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Civil and Political Rights**

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**Consideration of reports submitted by States
parties under article 40 of the Covenant**

Second periodic reports of States parties

Chad*

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Contents

	<i>Paragraphs</i>	<i>Page</i>
Acronyms and abbreviations.....		5
I. Introduction	1–10	8
II. Innovations in the legal and institutional framework for the promotion and protection of human rights	11–48	9
III. Responses of the Government of Chad to the concluding observations of the Human Rights Committee (CCPR/C/TCD/1).....	49	16
Responses to the recommendation contained in paragraph 9 of the concluding observations (CCPR/C/TCD/CO/1).....	5–58	16
Responses to the recommendation contained in paragraph 10 of the concluding observations.....	5–63	18
Responses to the recommendation contained in paragraph 11 of the concluding observations.....	6–69	19
Responses to the recommendation contained in paragraph 12 of the concluding observations.....	7–72	19
Responses to the recommendation contained in paragraph 13 of the concluding observations.....	7–85	19
Responses to the recommendation contained in paragraph 14 of the concluding observations.....	8–100	21
Responses to the recommendation contained in paragraph 15 of the concluding observations.....	10–104	23
Responses to the recommendation contained in paragraph 16 of the concluding observations.....	105–107	23
Responses to the recommendation contained in paragraph 17 of the concluding observations.....	108–113	23
Responses to the recommendation contained in paragraph 18 of the concluding observations.....	114–123	24
Responses to the recommendation contained in paragraph 19 of the concluding observations.....	124–127	25
Responses to the recommendation contained in paragraph 20 of the concluding observations.....	128–135	25
Responses to the recommendation contained in paragraph 21 of the concluding observations.....	136–137	27
Responses to the recommendation contained in paragraph 22 of the concluding observations.....	138–144	27
Responses to the recommendation contained in paragraph 23 of the concluding observations.....	145–150	28
Responses to the recommendation contained in paragraph 24 of the concluding observations.....	151–157	29
Responses to the recommendation contained in paragraph 25 of the concluding observations.....	158–161	29

Responses to the recommendation contained in paragraph 26 of the concluding observations.....	162–185	30
Responses to the recommendation contained in paragraph 27 of the concluding observations.....	186–189	33
Responses to the recommendation contained in paragraph 28 of the concluding observations.....	190–194	34
Responses to the recommendation contained in paragraph 29 of the concluding observations.....	195–199	35
Responses to the recommendation contained in paragraph 30 of the concluding observations.....	200–201	36
Responses to the recommendation contained in paragraph 31 of the concluding observations.....	202–210	37
Responses to the recommendation contained in paragraph 32 of the concluding observations.....	211–213	38
Responses to the recommendation contained in paragraph 33 of the concluding observations.....	214–221	38
Responses to the recommendation contained in paragraph 34 of the concluding observations.....	222–223	40
IV. Information concerning implementation of the articles of the International Covenant	224–573	40
Article 1: Self-determination.....	224–227	40
Article 2: Non-discrimination	228–233	40
Article 3: Gender equality	234–260	41
Article 4: Derogation	261	47
Article 5: Recognition and interpretation.....	262–263	47
Article 6: The right to life	264–269	47
Article 7: The prohibition of torture and cruel, inhuman or degrading treatment ...	270–272	48
Article 8: The right not to be held in slavery or in servitude	273–281	49
Article 9: The right to liberty and security	282–287	50
Article 10: The treatment of detainees	288–303	51
Article 11: The inability to fulfil a contractual obligation	304–310	53
Article 12: The right to liberty of movement and freedom to choose one's residence	311–318	53
Article 13: The right of aliens not to be expelled arbitrarily	319–324	55
Article 14: The right to a fair hearing	325–379	56
Article 15: The principle of legality and non-retroactivity	380–388	63
Article 16: Recognition as a person before the law	389–392	64
Article 17: Respect for privacy	393–402	65
Article 18: Freedom of thought, conscience and religion	403–414	66

Article 19: Freedom of expression	415–452	67
Article 20: Propaganda for war and incitement to discrimination.....	453–455	74
Articles 21 and 22: The right of peaceful assembly and freedom of association ...	456–484	74
Article 23: Marriage and the family	485–487	78
Article 24: Child protection	488–535	78
Article 25: The right to take part in the conduct of public affairs	536–570	85
Article 26: Equality before the law	571	91
Article 27: Rights of minorities	572–573	91
V. General conclusion.....	574–576	91

Acronyms and abbreviations

ACAT	Action by Christians for the Abolition of Torture Chad
AEPT	Association des Éditeurs de la presse Privée au Tchad (Association of Private Publishers in Chad)
AFJT	Association des Femmes Juristes au Tchad (Association of Female Jurists in Chad)
APLFT	Association pour la Promotion des Libertés Fondamentales au Tchad (Association for the Promotion of Fundamental Freedoms in Chad)
ASTBEF	Association Tchadienne pour le Bien-être Familial (Chadian Association for Family Welfare)
ATCOM	Association des Techniciens de la Communication (Association of Communication Technicians)
ATNV	Association Tchadienne pour la Non Violence (Chadian Association for Non-violence)
ATPDH	Association Tchadienne pour la Promotion et la Défense des Droits de l'Homme (Chadian Association for the Promotion and Defence of Human Rights)
BPE	Bureau Permanent des Elections (Permanent Elections Bureau)
CECR/U	Centres d'Éducation Communautaires Urbaines et Péri-urbaines (Urban and peri-urban community education centres)
CELIAF	Cellule de liaison et d'Information des Associations (Liaison and information unit of women's associations)
CENI	Commission Electorale Nationale Indépendante (Independent National Electoral Commission)
CNARR	Commission nationale d'accueil et de réinsertion des réfugiés et des rapatriés (National commission for the reception and reintegration of refugees and returnees)
CNDH	Commission Nationale des Droits de l'Homme et des Libertés (National Commission for Human Rights and Freedoms)
CNPS	Caisse Nationale de Prévoyance Sociale (National Social Welfare Fund)
CONACIAF	Comite National du Comité Interafricain pour la lutte contre les pratiques néfastes à l'égard des femmes et des enfants (National Committee to Combat Harmful Practices involving women and children)
CONSAHDIS	Coordination Nationale de Soutien aux Activités Humanitaires et au Détachement Intégré de Sécurité (National mechanism to coordinate support for humanitarian activities and the integrated security force)
CP	Code pénal (Criminal Code)
CPC	Code de Procédure Civile (Code of Civil Procedure)
CPF	Code des Personnes et de la Famille (Personal and Family Code)
CPP	Code de procédure pénale (Code of Criminal Procedure)
CRT	Croix-Rouge du Tchad (Red Cross of Chad)

CSM	Conseil Supérieur de la Magistrature (Supreme Council of Justice)
DAD	Direction de l'Accès au Droit (Directorate for Access to Law)
DIS	Détachement Intégré de Sécurité (Integrated security force)
DPFIG	Direction de la Promotion de la Femme et de l'Intégration du Genre (Directorate for the Advancement of Promotion of Women and Gender Mainstreaming)
ECCAS	Economic Community of Central African States
EFE	Éducation-Formation-Emploi (Education-training-employment)
ENAM	Ecole Nationale d'Administration et de Magistrature (National School of Administration and Magistracy)
ENASS	École Nationale des Agents Sociaux et Sanitaires (National School of Social and Health Workers)
ENFJ	École Nationale de Formation Judiciaire (National Institute of Judicial Training)
FGM	Female genital mutilation
GTZ	German Agency for International Cooperation
HIV-AIDS	Human immunodeficiency virus-Acquired immunodeficiency syndrome
HCC	Haut Conseil de la Communication (High Council for Communication)
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organization
ISP	Institut Supérieur Polytechnique (Higher Polytechnic Institute)
ISSED	Institut Supérieur des Sciences de l'Éducation (Higher Institute of Educational Science)
LTDH	Ligue Tchadienne des Droits de l'Homme (Chadian League of Human Rights)
LTJA	Ligue Tchadienne des Journalistes Arabophones (Chadian league of Arab-language journalists)
MASSNF	Ministère de l'Action Sociale, de la Solidarité Nationale et de la Famille (Ministry of Social Action, National Solidarity and the Family)
MINURCAT	United Nations Mission in the Central African Republic and Chad
NGO	Non-governmental organization
OHADA	Organization for the Harmonization of Business Law in Africa
PARSET	Programme d'Appui à la Réforme du Système Educatif au Tchad (Chadian programme to support educational reform)
PGRET	Programme Global de Relance de l'Est du Tchad (Comprehensive stimulus programme for eastern Chad)
PRAJUST	Projet d'Appui à la Réforme de la Justice (Project to support justice reform)
RGPH	Recensement général de la population et de l'habitat (General population and housing census)

SAPAC	Service des Affaires Politiques et des Associations Civiles (Service of Political Affairs and Civil Associations)
SITAN	Situation des Enfants et des Femmes au Tchad (Situation of children and women in Chad)
SODEMA	Société des Médias Africains (African Media Corporation)
TNV	Tchad Non Violence (Chad without Violence)
UFPCT	Union des Femmes Professionnelles de la Communication au Tchad (Union of Women Communication Professionals)
UJT	Union des Journalistes du Tchad (Union of Journalists in Chad)
UNDP	United Nations Development Programme
UNFPA	United Nations Population Fund
UNHCR	Office of the United Nations High Commissioner for Refugees
UNICEF	United Nations Children's Fund
URPT	Union des Radios Privées du Tchad (Union of Private Radios of Chad)
UST	Union des Syndicats du Tchad (Union of Trade Unions of Chad)
WHO	World Health Organization

I. Introduction

1. This report is the second report submitted by the State of Chad to the United Nations Human Rights Committee under article 40 of the International Covenant on Civil and Political Rights and in accordance with the general guidelines on the format and content of periodic reports adopted by the Human Rights Committee.

2. This report covers the years 2009, 2010 and 2011. Chad has chosen not to go back over the ground covered in its previous report for the simple reason that it wishes to avoid repetitions that would add unnecessarily to the Committee's work. Consequently, only the matters referred to in the Committee's observations are addressed.

3. Furthermore, this report highlights the principal measures adopted in Chad since the submission of its last report in 2009, and essentially those that contribute to the implementation of the International Covenant on Civil and Political Rights. It will also refer to relevant facts that had not been noted at the time in the initial report and that will serve to provide clarifications in response to the Human Rights Committee's observations.

4. It is true that, since its ratification of the Covenant, Chad has so far submitted only two reports, including this one, but that in no way alters its attachment to the work of the Human Rights Committee. Aware of the distinct advantages accruing from the periodic submission of reports on the status of civil and political rights, the State of Chad brings to the Committee its renewed commitment and its renewed trust.

5. The Human Rights Committee considered the initial report of Chad (CCPR/C/TCD/1) at its 2634th, 2635th and 2636 meetings, held on 16 and 17 July 2009, and adopted its concluding observations at its 2652nd meeting (CCRP/C/SR. 2652) on 29 July 2009. The following concluding observations were made:

6. The Committee regretted that the report had been submitted 12 years late and invited the State party to take account of the timetable set by the Commission for the submission of reports.

- It appreciated, however, the detailed information provided by Chad on its legislation, while regretting the insufficiency of the information on the effective implementation of the Covenant;
- The Committee welcomed the frank dialogue opened with the delegation of Chad on the various problems confronting the country in relation to civil and political rights;
- The Committee said that it looked forward to the outcome of the forum that Chad was planning to hold in November 2009.

7. In its report, the Committee noted positive aspects of the initial report of Chad regarding the enhancement and protection of civil and political rights.

- The Committee noted that, pursuant to article 222 of the 1996 Constitution, as amended in 2005, the Covenant took precedence over domestic laws.
- The Committee noted with satisfaction the prohibition of female genital mutilation, early marriage and domestic and sexual violence contained in Act No. 06/PR/2002 of 15 April 2002.
- The establishment of the National Commission to investigate the human rights violations that had occurred in Chad in February 2008 was welcomed by the Committee.

- The Committee also welcomed the establishment in 2005 of the Ministry for Human Rights and Freedoms and the formation of an inter-ministerial technical committee to follow up on international instruments for the protection of human rights and public freedoms.
8. This 2012 report, which covers the years 2009, 2010 and 2011, was prepared by the Ministry for Human Rights and Freedoms with contributions from other ministries and certain civil society entities directly concerned with human rights issues.¹
9. For the sake of clarity, this report is divided into three main parts, preceded by an introduction and ending with a conclusion.
- (i) The second part concerns innovations in the legal and institutional framework for the protection, enhancement and promotion of civil and political rights as defined in the International Covenant on Civil and Political Rights.
 - (ii) The third part sets out responses to the concluding observations and recommendations of the Human Rights Committee following its consideration of the initial report of Chad (CCPR/C/TCD/CO/1).
 - (iii) The fourth part provides specific information on Chad's implementation of the various articles of the International Covenant on Civil and Political Rights.
10. Such is the internal structure of this periodic report submitted by the State of Chad to the Human Rights Committee.

II. Innovations in the legal and institutional framework for the promotion and protection of human rights

11. The State of Chad, since submitting its initial report to the Human Rights Committee for consideration in 2009, has made a considerable effort to improve the normative and institutional framework for the promotion and protection of the civil and political rights set out in the Covenant.

A. Normative framework

12. Reference will be made here to the constitutional provisions, international and regional instruments ratified by Chad and national laws that promote and protect civil and political rights.

1. Constitutional provisions

13. In the course of its history, distinct changes have been made to the content of the Constitution of Chad without, however, betraying its fundamental principles, notably respect for human rights. The preamble to the 1996 Constitution, as revised by the 2005 Constitutional Act, affirms the major principles contained in the 1948 Universal Declaration of Human Rights and all subsequent international conventions relating to human rights and public liberties.

¹ Inter-ministerial technical committee to follow up on international human rights instruments: the Ministries for Social Affairs, Communication, Foreign Affairs, the Civil Service and Labour, Scientific Research and Innovation, the General Delegation for National Security, the Secretariat of State for Defence, the National Human Rights Commission and certain NGOs made written and oral contributions in their respective fields of competence.

14. The preamble to the Constitution proclaims, in accordance with the Covenant, the Chadian people's attachment to universal values and principles, including the following:

- Equal rights and duties for all human beings;
- The right to a fair hearing by a tribunal;
- Freedom of expression, of the press, of assembly and of associations;
- Freedom and security for all individuals;
- The prohibition of all unlawful commands or orders;
- The right to freedom of movement;
- The inviolability of the home and of the privacy of correspondence;
- The legality of offences and penalties;
- Non-retroactivity of the law;
- Freedom of opinion, belief and conscience;
- Freedom to form and to join a trade union and the right to strike;
- The right to a healthy environment;
- Protection of the environment;
- Protection of minorities;
- Protection of indigenous peoples.

2. International and regional instruments

15. The State of Chad has ratified a series of international conventions and regional instruments relating to the promotion and protection of human rights.

16. At the international level, mention may be made of the following instruments:

- The Optional Protocol to the Convention of 18 December 1979 on the Elimination of All Forms of Discrimination against Women (instrument of ratification signed on 1 November 2004);
- Convention relating to the Status of Stateless Persons (signed on 29 September 1954);
- Convention on the Abolition of Slavery (signed on 7 September 1956);
- Organization of African Unity Convention governing the specific aspects of refugee problems in Africa (date of accession: 12 August 1981);
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (signed on 10 December 1964);
- Convention on the Rights of the Child (signed on 20 October 1980);
- Convention relating to the Status of Refugees (signed on 28 July 1981);
- Protocol relating to the Status of Refugees (signed on 31 January 1987);
- International Covenant on Civil and Political Rights (signed on 18 December 1979);
- International Labour Organization (ILO) Convention No. 4 on Night Work (women), (signed on 13 June 1921);

- ILO Convention No. 6 on Night Work of Young Persons (Industry) (signed on 13 June 1921);
 - International Convention for the Protection of All Persons against Enforced Disappearances (signed on 6 February 2007).
17. At the regional level, mention may be made of the following instruments:
- Agreement on judicial cooperation among Member States of the Central African Economic and Monetary Community (CEMAC), adopted at Brazzaville on 28 January;
 - Agreement on extradition between Member States of CEMAC, adopted at Brazzaville on 28 January 2004;
 - Pact on non-aggression, solidarity and mutual assistance between Member States of CEMAC, adopted at Brazzaville on 28 January 2004;
 - Convention governing the CEMAC Parliament, adopted at Brazzaville on 28 January 2004; and
 - Convention on judicial cooperation among Member States of the Economic Community of Central African States (ECCAS), adopted on 18 March 2006.

3. National legislation

18. Since 2009, when the initial report was submitted, several pieces of domestic legislation have been adopted to enhance the protection and promotion of civil and political rights in Chad, including the following laws and decrees:

- Act No. 005/PR/2009 amending Organic Act No. 06/PR/1998 of 7 August 1998 on the organization and operation of the Supreme Court;
- Act No. 006/PR/2009 amending Organic Act No. 024/PR/2006 of 21 June 2006 and Organic Act No. 19/PR/98 of 2 November 1998 on the organization and operation of the Constitutional Council;
- Act No. 007/PR/2009 ratifying Ordinance No. 001/PR/2009 of 14 January 2009 granting an amnesty to the signatories of the peace agreements with the Government;
- Act No. 008/PR/2009 amending article 73 of Electoral Code Act No. 003/PR/2009 of 7 January;
- Organic Act No. 016/PR/2009 amending article 147 of Organic Act No. 006/PR/1998 of 7 August 1998 on the organization and operation of the Supreme Court;
- Act No. 017/PR/2009 authorizing the President of the Republic to ratify the United Nations Convention against Transnational Organized Crime;
- Organic Act No. 018/PR/2009 authorizing the President of the Republic to ratify the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime;
- Act No. 019/PR/2009 on the Political Parties Charter;
- Act No. 020/PR/2009 on the status of the political opposition in Chad;
- Act No. 021/PR/2009 amending Organic Act No. 005/PR/2000 on the High Court of Justice;

- Organic Act No. 025/PR/2009 on relations between political parties and their elected activists;
- Organic Act No. 028/PR/2009 authorizing the President of the Republic to ratify the Convention governing the Community Parliament, signed at Yaoundé on 25 June 2008;
- Act No. 032/PR/2009 establishing a National Institute of Judicial Training (ENFJ);
- Decree No 1690/PR/P/CENI on the organization and functions of the Permanent Elections Bureau (BPE);
- Decree No. 1589/PR/PM/MISP/09 additional to Decree No. 622/PR/MISP/09 of 23 June 2009 on the organization chart of the Ministry of the Interior and Public Security;
- Decree No. 1432/PR/2009 establishing a training centre within the Directorate-General of the State Institutions Security Service (DGSSIE);
- Act No. 29 of December 2010 ratifying Ordinance No. 003/PR/2010 of 1 October 2010 amending Act No. 005/PR/1990 on the organization and operation of the Supreme Council of Justice;
- Act No. 0022/PR/2010 amending Act No. 020/PR/2008 establishing the Independent National Electoral Commission (CENI);
- Act No. 020/PR/2010 amending Act No. 003/PR/2009 of 7 January 2009 and Act No. 007/PR/2010 of 8 February 2010 on the Electoral Code;
- Act No. 19/PR/2010 laying down the basic principles for the administrative organization of the territory of the Republic of Chad;
- Act No. 018/PR/2010 amending Organic Act No. 022/PR/2000 of 2 October 2000 establishing the composition of the National Assembly and the rules governing ineligibility and incompatibility;
- Act No. 017/PR/2007 on the press regime in Chad;
- Act No. 013/PR/2010 on the status and responsibilities of traditional and customary authorities;
- Act No. 010/PR/2010 on tobacco control;
- Act No. 009/PR/2010 on audiovisual communication;
- Act No. 007/PR/2010 amending Act No. 003/PR/2009 on the Electoral Code;
- Decree No. 47/PR/PM/MDN/2007 establishing the Joint Armies Training Division as an Officers' Training School;
- Decree No. 410/PR/NDN/2010 regulating admission into the armed and security forces;
- Act No. 006/PR/2010 on basic principles of town planning.

B. Institutional framework

19. Chad's legal arsenal for the promotion and protection of civil and political rights includes the Constitution, laws, duly ratified international conventions, decrees and ordinances.

20. This legal arsenal is designed to strengthen democratic political institutions, an independent judiciary, a Constitutional Council to apply and enforce the Constitution and national human rights institutions.

1. Strengthening of democratic political institutions

21. The Chadian people is sovereign. It exercises this sovereignty either indirectly through election by direct universal suffrage of the President of the Republic and parliamentarians, or directly by referendum.

22. The President of the Republic, as the Chief Executive, draws his power from the Chadian people. Article 61 of the 2005 revised Constitution stipulates that the President of the Republic is elected for a renewable five-year term of office.

23. The President of the Republic is the guarantor of national unity; he defines the policy of the nation and ensures that the Constitution is respected. He ensures compliance with international treaties and agreements. He appoints the Prime Minister and, on the proposal of the Prime Minister, he appoints the other members of the Government.

24. The Prime Minister is the Head of Government. The Government is accountable to the National Assembly.

25. Under the terms of article 106 of the Constitution, “legislative power is exercised by the National Assembly”.

26. The power to initiate legislation rests concurrently with the Government and with the National Assembly. To that end, article 21 of the Constitution specifies the matters that come within the province of the law, notably the rights, guarantees and basic obligations of citizens, namely:

- The civic rights and fundamental guarantees granted to citizens for the exercise of their civil liberties;
- The obligations imposed for the purposes of national defence on the person and property of citizens;
- Nationality, the status and capacity of persons, matrimonial property regimes, inheritance and gifts;
- The Family Code;
- Determination of criminal offences and the penalties they carry, criminal procedure, amnesty, the establishment of new classes of courts and the status of members of the judiciary;
- The penitentiary system;
- The base, rates and methods of collection of all types of taxes;
- The issuing of currency;
- The setting up of categories of legal entities;
- Nationalization of companies and transfer of ownership of companies from the public to the private sector;
- The fundamental guarantees granted to civil servants and members of the national armed forces;
- The electoral system;
- Procedure for bringing customs into line with the principles of the Constitution;

- State of siege and state of emergency.
27. Laws lay down the basic principles of:
- The administrative organization of the territory;
 - The general organization of national defence;
 - The self-government of territorial communities, their powers and their resources;
 - Town planning and land-use planning;
 - The charter of political parties, regulations governing associations and the press;
 - Education and scientific research;
 - Public health, social affairs and children's rights;
 - The social security system;
 - Systems of ownership, property rights and civil and commercial obligations;
 - Environmental protection and the conservation of natural resources;
 - The land tenure system;
 - The public domain system;
 - Mutual funds, savings and credit;
 - Labour law and trade union law;
 - Culture, art and sport;
 - The transport and telecommunications system;
 - Agriculture, stock breeding, fishing, wildlife, water and forest management.
28. The provisions of this article may be spelled out and supplemented by a law.

2. An independent judiciary

29. The 1996 Constitution as revised in 2005 stipulates in its article 141 that "judicial power is independent of executive power and legislative power".

30. Judicial power is exercised by a single class of courts composed of the Supreme Court, courts of appeal, ordinary courts and magistrates' courts. The judiciary is thus independent of the executive and legislative branches.

31. The President of the Republic guarantees the independence of the judiciary. He appoints judges and prosecutors after seeking the opinion of the Supreme Council of Justice (CSM).

32. Where court decisions are concerned, the Supreme Court and the Constitutional Council play a major role in ensuring the enjoyment of civil and political rights. Both bodies have handed down illuminating judgments and decisions with regard to human rights.

33. The judiciary plays a significant role in implementing the International Covenant on Civil and Political Rights in Chad. It still remains true, however, that the judiciary in Chad is faced with a huge challenge in protecting and promoting civil and political rights in the country.

3. An active Constitutional Council

34. The Constitutional Council is vested with the powers traditionally assigned to such bodies. It monitors the constitutionality of laws, treaties and the Rules of Procedure of the National Assembly. It does so by way of an action, so that the monitoring is by definition abstract. There is, however, a provision for an action of unconstitutionality, which can be taken by any citizen before any court; if need be, the court in question may suspend judgment and seize the Council, which reaches a decision within 45 days.

35. The Council ensures the proper conduct of elections and also hears disputes relating to presidential and legislative elections as well as referendum proceedings; it announces the results of referendums.

