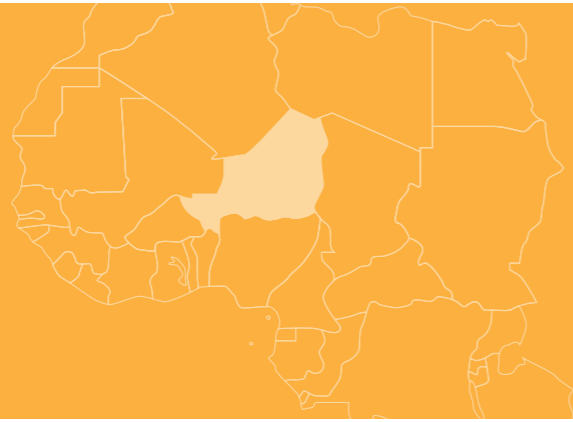


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In Niger, the sources of law include the Napoleonic Civil Code and modern statutory law, Islamic law and customary law. On certain issues, like female circumcision or rape, there are no laws or policies and the practices are generally ignored or denied by Nigerians. The laws that do exist are limited in their application and call into question the rights of women with regard to inheritance and family matters. A draft family code bill that would protect women's rights in the family and in society was completed in 1993; however, at the beginning of 2009, the bill had still not been adopted.

Equality in the Family is Necessary

- ▶ Gender stereotypes and traditional practices persist in Niger, including:
 - Forced early marriage (almost 48 per cent of Nigerian women are married before the age of 15);
 - Female genital mutilation;
 - Multifaceted forms of domestic violence;
 - Trafficking in women;
 - Polygamy;
 - High levels of obstetric fistula, due to inadequate medical care compounded by the fact that the average age for first pregnancies is 14 years old; and
 - Slavery and the sexual exploitation of women.
- ▶ Information barriers and the lack of education remain problematic. The literacy rate for women is only around 15 per cent; the rate for men is approximately 43 per cent.
- ▶ In the absence of a family code, customary law is supposed to govern marriage, divorce and inheritance. This causes difficulties because customs are oral and differ from community to community. In addition, the customs adopted by

the judicial system are heavily influenced by colonial norms from the Victorian era, which were discriminatory against women and considered men to be superior to women.

- ▶ Judges have a great deal of discretion in applying customary laws in the courts, as they are responsible for identifying the customs, applying them to the facts of the case, and potentially discarding the customs when they don't meet the requirements set by the legislature. However, customs evolve, and have done so more quickly in urban centres than in rural areas, leaving a huge gap between customary laws in different parts of the country. The Court of Niger has developed the notion of 'urban customs', but the Supreme Court has ruled that customs must comply with 'the general development of the country'. Judges, who are often young and male, are not adequately trained. The legislature introduced advisers to help judges understand customary matters, but these advisers are always men.

The Draft Family Code Bill

In January 1993, a draft family code bill was completed that was designed to improve the legal status of women. However, sixteen years later, the bill has still not been adopted. The draft code allows Nigerians to choose whether codified law or Islamic law will be applied and prohibits repudiation. The law states that the couple may choose whether the relationship will potentially be polygamous or be monogamous. It significantly improves women's rights related to inheritance. The Family Code would also recognise the woman as the head of the family under certain conditions, provide women equality with their spouses in child custody issues, and recognise the full capacity of women in terms of civil affairs.

Equality in the Family is Possible

- ▶ In 2003, a law that criminalises slavery was adopted. On 27 October 2008, the Court of Justice of the Economic Community of West African States (ECOWAS), in a landmark judgement, found the state of Niger guilty of failing to protect a young girl who was sold into slavery at the age of 12.
- ▶ Niger has ratified a number of human rights instruments on the promotion and protection of women's rights.
- ▶ In 2005, the Ministry for the Advancement of Women and the Protection of Children created an initiative that provides arguments on gender in Islam to be used for awareness and advocacy on issues of human and women's rights in Islam.
- ▶ UNFPA set up a Gender Initiative to support the Ministry of Social Development, Population, the Advancement of Women and the Protection of Children in creating a fair and egalitarian environment relating to gender. The initiative works in the legal and political arenas, but also on strengthening skills and awareness on issues of reproductive health.
- ▶ Mechanisms have been established to facilitate women's access to justice through legal clinics established and led by the Association des femmes juristes du Niger (the Association of Women Lawyers of Niger) and its partners.
- ▶ A local NGO called Le Comité nigérien sur les pratiques traditionnelles néfastes (Nigerian Committee on Harmful Traditional Practices) has proposed amendments to the Penal Code that will punish anyone who attempted to commit an act of genital mutilation with a sentence of six months to three years in prison and a fine of 20,000 to 200,000 CFA francs (USD40 to 400). If the action led to the death of the girl, the prison sentence could be up to 10 to 20 years.
- ▶ The Quota Act was passed in 2000 to increase the representation of women in government bodies. The law was adopted after a long advocacy campaign by women's organisations to correct the unequal treatment between men and women.
- ▶ On 13 May 1991, women's organisations held their first major march for equal rights and against the near absence of women in decision-making bodies. The anniversary of this march is celebrated annually by progressive women's organisations, who consider it the national day for women in Niger. However, 'fundamentalist' women's organisations use the date to organise public demonstrations against human rights conventions and to request repeal of the Family Code.

Source: Report submitted to Musawah in French by Nigerian civil society activists who prepared the report with the assistance of various resource persons, including lawyers, religious activists, academics, administrative authorities and civil society leaders.