



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES  
UNDER ARTICLE 40 OF THE COVENANT**

**Initial report**

**CHAD\***

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

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## **Introduction**

1. As a member of the United Nations and on the basis of the international commitments which it has freely undertaken, Chad has drafted the present report in implementation of article 40 of the International Covenant on Civil and Political Rights. The report highlights the various legislative, administrative and judicial mechanisms established in order to implement the obligations contained in the provisions of the Covenant.
2. The present report, which combines the initial and second periodic reports, should be read in parallel with the previous reports of Chad, in particular those pursuant to the Convention on the Rights of the Child and the core document, which describes the general geographic, economic, political and administrative situation of the country.
3. Chad acceded to the International Covenant on Civil and Political Rights on 9 June 1995. In view of its commitment to democracy and respect for human rights, it made no reservation and no interpretative statement at the time.
4. Effective implementation of the Covenant is severely hampered by the high illiteracy rate, a long history of violence and the extreme poverty of the population. The Government is aware of that situation and seeking to remedy it by establishing permanent training and advocacy institutions, reforming the education programme and exploiting natural resources, which should contribute substantially to poverty alleviation.
5. Chad announced its intention to establish a democratic regime in 1990, following a violent dictatorship which left every family in Chad in mourning. That intention was manifested at the Sovereign National Conference in 1993, which formulated precise guidelines on the creation of institutions for the protection of human rights. In 1994, the National Commission on Human Rights was the first of several such institutions to be set up, and was followed by the adoption of the Constitution in 1996, and the establishment of the Supreme Court, the Constitutional Council, the High Council for Communication, the national Office of the Ombudsman and the Economic, Social and Cultural Council after the constitutional amendment of 2005; the process will be completed with the upcoming local elections.

### **Article 1. The right of peoples**

6. In the context of implementation of article 1 of the Covenant, Chad, an independent and democratic country, recognizes the general principles of international law enshrined in the Charter of the United Nations. Convinced that the power of the State is derived from the people of Chad as a whole, Chad is determined to comply with the principles enshrined in article 1 (1) and (2) of the Covenant to the best of its ability.
7. Chad is particularly concerned about the right of peoples to self-determination. Formerly under French colonial rule, Chad proclaimed itself a Republic on 28 November 1958 and declared its independence on 11 August 1960 by virtue of that right. By that same right it holds referendums regularly to enable the people freely to determine its political status and dispose of its wealth. In the space of 10 years two referendums were held, and citizens were also convoked to vote in several free multiparty elections, as follows:

- 1996: Constitutional referendum on the adoption of a new constitution
- 1996: Election of the President of the Republic
- 1997: Election of members of the National Assembly
- 2001: Election of the President of the Republic
- 2002: Election of members of the National Assembly
- 2005: Constitutional referendum on approval of the constitutional amendments
- 2006: Election of the President of the Republic

8. The principle of the rights of peoples has been an abiding feature of the international policy of Chad since it acceded to national and international sovereignty on 11 August 1960. The Republic of Chad has never in any way pursued a policy that would undermine its own existence or that of another country. Moreover, in the Preamble to the Constitution of 31 March 1996, as amended by Constitutional Act No. 08/PR/2005 of 15 July 2005, the Chadian people affirmed its “will to cooperate in peace [...] with all peoples sharing our ideals of freedom, justice and solidarity, based on the principles of equality, reciprocal interests and mutual respect, and of national sovereignty, territorial integrity and non-interference”.

9. It should be noted that, during the period of colonial rule, a number of resistance movements formed in Chad opposed domination. Since gaining independence, the Republic of Chad has always supported national liberation movements and organizations struggling for the independence of their communities, as in the case of South Africa and the Palestine Liberation Organization.

10. At the domestic level, Chad is divided into decentralized territorial units, which are guaranteed autonomy in administrative, financial, property and economic matters by the Constitution (chap. 12, arts. 202-212). Two laws were enacted on 16 February 2000 dealing specifically with these units: Act No. 002/PR/2000 on the status of the decentralized territorial units and Act No. 003/PR/2000 on their electoral system.

11. The environment forms part of the conditions and quality of life. The Constitution therefore requires the decentralized territorial units to protect the environment (art. 48) and enjoins all citizens to do so (art. 52). Article 48 of the Constitution provides that the conditions for the storage, handling and disposal of toxic wastes or pollutants arising from national activities shall be determined by law. The same article prohibits the transit through, import into, storage burial or dumping of foreign toxic wastes or pollutants in Chad.

12. Environmental protection is guaranteed by Act No. 014/PR/98 of 17 August 1998 on the general principles governing environmental protection in Chad. The Act prohibits any pollution which might compromise or endanger health, environmental health or the security or welfare of persons, or harm or damage property or the environment. The National High Committee on the Environment was established to implement the Government’s environmental policies and strategies.

13. The Ministry of the Environment and Water is responsible for implementing government policies with respect to the environment. Numerous projects have been launched in this regard. Moreover, Chad is a party to a number of international conventions on environmental protection.

14. With respect to petroleum exploitation, the Government of Chad, seeking to ensure environmental sustainability, required the petroleum consortium to submit a full report on the manner in which it intends to address environmental issues. The report, published in five volumes, is used as a guideline by the Government in monitoring petroleum-related activities and their environmental impact.

15. Nevertheless, the Government of Chad is aware of the difficulties it faces in ensuring a quality environment for all citizens. Those difficulties are due, in part, to desertification, the sheer size of the territory and the lack of substantial human and financial resources.

#### **A. The right to self-determination**

16. The ruling principle of the Republic of Chad is government of the people, by the people and for the people, based on the separation of the executive, legislative and judiciary branches (article 7 of the Constitution).

17. Under article 60 of the Constitution, the President of the Republic is the Head of State. He upholds the Constitution and ensures the regular functioning of the authorities and the continuity of the State. He is the guarantor of national sovereignty and unity, territorial integrity and respect for international treaties and agreements. Under article 61 of the Constitution, the President of the Republic is elected by direct universal suffrage for a five-year term and is eligible for re-election only once.

18. Article 83 of the Constitution provides that when the regular functioning of the authorities is threatened by persistent crises between the executive and legislative branches or if the National Assembly overthrows the Government twice within a single year, the President of the Republic can order the dissolution of the National Assembly, after consultation with the Prime Minister and the speakers of the two Assemblies.

19. General elections are held within 45 days of the dissolution of the National Assembly. The National Assembly is automatically convened on the fifteenth working day following its election. If convened outside the periods scheduled for ordinary sessions, a session is automatically opened for a period of 15 days. The National Assembly may not be dissolved again in the year following such elections.

20. The National Assembly exercises legislative authority. Its members, known as deputies, are directly elected by universal suffrage for a four-year renewable term (Constitution, arts. 106 and 107). The National Assembly enacts legislation in the domains specified in the Constitution (art. 121), authorizes the declaration of war (art. 123), is notified of the declaration of a state of siege and a state of emergency (art. 124) and can overthrow the Government by a motion of no confidence (art. 137).

