



2017 “It was an awareness and sensitization training with all district level stakeholders, government agencies and OPDs representatives in Dolakha district on AUOR being facilitated by a representative of NFDN member organization”
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Niger

A Consultative Process for Adopting a National Law on Internal Displacement

1. Context

Before conflict along Niger’s borders with Mali and Nigeria forced people to flee their homes in 2015, drought and floods had been the main drivers of internal displacement in the country.¹ Niger’s population already faced extreme vulnerability linked to food insecurity, desertification, limited social services, and insecurity, placing Niger at the bottom of the Human Development Index, while featuring the highest fertility rate.² In January 2020, an estimated 2.9 million people required

humanitarian assistance, including 187,000 IDPs and 218,000 refugees.³ Detailed information about IDPs’ needs as compared to other populations is currently lacking. However, the Protection Cluster, led by UNHCR, regularly conducts IDP protection monitoring, and is considering an profiling exercise that would identify such information to support finding durable solutions in the Diffa region.⁴

Niger ratified the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa

(Kampala Convention) in 2012. In 2016, the Government of Niger established the Ministry of Humanitarian Action and Disaster Management (“Ministère de l’Action Humanitaire et de la Gestion des Catastrophes,” hereinafter, Ministry of Humanitarian Action), which now coordinates the national humanitarian response to internal displacement, bringing together other authorities in different ministries responsible for civil registration, the protection of women and children, and human rights. Thematic working groups have also been established at the regional level.⁵

2. Description of the practice

In December 2018, Niger adopted Law Number 2018-74 Relative to the Protection and Assistance to Internally Displaced Persons,⁶ setting a global standard by including strong human rights protection for IDPs. In addition to the law’s content, the legislative development process itself served as a model in terms of inclusiveness, comprehensiveness, and efficiency.⁷ Prior to the law’s adoption, representatives from the Government of Niger had attended a Regional Training of Trainers programme on law and policy in April 2017 organized by UNHCR in Senegal, which sparked an interest in Niger becoming the first African Union (AU) Member State to domesticate the Kampala Convention into national legislation.

Niger’s initial steps to develop the IDP law began in December 2017, when the Ministry of Humanitarian Action, supported by a newly recruited UNHCR international consultant based in the UNHCR Niamey office, chaired the inaugural meeting of an inter-ministerial steering committee set up to oversee the drafting of the IDP bill (hereinafter, the Steering Committee) with a diverse membership.

The first six months laid the foundation for building shared ownership of the process, both in terms of understanding

why an IDP law was needed and ensuring that the individuals involved understood their respective roles in the process. The international consultant and a national legal expert conducted a survey of existing national legislation relevant to internal displacement. In March 2018, the UN Special Rapporteur on the human rights of internally displaced persons undertook an official country visit to Niger at the invitation of the Government and strongly recommended the adoption of a national law.⁸ Based on these collective findings, the Ministry of Humanitarian Action then led a series of workshops with representatives of eleven ministries, members of the national IASC, local authorities, traditional leaders, and IDPs themselves. The workshops presented the international normative framework on internal displacement and highlighted the gaps within existing Nigerian laws to be filled to meet these standards. The Minister of Humanitarian Action also consistently raised internal displacement issues in public speeches to inform the general public when traveling in Niger.

Workshops to develop a draft text then followed, including with the active participation of IDPs and the Minister of Humanitarian Action, to ensure that the specific needs and challenges facing displaced people in Niger were addressed in the national IDP law. The Task Team for Law and Policy of the Global Protection Cluster, co-chaired by UNHCR and NRC, also provided feedback on the draft text. Finally, government representatives reviewed the final draft in a national workshop.

In early November 2018, a special session of the Steering Committee validated the final draft, with participants including the Minister of Humanitarian Action, the Nigerian Government Secretary-General, members of Technical Committee for the Validation of Texts (COTEVET), representatives from seven ministries and the National Assembly, as well as international observers, including the Protection Cluster.⁹



Participants from the final special session of the Steering Committee to validate the draft IDP law.

