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**Islam, Public Policy and the Legal Status of
Women in Niger**

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GENESYS

ISLAM, PUBLIC POLICY AND THE LEGAL STATUS OF WOMEN IN NIGER

March 1992

**Prepared for the GENESYS Project
The Futures Group and USAID/Niamey**

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and

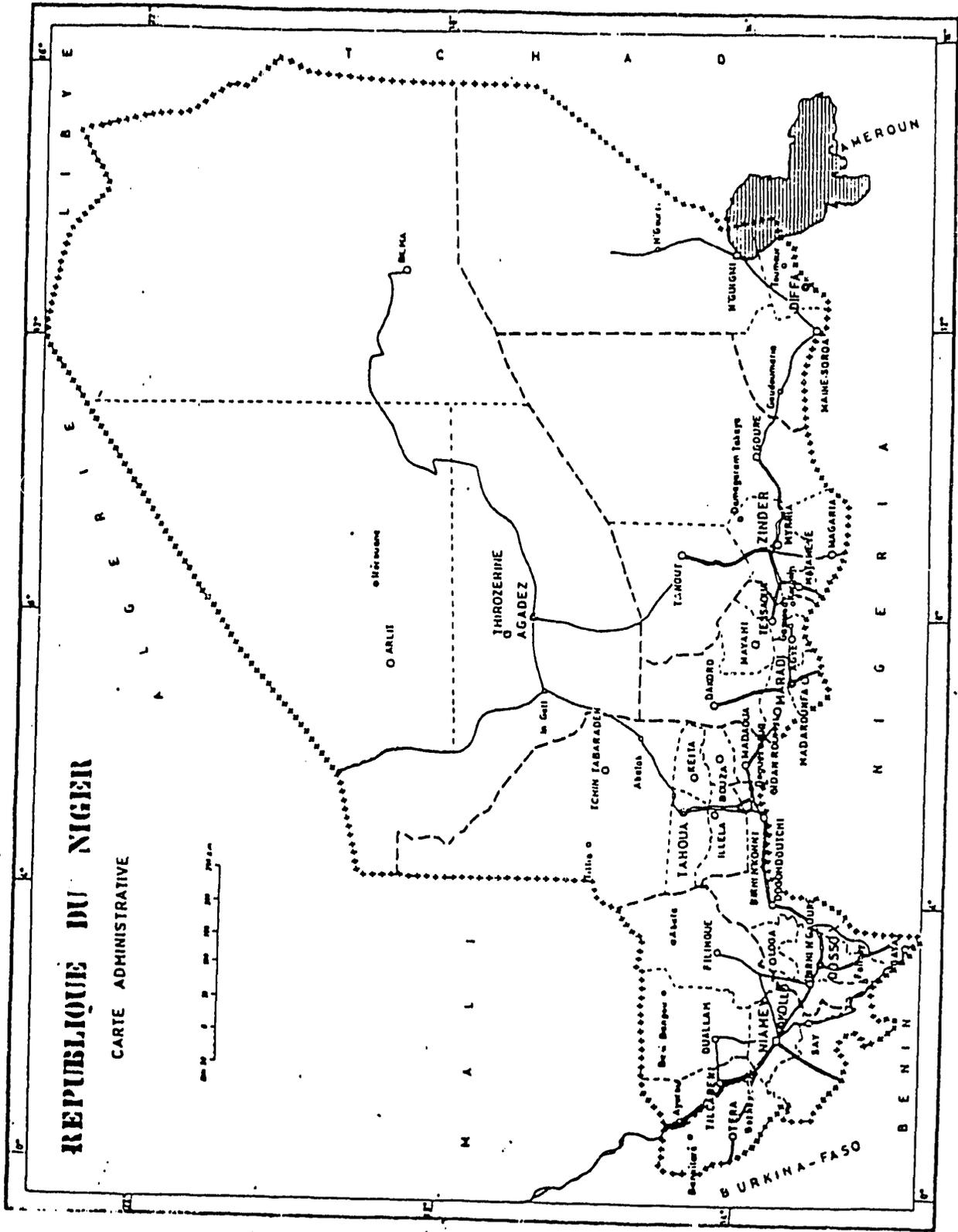
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REPUBLIQUE DU NIGER

CARTE ADMINISTRATIVE



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Roberta Ann Dunbar and Hadiza Djibo
Chapel Hill, North Carolina, and Niamey, Niger
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EXECUTIVE SUMMARY

This study was prepared for the GENESYS Project as a background paper for the development of an updated Women in Development action plan for USAID/Niamey. The data is derived from earlier studies by the consultants and other scholars, reports and project documents collected in Niamey, and interviews conducted by the authors in Niger between September 27 and October 18, 1991.

The paper begins with a country profile of key socio-economic indicators, followed by an explanation of the nature of Niger's courts during the precolonial, colonial, and post-colonial settings. The importance of Islam to the character of socialization, marriage arrangements, and political life during the pre-colonial period is then discussed, followed by a section on the primary post-colonial developments in the policy and legal spheres. The next section briefly discusses some of the objectives of the current transitional government's objectives and their implications for women¹. The final two sections of the paper interpret the previous cultural and historical information as it relates to women's status and policy interventions. First, several categories of constraints are identified that should be addressed in development programs. The last section makes a number of recommendations for consideration in the WID action plan.

In May, 1991, women of Niamey took to the streets to protest the minimal role assigned to women in the committee preparing for the National Conference. Over the course of several days, between May 10 and 16, women organized marches on the Prime Minister's residence and the Ministry of Foreign Affairs, where the Preparatory Commission was at work. Their success in having five additional women appointed, the role of the women in the National Conference itself, and the presence of three women in the transitional government heralds a new militancy; these developments also reflect the maturity women's political action has achieved over the past 16 years.

This display of political power by Nigerien women is all the more dramatic when contrasted with conventional socio-economic profile indicators that reflect the precarious conditions of their lives: GNP per capita of \$300; life expectancy of 47 for women, 43 for men; an infant mortality rate that lies between 133 (the most widely used figure) and 160 (a rate suggested by the recent 1988 census); among the highest fertility rates (7) and illiteracy rates (91%) in the world, and only 20% of girls (29% of boys) in primary school. Culture and economy are important factors in the creation of such a profile; the body of this paper focuses upon the cultural ones.

Niger's law is comprised of customary law and Civil law. Customary law comes from the principal cultural groups in the country--Hausa, Zarma-Songhai, Tuareg, Fulani, Kanuri-Manga, Tubu, Arab, and Gourmantche--but it has also been transformed by Islamic law. During the colonial and post-colonial periods, customary law governed the law of persons, and especially family law. The Civil law tradition, instituted during colonialism and modified in some areas since independence by legislative or executive actions, governs the constitution, criminal, labor, and international law. With independence, Niger's government unified into a single court system what had been two parallel court systems reflecting the major sources of Niger's law. Thus, today, matters governed

¹ The National Conference of Niger that sat during July 29-October 31, 1991, proclaimed itself a sovereign body; its various commissions prepared recommendations for the transitional government that succeeded it and would oversee the election of a new government at the end of a fifteen month period. Called cahiers de charge, these National Conference documents (of which the authors saw only brief excerpts), constitute the action plan for the transitional government.

by Civil law and those governed by customary law are heard in the same court; assessors--experts on customary law--continue to provide advisory opinions to assist judges who render verdicts.

Historical patterns of Islam and culture. Islam had reached West Africa by 800 AD; in the region now comprising Niger, the first Muslims probably appeared in the 12th century. As in the Muslim areas of Nigeria to the south, the adoption of Islam by all sectors of society dates from the late 18th and early 19th centuries, when a wave of Muslim reform movements across West Africa led to the conversion of the masses of the population (as opposed to the ruling classes). While Islam recognizes the equality of women with men before God, and while Muslim law accords women as wives some rights non-Muslim customary law does not, the overwhelming pattern of Islam in the Central Sudan area has been to emphasize behavior characterized by modesty and deference as the ideal and legal dependency on men as the norm.

The jurisprudential interpretations that have been used elsewhere in the Muslim world to eliminate some of the provisions most detrimental to women have not been utilized in Niger. Among the legal principles that permit inequality are: (a) women remain perpetually under the authority of a male guardian (which includes the right to marry her without her consent, and to forbid her free movement or work); (b) the husband's right to repudiation; (c) the preference for paternal over maternal rights with regard to child custody; (d) provisions of inheritance law that make women residual heirs. Like Muslim women elsewhere, Nigerien women have developed their own responses to the legal context and are not passive. Their frequent resort to flight remains a primary source of domestic conflict that often ends in divorce. For many if not all Nigeriens, marriage is extremely unstable--a result of cultural patterns that go beyond Islam. Among the Hausa and Kanuri, this instability is aggravated by the wide difference in ages of husband and wife, which itself is at least in part the result of the monetarization of marriage payments in the twentieth century. Both colonial and independent Nigerien governments sought to control the inflationary spiral of marriage payments and ceremonies. Both have attempted to eliminate alleged abuses of women by enacting regulations or codes. The Code de la Famille (see below) represents the most recent and comprehensive effort in that tradition.

Pre-colonial political and public life. Precolonial Zarma/Songhai and Hausa groups accorded some women considerably more authority and political power than was permitted under French colonial rule. Senior women related by blood or clientage to ruling kings held important titles that included significant administrative rights and responsibilities. After the Muslim revolutions in the 19th century and the onset of colonialism, these positions declined in importance. Their shadow legacy is the figure of magaiya appointed by a local ruler to oversee the karuwai (courtesans) in urban areas. Karuwanci and the pre-Islamic spirit possession cult, bori, both pre-Islamic features of Hausa society but practiced by other groups as well, have survived better than women's former political authority in the twentieth century; an ironic result is that karuwai were among the first women to support the new political parties and to work as political educators in the early days of independence.

Colonial and post-colonial developments affecting women. Women's rights to productive resources have been affected by the profound changes in Niger's economy wrought by the colonial period. Most notable among these are the destruction of the trans-Saharan commerce that sustained the growth of a major state in eastern Niger, and the introduction of cash crops to the agricultural/pastoral sector. For western regions of the country, large numbers of men departed on seasonal or longer migration to seek wage incomes in the coastal areas. Women's access to productive resources, for the most part dependent upon assignment of farmland by their fathers or their husbands, probably was unaffected for much of the period prior to World War II. Since that

time, the rapid growth of population, catastrophic droughts in the late 1960s, '70s, and '80s that discharged pastoral peoples into the midst of their cultivator neighbors, and more recent state interventions have led to an upheaval in the management and control of land resources and an expansion of labor migration to new areas of the country. In some areas, women are the actual land managers because of labor migration. For others, the population pressure on land has been so great that cultivable parcels have diminished drastically in size and productivity. Much remains to be studied about how these trends work themselves out in different regions of the country. What happens when there is no longer enough land for a man's sons is unclear. If he dies, do they have preference over wives, or are they the ones who become permanently landless? How have the state reclamation and agricultural development projects affected women's ability to sustain their domestic production? Le Code Rural, set for adoption and implementation by the transitional government, is the government's effort to regulate the long-range management of the country's natural resources. While equality of women and men is enshrined in the core clauses of the Code for reclamation and aménagement (development) areas, customary provisions of land tenure will remain until the basis for a national land registry is laid.

Political policy and legal change, especially with attention to the impact of development upon women, truly began in the mid-1970s. While women's organizations had existed before that time, the creation of a new organization, the Association des Femmes du Niger (AFN) as a response to the United Nations' International Decade for Women (1975-1985) was an early policy initiative of Brigadier Colonel Seyni Kountché, then head of state. Along with other groups like the Association Islamique du Niger, the cooperatives, and the Samaria, (the young adult groups), the AFN formed a constituent part of the new Société de Développement pioneered by Kountché. The AFN, as a semi-official body, established branches across the country and inaugurated numerous projects, and its leaders were frequent members of the new ministerial offices created to fashion government policies to "integrate women into the development process." From the outset, the AFN militated for a Family Code. For a decade, the AFN was the only women's organization to operate at the national level. The Union des Sages-Femmes (Union of Midwives) existed in the 1970s and early 1980s but occupied itself primarily with professional concerns. When government conditions for the formation of organizations relaxed in the mid-1980s, however, other groups emerged. Among the most important are the Association des Femmes Commerçants et Entrepreneurs du Niger, the Union des Femmes Enseignant du Niger, and the recently founded Association des Femmes Juristes du Niger.

