



The African Women's
Development and
Communication Network



POLICY BRIEF



NIGER

HARMFUL PRACTICES PERSIST: A NEED FOR LAW REFORM AND RESOURCED IMPLEMENTATION TO REALISE WOMEN AND GIRLS' RIGHTS

Female genital mutilation - Early & child marriages - Safe abortion



NOVEMBER 2021

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HIGHLIGHTS

FEMALE GENITAL MUTILATION

- Predominantly Islamic, in the Sahel region of West Africa, Niger has 2.2% national prevalence of female genital mutilation. Though low compared to other countries globally and especially in the region, no FGM is ideal and the practice should be stopped.
- The exception is the Tillaberi region where the rate is 12%.

EARLY AND CHILD MARRIAGE

- Niger has the highest prevalence of child marriages in the world, the highest total fertility rate and very high maternal mortality in contrast to their low FGM prevalence.¹
- The Children's Act of 2014 states that a child is a human being under the age of 18.
- With a population of 25,394,266², 76% (4.1 million) of women aged 20 to 24 were married before the age of 18. The legal age for marriage for both boys and girls is 21 years.³
- Niger has a youth bulge. With a median age of 15.2, more than half the population is under 15 years (51.7%). Adolescents and youth make up more than two thirds of the country's population (69%). Yet, there is a high dependency ration of 121%.
- Niger has a mostly rural population with only about 16.5 % (approximately 4 million people) of the population in urban areas in 2020. About 45% of the population lives below the poverty line.⁴ More than 8 in 10 women live in rural areas and 21% are of reproductive age.
- The median age of marriage for girls (15.7 years) is around nine years earlier than that for boys (24.6 years), mainly due to social, cultural and economic reasons.⁵ The rate of child marriage has barely changed in 20 years. This constant should change
- In Niger, 18.6% of girls aged between 15 and 19 years are engaged in a polygamous marriage, which increases their vulnerability. Only 26% of the population is seeking family planning methods.
- Denial of opportunity and economic violence are high as 61.4% of girls aged 10-14 years old have never attended school.

ACCESS TO SAFE ABORTION

- Voluntary abortion is illegal in Niger. Abortion is only allowed to save the life and health of the woman and in cases of foetal impairment.
- Niger has not signed, ratified or acceded the only human rights instrument with prescriptive language on abortion criteria, the African Union's Maputo Protocol.
- The percentage of women using contraception is extremely low at only 12.2%. This is lower for married women. Only 0.5% use long term or permanent methods, and condom use is close to non-existent. Under 50% of women in Niger (only 32.6%) obtained Skilled Birth Attendance (SBA).

SYNOPSIS

This policy brief builds on evidence from the review of key legal, policy and programmatic efforts for ending early child and forced marriages, Female Genital Mutilation or cutting (FGM/C) and promoting access to abortion services. Gender-based violence is of great concern in Niger as 60 per cent of adolescent girls and women experience at least one type of violence in their lifetime. The issues focused on in this policy brief are serious common practices that violate women and girls' human rights. To redress the three vices concerted policy reforms through strategic advocacy and community level social behaviour change communication efforts are critical for the promotion of comprehensive Sexual Reproductive Health Rights (SRHR). The impact of COVID-19 is explored to determine any impact on promoting or preventing the harmful practices, un/under reporting and subsequently propelling the continuation of child marriages, female genital mutilation prevention and limited access to safe abortion services in Niger. This policy brief will contribute to achieving major advocacy priorities in the Strategic Plan for the African Women's Development and Communication Network (FEMNET) Strategic Plan (2020-2029), and the priorities of the Swedish International Development Cooperation Agency (SIDA).

2022 policy
brief

BACKGROUND

FEMALE GENITAL MUTILATION

Female Genital Mutilation or Cutting (FGM/C) includes all procedures that intentionally alter or injure female genital organs for non-medical reasons. The practice that is normally carried out on children below the age of 15 years, poses serious health risks for women in Niger even though there are low levels of prevalence, at about 2%. FGM may cause life-threatening complications during childbirth. Despite these risks, the practice has continued largely in the name of culture and tradition. Some communities believe FGM helps prevent premarital sex and helps ensure a wife's fidelity by reducing her libido.