36. In addition, the Council regulates the functioning of institutions and the activity of the public authorities; it resolves conflicts relating to areas of competence between State institutions.

37. The Council gives opinions and hands down decisions. Its decisions are not appealable. They are binding on all public authorities, including military authorities (article 174 of the Constitution), this being a specific feature of the Constitutional Council of Chad.

38. A text declared to be not in conformity with the Constitution can be neither promulgated nor put into effect; in cases where it is already being implemented, it must be withdrawn from the legislation in force. If it is a treaty, it cannot be ratified until the Constitution has been amended.

4. The National Human Rights Commission (CNDH)

39. In 1994, the Government of Chad established by Act No. 031/PR/94 a National Human Rights Commission (CNDH) to:

- Provide opinions to the Government concerning civil liberties and human rights, including the status of women and the rights of children and persons with disabilities;
- Assist the Government and other national and international institutions with regard to all human rights issues in Chad;
- Undertake surveys and studies and prepare publications on issues relating to human rights and fundamental freedoms.

40. The Commission has the power to act on its own initiative and citizens can refer to it cases of human rights violations.

5. Establishment of the Ministry for Human Rights and Fundamental Freedoms

41. The Chadian authorities wisely chose to set up this Ministry in order to promote individual and collective freedoms. It is responsible in particular for raising the awareness of members of the judiciary and prison officers and informing them about the norms of human rights protection, in keeping with the Government's determination to consolidate the culture of human rights and freedoms in Chad.

42. The Ministry of Human Rights and Fundamental Freedoms is tasked with framing and monitoring the implementation of the Government's human rights policy.

43. In this capacity, it is responsible for:

- Protecting and defending human rights;
- Representing the Government in forums on human rights issues;

- Promoting freedoms;
- Coordinating the Government's relations with human rights associations;
- Collaborating with the National Human Rights Commission;
- Following up and implementing international human rights instruments, in collaboration with the relevant ministerial departments.

44. On the occasion of the recent visit of the United Nations Deputy Commissioner for Human Rights in Chad from 1 to 3 April 2012, the Government gave its agreement to the opening of the country office of the United Nations High Commissioner for Human Rights in Chad. Cooperation with the United Nations system in the protection and promotion of human rights in Chad will thereby be further strengthened.

6. The Office of the Ombudsman of the Republic

45. The Office of the National Ombudsman was established by Decree No. 340/PR/PM/97 of 12 August 1997. This Decree was revoked by Act No. 031/PR/2009 of 11 December 2009 establishing the Office of the Ombudsman of the Republic.

46. The Office of the Ombudsman:

- Receives and investigates complaints concerning government departments, the decentralized territorial communities, public institutions and any other body required to work in the public interest;
- Makes suggestions and recommendations with a view to the prompt and amicable settlement of disputes brought to its attention.

47. The Office of the Ombudsman of the Republic is further responsible for seeking to restore and uphold civil and political peace and to defend the rights of citizens in relation to the public authorities. Under the terms of article 12 of the aforementioned Act, "any natural or legal person who considers that a body within the scope of article 2 has not acted in accordance with its public service mandate in a matter concerning that person may take the matter to the Office of the Ombudsman of the Republic by lodging an individual complaint".

48. The Office of the Ombudsman may also take part in any initiative or action to improve the operation of public services and be associated with any peace and conciliation mission not initiated by it and aimed at reconciling the points of view of the authorities and social or professional groups.

III. Responses of the Government of Chad to the concluding observations of the Human Rights Committee (CCPR/C/TCD/CO/1)

49. At its 86th session, the Human Rights Committee adopted a number of concluding observations following its consideration of the initial report of Chad (CCPR/C/TCD/1). We wish therefore to provide some responses to the legitimate concerns expressed by the Committee. We shall do so in the order of the issues raised.

Responses to the recommendation contained in paragraph 9 of the concluding observations (CCPR/C/TCD/CO/1)

Appropriate domestic legislation for the protection of victims

50. The entire body of Chadian legislation seeks to provide a set of domestic rules that will ensure the practical and effective protection of the rights of victims of prohibited practices while giving an active role to the legislator.

The obligation of protection

51. Administrative protection is clearly linked to the maintenance of public order. The law on the maintenance of order thus enables the administrative authorities to prevent public disturbances while respecting freedom of demonstration. The Government considers that the obligation of protection in the context of the right to life means not only refraining from wilful, unlawful action to cause death but also taking the necessary measures to protect the life of citizens.

52. The authorities are consequently required, in certain circumstances, to assume the positive obligation of taking preventive practical measures to protect individuals whose lives are threatened by the criminal behaviour of others.

The obligation to carry out an effective investigation

53. In Chad, the obligation to carry out an effective investigation derives from the Criminal Code, which stipulates that a person cannot be imprisoned or charged without prior investigation.

54. Where a person presents an arguable claim that he or she has suffered serious ill-treatment at the hands of the police or other State officials, or where a death has occurred, even when it is not established that the death has been caused by State officials, this obligation requires that an investigation be carried out that meets certain minimum conditions.

Procedural rights

55. A person's rights may be violated through the breach of various procedural rights, in particular the right to free legal assistance, the right of effective remedy, the right to a reasonable duration of (civil) proceedings and the right of access to a court.

56. The authorities, while being aware of the need to offer victims a sufficient range of remedies, see to it that they have the possibility of effectively using such remedies. Several issues are involved, such as information, the benefit of free legal assistance, simplification of proceedings and the advantage of an inter-institutional approach.

57. The State of Chad has not been slow in demonstrating its political will in this matter. Action taken by the Ministry for Human Rights and Fundamental Freedoms to promote and protect human rights in Chad has included the organization of several forums and workshops, including the following:

- Regional forum on human rights held in Abéché in October 2009, in partnership with the United Nations Mission in the Central African Republic and Chad (MINURCAT), to evaluate the human rights situation in eastern Chad;
- First National Forum on Human Rights in Chad, held from 9 to 11 March 2010, with a view to establishing a framework for dialogue, exchange and partnership between the Ministry for Human Rights, other national institutions and civil society associations, in order to take stock of human rights violations, determine their causes

and evaluate the State's institutional and legal capacity to remedy them. It was also aimed at evaluating the ability of other civil society entities to promote and strengthen human rights.

- A series of outreach workshops, held from September to October 2010, on the results of the Universal Periodic Review, with a view to drawing up a national plan of action on human rights in Chad that takes into account the recommendations of treaty bodies and the National Forum on Human Rights and establishes an effective mechanism to monitor its implementation;
- Drawing up of a national plan of action on human rights.

58. These various activities carried out by Chad contribute to the promotion and protection of human rights throughout the national territory. In addition to these activities, several others have been carried out with the same goal, with the support of the technical and financial partners of Chad. These include:

- The establishment, in partnership with the United Nations Development Programme (UNDP) of the *Maison des Avocats* [Lawyers' House] in Abéché, eastern Chad, under the legal assistance project;
- The implementation, in partnership with MINURCAT, of the project *Avocat au service des vulnérables* [lawyers for the vulnerable];
- Law clinics set up by civil society, as illustrated by the Association for the Promotion of Fundamental Freedoms in Chad, with the support of partners. These clinics assist all population groups in Chad.
- The project to support justice reform (PRAJUST) also assists certain organizations in the eastern part of the country in the promotion and protection of human rights.

Responses to the recommendation contained in paragraph 10 of the concluding observations

59. The fight against impunity is a major concern of the Government. It is focused on practically all cases of human rights violations, in particular extrajudicial execution, torture and other inhuman or degrading treatment, especially when such violations are perpetrated by State officials or public services. Prison staff, police and gendarmerie officers, other State employees and traditional chiefs who are found guilty of such violations are punished by judicial and administrative sanctions.

60. The Government is determined to prosecute those who violate human rights. Although, in some cases, some individuals have been acquitted, efforts to combat impunity have nevertheless been effective since, even in those cases, all the suspects were prosecuted.²

61. The opening of investigations for cases of human rights violations is very often automatic. The Ministry of Justice strongly encourages prosecutors to systematically open preliminary investigations for any offence irrespective of the person or persons by whom it was perpetrated.

62. Not only is the Government engaged in an unremitting effort to make citizens aware of the need to bring cases of human rights violations to justice, but also the legislation

² Progress report on follow-up to and implementation of the recommendations of the Commission of Inquiry into the events of February 2008.

provides a way around the lack of action of certain corrupt prosecutors. Victims may bring a private prosecution and initiate criminal proceedings.

63. Furthermore, in addition to judicial remedies, the Government of Chad allows victims to refer to the Ombudsman of the Republic or the National Human Rights Commission.

Responses to the recommendation contained in paragraph 11 of the concluding observations

64. The Government, in view of the disturbing scale of corruption, had set up a Ministry responsible for State oversight and ethics, which has changed its name to: Ministry of Justice, Moral Improvement and Good Governance. Huge sums embezzled by State officials have been recovered and restored to the public purse, following checks and investigations carried out by that Ministry.

65. Several senior officials suspected of misappropriation of public property have been arrested.

66. To combat the misappropriation of public property, Chad adopted Ordinance No. 011/PR/2012 on the prevention and punishment of corruption and similar or related offences in the Republic of Chad, repealing Act No. 004/PR/2000 of 16 February 2000, some of whose provisions were contrary to the Constitution, particularly as regards the presumption of innocence.

67. This law sets out the conditions for the prosecution of individuals but also and more importantly establishes the principle that legal entities can be convicted, ensures the anonymity of persons reporting acts of corruption and extends the powers of investigators.

68. The Government of Chad has also conducted an extensive information and awareness-raising campaign aimed at State employees and covering the misappropriation of public property, corruption, graft and influence-peddling both in N'Djamena and throughout the regions of the country.

69. Furthermore, awareness-raising campaigns are being conducted through the media to warn State employees against the misappropriation of public funds.

Responses to the recommendation contained in paragraph 12 of the concluding observations

70. In accordance with this recommendation by the Committee, the Government has included the reform of the National Human Rights Commission in its legislative programme.

71. A workshop on Act No. 031/PR/94 establishing the Commission, aimed at bringing it into line with the Paris Principles, was held from 3 to March 2012. A preliminary bill to that effect is being adopted by the Government.

72. The Committee's concerns are largely taken into account in the preliminary bill, particularly the establishment of the Commission's own budget, the strengthening of the mandate of its members, its composition and the immunity granted to its members.

Responses to the recommendation contained in paragraph 13 of the concluding observations

73. The Constitution of Chad stipulates in its article 44 that “every Chadian has the right to move freely inside the territory, to leave it and to return”.

74. Chadian legislation guarantees the rights and freedoms set out in the Covenant for citizens within its territory. Article 17 of the Constitution provides that “the human person is sacred and inviolable”. Every individual has the right to life, personal integrity, security, freedom and the protection of privacy and property.

75. Chadian legislation punishes rape severely. Thus, article 275 of the Criminal Code stipulates that “a person found guilty of rape shall be punished by a period of forced labour”. Article 276 continues: “When the rape has been committed on the person of a child aged 13 or with the help of one or more persons or a parent of the victim, the penalty shall be hard labour for life”.

76. From 2005 to 2007, a succession of crises at the regional level (in particular the Darfur conflict) and at the national level (insecurity and intercommunity and political tension) caused the internal displacement of some 180,000 persons in the eastern part of Chad, especially in the regions of Ouaddai and Sila. The situation has changed since that time. Incursions by Janjaweed militias and fighting between Chadian armed groups and governmental forces have ceased. The Government hopes to put an end to the distinction between displaced persons and host populations.

77. Displaced persons currently choose between integration, relocation or return to their village of origin. At this stage, the Government has taken significant steps to enable displaced persons to return by building shelters, health centres, schools, wells, etc.

78. Between 2007 and 2008, intercommunity fighting led to the forced displacement of some 16,000 Chadians within the country, in particular in the regions of Dar Sila and Ouaddai. Most of the displaced women had suffered rape or other forms of sexual violence.

79. The main reasons for their decision included the security situation in the village of origin, land access, access to basic services and economic opportunities. Decisions were also influenced by age, ethnic background, village of origin and reason for the displacement, such as an attack. It is, however, as difficult to establish a typology (according to village of origin, for instance) as it would have been anticipate the choices that were made. It is also a challenge for humanitarian agencies to determine the number of persons opting for one choice rather than another. The situation remains unstable: poor crops in 2011 could, for example, lead to population movements.

80. To date, the Government has set up:

- Two governmental institutions with a mandate for internally displaced persons: the national agency to coordinate support for humanitarian activities and the integrated security force [*Détachement intégré de sécurité*] (CONSAHDIS) and the national commission for the reintegration of refugees and returnees (CNARR). CONSAHDIS supervises the integrated security force (DIS) and projects to assist displaced persons, returnees and/or relocated persons and host populations and manages displaced persons sites.
- CNARR is mandated to protect refugees: it coordinates assistance to displaced persons and keeps a register of them.
- A comprehensive stimulus programme for eastern Chad (PGRET), developed with the support of a number of partners, particularly UNDP, was officially approved in September 2010. This programme seeks to meet the needs of internally displaced

persons and host communities in areas of return, with the help of substantial financial and human resources made available by the Government.

- PGRET is a strong and positive political signal from the Government, demonstrating its resolve to improve the living conditions of its citizens, enable returnees to put down roots and start a process that will enable them to enjoy their fundamental rights.

81. The Government continues to give priority to the safety of refugees, internally displaced persons and humanitarian workers in Chad. It is true that general security conditions have improved. Since the departure of MINURCAT, the Chadian integrated security force DIS supported by the United Nations has played and continues to play a key role in maintaining security in and around refugee camps and in protecting convoys of displaced persons returning to their villages of origin. The presence of DIS is essential to encourage respect for the rule of law, prevent the enlistment of children in armed groups and reduce the number of acts of sexual and gender-based violence in and around camps.

The Integrated Security Force is divided into six police stations and six police posts

82. Each station contains a safe cell or protection service for women and children whose task is to prevent and investigate sexual offences and domestic violence and to recommend psychosocial, medical and legal care or assistance.

83. DIS has female staff members who have three main responsibilities:

- Sheltering victims of violence;
- Guiding victims towards care facilities;
- Conducting police investigations.

84. That being said, it should be emphasized that since 2009, the action of MINURCAT followed by that of DIS has ensured the security and protection of displaced persons, mainly in eastern Chad. The Government considers, however, that still more needs to be done to achieve the ultimate goal of eradicating all forms of violence against displaced persons and enabling them to return to normal life.

85. To this end, Chad and Sudan have set up a joint force to protect refugees. Since doing so, peace has been completely restored in the eastern part of the country.

Responses to the recommendation contained in paragraph 14 of the concluding observations

86. Under Chadian legislation, women are recognized to be equal before the law, in the same way as men. This is clear, for example, from article 252 of the Criminal Code, which stipulates that every individual is answerable for his or her acts if they affect the physical or mental integrity of another person.

87. Thus, any woman who has sustained physical violence (assault and battery) or violence in breach of obligations resulting from marriage, such as lack of family maintenance of child or family abandonment, may apply to the courts for the payment of spousal support or compensation for the prejudice suffered.

88. It must be acknowledged, however, that many women do not lodge complaints because they are ignorant of their rights or are fearful of becoming social outcasts or losing their husbands.

89. The most relevant judicial developments include the following:

The projected justice reform, which will lead to improved prison conditions for women;

The courts' decisions in recent years, which amply show that the courts take into account the provisions of the Convention on the Elimination of All Forms of Discrimination against Women.

90. Act No. 006/PR/2002 of 15 April 2002 on promotion of reproductive health reinforces women's right to health care and protection and is fully in line with the relevant provisions of the Convention. In particular, it stipulates that couples have free choice in regard to procreation and number of children (arts. 4, 5 and 6). In other words, responsibility for reproductive health now rests with the couple and not only with the husband, as is commonly assumed.

91. The provisions of this Act recall some of the major principles of human rights. Article 3 provides that: "All individuals are equal in rights and dignity in matters of reproductive health without any discrimination based on age, sex, wealth, religion, ethnic group or marriage or other situation".

92. This Act also recognizes the right of every individual freely to decide matters of reproductive health and freely to choose not to marry or to marry and found a family (art. 5).

93. Article 9 of the Act explicitly condemns genital mutilation in the following terms:

"All persons have the right not to be subjected to torture or to cruel, inhuman or degrading treatment on their bodies in general and on their reproductive organs in particular. All forms of violence, such as female genital mutilation (FGM), early marriage, domestic rape and sexual abuse of human beings are prohibited".

94. Under article 18 of this Act, any person who violates its provisions is punishable as follows:

"Anyone who, by practice, writing, speech, publicity or propaganda, violates the provisions of this law shall be punishable by a prison term of between five months and five years and a fine of between 100,000 CFA francs and 500,000 CFA francs or either of these penalties".

95. The Criminal Code punishes acts of violence against women.

96. Family and domestic violence, both psychological and physical, against women is covered by the Criminal Code, which punishes violations of physical and moral integrity, offences against morality, public indecency, and violations of the integrity and unity of the family. Thus, under article 277 of the Criminal Code, consummation of marriage with a girl under the age of 13 is treated as rape and punished as such.

97. Article 253 of the Criminal Code treats female excision, sexual mutilation and other violence resulting in more than 20 days' incapacity for work as a crime punishable by a prison term of between one and five years and a fine of 100,000 CFA francs.

98. The development and dynamism of the voluntary sector reveal the degree of maturity acquired by its civil society components in raising public awareness of international and national legal instruments and the promotion and protection of the rights of women and children in Chad.

99. Generally speaking, civil society organizations do important work in promoting the rights and freedoms of citizens. They take the form of human rights associations, non-governmental organizations, trade unions, organizations of non-State actors, religious and professional organizations, women's organizations, etc.

100. Their activities, both individually and collectively within networks or movements, play a decisive role in changing behaviour and attitudes within the population,

notwithstanding the lack of official statistics that would allow their real impact to be evaluated. Examples of such changes in people's attitudes concern forced marriage, domestic violence, such as beatings, and inheritance, and relate essentially to the role and place of women in a changing society.

Responses to the recommendation contained in paragraph 15 of the concluding observations

101. The Government and women's organizations have conducted an extensive campaign to raise the awareness of young women who engage in this practice and to draw the attention of women who perform female circumcision to the risks that they thereby incur.

102. In 1997, research carried out by the Chadian Family Welfare Association (ASTBEF) on female initiation in Moyen Chari revealed that harmful traditional practices, recognized as such by the consensus-based workshop on reproductive health in 1999, are female genital mutilation (FGM), food taboos and violence against women, and also include early and forced marriages.

103. A national committee was set up to combat this phenomenon in 1996 (National Committee of the Inter-African Committee to Combat Harmful Traditional Practices involving women and children – CONACIAF). Since then, awareness-raising activities and advocacy work have been carried out. ASTBEC has launched a project to combat FGM with the support of the United States embassy.

104. The Government has made every effort to eradicate vesicovaginal fistulas by providing medical care for those affected by them.

Responses to the recommendation contained in paragraph 16 of the concluding observations

105. In Chad, polygamy is a matrimonial regime recognized by custom.

106. A draft Personal and Family Code had been duly drawn up to resolve the problems raised by the Committee. The Government had asked religious and customary communities to review the draft. Because of the weight and importance of issues to do with polygamy and inheritance in Chadian society, the resistance and threats were such that the Government decided to undertake a broad consultation with religious and customary communities throughout the national territory with a view to finding solutions that would not excessively offend local feeling and, most importantly, would not trigger public disturbances.

107. Following these consultations, the Government intends to initiate a major legislative reform on civil status and, in particular, on polygamy.

Responses to the recommendation contained in paragraph 17 of the concluding observations

108. Title VI, Chapter II, of the Constitution of Chad deals with customary and traditional rules. Article 156 of the Constitution stipulates that:

“Until their codification, customary and traditional rules are applicable only in the communities where they are recognized. However, customs contrary to public order or customs that promote inequality between citizens are prohibited”.

109. Article 157 adds: “Customary rules governing matrimonial regimes and inheritance may be applied only with the consent of the parties concerned”.

110. In the absence of consent, domestic law alone is applicable. Article 158 stipulates that: “customary or traditional reparation may not be an obstacle to public action”.

111. The Constitution of Chad establishes the principle that Chadians of either sex are equal before the law. Thus, article 13 of the Constitution stipulates that: “Chadians of either sex have the same rights and the same duties. They are equal before the law”. Article 14 spells this out as follows:

“The State ensures that all are equal before the law, without distinction of origin, race, sex, religion, political opinion or social position. It has the duty to see to it that all forms of discrimination against women are eliminated and to protect its citizens in all areas of private and public life”.

112. The problem of women’s involvement in public life is linked to their low literacy rate, their lack of education and the weight of socio-cultural tradition.

113. For some years now the State has been pursuing a policy to promote women and improve their participation in public life. The President of the Republic has accordingly assigned a 30 per cent quota to women in government and in various public institutions.

Responses to the recommendation contained in paragraph 18 of the concluding observations

114. On this issue, the provisions in force in Chad are quite clear, in particular article 87 of the Constitution, which stipulates that “when the institutions of the Republic, the independence of the nation, territorial integrity or the fulfilment of international commitments are under serious, immediate threat, and when the regular functioning of the public authorities is interrupted, the President of the Republic, after consultation with the President of the National Assembly and the President of the Constitutional Council, shall take in the Council of Ministers, for a period not exceeding 15 days, such exceptional measures as are required by circumstances.

115. This period may be extended only with the agreement of the National Assembly. The President of the Republic so informs the nation by a message. The National Assembly meets without convocation if it is not in session. These exceptional measures can never justify violations of the rights to life and to physical and moral integrity or breaches of the legal safeguards provided for individuals”.

116. Article 88 goes on to specify that “the measures taken in pursuance of the previous article must be guided by a desire to ensure, within the shortest possible time, that the constitutional public authorities have the means to discharge their mandate”.

117. Within this framework, the Government has found it necessary on two occasions (2006 and 2008) to declare a state of emergency and has done so while remaining in compliance with the texts in force and with its international commitments.

118. The purpose of the state of emergency, declared by Decree No. 1014 of the 13 November 2006, for example, was to put an end to the serious public disturbances resulting from the insecurity prevailing in the six regions of the country concerned and in the city of N’Djamena.

119. Accordingly, and in conformity with article 124 of the Constitution and Ordinance No. 44 of 27 October 1962 concerning states of emergency, which lays down the conditions for introducing such restrictions on civil liberties, the Council of Ministers at its meeting of

13 November 2006 decreed a state of emergency and the Government so informed the Bureau of the National Assembly.

120. In addition, the state of emergency is governed by the aforementioned law and can be extended for more than 12 days only when authorized by the National Assembly; under National Assembly resolution No. 004/AN/2006 of 23 November 2006, the Government may refer to the National Assembly in order to extend it for a period of six months. In that connection, resident ministers were appointed to ensure order in the troubled regions. The terms of reference of the resident ministers, which set out the background to the restrictions on civil liberties, note that the state of emergency was decreed following intercommunity clashes which led to numerous losses of human life and of cattle. Villages were burnt down, displacing large numbers of the population. The number of displaced persons was estimated to be 120,000 by the humanitarian agencies working in the eastern part of the country in connection with the Darfur conflict.

121. In 2008, following the dramatic events that shook the country on 1, 2 and 3 February, a state of emergency was established. Chad continued to comply with its international commitments, however, since Decree No. 194/PR/2008 of 14 February 2008 on the use of exceptional measures sets out in great detail the exceptional measures to be put into effect to enable the constitutional public authorities to resume their normal functioning when threatened by the entry of rebel groups into the capital.

122. It is true that, in its implementation, this Decree, although it did not relate expressly to the press, inconveniently repealed Act No. 29/PR/1994 on the press regime in Chad by Ordinance No. 005 of 20 February 2008. During that exceptional period, the Head of State could at best only suspend a law but not repeal it. At the time, some confusion had ensued in press circles and in the judiciary as to which laws should be applied. Fortunately, today, Ordinance No. 005 has been revoked through the adoption in August 2010 of a new Act on the press regime in Chad.

123. It may be noted in conclusion here that while decisions taken within this framework are considered acts of government, and hence immune to appeal on grounds of misuse of authority, persons whose rights have been violated may apply to the civil courts for reparation.