At the policy level, new institutions were developed to promote policy assistance for women in 1975 (under Ministère de la Jeunesse et des Sports), in 1987 (Ministère de la Santé Publique et des Affaires Sociales) and in 1989 (Ministère des Affaires Sociales et de la Promotion de la Femme). A key figure throughout this building process has been Mme. Moumouni Aissata, the first woman named to ministerial rank (1989). Women's affairs under the Transitional Government will be in the Ministère du Développement Social, de la Population et Promotion de la Femme

provisions, designed to protect women's physical and moral situation. The effect of these has been to bar some areas of employment from women or to restrict the conditions under which they may work. Women are poorly represented in the private sector, and while they constitute nearly 24% of civil servants, they are grouped in the lower levels or sectors traditionally assigned to women.

While there are no legal provisions that discriminate against women's access to credit and banking facilities, women inevitably suffer unequal access because of lack of proper training and/or adequate capital resources to meet guarantee requirements conventionally required.

Constraints. The constraints Nigerien women face are clustered into categories:

Fundamental constraints: Men and women share in the general poverty and low income of the country, but women's burden is greater because of gender-based work patterns, the fusion of patriarchal socio-cultural norms and cultural nationalism, and general citizenry skepticism about state policy.

Political constraints: There is great opposition in the home and in the media to public and political involvement by women. While it is clear that women are reasserting the right to participate in public debate, they face an enormous challenge to extend their organizational and educational activities to all sectors of the society.

Legal constraints: These may be divided between those in Civil law and those in customary (family and personal) law. Women face protective but discriminatory provisions in the Civil law tradition that prohibits the advancement of significant numbers to high level positions, and closes some types of occupations and conditions to them even though they might be perfectly qualified. Women's greatest disability under customary/Islamic law is their perpetual dependent status, their vulnerability to repudiation, their inability as unwed mothers to sue for paternity of a child, and their precarious access to productive resources within the political economy of the family.

Economic constraints. Flowing out of the preceding sections, it is clear that women face constraints of labor and of capital, and the latter should include access to information/technology as well as financial means. Unable to be members in their own right in farming cooperatives, women are shut off from developments that enhance productivity.

Education and Training. Patriarchal norms, women's shortage of labor to assist in their domestic chores and other economic activities and the costs of education mean that girls go to school in fewer numbers than boys, and they drop out earlier. Parents who cannot be assured that their daughters will be supervised closely will not send them to school, especially as they approach physical maturity. The cumulative effect of these factors means that women are woefully behind in achieving the minimal skills to cope with conditions they are likely to confront in the future, much less the skills to improve the quality of their own lives.

Health. Niger has made great strides in constructing an infrastructure to develop and implement health and family planning policies. Frequent pregnancies, even more than women's long work days, threaten women's lives. The infant mortality rate is correspondingly high, and women are pressured to continue having children. The correlation between women's education and declining fertility rates has yet to mobilize a successful public education campaign.

Research. A number of areas for further research are identified to refine our understanding of regional, social, and cultural differences. The development of documentation centers at the *Departmental* level would particularly assist the government's effort to decentralize planning.

General recommendations for the USAID/Niamey WID Action Plan are grouped according to the categories of constraints identified above. Recommendations for specific USAID/Niamey projects are presented separately in the WID Action Plan outline.

ISLAM, PUBLIC POLICY AND THE LEGAL STATUS OF WOMEN IN NIGER

--"National Conference without Women = Discrimination!"

--"Stop Injustice!"

--"Equal Rights!"

--"We Do Not Agree!"

--"No Conference without Women!"

Preamble

On Monday, May 13, 1991, banners bearing these slogans heralded an event unprecedented in the history of Niger: women took to the streets in Niamey to protest against discriminatory measures. The previous Friday, May 10, the Commission Nationale pour la Préparation de la Conférence Nationale (CNPCN) had included only one woman among the 68 members of the Preparatory Committee. The CNPCN's decision was all the more egregious as it followed closely on a widely acclaimed seminar to develop a policy to promote women, held May 6-10 at the Centre Oumarou Ganda, in Niamey. Special motions passed at the seminar spoke explicitly to the inclusion of women not only in the work of the preparatory committee, but also in the Conference itself. Outraged at the flagrant disregard of the seminar's recommendations, the participants launched a call to Nigerien women to join their movement of protest.

In a matter of two days, the women collected contributions, developed their strategies, and made banners and flyers in organizational meetings at the headquarters of the Association of Nigerien Women (Association des Femmes du Niger (AFN). Women--allegedly in the thousands and accompanied by the man who was Secrétaire Général du Ministère des Affaires Sociales et de la Condition Féminine--assembled on the 13th at the Place de la Concertation and marched on the Prime Minister's office, then on to the Ministry of Foreign Affairs where the Preparatory Commission was meeting. Through the course of the day, they shouted their slogans and demanded

that the Prime Minister, the President, and the Commission review their claims. Negotiations between the women and representatives of the major political groups continued without success on May 14th and 15th. Finally, on May 16, a second "sit-in" at the Ministry of Foreign Affairs forced the CNPCN to review their demands. In the end, five additional women were appointed (bringing the total to 6) to the CNPCN.

The success of the women's demonstration, their active presence in the National Conference and the appointment of three women to the Haut Conseil de la République, the council that will oversee the implementation of the program of the National Conference by the transitional government, mark the maturity of women's organizational skills and their more persistent visibility in affairs of the capital city. They represent a remarkable transformation which only serves to heighten the contrast with other aspects of women's lives in the country, which are the principal subjects of the following pages.

I. Introduction.

A. Study Background

This document, "Islam, Public Policy and the Legal Status of Women in Niger," constitutes one part of a larger study that included the examination of women's access to productive resources in Niger. Both provide background information and recommendations for the preparation of a USAID Women in Development Action Plan, and have involved the collaboration of numerous persons: Consultants Roberta Ann Dunbar; Hadiza Djibo, a Nigerien sociologist; and Wendy Wilson, sociologist, Washington, DC; Ellen Taylor-Powell, Social Science Advisor, USAID/Niamey; and many Nigerien and American individuals in Niamey and Washington who are either USAID associates, active professionals in Development Projects in Niger, or members of the GENESYS Project of The Futures Group. They facilitated the work of the consultancy and offered logistical and moral support along the way.

An initial consultancy was completed between September 27-October 18, 1991 by Dunbar and Djibo to prepare a draft document on women's access to productive resources and political legal status. Their work included the examination of articles and project documents assembled by Taylor-Powell, Dunbar, and Djibo. The project documents derived from a number of sources including reports of USAID or the development establishments of other governments, and reports of non-governmental organizations (NGOs) relating to their activities overall, but focussing on those affecting women; Ellen Taylor-Powell had completed a review paper of many of the project documents prior to the beginning of the consultancy. In addition, interviews were conducted with approximately forty persons engaged in activities or concerns of women (see Appendix A).

The consultancy was implemented during The National Conference of Niger, a historic gathering to chart the future direction of the country, that began its deliberations on July 29, 1991, by declaring itself sovereign and dismissing the ministers of the previous government. Symbol and hope of a new era of freedom of expression and political participation, the National Conference

captured the attention of all Niamey. The live radio broadcasts of the Conference proceedings provided an ever-present and quite literal background to our meetings and lent them a sense of engagement and immediacy. Many participants in the National Conference kindly added interviews with us to the intense schedule that characterized the final deliberations of the Conference.

Upon review of the initial draft completed in October, 1991, USAID proposed a further assignment to fully integrate the abundant project literature with interview data and published accounts concerning women's access to productive resources. Wendy Wilson undertook that task in a consultancy during the last two weeks of January, 1992.

B. Country Profile

Lying astride the Sahelian zone between West African savannah and the Sahara desert, Niger's geography poses a challenge to the population by virtue of the fact that so little of the country is cultivable--about 25%--and because rainfall is so precarious. During the last twenty years, Niger has experienced at least two major droughts, leading to significant upheaval for pastoral and agricultural populations alike.

Niger's population, according to the 1988 census, is 7,469,000, of which 51% are women. The ethnic groups and their relative size in the population are Hausa (53%), Zarma-Songhai (21%), Tuareg (11%), Fulani (10%), Kanuri-Manga (5%), Tubu (0.4%), Arab (0.3%), and Gourmantche (0.2%). Hausa is used by Nigeriens as a lingua franca, although the national media broadcast in Zarma-Songhai, Tamashek, Fulani, and Kanuri as well. Over 90% of the population is Muslim, a characteristic of great importance for the status of women.

Niger's GNP/Capita is \$300 (slightly higher than its two neighbors, Burkina Faso and Mali), with an adjusted real GDP/Capita of \$610. Agriculture is the primary economic activity of 85% of Niger's population (see Appendix B, Statistical Indicators). The principal food crops are millet, sorghum, cowpeas (niebe), and corn; the cultivation of garden vegetables has become more

important in recent years. The principal exports are (in order of their importance) livestock, cowpeas and onions; these have replaced the products important during the early years of independence, peanuts (groundnuts) and cotton. The raising of livestock, especially cattle, sheep, goats, and camels has increased in importance, but it has always been a major economic activity for Fulani (cattle), Tuareg and Tubu (camels). The two major droughts of the late 1960s and 1970s, and the more recent one of 1984-85, coupled with the expansion of the population in general, has forced many of the herders, especially among the nomadic Fulani, the Wodaabe, to settle or emigrate to Cameroon, Chad, and the Central African Republic.

In the mid 1980s, 2.7% of Niger's labor force was in industry, 12.3% in services. Commerce and craft production—especially textiles, basketry, leatherwork, blacksmithing, pottery, and hairdressing are important. Niger's mineral wealth is largely unexploited except for uranium which provided important revenues to the country for a few years between the mid-70s to the early 80s. Salt and potash, historically important items of regional and long-distance commerce, continue to be exploited today, although in relatively small quantities.

The economic crisis of recent years placed enormous pressures on the small manufacturing sector made up primarily of food processing (including canning), textiles, shoes, brickmaking, and tanning, thus forcing the closure of many businesses. Declining revenues and the country's increasing indebtedness have hampered efforts to improve the status of the entire population, and especially that of women (Charlick, 1991). Statistical indicators derived from the 1988 census, World Bank and United Nations documents reflect significant progress from the past but disturbing characteristics nonetheless, even in comparison with other African countries.

	NIGER 1960	1988	AFRICA 1988	WORLD 1989
Fertility rate		7	6.3	3.6
Infant Mortality Rate	250	134*	113	75
Maternal Mortality Rate		7**		
Annual Population growth rate		3.4	2.9	1.8
Life Expectancy	37	48	51	63
Percent Population Under 15 Yrs.		50		

* These figures are based on a sample of 10% of the census data. Preliminary indications from the analyses of the entire set of data suggest and infant mortality rate closer to 160/000.

** One of the highest maternal mortality rates in the world. (Source: "Population Info" No 2, April 1991, p. 3).

The rate of urbanization is also high—about 8% annually; in 1988, 18 percent of the population lived in cities. (Appendix B). Despite spending 22.9% (1985-88) of its GNP on Education, formal schooling remains the privilege of a minority of the population.

Percent of Age Group in School (1987)

	Female	Total
Primary	20%	29%
Secondary	3%	6%
Tertiary		1%

Data from Appendix B.

