



International Convention on the Elimination of All Forms of Racial Discrimination

Distr.: General
24 May 2023
English
Original: French

Committee on the Elimination of Racial Discrimination

Concluding observations on the combined twenty-second to twenty-fifth periodic reports of the Niger*

1. The Committee considered the combined twenty-second to twenty-fifth periodic reports of the Niger,¹ submitted in one document, at its 2961st and 2962nd meetings,² held on 13 and 14 April 2023. At its 2975th and 2976th meetings, held on 25 and 26 April 2023, it adopted the present concluding observations.

A. Introduction

2. The Committee welcomes the submission of the combined twenty-second to twenty-fifth periodic reports of the State party. The Committee expresses its appreciation for the constructive dialogue with the State party's high-level delegation. It thanks the State party for the additional information submitted after the dialogue.

B. Positive aspects

3. The Committee welcomes the following legislative, institutional and policy measures taken by the State party:

- (a) The adoption of the Mining Act (No. 2022-033) in July 2022;
- (b) The adoption of a law establishing the rights and duties of human rights defenders in the Niger in June 2022;
- (c) The adoption of a law establishing procedures for the promotion and development of national languages in December 2019;
- (d) The strengthening of the National Human Rights Commission, which was reaccredited with category A status by the Global Alliance of National Human Rights Institutions in 2022;
- (e) The implementation of the 2014–2024 Sectoral Education and Training Programme.

C. Concerns and recommendations

Security crisis

4. The Committee is concerned about the widespread lack of security in certain regions of the State party, which has serious consequences for the enjoyment of human rights by the

* Adopted by the Committee at its 109th session (11–28 April 2023).

¹ CERD/C/NER/22-25.

² See CERD/C/SR.2961 and CERD/C/SR.2962.



people living in those regions and the population as a whole, in particular minority and disadvantaged groups (art. 5).

5. While recognizing the challenges posed by the security crisis that it is facing, the Committee recommends that the State party strengthen efforts to guarantee the enjoyment of human rights, particularly those set out in the Convention, by the people living in affected regions, including ethnic minorities, migrants, asylum-seekers and refugees.

Data collection

6. While the Committee notes the explanations provided by the State party, it is concerned about the lack of data on the ethnic composition of the population based on the principle of self-identification. The Committee also regrets the lack of up-to-date statistics and socioeconomic indicators required to properly assess the situation of different ethnic groups, migrants, refugees and asylum-seekers, which limits the State party's ability to analyse the situation of these groups, including their socioeconomic status and any progress achieved through the implementation of targeted policies and programmes (arts. 1 and 2).

7. The Committee recommends that the State party produce statistical data, disaggregated by sex and age, on the socioeconomic situation of ethnic groups and foreign nationals, including asylum-seekers, refugees and stateless persons, on their access to education, employment, health care and housing and on their participation in public and political life with a view to creating an empirical basis for assessing the equal enjoyment of the rights enshrined in the Convention. The Committee also recommends that the State party improve and diversify its data collection on the ethnic composition of its population on the basis of self-identification, in particular with regard to persons who identify as belonging to Indigenous Peoples. The Committee draws the attention of the State party to its general recommendations No. 4 (1973) concerning reporting by States parties and No. 24 (1999) concerning article 1 of the Convention.

Definition and criminalization of racial discrimination

8. The Committee notes the information provided by the State party's delegation concerning steps taken to incorporate the Convention into the new draft criminal code. However, it is concerned that the applicable national legislative framework lacks an explicit definition of racial discrimination covering all the grounds enumerated in article 1 of the Convention, including direct and indirect discrimination in the public and private spheres. The Committee also notes with concern that the legislation does not explicitly criminalize racial hatred and incitement to racial discrimination as defined in article 4 of the Convention (arts. 1, 2 and 4).

9. In the light of its general recommendations No. 14 (1993) on article 1, paragraph 1, of the Convention, No. 29 (2002) on article 1, paragraph 1, of the Convention (Descent), No. 15 (1993) on article 4 of the Convention and No. 35 (2013) on combating racist hate speech, the Committee recommends that the State party:

(a) Finalize and adopt the new criminal code, the preliminary draft of which is currently under consideration, ensuring that all the acts described in article 4 of the Convention are duly prohibited and criminalized;

(b) Ensure that domestic legislation provides for a prohibition of racial discrimination consistent with the definition of racial discrimination contained in article 1 of the Convention and the explicit prohibition of direct and indirect discrimination in the public and private spheres.

Application of the Convention

10. The Committee notes that no information has been provided on cases where the provisions of the Convention have been invoked before or applied by domestic courts (art. 2).

