women’s basic health care, which would include women in prisons, remand centers, and detention centers.³⁰
21. Currently, remand centers are overcrowded by 60% on average, with the remand center in Niamey at 450% over capacity, with 2037 people housed in a remand center that was meant to house only 450.³¹
22. Although women and men are separated in all prisons, remand centers, and detention centers, women are often housed with young girls due to a lack of infrastructure.³²
23. Approximately 75% of remand centers do not have their own infirmary capable of responding to health emergencies. Local NGOs also report that hygiene and sanitation conditions for all people deprived of their liberty, including women deprived of their liberty, are lacking.³³

III. Suggested Recommendations for the Government of Niger

24. The authors offer the following suggested recommendations for Nigerien authorities:
 - Take concrete measures toward abolition of the death penalty and replace it with a penalty that is fair, proportionate, and consistent with international human rights standards, and in the meantime institute a *de jure* moratorium on executions.
 - On an annual basis, publish comprehensive data on all women under sentence of death, disaggregated by crime(s) of conviction, age at the time of the offense, age of any dependent children, relationship to any victim and/or codefendants, sentence of any codefendants, nationality, profession, and current location.
 - Take steps to provide heightened fair trial and due process safeguards in capital cases involving women defendants, including by providing them with access to effective legal representation with experience in capital cases and with training on gender-sensitive defense strategies.
 - In collaboration with civil society organizations specializing in gender-based violence against women, provide training to all defense counsel who take on capital cases regarding gender-specific mitigation and how to raise discrimination against clients on the basis of their gender, when appropriate.
 - Codify gender-specific defenses and mitigation in capital cases, encompassing women’s experiences of trauma, poverty, and gender-based violence, including defenses applicable to victims of prolonged gender-based violence, regardless of imminence of harm at the time they act in self-defense.

³⁰ Committee on the Elimination of Discrimination against Women, *List of issues and questions prior to the submission of the fifth periodic report of the Niger*, (July 22, 2021), U.N. Doc. CEDAW/C/NER/QPR/5, ¶ 19.

³¹ Email from NGO to The Advocates for Human Rights (Dec. 27, 2023) (on file with authors).

³² Email from NGO to The Advocates for Human Rights (Dec. 27, 2023) (on file with authors).

³³ Email from NGO to The Advocates for Human Rights (Dec. 27, 2023) (on file with authors).

- Ensure that all judicial officers responsible for sentencing in capital cases receive comprehensive training on gender-based discrimination, gender-based violence, and tactics of coercive control that may lead to women committing death-eligible offenses.
- Ensure that all prison authorities adopt gender-sensitive policies in relation to women's detention, based on the Bangkok Rules and the Nelson Mandela Rules, ensuring women's safety, security, and health pre-trial, during admission to any detention facility, and while incarcerated.
- Provide gender-sensitive psychological support to women under sentence of death.