The Human Development Index, recently formulated by the United Nations Development Programme, is an index derived from a "deprivation scale" made up of income level and distribution (where possible), life expectancy, and literacy rates that is intended to explore the relationship between economic development and growth and social expenditures. The optimum index score, representing good conditions, is 1. Among 160 countries ranked according to their index, Japan was

the highest at 0.993, Sierra Leone the lowest at 0.048. Niger's rank is 155; its index is 0.079. (United Nations, Human Development Report, 1991). These figures only hint at the challenges faced by the transitional government, and any governments that succeed it, to improve the quality of citizens' lives. From this brief introduction to the country, we now turn to our principal investigation of how the legacy of Islam, French colonialism, and the policies of Niger's independent government, have formed the bedrock of women's situation in the country.

The interaction of ideology and politics influences cultural norms and the resolution of family disputes in Niger. Despite the commitment to a secular state, this interaction poses both limits upon and possibilities for the future women can expect to encounter in this country. By looking first at some of the elements of Islam and its influence on family law in Niger, then turning to a brief overview of public policy and the status of women during the colonial period and since independence, it will be possible to identify what some of those limits and possibilities are.

C. Law and the Courts: Historical Context

Nigerien family law today consists of three layers of law, although only two have recognized status. These are customary law, Islamic law (recognized only as a variant of customary law), and French Civil law. When the Code de la Famille is enacted, it will technically replace these multiple layers with a single law governing the law of persons, family law (marriage, divorce, filiation, adoption, etc), and inheritance. If Niger's Code is anything like others that have been passed in West Africa (Cote d'Ivoire, Senegal, Mali) and North Africa, notably Algeria, it will reflect this complex legal history.

Islamic law is a sacred law. Its sources are the Qur'an, the revealed word of God; the Sunna, the beliefs and practices of the Prophet Mohammed as collected in the hadith; Qiyas, analogical reasoning; consensus, meaning generally the consensus of the leading jurists; and custom, where it does not countervene the preceding three. Custom entered into the practice of law in Muslim areas

despite the fact that it is not itself acknowledged by the classical legal texts to be a source of law. In West Africa, where custom and Islamic law have intermingled for centuries, the line between Islamic law and custom is indistinguishable and largely unperceived by those who practice law. Of the four great schools of Islamic law which emerged from the classical period, the one founded by Malik ibn Anas (d. 796) is followed by West and North African Muslims (Esposito, 1982; Anderson, 1965). Many Nigeriens have historical ties to ancient Muslim communities, while others were swept into Islam by the forces unleashed in the early 19th century by the Fulani jihad and the establishment of the Sokoto state. The coincidence of Islam and public ideology was not a new phenomenon in the post-independence years.

Under French rule, Islamicized customary law continued to govern family matters for the vast majority of Nigeriens who were classified as subjects, administered in a set of courts distinct from those administering French Civil law (Dunbar, 1983). Village chiefs and/or notables were authorized to hear cases; in the tribunals, a president (usually a French colonial official) was aided by assessors chosen for their expertise in the "custom" of the parties. It was this practice, if cases reviewed from Zinder are representative, that enhanced the evolution of the fusion of Islam and custom.

Customary law was superseded by French law when its principles went against the ordre public or when specific decrees were passed intended to abrogate custom. There were only two such decrees during the colonial period: the Mandel Decree (June 15, 1939) and the Jacquinet Decree (September 14, 1951). The former established a minimum age for marriage (14 for girls, 16 for boys), and made consent of the parties an indispensable element for the validity of marriage. The latter upheld the Mandel Decree and sought to control the bridewealth system by making it illegal for anyone to coerce a woman, 21 years of age or previously married, into a marriage for their own personal gain. Niger was not the only colony to honor these measures more in the breach than in practice.

With independence from colonial rule, Law 62-11 (March 16, 1962) upheld the use of customary law to govern family matters unless French Civil law was opted for. It also consolidated the dual courts of the colonial period into a unitary court system that continues today where, depending upon the parties and the issues, customary law or French Civil law is applied. Most family law cases begin with efforts by a quarter or tent group chief, village cadí or chief to resolve the matter in a conciliatory manner. If this fails, the matter may then be heard in the Justice de Paix court and, on appeal, in the Tribunal de Première Instance.

II. Islam and Social Ideology.

A. Socialization

Islam has influenced some areas of family law more than others in Niger, and that is the only generalization one can make about its affect upon the legal status of women in the country. The importance of Islamic ideals for the socialization of children has been widely discussed (Diarra, 1971, M. F. Smith 1981; Hake 1972). A pervasive ideal of modesty leading to deference in all areas of social intercourse has been seminal in forming the expectations and behavior of adult life. The legal manifestation of this ideal is the notion in Maliki (but not all schools of Muslim law) that a woman is perpetually under the guardianship of a man: of her father as a child, of her husband or older male relative as an adult. This in turn is the basis of the right of the guardian to contract a girl in marriage without her consent; together with the ideal of deference, it also underlies the notion that a woman who remains silent has given her assent (a pattern widely commented upon in Senegal). While Islamic scholars over the centuries have argued for the education of women as well as men, the reality in Niger suggests that other values are held in higher esteem than the education of girls. The practice has often been that a woman will receive at most three or four years of Quranic instruction, and Western education has been viewed with hostility--a posture that for a variety of reasons appears to be affecting, as we have seen, the attendance of boys as well as girls in elementary schools.

B. Marriage

Both the qualitative ideology and the legal precepts of Islam have been widely accepted in Niger. It is a process that involves the bonding of two families through progressive exchanges that begin long before the marriage and continue after its legal recognition. First marriages have historically been arranged. Islamic law accords the wife the right to dower (necessary for the validity of the marriage) for her personal use and which should be of symbolic rather than material

value. This is an area, however, where practice goes far beyond a symbolic gift. In Niger, as in other areas of West Africa, the level of dot (bridewealth proper) and ceremonial gifts has been the object of much public consternation for decades--and certainly since the 1950s. Both colonial and post-colonial governments have attempted in vain to stem the tide of the "inflation of ceremonial expenses" (most recently in 1975 when a ceiling of marriage expenses was set at 50,000 FCFA). The causes of this inflation are still subject to debate, but among the reasons are general monetization of the economy during the twentieth century and the development of alternatives to the family group as the basis of one's economic life. In Niger, the high level of such exchanges may be sustained by the awareness of marriage as a relationship of great instability: bridewealth and ceremonial gifts then become for a woman a buffer against a time when she may be without the support of a husband (Dunbar, 1991).

Once married, Islamic norms governing marriage are the ideal. The husband is the head of the household. He must maintain his wife with food, clothing, and lodging even if his wife is financially able to do so. If there is more than one wife, he must treat each equally (Surah 2:221, 228; 4:34). The wife is in charge of domestic responsibilities. She owes her husband obedience and he may inflict corporal punishment within specified limits if she persists in behavior he does not approve. The requirement that a husband approve his wife's movements is widely practiced in Niger--he can thus refuse her permission to attend meetings, or other activities outside the home.

Seclusion has an uneven history in this country, and may vary to the degree it is absolutely enforced by a woman's husband. Data on the incidence and character of seclusion as it is practiced in Niger is not very precise, but three patterns among those who practice seclusion appear to be the most common: women who are permitted to go out at night to see friends and attend ceremonies; women who may go out during the day but primarily for medical reasons; and women who never leave the home at all. Historically considered a sign of piety and/or affluence, seclusion has not been universally scorned by women, especially when it offered relief from the heavy labor

of agricultural tasks or the tedium of domestic chores like procurement of water and firewood. As recently as the late 1970s this led Margaret Saunders to assert that seclusion in some rural Hausa areas of Zinder Department was on the rise (1978).

Seclusion does not prevent a woman from engaging in economic activity, but it affects her ability to improve her life, and therefore should be taken into account in development efforts. Research in the '80s showed that secluded women in Zinder earned less than their unsecluded peers (Arnould, 1984). In its early years, the AFN complained that its efforts to organize women across the country were often impeded by the high absenteeism of women whose husbands refused permission for them to attend meetings (Dunbar, 1991). That women tolerate but work with seclusion practices was evident in an anecdote concerning women in a savings group in Zinder Department. Members of the group refused to permit women in absolute seclusion to hold positions of responsibility in their group. Nevertheless, the woman they chose as president of the group practiced partial seclusion, yet was acceptable because she could attend meetings at night. Depending upon her degree of seclusion a woman may also be dependent on the labor of others--most often her daughters or hired labor--to conduct economic activities outside the home. Evidence from Nigeria suggests that efforts to increase girls' attendance in school will render women even more dependent (Schildkrout 1983).

Property. The regime governing property of spouses in Niger (as it is for most indigenous African cultures) is separation of property. Variations on women's and men's property rights, to the extent that they have been documented, are explored in the section of the report on women's access to resources. Nevertheless, some characteristics of the effect of Islam bear repeating: (1) Islam itself does not prevent a woman from owning property and managing it; (2) Islam has been an influence leading to greater individuation of rights in opposition to those of the group; (3) Islamic inheritance rules discriminate against women, who are considered residual heirs (dependant upon others), and a daughter inherits one half the share of a son; (4) Islamic law, unlike the

customary law of patrilineal societies, does accord some inheritance rights to a wife: an eighth of the estate if there are children, a fourth if there are no children. So far as can be determined, wives' inheritance of their husband's property in Niger is limited to movable property (or houses?).

Divorce. Islam accords the right to divorce to both husband and wife, but the husband has greater latitude: he may simply repudiate his wife, while in principle the wife must seek divorce on grounds permissible in the sharia. Repudiation has been the most criticized of rules affecting Muslim marriages, but in conditions of great marriage instability repudiation may be instigated by wives themselves. The woman who seeks a divorce under Islamic law is often obliged to repay part or all of the bridewealth; if the husband repudiates her, however, he loses all claim to such repayment. In some regions of Niger and northern Nigeria, it may be that women instigate repudiation for this reason when they wish to leave a marriage. Whether those instances are fewer than ones in which women--especially those beyond their child-bearing years--are cast aside by their husband's action is not something about which we have information.

The range of factors which sustains the pattern of brittle marriage in some regions of Niger must be explored further. Historical and ethnographic reports from earlier in this century suggest that for the Hausa, Kanuri, and perhaps certain segments of the Fulani, a high divorce rate is not a recent phenomenon (Mary Smith, 1954; Cohen, 1971; Dunbar, 1983; Horowitz, 1983). Indeed, Nicole Echard's research led her to conclude that ". . .the early marriage of girls (as compared with boys, who do not usually marry before the age of twenty or twenty-five) and matrimonial instability appear to be the primary structural traits of marital organization in Ader" (1991, p. 210).

Some clues to the factors in divorce are seen in a review of court records in Zinder that examined a little over two hundred divorce cases from the Justice de Paix and the Tribunal de Première Instance over a period of twenty-five years (from roughly the late 1950s to the early 1980s) (Dunbar, 1983). Women plaintiffs in divorce actions outnumbered men, and the six most frequent complaints lodged as grounds were (in descending order of importance) lack of

maintenance, abandonment, the woman simply wanted out of the marriage, the husband was in prison, certification of repudiation, and physical abuse. Husbands' complaints contested the marriage of a wife to someone else (often the result of confusion over the status of repudiation); certification of repudiation; misconduct and abandonment by the wife of the marriage home. Men also in some instances sought relief from the court's prior granting of a divorce, in an effort to get the wife to rejoin the marriage home. Another characteristic of marriages ending in divorce that shows up in the Zinder material is the great disparity in age of some spouses. This reflects the consequences of high levels of ceremonial expenses, especially for a girl's first marriage: she is often married to a man several times her age because it is primarily older men who can afford to pay the expenses. It should be pointed out, however, that the court cases provide a skewed sample of that pattern, and it is not documented how widespread across the country or even within one region is age disparity of spouses. Where it occurs, however, great age difference appears to contribute to the instability of marriages. A cursory examination of the court cases compiled by Michael Horowitz from Maine-Soroa in the late 1960s suggests that factors prominent in the Zinder material are important among populations further east as well--Kanuri, Manga, and Fulani being the cultural groups most often identified in his cases (Horowitz, 1983).