11. The Committee recommends that the State party redouble its efforts to ensure that judges, prosecutors and lawyers are trained on the provisions of the Convention in order to enable them to invoke and apply them in relevant cases.

Racist hate speech

12. The Committee notes with concern reports regarding the use of language inciting hatred, racial violence and ethnocentrism by political figures during the elections in 2021 (art. 4).

13. **The Committee recommends that the State party take the necessary measures to monitor and combat the spread of racist hate speech and to provide training for the police, prosecutors and judges on the proper methods for identifying, registering, investigating and prosecuting cases of racist hate speech and hate crime.**

National Human Rights Commission

14. The Committee notes with concern that the resources allocated to the National Human Rights Commission are not sufficient for it to discharge its mandate effectively, including with regard to combating racial discrimination (art. 2).

15. **The Committee recommends that the National Human Rights Commission be provided with adequate financial resources to discharge its mandate effectively and in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

Discrimination against ethnic minorities and Indigenous communities

16. The Committee notes that the State party does not recognize the existence of Indigenous Peoples on its territory (the Tuareg, Toubou and Fula). Despite the State party's efforts, certain ethnic minorities, particularly nomadic populations, continue to face challenges in enjoying their rights, including their economic, social and cultural rights (arts. 2 and 5).

17. **Recalling the recommendation made in its previous concluding observations,³ the Committee recommends that the State party continue to take appropriate measures to ensure the fulfilment of the economic, social and cultural rights of ethnic minorities, including the adoption of a national strategy on the situation of these groups, particularly nomadic populations and those who identify as Indigenous Peoples (the Tuareg, Toubou and Fula).**

The practice of slavery

18. Although slavery has been an offence under the Criminal Code since 2003, the Committee remains seriously concerned about reports of the persistence of slavery practices and the lack of available data with which to gauge the full extent of these practices. It also notes with concern the absence of, and failure to follow up on, complaints and the lack of investigations and convictions in cases of slavery. Lastly, the Committee notes with concern the reports that these harmful practices are often promoted and perpetuated by traditional, customary and religious leaders (arts. 2 and 5).

19. **The Committee recommends that the State party:**

(a) **Eliminate all forms of slavery and ensure that the new draft criminal code makes slavery and slavery-like practices an offence with penalties commensurate with the seriousness of such acts;**

(b) **Ensure that all cases of slavery are investigated and prosecuted, even if the victim does not give his or her consent, that perpetrators are punished with penalties commensurate with the seriousness of the offence and that victims have access to effective remedies and appropriate reparation;**

(c) **Ensure that all forms of slavery are publicly, regularly and unequivocally condemned by the authorities and that any prosecutions and sentences in slavery cases are brought to the attention of the general public;**

³ CERD/C/NER/CO/15-21, para. 17.

(d) **Collect data on the extent to which situations of slavery still exist and on complaints, investigations, prosecutions, convictions and sentences in such cases , as well as data on reparations for victims, disaggregated by age, gender and ethnic or national origin;**

(e) **Adopt a national five-year plan to eradicate slavery and conduct broad-based public awareness, education and information campaigns especially among traditional, religious and customary leaders, about the harmful effects of slavery and slavery-like practices on victims.**

Slavery-based discrimination

20. The Committee notes with concern the persistence of widespread discrimination against and social exclusion of persons of slave descent, who face challenges in obtaining identity papers and gaining access to education, employment and health services. Although the Committee takes note of the information provided during its dialogue with the delegation of the State party, it remains concerned about the persistence, in practice, of difficulties in registering the births of children of slave descent. The Committee also notes with concern reports indicating that, in some villages, there is a stigma attached to the names of hamlets inhabited mainly by persons of slave descent (arts. 1 and 5).

21. **In the light of its general recommendation No. 29 (2002) on descent-based discrimination, the Committee recommends that the State party: (a) address as a matter of priority the structural and systemic causes of descent-based discrimination; (b) take the necessary measures to ensure that persons of slave descent have an identity document and access to education, employment and health services; (c) ensure that the births of children of slave descent are registered; and (d) prohibit all forms of stigmatization and segregation of persons of slave descent and take the necessary measures to change the names of the hamlets and localities where they live if they have a stigmatizing effect.**

Use of natural resources

22. The Committee is concerned about the negative impact of the exploitation of natural resources, in particular uranium, and the effects of climate change on the Tuareg and other ethnic groups, including in relation to their health, livelihoods and traditional ways of life. In addition, the Committee remains concerned about reports indicating that the communities concerned are not being appropriately consulted prior to the authorization of projects involving the exploitation of natural resources (arts. 2 and 5).