Responses to the recommendation contained in paragraph 19 of the concluding observations

124. The Government of Chad considers that the abolition of the death penalty contributes to the promotion of human dignity and to the advancement of human rights. For that reason, it has reaffirmed that its goal is to abolish the death penalty in Chad.

125. Accordingly, Chad, which acceded to the International Covenant on Civil and Political Rights in 1995, intends to ratify the Second Optional Protocol to the Covenant, aiming at the abolition of the death penalty.

126. In the same spirit, the new draft Criminal Code which will soon be submitted to the National Assembly for approval, no longer contains any provision for the death penalty, unlike the Criminal Code currently in force, where it remains as the penalty for cases of murder, aiding and abetting murder, espionage, poisoning, parricide and treason. This removal of the death penalty from the draft Criminal Code again confirms that Chad is placing the promotion of human rights among its highest priorities.

127. Once the new Criminal Code has been adopted, prisoners currently under sentence of death will have their sentence commuted to life imprisonment.

Responses to the recommendation contained in paragraph 20 of the concluding observations

128. The Government's resolve to bring to justice those responsible for serious human rights violations was reflected in the setting up of a Commission of Inquiry. Having completed its task, that Commission submitted its findings. The Government set up a technical committee to follow up its recommendations.

129. The cases of those responsible for human rights violations during the events of February 2008 are currently being investigated. It is, however, worthwhile recalling a number of recommendations made by the Commission of Inquiry, including the following:

- Care for victims and trial of perpetrators;
- Withdrawal of child soldiers;
- Implementation of the recommendations of the army chiefs of staff;
- Civic education of the population;
- Closure of places of illegal detention;
- Continuation of political dialogue on the basis of the agreement of 30 August 2007;
- Establishment of a follow-up committee;
- Ratification of the African Charter on Democracy, Elections and Governance;
- Compensation of victims in an amount of 700,000 million.

130. The Committee had suggested that the Government should promptly implement those recommendations. It has done so by taking the following measures:

- Revocation of Ordinance No. 5;
- Speedier justice reform: an ordinance on the status of the judiciary was adopted, then ratified by the National Assembly on 14 June 2004;
- Withdrawal of child soldiers from the ranks of the army by the Government;
- Closure of places of illegal detention;
- Establishment of the follow-up committee following the events of 2 and 3 February 2008;
- Continuation of political dialogue on the basis of the agreement of 13 August 2007, which led to the presidential, legislative and communal elections;
- Teaching of international humanitarian law to law enforcement services;
- Care of victims and trial of perpetrators;
- Ratification of the African Charter on Democracy, Elections and Governance;
- Civic education provided to the population;
- Implementation of the recommendations of the army chiefs of staff.

131. Furthermore, pursuant to the recommendations of the Commission of Inquiry into the events of 28 January to 8 February 2008, the Government decided to establish by Decree No. 1126/PM/2008 a Committee to follow up those recommendations, composed of members of the Government and chaired by the Prime Minister.

132. Concerned about the effectiveness of the Committee's work and wishing to ensure the impartiality of its members, the President of the Republic remodelled the Follow-up

Committee to give it an international dimension, by including in it experts from the European Union and the International Organization of la Francophonie.

133. In addition, since the recommendations of the Commission of Inquiry are judicial (giving a judicial follow-up to the events) and legal (implementation of measures to avoid a recurrence of those events), a Technical Subcommittee was established by Order No. 2932/PR/PM/SGG/2008 to support the Follow-up Committee.

134. Similarly, the Minister of Justice established a judicial pool composed of members of the judiciary, lawyers, court clerks and officers of the judicial police. The judicial pool referred to the courts the complaint filed by the Government of Chad against persons unknown for war crimes against humanity committed by armed elements and their accomplices upon their entering the national territory in January and February 2008. A total of 1,037 case files were prepared by the supporting Technical Subcommittee. The procedure is following its course and remains pending before the courts; the Government awaits its outcome.

135. The Follow-up Committee has also recently published a progress report on the implementation of the recommendations of the Commission of Inquiry. Of 13 recommendations, 12 have been implemented. The one remaining, concerning judicial investigations, is following its course. The report was officially submitted by the Prime Minister and disseminated at the national and international levels.

Responses to the recommendation contained in paragraph 21 of the concluding observations

136. Article 17 of the Constitution states that the human person is sacred and inviolable. All individuals have the right to life, personal integrity, security, freedom, the protection of privacy and possessions. Article 18 of the Constitution stipulates that: “No one may be subjected to cruelty, degrading or humiliating treatment, or torture”. Accordingly, Decree No. 269 of 4 April 1995 on the Code of Conduct of the National Police stipulates in article 10 that “no person arrested and placed under the responsibility of police protection may be subjected to any violence or inhuman or degrading treatment on the part of police officers or third parties”.

137. However, torture is not explicitly defined in any provision of the Criminal Code in force. As it was realized that this lack of definition strips the very prohibition of torture of its meaning and consequently does not make it possible to prevent and punish it effectively, the draft revised Criminal Code has established torture as a separate offence. Accordingly, article 314 of the new draft Criminal Codes takes up the definition of torture set out in the 1984 United Nations Convention against Torture and provides for an applicable scale of penalties. Penalties may range from a 10 year prison term to life imprisonment if torture “has resulted in the death of the victim”.

Responses to the recommendation contained in paragraph 22 of the concluding observations

138. Under the terms of article 221 of the Code of Criminal Procedure (CPP), a police officer cannot keep a person at his or her disposal for the purposes of the preliminary investigation for more than 48 hours. Beyond that time limit, the person must be released or taken to the office of the public prosecutor. The public prosecutor may authorize a further 48-hour period of custody if it is considered essential for the proper completion of the investigation. The authorization must be given in writing after the prosecutor has verified, personally if necessary, that the person has not suffered any ill-treatment.

139. However, having noted that, in practice, the time limit on custody is not always observed, the Government has proposed some improvements under the Chadian justice modernization programme. The draft Criminal Code currently being prepared thus stipulates that “as soon as an accused person has been notified that he or she will be held in custody or charged, he or she may communicate freely with counsel”. The draft text continues as follows: “Before the examining magistrate, questioning, hearings and cross-examinations are conducted in the presence of counsel. To this end, counsel shall be notified by the court clerk at least 48 hours in advance if residing locally and at least 72 hours in advance if such is not the case”.

140. Lastly, in order to ensure effective access to justice, it is stated that anyone accused of an offence who can show insufficient means may be assigned a lawyer under the conditions laid down in the law on legal assistance. Within this framework, a Directorate for Access to Law (DAD), with decentralized services in each court of appeal jurisdiction, was established in May 2012 in order to make the justice system more accessible. Especially devoted to the processing of complaints by natural and legal persons against any public office, the Directorate for Access to Law is tasked with supporting government policy in the matter of legal assistance.

141. The Directorate and its regional offices accordingly receive and consider applications for legal assistance and guide defendants towards the competent bodies. They also receive requests from citizens complaining of public services which they duly refer to the departments concerned.

142. As part of the justice reform, the following measures are in progress: building of modern detention facilities, establishment of a corps of prison guards, improvement of working conditions of judicial personnel, training of officers of the judicial police and provision all the necessary work facilities, etc.

143. According to article 234 of the Chadian Code of Criminal Procedure, “persons in pretrial detention must be held in a prison and must be segregated from convicted persons”. The Government is currently building modern prison facilities in line with the relevant international standards. Present-day prison facilities date from colonial times.

144. So far as the Government knows, there are no shackled prisoners in Moussoro prison. If, however, such allegations were to prove correct, the Government will take the necessary steps to put an end to such practices.

Responses to the recommendation contained in paragraph 23 of the concluding observations

145. The new Prisons Act of April 2011 strengthens the rights of prisoners. Each detainee is now assured of a healthy, good quality food. Meals are served at least twice a day at regular intervals.

146. Among other aspects of prison life, the law provides that detainees must be held in healthy and hygienic conditions, in terms of building design and maintenance, economic services and work arrangements, the application of rules of individual cleanliness and the practice of physical exercise.

147. In addition, detainees have free access to medical care and undergo a medical examination on arrival in the prison in order to detect any contagious or progressive disease.

148. As part of the project to support justice reform (PRAJUST), the Government is currently making efforts to build further civilian prisons and a reintegration centre for

detainees after their release. It is planned to recruit and train prison guards to replace public safety officers.

149. Mention should be made lastly of the important work being done in this field by human rights associations, in particular through the independent Prison Observatory, which works to improve and promote prisoners' rights.

150. For many years, non-governmental organizations have had free access to detention facilities and prisons; they need only to make a request. The authorization is valid for one year renewable upon presentation of a report of activity.

Responses to the recommendation contained in paragraph 24 of the concluding observations

151. The new Prisons Act of April 2011 strengthens the rights of detainees. The Code of Criminal Procedure establishes the principle of separating accused persons from convicted persons. Article 243 stipulates that "persons in pretrial detention must be held in a prison and must be segregated from convicted persons". In practice, however, accused persons and convicted persons are held together in the absence of suitable structures.

152. To remedy this problem of overcrowding, the Government has launched an extensive programme for the building of detention centres. This political will has been reflected in the adoption of Ordinance No. 32/PR/2011 of 16 August 2011 on the penitentiary system.

153. Article 11 of the Ordinance states that "rehabilitation centres are prison facilities for the accommodation and rehabilitation of juveniles. Special quarters for juveniles in conflict with the law shall be installed in detention centres".

154. Furthermore, article 21 stipulates that "in each prison facility, separate quarters shall be provided for men and women so that there can be no communication between them. Separate quarters shall likewise be provided for convicted persons and accused persons".

155. At the present time, under the project to support justice reform, efforts are being made by the Government to build other civilian prisons and a centre for the reintegration of detainees after their release. Moreover, notwithstanding the lack of separate facilities for women, women have always been segregated from men.

156. On the other hand, it is still common today for detainees to be under the supervision of male warders and this presents many problems. On the whole, women are segregated from men in prison.

157. The fact is that prison guards do not include any women. This will be taken into account in the recruitment of future guards.

Responses to the recommendation contained in paragraph 25 of the concluding observations

158. Imprisonment for debt is governed by article 334 of the Chadian Code of Civil Procedure in the following terms: "Upon application by the prosecuting creditor, the president of the civil court responsible for enforcement may, by reasoned order, authorize the civil imprisonment of a bad faith debtor, without prejudice to the penalties laid down in article 310 of the Criminal Code". Thus, enforcement mainly affects the property of the debtor. It may, however, be directed at the actual person of the debtor through civil imprisonment. It should nevertheless be noted that the possibility for the creditor to seize the property of his debtor is based on article 2092 of the Civil Code, which reads as

follows: “The debtor’s property is a common pledge to his creditors and distribution thereof shall be on a pro rata basis unless there exist legitimate reasons for preference among the creditors”.

159. It should be noted, however, that individuals under the age of 18 or over the age of 59 cannot be imprisoned for debt in Chad (art. 490 CPP). Nor can a husband and wife be simultaneously imprisoned for debt, even under different convictions.

160. It should also be stressed that, mindful of article 11 of the International Covenant on Civil and Political Rights of 16 December 1966, which provides that “no one shall be imprisoned merely on the ground of inability to fulfil a contractual obligation”, Chad, through the Uniform Acts of the Organization for the Harmonization of Business Law in Africa (OHADA), has prohibited imprisonment for non-performance of civil or contractual obligations. It is therefore planned to remove provisions to that effect as part of the ongoing reform of the Criminal Code.

161. This amendment will bring domestic legislation more closely into line with Chad’s international obligations and, in particular, the provisions of the Covenant. It may be recalled that the abolition of civil imprisonment was one of the main demands of national human rights NGOs.

Responses to the recommendation contained in paragraph 26 of the concluding observations

162. Article 7 of the Constitution stipulates that “the principle of the exercise of power is government of the people by the people founded on the separation of the executive, legislative and judicial powers”. In accordance with that provision, judicial power in Chad is truly separate from executive power and legislative power. Furthermore indeed, judicial power is independent of executive power and legislative power (art. 141 of the Constitution).

163. The President of the Republic guarantees the independence of the judiciary. In that capacity, he ensures the execution of laws and judicial decisions (article 145 of the Constitution).

164. Following the Forum on Justice in 2003, it was recommended that a Chadian justice reform be undertaken for a period extending from 2005 to 2025. In accordance with the various recommendations of the Forum, the Government adopted Decree No. 65/PR/MJ/2005 on a judicial reform programme. Under the provisions of that Decree, the justice reform programme has six action lines:

- Reform and revision of texts and documentation;
- Human capacity-building of courts;
- Promotion and protection of human rights;
- Information, education and communication;
- Infrastructure and equipment;
- Measures against corruption and impunity.

Reform and revision of texts

165. As regards the reform and revision of texts and documentation, it should be noted that Chad has initiated:

- A reform of the Code of Civil Procedure;

- A reform of the Code of Criminal Procedure;
- A reform of the Criminal Code;
- Adoption of the Personal and Family Code.

166. Work is in progress on all these texts. National and international expert groups set up for this purpose will submit their reports shortly. The Government, by taking these steps, intends to reform these texts in order to bring them into line with its international commitments, which is bound to result in the improvement of fundamental rights in the Republic of Chad.

167. In the same vein, the Government, by Ordinance No. 007/PR/2012, reformed the status of the judiciary. This Ordinance guarantees the independence of the judiciary in the exercise or on the occasion of the exercise of its functions. Article 18 of the Ordinance stipulates, for instance, that “except as otherwise provided by the law and subject to the exercise of regular disciplinary authority, members of the judiciary may not be troubled in any way by virtue of acts they perform in the exercise or on the occasion of the exercise of their functions”.

168. Article 20 of the same Ordinance states that “judges cannot be removed. They cannot receive a new posting without their consent. Prosecutors are assigned in accordance with service requirements”. Article 21 adds: “In the performance of their judicial duties, judges cannot receive instructions from higher authorities. They hand down their decisions in accordance with the law and their conscience. They can accordingly not be required to answer for the decisions they hand down or to which they contribute”.

169. Furthermore, the Government has undertaken to improve the standard of living of judges in order to combat the phenomenon of corruption which leads to dysfunctions within the judiciary.

170. The effective implementation of all these measures offers a real assurance of the independence of the judiciary in Chad.

Human capacity-building of courts

171. In 2009, the Ministry of Justice had very few judges distributed among the various judicial districts of the national territory. It is true that there were not enough to serve the whole territory effectively. For that reason, the Government decided to reform the judicial training system. It therefore chose to put in place a National Institute of Judicial Training (ENFJ). Established by Act No. 032/PR/2009 and placed under the responsibility of the Ministry of Justice, this Institute is tasked with the “pre-and in-service training of judges, court clerks, lawyers, notaries, bailiffs and other judicial personnel”.

172. In April 2012, ENFJ held a competitive examination to recruit junior magistrates. Following the examination, 60 candidates were definitively admitted. The training of these “justice auditors” or junior magistrates will begin in October 2012 and the Government is convinced that the current strength of the judiciary will thereby be increased and that, as a result, personnel will be appointed to the country’s various judicial districts.

173. As for the capacity-building of members of the judiciary already in service, Chad, under its project to support justice reform, regularly organizes seminars for judges and chief judges, including several seminars bringing together judges from different courts.

174. All these activities are fully in line with the recommendations of the 2003 Forum and are consequently helping to improve the operation of the Chadian justice system.

Promotion and protection of human rights

175. The political will of the Government of Chad has not been lacking in pursuit of this goal. Activities to promote and protect human rights in Chad have included several forums and workshops organized by the Ministry for Human Rights and Fundamental Freedoms. Examples include:

- Regional forum on human rights held in Abéché in October 2009, in partnership with MINURCAT in order to evaluate the human rights situation in eastern Chad;
- First National Forum on Human Rights in Chad, held from 9 to 11 March 2010. This forum sought to establish a framework for dialogue, exchange and partnership between the Ministry for Human Rights and other national institutions and civil society associations to assess the current state of human rights violations, determine the causes and evaluate the State's institutional and legal ability to remedy them. A further aim was to evaluate the capacity of other civil society entities to promote and consolidate human rights;
- A series of workshops held from September to October 2010 to promote awareness of the results of the Universal Periodic Review, the recommendations of the treaty bodies and of the National Forum on Human Rights with a view to drawing up a national action plan on human rights in Chad that will incorporate those recommendations and establish an effective mechanism to monitor its implementation;
- Development of a national action plan on human rights;
- These various activities carried out by the State contribute to the promotion and protection of human rights within the national territory. Several other activities towards the same goal have been carried out with the support of the technical and financial partners of Chad. These include:
 - Establishment, in partnership with UNDP, of a Lawyers' House in Abéché in the eastern part of the country under a legal assistance project. Implementation, in partnership with MINURCAT, of the project "Lawyers for the vulnerable";
 - Establishment of legal clinics by civil society partners, following the example of APLFT. These clinics cater to all layers of Chadian society and offer advice on all the problems raised;
 - The project to support justice reform (PRAJUST) also assists certain organizations in the eastern part of the country in promoting and protecting human rights.

Information, education and communication

176. The Ministry for Human Rights and Fundamental Freedoms, with the support of technical and financial partners, has set in motion the process of adoption of a national action plan on human rights. Action line 2 of the action plan concerns "human rights education". In accordance with this action line, Chad undertakes to carry out awareness-raising activities through the media, theatre and cinema.

177. Chadian National Radio and Television, as well as private media, currently broadcast programmes on civil and political rights. These broadcasts help to inform and educate the population about human rights, which is an essential means of protecting those rights. Since, however, human rights education is an ongoing endeavour, Chad has undertaken, in accordance with its national action plan, to introduce human rights education into the formal and non-formal systems. A study will be carried out in order to develop

training modules and teaching aids for this purpose. Regional workshops and a national workshop to validate those modules and teaching aids will be organized.

178. With the same end in view, the Government undertakes to provide continuing human rights training for teachers and human rights training for other socio-occupational groups (judges, lawyers, bailiffs, police officers, military personnel, prison personnel, doctors, journalists, customary and religious chiefs, political party leaders, local elected officials, parliamentarians, social workers, etc.).

179. The Government is convinced that, by doing this work of informing and educating the population, people's attitudes will change in such a way as to ensure greater respect for human rights. For this reason, it hopes that its technical and financial partners will give it the necessary support to achieve the goals set.

Infrastructure and equipment

180. Following the Forum on Justice in Chad, it was recommended that the Government build and rehabilitate detention facilities. Pursuant to that recommendation, and with the support of PRAJUST, the Moussoro detention facility was built. Four other detention facilities are currently being built, in Sarh, Doba, Mongo and Koumra. At the same time, courts are also being built in Koumra, Moussoro, Biltine and Doba.

181. The working conditions of chief judges in the various judicial districts of the country are being improved through the provision of vehicles and equipment. Efforts will continue to be made to build court buildings, rehabilitate those that are defective and provide adequate detention facilities in every district.

Measures to combat corruption and impunity

182. Until recently, the legal, judicial, political and social environment of Chad was marked by corrupt practices. The environment lent itself to such practices because there was no appropriate legal instrument to penalize them and because of shortcomings in contemporary morals where positive values are considered decadent. The Chadian State could not allow this state of affairs to continue indefinitely and has therefore, in the past few years, made the fight against corruption a priority. It accordingly established a government department for the purpose, namely, the Ministry for Moral Improvement and Good Governance (formerly the Ministry for State Oversight and Moral Standards).

183. It has also put in place a legal instrument of national scope to combat corruption, in the form of Act No. 004/PR/2000 on 16 February 2000 on the suppression of misappropriation of public property, corruption, graft, influence-peddling and related offences.

184. As some of the provisions of this Act were considered contrary to the Constitution, the Government had no choice but to repeal it and replace it by Ordinance No. 011/PR/2012 regulating the punishment of corruption and related offences, which considerably broadened its scope.

185. The Government has further demonstrated this resolve by launching an operation known as "Cobra" to unmask those responsible for illicit gain and stamping out corruption.

Responses to the recommendation contained in paragraph 27 of the concluding observations

186. The registration of births is one of the Government's priorities as it helps to keep population forecasts up to date. However, the major obstacle to the registration of births is

the high illiteracy rate in Chad. To address this problem, the Government, with the support of partners, has initiated a project to modernize and consolidate the civil registry. The project covers all towns with administrative subdivisions known as communes. Mobile registration units have also been set up. This has partly helped to solve the problem in the towns, but in rural areas illiteracy is still an obstacle. Efforts are being made to remedy this. To that end, the Ministry for Territorial Administration and Decentralization has prepared a bill on civil registration. The bill has been endorsed by an interministerial technical committee.

187. At the national level, the legal framework for civil registration is Ordinance 03/INT of 2 June 1961 and subsequent texts. Article 4 of that Ordinance stipulates that “each commune shall have a civil registry centre, and each main town of every subprefecture, administrative unit or district shall have a principal civil registry centre.

188. Upon the proposal of the mayor and after consultation of municipal councils, large communes may, by order of the Head of State, establish a principal civil registry centre.

189. Centres and, where appropriate, principal centres are maintained in communes by the civil registry officer under conditions laid down by the legislation in force”. Pursuant to this provision and in view of the recent commune elections in Chad, the Government believes that the situation will change as elected mayors and their municipal councillors do what is needed to remedy it. Registration campaigns will be carried out in all regions, departments, subprefectures, cantons and villages in order to encourage parents to register births.

Responses to the recommendation contained in paragraph 28 of the concluding observations

190. Following the events of February 2008, the Government took significant measures to evict persons occupying State lands in the city of N’Djamena without right or title. The evicted persons had taken advantage of the various events in Chad that had weakened the Government’s authority to occupy areas reserved for projects or green spaces. This operation therefore needed to be carried out in order to recover that land for projects of public interest. Accordingly, people living in the Gardolé and Walia areas in particular were evicted. This operation, which was poorly understood by a part of the population, was in fact in accordance with the laws of the Republic. In principle, eviction does not create an entitlement to compensation. Nevertheless, the Government in a spirit of solidarity saw to it that the persons evicted from Gardolé were provided with land, in Gardolé-Djédid, by way of compensation and were also given a sum of money. Those evicted from Walia were also given land in Toukra. This bears witness to the Government’s desire to ease the social climate.

191. Today, in the Chadian capital, there where the evictions took place, now stand primary schools, high schools, clinics, hospitals and social centres. All these facilities are of considerable use to the population of the city of N’Djamena.

192. To the knowledge of the Government, no case of the offences referred to has been reported to the authorities. Steps will be taken to prosecute and punish anyone who has committed such acts, in accordance with article 154 of the Criminal Code, which stipulates that:

“Any administrative or judicial official, any police officer or agent, or any commander or member of the security forces who, acting in his or her official capacity, enters a citizen’s home without the citizen’s consent, except as otherwise provided by law, and without complying with the formalities prescribed by law, shall be liable to a term of

imprisonment of between six days and one year and a fine of between 5000 and 500,000 francs”.

193. In accordance with this provision and in the interests of justice, any citizen who is the victim of such misconduct should initiate legal proceedings against those responsible.

194. At no time has the Government prevented the courts from doing their work on a fully independent basis. It has indeed taken every possible step to ensure that all citizens in all persons living in the national territory enjoy the right to a fair hearing. One convincing example of this was the establishment of a Directorate for Access to Law within the Ministry of Justice.

Responses to the recommendation contained in paragraph 29 of the concluding observations

195. Under the terms of article 27 of the Chadian Constitution of 31 March 1996, as amended by Constitutional Act No. 08/PR/2005 of 15 July 2005, “freedom of opinion and expression, communication, conscience, religion, the press, association, assembly, movement, demonstration and parade is guaranteed to all”. In accordance with this provision, several political parties, trade unions, civil society organizations and independent press organizations have come into being since the advent of democracy in Chad. All these entities operate within the national territory and their members are able to hold opinions without interference. What is more, they have become key partners, helping the Government to carry out its policy for the well-being of the Chadian people.

196. This illustrates the Government’s utmost endeavour to comply with the relevant domestic legislation, thereby steadily improving the political and social climate in the country. For example, the civil society assessment report produced by Counterpart International in January 2010 notes that “The change in government in 1990 laid the foundation for the operation of modern civil society by opening up the political space. The operational environment for CSOs has been especially open and stable since the historic 2007 Accords were reached,³ except for reprisals related to the 2008 rebel attacks on N’jamena”.⁴ This statement, drawn from the report, amply shows that there has effectively been an improvement in the political climate in Chad and that democratic expression, pluralism of opinion and trade union freedom are realities.⁵ Nevertheless, and as is clearly spelled out in article 19 of the Covenant:

“The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (*ordre public*), or of public health or morals”.