Following divorce, men may remarry immediately; women must await the delay of three months (to be sure she is not pregnant) or until the birth of a child if she is pregnant. Alimony is not recognized in Islamic law, and courts rarely award damages to a wife in divorce actions. Custom rather than Islamic law governs child custody. In some areas the children are turned over to the father's family as soon as they are weaned; in others, they remain with the mother until the age of seven. Child support may be awarded to the mother by the court (although the levels are often inadequate), but the father retains the formal right of guardian in terms of major decisions affecting the child's life.

III. Political and Public Life.

A. Historical Patterns

In the past, Zarma/Songhay and Hausa pre-Islamic societies accorded women a greater public role than is permissible today; some carried out critical functions in the spiritual life of the community or held important political, administrative, and judicial functions. These offices were retained by the nascent Islamic kingdoms of the nineteenth century but were suppressed by colonial officials who relied on the male hierarchy to govern.

Two pre-Islamic institutions that have survived are karuwanci and bori. The latter is a Hausa term for spirit possession that has been studied in the Nigerien context by Nicole Echard for Ader (1991) and by Paul Stoller (for the Songhay). Like possession cults elsewhere in the world, bori enables its adepts to escape, if only for a time, the strictures of their normal social situation; they are often attractive to women in very hierarchical societies for both emotional and material reasons (as celebrants may often claim gifts during the possessed state). While it is unlikely that women would enter bori, or host its gatherings, only for material rewards, it may offer revenue to some. Despite the temporary liberating affects of bori for women, Echard argues that gender- distinctive and patriarchal patterns characterized the adept group she studied in Ader (1991). Stoller suggests that for the Songhay, possession goes beyond the adept to facilitate the creation of a subset of social relations because the family of an adept is obligated to the families of other mediums (Chapter 3). The incidence of spirit possession, and the full range of functions it may play for women--alternative social relations, revenue-producing, ephemeral or real leverage in otherwise patriarchal relations--remain as yet unanswered.

Karuwanci is of interest because of its transformation in the modern sector. A karuwa (Hausa pl. karuwai) is a young woman who is divorced, but not living in her father's home;¹ originally a Hausa custom, it is practiced today by Zarma/Songhai, Fulani and Targui women as well. Karuwai live together under the supervision of a senior woman called the Magajiya (magada, pl). Although the women do offer sexual services, their attraction to the life of karuwanci is the greater opportunities it affords (than does marriage) for broader social contact and for knowledge of and participation in public affairs. Karuwai were actively involved during the nationalist era in politics; they were also the ones quickest to adhere to informal education programs, and in turn many became instructors as well. Even though these karuwai are not regarded as outcasts in the society, their situation is marginal, and their association with programs of the state directed toward women accounts in part for the ambivalence of more conventional women regarding participation in such activities (Piault 1971; Saunders 1978; Pittin, 1983).

B. Important Political and Legal Developments Since Independence

Although Niger became independent thirty-one years ago, the major strides towards improving the political, legal, and economic status of women in Niger since independence really only began sixteen years ago in the context of the United Nations International Decade for Women, which lent global visibility and concern to women's issues. Government policies affecting women and the emergence of women as political actors will be examined, then, with particular attention to the period since 1975. The discussion is divided along the following lines: (1) the elaboration of policies and institutions at the national level to promote the improvement of women's lives and/or their integration into the development process; (2) family planning policy; (3) the further

¹ This term may be contrasted with bazawara or zawara, a formerly married woman who lives with members of her family (i.e. in the father's or brother's home) until such time as she will remarry. The precise content of the contrast is not clear, but choice of an independent place of residence and life style appear to be associated with the karuwai and not with the bazawara.

extension of women's organizations; and (4) adoption and/or elaboration of laws and administrative rules that may affect women in ways different from men.

(1) Policy Directions.

Government policies in all fields potentially affect women as 51% of the population. The encouragement of women's organizations, discussed in the next section, was one of the ways governments began to take a more active interest in women's situation as a result of the United Nations International Decade on Women; another was the creation of special departments and ministries to develop programs to promote women and facilitate government action in areas viewed (rightly or wrongly) as primarily women's concern, like family planning. During the past sixteen years, Niger has made important commitments in this area.

The first ministry to be assigned a special function with regard to women's affairs was the Ministère de la Jeunesse et des Sports (1975). Mme Moumouni Aissata was the first woman to be named Secretary-General of a ministry--the Ministère de la Sante Publique et des Affaires Sociales--at the time of reorganization following Kountche's death in 1987. She became the first woman to hold ministerial rank when two years later in 1989 she was named Secrétaire d'Etat to the newly formed Ministère des Affaires Sociales et de la Promotion de la Femme. Within that ministry, the Direction Féminine was an effective and hard-working cadre. The main lines of their policy development and activity to secure funding have emphasized the following:

- (i) Improve the socio-economic position and condition of women by following the institutional and juridical situation (work for the Code de la Famille) and by mobilizing women and assisting in the improved running of women's organizations.
- (ii) Promote the education of women with emphasis on increasing girls' attendance in school; improving the functional literacy of women in general, and developing professional formation.
- (iii) Enhance the economic productivity of women by increasing their access to appropriate technology and stimulating their productive and commercial activities (Composante: Femmes et Développement, 1991).

At the beginning of the National Conference, all former ministers were dismissed, and a reorganization of portfolios was anticipated. During the National Conference, observers of the work of the Commissions reported that under the transitional government, women's affairs were likely to be attached to the Ministry of Public Health--primarily, it was alleged, because of a concern to reduce the number of ministries. Those who work with the implementation of population and family planning policies favored the close association with the Ministry of Public Health, because it is health personnel who are primarily engaged in dissemination of family planning information. However, personnel of the Direction Féminine feared that reassignment to another ministry would constitute a diminution in the importance and decrease in visibility of government programs focussed upon women. In the end a new Ministry was created called the Ministère du Développement Social, de la Population et Promotion de la Femme whose work will be to implement policies for the promotion of women in the transitional government.

(2) Family Planning.

Family planning in Niger since independence dates from Circulaire No 58/MSP/AS/DIR/CAB of 28 February 1975, authorizing doctors to prescribe contraceptives. Since that time administrative changes have slowly but surely extended both women's rights to contraceptive information and the state's interest in developing family planning policy through a series of conferences and seminars.

In 1981, the government committed itself to develop a family planning policy. The National Center for Family Health, set up in 1983, has as its primary objective the development of family planning, with particular attention to birth spacing, sterility, high risk pregnancies, and education. National seminars in 1985 and 1986 led to the development of a policy and action plan to integrate family planning with improving the base of demographic information. Both former President Kountche and President Ali Saibou publicly supported the importance of these directions. Family planning was included in the 1987-91 Five Year Plan, and in February, 1988, the government

established a Direction nationale de la planification familiale in the Ministry of Social Affairs and the Promotion of Women (R. N. Comite Technique Interministeriel sur la Population-CTIP. "Projet de Politique de Population," 1990). Ordinance No 88-19 of April 7, 1988, authorized the practice of contraception and provided the legal basis for access to contraception and the development of government policy.² A woman having reached her majority may obtain access to contraceptives of her own volition; a minor may acquire contraceptives with the authorization of the person exercising parental authority or legal guardianship. Only women above 35 years of age with at least four living children (men must have at least six living children) or women whose lives may be endangered by pregnancy may choose sterilization (Ordinance No 88-19 7 April 1988).

During debates on the recommendations of the Commission Socio-Culturelle in the recent National Conference, important interventions were made in sub-committee recommending that contraceptive information be made available to young, unmarried women. While the Commission itself did not support the recommendation, there are some reports that, following the floor debate on the recommendations, the Conference adopted the principle of making such information available, and it does appear in the cahiers de charge for the transitional government (see below), although no funds were allocated for that part of the program.

(3) The Emergence of Organizations.

The Association des Femmes du Niger (AFN), founded in 1975 at the beginning of the International Decade for Women, was not the first woman's organization in Niger. In the 1950s, both the Association des Femmes, founded in 1956 under the leadership of four magada, and the Union des Femmes du Niger (1958) were important mobilizers of women, but their activity was restricted to Niamey. In a speech at the founding meeting September 21, 1975, former chief of state Brigadier Colonel Seyni Kountche called for the "complete integration of Nigerien women in

² Annual Review of Population Law, 1988 (New York: UNFPA; Cambridge: Harvard Law School, 1991), pp. 17-18.

the national effort for development, her complete emancipation, and her full contribution to the equilibrium of our society." This integration of Nigerien women was explicitly held to be important more for economic reasons than for political ones (Dunbar, 1991). Despite the fact that the AFN's headquarters was an initial rallying point for the women of Niamey to plan their demonstrations in May (see above), the AFN has come under heavy fire during the National Conference this year. It has been accused of doing little more than engaging in the ceremonial round of activities associated with a capital city, and of being a pawn of the state, unable to speak out on critical political issues. The AFN's failure to take a stand against the policy implemented during the waning years of Kountche's reign that required "certificates de non-grossesse" and the signature of a father or husband for women to travel for personal reasons (as opposed to professional ones) outside the country has been especially decried. It was also criticized for not voicing opposition, as wives and mothers to the massacre of Tchintabaraden, an incident in April, 1990, in which approximately sixty-three people were killed in reprisal for an attack on a police post in that town.

Despite the recent challenges to its authority, the AFN was one of the constituent organizations in the Development Society, the political framework inaugurated under the Kountche regime to lay the basis for a return to civilian rule. It worked with the various ministries and directorates to develop government policy concerning women, and until laws governing organizations were liberalized in 1984, few other alternatives were legally possible.³

Government sponsorship, preoccupation with ceremonies, and opposition from many sectors of society, notably the Islamic Association of Niger, undoubtedly consumed energy which the AFN's leaders could have devoted elsewhere. But its accomplishments should not be overlooked. The women leaders kept visible the necessity to improve women's lives, and instigated a significant number of institutions and activities during the course of its sixteen years of existence. Among

³ Ordonnance No 84-6 du 1er mars 1984 portant régime des Associations (Baye, 1987, pp. 113-124, including text of the ordinance).

these are creation of a network of AFN groups in all the Départements down to the village level. With the support of the national organization, these local organizations led the way in inaugurating development projects directed toward women, such as literacy, gardening, and foyers féminines (women's local community centers), and worked to secure funding for them. In addition, the AFN has from its inception been a persistent advocate for the passage of a Family Code.

The only women's organization other than the AFN for many years was the Union des Sages-Femmes. Others have been founded since the liberalization of association regulations in 1984 (Baye, 1987); most are professional or special interest groups such as the Association des Femmes Commerçants et Entrepreneurs du Niger (AFCEN) and the Union des Femmes Enseignant du Niger (UFEN). One just underway and awaiting its certification is the Association des Femmes Juristes du Niger (AFJN), which has 45 founding members (Interview Allagbada, 10/11/91). The emergence of groups concerned with women's issues is a positive development since it can only strengthen and extend alternatives for institutional action. Such groups will also provide important models of cooperative activity and individual accomplishment for young women. For instance, the Union des Enseignants du Niger has over the past year worked with young girls in Niamey who failed to complete their elementary schooling well enough to obtain their elementary education certificate. Having organized special classes and tutors for a series of evening classes, the UFEN reports that at least three of them were able to pass the exam.