23. **Bearing in mind that the protection of human rights and the elimination of racial discrimination are essential components of sustainable economic development, and recalling the role played by both the State party and the private sector in that regard, the Committee recommends that the State party:**

(a) **Ensure that, prior to granting licenses for projects involving the development and exploitation of natural resources, the communities concerned are consulted and independent and impartial studies are conducted on the social, environmental and cultural impact that such projects may have on the traditional ways of life and livelihoods of the ethnic groups that are particularly affected;**

(b) **Specify, in consultation with the communities concerned, mitigation measures, compensation for damages or losses suffered and the extent of participation in the benefits obtained from such activities;**

(c) **Ensure that climate change adaptation measures such as the National Climate Change Adaptation Plan take into account the specific needs of the most affected ethnic groups.**

Inter-ethnic conflict

24. The Committee notes with concern that, despite the measures taken by the State party, conflicts between different ethnic groups over farming or herding activities persist and are

often connected to the issues of access to land and the exploitation of natural resources (arts. 2 and 5).

25. **The Committee recommends that the State party work in consultation with the ethnic groups concerned to strengthen application of the legislative and administrative framework that has been put in place to resolve issues and conflicts between practitioners of pastoral and sedentary farming, taking into account their specific needs and respecting their traditional ways of life. The Committee also recommends that the State party continue to roll out its “joking kinship” initiative and implement other measures aimed at preventing conflict between different ethnic groups.**

Multiple and intersectional forms of discrimination against women

26. The Committee is concerned to note that some ethnic groups still have harmful customary practices that prevent women from fully exercising their rights under the Convention, in particular the right to own and inherit land. The Committee is also seriously concerned about the persistence of harmful practices against women, including those of slave descent, such as forced marriage, early marriage and the slavery-like practice of wahaya, which entails the purchase of a girl, usually of slave descent, to become a “fifth wife” (arts. 2 and 5).

27. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, the Committee reiterates the recommendation made in its previous concluding observations⁴ and urges the State party to:**

- (a) **Eliminate all harmful practices against women of slave descent and bring those responsible for the practice of wahaya to justice;**
- (b) **Take the necessary measures to put an end to harmful customary practices prevalent among certain ethnic groups that prevent women and girls from fully enjoying their rights, particularly the right to own and inherit land;**
- (c) **Expedite the adoption of the Family Code, taking into account the Committee’s concerns regarding the full enjoyment of women’s rights, and ensure its implementation;**
- (d) **Carry out awareness-raising campaigns for the general public, including traditional and religious leaders, on equal rights for men and women.**

Situation of migrants

28. The Committee takes note of the considerable efforts made by the State party, despite the ongoing challenges it faces, to receive migrants, asylum-seekers and refugees. However, the Committee is concerned about the difficulties encountered by migrants, particularly those in an irregular situation, who are often the victims of violations of their rights, including the rights to safety, adequate housing and health. The Committee also notes with concern that the Special Rapporteur on the human rights of migrants has indicated that the Smuggling of Migrants Act (No. 2015-36) and its implementation are deficient and fail to comply with international human rights norms and standards (arts. 2 and 5).⁵

29. **The Committee recommends that the State party continue its efforts to establish a migration policy that respects the human rights of migrants by implementing its comprehensive migration management strategy, building the capacity of those tasked with implementation and taking into account the specific needs of migrants in vulnerable situations, in particular children. The Committee also recommends that the State party revise the Smuggling of Migrants Act to bring it into line with international human rights standards. The Committee invites the State party to implement the recommendations issued by the Special Rapporteur on the human rights of migrants following his visit to the Niger in October 2018.⁶**

⁴ Ibid., para. 15.

⁵ See [A/HRC/41/38/Add.1](#).

⁶ Ibid., para. 69 et seq.

Access to justice

30. The Committee notes with regret that the State party has not provided up-to-date, detailed information concerning complaints, prosecutions, sanctions or compensation in cases of racial discrimination brought before the courts. It also notes with concern the difficulties encountered by victims of racial discrimination and slavery practices in accessing the services of the National Agency for Legal and Judicial Assistance, owing to the inadequacy of its means and resources (arts. 4 and 6).