³ The agreement of 13 August 2007 on the electoral process, concluded between the Government and the opposition political parties, set up a follow-up committee to guide the electoral process.

⁴ Counterpart International, *Promoting democracy and encouraging political participation: the role of civil society in Chad*.

⁵ Even though these possibilities are not fully shared by certain political stakeholders in Chad, there has undoubtedly been a distinct evolution in the protection of freedoms in the country. The Government is making unremitting efforts to that end.

197. There accordingly exist in Chad laws which regulate the exercise of these freedoms, especially in periods of emergency. Article 87 of the Constitution of Chad thus provides that:

“When the institutions of the Republic, the independence of the nation, territorial integrity or the execution of international commitments are threatened in a grave and immediate manner and when the regular functioning of the public authorities is interrupted, the President of the Republic, after consultation with the President of the National Assembly and the President of the Constitutional Council, may take in the Council of Ministers, for a period not exceeding 15 days, such exceptional measures as are required by the circumstances.

This period may be extended only with the agreement of the National Assembly.

The President of the Republic informs the nation accordingly by a message.

The National Assembly meets without being convoked if it is not in session.

These exceptional measures may never justify violations of the rights to life, moral and physical integrity and to the judicial safeguards provided for individuals”.

198. Following the events of 2 and 3 February 2008, witnessed by all the national and international partners of Chad, the Government’s decision to establish a state of emergency was justified. It is true that there were occasional abuses, but the Government shouldered its responsibilities and clamped down on them. At the present time, private press and civil society organizations carry out their activities in the national territory in full confidence.

Freedom of the press in Chad

199. A few days after the events of 2 and 3 February 2008, the Government adopted Ordinance No. 05 of 20 February 2008 on the press regime in Chad. This Ordinance was considered by partners and indeed by printed media professionals in Chad to be very harsh on account of the higher penalties imposed on journalists for press-related offences. At the National Forum on the Press organized by the Government, a number of participants called for the revocation of Ordinance No. 05 and the decriminalization of press-related offences. The Government was responsive to these various concerns. For that reason, and in accordance with the recommendations of the National Forum on the Press, Ordinance No. 05 was revoked. Act No. 10-017-PR-2010 on the press regime in Chad is the law currently in force.

Responses to the recommendation contained in paragraph 30 of the concluding observations

200. Since the advent of democracy in Chad in 1990, political parties, human rights associations, trade unions and other associations have been established in accordance with the laws of the Republic. Their activities are governed by the laws of the country. Human rights associations conduct their activities on a completely independent basis; this does not mean, however, that they do not have to comply with the laws of the Republic. In every rule-of-law State, no one is above the law and any citizen who harms another is answerable for his acts. In accordance with this self-evident truth, recognized by the provisions of articles 21 and 22 of the Covenant, a human rights defender is in violation of the law if he or she, for example, flouts the rights and freedoms of others or by his or her words threatens public security or public order.

201. Human rights associations play a very important role in the democratic process. They took an active part in drawing up the National Action Plan on Human Rights and in

the electoral process, in particular by putting in place observer missions throughout the national territory.

Responses to the recommendation contained in paragraph 31 of the concluding observations

The Government has continually taken steps to protect children

202. The eradication of the exploitation of child cattle-herders and domestic workers is a challenge for the Government. Chad's ratification of ILO Conventions Nos. 138 and 182 on child labour is evidence of its resolve to work for the effective protection of children's rights. Chad has regularly undertaken awareness-raising campaigns in the form of social mobilization and advocacy for the enrolment of children in schools, particularly girls. It is true, however, that, because of poverty, some parents continue to exploit their offspring, in violation of domestic law and of Chad's international human rights commitments. These concerns have therefore been taken into account in action line 5 of the National Action Plan on Human Rights.

203. To eradicate the phenomenon of child cattle-herders and domestic workers, the Government has made considerable efforts by granting micro-credits to women and young people and by making tractors available to the rural population.

204. As for missing children, Chad has constantly carried out searches that have to date led to 300 children being found who have rejoined their respective families.

205. At the diplomatic level, the Government officially addressed a letter of commitment to the United States Government and the President of the United Nations Security Council on 30 April 2012, reaffirming its firm resolve to combat all forms of child trafficking through the following measures:

- Optimization of action already undertaken;
- Clear announcement of the list of other actions to be undertaken in order to achieve the complete eradication of this scourge in our country.

206. These measures will translate into:

- Legal reform;
- Establishment of a communication, information and monitoring mechanism to raise general awareness of the ill effects of child trafficking;
- Establishment of a mechanism for regular, periodic consultations with civil society associations on this issue;
- Establishment of surveillance focal points throughout the country in collaboration with defence and security forces;
- Drawing up of two-monthly periodic reports on the issue for the Security Council and the United States Government.

207. Chad has requested that the efforts made by the Government in the past few years should be assessed with due regard for its specific circumstances as a post-conflict country contending with entrenched cultural factors and a low level of development, which has for two years been taken up with the organization of several democratic elections, etc. This request has met with a favourable response.

208. Following these commitments by the Government, the report issued by the United States Department of State on Tuesday, 19 June 2012 on trafficking in persons worldwide

places Chad in 180th position on the Tier 2 Watch List. In that year, 2012, Chad came close to being placed in Tier 3 but was able to avoid that through the prompt reaction of the Government, which made a clear and precise commitment to the goal of eradicating the practice of trafficking in persons in the country.

209. Very precise instructions were given to line ministries to give effect to the commitments made in this connection by taking measures for the earliest possible adoption of the following draft legislation:

- Child protection code bill;
- Bill amending and supplementing the Code of Criminal Procedure and the Code of Civil Procedure;
- Civil registry bill;
- Revised Labour Code.

210. At the international level, the Government has undertaken to ratify the following legal instruments:

- Protocol to the United Nations Convention against Transnational Organized Crime to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children;
- 1993 Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption;
- Convention on the Civil Aspects of International Child Abduction.

Responses to the recommendation contained in paragraph 32 of the concluding observations

211. The Khadidja Ousmane Mahamat case falls into two parts. First, it should be recognized that, as a minor, she was forced by her parents into a marriage with a man aged about 70. She will be charged with having poisoned her husband. It was for that reason that she was placed in a detention facility in 2004. The examining magistrate investigated the case but, owing to the slowness of the courts, it has not yet been tried. Furthermore, in the absence of a forensic pathologist in Mossoro, judicial investigations have not been able to advance.

212. According to information received from the judicial authorities, the case has been docketed and will be heard at the next session of the Criminal Court.

213. Secondly, when she was still imprisoned, she was a victim of rape and sexual abuse. It is therefore believed that the person responsible was a prison officer. As a victim, she has the right to counsel. If she can show need, she has the right to legal assistance.

Responses to the recommendation contained in paragraph 33 of the concluding observations

214. The public authorities are very alert to the question of the recruitment of child soldiers into armed groups.

215. Chad took an active part in the Paris international conference on child soldiers. This enabled it to draw up a national programme for the withdrawal and temporary care of child soldiers and their reintegration into their families. This programme is being carried out under an agreement concluded in May 2007 between the United Nations Children's Fund

(UNICEF) and the Government of Chad. In this highly important agreement, the State undertook to hand over to UNICEF all children recovered upon the incorporation of the various armed groups into the regular armed forces of the Republic of Chad.

216. The 2010 UNICEF report on the situation of children and women in Chad (SITAN)⁶ helps to explain the Government's action in the following terms:

“The first major goal of the national programme for the withdrawal and temporary care of children and their reintegration into their families is to prevent the recruitment and use of children through a number of activities: communication campaign, regional conference on ending the use of children by armed forces and groups (June 2010), signing of the N'Djamena declaration by the six countries of the subregion.

In cooperation with Save the Children, Sweden, UNICEF also provided training in 2009 for 36 instructors in the national army, the gendarmerie, and the National and Nomadic Guard on the the role of the military in the protection of children.

The second priority goal of the programme is to withdraw children from armed forces and groups and then to facilitate their return to civilian life. By the end of October 2010, cooperation between Chad and UNICEF had led to the withdrawal of some 900 children”.

217. In effectively withdrawing the children, the Government benefited from the support of Care International and UNICEF, which opened transit centres in N'Djamena where, to begin with, children were housed and fed and given medical and psychological care. The children were then returned to their parents. Some 90 per cent are estimated to have effectively rejoined their families, as against 10 per cent who remained in the centres.

218. Within the framework of the peacebuilding process initiated under the auspices of the President of the Republic, Chad intends to strengthen the institutional mechanisms of the national programme for the withdrawal, temporary care and family reintegration of children. This policy should translate into the establishment of an ambitious action plan aimed at taking Chad off the list of States that recruit or use children, kill or mutilate them, and/or commit sexual violence against them, which is often placed before the United Nations Security Council.

Implementation of the child soldier rehabilitation support programme

219. In the past few decades, Chad has experienced a succession of wars and intercommunity conflicts whose consequences have included the enlistment of children (girls and boys) in armed groups and forces.

220. The Government has mobilized substantial resources for the withdrawal and care of juveniles and their reintegration into their communities, in partnership with international institutions such as UNICEF, Care International, etc.

221. The Government's commitment has been illustrated in the following ways:

- Signing of a statement of principle and commitment, Paris, 6 February 2007;
- Signing of a memorandum of understanding on 9 May 2007 between the Government and the Chad UNICEF office for the withdrawal of all child victims of armed conflicts and their lasting reintegration;
- Training of military officers in the protection of children in situations of armed conflict;

⁶ SITAN 2010, p. 95.

- Awareness-raising campaign in camps, garrisons and instruction centres (more than 3,000 members of the military);
- Awareness-raising campaign aimed at administrative, traditional and religious authorities on the non-recruitment of children in armed groups;
- Production of leaflets and integrated communication plans.

Responses to the recommendation contained in paragraph 34 of the concluding observations

222. As was noted earlier, with reference to activities to educate and raise the awareness of the population, the Government has, with the support of technical and financial partners, carried out several activities, including the organization of forums and workshops. Action line 2 of the National Action Plan on Human Rights is entitled “human rights education”. Under this heading, the Government sets out the main lines of its national human rights education programme.

223. Henceforth, Chad undertakes to provide human rights education in both the formal and non-formal systems, without forgetting socio-professional groups and civil society organizations.

IV. Information on the implementation of articles of the International Covenant

Article 1 Self-determination

224. Chad is a multicultural State containing ethnic groups of considerable linguistic and cultural diversity spread throughout the national territory. These various groups form a single nation and are bound by a common destiny.

225. The ruling principle of the Republic of Chad is government of the people by the people for the people, founded on the separation of executive, legislative and judicial powers (article 7 of the 1996 Constitution).

226. Chad is particularly mindful of the right of peoples to self-determination. By virtue of this right, Chad, which was under French colonial rule, proclaimed itself a Republic on 28 November 1958 and declared its independence on 11 August 1960. In the same spirit, it holds referendums regularly to enable the Chadian people freely to determine its political status; it controls its own resources.

227. The Government of Chad does not administer any autonomous territory. It respects the principle of sovereignty and endeavours to maintain peaceful and fraternal relations with the other nations of the world, in accordance with the principles enshrined in the Charter of the United Nations.

Article 2 Non-discrimination

228. The State of Chad guarantees the equality of all human beings. Accordingly, in Chad, everyone enjoys the rights set out in the Covenant without discrimination of any kind, based in particular on race, skin colour, sex, language, religion, political or other

opinion, national or social origin, property, birth or other status. The preamble to the Constitution provides that “Human beings, without distinction of race, religion, sex or belief, possess inalienable and sacred rights”. This principle governs all aspects of national life.

229. The Constitution stipulates that all are equal before the law. Articles 12, 13 and 14 state that liberties and fundamental rights are recognized and their exercise is guaranteed for citizens and that Chadians of either sex have the same rights and duties: they are equal before the law. Furthermore, the State ensures the equality of all before the law without distinction of origin, race, sex, religion, political opinion or social position. It has the duty to seek the elimination of all forms of discrimination against women and to ensure the protection of their rights in all areas of private and public life.

230. The question of discrimination is very relevant to one particular human situation, namely, that of persons with disabilities. The precarious environment in which the great majority of Chadians live, in other words, the insalubrious conditions to which they are routinely exposed, accounts in part for the high number of persons with disabilities in Chad. According to official population statistics, some 10 per cent of the population have disabilities.⁷

231. The Constitution recognizes and protects persons with disabilities through the principle of the equality of all citizens before the law. The provisions of article 14 make the State accountable for discrimination against vulnerable groups.

232. This protection ensures free access of persons with disabilities to public sector employment whenever it is within their capabilities. Where the extent of disability does not allow them to practise an activity, the State helps them by drawing on national solidarity.

233. In addition to the Constitution and the international conventions to which Chad is a party, several lesser texts ensure the protection of persons with disabilities, namely:

- Act No. 007/PR/2007 on the protection of persons with disabilities;
- Decree No. 0136/PR/MCFAS/94 on the establishment of the national day of persons with disabilities;
- Order No. 377/MEN/DG/95 on the exemption of students with disabilities from enrolment fees.

Article 3 **Gender equality**

234. The principle of gender equality is dear to the Government and guaranteed by law. The following amply demonstrates that the problem has always been a priority for the Government. Gender equality is guaranteed by:

- Legislative texts;
- Institutional measures.

⁷ Introduction to a compendium on persons with disabilities (CEFOD, September 2011, collection “*Droit par les textes*”).

1. Legislative texts

(a) *Constitutional provisions*

The principle of gender equality is enshrined in the preamble to the Constitution, as follows:

“Article 13: Chadians of either sex have the same rights and the same duties. They are equal before the law”, and

“Article 14: The State guarantees equality of all before the law without distinction of origin, race, sex, religion, political opinion or social position. It has the duty to see to the elimination of all forms of discrimination against women and to ensure the protection of their rights in all areas of private and public life”.

(b) *Provisions of the Labour Code*

235. In accordance with article 3 of the Labour Code, “For the purposes of this Code, any natural person who has undertaken, against payment, to place his or her occupational activity under the supervision and authority of a person known as the employer as defined in article 4, shall be considered a worker or employee irrespective of sex or nationality”.

(c) *Provisions of the electoral law*

236. The principle of gender equality also applies to the Electoral Code. Thus, all Chadians of either sex who have reached the age of 18 years and enjoy civil and political rights have the right to vote.

237. Furthermore, all Chadian citizens may stand for public office, subject to age requirements and except in cases of incapacity or ineligibility provided by law.

(d) *Provisions of the law on the status of public employees*

238. Under the terms of article 5 of Act No. 01-017 2001-12-31 on the general status of public employees in Chad, “Access to public employment is open by equal right, without distinction of sex, religion, origin, race, public opinion or social position, to all Chadians meeting the conditions laid down in Title IV of this Act, subject to conditions of physical and mental ability or the specific requirements of certain functions defined by particular statutes”.

2. Institutional measures

239. The Poverty Reduction Strategy Paper sets out a commitment to improving the living conditions of women, respecting their rights and recognizing their contribution to development and their participation in gainful economic activity.

240. Significant steps have therefore been taken by the Government to integrate women more fully into national economic and social activities. Substantial progress is to be noted to this end in the school enrolment of girls, women’s empowerment (income-generating activities, microcredit, awareness-raising and training) and efforts to improve maternal and child health.

241. The Poverty Reduction Strategy Paper⁸ states under Programme 5.3.3: “Promotion of women and gender issues” that:

“Women in Chad make up 52 per cent of the population, most live in rural areas (80 per cent), and the majority of women are illiterate. They represent a very large proportion of the labour force, especially in the agricultural and livestock sector and in the informal sector: women working in these sectors make up 86 per cent of the female labour force. However, they are greatly undervalued because of the many forms of discrimination which they face. Their status is defined by a lack of political and economic opportunities, little involvement in decision-making at all levels, as well as limited access to basic social services. They continue to be victims of gender-based violence. As a result, they are more likely to be poor. The segment of the female population most affected is that of female heads of household (22 per cent according to the 1993 GCPH). The proportion of poor households is 55 per cent, and households headed by a woman are more vulnerable to poverty (54 per cent as opposed to 34 per cent).

The new political guidelines concerning gender are based on the third Millennium Development Goal, which calls for the reduction of inequalities in access to basic services (health, education, nutrition), nonagricultural paid employment, and promotion of the participation of women in public and community life. The first priority in this case is to build the capacities of women, particularly in rural areas (the most vulnerable) with a view to promoting their empowerment, followed by the representation of women in political, economic, and social decision-making, as well as the inclusion of gender issues in the preparation and implementation of development policies and strategies.

The priority actions identified under this policy are: (i) improvement of the social and legal environment of women; (ii) strengthening of actions to empower women; (iii) capacity-building and advocacy for the inclusion of gender issues in development policies and strategies; and (iv) enhancement of the partnership for gender equality and equity.”

Priorities and objectives

- Improve the socioeconomic and legal status of women.
- Promote the inclusion of gender issues in national development policies and programmes.

Projects (measures and actions)

- Prepare, adopt, and implement the National Gender Policy.
- National Action Plan to Combat SGBV (Sexual and Gender-Based Violence).
- Establishment of a National Gender Development Fund.
- Capacity building for the personnel of rural and urban women’s organizations in specific fields.
- Promotion of schooling for girls and the functional literacy of women.
- Project to promote NICT to benefit women.
- Agreement with the Chadian Red Cross to promote ‘gender development’.
- Creation of a Gender Equality Observatory in Chad.

⁸ July 2010, IMF report No. 10/230 Chad.

Expected results

- National Gender Policy (PNG) prepared and adopted.
- PNG Action Plan prepared and approved.
- Existence of mechanisms for the integration of gender issues in all sectors.
- 30 per cent of women appointed to decision-making bodies.
- 30 per cent of deputies are women.
- Prevalence of domestic violence against women reduced by 30 per cent.
- Reduction in the prevalence of female genital mutilation.
- 180,000 rural women taught to read and write.
- Girl/boy equity achieved in primary education.
- The income of rural women is increased.

242. This policy is currently being implemented by the entire Government through the Ministry for Social Action, the Family and National Solidarity and the Ministry for Human Rights and Fundamental Freedoms.

(a) *The protection of women: legislative framework*

243. The main texts regulating the rights of Chadian women are as follows:

- The 1996 Constitution, as revised in 2005, which enshrines the principle of non-discrimination, gender equality and equality of access between men and women to public employment and to justice;
- Act No. 038/PR/96 on the Labour Code, in particular article 6, which prohibits gender-based discrimination in recruitment, occupational training, career advancement and remuneration, and article 19, which protects pregnant women by granting them the right to prenatal and postnatal leave covered by the employer;
- Act No. 006/PR/2002 on the promotion of health and reproduction, which prohibits female genital mutilation, early marriage and domestic violence;
- Act No. 19/PR/95 in which the stated policy of integrating women into development reflects the Government's resolve to integrate women into the development process in all spheres of private and public life;
- Ordinance No. 006/PR/84 on the status of merchants in Chad has been repealed and replaced by the OHADA⁹ Uniform Act on general commercial law. While the OHADA text establishes the status of merchants without distinction of sex, the aforementioned Ordinance allowed the husband of a woman merchant to oppose the commercial activities of his wife.

244. On the subject of female genital mutilation, the national survey on this practice, conducted in 1991 by CONACIAF with the support of UNICEF, revealed its existence in nearly all of the national territory, with the exception of Borkou-Ennedi-Tibesti (BET), Kanem-Lac, Eastern and Western Mayo Kebbi and Western Logone.

⁹ Organization for the Harmonization of Business Law in Africa, whose treaty came into force on 1 January 1998, ratified by Chad.

245. According to the World Health Organization (WHO) classification, the forms of female genital mutilation most commonly practised are types 1 and 2, namely: (1) excision of the prepuce with or without partial or total removal of the clitoris; (2) excision of the prepuce and the clitoris and partial or total removal of the labia.

246. The 2004 EDST 2 results reveal a national prevalence of 45 per cent with very large differences between ethnic groups (0 to 5 per cent in BET and Mayo Kebbi, 38 per cent in the Sara region and 95 per cent in Ouaddai).

247. In terms of health, the results of the same survey show that nearly 75 per cent of the women concerned suffered at least one complication (65 per cent: excessive bleeding, 57 per cent: difficulties in urinating, 27 per cent: swelling of the genital area, 14 per cent: infections, and 30 per cent: healing problems).

Main actors of the fight against the excision

248. The following institutions and organizations have been active in combating female genital mutilation:

- The United Nations Population Fund (UNFPA), which supports the national reproductive health programme of the Chadian Association for Family Welfare (ASTBEF) and the awareness-raising preventive programmes of rural women's groups;
- ASTBEF, which conducts advocacy work with administrative and legislative authorities for legal improvements and awareness-raising in focal areas;
- The National Committee to Combat Harmful Traditional Practices (CONACIAF), which works in the same areas as ASBEF through its decentralized branches;
- The German Agency for International Development (GTZ) which, through its reproductive health project, supports women's organizations in Sarh.

(b) *The action of non-State actors*

249. Those concerned are civil society organizations such as associations for the defence and promotion of human rights, development NGOs and women's associations.

250. In the interests of greater effectiveness, six human rights organizations – the Association for the Promotion of Fundamental Freedoms in Chad (APLFT), Chad without Violence (TNV), the Chadian League of Human Rights (LTDH), Action by Christians for the Abolition of Torture (Chad) (ACAT) and the Chadian Association for the Promotion and Defence of Human Rights (ATPDH) – decided to form a network for mutual consultation and action in the form of a community radio (FM Liberté), established in order to “inform, train and educate”.

251. They regularly draw attention to human rights violations and draw up periodic reports on them (arbitrary arrests and detentions, extrajudicial executions, etc.).

252. They are striving to establish a State based on the rule of law and democracy for sustainable development. They ensure promotion and protection through training activities, legal support for victims, radio programmes, such as “Notre dignité” (“Our dignity”) by the Human Rights Without Borders Association, “Informer pour mieux sensibiliser” (“Information for greater awareness”) by ATPDH or “Allô mon avocat” (“Hello lawyer”), theatre productions, legal consultations through human rights shops and legal clinics, helplines –ATPDH, APLFT, Association of Female Jurists in Chad (AFJT) – and the publication of newsletters such as the APLFT human rights chronicle and the LTDH newsletter.

253. They do not always achieve their objectives, however, because of insufficient material and human resources.

(c) Increase in the number of women in high office

254. In the political arena, women are represented in high office in the Republic, but not in proportion to their number.

255. With regard, in particular, to the participation of women in political life, discrimination is reflected in the very small number of women in legislative bodies.

256. In Parliament, the present legislature comprises 28 women out of 155 members of the National Assembly. In the last legislature there were nine women and in the 1997–2002 legislature, two of the 120 members were women.

257. Since 2006, more than 10 per cent of government ministers have been women. In 2000, they represented only 3.4 per cent of members of the Government. The March 2010 Government includes nine women (including five Secretaries of State) out of 42 ministers, or 21 per cent. This is the highest proportion recorded in the history of Chad.

258. In the senior ranks of the administration, one of the 24 ambassadors is a woman; two of the 52 prefects are women; three of the subprefects are women; there were three women mayors in 2010; six of the 30 members of the Economic, Social and cultural Council are women; in 2001, two members of the Electoral Commission were women and in 2010 the number remains the same.¹⁰

259. The participation of women in political life and in the upper echelons of the administration remains low, but their role is increasing.

(d) Efforts to combat violence against women

260. When it ratified the Convention on the Elimination of All Forms of Discrimination against Women in 1995, Chad undertook to prohibit all forms of violence against women. The Constitution of Chad, as revised in 2005, recognizes gender equality. Further measures are being taken to strengthen the provisions of the Constitution, namely:

- Establishment of committees to combat SGBV on refugee sites;
- Existence of a draft Personal and Family Code (CPF);
- Launching of the process to develop a National Gender Policy (PNG);
- Adoption of the national strategy for the prevention of mother-to-child transmission (PMTCT) and of the action plan in 2007, with 22 operational sites;
- Adoption of Act 006/PR/02 on the promotion of reproductive health;
- Preparation of a code on gender-based violence;
- The Government in collaboration with partners (international NGOs, civil society and faith-based organizations) has since 2006 been organizing training courses, workshops and forums on gender issues and gender-based violence, in particular through the commemoration of 25 November (International Day for the Elimination of Violence against Women) and 16 days of activism;
- Establishment of the Sotel-Chad hotline;

¹⁰ Data for 2011 taken from the initial, first and second reports of Chad on the implementation of the Solemn Declaration of Heads of State and Government on Gender Equality in Africa.