Organizations in the Rural Areas. Outside of the state-sponsored organizations, information on women's organizational life in rural areas is uneven, and the utility and potential for organizational activity is much less clear cut. Two major barriers are a relatively shallow and ad hoc traditional pattern of association in comparison to some other areas of West Africa. While women have close bond friends (Mary Smith, 1981), and neighbors with whom they may cooperate in seasonal agricultural tasks and gift exchange networks, they have not often formed groups for collective economic and productive activity. Rotating credit societies (tontines in French; adashe

in Hausa), are also an old pattern of association, but today, as in the past, they are geared to women's cash needs for ceremonies (e.g., marriages or religious holidays) ("Report on Resource Utilization and Income Generating Activities," 1990 (Maradi baseline study); Alhassane 1989). The success of a savings union in Sassoumbroum, Zinder Department, that was inaugurated at the request of a group of women in the context of a larger project for men, opens up interesting possibilities as well. Factors which appear to underlie their success are considerable social cohesion and proximity to Nigerian markets (Interview, Thomas Shaw, 9/30/91)

Women have not benefitted from the cooperative movement in Niger. They are unable to become members of cooperatives since they are not legally viewed as chefs d'exploitation (a man who has fields and dependents), although in reality some rural women do fill a role similar to that. Additional major barriers to women's participation in cooperatives are their generally low level of education, cultural norms that militate against their attendance (much less participation in) public meetings, and the burden of their domestic chores. Furthermore, there has been no major undertaking to develop structures which would enable the integration of women on their own terms into cooperatives (Djibo, "Enquete Socio-economique" 1989).

IV. Post-Colonial Legal Context and Developments.

In considering the impact of law on women in post-independence Niger, two types of material are important to examine. First is the French Civil law adopted or continued from the colonial period, which governs aspects of life associated with Western governmental law and regulation. The second is the area of law associated with the "development" or "modernization" process (examples here are the Family Code and the Rural Code) that is intentionally directed toward influencing and promoting social change.

A. The French Civil Law Tradition—Human Rights and Labor

With independence, Niger kept many of the human rights laws instituted by the French, and these have continued to be incorporated in successive constitutional documents and charters. Thus, the Law of the Rights of Man and the Citizen (1789) ensured freedom of political expression. Niger is signatory also to the Universal Declaration of Human Rights (1948) and the African Charter on the Rights of Man, which express equality between men and women as cardinal principles. The former Nigerien constitution (Art. 11) adopted the rule of law and other provisions for equality of all before the law regardless of origin, race, sex, or religion (Sidi, 1991). The National Charter of 1989 defined the rights of citizens and their role in national development. It provided for equality and full opportunity in principle to each Nigerien regardless of origin, sex, place of residence, or beliefs (Art. 2.1.1) The Social Justice provision (Art. 2.1.2) stipulated equality before the law and guarantees of the State for individual and collective liberty and just remuneration for work. On women, the Charter held (Allagbada, 1991b):

Les femmes représentent plus de 50% de la population nigérienne et occupent une place importante dans la production.

Pourtant, pour raisons historiques, la femme nigérienne subit quotidiennement le double joug d'un système social et d'un régime matrimonial coutumier défavorable.

Sa responsabilisation effective dans le processus du développement et sa promotion comme agent de progrès seront pleinement assurées par l'élaboration d'un statut susceptible de permettre, à cette importante composante de notre population, de réaliser ses aspirations légitimes dans le cadre de la construction nationale.

C'est par la participation effective et responsable actions de développement que les femmes pourront s'épanouir et oeuvrier a la construction nationale dans le cadre de la Société de Développement.

Dans ce but, la formation, la scolarisation et l'éducation des femmes doivent etres accelerées.

Sur le plan professionnel les femmes doivent accéder a tous les emplois et occuper tous les niveaux de responsabilité conforme à leurs qualifications.

This section on women has been included at length here because it provides the most recent constitutional commitment about women before the National Conference. It also clearly inspires much of the program development undertaken by the Direction de la Condition Féminine in the Ministère des Affaires Sociales et de la Promotion de la Femme.

In regard to employment, the Labor Code (Code de Travail)⁴ covers primarily the private sector, although under certain conditions it applies to the public (normally governed by Fonction Publique rules) or para-statal sector. Women are very poorly represented in the private sector: 3.10% employed in 1979 and even fewer actually seeking employment (Boye, 1987). The Labor Code carries over many provisions--both egalitarian and protective--from the colonial period governing the conditions of work. Article 90 stipulates no discrimination based on origin, sex, age, and status. Protective regulations in labor law, however, tend to hamper women's accessibility to the largest possible range of work, and this has been true in the case of these older provisions included in Niger's Labor Code. For instance, La Convention Collective Interprofessionnelle holds in Art. 52 that certain conditions of work for women are regulated by the law (Mouddour, 1991). Work inimical to women's reproductive capacity is forbidden (Mouddour, 1991). Other provisions dating from ILO texts (1921) and a later document (1953) prohibit women from working with paints containing lead

⁴ Law 62-12 (July 13, 1962) (Boye, 1987, p. 89).

sulfates and cerise or from working underground in mining operations. Additional provisions that restrict women's employability in certain occupations include:

- work requiring physical strength in excess of their capacity;
- work exceeding 9 hours/day in industrial or commercial establishments unless broken up by one hour of rest;
- work exceeding 11 consecutive hours that include the interval from 10 PM to 5 AM in factories, mines, or quarries;
- work on legal holidays;
- work involving the proximity, oiling, cleaning, repair of machines or mechanical devices or in places where these machines work by manual motor traction but which do not have safety devices attached;
- work involving the sale of writings or printed material, posters, paintings, or other objects for which the sale, offer, or display are against good conduct (bonnes moeurs) (Mouddour, 1991).

Other provisions of the Labor Code may discriminate in favor of women. If women are re-assigned to another post because of a pregnancy, they retain the salary they earned before (Art. 18) (Baye, 1987). Article 114 states that any woman whose pregnancy is medically attested, or who is visibly with child, may leave her position without fear of sanction for the breaking of a contract. Article 115 enables a mother to have special periods of rest so that she may nurse her child for twelve months after its birth. This includes permission to leave work without permission or without having to compensate for lost time. Article 119, al. 5 extends to the woman under twenty-one two additional days of vacation per child in her care; those over twenty-one have the same benefit for all children beyond the third child (Mouddour, 1991). Women may also take leave without pay to raise a child under five or to care for someone who is ill (Projet de Politique de Population, 1990).

Women in the Civil Service (Fonction Publique) represent 23.5% of all civil servants, but they are found primarily in lower level positions, or in sectors conventionally associated with women. The basic law that governed the Civil Service until its abrogation set forth equality of sexes in the application of the law (Art. 7 1.2) and in rights to pensions, housing, and family allowances (Art. 39).

(Art. 39). Nevertheless, separate terms of that law and other enabling regulations include provisions which discriminate against women:

-exclusion of certain categories of work to women on grounds of physical aptitude (Art. 7, line 3 of 1959 law);

-exclusion of women from corps de directeur administratif (Art. 74, Décret 65-007/MFP/T, January 30, 1965) and while more and more women are now directeurs administratifs, the law has not been changed;

-denial of prestations familiales and housing subventions by virtue of the fact that the law accords them only to chefs de famille. This provision holds apparently even when the woman is divorced or widowed (Art. 20, Décret 60-55 MFP/T, 30 jan 1965);

-provision for women to receive a one-half exemption for all children, as opposed to the one-half exemption per child that the husband receives under the new Loi de finance 90-27 (December 28, 1990), which law imposes taxes on salaries of women as well as men.

The application decree for the Finance Law has not been enacted, despite the suppression of its predecessor.

The Nigerien Civil Service does not authorize part-time work, and while maternity leaves are paid (for 14 weeks), leaves to fulfill obligatory mourning rites are not (Sidi, 1991; Projet de Politique de Population, 1990).

The professions (law, medicine, education, etc.) are poorly represented in the country because of a number of factors already stressed, although they may not be as poorly represented as is alleged in some reports.⁵ Women as artisans and merchants have been visible throughout the twentieth century, and in November, 1981, one of the first seminars to bring together people interested in supporting the development of women's activities in this domain was held (Baye, 1987). As is clear from developments in the 1980s and early '90s (discussed above), women in a number of fields have begun to organize.

The lack of access to credit and banking facilities for women is decried in Niger as in other African countries and surely is a significant barrier to their self-help efforts. Access to credit is

⁵ In the otherwise useful survey La condition juridique et sociale de la femme dans quatre pays du sahel (Baye, 1987), it is suggested that there is only one female avocat and one notaire in Niger.

non-existent for rural women. Nevertheless, there are no legal barriers created by the Code Civile, Muslim or customary law. The barriers are, rather, financial: women lack the minimum capital and guarantee limits to meet the relatively high levels of interest (République du Niger, Comité Technique Interministeriel, 1990).

To summarize the main characteristics of the legal situation, a framework exists to permit the equal treatment of and opportunity for men and women in the work force. The Transitional Government has been charged with the review of existing regulations and laws to ensure Niger's compliance with the principles of the international texts to which Niger has subscribed affecting both women and children. The elimination of protective legislation directed at women's biological role of child-bearer may have to be balanced with legislation that protects the safety of all workers. Policymakers must also address the serious constraints women face to full and effective use of banking and credit facilities. But the emphasis upon egalitarian rules and implementation is a positive development in that it places the government's commitment behind the laws. On balance, however, the progress of any significant number of women into the higher ranks of either the private or public sector will depend upon the creation of a larger pool of educated women.

B. Le Code Rural

The labor laws, important as they are now and will be in the future, do not affect the vast majority of Nigérien women who remain in the rural sphere. For these, the anticipated implementation of the Rural Code in coming years will have a major effect upon the ability of women to retain access to the important economic asset of land. The text of the law and the draft documents that preceded it had women's rights explicitly in mind. Despite the intentions, the effort to create a document that would work in Niger's present situation has left women, except in certain situations, virtually unprotected except for the general objectives set forth in the early provisions.

The Rural Code is one of two major legislative projects under consideration and recommended by the National Conference for passage; the other is the Family Code (see following section). As of May, 1991, the text of this law was in the form that will be considered by the government of Niger. It is the loi-cadre: the law identifying major principles that will be elaborated by complementary texts and the gradual implementation of institutions at the Departement and Arrondissement levels. The result of five years of research and drafting by the National Committee for the Rural Code under the direction of the sociologist Michel Keita, this document is possibly the most important legislation of the post-independence period. Its aim is to set forth the principles governing the appropriation, utilization, and management of natural resources that are considered part of the national patrimony. Its 124 articles are divided between two books: I: Security by the Recognition of Rights; II: Rural Development.

The first sets forth types of property (land, cattle) and types of exploitation (cultivation, pastoralism), and it identifies certain principles that will guide the management of the nation's natural resources. They are equality (of access); the obligation to mise-en-valeur (which includes both the notion of exploitation and conservation); and participation (the creation of institutions to encourage the protection of individual or group claims against other individuals, groups, or the state ("Exposé des Motifs," Code Rural)).

The Rural Code accords men and women equal rights of accession to natural resources (Art. 1), but, since customary rights of use form the basis for establishing claims to property, it appears that the state does not intend to intervene on behalf of women in the customary sphere. Their rights to equal access to irrigated parcels (Art. 72) or reclaimed land (Art. 95) are explicitly addressed. Unless implementing documents and institutions address women's rights of access, it seems likely that, whenever competition for land becomes intense, they will be dependant as always upon their husbands for land they may use to cultivate food (see T. Keita, 1991). Other provisions,

some of which affect men as well as women and all of which will have important consequences for household production, include:

(1) Aménagements. The entire second book outlines the procedures for large-scale interventions that on occasion may result in land being taken for the public good. Such aménagements (even where undertaken by the state), however, are ultimately to be placed in private hands (Art. 64). While there are provisions for public hearings, the imbalance in power between farmers (men or women) and those who have the weight of the State or their own wealth behind them renders farmers at the local level vulnerable to large-scale projects.