Boarder populations remain vulnerable as girls living near borders of countries with weaker anti- FGM/C legislation than their own, are most vulnerable to being forcibly moved to be circumcised., Circumcisers reportedly travel to Niger where there are less restrictions and enforcement, to circumcise nomad Gourmantché girls in South-Western Niger. Regional corporation becomes essential.

EARLY AND CHILD MARRIAGES

The prevalence of child marriage below the age of 15 years is very high at over 25%. Child marriage and high adolescent birth rates are the major drivers of the population growth as well as the high maternal mortality and obstetric fistula rates. Child marriage in Niger is also linked to poverty, low education levels, gender inequality and the low status of women in society. The practice that violates human rights is more than twice as common in rural areas as compared to urban areas. Child marriage is over three times more common among those in the poorest wealth quintile compared to the richest wealth quintile.

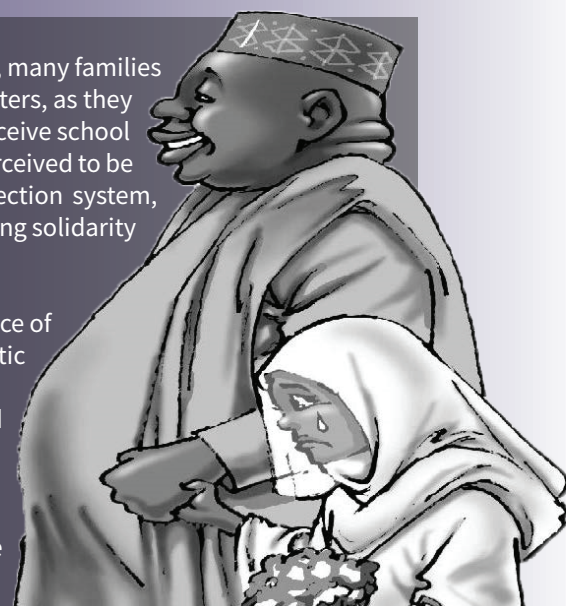
Child marriage is often viewed as a means of reducing the financial burden for parents with low to modest incomes and can be perceived as a source of income. Families marrying girls when they reach puberty is a strategy to prevent pregnancy outside marriage, which is viewed as a source of shame for the family. Marriage is valued by many communities because it confirms the social status to women, who are viewed primarily as wives and mothers.

**“
‘Child marriage’ refers to a formal or informal union in which at least one of the parties is under 18 years of age.
”**

Though education until the age of 16 had been made compulsory and free, many families prefer to invest in their sons' education or training rather than their daughters, as they feel there is no need for schooling to be a mother or wife. Most parents perceive school as a place of risk for adolescent girls. A girl who marries at an age that is perceived to be too late is often not viewed favourably. In the absence of a social protection system, marriage, including for girls, is a strategy of economic survival (strengthening solidarity between families, and care of ageing parents, etc.).⁶

The continued practice of child slavery and exploitation through the practice of “wahaya”, or the fifth wife, under which women and girls are held in domestic and sexual servitude. This practice continues although slavery was criminalized and the law provided for the protection of victims. Few courts have pronounced convictions for such cases.

Certain Islamic associations and influential people have formed pressure groups resistant to change and opposed legislative changes that would offer greater protection against child marriage, based on religion and traditions. Many politicians and lawyers are themselves influenced by culture, norms, prejudices and taboos surrounding child marriage, and can be susceptible to the influence of religious pressure groups, limiting opportunities for legal and policy changes. This resistance has, in the past, hindered important initiatives to combat child marriage, such as the adoption of the family code or a law to protect young girls at school.⁷



ACCESS TO SAFE ABORTION

Abortion is banned under Nigerian law; except in cases when the pregnancy endangers the mother's health and life. Yet, as a country with the highest fertility rates in the world and a 50% youthful population that is projected to triple by 2050, only 26% of the population seeks family planning.

Under 50% of women in Niger (only 32.6%) obtained Skilled Birth Attendance (SBA).⁸ Women in rural areas have less likelihood of obtaining SBA, as compared to women in urban locations. Highly educated women who are financially in better standing and obtained at least 5 antenatal care visits and watch television at least once a week are likely to seek SBA. Though Post Abortion Care (PAC) and Family Planning (FP) are allowed, they are not systematically offered to women who visit hospitals seeking services for abortion-related complications.