21. Article 137 (2) of the Constitution provides that “ ... the National Assembly [may] challenge the Government by a motion of no confidence. Such a motion shall only be admissible if signed by at least one tenth (1/10) of the members of the National Assembly. No vote may take place until at least forty-eight (48) hours after the motion is put forward. Only votes in favour of the motion of no confidence are counted and the motion may only be passed by a majority of deputies.” Article 138 provides that when the National Assembly passes a motion of no confidence, or when it disapproves of a Government programme or policy statement, the Prime Minister must submit the resignation of the Government to the President of the Republic.

22. With regard to the relationship between the executive and the legislative branches, under article 140 of the Constitution the Government is obliged to provide the National Assembly on request with explanations concerning its administration and activities. The means of information and oversight available to the National Assembly with regard to Government action include: parliamentary questions, written questions, oral questions, commissions of inquiry, votes of no confidence and committee hearings. These are exercised under the conditions set out in the rules of procedure of the National Assembly.

23. The judicial branch consists of a single jurisdiction, of which the Supreme Court is the highest authority. The judiciary is independent of the executive and legislative branches and consists of the Supreme Court, courts of appeal, ordinary courts and magistrates’ courts. It also protects individual property and freedoms and ensures respect for fundamental rights (Constitution, arts. 141 and 143).

24. The Constitutional revision of 15 July 2005 established a consultative body called the Economic, Social and Cultural Council (art. 178). The Council gives its opinion on economic, social and cultural matters referred to it for consideration by the President of the Republic, the Government or the National Assembly and can be consulted on any proposed economic, social or cultural plan or programme (art. 179). The Council may also conduct studies on economic or social development issues. Its findings are submitted to the President of the Republic and the Government.

25. The composition, organization and functioning of the Council are set out in Act No. 19/PR/2006 of 4 May 2006. The members of the Council, appointed by Decree No. 042/PR/2007 of 19 January 2007, are distributed as follows:

- Five representatives of the Chamber of Commerce, Industry, Agriculture, Mines and Crafts
- Three representatives of artistic and cultural activities
- Four representatives of rural areas
- Two representatives of cooperatives
- Two representatives of women’s associations
- Two representatives of youth associations

- Two representatives of banks and financial establishments
- Four representatives of trade unions
- Two representatives of the liberal professions
- Five resource persons

26. It should be noted that Chad, a former French colony, has never been responsible for administering a non-self-governing territory under the Charter of the United Nations.

### **B. The right to freely dispose of natural wealth and resources**

27. The right of peoples to freely dispose of their natural wealth and resources is one of the guiding political and philosophical principles of the State of Chad. Accordingly, Chad has taken steps to prevent another State or legal entity from taking over anything falling within the scope of its national sovereignty.

28. In particular, article 57 of the Constitution affirms that “the State exercises full permanent sovereignty over all national natural wealth and resources for the benefit of the national community. However, it may license the exploration and exploitation of these natural resources to private companies”.

29. Part of Chad’s wealth lies in the sheer size of its territory. Articles 1 and 51 of the Constitution guarantee, and enjoin all citizens to uphold, the integrity of the territory. By virtue of this requirement, Chad brought a case before the International Court of Justice in which it claimed and obtained the Aouzou strip as an integral part of its territory (*Territorial Dispute (Libyan Arab Jamahiriya/Chad)*, Judgment of 3 February 1994).

30. In the interests of the future of its population, Chad has begun to exploit its natural resources, in particular petroleum. In the exercise of the right of Chad to freely dispose of its natural wealth and resources, the Petroleum Code made it mandatory to obtain a Permit H (an exclusive exploration permit for liquid or gas hydrocarbons) in order to conduct any exploration in its subsurface. Chad decided to launch negotiations which led to the conclusion of the petroleum conventions of 1988 and 2004 with the petroleum consortium. The consortium today consists of ExxonMobil, Petronas and Chevron.

31. Chad adopted Act No. 001/PR/99 of 11 January 1999, amended by Act No. 02/PR/2006 of 11 January 2006, on the management of petroleum revenues in order to ensure the proper and efficient management of its resources. The Act, which is an excellent example of sound management, grants 5 per cent of revenues to the petroleum-producing region in implementation of article 211 of the Constitution, which allocates to the decentralized territorial units a percentage of the income earned from the exploitation of their surface and subsurface resources. Although the Act was initially intended to cover only a few priority departments, the amendment took needs in other priority Government ministries into consideration.



32. Recently, having become aware of mistakes that were due to the lack of certain information when the 1988 and 2004 petroleum conventions were negotiated, Chad decided to exercise its right to dispose of its resources by renegotiating the conventions. The National Commission for the Negotiation of Petroleum Agreements (CNRCP) was established on 28 August 2006, by decree. In doing so, the Head of State placed particular emphasis on the fact that Chad must fully enjoy all of its petroleum, mining and other resources.

33. Generally, it should be noted that Chad's efforts to achieve the full enjoyment of all rights are hampered by the extreme poverty of the population and other constraints. However, with the support and cooperation of development partners and with petroleum exploitation, a major step will be made towards the effective enjoyment of those rights by all Chadians.

### **Article 2. The right to non-discrimination**

34. The Constitution of Chad affirms that all persons are equal before the law. Articles 12, 13 and 14 state that fundamental rights and freedoms are recognized, and their exercise guaranteed to citizens, and that Chadian citizens of both sexes have the same rights and obligations: they are equal before the law. In addition, the State ensures equality for all before the law, without distinction of origin, race, sex, religion, political opinion or social status. It has a duty to ensure that all forms of discrimination against women are eliminated and that their rights are protected in all spheres of private and public life.

35. During the period of dictatorship, which ended in 1990, the exercise of all civil and political rights without distinction of any kind was illusory. Since 1990 Chad has restored democratic principles and the right to equality, which means that non-discrimination is gradually becoming a reality.

36. In acceding to the Covenant on 9 June 1995 Chad made an international commitment to grant civil and political rights to all persons, without discrimination. As a democratic republic based on the rule of law and justice, Chad is a party to most of the international instruments directly related to the promotion and protection of human rights, namely the Convention on the Political Rights of Women, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, the International Covenant on Economic, Social and Cultural Rights and the International Convention on the Elimination of All Forms of Racial Discrimination.

37. In the institutional sphere, the Government of Chad established a National Commission on Human Rights in 1994, by Act No. 031/PR/94. This body reports to the Prime Minister's office, and is responsible for:

(a) Submitting opinions to the Government concerning human rights and freedoms, including the status of women, rights of the child and rights of persons with disabilities;

(b) Assisting the Government and other national and international institutions in all matters concerning human rights in Chad;

(c) Carrying out surveys and studies and preparing publications on matters concerning human rights and fundamental freedoms.

38. The National Commission on Human Rights may take a matter up on its own initiative, and may be called upon by citizens to examine cases of human rights violations. However, in practical terms, this body is faced with a number of technical difficulties which prevent it from working as well as it should. Accordingly, the Government has requested international technical cooperation in the area of human rights, with a view to strengthening the capacity of this institution, to which the Government attaches considerable importance.

39. In this respect, the Government has set up a ministerial department for human rights, in order to improve the monitoring of human rights issues throughout the country.