(2) Definition of Property Rights. The Rural Code envisions a gradual delineation of rights in property. At the level of each Arrondissement will be established a Land Committee (Commission Foncière) whose charge will be to develop and maintain the Rural Register (Dossier Rural). The Land Committee will also have jurisdiction over reassignment of land that is being inadequately exploited (Art. 100). The members of the Land Committee will be the sous-préfet, serving as president, the juge de paix, a representative of the Services d'Arrondissement du Plan and other Services techniques, plus the chief of the Canton involved in each individual case. The Dossier will include a map of the arrondissement and an inventory of certified titleholders. At the level of each Department will be a Land-Use Document (Schéme d'Aménagement Foncier) indicating the large-scale land-use plans for the Departement (Arts. 98-110;116-118). Conflicts over land are to be handled as customary litiges de champs have been handled in the past: that is, the local chief attempts to conciliate the parties himself or with the assistance of a committee of individuals knowledgeable about the local patterns of use. The results of their deliberations have the status of a procès-verbal or judicial order. Appeal of a decision thus rendered is to the juge de paix, who himself is obligated to attempt a conciliation of the matter before judging (Arts. 121-122).

(3) Organization of the Rural Community. A final point of interest concerning the code is the organization of the rural community anticipated in Articles 112-114 into Rural Groups

(Groupements Ruraux) and Rural Activity Groups (Groupements d'activité rurale). Article 112

states

Les opérateurs ruraux ont le droit de réunir en groupements doté de la personnalité morale. Assurant la solidarité de leurs membres les groupes ainsi constitué permettent de reconnaître les droits collectifs des communautés et d'assurer l'exercice des droits de chacun.

It is expected that the organization of the rural activity groups will be developed in one of the complementary texts. It remains to be seen whether the groupements féminins often mentioned in documents for the promotion of women will be able to acquire rights of new exploitation under the Rural Code.

C. Le Code de la Famille

If attention must be riveted on the Rural Code because of its potential impact upon the economic rights of women, the Family Code, for its governance of the law of persons as well as the vast domain of family law, will influence both the economic and social situation of women in coming years. Unlike the Rural Code, it constitutes a model for which there were many examples elsewhere in Africa.

Background

Positivist law⁶ and its association with the further encapsulation of the globe by the industrial nations of the world have been subjected to important critiques (Snyder 1980). In Africa, the most important facet of positivist law was the idea of modernization of law: that by legislation

⁶ Positive law refers to law enacted by governments--legislation, in contrast to older theories of natural law. In the context of law in contemporary African states, however, it is associated with the notion of law being used to guide and direct social change. Snyder's discussion remains one of the fullest to criticize this feature of law since he sees it as one more tool that was used to incorporate African (or other non-Western) societies into the international economic system and dependent status and/or to lead African culture change away from the dominance of extended family responsibilities towards activities more conducive to the creation of savings, build up of capital, etc. In particular with regard to our subject here, it legislated in some instances, the abolition of polygamy and structured inheritance laws to favor the nuclear family.

one could mold and direct social change. Modernization of law was often seen as an important step in the early years of independence to reflect modernity in other respects. Together with the adoption of French human rights and labor laws throughout the former French colonies of West Africa following their independence, the implementation of Family Codes was seen as a significant step in the modernization of law. Cote d'Ivoire (1964); Mali (1962); Guinea (1968), and Senegal (1972) passed Codes explicitly intended both to improve the status of women and to encourage the evolution of family law towards social structures (especially the nuclear family) viewed to be more consonant with economic development. Abolition or restriction of polygamy and the introduction of options for inheritance laws drawn from the French Civil Code have been frequent features of these laws (Mbacke, 1973, 1975; Mundt, 1975).

Niger's Progress Towards a Family Code

In Niger, internal pressure for the adoption of a Family Code dates from the mid-1970s. A working group was first established in 1976, including representatives of the AFN, an interministerial committee, and individual scholars under the direction of an official of the Ministry of Justice. Despite highly visible support for a Family Code at the first two congresses of the AFN, as well as press reports in 1977 that the broad outlines of a Code were beginning to emerge, work on the Code was suspended sine die that year due to political opposition that was apparently viewed as threatening to the stability of the country (Dunbar, 1991). In 1985, work was renewed (Interview with H. Niandou, 10/1/91), but a draft document was rejected the following year. In 1987, another committee was established to elaborate the Code. Its work, through several meetings and two seminars at Kollo in 1989, and Tillabery in 1991, has brought the document to its present form. As an Avant Projet du Code de la Famille, its early dissemination and adoption by the transitional government was urged by the Commission Socio-Culturelle of the National Conference. The Secretary-General of the Ministère des Affaires Sociales et de la Promotion Feminine, M. Harouna

Niandou, envisions a nation-wide debate on the Code following its dissemination, before it is submitted to either a referendum or the National Assembly. Others have expressed the preference for a speedy adoption by the Haut Conseil de la République (the body that will oversee the activities of the transitional government in the coming months) (Oumarou Kane 10/14/91).

The document that was discussed with us in October, 1991, is still being revised and put into final form, but the main principles, having been subjected to years of elaboration and to recent scrutiny, are close to the form likely to be submitted for national consideration. The document is divided into four Books (Titres): Laws Concerning the Person (I); Marriage (II); Succession (III); and Gifts and Wills (IV). It contains 603 articles. Reflecting the importance of inheritance matters, the 259 articles in Book III on Succession constitute 43% of the Family Code. There are many points of interest for women's status; the major ones are the following⁷:

- (1) A married woman may retain her own name, although she has the right to use that of her husband (Art. 7).
- (2) The domicile of a married woman is that of her husband or the residence he has determined (for her), unless another is authorized by the court (Art. 13).
- (3) The minimum age of marriage for a woman is 16 and for a man, 21; however, dispensation may be granted "pour motifs graves" by the chief of the Circonscription Administrative (Art. 32).
- (4) Consent of both of the future spouses is required to be attested to by the officer of the Etat Civil on the Act of Marriage (Arts. 33 and 46).
- (5) A suitor of a woman subsequently married to someone else has the legal right to block (s'opposer) her marriage to another until he has been compensated (i.e. presumably with the gifts he has given the girl and/or her family, or an equivalent amount in money) (Art. 30). A reflection of concern about the major expenses incurred by a man at marriage, this provision is, so far as I am aware, unprecedented in any other West African Family Code.
- (6) The husband may opt for monogamy at the time of a first marriage or any succeeding marriage when prior marriages have been dissolved (Art. 67). Although we had been told that he may rescind this option with the approval of his wife, there is nothing in the code's present text to indicate that option. (In an informal discussion with a notaire and a high judicial official (Mme Fatimata Salifou, the Procureur Général), the latter indicated that should the husband change his mind, a divorce would have to intervene).

⁷ When the code is finally published, the article numbers may be off by one or two, as there are inconsistencies in the texts we have seen.

- (7) The husband is the head of the family (Art. 58), but both spouses contract to assure the moral direction of the family. While, as family head, the husband is obligated to meet the material needs of his family, the wife should contribute to the household's expenses (Art. 59).
- (8) A married woman has full civil capacity (Art. 61), and regardless of the property regime chosen at the time of marriage, she may represent her husband to meet the household's needs. Such acts obligate the husband vis-a-vis third parties (re payments for goods or services) (Art. 62).
- (9) A husband may lose his status as head of household by prolonged and unjustified absence or criminal conviction (une peine criminelle) (Art. 65).
- (10) A married woman with personal property and revenues of her own may open an account in her own name (Art. 64).
- (11) A couple may opt for either separation of property or communal property regimes (Art. 68).
- (12) Divorce may occur through mutual consent if freely given (Art. 76), or through judicial action (Art. 75). Repudiation is prohibited (interdite). (Art. 77).
- (13) With one exception, the grounds for divorce are the same for men and for women. They include adultery, incompatibility, physical abuse, criminal conviction (afflictive et infamante); grave or incurable illness rendering cohabitation prejudicial to the other person; violation of previous commitment to monogamy; impossibility of satisfying conjugal duties; prolonged and unjustified absence (Art. 78).
- (14) A divorced woman, even if she was separated from her husband prior to the divorce, may not marry until three months following the divorce, or, if pregnant, until she has delivered (Art. 96).
- (15) A spouse who is declared at fault in a divorce action after ten years of life in common is obligated to pay a pension alimentaire to the other spouse if (s)he is in need. Nevertheless, the allowance may be revoked when it is no longer necessary, notably upon the occasion of a subsequent marriage, or for notorious conduct (conduite notoire) (Art. 97). The latter is a charge more often levied against women in litigation than against men. The provision of the pension alimentaire, however, is an improvement over Islamic law, which has no provision for alimony or any kind of support for a divorced spouse, except under strictly limited situations and for brief periods of time.
- (16) The Code's provisions for child custody give priority to the best interest of the child (Art. 101), but regardless of the assignment of custody, both mother and father conserve the right to watch over the maintenance and education of the children and are obligated to contribute to their expenses to the best of their abilities (Art. 102). A surviving spouse retains custody (en plein droit) of any minor children (Art. 108). Heretofore, women may have been permitted to keep children, but formal guardianship vested in the surviving male member of the father's family.

- (17) While maintaining the Islamic prohibition against a child's suit for paternity when its mother and father were not married (Art. 170), others of the Code's provisions seek to facilitate the legitimation of children who were born out of wedlock, but whose fathers have acknowledged them (Arts. 166 and 168).
- (18) Succession is governed by the droit commun except where an option for Islamic law has been made (Art. 240); under common law, the spouse inherits (Art. 253) generally a larger share than under Islamic law, and depending on the heirs may inherit all of the estate (Arts. 363-365). However, the wording of the second paragraph of Article 399 that begins the section of the Code on Muslim inheritance makes it unlikely that common law will apply to many estates: "les héritiers peuvent également d'un commun accord demander à ce que la succession soit réglée en droit musulman."

Summary Comments on the Family Code

The draft document contains significant provisions enhancing a woman's ability to claim her personhood as a complete citizen and mother of children. Among the notable improvements are: (1) establishment of the minimum marriage age for women at 16; (2) a wife may obligate her husband for expenses she has incurred if they were to meet the needs of the family, even if the marriage is governed by a separate property regime; (3) a married woman may have her own bank account; (4) a divorced woman will receive a food allowance from her former spouse until she remarries (or no longer needs it); and (5) child custody decisions will be based on the best interest of the child. In some cases, however, the enhancement of status envisioned will depend not only on women's knowledge of the law, but on the way it is interpreted by civil servants and judges. Thus, the effectiveness of the minimum age requirement will depend on the extent to which civil servants grant the dispensations allowed in the text. Likewise, the food allowance provision could be rendered void depending on how the courts decide to interpret the "notorious conduct" that is one of the grounds for which her allowance could be denied. Moreover, the Code disappoints hopes for strengthening women's capacity by: (1) leaving to the husband the choice of monogamy; (2) creating no protection for an unwed mother's child when the progenitor refuses to acknowledge it; and (3) rendering the inheritance provisions of the law profoundly vulnerable to Muslim heirs,

who may petition for the application of Muslim law in the absence of prior clear intent by the deceased.

Even if adopted in the coming months in its present form, the Family Code is unlikely to be embraced by a majority of the population for years to come. The drafters have diligently sought to eliminate or alter some of the greatest inequities women have experienced under Islamicized custom, and have given fuller measure to the adult married woman to exercise her rights as a person. Nevertheless, as the succession provisions show, achieving a code that stands some chance of passage in Niger involves the preservation of many legal provisions discriminatory to women.