The clandestine abortion practices and complications thereof, pose serious health risks to women and girls, resulting in high mortality rates. Providing these services helps meet the reproductive intentions of women, reduces unintended pregnancies, and prevents repeat abortions, thus reducing maternal deaths. However, Nigerian family and cultural dynamics largely centre on the man's role as head of the household. Women therefore are unable to freely access FP to limit or space births. Moreover, women under the age of 18 require parental consent to access FP. Low demand and use of health services are also down to sociocultural factors, such as misinterpretation of religious texts, and misconceptions about contraceptive use.

There are other systemic challenges to the provision of abortion care services. For instance, many facilities lack the equipment and supplies required to provide PAC and do not have dedicated space to conduct PAC counselling. The limited availability of skilled providers able to offer PAC and high turnover in Niger's Ministry of Health has also impeded implementation of PAC norms and policies. Though Niger has a national health financing strategy geared toward universal health coverage, the policy does not specifically address PAC, and it is poorly resourced and implemented.

Effective Postabortion Care (PAC) provides a comprehensive approach to preventing morbidity and mortality caused by abortion complications.

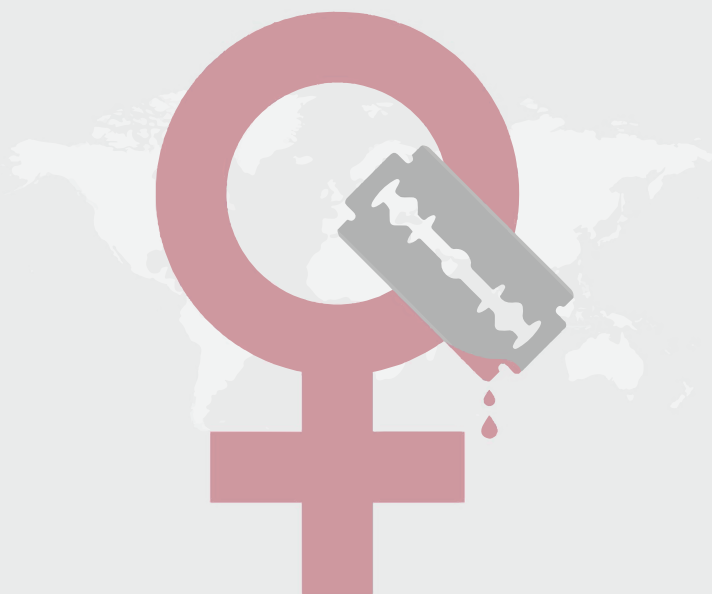
POLICY & LEGAL FRAMEWORK

Niger has signed, ratified and acceded several international and regional agreements that aim to promote human rights, gender equality and human development to the full potential of all people. The following are key instruments committed to:

- The 1978 Alma Ata Declaration of 1978. Seeks to prioritise primary health care (PHC).
- The Universal Declaration of Human Rights (UDHR).
- The International Covenant on Civil and Political Rights (ICCPR).
- The International Covenant on Economic, Social and Cultural Rights (ICESCR).
- The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).
- The Organisation of Islamic Co-operation (OIC) – Cairo Declaration on the Elimination of FGM (CDEFGM).
- The African Charter on Human and People’s Rights.
- The African Charter on the Rights and Welfare of the Child.⁹

FGM

While the Nigerien constitution does not explicitly prohibit harmful practices and FGM, Article states that treaties or agreements that are regularly ratified shall supersede domestic laws. Hence, Niger’s commitments to the UDHR, CEDAW and SDGs to name a few provide avenues for policy advocates to request accountability and the effective implementation and enforcement of regional, continental and global commitments. It is critical to adopt and implement laws to prevent and prosecute perpetrators of FGM/C wherever they practice.



EARLY AND CHILD MARRIAGES

There are three sources of law recognised in Niger, namely the public law, the Islamic law and the customary law.¹⁰ Customary law remains the best known and most frequently applied legal source and it has an important influence on family life in Niger, family law has several sources that conflict with the more progressive human rights based Civil Code in the interpretation, enforcement and accountability. A person could choose between the provisions of the civil code or customary rules. Both laws do not impose any sanctions on child marriages. The Civil Code allows for the registration of customary marriage and Islamic marriage and imposes monetary fines if a marriage is not registered yet, most marriages are not registered. Most marriages are celebrated under customary law and are not registered before the civil registrar. Most people do not consider registration as relevant when a marriage is celebrated under customary or Islamic law.