#### **A. Discrimination on the grounds of race, colour or sex**

40. Because of its geographical location between North Africa and sub-Saharan Africa, Chad has a cosmopolitan and multi-ethnic population. Despite this composition, there have been no race-related problems. No discrimination against persons of a different colour, even of foreign origin, has been observed. Many foreigners work in Chad and benefit from the same rights and protection as nationals.

41. The Constitution severely condemns discrimination, by prohibiting discrimination on the grounds of race in article 14.

42. Chad has more than 140 ethnic groups spread over 17 administrative regions, in addition to the town of N'Djamena, which is a region in itself. There are two majority groups: the Muslim Arabs, in many cases nomadic, in the north (15 per cent) and the Christian or animist sedentary Sara in the south (30 per cent). Specialists consider, however, that it is simplistic to attribute the country's problems to a north-south divide, even though Chadians themselves believe this to be true to some extent, in view of the many disputes over access to resources, which often take on an intercommunal dimension.

43. The intermingling of populations, cross-cutting loyalties and the policies carried out by both colonizers and post-independence authoritarian regimes have confused matters and contributed to widespread tension throughout the country. For example, there are Arabs in all parts of the country, and although each of their communities was shaped by a different historical pattern, this does not prevent them from having a strong sense of belonging to the same group. The northern Saharan zone is inhabited by Toubou, who have many relatives on the other side of the border with Libya. The southern part of the zone is populated by the Gorane (6 per cent), who also live in Kanem district.

44. The General Population and Housing Census of 1993 listed over a hundred ethnic groups. These have been classified into 13 main ethnic groups, based on similarities of language, social customs, habits and practices, and use of shared spaces. The groups are as follows:

No.	Group	Percentage
1	Ouaddai	10.3
2	Fulani/Fulbe	1.1
3	Sara	23.3
4	Tandjilé	6.6
5	Gorane	4.7
6	Hadjarai	7.4
7	Kanem-Bornou	11.7
8	Lac-Iro	2.2
9	Mayo-Kebbi	10.0
10	Arab	12.6
11	Baguirmi	1.4
12	Fitri Batha	4.0
13	Other ethnic groups/foreigners	4.7

*Source:* Demographic and health survey of Chad (EDST II-2004)

45. As in other African regions, friction arises between sedentary farmers and nomadic pastoralists over depletion of soil and hunting, water and grazing rights; drought and insecurity also fuel intercommunal conflict. Inter-ethnic divisions are thus considerably undermining national unity.
46. As part of the measures in force to solve these problems, the Government has added to the school curriculum education for a culture of peace, democracy and tolerance. Similar actions are being carried out through civil society initiatives.
47. Detailed information on the ethnic distribution of the population is contained in Chad's periodic report submitted to the Committee on the Elimination of Racial Discrimination.<sup>1</sup>
48. Foreigners of different races live in Chad but are not discriminated against in any way. Chadian society is very welcoming to foreigners. This stems from the country's traditions, according to which visitors are treated as special guests. It is very easy for foreigners to integrate into Chadian society, at different levels. The Constitution goes even further as regards protecting the rights of foreigners: article 15 provides that "foreigners who have been admitted legally to the territory of the Republic of Chad benefit from the same rights and freedoms as Chadian nationals, excluding political rights". Foreign nationals living in Chad are thus given the same protection as nationals. They may reside and move freely throughout the territory. They carry out business activities and are not discriminated against in any way.
49. Chadian legislation allows foreigners to acquire Chadian nationality: under Order No. 33/PG.-INT of 14 August 1962 on the Nationality Code, nationality may be acquired as a result of marriage, reintegration, naturalization or adoption.

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<sup>1</sup> CERD/C/259/Add.1.

50. However, access to civil service posts is reserved exclusively for persons of Chadian origin or Chadian citizens who have been naturalized for at least five years (Act No. 17 on the Civil Service Regulations, art. 36).

51. With regard to efforts to combat discrimination against persons with disabilities, it is clearly stipulated that a physical disability may not be taken into account in access to civil service posts if this disability does not affect the intellectual, moral and mental capacity of the person concerned. Specific draft legislation to protect all rights of persons with disabilities is in the process of being adopted.

52. With regard to colour, white Chadian Arabs coexist with others without any particular difficulties. White and other foreigners living in Chad are not discriminated against in any way.

53. With regard to discrimination based on sex, it is true that traditional habits and customs are still firmly rooted in Chad, especially in rural areas, where they can hinder women's full development. However, these obstacles are being denounced now that women are better educated and increasingly standing up for their rights.

54. In rural areas, despite the important role of women in the agricultural sector, custom prohibits them from owning land.

55. In the economic sphere, while women's work in the informal sector accounts for more than 25 per cent of non-agricultural gross domestic product (GDP), in the formal sector they represent only 10 per cent of the 34,000 civil servants and 1.5 per cent of the 17,200 employees in the private sector. This state of affairs is fostered by the high rate of female illiteracy, which stands at 78 per cent compared to 56 per cent for men (population aged 15 years and over).

56. Other facts explain this discrimination, in particular traditional practices, which also affect the well-being of young girls. They often marry and bear children at a very young age: nearly 40 per cent of women aged between 15 and 19 have already had one or more children, and the proportion of women who have suffered genital mutilation is estimated at 40 per cent. Polygamy is common: 20 per cent of men and 40 per cent of women live in polygamous unions. The draft family code designed to partially remedy this situation, which was drawn up in 2000, will shortly be promulgated, despite anticipated objections from certain conservative circles.

57. With regard to language, article 9 of the Constitution states that there are two official spoken and written languages: French and Arabic. The other national languages are promoted. To this end, a department for literacy and the promotion of national languages has been set up within the Ministry of Education.

58. Of the 130 languages spoken in Chad, only 18 have more than 50,000 speakers. The official languages are used in the Government and justice sectors, but are less commonly used by the population as a whole, who tend to speak dialects such as Chadian Arabic (spoken as a first language by 10 per cent of the population, especially in the north, and used as a lingua franca by 60 per cent, especially for trading purposes) or Sara (lingua franca in the south, for 10 per cent of the population). Accordingly, the State uses certain non-official languages

such as local Arabic, Sara, Kanembu, Tupuri and many others in order to better inform the population in the event of epidemics or as part of HIV/AIDS awareness-raising efforts. Public and private media channels allocate slots for broadcasting in national languages.

59. With regard to justice, in particular criminal justice, an accused person or a suspect who does not speak either of the official languages has the right to be assisted by an interpreter throughout the proceedings. Article 49 of the Code of Criminal Procedure provides that, where necessary, the judge or the court handling the case has the duty to appoint an interpreter. This is a requirement where the accused or defendant, the presiding and other judges and the witnesses speak different languages. It may be necessary to appoint one or more interpreters. Article 53 of the Code also requires that if the accused or defendant is deaf and cannot write, the person he or she is most used to communicating with shall be appointed as interpreter.

60. With regard to discrimination based on religion, article 1 of the Constitution provides that: "Chad is a sovereign, independent, secular, social, and indivisible Republic [...]. The separation between State and religion is affirmed."

61. Chad has three main religions: Islam, Christianity and animism. The results of the 1993 census showed that 54 per cent of the population is Muslim, 20 per cent Catholic, 14 per cent Protestant, 7 per cent animist, 3 per cent with no religion and 2 per cent undecided.