V. The Transitional Government's Charge.

The Transitional Government came into being on November 1, 1991, and will be in power over a period of fifteen months. The cahiers de charge that resulted from the deliberations of the National Conference constitute the will of the National Conference and will serve as guide to the Transitional Government. Excerpts from the Rural Development and Socio-Cultural Commissions reflect the most current statement of government objectives in the policy and legal areas discussed in the preceding pages. Among the important directives are:

- Adopt the population policy during the transition;
- Review all civil service texts with a view to eliminating all those provisions discriminatory to women;
- Ratify all international texts Niger has subscribed to in the domain of women's status;
- Elaborate an action plan for applying the World Declaration for the Protection and Development of Children;
- Create a judicial cadre to apply the African Charter for the Rights of Children and the Internal Convention on the Rights of Children.
- Revitalize personnel and assure the training of key personnel in the technical ministries in order to emphasize attention to women's issues;
- Promote and encourage the multiplication of women's organizations;
- Include civic and political education for women in radio and television broadcasts;
- Insure women's participation in union, political and associational activities;
- Adopt and popularize the Family Code.

The resilience and dynamism of Nigerien women and men, more than anything else, offer prospects for change and improvement in the quality of their lives. Preparations for the National Conference, its debates, and resolutions awakened the hope of political participation among the country's citizens. Prominent among them were women leaders who played critical roles throughout the conference. It was an event of historic proportions that provided glimpses of the best and the

worst that the country could hope for. Any government in Niger faces harsh economic realities, however, that will constrain even the most positive policies. The profound transformations of the economy during the colonial period wrought the reorientation of commercial exploitation and labor migration in the economic sphere. With the introduction of Civil law, the French added another layer of law and institutions to existing customary and Islamic ones. Colonialism posed shocks to social and economic relations, but the post-colonial period has scarcely been calmer. Climate has been unforgiving, especially to an expanding population. Where agriculture at one time provided sustenance and wealth for at least part of the country, farmers are more and more hard-pressed to feed their families, and prices obtained for cash crops are inadequate to meet needs. It is difficult to be sanguine about long-range prospects for the country unless Niger joins others with greater diversity of geography and economic resources in some kind of larger economic (if not political) entity. Women and men both face these constraints. But women bear a heavier burden and are more vulnerable. In the next section of the paper, the major constraints women face are summarized.

VI. One Step Forward, Two Steps Backward: Constraints Women Face.

Women face constraints in the socio-cultural realm that discourage efforts by them and by others to improve their lives. Many of these, deeply imbedded in historical patterns, are not easily remedied by government or private intervention; they constitute what might be called fundamental constraints. Other constraints are identified for health, legal status, economic, and education conditions. In addition to the constraints women face, gaps in our knowledge and new directions for research emerged in the review of existing knowledge. These will be summarized under Research. The section which follows will include specific recommendations for action in the context of USAID's general objectives.

1. Fundamental Constraints

These include geographical and ecological factors as well as a measure of state-society relations, and they create situations amenable only to long-term, if any, improvement. Among them are:

--the general poverty and low income of the country.

--gendered patterns of labor and lack of facilities in water, health, and sanitation that require women to spend upwards of 16 hours/day to accomplish domestic tasks (which cannot help but affect the time available for women to secure training and health care).

--a demanding climate that limits the nature of development diversity.

--a fusion of patriarchal socio-cultural norms and cultural nationalism. The former reinforces authoritarian relationships between men and women, and emphasizes control over them. The latter, in the name of creating alternative ideologies to Western domination, constructs a particular tradition of Muslim conduct and gender relations that is not pervasive in the Muslim world. In Niger, these features characterize the popular attitudes of many, especially in the rural areas, and stand in stark contrast to the state's objectives;

--a predisposition among the mass of the citizens to view the state's activities with skepticism. Together with the preceding factor, this predisposition finds efforts to stimulate change in values and behavior falling on deaf ears.

Beyond the Fundamental Constraints, and always influenced by them, are others that emerge in the preceding narrative. These may be summarized briefly:

2. Political Constraints

Niger has made impressive commitments to enlarging the political participation of its citizenry, and no legal disabilities stand in the way of woman's exercise of her rights. Nevertheless, women face opposition in the home and in the media to public activities that enable women to influence policymakers, such as regular attendance of meetings, establishing any kind of autonomy without the husband's express authorization, etc. It is by no means certain, but it is likely that these patterns are more common in the rural areas than in urban ones, and certainly more so than in Niamey.

3. Legal Constraints

Civil Law. Decisions in recent years eradicated many discriminatory provisions in the laws and regulations of the post-colonial state. The charge requiring review of existing legislation to capture remaining provisions of this kind is salutary. Among the most important of these are conventions governing conditions of work that restrict certain fields, work conditions, etc. to men. Implementation of new legislation to assist and encourage women in the acquisition of banking, credit, and licensing facilities should be encouraged, as should the elimination of barriers to contraceptive devices and information for any woman of reproductive age.

Family Law. Nigeriens' overwhelming embrace of Islam and Muslim law is likely to enshrine--Family Code or not--some provisions discriminatory to women. As we have seen, the Code itself has retained features of customary practice that place limits on women's freedom of action: the husband is the head of the household; unmarried women cannot sue for the paternity of their children; women depend upon their fathers or husbands for the allocation of land rights unless they have acquired sufficient capital to purchase land outright. The draft document establishes community property as the norm, but enables anyone who would inherit under Muslim

law to challenge its application. To the extent that the Rural Code relies upon custom to govern land not incorporated into aménagements or recovery schemes, it offers no protection for women's access to land.

4. Economic Constraints

There are several which flow from the preceding discussion of Family Law and other features of the fundamental constraints above. They will also be covered in greater detail in the companion paper. The point to make here is that women suffer both labor and capital constraints; the extent to which they do is governed by cultural norms and position in the life cycle. Particularly at risk are women beyond their reproductive years; migratory labor of men coupled with high divorce rates make them especially vulnerable.

5. Education and Training

Girls' attendance in school has always been less than boys', and despite enormous efforts since independence, only a minority of children get the chance to be educated. Parents do not send their daughters to school because they want them to marry young. In addition, the government's abolition of boarding schools (internats) that could offer proper supervision, further discouraged parents from sending their girls to school. Recent economic conditions provoke further declining enrollments. In rural areas, parents whose resources are already stretched thin cannot afford increased costs, especially for instruction that is viewed as dysfunctional. The higher the level of women's education, the lower the infant mortality rate and fertility rates will be (Blumberg, 1989; Stamp, 1991). Niger's statistics in these areas merit high-level attention so that women may participate in all aspects of life to the extent of their ability, unlimited by the lack of knowledge.

Women's access to non-formal training, such as the acquisition of literacy, new technologies, personal and organizational skills, is deterred by the fundamental constraints and their generally poor access to education as children.

6. Health

Precocious and frequent child-bearing is the most important health constraint women experience. Maternal mortality is particularly acute among young teen-age wives whose general health and development cannot sustain a pregnancy. Inadequate or distant health facilities, or cultural attitudes about women's roles, prevent women from getting or even seeking timely treatment. Abortion is illegal.

7. Research

In the past decade, scholars and development professionals have significantly added to the knowledge base about how people cope, and new research methodologies have enabled the more accurate assessment of needs and characteristics of target populations. Nevertheless, several limitations in our knowledge point the way for future directions of research. Among the most important directions to emerge in the conduct of this research are methodology; uneven coverage of Niger's cultures and household income; factors of age, class, and ethnicity; the role of gender as a factor governing the setting of priorities within the household and local community; literacy; land tenure; and rural organization.

Methodology. Knowledge is inadequate about how interview styles and data collection procedures may skew the results of studies. What is the relative effectiveness of various techniques for determining needs, group leaders, etc.?

Uneven Data on Niger's Cultures. Research and documentation remain relatively scant for some regions of the country notably Diffa, some regions of Agadez, and some social settings in Tillabery and Dosso. Moreover, recent exploration of micro-cultural and agro-ecological adaptations in different sectors of the country (Djibo and Price, 1990; Pappa, 1989 are two examples) need to be extended.

Age, Class, and Ethnicity bear closer scrutiny; how do historical patterns of dominance and subservience, for instance, affect attitudes toward the kind of activity and extent to which it is acceptable? Are certain kinds of projects more likely to succeed because older women (less in demand for domestic chores) can do them? Or do they require younger women, who may also be able to draw upon the labor of children? Hierarchies of age and status may be related to the ways in which labor is utilized, and to how much labor one can command.

Gender and Decision-Making. While the impression of parallel and gendered political economies is overwhelming, it is equally clear that cooperation occurs within households (and among neighbors) to mitigate hardship if not to expand production. How do women manage their resources in relation to men? In what ways do women cope with the barriers to their access to agricultural inputs? At the village level, how do gendered relationships and cultural values influence collective actions? Desire for leisure and the ability to fulfill important social network obligations both influence decision-making, as does the desire for improved material well-being. What are people willing to trade off?

Literacy. How does it affect all of the above?

Land Use and Management. Questions about land tenure will command increasing attention in the future. Once installed, the Rural Code itself will provide data about perceived rights, resolution of conflict, and relationships of one type of property to another in the context of a family's holdings. More needs to be understood about local communities' knowledge of caring for land, bush, flora and fauna. Dahl has pointed out for pastoral societies of East Africa (1981) that it is important to consider the concrete utility of their knowledge and not see it as merely folkloric (Stamp, 1991).

Rural Organizations. What factors influence the creation of women's associations, especially in the rural areas? The policy initiatives to encourage groupements féminins, and the activities envisioned in the Rural Code, mandate a firmer knowledge about local group formation.

VII. Recommendations and Proposed Actions

Recommendations for the WID Action Plan are submitted below. These address policy and legal actions for the constraint sectors identified above that do not necessarily mesh with the current projects USAID is implementing in the country. They also include activities that other branches of the United States mission in Niamey may wish to initiate or implement with USAID. Recommendations related to ongoing USAID/Niamey projects are presented separately in a WID Action Plan Outline.

Fundamental Constraints

Because of their complexity, it is not possible to indicate objectives at this stage for which expected outcomes beyond meetings, consultations, and seminars would be feasible. Moreover, the economic problems here require reconsideration and adjustment not only of Niger's internal policies, but of the relationship Niger has to the international economic system--be it that of the West African region or the globe. There are also major features of the United States' position on these matters at an international level. The interests of Nigerien women would be served by a thriving Nigerien economy, though their benefits would be different from those of men.

- (1) Together with GON, other nations, and private agencies, encourage opportunities to explore activities that will lessen Niger's economic dependence on commodities for which prices are unstable.
- (2) Encourage regional agreements (like ECOWAS, Club du Sahel) that offer a larger pool of resources upon which to base planning.
- (3) Develop institutions for data collection that will provide better understanding of regional, sectoral, and gender differences within the country:
 - (a) Require the disaggregation by gender of data on all projects;
 - (b) Develop "gender impact statements" for projects: how were women of target communities involved at various stages from needs assessment, design, implementation, and evaluation?;

(c) Together with other GON agencies (especially the Ministry of Higher Education and Research), and with other international public and private agencies, support the establishment of a Documentation Center on Gender Issues or Women in Niger. Possible locations could be the University of Niamey's Institut pour Recherche en Sciences Humaines, the training center at Kollo, or the Ecole National d'Administration;

(d) Support the training of women documentalists/archivists for the Documentation Center;

(e) Encourage and coordinate with the Planning Ministry Department Documentation Centers that will include not only public GON documents but also reports conducted on that Département by private agencies;

(f) Assist in developing a long-range plan for collection of documentation from Arrondissements, Cantons, and villages ("fiches villageoises," "fiches d'exploitation");

(g) Conduct research on the consequences for women of major features of Niger's economy like the export sector and labor migration. In what ways do they affect women differently from men? Are women as well as men involved?;

(h) In conjunction with the encouragement of Département Centers of Information, develop a "Profile of Women" document for planning purposes. This would include characterizations of women for the region, such as: i. statistical indicators on health, education, employment, etc.; ii. principal economic activities; iii. customary law provisions affecting women's access to productive resources; iv. principal formal and informal leaders among women; and v. status of Rural Code and Family Code implementation.

(4) Discuss appropriate levels and avenues of implementation of these activities.