- With UNDP funding, two projects are being carried out by the Ministry for Social Action, National Solidarity and the Family (MASSNF) under the coordination of the Directorate for the Advancement of Women and Gender Mainstreaming (DPFIG), namely: adoption in 2008 of the National Strategy to End Fistula, supported by UNFPA; launching of the process of preparation of the national roadmap to combat female genital mutilation by the National Committee to Combat Harmful Traditional Practices involving women and children (CONACIAF);
- Seminars, awareness-raising and advocacy campaigns on female genital mutilation directed at public opinion leaders continue to be organized by this Committee in collaboration with MASSNF and other partners;
- The public communication services have introduced specific radio programmes for persons with disabilities under the title “The voice of people with disabilities”;
- Existence of a coordination mechanism for associations of women with disabilities in Chad;
- Establishment of legal clinics throughout almost all the country by the Association for the Promotion of Fundamental Freedoms of Chad (APLFT) since 2000;
- Establishment by AFJT since 2007 of help centres for victims of violence.

Article 4

Derogation

261. Since the previous report was submitted, in 2009, no state of emergency has been declared nor has there been any derogation.

Article 5

Recognition and interpretation

262. The preamble to the Constitution clearly states that: “We, the Chadian people (...) Reaffirm our commitment to the principles of human rights as defined by the Charter of the United Nations of 1945, the Universal Declaration of Human Rights of 1948 and the African Charter of Human and Peoples’ Rights of 1981”.

263. Under article 221 of the Constitution, “Treaties or agreements regularly ratified have, upon their publication, a greater authority than that of domestic laws, subject to each agreement or treaty being applied by the other party”. The Covenant is therefore considered to form an integral part of the norms of domestic law and, as such, the rights that it sets out may be directly invoked before the courts.

Article 6

The right to life

264. The right to life is clearly established under article 17 of the Constitution as follows:

“The human person is sacred and inviolable. Each individual has the right to life, personal integrity, security, freedom and protection of privacy and property”.

265. To give effect to this principle, the following offences are punishable under the Criminal Code:

- Arbitrary detention and prosecution (art. 143)

- Illegal arrest and forcible confinement (art. 149)
- Violations of domicile (art. 154)
- Unlawful violence (art. 156)
- Wilful homicide (art. 239)
- Assault and grievous bodily harm (art. 252)
- Castration (art. 257)
- Administration of harmful substances (art. 258)
- Threats (art. 259)

266. As private life is held to be sacred in Chad, the national authorities protect it from violation. Whenever State officials are informed of violations, they institute criminal proceedings against the suspects. These usually result in convictions and the imposition of appropriate penalties.

267. The only limit to the protection of private life is set by article 47 (3) of the Criminal Code which provides that: “No one shall be charged with a crime, offence or misdemeanour:

1. If he/she has acted as required by law and by order of the legitimate authority;
2. If he/she has acted under the necessity of defending himself or others;
3. If he/she has acted as an official, agent or employee of a government office on the order of his superiors for purposes within the competence of those to whom hierarchical obedience was due.

In such cases, the penalty will be applied to the official who gave the order”.

268. Apart from cases of self-defence covered by subparagraphs 1 and 2, violation of private life remains a punishable offence.

269. In view of the abuses that may occur during police custody or detention and out of a concern to protect the right to life, important measures have been taken to enhance the intellectual and operational capacity of police and prison services. Seminars are organized, sometimes with the support of foreign partners, in particular the programme to support justice in Chad of the European Union.

Article 7

The prohibition of torture and cruel, inhuman or degrading treatment

270. The Chadian legislator protects human beings by prohibiting torture and other cruel, inhuman or degrading treatment. A legal framework for the prohibition of torture and other degrading treatment has accordingly been established which is strictly applied by all courts.

1. The Constitution

271. Article 18 of the Constitution stipulates that “no one may be subjected to cruelty, degrading or humiliating treatment or torture”. Everyone has the right to life and physical and moral integrity and must be treated with humanity in all circumstances.

2. The draft Criminal Code

272. Torture is a crime punishable under Chadian criminal law. Chad is a party to the Convention against Torture. Domestic measures to bring Chadian legislation into line with that Convention are under way and may very soon bear fruit. The draft Criminal Code gives a definition of torture.

Article 8

The right not to be held in slavery or in servitude

273. Forced labour and slavery are criminal offences punishable under the Chadian Criminal Code.

274. With regard to slavery, article 20 of the Constitution provides that “No one may be held in slavery or servitude”.

275. With regard to forced labour, article 157 of the Criminal Code provides that “whosoever uses violence, assault, threat or fraud to bring about or maintain, or seek to bring about or maintain, a concerted cessation of work with the aim of forcing a raising or lowering of salaries or impairing the free exercise of industry or labour shall be liable to a prison term of between six days and three years and a fine of between CFAF 25,000 and CFAF 500,000”.

276. Chad has ratified the various International Labour Organization (ILO) Conventions prohibiting forced labour. These include Convention No. 29 of 1930 on forced labour, Convention No. 41 of 1934 on night work (women) and Convention No. 105 of 1957 on the abolition of forced labour.

277. Certain practices in rural and urban areas are regarded as a form of modern slavery because they exploit employees in an abusive way. Cases in point include the use of children of sedentary populations to guard the herds of nomadic herdsman (child herders), muhajirin (mendicant Koranic students) or domestic workers. In consultation with its development partners and with local communities, the Government is continuing to consider ways and means of eradicating this social phenomenon, which is becoming increasingly widespread despite its harmful effects on the life and health of the victims.

1. Case of children subject to the worst forms of labour

278. Despite the resolve of the Chadian authorities, despite unremitting efforts to eradicate it, child labour is still a reality in Chad. Some 44 per cent of boys and 52 per cent of girls aged between 5 and 14 are engaged in some form of work, an average of 48 per cent of children. The three regions where the phenomenon is most marked are Western Logone, Mandoul and Sila.¹¹

Child herders

279. It is difficult to provide figures to show the scale of the phenomenon. Generally aged between 10 and 17, boys are recruited by cattle herders to guard their herds. After negotiation between the child’s father, the herder and, generally, the village chief, a contract is signed for the time required for a calf, between six and eight months.

¹¹ Chad-UNICEF cooperation programme, Analysis of the situation of children and women in Chad, SITAN 2010, January 2011, p. 97.

Muhajirin children

280. Like child herders, the phenomenon of muhajirin children is very common but not quantified. The practice consists in parents placing their children with a marabout for the purposes of religious education. Forced to bring back a sum of money every day, the children very often have to beg, engage in street trading, transport various objects, etc. This violence or slavery led the Government to take measures to prohibit street begging, for example, aimed at dissuading those who practise it and their accomplices.

Child victims of trafficking

281. While there is testimony to the existence of this phenomenon in Chad,¹² it must be said that the Government wishes to have a clear picture of the situation. Repeated instructions have therefore been given to law enforcement services to be more on the watch for child trafficking.

Article 9**The right to liberty and security****1. The protection of individual freedoms**

282. The right to the protection of individual freedoms is guaranteed by law. Articles 17 to 48 of the 2005 Act revising the Constitution are devoted to the fundamental rights of citizens. These include:

Article 17, which stipulates: “The human person is sacred and inviolable. Every individual has the right to life, personal integrity, security, freedom and the protection of privacy and property”;

Article 18, which stipulates: “No one may be subjected to cruelty, degrading or humiliating treatment or torture”;

Article 21, which stipulates: “Illegal and arbitrary arrests and detentions are prohibited”.

283. Freedom and security are guaranteed for every individual, subject to respect for the rights of others and the higher interests of the State.

284. Violation of the aforementioned freedoms is prohibited by the Criminal Code and the Code of Criminal Procedure of Chad.

The Criminal Code

285. Several provisions of the Chadian Criminal Code allow prosecution of any person who infringes individual freedoms, on charges of “arbitrary detention and prosecution” (art. 143), “unlawful arrest and forced confinement” (art. 149) and “unlawful violence” (art. 156). It should be noted that victims of such violations may, by instituting criminal proceedings, apply to the court for damages.

¹² Chad-UNICEF cooperation programme, Analysis of the situation of children and women in Chad, SITAN 2010, January 2011, p. 99, para. 4.1.4.5.

The Code of Criminal Procedure

286. In order to address effectively prejudice suffered following violations of the aforementioned freedoms, articles 294, 297 and 347 of the Code of Criminal Procedure enable victims to obtain reparation for the injury sustained.

2. The restriction of individual freedoms

287. Individual freedoms are guaranteed by law without distinction. By virtue of the principle of the legality of offences and penalties, only the law can restrict them. The legislator has accordingly defined the limits of individual freedoms, which are provided for both in administrative procedures and in judicial procedures.

Article 10

The treatment of detainees

288. Up to now, prison personnel were personnel on loan from other services. The fact that they had not received specific training in prison work was a major cause of serious human rights violations.

289. Fortunately, the Government of Chad, with the support of PRAJUST, has since 2009 been implementing a three-pronged prison restructuring policy aimed at: rebuilding or remodelling prisons to bring them into line with international standards; putting in place specific prison administration legislation, including recognition of prison personnel; and training qualified personnel.

Rebuilding and remodelling prison facilities

290. There are a total of 45 prisons in the country spread through the 22 regions. Most were built at least 20 years ago. Better treatment of detainees therefore hinges on substantial improvements in the prison environment.

291. In the prison map project currently being finalized it is recognized that “to be viable and succeed, social reintegration projects, reforms and rehabilitation require a political will to improve the penitentiary system”.

292. Social reintegration in prison is sought through occupational training or workshop activities.

293. To reintegrate detained persons into society, it has become clear that they need to be trained in such areas as farming, gardening, market gardening and socio-educational activities, in other words, to be provided with appropriate occupational training. The list of prison facilities to be built reflects the firm resolve of the Government to leave behind the former system of dilapidated prisons, which were a source of ill-treatment and human rights violations. In the near future, Chad plans to rebuild 32 of the 45 existing prison facilities; they will be built in strict compliance with international standards.

Legal framework for protecting the rights of detained persons

294. Ordinance No. 0031/PR/2011 on the status of prison officers and social reintegration has been ratified by Parliament. This text establishes the autonomous status of prison officers, lays down recruitment procedures and the career management system and sets out the rights, obligations and benefits of prison personnel.

295. Ordinance No. 0032/PR/2011 on the penitentiary system in Chad assigns to prison officers “the task of enforcing judicial decisions depriving persons of their liberty in a

healthy and safe environment in order to help convicted persons to become law-abiding citizens”.¹³

296. Title IV of this Ordinance deals with the rights and obligations of detained persons. Section 2 is particularly noteworthy as it concerns their nutrition rights. Article 37 thus provides that “all detained persons must be provided with wholesome, nutritional food of good quality. Meals must be served at least twice a day at regular intervals. All detained persons must have regular access to drinking water”.

297. Article 38 requires the Minister of Justice to issue an order concerning the diet of detained persons.¹⁴

298. The other rights of detained persons are as follows:

- The right to information (art. 34 to 36);
- The right to clothing (art. 39 to 42);
- The right to hygiene and sanitation (arts. 42 to 44);
- The right to health¹⁵ and to medical assistance¹⁶ (arts. 45 to 51);
- The right to exercise and leisure activities (art. 52);
- The right to practise a religion (art. 53);
- The right to legal assistance (art. 54);
- The right to education (arts. 55 to 60);
- The right to social reintegration (arts. 61 and 62);
- The right to institute civil proceedings (arts. 67 and 68).

299. Furthermore, the use of force by prison guards is strictly governed by the Ordinance. Articles 88 and 89 stipulate respectively that: “Weapons shall be used by officers when entering watchtowers and escorting. No weapon may be used inside the prison facility”; “In all cases, weapons shall be used as a last resort”.

300. Even in the exceptional event of force being used, the procedure is strictly determined so as to reinforce the rights of detained persons.

Training and reintegration

301. The training of prison officers is good news for the entire body of prison personnel and will serve indirectly to advance the protection of the rights and freedoms of detained persons. The aim is in fact to give professional standing to a function that has long remained without legal status.

302. Article 50 of Ordinance No. 0031/PR/2011 on the status of prison officers and social reintegration provides for a national school for the initial and continuing training of prison personnel. While the conditions for admittance to the school are yet to be defined, it may be noted that, by virtue of the principle of equality and free access to public employment, admission should be either by competitive examination or by direct recruitment.

¹³ Article 2 of Ordinance No. 032/PR/2011 on the penitentiary system.

¹⁴ Article 38: “The diet, menu and amounts of food required to sustain detained persons shall be determined by order of the Minister of Justice upon the proposal of a doctor or nutrition specialist”.

¹⁵ Article 46: “All detained persons shall have free access to medical care”.

¹⁶ Article 48: “In all prison facilities, an infirmary shall be provided for detained persons and separate quarters for those suffering from contagious diseases”.

303. Reintegration is a matter of considerable importance to Chad, as is clearly reflected in the name of the General Directorate for Penitentiary Affairs and Social Reintegration. Article 62 of Ordinance No. 0032/PR/2011 on the penitentiary system stipulates that “social reintegration must be supported and accompanied by the State, which shall make available to every rehabilitated detained person who intends to engage in meaningful activity the necessary means to regain a place in his or her community of origin”.

Article 11

The inability to fulfil a contractual obligation

304. In Chad, failure to execute a contract is a civil law matter. Accordingly, the inability to fulfil a contractual obligation cannot be a ground for a prison sentence. Such is indeed the legal position and the position of the governmental authorities. Chad has ratified the Organization for the Harmonization of Business Law in Africa (OHADA) treaty. The OHADA Uniform Act on Simplified Recovery Procedures and Measures of Execution establishes rules in the event of non-fulfilment of a contract.

305. In Chad, imprisonment for debt is governed by article 334 of the Chadian Code of Civil Procedure, as follows: “Upon application by the prosecuting creditor, the presiding judge of the civil court responsible for enforcement may, by reasoned order, authorize the civil imprisonment of a bad faith debtor, without prejudice to the penalties laid down in article 310 of the Criminal Code”.

306. Under article 310 of the Criminal Code, “Any person who, from the date of the notice to pay or the start of judicial proceedings, has concealed, diverted or dissipated by any means all or part of his or her assets with the intention of defrauding his or her creditors shall be liable to the penalties laid down for fraud. Prosecution may not proceed unless a complaint is filed by the person concerned and shall be halted by the payment of the debt or the performance of the obligation by the debtor in person or by any other person on his or her behalf”.

307. Article 335 specifies that “the application for committal shall be made by the prosecutor based on the order authorizing civil imprisonment”. The Government Prosecutor or the magistrates’ court can authorize the imprisonment of a bad faith debtor by issuing a reasoned order to that effect. It should be emphasized that, apart from bad faith, the use of this penalty is made necessary by the standard of living of the population.

308. As regards other applicable conditions, article 336 of the Code of Civil Procedure provides that “the provisions of articles 489, 490 and 491 (2) on the wording of the application, and articles 493 to 496 of the Code of Criminal Procedure shall also apply”.

309. The duration of civil imprisonment is regulated by article 489 of the Code of Criminal Procedure.

310. The issue continues to give concern. The Government is in the process of resolving it through a reform of the Criminal Code and the Code of Criminal Procedure.

Article 12

The right to liberty of movement and freedom to choose one’s residence

311. Freedom of movement is guaranteed by article 44 of the Constitution, which provides that “all Chadians have the right to move freely within the national territory and to leave and re-enter the country”.

312. The Chadian State protects everyone's right to freedom of movement and freedom to choose their residence, both in the national territory and abroad.

313. Freedom of movement is not reserved for nationals alone. The Government has always been attached to the principle of freedom of movement, as illustrated by the following summary of the press briefing given on 2 June 2009 by Ron Redmond, the spokesperson of the Office of the United Nations High Commissioner for Refugees (UNHCR), as published on the Office's website:

“Chad issues first identity cards to Darfur refugees

About 110,000 Sudanese refugees over the age of 18 in eastern Chad will receive identity cards under a new programme that started yesterday. The ID cards are the equivalent of a 'refugee passport' allowing free movement within the host country and providing access to some basic services in line with the 1951 Geneva Refugee Convention. UNHCR distributed the first 10 ID cards in a symbolic ceremony yesterday (Monday) in Gaga refugee camp, near Abéché, together with local authorities and the Chadian Government's refugee commission (CNAR).

The ID cards, which are printed by UNHCR and issued by the Government of Chad, were warmly welcomed by the refugees who said that they now feel protected and fully accepted in Chad.

Preparations for this joint initiative have been under way since the end of 2006. Identity and age verification exercises in all 12 camps in eastern Chad hosting some 250,000 refugees from Sudan's Darfur region were initially scheduled to start in 2008.

However, due to lasting insecurity in eastern Chad, these activities began only in April this year. So far, we have processed some 37,000 refugees in Gaga and Farchana camps.

We plan to distribute all 110,000 ID cards by the end of this year, provided that the verification process is not interrupted again. Since the latest Chadian rebel incursion on 4 May, our regular daily access to refugee camps is still problematic due to security restrictions”.

314. The principle of freedom of movement also flows from decision No. 03/CCEG/VI/90 of 26 January 1990 on the free movement of persons within the Economic Community of Central African States (ECCAS). The ECCAS Council of Ministers adopted the free movement card as a travel document within countries, equivalent to national passports.

315. Monetary and Economic Community of Central Africa (CEMAC) Regulation No. 01/08-UEAC-042-CM-17 amending Regulation No. 1/00-CEMAC-042-CM-04 on establishment, administration and issue of the CEMAC passport provides in its article 2 that “The CEMAC passport allows the bearer to move freely without a visa within the CEMAC area. To that effect, it may take the place of an identity card”. Chad, as an active member of CEMAC, strictly complies with the principle of the free movement of persons, as defined in that Regulation.

316. Decree No. 211/INT.-SUR of 4 December 1961, setting the conditions for the admission of foreigners to stay in the territory of the Republic of Chad, makes a distinction between foreigners enjoying a privilege and those without any privilege. Article 1 thus provides that “To be admitted into the territory of the Republic of Chad, all aliens must produce:

- (a) Where they enjoy a privileged status:
 - A national passport or a national identity card;

- Proof of repatriation coverage;
- An international vaccination certificate (smallpox and yellow fever);
- In addition, where the object is residence:
 - A copy of their criminal record dating from within the past three months;
 - A work contract or evidence of professional activity;
- (b) Where they do not enjoy a privileged status:
 - A valid national passport bearing a category 1, 2 or 3 visa, as defined in Decree No. 110 of 2 June 1961;
 - Proof of repatriation coverage;
 - An international vaccination certificate (smallpox and yellow fever);
 - In addition, where the object is residence:
 - A copy of their criminal record or equivalent document officially translated into French;
 - A work contract or evidence of a professional activity”.

317. The Decree provides for administrative measures such as escort to the border and expulsion. However, in the event of non-compliance with immigration laws, the courts may apply the aforementioned measures without prejudice to other penalties.

318. Order No. 3109/INT.-SUR of 4 December 1961, regulating the implementation of Decree No. 211/INT.SUR of 4 December 1961 setting the conditions for the admission of foreigners to stay in the territory of the Republic of Chad, adds as conditions for entering the territory three 4-by-4 full-face identity photos and, for foreigners wishing to set up their own business, any such document as may be required to show the lawfulness of their occupation and the truthfulness of statements concerning their means of existence.

Article 13

The right of foreigners not to be expelled arbitrarily

319. Chad is a central African country. Because of its geographical position, it receives many foreigners, including the staff of diplomatic missions, international students, members of international NGOs, businessmen, employees and traders.

320. Article 46 of the Constitution provides that “The right of asylum is granted to foreign nationals under conditions determined by law. The extradition of political refugees is prohibited”.

321. In addition to the extradition procedure set out in the Criminal Code, the extradition agreement between States members of CEMAC is applicable in Chad.

322. The purpose of extradition is to bring to justice a person who has committed an offence in order to enforce a prison sentence or a final detention order (extradition “for enforcement”). The relevant CEMAC text is the extradition agreement between Member States, supplemented by the judicial cooperation agreement, the domestic legislation of Member States and the multilateral international conventions to which CEMAC Member States are parties.

323. Article 11 of the extradition agreement between CEMAC Member States stipulates that “unless otherwise provided in this Agreement, the criminal law of the requested party is alone applicable to the extradition procedure and to the pretrial detention procedure”. In

other words, the extradition procedure is governed by the domestic law of States parties when they are the requested State. In the context of Chad, the extradition procedure is governed by Title VI of the Code of Criminal Procedure.

324. It should be noted, however, that a refugee or a foreigner lawfully present in Chad may be expelled for reasons of national security or public order.

Article 14

Right to a fair hearing

325. The right to a fair hearing is guaranteed in Chad in several respects.

1. Legal guarantees of the fairness of hearings

Constitutional guarantees

326. Article 24 of the Constitution provides that “Any accused person is presumed innocent until proven guilty following a regular hearing offering essential guarantees for his or her defence”.

327. The organization of the judiciary in Chad is also governed by the Constitution, as follows:

- Article 141: “Judicial power is independent of executive power and legislative power”;
- Article 142: “A single class of courts is established, the highest of which is the Supreme Court”;
- Article 143: “Judicial power is exercised in Chad by the Supreme Court, courts of appeal, ordinary courts and magistrates’ courts”; the courts are the guardians of freedom and individual property and ensure respect for fundamental rights;
- Article 144: “Justice is delivered in the name of the Chadian people”.

Legislative guarantees

328. Laws on the justice system and procedural laws contain many provisions guaranteeing a fair hearing.

329. A well-organized justice system is a reliable justice system. Moreover, litigants have the right to know in advance which court will be trying them. For that reason, Chadian courts are established by law and their respective fields of competence are clearly defined.

330. Article 6 of Act No. 004/PR/98 on the organization of the judiciary stipulates: “Justice is delivered in the name of the Chadian people. Only courts established in accordance with the law may hand down sentences”. Article 1 states that “Justice is administered in the Republic of Chad by a single class of courts, which includes:

331. “The Supreme Court, courts of appeal, criminal courts, courts of first instance, labour courts, commercial courts and magistrates’ courts”.

2. Norms serving to ensure fair hearings

332. A non-exhaustive list of norms that seek to ensure fair hearings in Chad might include the following:

- The independence and impartiality of the courts;

- The competence of judges;
- Public hearings or, exceptionally, hearings in camera;
- The presumption of innocence, guaranteed rights of defence;
- Guaranteed right of appeal;
- Reparation of miscarriage of justice and improper procedures;
- Principle of res judicata.

Independence of the courts

333. By virtue of the principle of the strict separation of powers enshrined in article 4¹⁷ of the Constitution, the judiciary is an independent power.

334. However, the justice system consists of both judges and public prosecutors. Although, in principle, the latter implement governmental policy in matters of justice, which means that they may receive instructions from the Ministry of Justice, judges enjoy full autonomy effective against third parties. The article provides that “150 judges are subject in the discharge of their duties solely to the authority of the law. They are irremovable”.

335. Discipline cases against judges are referred to the Supreme Council of Justice (CSM).

336. Act No. 005/PR/98 of the 7 July 1998 on the organization and functioning of the Supreme Council of Justice provides as follows:

“Article 1: The Supreme Council of Justice is presided over by the President of the Republic.

The Minister of Justice is ipso jure the first Vice-President.

The President of the Supreme Court is ipso jure the second Vice-President.

“Article 2: The Supreme Council of Justice further comprises eight titular members and eight alternate members elected by their peers in the following proportions:

- Supreme Court: two titular members, two alternate members;
- Court of Appeal: three titular members, three alternate members;
- Courts of Justice: two titular members, two alternate members;
- Magistrates’ Courts: one titular member, one alternate member”.

337. There are two types of member of the judiciary: judges and public prosecutors. As the public prosecutors represent the executive within the judiciary, they are bound by the principle of hierarchical subordination. They and their deputies are subject to the authority of the Minister of Justice.