62. The issue of discrimination based on religion has never visibly manifested itself in Chad, whether in the public or private sector. All persons enjoy equal protection and may freely exercise their freedom of religion on an equal footing.

63. It must be said, however, that because of the geographic and linguistic distribution of the population, which often coincides with religious divisions, disputes can rapidly take on religious connotations. The situation of poverty, which is exploited by certain religious fundamentalists of all denominations, including certain religious sects, has in some cases led to direct confrontation between members of different faiths. The Government has adopted appropriate penalties to prevent such excesses.

64. With regard to freedoms, article 27 of the Constitution guarantees "freedom of opinion and of expression, communication, conscience, religion, the press, association, assembly, movement, demonstration and procession" to all persons. These freedoms can only be restricted by "respect for the freedoms and rights of others and the need to safeguard public order and morals". The conditions under which these freedoms and rights are exercised are determined by law.

65. The Constitution (art. 14) prohibits any discrimination on the grounds of political opinion and stance. Act No. 45 of 14 December 1994 on the Charter of political parties provides in article 6 that "political parties shall, in their programmes and activities, prohibit intolerance, tribalism, regionalism, sectarianism, xenophobia, and incitation to and/or use of violence in any form". In addition, they must contribute to:

- The defence of national sovereignty
- The consolidation of national independence
- The protection of territorial unity and integrity
- The protection of fundamental human and citizens' rights and freedoms
- Economic, social and cultural development, and the welfare of the population

66. On the basis of the Charter, over 70 political parties have been established, and play an active and unrestricted role in Chad's political life. However, the Charter prohibits certain categories of persons from joining political parties while in active service: members of the armed forces, judges and members of the Constitutional Council. Article 13 adds that persons in public office and diplomats in post may not lead a political party or play an active role in its local branches.

67. Measures have been taken at national level to give greater effect to the provisions of the Covenant, especially with regard to certain rights. The Labour Code (art. 6) states that "save where expressly provided in the present Code, or any other legislative or regulatory text protecting women and children, or the provisions relating to the situation of foreigners, no employer shall take into consideration the sex, age or nationality of workers in decisions concerning recruitment, the conduct and distribution of work, training, promotion, remuneration, the granting of social benefits, discipline or the termination of the employment contract".

68. Article 7 of the Labour Code prohibits any employer from taking into consideration membership or non-membership of a trade union, trade union activity, origin or religious or political opinions.

69. Act No. 17 of 31 December 2001 on the Civil Service Regulations (art. 5) provides that "access to civil service posts is open to all Chadians meeting the conditions set out in part IV of this Act, on an equal basis and without distinction of sex, religion, origin, race, political opinion or social status".

70. Act No. 025 of 22 July 1994 on the declaration of the population policy states, among other principles, that the population policy is based on an effort to foster greater national unity, by reducing interregional imbalances and disparities and making better use of resources and the national territory.

71. Lastly, it can be said that the establishment of a human rights ministry and the existence of a National Commission on Human Rights, the National Office of the Ombudsman, and many other institutions, including the Supreme Court, the Constitutional Council and the High Council for Communication, are all conducive to the effective implementation of the provisions of the Covenant.

## **B. Jurisdictional remedies**

### **1. Remedies provided by the judicial system**

72. Jurisdictional remedies are provided for by the Code of Criminal Procedure and the Code of Civil Procedure.

73. In criminal matters, proceedings are initiated and conducted by judges or officials empowered to do so by law, and may also be initiated by the injured party. Under article 6 of the Code of Criminal Procedure, criminal indemnification proceedings may be brought by any person who has personally suffered damage as a direct result of the offence. Article 7 provides that: “criminal indemnification proceedings may be brought in the same court concurrently with the criminal action, in respect of any kind of material or moral damage or personal injury caused by the offence being tried”.

74. In civil matters, where compensation for damage is sought, the Code of Civil Procedure provides that “criminal indemnification proceedings may be brought by any person who has personally suffered damage as a direct result of the offence” (art. 6). In addition, article 1 provides that criminal proceedings may be initiated by the injured party.

### **2. Action of unconstitutionality**

75. Although citizens may not apply to the Constitutional Council directly, the Constitution enables them to do so by raising an objection; article 166 provides that: “All citizens may raise an objection on the grounds of unconstitutionality before a court hearing a case involving them. In this event, the court shall stay the proceedings and refer the matter to the Constitutional Council, which shall hand down a decision within 45 days.”

76. The administrative and judicial authorities have taken all possible measures to guarantee remedies and to extend the scope of these jurisdictional remedies. The remedy of appeal is provided for by law.

77. Article 18 of the Code of Civil Procedure provides that “judges, members of the Government procurator’s office and members of the criminal investigation service may be called to account in the following cases: in the event of denial of justice”. Similarly, article 20 reads: “When judges refuse to respond to applications or fail to try cases that are ready to be tried.” Any well-founded case must be heard, as denial of justice is prohibited by law.

### **3. Non-jurisdictional remedies**

78. Article 11 of the Act establishing the National Commission on Human Rights provides that “while the Commission may take up a matter on its own initiative, any person who believes that one of his or her civil, political, social or cultural rights has been violated as a result of an act or omission by the Government, or any other natural or legal person, may lodge an application with the Commission”.

79. Many citizens are increasingly applying to human rights associations as well, to find out more about their rights. This is the case, for example, of the Chad Association of Women Lawyers, with which many Chadian women are now familiar.

80. The National Office of the Ombudsman was established at the request of the Sovereign National Conference in 1993. The Conference recommended in its guidelines the establishment of a mediatory body. Decree No. 380 of 24 July 1993 established the Office, specified its mandate and laid down the conditions governing its work.

81. In accordance with the basic law, the Office is an autonomous body that has broad negotiating powers.

82. That decree was repealed by Decree No. 340 of 12 August 1997. The new text extends the Office's remit to issues of administrative and political governance, human rights, rule of law and democracy.

83. The services of the Ombudsman are free of charge, and open to all. The Ombudsman may take up a matter on its own initiative, or do so at the request of citizens who have suffered human rights violations, or NGOs.

84. The role of the Office of the Ombudsman is to ensure civil peace and national reconciliation. It should be noted, however, that citizens are still largely unaware of this institution. Nevertheless, many disputes have been settled by the Office, including disputes between farmers and pastoralists.

85. It should be noted that ethnic community leaders and some human rights associations contribute to the resolution of certain disputes, as non-judicial bodies. These human rights associations include the legal clinics of the Association for the Promotion of Fundamental Freedoms in Chad, the "human rights shops" of the Chadian Association for the Promotion and Defence of Human Rights and the amicable settlement initiatives of the Chad Association of Women Lawyers.

### **Article 3. Equality between men and women**

86. In Chadian legislation no distinction is made between the rights of men and women. They all have the same rights (Constitution, art. 13) and are equal before the law.

87. With regard to education, girls and boys now have equal access to schooling. The small number of girls in school compared to boys is essentially attributable to sociocultural obstacles. However, Chadians are gradually starting to realize the importance of sending girls to school. For its part, the Government is conducting large-scale campaigns and adopting strategies to encourage enrolment and retention of girls in school. To this end, a unit for the promotion of girls' education has been established within the competent ministry in order to implement State policy in this area.