A technical government team then facilitated the process of presenting the law to the Cabinet Council and Council of Ministers, which adopted the draft law with only minor changes. Parliament passed the law in December 2018 with an unprecedented 98 per cent support, with the Opposition Parliamentary Group even urging the Government to provide the Ministry of Humanitarian Action with the necessary support to implement the law.¹⁰

3. Results for internally displaced persons and others

The main outcome of this process has been the engagement of a diverse set of actors who are now more fully engaged and informed about IDP issues. In particular, the Steering Committee members, now well-versed in the process of developing Nigerien laws and regulations, understand how to address protection as a cross-cutting issue.¹¹

The positive experience of developing the IDP law has continued during the implementation phase. Driven by its sense of ownership, passage of the law was followed by a rapid adoption of government directives to support implementation, including a decree to establish a national coordination committee. From April 2020, implementation of the IDP law was being led by the Ministry of Humanitarian Action, with the support of international and local actors. Activities included rolling out a training programme for representatives of relevant line ministries and other actors on how to implement the new law.¹² The Ministry was also working with partners to develop a national durable solutions strategy, create a national IDP data collection and analysis system, establish regional IDP plans with local authorities, and mobilize sufficient financial and human resources to fully implement the law.¹³ Government authorities have also proven better informed and motivated to protect IDPs' rights more generally, which has, for example, aided advocacy efforts to ensure that local authority efforts to relocate IDPs have been organized in a way that complies with Niger's new legal framework.



The Minister of Humanitarian Action during a visit to Tillabéri to meet with local authorities and IDPs as part of preparations for the draft IDP law.

4. IDP participation

Selected members of the national Steering Committee travelled to affected regions of Diffa and Tillabéri to attend focus group discussions with 1,200 IDPs and host community members organized by the Danish Refugee Council (DRC) through the Protection Cluster in collaboration with local authorities.¹⁴ During the discussions, participants were asked to share their concerns, the type of assistance they needed and what they would like to see in the new law. DRC, together with a national NGO, the Nigerien Agency for the Treatment of Juvenile Delinquency (Agence Nigérienne pour le Traitement de la Délinquance Juvénile – ANTD), selected the participants in consultation with traditional leaders, seeking to ensure that participation was as inclusive as possible, including women, youth, older persons and persons with disabilities. The Protection Cluster translated the Guiding Principles on Internal Displacement into the local language and held five training sessions for the Steering Committee and military cadres on IDP protection-related topics. It also conducted media outreach, particularly through radio, to support awareness-raising

about IDPs' rights and to inform the general public about the process. The process also included meetings with rural law courts, recognizing their future role in dispute resolution at community level.

IDPs voiced a wide range of security concerns and humanitarian needs that they wanted the IDP law to address.¹⁵ They raised concerns about meeting the needs of host families, ensuring that IDP children had access to education, and enabling IDPs to vote in elections. IDPs in the focus groups also highlighted the challenge of nomadic people becoming internally displaced and the challenges of displacement related to disasters and development projects, issues that had not previously been raised by government officials but were subsequently included in the law.

5. Challenges

The principal challenge in developing the IDP law was sufficiently engaging all key actors to ensure that the law represented a multi-sector approach, both at national and local level. Prior to this legislative process, IDPs, while recognized as Nigeriens who

had the same rights as other citizens, were not widely identified as a specific group with specific needs. Trafficking victims, migrants, refugees and IDPs were all loosely described as “displaced.” Consequently, some national actors expressed doubt about the need to domesticate the Kampala Convention into Nigerien law, arguing that ratification in April 2012 was sufficient. Others expressed concern that a new law created the risk that IDPs would be granted new rights that the country could not adequately uphold. Many government officials had also never developed legislation before.

Thus, the initial focus on capacity building with authorities across government ministries and at different levels was critical to establish a shared understanding about why it was important to develop new legislative provisions to address IDPs’ specific needs and vulnerabilities. These meetings also helped the international consultant to understand the responsibilities of each actor so that information about the draft law could be tailored to address their specific roles.

For example, the consultative phase included meeting with members of COTEVET, a government body responsible for validating the text of laws prior to submission to Parliament. Inviting COTEVET to participate early on helped ensure that steps essential for the passage of laws were incorporated into the planning schedule. It also enabled COTEVET’s members to understand the purpose of law with respect to the Kampala Convention, enabling its members to highlight any potential challenges that might arise both in the language and administrative process to adopt the draft law. The subsequent stages of drafting the text of the IDP law then flowed more smoothly, as all participants could contribute to discussions more equitably based on a shared understanding of internal displacement, legal concepts, and their respective roles in the process.

Implementation of Niger’s IDP law has faced challenges, despite the hiring of a local consultant to support the process. In

particular, although the newly created Ministry of Humanitarian Action has established a presence in all eight affected regions, it has had to rely on shared office space with other ministries and to delegate authority to other officials, as opposed to having its own dedicated representatives, due to insufficient financial and human resources.