Political

(5) Encourage and monitor the preparations for full democratic participation in the elections in 1993.

(6) Assist in the dissemination of information about political programs, electoral procedures, etc.

(7) Encourage the emergence and strengthening of diverse women's organizations, and their collaboration to promote high visibility of women's issues and concerns:

(a) Promote the idea of an annual conference on Nigerien Women drawing on the kind of journées de réflexion that ministerial sections engage in for planning purposes, but which will provide public and media attention;

(b) Assist the training of the leaders of women's organization in management and planning through in-country seminars and support (through USIA) of participation in international conferences;

(c) Through grants or incorporation into existing activity agendas, assist the development of the Département sections of women's organizations.

Legal

- (8) Together with GON and women's organizations, assist in the popularization of the Family Code:
 - (a) Provide financial support for printing of the Code for wide dissemination;
 - (b) Support the training of women leaders from all Départements to learn the provisions of the Code and its consequences for women;
 - (c) Provide financial support for public education on the Code through television and/or radio programs.
- (9) Encourage through the appropriate ministry the review and elimination of discriminatory laws and regulations recommended by the National Conference. Especially important for attention are the dispositions concerning:
 - (a) Denial to women of certain sectors of employment in the civil service through employment of physical aptitude criteria (Law 59-6, December 3, 1959);
 - (b) Denial of fringe benefits to married women because they are not the "head of household" and regardless of employment status of husband (Art. 20, Décret 60-55 MFP/T on prestations familiales and housing allowances);
 - (c) Unequal provisions of the new Finance Law (90-27, December 28, 1990).
- (10) Support through consultations the recommendations of the National Conference on access to contraceptive information by revision of the 1988 law on contraception so that it will permit access to contraceptive information to any woman of child-bearing age regardless of marital status or authorization by any other person.
- (11) Support through consultations means of facilitating women's memberships on their own right in cooperatives.
- (12) Support through consultations licensing procedures for economic activities of production or commerce that are equitable and meaningful to women.
- (13) Monitor the implementation of the Rural Code with particular attention to its impact on women (see Project recommendations below).

Economic (Most recommendations here are linked to Project recommendations below.)

- (14) Through ongoing projects or the inauguration of a new research venture, determine the impact of labor/capital constraints on women at different stages of the life cycle to anticipate the appropriateness of economically focussed interventions. What differences exist in this area between women in agricultural and pastoral areas?

Education

- (15) Promote through consultation the Curriculum Reform within the Ministry of Education to improve the functionality of Niger's formal education system.
- (16) Urge and assist in the resolution of problems blocking the HYBRID Education Sector Project.
- (17) Encourage and promote public debate on education through the sponsorship or support, through women's organizations, of media programs or conferences at the level of the Départements.
 - (a) Solicit parents' concerns about education costs and about supervisory issues regarding women so that alternatives can be explored to insure greater participation of girls at all levels in formal education;
 - (b) Assist the efforts of groups like Union des Femmes Enseignants du Niger (UFEN) to further their work with school leavers.

APPENDIX A
PERSONS INTERVIEWED

WASHINGTON:

9/26 **Ron Grosz, AID/PPD/WID, Policy Analyst/Development Economist**
Erna Kerst, former WID coordinator for USAID, Niamey
Mari H. Clark, AID/PPD/WID, Social Scientist

NIAMEY:

9/30 **Meg Brown, ADO/ASDG Head**
Barry Rands, ADO/ASDG/NRM
Beatrice Beyer, Program Office Chief
Helen Soos, GDO Chief
Susan Wright, HDO/Family Planning
Jennifer Ward, Ambassador
Claudia Anyaso, Cultural Affairs Officer
Thomas Shaw, World Council Credit Unions (WOCCU)

10/2 **M. M. Harouna Niandou, Secetaire-General, Ministere des Affaires Sociales et de la**
Promotion de la Femme
Mme Absou Liman, Directrice de la Condition Feminine (DCF)
Mme Irene Wright, Directrice-Adjoint, DCF
Mme Paguemba Katambe, DCF
Mme Ai Manou, DCF
Mara Tekach-Ball, Economic and Consular Officer, U.S. Embassy
Pierre Delaire, Sociologist; Consultant
Kent Elbow, Doctoral Student, University of Wisconsin at Madison

- 10/3 **Peter Von der Lippe, Direction, Agriculture and Natural Resources Projects, CARE International, Niamey**
- Amadou Maiga, CARE International**
- Pascale Alloke, Legal Anthropologist; former Member, Comite National de la Code Rural**
- 10/4 **Mme Diene Keita, Programme Officer, UNDP**
- Dioulde Laya, Director, Centre des Etudes Linguistiques par Traditions Historiques et Orales (C.E.L.T.H.O.)**
- Luc Mourin, Director, Projet Bien-etre Familial, PNUAP**
- 10/7 **Paulo Giglio, I.L.O. (Bureau International du Travail, BIT) Entreprise d'Artisanat**
- Mme Therese Keita Mai Maiga, Member, Comite National du Code Rural; Sociologist (specializing in women's rights, law, and land)**
- Mme Fatimata Marcelle, Secretaire-General de l'Association Feminine des Commerçantes et Entrepreneurs Nigeriens (AFCEN)**
- 10/8 **M. Michel Keita, Secretaire-General du Comite National du Code Rural**
- Mme Aissata Bagna, Coordinatrice du Projet F.E.D. pour la Formation des Femmes en Zones rurales Zinder-Agadez-Tahoua, Ministere des Affaires Sociales et de la Promotion de la Femme; Presidente de la Commission Socio-culturelle at the National Conference; Representative of the Syndicat National de Travailleurs (USTN)**
- 10/9 **Tisna Veldhuyzen, Direction Planification Familiale, Ministere des Affaires Sociales et de la Promotion de la Femme**
- Mme Fatoumata Boube, Administrateur du Programme Femme et Developpement, UNICEF**
- 10/10 **Susan Farnsworth, Assistant Director, CARE International, Project Director for Small Enterprises**
- Mme Binta Seybou, Directrice des Etudes et de la Programmation, Ministere des Affaires Sociales et de la Promotion de la Femme**
- Mme Amsa Maiga, Coordinatrice Nationale/Societe de Developpement International Desjardins (SDID), Ministere des Affaires Sociales et de la Promotion de la Femme**
- Mme Louissette Marten, Directrice de Projet/SDID, Ministere des Affaires Sociales et de la Promotion de la Femme**
- Mme Ginette Genois, Conseillere/SDID, Project of Socio-economic support, Ministere des Affaires Sociales et de la Promotion de la Femme**
- George T. Eaton, Director, USAID, Niamey**

- 10/11 Mme Eliane Allagbada, Directrice des Etudes Legislatives, Chargee de Cours a l'Ecole National d'Administration, Ministere de la Justice
- 10/14 Asta Kenney, USAID, Direction Planification Familiale, Ministere des Affaires Sociales et de la Promotion de la Femme
- 10/15 Oumarou Kane, Health Development Officer

Women Attending Luncheon Given by Ambassador Jennifer Ward:

- Mme Fatimata Salifou, Procureur General, Ministere de la Justice
- Mme Bibata Diallo, Ex-Depute, Ex-Directrice de la Promotion de la Femme
- Mme Mariama Banakoye, Directrice, Office National du Tourisme
- Mlle Mariama Hima, Directrice de la Culture, Ministere de la Jeunesse, des Sports et de la Culture
- Mme Aissata Bagna, Coordinatrice, Projet FED, Projet de Formation des Femmes en Zones rurales, Zinder-Agadez-Tahoua, Ministere des Affaires Sociales et de la Promotion de la Femme, Membre U.S.T.N.
- Mme Fatimata Ide, Journaliste, Office National d'Edition et de Presse (ONEP)
- Mme Aminata Dante, Chef de Cabinet, Ministere des Affaires Sociales et de la Promotion de la Femme
- Mme Marie Virginie Mamadou, Notaire, Huissier
- Mme Irene Diawara Meon, Secretaire-Adjointe, Chargee des Femmes Travailleuses Bureau Executif, U.S.T.N.
- 10/18 Valerie Dickson-Horton, Deputy Director, USAID/Niamey
- Gaston Kaba, GDO/Head of Training, USAID/Niamey
- Meg Brown, ADO/ASDG, USAID/Niamey
- Hararou Djibo, USAID/Niamey
- Alima Souley, GDO/ET, USAID/Niamey
- Nancy Lowenthal, GDO/HDO
- Ellen Taylor-Powell, PDO, Social Science Advisor

APPENDIX B

STATISTICAL INDICATORS OF SOCIO-ECONOMIC STATUS OF WOMEN IN NIGER¹

ITEM	NIGER	MALI	BURKINA
Population (million) (1988) ^a	7.3	8.0	8.5
GNP/Capita \$US (1988) ^a	\$300	\$230	\$210
Real GDP/Capita \$US (1985-88) ^b	\$610	\$500	\$650
Total Life Expectancy (1988) ^a	45	47	47
Female/Male Life Expectancy (1988) ^a	47/43	49/46	49/46
% Annual Population Growth (1980-1988) ^a	3.5	3.0	2.9
% Population under Age of 14 (1988) ^a	46.7	46.6	45.1
Total Fertility Rate (1988) ^a	7.1	7.0	6.5
Infant Mortality Rate (1988) ^a	133 ²	168	137
F/M Child Mortality (under 5) 1988 ^a	204/226	209/237	188/208
Maternal Mortality/100,000 live births in hospital/clinic (1980) ^a	42 ³	n.a.	600

¹ The statistical data for this chart has been drawn from three documents: The 1990 Development Report (Washington, DC: The World Bank, 1990) hereafter and in the chart A; Human Development Report 1991 (New York: United Nations Development Programme, 1991) hereafter B; and The World's Women. Trends and Statistics, 1970-1990 (New York: United Nations, Social Statistics and Indicators, Series K, No 8, 1991) hereafter C.

² Analyses more extensive than the initial select analysis of the 1988 census in Niger indicated that Niger's infant mortality rate was over 160; for the moment, the figure above is closer to Niger's official data, but is likely to be amended upward.

³ This figure, like the one for infant mortality, is likely to be amended upward towards 7(00) once complete analysis of the Census occurs.

ITEM	NIGER	MALI	BURKINA
% F/Total Adult Illiteracy (1985) ^a	91/86	89/83	94/87
% Total Population Urban (1988) ^a	18	19	9
Ave. Ann. Growth Rate of Urban Population (1980-1988) ^a	8.0	3.5	5.4
% Rural Population (1985-1988) with Access ^b to			
Health Care	30	n.a.	n.a.
Water	n.a.	36	69
Sanitation	n.a.	5	5
% Urban Population (1985-88) with Access ^b to			
Health	99	n.a.	51
Water	35	46	44
Sanitation	n.a.	90	35
F/Total % Age Group in School (1987)			
Primary ^a	20/29	17/23	24/32
Secondary	3/6	4/6	4/6
Tertiary (Total)	1	1	1
Primary Pupil/Teacher Ratio (1986-88) ^b	40	38	65
Public Health Expenditure as % GNP (1986) ^b	0.8	0.7	0.9
Public Expenditure on Education as % GNP (1986) ^b	4.0	2.8	2.4
as % Total Public Expenditure (1987-88)	22.9	17.3	14.9
Labour Force as % of Population (1988-89) ^b	51.4	31.8	46.8

ITEM	NIGER	MALI	BURKINA
% Labour Force (1985-88)^b in			
Agriculture	85	85.5	86.6
Industry	2.7	2.0	4.3
Services	12.3	12.5	9.1
Women as % Labor Force (1988-1989)^b	47.0	16.4	46.5
Military Expenses as % GNP^b			
in 1960	0.3	1.7	0.6
in 1986	0.7	2.5	3.0
Ratio of Military Expenditures to Combined Education/Health Expenditures (1986)^b	15	71	91

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