88. Public and private schools are open to girls in the same way as to boys. However, in order to close the gap that has built up over the years, resulting in a low enrolment rate for Chadian girls, measures have been taken to provide State-sector education free of charge.



89. With regard to families, the French Civil Code (1958 version) is still in force in Chad; however, the Constitution and legislation allow for customary rules to be applied, where these are recognized, provided that they are not contrary to public policy. The three main religions, Islam, Christianity and animism, have a strong influence on the development of laws and customs, particularly in the area of marriage.

90. Thus, influenced by Islam and animism, Order No. 03/INT SUR of 2 June 1961 on rules governing civil status authorizes polygamy on the express condition that this is indicated at the time of signing the marriage contract. The choice of a monogamous regime is irreversible.

91. There are also Islamic and animist procedures for settling matters relating to inheritance and succession. However, people tend to turn to civil courts in the event of disputes arising from poor handling of such matters by these authorities, which discriminate against women and children.

92. Article 31 of the Constitution guarantees that both men and women have access to civil service posts. Article 5 of the Act on the Civil Service Regulations provides that “access to civil service posts is open to all Chadians meeting the conditions specified, on an equal basis and without distinction of sex, religion, origin, race, political opinions or social status ...”.

93. Article 36 of the Labour Code provides that: “All persons recruited as civil servants must:

- (a) Be Chadian citizens by birth, or have been naturalized citizens for at least five years;
- (b) Enjoy their civic rights and be of high moral standards;
- (c) Possess the physical and mental capacity required for the exercise of this post; a physical disability may not be taken into consideration in recruitment to the civil service if this disability does not affect the intellectual and mental capacity of the person concerned;
- (d) Be recognized as being free from - or definitively cured of - any ailment that would be incompatible with the exercise of civil service duties;
- (e) Be aged between 18 (minimum age) and 40 (maximum age).”

94. In the area of employment, a certain disparity exists between men and women in terms of types of work, risks, benefits such as general leave and maternity leave. General leave is one month for men and women. However, women are granted maternity from six weeks prior to birth to eight weeks after birth, totalling three and a half months on average.

95. Under article 205 of the Labour Code, women are not allowed to work at night in industry. This ban does not apply to women in managerial posts, those in non-manual occupations in the service sector, and those working in family businesses.

96. With regard to child labour, under article 206 of the Labour Code children under 18 are not allowed to work at night. Similarly, civil service posts are only open to those aged at least 18.

97. These provisions ensure that women and men compete on an equal footing as regards access to civil service posts. Whereas in the past there were sociocultural barriers preventing women from engaging in certain commercial activities, today they can do so freely. They can be heads of household, or hold public office (as prefect, mayor, sub-prefect, etc.).

98. The most telling illustration of this positive change of attitude towards women's work is that some women now hold the post of traditional chief, which used to be reserved exclusively for men: village chiefs, district chiefs, land chiefs, etc. However, the proportion of women in these positions is very small.

99. The legacy of war and violence does not spare families, and there have been many cases of marital or domestic violence against women or children. The perpetrators are, however, always severely punished when these cases are brought before the judicial authorities. It should be noted nonetheless that families often hide this type of violence, for fear of breaking up the family. This makes punishment difficult. However, the Government pays particular attention to these problems and has taken measures to prevent and eradicate violence, in particular sexual violence against women.

100. Accordingly, Act No. 06/PR/2002 on the promotion of reproductive health was promulgated, prohibiting all forms of violence, such as female genital mutilation, early marriage, domestic violence and sexual violence.

101. Other measures are in the process of being adopted, such as: draft legislation on a personal and family code; draft legislation on a code for the protection of children; a national action plan to combat child abuse and sexual exploitation; and a draft policy for the full development of children. These are just some of the measures taken to improve the protection of children and women.

102. With regard to prostitution, articles 279 to 282 of the Criminal Code provide for severe penalties for the offence of procuring. Under the Code, a procurer is any person who: in any way knowingly aids, assists or protects the prostitution of another person or solicitation for the purposes of prostitution; shares in the profits of the prostitution of another person or receives financial support from a person regularly engaging in prostitution; or, living knowingly with a person regularly engaging in prostitution, cannot provide proof of sufficient income to live on. Any person who engages, entices or supports a person - even if that person is a consenting adult - for the purposes of prostitution, or delivers that person into prostitution or immoral acts, is also considered to be a procurer. Intermediaries of any kind, and those who exploit or remunerate the prostitution of another person, are also deemed to be procurers.

103. This offence shall be punishable by a prison sentence of up to two years and a fine of 1 million CFA francs (CFAF). This may be increased to a five-year prison sentence and a fine of CFAF 2 million if the offence was committed against a minor or accompanied by ill-treatment, abuse of authority or theft, or if the person was threatened with a weapon; if the perpetrator is the victim's spouse, father, mother or guardian, teacher or servant, or has authority of any kind over the victim; or if the perpetrator is required as part of his or her duties to participate in efforts to combat prostitution, protect health or maintain public order.

104. In practice, prostitution is becoming an increasingly worrying trend. However, as part of efforts to combat sexually transmitted infections and HIV/AIDS, awareness-raising activities have been carried out in recent years in view of the strong social pressures, combined with extreme poverty faced by young girls, which drive them to prostitution. The immediate consequences of this dangerous practice are unwanted pregnancies and HIV/AIDS infection.

105. The Criminal Code provides for severe penalties for those who neglect or endanger children who are unable to look after themselves owing to their physical or mental condition. This offence is punishable by a prison sentence of between six months and five years and a fine of CFAF 5,000 to CFAF 500,000 (art. 250). If the offence results in ill-health, disablement for longer than 20 days, or other disabilities, the prison sentence shall be increased to between 1 and 10 years and the fine to between CFAF 10,000 and CFAF 500,000. In the event of the victim's death, the person responsible shall be sentenced to hard labour for life.

106. With regard to child abduction, article 286 provides that abducting or concealing a child, or concealing its birth, in such a way as to affect its civil status, shall be punishable by hard labour. Similarly, the substitution of one child for another, or attribution of a child to a woman who has not given birth shall be punishable by a prison sentence of between 2 and 10 years, without prejudice to the penalties for fraud (art. 287). If it is established that the child is not alive, or is not viable, the prison sentence shall be between six months and five years.

107. Abduction or corruption of a minor under the age of 15, unaccompanied by fraud or violence, shall be punishable by a prison sentence of between two and five years and a fine of CFAF 5,000 to CFAF 100,000. However, the law makes the prosecution and conviction of a person who has married the person he abducted or corrupted conditional upon a complaint being lodged by persons having the right to request annulment of the marriage, once the marriage has been declared annulled (art. 289). This does not apply if the offence was accompanied by fraud or violence, in which case it is punishable by a prison sentence of between 5 and 10 years.

108. With regard to elective office, the 2002 elections led to 9 of the 155 seats in the National Assembly being won by women; this constituted progress. However, the same cannot be said of customary law, as in many cases women are not considered to be equal to men, have few rights and are often marginalized.