6. Lessons learned

The Government of Niger’s full commitment to developing an IDP law was essential to the ultimate success of its passage. In particular, the personal commitment of individual authorities and having a dynamic coordination structure (the Steering Committee) to bring diverse actors together were the key to initiating, drafting, adopting and implementing the law in such a short time. It was also extremely useful to have a trusted advisor behind the scenes, the international consultant, with the legal expertise and personal energy to help keep such an open and inclusive process on track, ensuring that the right officials or ministries participated in the process, and that all developments were rightly recognized as the Government’s work.¹⁶ The wider consultation process, with opportunities for exchanges amongst diverse actors also proved crucial to the process’s success.

The Government of Niger and the international community also worked together effectively by bringing together national and international expertise, including the timely visit of the UN Special Rapporteur on the protection of the rights of internally displaced persons. The Protection Cluster also provided the Government with regular protection updates, which helped underscore the need for the law, as well as a holistic operational response to internal displacement more generally. Notably, the Ministry of Humanitarian Action and UNHCR had a longstanding partnership agreement that began when the Ministry was first established in 2016 and that facilitated UNHCR’s ability to provide support

and expertise throughout the legislative development and implementation process.

At the same time, limited resources hindered wider consultation with IDPs and the private sector. For instance, after an initial invitation, no further efforts were made to ensure that the Chamber of Commerce participated in the process, even though the IDP law assigns certain roles to it in terms of service provision and response planning.

7. Why this is a good example to share

The development of Niger's IDP law proceeded quickly and smoothly because it could build on the trust and ownership established at the outset of the process, as well as a continual flow of information to all relevant parties. As a result, all parts of government, not just the lead ministry, developed stakes in a successful adoption of the law, with no major pushbacks or challenges.

Niger. Aissa is an internally displaced woman living in the refugee hosting area in Intikane. She fled with her husband and nine children after attacks in nearby Agando. “We left our village because several people, even our neighbours, feared for our lives.”

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Endnotes

- 1 IDMC, 'Niger' (*IDMC*, 31 December 2018) <<https://www.internal-displacement.org/countries/niger>> accessed 3 February 2020.
- 2 Human Rights Council, 'Report of the Special Rapporteur on the Human Rights of Internally Displaced Persons on Her Mission to the Niger' (United Nations General Assembly 2018) *A/HRC/38/39/Add.3* paras 7–8.
- 3 OCHA Niger, 'Aperçu Des Besoins Humanitaires Niger' (OCHA 2020) Cycle de Programme Humanitaire 5 <https://reliefweb.int/sites/reliefweb.int/files/resources/13012020_ner_hno_2020.pdf> accessed 17 January 2020.
- 4 JIPS. Interview with Valerie Svobodova, 'Why Is Profiling Needed in Niger?' (8 October 2018) <<https://www.jips.org/jips-news/why-is-profiling-needed-in-niger/>> accessed 17 January 2020.
- 5 Human Rights Council (n 2) paras 22–26.
- 6 Loi n° 2018-74 relative à la protection et à l'assistance aux personnes déplacées internes 2018.
- 7 For a detailed description of the process, see the International Consultant's report: Nouhoum Salif Mounkoro, 'Processus de l'Élaboration et de l'Adoption de la Loi Relative à La Protection et à l'Assistance aux Personnes Déplacées Internes au Niger' (UNHCR 2019) Final Report.
- 8 Human Rights Council (n 2) paras 30–31.
- 9 Mounkoro (n 7) 8–9.
- 10 *ibid* 10.
- 11 Notably, the UN Special Rapporteur on the human rights of internally displaced persons commended the Steering Committee for its diverse membership and significant role in overseeing the drafting of the IDP law. Human Rights Council (n 2).
- 12 Ministère de l'Action Humanitaire et de la Gestion des Catastrophes, 'Rapport Général de l'Atelier de Validation Des Modules de Formation Dans Le Cadre de La Mise En Œuvre de La Loi Sur Les PDI' (Republic of the Niger 2019).
- 13 Republic of the Niger, 'Rapport de Synthèse Du Forum National Sur Les Solutions Durables' (Republic of the Niger 2019).
- 14 Security concerns blocked an additional consultation with IDPs in Diffa. *ibid* 7.
- 15 Ministère de l'Action Humanitaire et de la Gestion des Catastrophes, 'Rapport de Mission PDI Tillabéry- Consultation Autorités- Consultation Des PDIs' (Republic of Niger 2018).
- 16 The international consultant became a trusted advisor to the Government who was regularly invited to attend Steering Committee meetings, and helped facilitate conversations between government ministries, the international community, and the National Commission on Human Rights and Fundamental Liberties to ensure meaningful government participation.