In many cases, people are unaware of the legal age of marriage. According to the civil code, the legal age for marriage for both boys and girls is 21 years (Civil Code, Art. 144, 148 and 158), even though children could still be given into marriage at a younger age with their parents' consent. Most unions take place under customary law which has a no minimum age for marriage.¹¹ The civil code mandates that a marriage must be based on the consent of both partners. Although marriage can be challenged after one year by either parents or the girl herself, Judges have no instrument with which they can annul a marriage if a girl takes action.

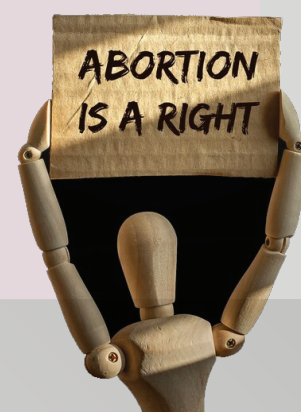
CHILD NOT BRIDE

ACCESS TO SAFE ABORTION

Voluntary abortion is illegal in Niger.¹² Niger's three main national legislation related to abortion are:

- (i) Reproductive Health Law 2006.
- (ii) Niger Penal Code 2008.
- (iii) Registered List of Essential Medicines.

Niger has also not signed, ratified or acceded the only human rights instrument with prescriptive language on abortion criteria, the African Union's Maputo Protocol. However, although ECOWAS has a Harmonised Code of Ethics and Practice (2013) that has provisions for safe abortion practices, there is no indication of it being an official government document in Niger. Except for instances of foetal impairment, health, life, authorization by health professional; a woman cannot request abortion even in instances of rape, socio-economic reasons, incest, Intellectual or cognitive disability of the woman, Mental and/or physical health. There are strict restrictions on doctors, midwives, surgeons, dentists, pharmacists, medical students, pharmacy students or employees, herbalists, merchants of surgical instruments, nurses, masseurs, who have recommended, encouraged or practiced the means of procuring abortion, if done unauthorised.



CAMPAIGNS

Policy advocacy and community outreach campaigns should seek to influence behavioural change and promote alternatives for protecting young girls against child marriage, FGM and ensure access to abortion services in Niger. Campaigns should be multi-pronged, focusing on legal reform, bi-lateral and multi-lateral advocacy and awareness raising efforts. The three linked issues should be addressed through:

- **Robust community informed and integrated, multi-sectoral and evidence-led prevention and response efforts** - to up-turn harmful social practices, promote positive social behaviour change and effect policy reforms. It is especially important to address the traditional and cultural beliefs that are driving child and early forced marriages, FGM and the lack of commitment to accessible safe abortion services.
- **“Awareness Caravans”** - Stakeholders from all the key relevant ministries, traditional leaders and practitioners and community leaders should collaborate in setting up “awareness caravans” to take information and services on these three linked issues, other educational and developmental opportunities, accompanied by legal experts who give relevant advice including on human rights, women and girl’s rights, gender equality, GBV and women’s empowerment to the far and hard to reach rural communities.
- **Community dialogues** - are a critical way to engage communities. Community engagement efforts should be scaled up through partnerships with civil society organizations and networks, traditional communicators, community radios, religious leaders and traditional chiefs, to combat female genital mutilation in Tillaberi.
- **Policy advocacy** - should target law reform to align with regional and global commitments and respond to community needs. Advocacy on acceding to the Maputo Protocol should be prioritised.
- **Collaborative and collective understanding facilitated** - Social behaviour change communication strategies and programmes should be crafted with inputs from all relevant stakeholders and a strong referral system for education, services and support.
- **Involve and influence local and national political and traditional leadership** - to openly denounce the harmful practices and discourage silence, under-reporting and condonement.
- **Advocate for a responsive justice system** - and encourage effective law reform and enforcement.

The focus on rural Niger should also align with similar efforts in the urban areas for consistency in reach, messaging and approach. Even with internal migration and flux, people can keep getting the messaging and services. All stakeholders need to work in close partnership to ensure that the content of current policies are easy to understand and available to all members of society. Increased funding and empowerment of local activists is needed to help in the advocacy work.



COVID 19 IMPACT

The COVID-19 pandemic profoundly affected the everyday lives of girls: their physical and mental health, their education, and the economic circumstances of their families and communities. Changes like these increase the likelihood of child marriage and FGM practices which are recorded even worse, with no formal accessibility to abortion services. The Government put in place a series of restrictions and social distancing measures including school and mosque closures and movement. Restrictions led to a drop-in economic activity loss of livelihoods, and household poverty. The resulting economic insecurity limited the ability of parents to provide for their children. Worsening household income caused some adolescents living in especially difficult circumstances to view child marriage as a viable option.