### **Discrimination and violence against children and women**

109. Not very long ago, the situation of Chadian women was hardly to be envied. Discrimination started at birth, and continued with the process of the girl child's socialization. Girls had little chance of any education other than training to be wives and producers of babies.

110. Discrimination against women in the enjoyment and exercise of their rights could be seen at different levels. In the area of marriage, certain religious and customary laws that applied in Chad contained no provisions concerning age limits. The concept of marriageable age varied from one ethnic group to another. In most cases, decisions were taken by the parents, without the consent of the future wife, and in accordance with customary rules.

111. In practice, priority was given to boys, who were the first to be sent to school. Many Chadians thought that there was no point in sending girls to school, as they were made to be

housewives and mothers. Chadian women are also victims of different types of violence: domestic violence and sexual or psychological abuse. The illiteracy rate is still very high for women.

112. In the area of employment, up until 2003, data for the public sector showed that only 10 per cent of civil servants were women, who were mostly confined to junior posts. A total of 70 per cent of women civil servants worked in the ministries of Education, Public Health and Social Affairs. Most of them were operational staff. Of the 125 National Assembly representatives, there were three women at the outset. Following the 2002 elections, there were nine.

113. However, it should be noted that since 1990 Chad has embarked upon a process of ensuring women's full development. Chad participated in the Fourth World Conference on Women, held in Beijing in 1995, and in many other international conferences (Nairobi, Dakar, etc.), at which many important measures were taken to strengthen women's rights.

#### **Articles 4 and 5. Measures involving restriction upon and derogation from rights**

114. Measures involving restriction upon and derogation from rights are provided for under article 87 of the Constitution, as being exceptional measures required by circumstances, which can be implemented "in the event of a serious and imminent threat to the institutions of the Republic, the independence of the nation, territorial integrity or the execution of international commitments and when the regular functioning of the public powers has been interrupted". These measures are determined by the President of the Republic, in the Council of Ministers, after consulting the speaker of the National Assembly and the President of the Constitutional Council. The measures must not last longer than 15 days, and their duration may only be extended with the approval of the National Assembly, the nation being informed in a message by the President of the Republic.

115. The same article provides that these exceptional measures may not be used to justify any violation of the right to life, to physical and moral integrity and to the jurisdictional guarantees granted to individuals. The aim is to provide the constitutional public authorities, as soon as possible, with the means of carrying out their mandate. Lastly, the National Assembly cannot be dissolved during the exercise of exceptional powers.

116. The Constitution also provides for states of siege and states of emergency. Under article 124: "States of siege and states of emergency shall be decreed by the Council of Ministers. The Government shall inform the Bureau of the National Assembly. They may be extended beyond 12 days only with the authorization of the National Assembly."

117. The Government issued the recent Decree on the state of emergency pursuant to the above provision, in strict compliance with the requirements of the Constitution, with the aim of quelling the intercommunal clashes in some regions of the country. Decree No. 014/PR/PM/MAT/2006 of 13 November 2006, imposed a state of emergency in the regions of Ouaddai, Salamat, Waddi Fira, Borkou-Ennedi-Tibesti (BET), Hadjer Lamis, Mandoul, Moyen-Chari and the town of N'Djamena.

118. Once the 12-day time limit had expired, and in view of the continuing crisis, the Government requested authorization from the National Assembly to extend the state of emergency for a period of six months. Accordingly, the National Assembly, meeting on 23 November 2006, debated and adopted this request. The Government assured the elected representatives that it had no intention of infringing liberties, and would ensure that no instances of abuse of authority or victimization occurred.

119. In practice, the armed forces and security forces intervene regularly to protect people and property, and to restore public order. It is true that during these interventions, police blunders may occur. Depending on how serious they are, these incidents are referred to the judicial authorities, which take the necessary action. In 2001, for example, a group of women who had been assaulted by police officers was able to bring proceedings against a senior Chadian police official.

120. Chad is convinced of the need to protect the fundamental rights set out in the Covenant. For this reason, in emergencies threatening citizens' lives and the survival of the State, the Government may derogate from its obligations only under certain conditions. The law makes proclamation of a state of emergency conditional upon an official decision. Exceptional measures may only be taken where strictly necessary, and shall not lead to discrimination.

121. Some crisis situations may result indirectly in restrictions on certain rights and freedoms. With regard to the press, in particular, Act No. 29 of 22 August 1994 on the press regime in Chad provides in article 37 that the temporary seizure of newspapers or periodicals, printed matter or other information resulting from an offence or a civil wrong may be ordered, after an exchange of pleadings, by the President of the court having territorial jurisdiction.

122. Article 38 adds that, when material is permanently seized, the court shall order all copies to be destroyed. In the event of the accused being acquitted, or if the court finds that seizure was not justified, the court may award damages to the company or the person concerned, and order the lifting of the seizure.

123. The recent decree instituting the state of emergency also imposes censorship on newspapers covering such events. An order issued by the Mayor of N'Djamena prohibits the opening of bars, and the holding of meetings and other events, after midnight.

124. All these measures taken to restrict fundamental human rights and freedoms are not incompatible with the other obligations imposed on the State by international law. They have not led to any discrimination on the grounds of race, colour, sex, religion, language or social origin.

125. The High Council for Communication, which is the press regulatory body, is responsible for guaranteeing freedom of information and communication. Its mandate is to ensure respect for the free expression of diverse bodies of thought and opinion in the press and audio-visual media. This independent administrative body was established by the Constitution (arts. 182 ff.). It rules on violations of freedom of the press and encourages the professional excellence of journalists and press agencies. Lastly, this body authorizes the operation of radio and television broadcasting services by private individuals.

### **Article 6. Respect for the human person**

126. The right to life of the human person is explicitly recognized in article 17 of the Constitution of Chad, which 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.”

127. Abortion is an indictable offence in Chad and is punishable as such, whether performed by the woman concerned or by another person. Under article 296 of the Criminal Code “Any person who by food, potions, medicines, manoeuvres, violence or any other means, procures or attempts to procure the abortion of a woman who is pregnant or thought to be pregnant, whether she has consented or not, shall be punished by imprisonment from one to five years and a fine from CFAF 50,000 to CFAF 500,000.”

128. “A repeat offender shall be liable to harsher penalties, namely, imprisonment from 5 to 10 years and a fine of CFAF 100,000 to CFAF 1,000,000 if it is established that the acts mentioned in the previous paragraph are committed habitually. Moreover, a woman who has procured or attempted to procure an abortion for herself, or who has consented to use methods indicated or administered to her for that purpose, shall be liable to imprisonment from two months to two years and a fine of CFAF 5,000 to CFAF 50,000.”

129. “Doctors, midwives, dental surgeons, pharmacists, medical students, pharmacy students, pharmacy employees, herbalists, surgical truss-makers, surgical instruments dealers, nurses or masseurs who have advised, encouraged or used means of procuring an abortion shall be liable to the penalties prescribed in paragraphs 1 and 2 of the present article. Moreover, those found guilty shall be suspended for a minimum of five years and disqualified from professional practice. Any person contravening a professional ban issued pursuant to the preceding paragraph shall be liable to imprisonment for a minimum of six months to a maximum of two years and a minimum fine of CFAF 100,000 to a maximum fine of CFAF 1,000,000.”