338. In military courts, judges are also independent.

Impartiality of the courts

339. In Chad, a judge cannot be both judge and defendant. The same judge cannot examine and try a case or have advisory and litigation functions successively in the same

¹⁷ Article 141: “Judicial power is independent of executive power and legislative power”.

case, nor can a judge take cognizance of applications for judicial review of his or her own decision.

340. There is a fairly large amount of case law on the concept of impartiality. It is considered to be a violation of the principle of impartiality for a judge to be seized of an appeal against a decision that the same judge has previously handed down, irrespective of any procedural formalities that may be observed.

341. The impartiality of the courts is guaranteed by the separation of prosecution, investigation and criminal trial. It is also ensured by the recognized right of litigants to challenge judges, to request that their case be heard by a different court and to claim damages from the presiding judge.

Separation of prosecution, investigation and trial

342. Investigations, prosecutions and judgments are separated. Investigation is conducted by the examining magistrate,¹⁸ prosecution is in the hands of the Government Prosecutor and the judgment is handed down by the judge (judicial officer).

Challenging of judges

343. In civil matters, article 17 of the Code of Civil Procedure (CPC) provides that “the provisions of articles 35 to 41 of the Code of Criminal Procedure are applicable to the challenging and abstention of members of the civil courts”.

344. Article 35 of the Code of Criminal Procedure sets out the reasons justifying such a challenge and provides that “judges may be challenged for the following reasons:

- (i) Where they themselves, or as the representative of another person, or in the person of their spouse or someone close to them or in any other capacity, have an interest in the dispute;
- (ii) Where they have been involved in the proceedings as public prosecutor or as trial judge or as arbitrator or counsel, or have given evidence as a witness concerning the facts of the case;
- (iii) Where the judge or someone close to the judge is involved in litigation concerning facts similar to those in the case in question;
- (iv) Where the judge or someone close to the judge is in a situation of dependence in relation to one of the parties;
- (v) Where the judge or someone close to the judge is involved in proceedings before a court where one of the parties is a judge;
- (vi) Where there exist between the judge or someone close to the judge and one of the parties or someone close to that party a friendship or hostility sufficient to give cause to suspect the judge’s impartiality”.

Training of judges and public prosecutors

345. All members of the judiciary were formerly trained by the National School of Administration and Magistracy (ENAM). Since the reform introduced under Act No. 032/PR/2009 establishing a National Institute of Judicial Training (ENFJ), their training has been provided by that Institute. Article 4 of the Act provides that “The

¹⁸ Article 232: “The examining magistrate shall undertake a preparatory investigation of all crimes and offences requiring the use of this procedure”.

National Institute of Judicial Training is responsible for the initial and continuing training of judges, court clerks, lawyers, notaries, bailiffs and other judicial personnel”.

Presumption of innocence

346. The presumption of innocence in criminal matters is a principle enshrined in the Constitution according to which every accused person is presumed innocent until found guilty during a hearing conducted in strict compliance with the rights of defence.

Burden of proof

347. Presumption of innocence presupposes that the burden of proof rests with the prosecution and that the suspect has the benefit of the doubt.

348. The legal principle that “the burden of proof shall be upon the party who institutes a criminal action” is applied by the courts. It falls to the prosecution, with the assistance of the victim of the offence, to prove the guilt of the defendant. The defendant always has the benefit of the doubt.

Right of audience

349. As a party to the proceedings, suspects have a right to state their case and have a privileged position since they speak last.

350. Suspects thus present their defence after the court clerk has read out the police report, where one exists, followed by the witnesses for the prosecution and for the plaintiff. This arrangement allows suspects to call witnesses.

351. When the presiding judge considers that sufficient time has been allowed for the hearing, the plaintiff is called on to state his or her claim; the public prosecutor, if represented, then makes submissions. If the Office of the Public Prosecutor is not represented and the Government Prosecutor has made written submissions to the court, the court clerk reads them out.

352. The defendant presents his or her defence. The person who has civil liability and the civil liability insurer make their concluding statements. In the event of replies, the defendant or defendant’s counsel shall always speak last.¹⁹

Guarantee of the rights of the defence

353. All persons accused of a criminal offence have the right to the following minimum guarantees:

- To be informed promptly, in a language that they understand, of the nature and cause of the charge against them;
- To have adequate time and facilities to prepare their defence;
- To communicate with counsel of their choice;
- To be tried without undue delay;
- To be tried in their presence;
- To examine or have examined the witnesses against them and to obtain the attendance of witnesses on their behalf; and

¹⁹ CPP, art. 358.

- Not to be compelled to testify against themselves or to confess guilt.
- Information concerning the nature and cause of the charge.

354. In criminal matters, the condition for communicating this information varies according to whether or not the suspect is under detention.

Service by a bailiff

355. In criminal matters, accused persons who are not under pretrial detention are informed of proceedings by service effected on them by the bailiff of either a summons or a default judgment delivered against them.

356. Under article 135 of the Code of Criminal Procedure, “summonses or notices to appear, unless otherwise provided by law, shall be served by bailiffs”.

Judges and prosecutors

357. The examining magistrate is required under the Code of Criminal Procedure to inform accused persons of the charges against them and of their right to remain silent; should the examining magistrate fail to do so, the proceedings are declared invalid. Similarly, upon conclusion of the preliminary inquiry, accused persons are informed of the charges against them before being brought before a court.

358. In practice, the magistrate is required to read out to accused persons during the first hearing the charges against them and to grant applications for an adjournment to enable them to prepare their defence.

Adequate time for preparing the defence

During the preliminary inquiry

359. During the preliminary inquiry, the examining magistrate, having notified accused persons of the charges against them, informs them during their first appearance that they are allowed time to prepare their defence, even if they have not briefed counsel.

360. Article 239 of the Code of Criminal Procedure stipulates that “the examining magistrate informs defendants during their first appearance that they are before an examining magistrate and expressly notifies them of the charges against them and takes their statements. The examining magistrate advises defendants of their right to counsel”.

Briefing of and communication with counsel

Briefing of counsel

361. The assistance of counsel is mandatory in all matters before the Supreme Court and in all cases of felonies before trial courts.

Mandatory assistance

362. The assistance of counsel is mandatory for all felonies before courts of first instance, courts of appeal and the Supreme Court. Articles 42, 47 and 48 of the Code of Criminal Procedure provide as follows:

“Article 42: Any defendant or accused person and any plaintiff have the right to choose counsel from among lawyers authorized to provide legal services in accordance with the regulations of the Bar Association.

Counsel are not required to justify their services. They represent the parties when authorized to do so, without needing to show power of attorney, unless expressly prohibited by law.

Accused persons or plaintiffs may at any time communicate the name of their counsel and, if they choose several persons to act as counsel, the name of the person to whom notices, summonses and notifications should be addressed”.

“Article 47: Any person accused of an offence who shows need may have the assistance before the court of a court-appointed attorney, where one is available at the seat of the court and within the limits of the burden that may reasonably be imposed upon such attorney”.

“Article 48: In criminal hearings, the assistance of counsel is mandatory.

In the absence of a lawyer residing at the seat of the criminal court or where they do not exist in sufficient number, accused persons may use the services of any other person of their choice, who will assist them after being authorized to do so by the presiding judge of the criminal court.

If accused persons do not choose counsel, the presiding judge of the criminal court or the judicial officer who has been so instructed shall appoint counsel for them.

In the absence of a lawyer, the presiding judge shall appoint any person he or she deems fit to ensure the defence effectively.

The lawyer or the court-appointed counsel may take cognizance of any item in the case file without travelling and without there being any ensuing delay in the procedure. He or she may make copies or have copies made of any item at the client’s expense”.

363. The Supreme Court systematically nullifies judgments delivered in breach of this formal requirement concerning the right to be defended by counsel.

Communication with counsel

364. The right of an accused person to communicate with counsel is provided for in article 43 of the Code of Criminal Procedure, as follows: “Accused persons may, upon being charged, communicate freely with their counsel. The prohibition of communication does not apply to counsel”.

365. Counsel is present during questioning, audiences and cross-examinations with the client. To this effect, counsel is notified by the court clerk at least 48 hours in advance when said counsel resides at the seat of the examining magistrate.

366. Case-related documents must be available to counsel 24 hours before each questioning or cross-examination.

367. Notwithstanding the foregoing, the examining magistrate may proceed with immediate questioning and cross-examination as a matter of urgency when a witness is in danger of death, when evidence exists that is about to disappear or, in the case of a crime or flagrant offence, when said magistrate travels to the place of its commission.

Time limit for judgment to be delivered

(a) To enable defendants to know as soon as possible the decision delivered by the court, the Code of Criminal Procedure sets the time limits only after the hearing is closed. Its article 359 provides that:

“Judgment shall be delivered either during the hearing in which the deliberations were held or at a later hearing. In the latter case, the presiding judge shall stipulate the date of the hearing at which judgment will be delivered. Where the deliberations take place in a mobile court, the presiding judge shall, in addition, state whether judgment will be delivered during the mobile court session or at the permanent seat of the court”.

368. In practice, courts are subject to a great many constraints from various quarters that prevent them from handing down decisions promptly. The Government wishes to adopt corrective measures and, in particular, to recruit large numbers of judges and prosecutors. This was reflected in the recruitment for the 2012 financial period of 30 French-speaking judges and 30 Arabic-speaking judges, or a total of 60 judges.²⁰

Personal appearance

369. In Chad, criminal procedure requires the accused to appear in court. Thus, detainees are brought before the court by law enforcement officers. An accused person on whom personal service has been effected is required to appear before the court.

370. The presiding judge may deliver judgment in absentia, which allows the accused person to apply for objection if it is established that there is no proof of service on him or her.

Testimony of witnesses

371. Article 78 provides that “before examining magistrates and at flagrante delicto hearings, witnesses are called by simple notice to attend. A summons is used only in the event that the witness fails to appear and in all cases not covered by the previous paragraph”.

372. CPP articles 78 to 86 provide for the serving of notices and the appearance of witnesses; articles 87 to 89 concern persons whose testimony cannot be taken; articles 90 to 95 deal with the hearing of witnesses, taking of the oath and false testimony; and articles 97 to 104 set out the procedure for receiving depositions from certain public figures.

Confessions

373. Confessions are admissible only if they are made voluntarily by the accused person before the presiding judge. The accused may plead guilty or not guilty. Not only are confessions made voluntarily, but, in addition, the court is required to determine their truthfulness.

374. As indeed is made clear by the provisions of article 72, only the judge determines the evidentiary value of confession. “Confessions, like any other evidence, shall be at the discretion of judges”.

²⁰ See results of the first competitive examination held by the Institute.

Reviews and appeals

375. In Chad, all persons found guilty of an offence may have their conviction and sentence reviewed by a higher court. This right is provided for in CPP articles 382 to 401.

376. This right of review also appears in the possibility of reconsideration of final judgments. CPP article 403 provides that “application may be made for reconsideration of a judgment, irrespective of the judicial body that handed it down, against any person found guilty of a crime or an offence:

- (i) Where, following a conviction for homicide, evidence is produced such as to offer sufficient grounds for believing that the alleged victim of the homicide is alive;
- (ii) Where, following a conviction for a crime or an offence, a further decision or judgment has convicted a number of accused persons for the same act, and, owing to the irreconcilability of the two convictions, their incompatibility proves the innocence of either one of the convicted persons;
- (iii) Where, following a conviction, one of the witnesses who testified against the accused is prosecuted and convicted for false testimony against the accused; the witness so convicted may not testify at a new hearing;
- (iv) Where, following a conviction, a fact occurs or is revealed, or where evidence is produced that was not known to exist at the time of the hearing, such as to establish the innocence of the convicted person;
- (v) Where a judgment, delivered either by the Court of Appeal or by a criminal court, is tainted by material error or manifest error of law such as may have influenced the decision to convict”.

Res judicata

377. In Chad, it is a well-established principle that no one may be tried or punished for an offence for which he or she has already been finally convicted or acquitted.

378. CPP article 2 provides that “criminal proceedings cease upon the death of the offender, prescription, amnesty, abrogation of criminal law and *res judicata* (...) No person who has been legally acquitted may be tried again for the same facts, even under a different statement of offence”.

379. This principle is recognized, approved and applied by the Chadian courts.

Article 15

The principle of legality and non-retroactivity

380. In Chad, the principle of legality and non-retroactivity is enshrined in several texts. The distinction between substantive law and procedural law is of special interest for law enforcement in respect of offences committed under laws not yet in force. Law and law alone not only determines offences (crimes and criminal offences) and sets penalties, but also determines the bodies responsible for trying offenders, their jurisdiction and the procedure to be followed before they can deliver a decision to acquit or convict.

381. This is all laid down in minute detail by the Chadian legislator so as to avoid arbitrariness, allow accused persons to defend themselves (rights of defence) and prevent them from being convicted unfairly or in error.

382. Nevertheless, although the principle of legality applies both to procedure and to substantive criminal law, it does not apply with equal force in both cases. Substantive laws,

most of which do not favour offenders, must be interpreted restrictively and cannot be applied to offences committed before they entered into force. Procedural laws, on the contrary, enacted by the Chadian legislator to ensure more effective administration of criminal justice, are considered in principle to favour offenders and may be given immediate application and an extensive interpretation.

383. The pre-existence of the definition of offences and corresponding penalties in laws and, as a corollary, the non-retroactivity of laws are principles laid down in the legal instruments in force in Chad, which are applied by the courts.

Constitutional provision

384. Article 23 of the Constitution of Chad provides that “no one may be arrested or charged except under a law promulgated prior to the acts with which he or she is charged”.

385. The non-retroactivity of laws is thus enshrined in the Constitution: laws cannot have a retroactive effect. No one can be tried and punished except under a law promulgated and published prior to the punishable act.

386. Furthermore, article 2 of the Civil Code provides that “the law applies only to the future and can have no retroactive effect”. This prohibition is a matter of public policy and may be invoked and applied on the court’s own motion or at any other time during the procedure.

387. It should be noted, however, that the principle of the non-retroactivity of laws is not an absolute one. The Criminal Code provides for exceptions to this principle when less harsh laws or preventive measures are introduced. These provisions apply to proceedings pending at the date of entry into force of these laws.

388. The principles of the pre-existence of the definition of the offence and non-retroactivity are well established in Chad. They constitute fundamental legal principles which guarantee the fairness of hearings.

Article 16

Recognition as a person before the law

389. In Chad, everyone is recognized as a person before the law.

390. As the draft Personal and Family Code has not yet been adopted, Chad still uses the French Civil Code of 1958 to settle family matters. Article 488 of the Code provides that majority is reached at the age of 18 and, at that age, a person is capable of all acts of civil life. A person who has attained majority but whose personal faculties are impaired in such a way that he or she is not able to look after his or her own interests unaided is protected by the law. However, Chadian law places restrictions on certain categories of persons such as minors or those suffering from mental disorder.

391. Under civil law, children and mentally ill persons do not have contractual capacity. A contract entered into by a minor or by a person alleged to be suffering from mental disorder is without legal effect. This is also true of any sale concluded with a minor, which may under certain conditions be challenged as being vitiated.

392. In addition, Chad allows children to inherit who have been merely conceived on the date when an inheritance is opened, whenever it is in their interest to do so.

Article 17

Respect for privacy

393. The basic texts of the Republic of Chad guarantee the protection of individual and family rights. Under article 17 of the Constitution, “the human person is sacred and inviolable. Every individual has the right to life, personal integrity, security freedom and protection of privacy and property”.

394. Title III of the Criminal Code deals with family issues and punishes offences against the civil status of individuals. Article 286 of the Code, for example, provides that those guilty of abducting, harbouring or concealing children in such a way as to affect their civil status shall be liable to a term of forced labour. Article 288 stipulates that persons who, having been entrusted with the care of the child, do not return the child to those claiming it back, shall be liable to the penalties provided for in article 286.

395. It should also be noted that certain Chadian customs protect the family in that they condemn practices such as abandonment of the family, adultery and abortion. Protection of the home is ensured by article 42 of the Constitution, which stipulates that the home is inviolable. Searches may only be conducted in the cases and in the manner prescribed by law.

396. Article 154 of the Criminal Code states that any administrative or judicial official, police officer or agent, law enforcement official or officer acting in his or her professional quality who enters the home of a citizen against the will of that citizen, except as provided for by law and subject to the formalities required by law, shall be liable to a prison term of between six days and one year and a fine of between CFAF 5,000 and CFAF 500,000, without prejudice to article 143, paragraph 2.

397. With respect to unlawful entry by private individuals, article 155 provides that any person who enters the home of a citizen by threat or by force shall be liable to a prison term of between six days and six months and to a fine of between CFAF 5,000 and CFAF 50,000.

398. Article 156 of the Code provides that a public official or officer, police or government administrator or official, judicial marshal or police commandant or deputy commandant who uses or has recourse to violence without legitimate reason towards persons in the exercise of or in the course of his or her official duties, shall be punished, depending on the nature and the extent of the violence, in accordance with articles 252 to 255. The provisions of article 31 may also apply.

399. Article 45 of the Constitution provides that the privacy of correspondence and communications is guaranteed by law.

400. As the French Civil Code of 1958 is in force in Chad, all the liabilities set out therein are applicable, in particular liability in respect of things, persons, children, apprentices or animals.

401. Arbitrary interference in private life is often due to over-zealous officials, of whom there is no lack in the administrative services of the State. The law offers various remedies to victims, who can file criminal or civil liability claims. Article 154 of the Criminal Code provides accordingly that any administrative or judicial official, police officer or agent, law enforcement official or officer acting in his or her professional quality who enters the home of a citizen against the will of that citizen, except as provided for by law and subject to the formalities required by law, shall be liable to a prison term of between six days and one year and a fine of between CFAF 5,000 and CFAF 500,000.

402. By protecting privacy, the legislator seeks to guarantee individual peace of mind.

Article 18

Freedom of thought, conscience and religion

403. Freedom of thought, conscience and religion is protected in Chad under article 27 of the Constitution, which provides as follows:

“Freedom of opinion and expression, communication, conscience, religion, the press, association, assembly, movement, demonstration and procession is guaranteed to all. Such freedom can only be restricted by respect for the freedoms and rights of others and the need to safeguard public order and morals”.

404. Chad is a secular State. The neutrality and independence of the State in respect of all religions are guaranteed.

405. The main religious groups in Chad are Christians, Muslims and animists. One corollary of this freedom of religion is the freedom to build places of worship without restriction throughout the territory of the Republic. Followers of the various religions meet without discrimination both in public and in private.

406. Religious associations are authorized by the Ministry of the Interior. A number of them come to play a major role in development and are admitted to the prior authorization regime, unlike other associations, which are subject to the prior declaration regime.

1. Laws relating to religious freedom

407. The establishment of religious associations is governed by the same procedures as all other types of association. The legislator, mindful of the need to allow citizens to exercise a right so essential for personal fulfilment, has simplified the procedures for establishing religious associations.

408. Article 14 of Ordinance No. 27 of 28 July 1962 on the regulation of associations provides that “religious congregations together with religious associations, charity and aid associations, associations set up to promote education or provide cultural assistance and all associations in general are subject to the foregoing rules and may obtain legal status”.

(a) The rules referred to are, in particular, those contained in article 5:

“A declaration of the founding of an association shall be made in the capital city of the prefecture where the registered office of the association is located. The declaration shall be in three copies and show the name and purpose of the association, the location of its main and subsidiary offices and the name, occupation and address of those serving in any capacity as its administrators or directors. A receipt of the declaration shall be delivered”.

Religious development in Chad

409. In Chad, the bulk of the population are believers, with 90 per cent of them practising monotheistic religions. The general population census of 1993 shows the dominant religions to be Islam and Christianity: 54 per cent of the population are Muslim, 20 per cent, Catholic, and 14 per cent, Protestant; 7 per cent declare themselves to be animist, 3 per cent to be without religion and 2 per cent undecided. It appears from analysis of the census data that most of the Muslim population are in the northern and central parts of the country, while the south is predominantly Christian.

410. There are two main religions: the Christian religion and the Islamic religion, with several variants in each category. In the past few years, there has been a distinct increase in the number of chapels, mosques and churches throughout the national territory.

411. The proliferation of houses of worship is ample evidence of the reality of religious freedom, as enshrined in the Constitution and the other aforementioned legal instruments.

Role of religions in promoting and protecting civil rights

412. Among the main activities of religions, three are particularly valued: culture, health care and education.

413. All religious communities stand beside the Chadian Government and are involved in education, either to disseminate their beliefs or to provide citizenship training.

414. Religious congregations offer elementary, general secondary, higher and technical education in most regions in Chad.

Article 19 Freedom of expression

Role of the media in promoting and protecting civil rights

415. The State of Chad considers freedom of the press, freedom of opinion and freedom of expression to be the very foundations of society. They play an essential part in moulding public opinion. They are also indispensable for the development of political parties, trade unions, cultural associations and, in general, for those who wish to influence public opinion.

416. Article 27 of the Constitution provides that:

“Freedom of opinion and expression, communication, conscience, religion, the press, association, assembly, movement, demonstration and procession is guaranteed to all. Such freedom can only be restricted by respect for the freedoms and rights of others and the need to safeguard public order and morals. The law determines the conditions under which it is exercised”.

417. The Government’s resolve to promote and protect freedom of expression has led to a proliferation of media outlets and the emergence of a culture of freedom. Chad has adopted a policy of out-and-out liberalization that has often been detrimental to it. This media explosion and certain abuses have not prevented this continuing all-round liberalization.

418. This desire to give free rein to media expression clearly shows that freedom of expression is a reality in the democratic practice of Chad, as illustrated by the following table:²¹

	<i>Public sector</i>	<i>Private sector</i>
Audiovisual media	Public radio: 6 in service and 13 planned Public television channel: 1	- Authorized private (general interest and speciality): 30 - Community radios: 39 - Partnered radios: 6 - Commercial radio: 1 - Religious radio: 3
Internet media services		5
Print media		Private presses: 5 Industrial enterprises
Communication associations		8

Publications in Chad

419. Updated list of publications in Chad:²²

<i>N°</i>	<i>Name</i>	<i>Frequency</i>	<i>Manager</i>
01	Le Progrès	Daily	Abderamane Barka
02	N'Djamena Bi – Hebdo	Twice-weekly	Jean Claude Nékim
03	Le Temps	Weekly	Michael Didama
04	Notre Temps	Weekly	Nadjikimo Bénoudjita
05	N'Djamena Aldjedida	Weekly	Adam Abdallah Mahamat
06	Al Batha	Weekly	Ali Haraka
07	Le Panier	Weekly	Nakingar Djiraingaye
08	L'Observateur	Weekly	Samory Ngardoumbe
09	La Voix	Weekly	Déli Sainzoumi Nestor
10	Al Ayam	Weekly	Abbas Mahamoud
11	Al Whida	Weekly	André Abdel
12	Aladdwa	Weekly	Babikir Mahamat Ahmat
13	Tchad Alyoum	Weekly	Ali Mahamat Idriss
14	La Nation	Weekly	Abbas Abakar Abbas
15	Journal Al Kabar	Fortnightly	Abakar Mahamad
16	Journal AlNahda	Fortnightly	Abdelhack Ali Issai

²¹ Source: High Council for Communication (HCC).

²² Source: High Council for Communication (HCC).

<i>N°</i>	<i>Name</i>	<i>Frequency</i>	<i>Manager</i>
17	Journal Chabab Al Nahd	Fortnightly	
18	Le Potentiel	Fortnightly	Bruce Djim – Adjim
19	Nal Arrai	Fortnightly	Bachar Mahamat Bachar
20	Le Révélateur	Fortnightly	Ramadji Florence Indinta
21	Dakouna	Monthly	Pascal Deou Fersou
22	Le Miroir	Monthly	Adji Moussa
23	Horizon Femme	Monthly	Kadidja Toloumbaye
24	Al Istiqlal	Monthly	Abderahim Moussa Abderahim
25	Sarh Tribune	Monthly	Sanodji Abiatar
26	Tchad et Culture	Mensuel	Berilengar Antoine Dathol
27	La Cloche	Monthly	Zoutene Tchanon
28	La voix des artistes	Monthly	A. Mbang Bousso
29	Abbas Garde	Fortnightly	Moussaye Avenir de la Chiré
30	L'union	Fortnightly	Abdelsalam Mahamat A. Haggar
31	Al Haya	Fortnightly	Mahamat Oumar
32	Al Chourouckh	Weekly	Abderamane Yaya Saleh
33	Sud Echos	Weekly	
34	Al Yaghada	Weekly	Youssouf Moussq Hassane
35	Al Hakhikha	Weekly	Tidjadine Mahamat Babouri
36	Bahr El Gazal	Weekly	Abdelkerim Faki
37	HorizonNouveau	Weekly	Djibrine Mahamat
38	Courrier Des Jeunes	Monthly	Rachelle Magloire Koumbele
39	Al Sahwa	Fortnightly	
40	Vision Jeune	Monthly	
41	Journal Al Hiwar		
42	100°/° Jeune	Monthly	Dokblama Kadah
43	L'Info	Twice-weekly	Mbaire Bessingar
44	Carrefour	Monthly	Sœur Géraldine

The High Council for Communication

420. In observance of the fundamental principles of universal press freedom, the 1996 Constitution established the High Council for Communication (HCC). This is an

independent institution whose main functions are to ensure respect for ethical rules in matters of information and communication; guarantee freedom of the press and pluralist expression of opinions; regulate communication relations between public authorities, media outlets and the public; and ensure equal access to public media for political parties.