31. **With reference to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that an absence of complaints or legal proceedings brought by victims of racial discrimination may reveal a lack of suitable legislation, ignorance of the legal remedies available, a lack of will on the part of the authorities to prosecute the perpetrators of such acts, a lack of trust in the criminal justice system or victims' fear of reprisals. The Committee recommends that the State party:**

- (a) Adopt appropriate and effective measures to ensure that all victims of racial discrimination and slavery-like practices have access to effective remedies and appropriate reparation;**
- (b) Strengthen the training provided to law enforcement officials to ensure that they duly consider and investigate all complaints of racial discrimination;**
- (c) Raise awareness among rights holders about the Convention's provisions and the legal framework providing protection against racial discrimination and slavery;**
- (d) Provide the National Agency for Legal and Judicial Assistance with the necessary means and technical, financial and human resources, and ensure that victims of racial discrimination and slavery have access to its services.**

Human rights education and awareness-raising

32. The Committee takes note of the measures taken by the State party to provide human rights training for judges, clerks and law enforcement officers. However, it notes with concern that the impact of such training has proved insufficient to eliminate discriminatory practices (arts. 2 and 7).

33. **The Committee reiterates the recommendation made in its previous concluding observations⁷ and urges the State party to redouble its efforts to expand human rights training and awareness-raising, including on the provisions of the Convention, with a view to strengthening national cohesion and eliminating all slavery-like and discriminatory practices based on ethnicity or descent. It also recommends strengthening human rights education in general, both in schools and for the general public.**

Rules governing associations

34. The Committee notes with concern that Ordinance No. 84-06 of 1 March 1984, containing the rules governing associations, is based on a system of prior authorization and bans the establishment of associations of an ethnic or territorial nature, which could reduce the scope for freedom of association and limit the creation of new human rights organizations and associations for the promotion of cultural and linguistic diversity (art. 5).

35. **The Committee encourages the State party to adopt a declaratory system for the registration of non-governmental organizations, ensure the inclusion of all types of associations, for instance associations of a territorial nature and associations of ethnic groups, including groups identifying as Indigenous Peoples, and ensure that the system complies with international instruments. In this regard, the Committee also invites the State party to take into consideration the recommendations issued by the Special**

⁷ CERD/C/NER/CO/15-21, para. 23.

Rapporteur on the rights to freedom of peaceful assembly and of association following his visit to the Niger in December 2021.⁸

D. Other recommendations

Ratification of other treaties

36. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties that it has not yet ratified, in particular treaties with provisions that have direct relevance to communities that may be subjected to racial discrimination, including the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

Amendment to article 8 of the Convention

37. The Committee recommends that the State party ratify the amendment to article 8 (6) of the Convention adopted on 15 January 1992 at the fourteenth meeting of States parties to the Convention and endorsed by the General Assembly in its resolution 47/111.

Declaration under article 14 of the Convention

38. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention recognizing the competence of the Committee to receive and consider individual complaints.

Follow-up to the Durban Declaration and Programme of Action

39. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

International Decade for People of African Descent

40. In the light of General Assembly resolution 68/237, in which the Assembly proclaimed 2015–2024 the International Decade for People of African Descent, and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests that the State party include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No. 34 (2011) on racial discrimination against people of African descent.

Consultations with civil society

41. The Committee recommends that the State party continue consulting and increasing its dialogue with civil society organizations working in the area of human rights protection, in particular those working to combat racial discrimination, in connection with the preparation of the next periodic report and in follow-up to the present concluding observations.

⁸ [A/HRC/50/23/Add.2](#), para. 91 et seq.

Dissemination of information

42. The Committee recommends that the State party's reports be made readily available and accessible to the public at the time of their submission and that the concluding observations of the Committee with respect to those reports be similarly made available to all State bodies entrusted with the implementation of the Convention, including municipalities, and publicized on the website of the Ministry of Foreign Affairs or any other website accessible to the public, in the official and other commonly used languages, as appropriate.

Common core document

43. The Committee encourages the State party to update its common core document, which dates to 2018, in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 ([HRI/GEN/2/Rev.6](#), chap. I).⁹ In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 42,400 words for such documents.

Follow-up to the present concluding observations

44. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide, within one year of the adoption of the present concluding observations, information on its implementation of the recommendations contained in paragraphs 9 (a) (Definition and criminalization of racial discrimination), 15 (National Human Rights Commission) and 27 (d) (Multiple and intersectional forms of discrimination against women) above.

Paragraphs of particular importance

45. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 29 (Situation of migrants), 31 (a), (b) and (d) (Access to justice) and 33 (Human rights education and awareness-raising) above and requests the State party to provide detailed information in its next periodic report on the concrete measures taken to implement those recommendations.

Preparation of the next periodic report

46. The Committee recommends that the State party submit its combined twenty-sixth to twenty-ninth periodic reports, as a single document, by 4 January 2027, taking into account the reporting guidelines adopted by the Committee during its seventy-first session ([CERD/C/2007/1](#)) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports and 42,400 words for the common core document.

⁹ [HRI/GEN/2/Rev.6](#), chap. I.