130. These provisions are often applied by the courts when such cases are brought to their attention.

131. Chad has also acceded to nearly all of the conventions and treaties on the rights of the human person.

132. The death penalty has not yet been officially abolished in Chad. Article 4 of the Criminal Code provides that the principal criminal penalties are execution, hard labour for life and hard labour from 5 to 20 years. Article 5 of the Code provides that “Persons condemned to death shall be shot.” Article 7 specifies that pregnant women, who are condemned, shall be executed only after giving birth.

133. From 1992 to 2003, there was a de facto moratorium on the execution of condemned prisoners. The State ceased to apply the death penalty after the closure of the court martial, following the recommendation of the National Conference. In 2003, however, in order to respond forcefully to a heinous and particularly spectacular crime committed by felons in the

middle of town, the Government had to execute those condemned to death on 6 and 9 November 2003, especially since some of the crimes had been committed by escaped prisoners who had already been condemned.

134. However, in view of the ensuing sharp criticism and censure, no condemned prisoners have subsequently been executed, and all death penalties have been commuted to life sentences. The Forum on Justice (*Etats généraux de la justice*) also declared its opposition to the death penalty. Chad is preparing the population to accept the abolition of the death penalty, in view of the misconception that this would amount to total impunity for major crimes, in the absence of a deterrent. This situation is largely attributable to the prison crisis with the death penalty seen by many as a radical but efficient solution for reducing crime. It should be noted that Chad has not yet ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights, Aiming at the Abolition of the Death Penalty.

135. The question of the abolition of the death penalty was raised during the Forum on Justice held from 17 to 21 June 2003. The Forum recommended abolition to the Government, and the issue was subsequently brought before the National Assembly. The problem thus remains in the current state of the law.

136. In practice, condemned prisoners may be eligible for a pardon. The President of the Republic has the right to pardon condemned prisoners (article 89 of the Constitution). This power is regulated by article 3 of Decree No. 230/PR-MJ of 19 October 1970 on the prerogative of mercy.

137. Article 2 of the Decree states that “any condemned prisoner who wishes to obtain a reprieve or commutation of penalty shall submit a plea to the President of the Republic or the Ministry of Justice. The request may also be submitted by the counsel of the condemned.”

138. Article 3 provides that “A pardon may be issued ex officio in the interest of justice or for humanitarian reasons in the absence of any appeal by the condemned. When a death sentence is handed down, a petition for mercy shall automatically be filed by the Office of the Public Prosecutor. The same shall apply when there are serious reasons against enforcing the sentence, in particular if the condemned person is not fit for detention. The prosecutors shall advise the Minister for Justice on the commutation or reduction measures which they consider appropriate. However, they may not receive or handle appeals filed by condemned prisoners unless invited to do so by the Minister for Justice. Outside the framework of annual general pardons, heads of prisons may also submit proposals for pardon for particularly deserving detainees through the Office of the Public Prosecutor to the Minister for Justice, in order to contribute to the maintenance of discipline in prisons.”

139. Chad has ratified the treaties and conventions on the rights of the child and women’s rights. Accordingly, there is no death penalty for minors, and pregnant women may be executed only after giving birth. In all courts of first instance, a juvenile court has been established which decides on correctional and criminal matters (Act No. 007 of 6 April 1999). Under article 30 of the Act, the juvenile court is empowered to impose either custodial or rehabilitation measures, or a sentence of imprisonment. Should a minor incur the death penalty, this would be replaced by a 10-year term of imprisonment. In all cases, a minor may be placed under a banning order for a minimum of 5 and a maximum of 10 years.

140. Moreover, article 2 of Act No. 007 provides that “The juvenile court shall impose the protection, assistance, surveillance, or education measures that it deems appropriate to the case. It may thus impose a sentence of imprisonment, in accordance with the provisions of article 52 of the Criminal Code. However, if a sentence of imprisonment is imposed, it shall be half the minimum sentence.” Article 4 of the Act provides that in case of lesser offences committed by a minor, the Public Prosecutor shall refer the case to the juvenile court judge by submitting an application for the opening of an investigation.

141. All the special courts have been abolished; only the Criminal Court, which is a temporary court attached to the appeal courts, hands down the principal criminal penalties of execution, hard labour for life and hard labour from 5 to 20 years.

142. Under article 1 of Act No. 004 of 26 May 1998 on the judicial system, justice in the Republic of Chad is administered by a single jurisdiction, which consists of:

- The Supreme Court
- Appeal courts
- Criminal courts
- Courts of first instance
- Labour courts
- Commercial courts
- Magistrates’ courts

143. Under article 18 of the Act, a criminal court is a temporary court attached to each appeals court, formed for the purpose of judging the crimes before it. Under the Code of Criminal Procedure, a criminal court is composed of the President of the Court of Appeal or a Presiding judge, two members of the appeal court and four jurors.

144. There is no legislative or regulatory provision at present dealing with serious crimes such as crimes against humanity, genocide and war crimes which are punishable under international humanitarian law. However, these categories of crime offend human conscience and have no place among civilized nations today. Chad has acceded to the Geneva Conventions of 12 August 1949 on international humanitarian law and, since 1 January 2007, has been a party to the Rome Statute of the International Criminal Court. This will be taken into account in the current reform process, by codifying the crimes that fall within the jurisdiction of the International Criminal Court.

145. In practice, since 1990, Chad has never been accused or notified of a particular policy or practice involving genocide or a crime against humanity.



### **Article 7. Torture and other cruel, inhuman or degrading treatment**

146. Under article 18 of the Constitution, no person may be subjected to degrading or humiliating abuse or treatment, or torture. This means that every individual has the right to the free development of his or her person.

147. Chad is a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. All the information relating to the implementation of the Convention is available in the periodic report submitted with the present report. Internal measures are being taken to harmonize legislation and should be concluded shortly.

148. Article 21 of the Constitution prohibits illegal and arbitrary arrest and detention. Articles 149 and 152 of the Criminal Code provide for the prosecution of these offences. Medical care is provided in detention facilities by a medical service, which monitors the health of detainees, treats the sick and supervises the condition of pregnant detainees. Drug abusers and pregnant detainees or those who have recently given birth are treated as patients. Detainees for whom a final verdict has been rendered are eligible for prison leave. They also have the right to request probation or a reduction or commutation of their sentence and to lodge an appeal for pardon.

149. Detainees have the right to receive visits and to communicate with persons outside the facility, or with their counsel. Detainees have the right to food, accommodation and clothing. They also have the right to physical exercise and to walk outside their cells. Prison or detention facility guards must not torture detainees.

150. However, occasional breaches of these requirements are observed in police stations and gendarmeries. The Government pays particular attention to such irregularities. The Public Prosecutor makes regular visits to police stations, gendarmeries and detention facilities in order to guard against such situations.

151. Reports by associations on their visits to detention facilities often express concern at the lack of segregated accommodation for adult and juvenile detainees. However, they note with satisfaction the fact that some detention facilities in Chad provide separate accommodation for male and female detainees. The State of Chad remains aware that further efforts are needed with regard to detention conditions, which came under detailed scrutiny during the Forum on Justice. The measures currently being taken will lead, in years to come, to a substantial improvement of detention conditions in Chad. The evident lack of adequate resources and staff capacity to deal with the situation was noted during the Forum.