THE ROLE OF MEDIA

THE ROLE OF MEDIA

As media can be a tool or strategic means of communication for social change and gender justice, the media may be a part of the problem, or it can be part of the solution. Advocacy, structured programming and community outreach education and awareness raising efforts should be concurrently promoted in collaboration with all stakeholders including national and community media. All media forms, especially community media are critical to influence social and behaviour change, promote accountability, influence progressive laws and their implementation. Other forms of media, such as local radio programmes and interactive dramas, are also being widely and successfully used by activists to disseminate information and promote discussion, particularly in remote rural areas. Advocates in Niger can make full use of these media channels to get across messages about the law, the socio-cultural and traditional actions that promote these harmful practices. Strategic partnerships should aim to make laws more accessible in communities, in all languages and in areas of low literacy.



CONCLUSIONS AND RECOMMENDATIONS

Guinea should streamline more progressive legislation so that it is not up to individuals to choose between the more progressive civil code and customary code in family law. All need to be aligned to minimise the misinterpretation of the law, effective implementation and clear accountability mechanisms and practice. Developing and allocating sufficient resources for the implementation of a national plan to combat these harmful practices, including a media campaign and communication plan as well as national education programmes is essential. Specifically, improved access to abortion services, the prevention of FGM and Child Marriages needs:

FGM

ALIGNMENT OF GLOBAL AND REGIONAL COMMITMENTS WITH NATION LEGISLATION

Abusive language and threatening behaviour towards uncut women and girls and their families should be criminalised. Premises used for FGM and the possession of cutting tools should be criminalised. Laws should specifically state that 'consent' and culture/custom/tradition/religion shall not be defences for conducting FGM.

POLICY IMPLEMENTATION

Protection orders should be provided to girls to prevent girls at risk from undergoing FGM. Appropriate protection measures such as emergency telephone hotlines and safe spaces should be put in place for women and girls at risk of FGM.

CAPACITY BUILDING AND SUPPORT

Medical professionals, social workers, teachers and faith and community leaders (including the police, judiciary, traditional practitioners, high court judges, border control) to name a few; should be trained to understand relevant policies and guidelines to better help victims overcome their physical and mental traumas and provide ongoing support.

EVIDENCE INFORMED SYSTEMIC AND SOCIAL CHANGE

Adequate systemic gathering of data and monitoring and reporting of FGM cases is essential to improve efficiency and inform policymakers, the judiciary, the police and all those working to implement and enforce the law.

REGIONAL INTEGRATED LAW REFORM AND ENFORCEMENT

Africa Union, (AU) and ECOWAS and IGAD need to review, implement and enforce similar regional laws to tackle cross-border FGM. ECOWAS should suggest legislation and improvement on the enforcement of cross-border FGM in West Africa.

CHILD MARRIAGE

POLICY IMPLEMENTATION

Prioritisation of ending child marriages through ensuring child marriage is a national, regional and continental priority. The Nigerian government should work towards implementing and enforcing the many international treaties signed and ratified, as there is still a lot of work to be done

EMPOWERMENT

Girls need to be empowered and become aware of their rights to overcome this conservative culture that makes them victims of such practice. Empowering girls through education, leadership and life skills training, coaching and mentoring using role models could help reduce the practice. When girls are confident in their abilities, armed with knowledge, they can claim their freedom and independence.

FINANCIAL STABILITY

Adequate systemic gathering of data and monitoring and reporting of FGM cases is essential to improve efficiency and inform policymakers, the judiciary, the police and all those working to implement and enforce the law.

ACCESS TO SAFE ABORTION

LAW REFORM

The expanded legal grounds for abortion should be adopted to align with guidelines modelled in the World Health Organisation international medical standards. by applying those laws in practice.

CAPACITY BUILDING AND SUPPORT

Mid-level personnel such as nurses and midwives and registered nurses should be capacitated with the necessary skills trainings, resources and adequate facilities to provide postabortion care services.


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CONTACT US



 Femnet Secretariat

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Female genital mutilation • Early & Child marriages • Safe Abortion

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The African Women's Development and Communication Network
Email: admin@femnet.or.ke

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