421. The mandate of the High Council for Communication is to ensure equitable access of associations to public media, give technical opinions and make recommendations on information and human rights issues.

422. This mandate is set out in a number of texts, including the following:

- Act No. 19/PR/2003 of 24 October 2003 on the composition, responsibilities and functioning of the High Council for Communication;
- Act No. 009/PR/PM of 9 June 2010 on audiovisual communication;
- Act No. 017/PR/2010 on the press regime in Chad;
- Decree No. 450/PR/MC/95 of 28 June 1995 on the organization and functioning of the High Council for Communication;
- Decree No. 414/PR/PM/MC/99 of 5 October 1999 on the operation of the press assistance fund;
- Decree No. 056/PR/PM/MC/2011 of January 2011 on implementation of Act No. 009/PR/2010 on audiovisual communication;
- Rules of Procedure.

423. Chapter V of the Press Regime Act concerns the right of correction and the right of reply that the director of a press organ is required to grant to any natural or legal person who claims to have suffered injury because of inaccurately reported acts or statements. There is no charge for inclusion of the right of reply. In the case of audiovisual media, a person claiming injury through imputations to honour or reputation may address to the public or private service responsible for the offending broadcast no later than eight days thereafter a request to reply, which must indicate the specific points to be addressed and the content of the reply.

424. The reply, whether accepted amicably or resulting from a judicial decision, must be disseminated under audience conditions equivalent to those of the offending message.

425. While, however, the law had provided for the exercise of the rights of reply and correction, it had remained silent on one of the most important formalities whereby citizens may have recourse to the High Council for Communication. This question of referral is now covered by the new Rules of Procedure of HCC, approved by Decree No. 804/PR/PM/SGG/2012 of 25 May 2012. The provisions concerning referral are so designed as to facilitate submissions by anyone claiming injury through the action of a media outlet and, at the same time, to make the referral procedure more relevant and more dynamic.

The referral procedure

426. Freedom of expression, while guaranteed by law, must necessarily be regulated so as not to impair the rights of other persons.

427. Similarly, press freedom, freedom of information and dissemination by radio and television, print media or any other means of communication are guaranteed subject to respect for public order, public morality and the rights of other persons. Any breach of these provisions and any violation of the code of ethics or conduct by print or audiovisual media may be referred to the regulatory authority.

428. Any person may refer any violation of the provisions of the laws on communication to the High Council for Communication; cases may also be referred to it automatically. The procedure is open to the public. In the event of non-compliance with the guidelines on public and private audiovisual media, the High Council initiates the public hearings procedure, subject to application of the provisions of article 11 of Act No. 19/PR/03, which provides that, in cases where audiovisual media fail to meet their obligations, the High Council for Communication may, according to the seriousness of the matter, make observations or issue a public warning to the offending party.

429. Act No. 19/PR/2003 of 24 October 2003 determines the organization and functioning of the High Council for Communication. In pursuance thereof, HCC provides guidance on:

- The overall policy on social communication;
- The attribution of licenses to private audiovisual enterprises;
- The distribution of radio frequencies assigned to radio and television broadcasts;
- Any other issue defined by the law and regulations.

430. In the same vein, the Council can also make recommendations on such subjects as:

- Laws and regulations with respect to social communications and the ethics of social communications;
- The principle of equal airtime, particularly during the electoral periods;
- The independence of public communication services;
- The protection of human rights and human dignity by the media;
- The protection of women, children and young people by the media;
- The promotion of local dialects and cultures in all media;
- Transparency, pluralism and balance of programmes in communication enterprises;
- Measures in cases of non-compliance with regulations.

431. In cases where a public media outlet does not heed the warning, HCC may decide to issue a statement and request the Minister for Information to suspend the director of the information organ concerned and to institute disciplinary proceedings against the offending parties.

432. In cases where a private media outlet does not heed the warning to respect the law, HCC may decide to broadcast a statement and to impose one of the following penalties:

- Suspension of authorization or part of the programme;
- Reduction of the period of authorization to within one year;
- A fine;
- Withdrawal of authorization.

Media House of Chad

433. For several years, Chadian press and radio associations had been considering ways of joining forces. Already proposed in 2004, the idea of a “Journalists’ House” was taken up by some associations in 2007 under the name “Press Association House”. This project assumed its present form at the Chad Communication Forum, held in 2009.

434. On 25 July 2009, the seven main media organizations in Chad laid the foundations for the “Media House of Chad”. The media organizations concerned were the Association of Private Press Publishers in Chad (AEPT) (print media), the Union of Private Radios of Chad (URPT), the Union of Journalists of Chad (UJT), the Union of Women Communication Professionals (UFPCT) the Chadian League of Arabic-language Journalists (LTJA), the Association of Communication Technicians (ATCOM) and the Society of African Media (SODEMA). This structure has been growing daily thanks to the involvement of journalists, the backing of the Chadian Government and the technical and financial support of international partners.

435. Operational since January 2011, the Media House of Chad provides technical services and continuing training.

Media support

436. The State has the duty to assist directly or indirectly print and audiovisual communication media that contribute to the exercise of the public right to information. A media support fund has accordingly been established which receives an annual subvention from the State and is also open to contributions from national or foreign public or private bodies.

437. The High Council for Communication is responsible for the allocation of the fund’s resources.

438. Articles 41 and 42 of Act No. 10/017/PR/2010 of 31 August 2010 on the press regime in Chad provide respectively:

“A media support fund is hereby established which shall receive an annual subvention from the State and shall also be open to contributions from national or foreign public or private bodies. The fund shall be managed by the High Council for Communication”.

“To benefit from this fund, information organs must meet the following criteria: The editor must be responsible for news management:

- For print media, at least 65 per cent of the press room of the information organ must be used for political, social, cultural, economic or sports news;
- At least one third of the resources must come from sales, subscriptions or public fundraising;
- For audiovisual media, the amount of assistance will be determined by HCC according to their commercial, community or association status”.

Examination procedure

439. Two types of procedure are provided for under article 9 of Act No. 19/PR/2003 of 24 October 2003, namely, the urgent or proprio motu procedure and the ordinary procedure.

Urgent procedure

440. In the event of a flagrant violation of ethical rules and/or rules prescribed by the guidelines, the officers of HCC may take such interim protection measures as are required to safeguard the general interest.

441. These measures are submitted for the consideration of the Council at its next meeting.

Ordinary procedure

442. HCC, on being seized ex officio or at an individual's request, informs the offending natural or legal person of the complaints made and invites him to submit his defence no later than seven clear days from the date of notification.

443. If no such defence is submitted, the Council may impose any of the penalties provided for under the regulations in force.

Access of journalists to information

444. The holder of a press card may:

- Have free access at any time to airfields usually reserved for travellers, during boarding and landing;
- Cross police and security lines and gain free access to places where public events are unfolding;
- In the exercise of his or her profession, be given priority at the counters of postal and telecommunication services in general and, in particular, for telegram, telephone, fax or Internet services.

445. The administrative and police authorities may at any time request a journalist to produce his or her press card.

Right of defence

446. Any person claiming to have been injured by an HCC decision has the right to appeal against that decision within 10 days of being notified of it. Where HCC rejects the appeal or does not respond to it within 15 days of its being lodged, judicial remedy may be sought by the injured party on pain of being time-barred.

447. The appraisal officials consider the appeal in respect of:

- The 10-day deadline;
- Evidence of injury.

448. Once the appeal has been appraised, an appraisal note or report is submitted to the President of HCC for its collective deliberations.

Examination during electoral periods

449. In the event of a referral during an election period, the complaint is examined under a specific procedure based on the guidelines and the nature of the decision to be taken by HCC.

450. HCC may be seized of a matter on its own motion on the basis of monitoring reports prepared by the appraisal officials.

Professional media organizations

451. In addition to the work done by human rights NGOs, efforts are also made by professional media organizations to strengthen the freedom of the press. These organizations include the following:

- AEPT (print media);
- URPT (private radio);
- UJT (Union of Journalists);

- UFPCT (women communication professionals);
- LTJA (Arabic-language journalists);
- ATCOM (communication technicians);
- SODEMA (African media).

452. It is clear from the foregoing that freedom of the press is a reality in Chad. In fact, the challenge facing Chad today lies not so much in restricting freedom of expression of the media or penalizing press-related offences as in the intellectual capacity-building of journalists.

Article 20

War propaganda and incitement to discrimination

453. Chad has suffered terribly from war and all its legal texts unreservedly condemn any advocacy of war. Paragraph 11 of the preamble to the Constitution affirms the will of Chad to cooperate in peace and friendship with all peoples sharing its ideals of freedom, justice and solidarity on the basis of the principles of equality, reciprocal interests, mutual respect, national sovereignty, integrity and non-interference. Article 5 of the Constitution provides that “any ethnic, tribal, regional or religious propaganda that may impair national unity or the secular character of the State is prohibited”.

454. Under the heading of violations of national defence not characterized as treason or espionage, article 74 of the Criminal Code provides that “the following acts shall be punishable by a term of forced labour:

- (1) Exposing Chadians to a declaration of war through hostile acts not approved by the Government;
- (2) Exposing Chadians to retaliation through acts not approved by the Government;
- (3) Having dealings with the agents of a foreign power that may be detrimental to the military or diplomatic situation of Chad or to its essential economic interests”.

455. Article 75 further stipulates that “The following acts in times of war shall be punishable by a term of forced labour:

- (1) Maintaining, without the authorization of the Government, a correspondence or relations with the subjects or agents of an enemy power;
- (2) Engaging, directly or through an intermediary, in trade with the agents of an enemy power, in violation of prohibitions laid down”.

Articles 21 and 22

The right of peaceful assembly and freedom of association

456. The right of peaceful assembly and freedom of association are guaranteed by article 27 of the Constitution, which provides that “freedom of opinion and expression, communication, conscience, religion, the press, association, assembly, movement, demonstration and procession is guaranteed to all”.

457. Article 28 adds that “freedom of association is recognized. All citizens are free to join a trade union of their choice”. Such freedom may be restricted only by respect for the freedoms and rights of other persons and by the necessity of safeguarding public order and morality.

Concrete action by civil society

458. Generally speaking, women's associations and other human rights associations and NGOs have been playing and continue to play an important role in combating discrimination against women and girls.

Awareness-raising and training activities

459. Associations such as AFJT, the Women's Associations Liaison and Information Unit (CELIAF), LTDH, APLFT and ATPDH have organized public awareness-raising and training activities on the importance and content of human rights treaties, including the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child.

Advocacy activities

460. Member associations of CELIAF, the Chadian Association for Family Welfare and AJFT have undertaken advocacy activities to induce decision-makers to take discriminatory measures in favour of women in matters of reproductive health.

461. The draft Personal and Family Code currently being prepared is also an outcome of the advocacy of ADH, AFJT and CELIAF.

Studies

462. AFJT conducted a study comparing the Convention on the Elimination of All Forms of Discrimination against Women with domestic laws in 2000, with the support of UNICEF, and studies on the situation of children in conflict with the law in 2003.

463. It also, with the support of UNFPA, carried out a study on the socio-legal status of Chadian women in 2001.

Establishment of associations

The legal framework of associations

464. Ordinance No. 27/INT-SUR of 28 July 1962 and Decree No. 166 (foreign associations) of 25 August 1962 regulate associations, foundations, religious associations, charity or aid associations, associations set up to promote education or provide cultural assistance, and all associations in general.

Association law

465. Each prefect is individually responsible for taking receipt of applications, referred to as declarations, for the registration of associations whose establishment is proposed within the jurisdiction of his prefecture. If the association has a national purpose, the prefect forwards the application to the Service of Political Affairs and Civil Associations (SAPAC) of the Directorate for Political Affairs and Civil Status of the Ministry of Territorial Administration, which centralizes them in a register. As its name suggests, this service administers jointly civil associations and political parties.

466. Associations intended to serve a cause or a purpose contrary to the law or accepted standards of morality or whose object or effect would be harmful to the integrity of the national territory, the Constitution or the form of government cannot be authorized.

Professional trade unions

467. The law recognizes the right of workers and employers to set up freely, without restriction or prior authorization, trade unions whose purpose is to study, defend, develop and protect their economic, industrial, commercial or agricultural interests as well as the social, economic, cultural and moral advancement of their members.

468. There are five trade union confederations in Chad, namely: the Union of Trade Unions of Chad, the Free Confederation of Workers of Chad, the Confederation of the Teachers' Union of Chad, the Trade Union Confederation of Workers of Chad and the Independent Confederation of Trade Unions of Chad.

469. They play a major role in consolidating human rights and democracy in Chad and in raising public awareness of national and international instruments on the rights of workers and the rights and duties of citizens.

Structure and function of trade unions*Structure*

470. In Chad, freedom of association is recognized in articles 28 and 29 of the Constitution. Book 5 of the Labour Code accordingly establishes the place and role of representative workers' and employers' trade union associations. On these legal bases, the Union of Trade Unions of Chad (UST) is the most representative confederation and is currently composed of some 23 professional federations, 13 prefectural unions and 3 specialized bodies, with a membership of 43,000. The purpose of these trade unions is to study and defend the individual and collective rights and professional material and moral interests of their members.

471. The Union of Trade Unions of Chad has a twofold, vertical and horizontal structure. Through the vertical structure, each worker finds a place in a national professional federation and national trade union. The horizontal structure pertains to departmental organizations. Prefectural organizations join together to form a small-scale UST. This prefectural structure in turn operates sections in subprefectures.

Functioning

472. The Congress is the supreme body. It is held once every three years and is composed of members of the National Trade Union Council, delegates of the Prefectural (Subprefectural) Unions, members of the Monitoring and Arbitration Commission and, lastly, members of the Executive Office:

- The National Council is composed of 140 members elected by the Congress for a three-year term; each member organization must be represented therein;
- The Executive Office is the standing body of UST; it is composed of 24 members elected from among the members of the National Trade Union Council for a three-year term;
- The Monitoring and Arbitration Commission is responsible for monitoring the funds and property of UST. Three members are elected for three years by the Congress.

473. Four specialized commissions have been set up in the Executive Office, namely:

- Economic and financial commission;
- Claims and legal affairs commission;
- Commission for organization, workers' education, trade union training and research;

- Commission for freedoms, human rights and trade union rights.

474. Each of these commissions is composed of 15 members of the National Trade Union Council, who also have a three-year term of office.

Representation of women trade unionists in the UST structure

475. Women are beings who are predisposed to becoming integrated as they adapt more quickly and have the art of coping with social difficulties. The Women's Union is a significant force for change. This force may also be beneficial to trade unions provided that women join them in large numbers and at all levels. Unfortunately, while they are numerous among the rank-and-file, there are fewer and fewer of them at the intermediate level and virtually none at the top, where decisions are taken.

476. At the intermediate level, women start to be few and far between and a very small number of them dare to apply for office. In their grassroots bodies, they often make do with such posts as treasurer or women's representative.

477. At the top, between 1947 and 1987, women took a cautious interest in trade union involvement. Their participation was limited to awareness-raising through propaganda and poster campaigns. Between 1987 and 1990, women began to invest themselves in the trade union movement with the technical and financial support of the International Confederation of Free Trade Unions (ICFTU).

478. From 1990 up to the present, a considerable number of women have joined trade unions. Through the ORAF-CISL/FNV project and projects supported by the Higher Polytechnic Institute (ISP) and Union Network International (UNI), women are rising to positions of responsibility. However, they are still a long way from seeking posts in the office of the Secretary-General or President of UST. Still, the purpose of these projects is to bring a larger number of women into the various decision-making bodies.

479. In view of the low participation of women trade unionists in the UST structure, work needs to be done to address this problem by informing and training women and helping them to understand the issues involved. Among themselves, women must remain united and mutually supportive and encourage each other to apply for positions of responsibility. Their participation will contribute not only to the improvement of trade unions but also to a stronger rank-and-file membership. To this end, women workers need to know that it is their duty to participate in the economic life of their country. They therefore have a challenge to meet in order to introduce change into trade union life and thereby into the life of the whole country.

Promotion and protection of freedom of association

Protection of associations

Women's associations

480. Women's associations grouped together within CELIAF engage in activities to promote women and defend their rights through seminars, technical guidance, research, and radio programmes on the Convention on the Elimination of All Forms of Discrimination against Women.

Measures to promote associations

NGOs

481. The law makes provision for tax and customs exemptions for NGOs. The final section of the General Tax Code exempts duly approved NGOs from taxes and registration duties, in accordance with the General Tax and Registration Code. They are also exempted from value added tax in accordance with the laws in force.

Political parties

482. Legally recognized political parties may obtain public funding for elections. Such funding is intended to cover normal party activities and election campaigns.

Other associations serving the public interest

483. Considering that nation-building is a collective effort, the State encourages the establishment and smooth functioning of associations.

484. It is clear from the foregoing that freedom of association and peaceful assembly is a reality in Chad. This is confirmed by the impressive number of civil society associations, NGOs and political parties. In fact, the law encourages the setting up of associations because they are economic, social and political assets. The activities of associations are only restricted by public policy considerations. This restriction is subject to judicial control.

Article 23**Marriage and the family**

485. Article 37 of the Constitution stipulates that the family is the natural and moral basis of society. However, the minimum marriageable age and the consent required of intending spouses conflict with certain persistent customs. For this reason, the Chadian Criminal Code treats the marriage of girls under the age of 13 as an offence by providing, in article 277, that “the consummation of customary marriage before a girl has reached the age of 13 years is deemed to be rape and punishable as such”.

486. In any case, the Government hopes that the adoption of the draft Personal and Family Code will put an end to these practices. Moreover, the law establishing the Code will repeal the provisions of the French Civil Code of 1958, which enshrines male primacy in the family. Broad consultations between the various stakeholders should begin very shortly in order to hone the draft, which has come in for a great deal of negative criticism. The Government wishes to allow as much time as is necessary for the consultations so that a code can at last be adopted that is more or less acceptable and adapted to the social structure and values of the Chadian nation.

487. The rights and responsibilities of spouses during marriage and in the event of the dissolution of marital ties are protected and defined by customary law, national legislation and the French principles of family law recognized in Chad.

Article 24**The protection of children**

488. Chad has ratified the Convention on the Rights of the Child. The Chadian Government has always shown concern for the protection of the rights and well-being of children. Article 38 of the Constitution stipulates that “parents have the natural right and duty to raise and educate their children. They are supported in that task by the State and the

decentralized territorial communities. Children may only be separated from their parents or from those responsible for them when the latter fail in their duty”.

489. The following texts supplement the Constitution and ensure effective protection for children:

- Act No. 007/PR/99 on the prosecution and trial procedure for offences committed by minors between the ages of 13 and 18 years;
- Decree No. 55/PR-MTJS-DTMOPS of 8 February 1969 on child labour;
- Decree No. 373/PR-MFPT of 4 July 1992 amending and supplementing article 6, paragraph 8, of Decree No. 55/PR-MTJS-DTMOPS of 8 February 1969 on child labour;
- Decree No. 64/PR/MASF of 30 December 2000 on the institutionalization of the children’s parliament;
- Decree No. 100/AFF-SOC of 18 June 1963 on the protection of children and adolescents.

490. Specific offences identified include exposure and abandonment of children (without aggravating circumstances) (art. 250); wilful bodily harm (arts. 252-254); threats (arts. 259-261 and 339); infanticide (art. 244); corruption of youth (art. 281).

491. Act No. 007/PR/99 on the prosecution and trial procedure for offences committed by minors between the ages of 13 and 18 years establishes a special procedure for the trial of juveniles. This takes the form of juvenile chambers which are required to decide on measures of protection, assistance, supervision or education, as the case may be. Juveniles are never treated in the same way as persons who have reached their majority.

492. The law goes further in protecting children by requiring the authority that decides on measures of custody, re-education or placement of juveniles to determine the amount of the allowance that will be paid to the persons, charitable institutions or directors of establishment entrusted with their care. These allowances may be paid out of public funds or by the family wholly or in part.

493. Article 2 of Decree No. 64/PR/MASF of 30 December 2000 on the institutionalization of the children’s parliament states as follows: “The function of the children’s parliament is to raise awareness among children, parents, public authorities and other institutions concerning the situation of children and to galvanize them into action. It serves as a forum for expression and discussion in order to establish a spirit of solidarity and togetherness among them”.

494. Decree No. 55/PR-MTJS-DTMOPS of 8 February 1969 on child labour formally prohibits the employment of children under the age of 14 years, even as apprentices in an enterprise.

1. Institutional framework

Promotion and protection of children’s rights

495. Children are among the most vulnerable class of people. For this reason, the State is concerned to promote and protect their rights. Measures have been taken by the Government to protect the child’s right to health, education, life and physical and moral integrity.

Right to health

496. The right to health and the State's responsibility for its implementation are recognized in articles 18 and 26 of the Constitution. Children are considered a priority group. Accordingly, one of the goals of the national health development plan for 2009–2012 is to “reduce mortality and morbidity related to priority health problems of the Chadian population, in particular among mothers and children”.

497. To this end, a large number of laws and ordinances have been adopted to promote health in general and that of mothers and children in particular.

498. The Government is assisted in this endeavour by civil society organizations and international cooperation organizations.

499. Voluntary associations and religious organizations have always been active alongside the State in allowing all the population to have access to health care. For example, several religious denominations have their own health care centres, which are often more attractive than State centres.

500. Partners such as WHO, UNICEF, the World Bank, the European Union and the Global Fund to Fight AIDS, Tuberculosis and Malaria assist the Government in implementing public health policies. UNICEF allocates the major part of its budget – some 75 per cent in 2010 – to child survival.²³

Assistance during childbirth

501. The Labour Code prohibits employers from making a pregnant woman work in the four weeks preceding the expected date of birth and in the six weeks following delivery. The Code also gives women the right to suspend their employment contract for a period beginning six weeks before the expected date of birth and ending eight weeks after delivery. If the birth takes place before the expected date, the woman may extend the period of suspension of her contract after confinement to give her the 14 weeks to which she is entitled. If the birth takes place after the expected date, the woman may resume work eight weeks after confinement.

502. If it is found by a doctor that pregnancy or delivery has had pathological effects, the period of pre-and post-confinement leave may be increased by three weeks prior to and following confinement. During this period, women are entitled to free care. This care is the responsibility of the employer if it is not covered by the National Social Welfare Fund (CNPS) and such coverage is provided in accordance with the conditions laid down in the existing collective agreement.

503. Article 111 provides that for a period of 15 months from the birth of a child, the mother is entitled to work breaks for breast-feeding. The total duration of such work breaks may not exceed one hour for each day of work; the breaks are treated and paid as working time.

504. An employer may not dismiss a woman during pregnancy, except in the event of gross negligence or impossibility of continuing to comply with the terms of her contract. No woman can be dismissed during the periods of prenatal and postnatal leave, irrespective of whether she uses her leave entitlement. In cases of violation of these rules, the woman concerned is entitled to a lump sum indemnity equal to 12 months' salary. This indemnity may be supplemented by other indemnities resulting from dismissal.

²³ Including maternal and child health, nutrition, water, sanitation and hygiene and fight against HIV-AIDS.

505. A woman who is pregnant or who has given birth within the preceding 15 months may terminate her work contract without prior notice and without having to pay any compensation for that reason. An employer who causes a pregnant woman to work or dismisses a pregnant woman or a woman who has given birth during the period of maternity leave is punishable by a fine of between FCFA 147,000 and FCFA 294,000 and, in cases of a repetition of the same offence, by a fine of between FCFA 588,000 and FCFA 882,000.

506. Women are entitled to at least 12 consecutive hours of rest. In addition to maternity leave, women are entitled to four weeks' annual leave. This may be increased by collective agreement in support of motherhood.

Registration of births

507. Birth registration is essential for the protection of children's rights as they facilitate their identification. A child's nationality, for example, is determined by civil registration. To avoid a nationality crisis, the Government has set up new civil status registration centres to make their services more accessible to the population. In 2003–2004, only one child in 10 was registered and 6 per cent in the three months following birth. It is assumed that the remaining 4 per cent were registered later or were not registered.

508. Data for 2010 show that the Government's efforts have borne fruit, since 15.6 per cent of children under the age of five years were registered. In urban areas, the percentage rose to 42 per cent, as against 9 per cent in rural areas.

509. In ratifying the Convention on the Rights of the Child, Chad wished to show its desire to ensure appropriate legal protection for children in accordance with article 7,²⁴ which requires that States parties register children at birth and adopt all necessary laws and regulations to that effect.

510. Ordinance No. 03 of 2 June 1961 regulating civil registration in Chad makes registration compulsory for children born in the major urban centres: communes, chief cities of regions, chief cities of departments, subprefectures and cantons.²⁵

2. Right to education

511. Chad has been making efforts generally in the field of education. The right to education for all without distinction has been affirmed in all the country's successive Constitutions. This concern has also been illustrated by its accession to the various international conventions on children's rights. The various national plans place emphasis on education and training programmes aimed at ensuring gender equality at all levels.

512. The Government sees the right to education as a basic means of ensuring gender fairness and equality. In 1997, the literacy rate was 45 per cent for men and 23 per cent for women, as compared with 53 per cent and 35.8 per cent respectively in 2001. In three years, the literacy rate for men had increased by 8 per cent, while for women it had risen by 12.8 per cent.

²⁴ Article 7 (1): "The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and to be raised by his or her parents".

²⁵ The parents or any person present at the birth of a child must register the child within two months at the appropriate civil registry centre. The time limit is increased to four months for nomads and transhumant herders. Upon expiry of the time limit, declarations of birth require a supplemental judgment.

513. The gross enrolment rate of girls in primary school rose from 32 per cent in 2005 to 78.8 per cent in 2008. The gross lower secondary enrolment rate rose from 10.5 per cent in 2004 to 17.7 per cent in 2007 and the gross upper secondary enrolment rate rose from 4.2 per cent in 2004 to 9.9 per cent in 2007.

514. Partners such as WHO, UNICEF, the World Bank, the European Union and the Global Fund to Fight AIDS, Tuberculosis and Malaria assist the Government in implementing public health policies. . UNICEF allocates the major part of its budget – some 75 per cent in 2010 – to child survival.²⁶

515. Special attention is currently being given to girls' education. This is clear from the 2015 National Education for All Action Plan, adopted by Chad in 2002, where two of the basic goals are formulated as follows:

“Ensure by 2015 that all children, in particular girls, children in difficulty and children belonging to ethnic minorities, have access to free, compulsory primary education of good quality and can complete it.”;

“Eliminate gender disparities in primary and secondary education by 2005 and establish equality in this area in 2015 by ensuring in particular that girls have equitable and unrestricted access to basic quality education and have the same chances of success”.

516. The Education Reform Support Programme in Chad (PARSET) (2005–2000), supported by the World Bank, also includes specific goals in respect of the school enrolment of girls.

517. Main strategies implemented for the school enrolment of girls:

- Advocacy, awareness-raising and social mobilization aimed at opinion leaders, parents and girls themselves;
- Training and capacity-building of teachers in the gender approach and local women's organizations in the management of income-generating activities;
- Lightening the domestic burden of girls and women by providing groups of women with various items of equipment, such as grinders, hullers, carts and carrying devices, and plastic barrels;
- Support to parents through the allocation of school supplies and textbooks for girls enrolled in school;
- Introduction of a backup scheme for girls with learning difficulties (individual tuition);
- Drilling of wells to give schools a source of water;
- Building of separate lavatories for boys and girls to improve school facilities;
- Monitoring and evaluation both at central level, by the Girls' Enrolment Task Force and UNICEF, and at the decentralized level, by subprefectural committees. These committees were set up in 1995 to raise girls' enrolment rates in areas where the rate was below 30 per cent.

²⁶ Including maternal and child health, nutrition, water, sanitation and hygiene and fight against HIV-AIDS.

3. Primary education

518. In education, boys and girls are treated alike. The enrolment of girls is a priority of the Government, as reflected in its 1990 education-training-employment (EFE) strategy and as demonstrated by the establishment of the Girls' Enrolment Task Force within the Ministry of Education in 1994.

519. The enrolment of girls is a governmental priority, as can be seen from the strategy paper setting out EFE policy (1990). The Girls' Enrolment Task Force, set up in the Ministry of Education in 1994 by Order No. 300/MEN/DG/94 with the aim of raising the girls' enrolment rate of 31 per cent to 36 per cent in 1998 in areas where it was 30 per cent or under, has contributed in particular to the development of public awareness of the importance of girls being able to attend school.

520. Affirmative action has been introduced by the Ministry of Education. In secondary and primary education, enrolment fees for girls have been reduced as compared with boys.

521. Chad-UNICEF cooperation programmes have boosted efforts to get girls into schools and to keep them there, particularly since the early 1990s, following the Jomtien Conference on Education for All (1989).

4. General secondary education

522. In lower secondary education, the proportion of girls was 20.6 per cent in public schools and 27.0 per cent in private schools in 1999–2000. In 2001–2002, 149,467 pupils were enrolled in general secondary education, of whom 30,603 were girls, or 21.43 per cent across all groups and subjects. Chad has only one girls' high school, which opened its doors in N'Djamena in 2000 and whose mission is to contribute to the promotion of secondary school attendance by girls, who represent about one quarter of the male student population.

523. In the Ministry of Education, a Girls' Education Division has been established under the responsibility of the Directorate for Training and Educational Action, which provides courses in 12 girls' training centres.

524. In the field of teacher training, the recruitment of women at the National School of Social and Health Workers (ENASS) is encouraged as they are better suited to look after small children. At the training school for primary school teachers, priority has been given to women following the adoption of a quota system whereby 30 per cent of places are automatically assigned to women so as to restore a balance with men. Just as girls receive preferential treatment for enrolment in public schools, so they also pay lower school fees than male students.

5. Technical education and vocational training

525. Job-oriented technical education and vocational training are provided by a number of institutions, structures and units that, on the one hand, serve as interface between the education system and the world of work and, on the other, offer further qualifications to young people and adults already in employment. Several ministries are involved in this effort including the Ministry of Education, the Ministry of Culture, Youth and Sport, the Ministry for the Civil Service, Labour and Employment, the Ministry of Agriculture and the Ministry of Industry, Trade and Crafts.

526. Within the Ministry of Education, the structure consists of:

- A high school for industrial technical education;
- Two high schools for commercial technical education;
- A college for technical education;

- 14 learning centres, 10 of which are operational.

527. The number of students in technical high schools and colleges was 2,009 in 1999 (1,539 in technical high schools), of whom 38.7 per cent were girls, mostly in trades subjects, which account for 66.6 per cent of students, close to the same percentage as in general secondary education. Private technical education represents only 4.8 per cent of the total.

528. In the period 1999/00, 31 per cent of student primary school teachers out of 1,321 at the National School of Primary School Teachers and 11.3 per cent of 160 female students at the Higher Institute of Educational Sciences (ISSED) had come through the technical and vocational education sector.

529. The Ministry of Social Action and the Family, with partnership contributions, established urban and peri-urban community education centres (CECR/U) in 1997 in UNICEF operating areas. The purpose of these centres is to liberate girls from looking after their younger siblings so they can go to school and to liberate mothers so that they can attend to their daily activities while following literacy courses.

530. Table 3: Number of girls in technical and vocational high schools

<i>School year</i>	<i>Boys</i>	<i>Girls</i>	<i>Total</i>
2005/06	1 902	1 353	3 255
2006/07	2 059	1 345	3 404
2007/08	2 057	1 395	3 452
2008/09	2 242	1 346	3 588
2009/10	2 329	1 688	40 177

Source: DAPRO/MEN 2010

Literacy

531. Where literacy training is concerned, under the national goals girls and women are the priority target of basic education. One of the Government's recommended measures is the development of special literacy programs for women in order to raise the literacy rate to 60 per cent by 2010.

532. In 2007, there were already 2,697 literacy centres throughout Chad. In 2008-2009, the number of adult learners was 133,485, of whom 69,520 were women. In 2000, the figures were only 37,166.

533. Illiteracy is a large-scale phenomenon. Women are the main victims, particularly in rural areas. The literacy programmes being carried out to eradicate chronic illiteracy in the country come up against difficulties due to: (i) the twofold increase in the number of learners, with a high proportion of women; (ii) the under-qualification of literacy instructors and the inadequacy of programmes; and (iii) lack of infrastructure and logistic support.

Higher education and scientific research

534. This subsector, which comprises five universities, some 10 university institutes and a few private institutions, is beset by four major problems:

- The development of education unrelated to the capacities of the State and the employment market (numbers rose from 2,356 in 1996 to 5,280 in 1999, an increase of 124 per cent);

- The low qualification of teachers and difficulties in improving their qualifications at national level through lack of appropriate structures;
- The very high number of students studying literature, law and economics (82 per cent) as opposed to the low number studying science (14.2 per cent); and
- The shortage or absence of appropriate pedagogical support such as to ensure quality training.

535. In higher education, in the 1999/00 academic year, 6765 students were enrolled, of whom 14.2 per cent were women. Women teachers represented only 3 per cent of faculty members. It should be borne in mind that in higher education there is no affirmative action for women.

Article 25

The right to take part in the conduct of public affairs

536. The authorities of the Republic of Chad, and first and foremost the President, have always considered the existence of multiple parties to be an asset for its development.

537. At a press conference held on 4 July 1997 at the Paris Chamber of Commerce, the Chadian Head of State Idriss Déby Itno spoke as follows:

“For us, multiparty politics and democracy do not mean that some leaders cannot take part in the conduct of the State’s affairs simply because they are of another political persuasion. That is not the way we think, nor is it in keeping with our African traditions. When the system of political rotation practised in the old Western democracies is applied in Africa, things inevitably take a dramatic turn, as we have seen in certain African States. The lack of consensus and social cohesion is always a source of conflict”.

538. The right to take part in the conduct of public affairs is enshrined in the Constitution as follows: “Sovereignty belongs to the people, who exercise it either directly by referendum or indirectly through their elected representatives.

- No community, no corporation, no political party or association, no trade union, no individual or group of individuals may exercise sovereignty in their own right.
- The conditions for recourse to referendum are determined by this Constitution and by an organic law”.²⁷

539. Leaders are chosen by vote. All persons without distinction over the age of 18 years may vote.

540. Article 4 provides that “Political parties and groups shall assist in expressing the will of the people. They form freely and exercise their activities under conditions laid down by law and in compliance with the principles of national sovereignty, territorial integrity, national unity and pluralist democracy”.

²⁷ Article 3 of Act No. 05-008/2005-07-15/PR revising the Constitution of 31 March 1996.

541. Since the establishment of the multiparty system in 1991, by Ordinance No. 015/PR/91 of 4 October 1991 on the establishment, functioning and dissolution of political parties, several political parties have assisted the electorate in expressing its will through universal suffrage based on the following texts:

- Ordinance No. 015/PR/91 of 4 October 1991 on the establishment, functioning and dissolution of political parties;
- Act No. 45/PR/94 of 14 December 1994 on the political parties charter, as amended by Act No. 09-019 PR/2009 on the Political Parties Charter;
- Decree No. 1263/PR/91 of 16 December 1991 on implementation procedures for Ordinance No. 015/PR/91 of 4 October 1991 on the establishment, functioning and dissolution of political parties;
- Political agreement of 13 August 2007 with a view to strengthening the democratic process in Chad;
- Act No. 020/PR/2008 establishing an Independent National Electoral Commission (CENI);
- Act No. 20/PR/2009 on the status of the political opposition.

542. For more than 20 years these texts have ensured the holding of fair elections. Measures are taken to guarantee the transparency and fairness of ballots, such as those concerning the pre-election period and those taken by the courts to settle electoral disputes on an independent basis. However, before considering these measures, we need to take a look at the institutional framework.

1. Institutional framework

543. This consists of the body tasked with monitoring elections in Chad, the Independent National Electoral Commission (CENI).

CENI

*Background to CENI*²⁸

544. Since 1 December 1990, Chad has had a multiparty system founded on the promotion of fundamental freedoms. The founding act of Chadian democracy was the historic speech of 4 December 1990 delivered to the nation by President Idriss Déby Itno.

545. In this spirit, the sovereign national conference held in 1993 offered to all citizens across the political spectrum and to civil society associations an ideal framework for reviewing Chad's political trajectory since independence and proposing the main lines of a new system to govern national political life.

546. A Constitution was adopted on 31 March 1996 by the majority of the Chadian people following a transparent and credible referendum.

547. With the financial assistance of the European Commission in particular, three independent national electoral commissions were successively set up to organize seven ballots. These were the constitutional referendum of 31 March 1996, the presidential election of 2 June 1996 (first round) and 3 July 1996 (second round), the legislative elections of 5 January 1997 and 23 February 1997, the presidential election of 20 May 2001, the legislative elections of 2002, the constitutional referendum of 6 June 2005 and the

²⁸ Official site of the Independent National Electoral Commission of Chad, 2011.

presidential election of 3 May 2006, won in the first round by President Idriss Déby Itno with 64.67 per cent of the vote. The last-mentioned ballot was a preliminary to the legislative elections, initially planned for 2007.

548. Unfortunately, the activities of the successive independent national electoral commissions did not result in any lasting legacy. There was no continuity of action. It remains difficult today to gather information about their technical achievements. It may be remembered that more than a quarter of the votes were cancelled by the Constitutional Council in the 2001 election. In 2006, the Constitutional Council cancelled 3,742 of the 11,827 polling station returns, representing 32 per cent of the total returns.

549. These uncertainties and misunderstandings between political players consequently led certain political party leaders to advocate abstention during the presidential election of 3 May 2006. To dispel these misunderstandings and ease the political climate, President Idriss Déby Itno, following his re-election, spoke in favour of a national dialogue. As a result, negotiations started up between the presidential majority and the democratic opposition under the auspices of the international community.

550. Nevertheless, this national dialogue, initiated in July 2006, was rejected by most of the political parties of the republican opposition. The only outcome of this national dialogue was then, in the end, the adoption of a new electoral law in December 2006 whose purpose was to modify the composition of the Independent National Electoral Commission (CENI) in order to make it more representative and to put in place a system for the financing of political parties.

The agreement of 13 August 2007 on strengthening the democratic process in Chad

551. Through this agreement, leading figures of the Chadian State and representatives of accredited European diplomatic missions in Chad – Germany, France, European Commission – initiated a series of informal meetings, from December 2006 to March 2007, between political parties of the presidential majority and the republican opposition. The Delegation of the European Commission played a decisive role in facilitating these meetings. The political dialogue developed from 11 April to 10 August 2007, when the outcome documents were adopted. On 13 August, 83 of the 87 legally recognized political parties signed the political agreement with a view to strengthening the democratic process in Chad.

552. National and international public opinion welcomed the conclusion and formal signing of this political agreement in the presence of the President of the Republic, Head of State Idriss Déby Itno, who pledged to ensure its implementation. This agreement lays down the foundations for the future of the democratic process in Chad.

Monitoring the implementation of the political agreement of 13 August 2007

553. The signatory parties to the political agreement of 13 August 2007 agreed to ensure that its implementation would be monitored and evaluated by setting up a follow-up and support committee tasked with monitoring its strict implementation in accordance with an established timetable. The follow-up and support committee includes high-level representatives of the political parties and institutions responsible for or involved in the implementation of the political agreement. A bureau, comprising a chairperson, a vice-chairperson and two rapporteurs appointed from among representatives of the political parties, was established on 31 August 2007. The secretariat benefits from the support of international partners participating in the follow-up and support committee. The members of the committee, in coordination with the Government, made every effort to observe the timetable for implementation, according to which a population census was to be conducted

prior to any electoral census and to the holding of free and transparent legislative elections, initially planned for 2009.

554. Suspended following repeated aggression against Chad, particularly in February 2008, efforts to modernize the legislative and regulatory framework of elections culminated in the adoption, between December 2008 and January 2009, of the Electoral Code and the Act establishing the Independent National Electoral Commission.

555. With the financial help of the European Commission in particular, the Chadian State carried out the population census from 20 May to 30 June 2009 under acceptable logistic and security conditions. In line with the timetable that he established at the end of this phase, the Chadian Minister of the Economy and the Plan submitted the provisional results of the census on 30 September 2009. The Chadian population, which was found to number 6,272,931 inhabitants following the 1993 census, was now estimated at 11,175,915 inhabitants, of whom 4,754,491 (43 per cent) were of voting age. In this population, which had almost doubled in the space of 16 years, only the number of nomads had remained the same. This fact, which reflects a general trend towards sedentarization, invalidated the speculations of certain politicians, who had treated the vote of the nomadic population as an issue in the political dialogue.

The new joint Independent National Electoral Commission (CENI)

556. Certain provisions of electoral law prevented the signatory political parties to the agreement of 13 August 2007 from acting on a long-standing concern to appoint representatives within the membership of CENI, which was intended to ensure equal representation. Following a mission of experts mandated by the International Organization of La Francophonie (OIF), a compromise was found which enabled the Head of Government to sign a decree for the implementation of the Electoral Code. Finally, on 22 July 2009, CENI was established as an equally representative body. Mr. Ngarmadjal Gami, a neutral member of civil society, was appointed by agreement of the parties as president of the new body responsible for organizing and supervising future electoral operations and tasked with specific functions. In the months following its establishment, CENI drew up its rules of procedure and set up offices in all regions of the country. Members of the Permanent Elections Bureau (BPE), its permanent technical body, were appointed and nearly all the regulatory and legislative texts were adopted. The Commission published its timetable of activities for the general elections of 2011. All these achievements reveal CENI to be without any doubt capable of successfully seeing through the electoral process set in motion on 5 May 2010 by the electoral census, which was a precondition for future elections.

Functions and responsibilities

557. Established by Act No. 20/PR/2008, the Independent National Electoral Commission (CENI) is a political body whose general function is to organize, supervise and monitor the conduct of all electoral census operations, referendums and presidential, legislative and local elections.

558. To this end, it is required to:

- Ensure compliance with the provisions of electoral laws;
- Coordinate all operations relating to elections both nationally and in diplomatic and consular missions abroad;
- Manage the financial and material resources necessary for the proper organization of the electoral census and elections;

- Ensure the proper conduct of electoral census operations and operations relating to referendums and presidential, legislative and local elections;
- Issue and distribute voter registration cards;
- Establish and publish electoral lists;
- Set up and determine the number of voter census centres and polling stations;
- Establish the list of names of census officers and presiding officers of polling stations;
- Ensure the training of census officers, presiding officers and secretaries of polling stations;
- Prepare election materials and see to their distribution in polling stations;
- Provide transparent ballot boxes and indelible ink;
- Prepare and provide ballot papers and other election documents (voting lists, records of vote counts, consolidated report of results, etc.);
- Ensure the fairness of electoral procedures;
- Work in collaboration with national and international observers invited by the Government;
- Proclaim the provisional results of referendums and presidential, legislative and local elections and transmit them, as the case may be, to the Constitutional Council or the Supreme Court.

Composition

559. The Bureau is the decision-making and managerial body of the Independent National Electoral Commission. It is composed of seven members:

- (i) The President;
- (ii) A First Vice-president;
- (iii) A Second Vice-president;
- (iv) A Rapporteur General;
- (v) A Deputy Rapporteur General;
- (vi) A General Treasurer;
- (vii) A Deputy General Treasurer.

It comprises the following five technical subcommissions:

- The Subcommission on Training and Communication;
- The Subcommission on Finance;
- The Subcommission on Logistics;
- The Subcommission on Monitoring and Follow-up of Electoral Operations;
- The Subcommission on Security.
- Organization and functioning

560. CENI is a joint authority composed of 31 members distributed as follows:

- A President selected by agreement of the parties from among eminent Chadians recognized for their competence, experience, moral integrity and vision;

- 15 members of the presidential majority, including one to each party represented in the National Assembly;
- 15 members of the democratic opposition, including one to each party represented in the National Assembly.

561. At the decentralized level, CENI, according to the elections to be held, establishes branch offices in the regions, departments, districts of the city of N'Djamena and communes and in Chad's diplomatic and consular missions abroad. The CENI branch offices follow the principle of equal representation.

562. The CENI branch office at the regional level comprises 15 members, including a president appointed by agreement between the parties.

563. The CENI branch office at the level of the department or districts of the city of N'Djamena comprises 13 members, including a president appointed by agreement between the parties.

564. The CENI branch office at the level of the communes, rural communities and diplomatic and consular missions comprises 11 members, including a president appointed by agreement between the parties.

565. Members of the CENI branch offices are sworn in by the appropriate court of territorial jurisdiction.

566. Members of the Independent National Commission and its branch offices form part of the electorate. They may not stand for election.

Functioning

567. In the performance of its functions, CENI;

- Has access to all sources of information and to the public media;
- Recruits the personnel required for the proper conduct of the electoral census and electoral operations;
- May call on the services of any national or international, natural or legal person that may be of assistance to it in its work;
- Has the support of the Administration, which makes available to it such services as it requires.

568. Members of CENI are immune from any prosecution, investigation, arrest, detention or lawsuit in connection with the opinions they express or the acts they perform in the discharge of their duties. Except in cases of flagrant offence or violation of provisions of the Constitution or law, members of CENI may not be prosecuted during their term of office.

Electoral disputes

569. The organization and holding of elections generally give rise to a large number of disputes. It is important to distinguish in this connection between pre-electoral disputes and post-electoral disputes. The most recent presidential, legislative and municipal elections offer a useful illustration of how such disputes are handled by the courts.

Post-electoral disputes

570. Since submitting its initial report, Chad has been able, through a comprehensive political agreement, to hold successfully three major elections, namely, presidential elections, legislative elections and local elections.

Article 26

Equality before the law

571. In Chad, all persons are equal before the law and are entitled without discrimination to the full protection of the law. A detailed analysis of the constitutional and legal provisions protecting this right as well as administrative and other measures taken to ensure equality and non-discrimination is provided under articles 2 and 3 above.

Article 27

Rights of minorities

572. There is no problem of religious²⁹ or linguistic minorities in Chad. People are free to practise their own religion and use their own language. The State of Chad is composed of several ethnic groups, each with its own specific features.

573. Minorities do exist in Chad but they are not subject to any official discrimination. However, the survival of certain traditional pariah practices establishing castes (such as blacksmiths, commonly referred to as “Haddad”) means that the people concerned suffer from centuries-old ostracism in the northern part of the country. This is a matter of permanent concern to the Government, which seeks to remedy the situation by promoting access to education for all and appointing individuals from such backgrounds to decision-making positions.

V. General conclusion

574. The submission of this report in pursuance of article 40 of the International Covenant on Civil and Political Rights demonstrates Chad’s unshakable resolve to uphold the intrinsic values of human rights. The promotion and protection of civil and political rights in Chad, as outlined in this report, highlight the measures taken by the Government and other stakeholders to respect the commitments made by the State of Chad when it ratified the Covenant.

575. Chad’s continuous efforts to promote and protect human rights are illustrated by its signing and ratifying recently adopted international and regional legal instruments. They are further illustrated by its adoption of national statutory and regulatory normative instruments and by various activities carried out by the Government, sometimes in partnership with international bodies, for the promotion and protection of human rights.

576. Chad’s very difficult economic situation does not always allow it to meet all its international obligations. Fortunately, national and international partners are helping the State to achieve its goals. Despite the considerable effort made to advance the promotion and protection of civil and political rights in the country, Chad does not consider the situation to be perfect. The Government is therefore aware of the need to show greater respect for fundamental human rights and to be more transparent in its actions, in particular by involving human rights associations in its efforts to that end.

²⁹ See remarks on freedom of worship in Chad under article 18 above.