### **Article 8. Slavery and forced labour**

152. Under article 20 of the Constitution, "No person may be subjected to slavery or servitude." Article 5 of Act No. 038 of 11 December 1996 of the Labour Code provides that "forced or compulsory labour is prohibited. Forced or compulsory labour means any work or service exacted from an individual under threat of any penalty and for which the said individual has not offered himself or herself voluntarily."

153. Chad has ratified the International Labour Organization Conventions prohibiting forced labour, namely, the Forced Labour Convention, 1930 (No. 29); the Night Work (Women) Convention (Revised), 1934 (No. 41); and the Abolition of Forced Labour Convention, 1957 (No. 105).

154. Certain practices in rural and urban areas are deemed to be a form of modern slavery because they exploit the persons employed in an abusive manner. Such practices include the use of the children of sedentary populations to tend the herds of nomadic herders (child cowherds), *muhajirin* (mendicant Koranic students) or domestic workers. With its partners in development and in consultation with communities, the Government is considering ways and means of eliminating this social phenomenon, which is becoming increasingly common despite its negative impact on the life and health of victims. It is given special attention in the poverty reduction strategy.

### **Article 9. Liberty and security of person**

155. Article 12 of the Constitution of Chad provides protection for the liberty and security of persons as follows: “Fundamental rights and freedoms are recognized and their exercise is guaranteed to citizens under the conditions and in the forms provided for by the Constitution and the law.” Similarly, articles 17, 19 and 21 of the Constitution lay down the principles of liberty, security and the free development of the person, and prohibit arbitrary arrest and detention.

156. Under article 19 of the Constitution, “Every individual has the right to the free development of his or her person while respecting the rights of others, morality and public order.” The Criminal Code and the Code of Criminal Procedure provide for possible actions and sanctions.

157. Articles 1 and 6 of the Code of Criminal Procedure, for example, provide for the possibility of bringing criminal and civil proceedings, respectively, as follows: “Criminal proceedings for the enforcement of sentences shall be initiated and conducted by the judges or court officials empowered to do so by law. Such proceedings can also be initiated by the injured party”; “criminal indemnification proceedings may be brought by any person who has personally suffered damage as a direct result of an offence”.

158. Article 7 of the Code of Criminal Procedure provides that “Criminal indemnification proceedings may be brought in the same court concurrently with the criminal action, in respect of any kind of material or moral damage or personal injury caused by the offence being tried.” Such proceedings are often initiated in the interest of citizens or of society. The Criminal Code prescribes sanctions for the violation of these dispositions in articles 142 to 146, 148 and 150 to 152. Perpetrators are liable to a fine ranging from CFAF 5,000 to CFAF 5 million and imprisonment from six months to five years.

159. Under article 142 of the Criminal Code, “When by force of number, assault or threat a person or persons shall have prevented or sought to prevent one or more citizens from exercising their civic rights, every person found guilty shall be liable to imprisonment for six months to five years and a fine of CFAF 50,000 to CFAF 500,000. Any person who distorts or attempts to

distort the result of a ballot by the falsification, removal or addition of ballot papers shall be liable to the penalties described in the previous paragraph. Any person who buys or sells a vote during an election shall be liable to the penalties provided for in article 229 for corruption of an official.”

160. Article 143 provides that any public official or government agent or employee who has ordered or committed an arbitrary act or one that violates individual freedom or the Constitution shall be sentenced to imprisonment for six months to five years and a fine ranging from CFAF 5,000 to CFAF 5 million.

161. The Criminal Code makes it a requirement to report illegal detention: “Public officials responsible for carrying out administrative or judicial police functions who refuse or neglect to respond to a lawful request to report illegal or arbitrary detentions, [...] or elsewhere, and cannot prove that they have reported it to a higher authority, shall be liable to imprisonment for one month to one year and required to pay damages.”

162. The following provisions of the Criminal Code also prescribe penalties for various restrictions of freedom. Article 149 and subsequent articles penalize unlawful arrest. Article 152, for example, provides that “any agreement affecting personal liberty such as transfer, enslavement or the bonding of labour shall be subject to the penalties provided for arbitrary detention”.

163. The Criminal Code also outlines penalties for the use of unlawful violence against persons by public officials or administrative officers in the course of their duty (art. 156).

164. Articles 157 to 160 of the Criminal Code even prescribe penalties for restrictions on the freedom of labour, bidding and trade.

165. Under the Constitution, the task of ensuring the security of persons and property is entrusted to the national gendarmerie, the national police and the National and Nomadic Guard. Under article 195, the mission of the gendarmerie is to protect lives and property, maintain and restore public order and ensure compliance with laws and regulations.

166. Under article 197, the national police must also safeguard State security, maintain and restore public order, ensure the security and protection of persons and property, safeguard public peace and health and ensure compliance with laws and regulations.

167. In accordance with article 199, the mission of the National and Nomadic Guard is to maintain order in rural and nomadic areas and to guard and supervise detention facilities. It is also responsible for the protection of the political and administrative authorities and the protection of public buildings.

168. All of these security institutions perform their duties throughout the country with respect for human rights and freedoms (see Constitution, arts. 196, 198 and 200).

169. Under the above provisions and existing institutions, the freedoms and security of citizens are protected, although there are failings in practice, such as arbitrary arrests and detentions and the phenomenon of *coupeurs de route* (highwaymen who rob travellers and even kill them). Judicial procedures exist and prosecutions are often brought against the perpetrators of such acts.

### **Article 10. Conditions of detention**

170. Detention is a deprivation of liberty under the conditions set out in the basic legislation of Chad. Chad is concerned to treat those deprived of their liberty humanely at the time of arrest and during detention and investigation, whether they are detained under a judicial order or a final judgement. Thus, article 18 of the Constitution provides that “No one may be subjected to cruelty, degrading or humiliating treatment, or torture.”

171. The treatment of persons deprived of liberty under Chadian legislation is in accordance with article 10 of the Covenant, whether the case is before the police, the gendarmerie, the court or the correctional services.

172. Moreover, article 243 of the Code of Criminal Procedure enshrines the principle of the separation of persons awaiting trial from convicted persons, as follows: “Preventive detention must be in a prison, in accommodation separate from that of convicted persons.” Accordingly, detainees are held in correctional facilities. These facilities are regulated by Decree No. 371/77/CSM/MJ of 9 November 1977 on the regulations on correctional facilities in Chad under the Ministry of Justice. Under article 1 of the Decree, the correctional system consists of prisons, a detention centre at the headquarters of the courts and magistrates’ courts, rehabilitation centres for juvenile delinquents and penal camps.

173. Of the 58 prisons planned, only 44 are currently operational. Correctional facilities are under the authority of a director and each facility is staffed by a governor, an accounting clerk, a chief warden and guards. Correctional facilities are visited by the Public Prosecutor, investigating judges and public prosecutors and are supervised by a Monitoring and Management Board.

174. Under article 29 of the aforesaid Decree, the Monitoring and Management Board holds quarterly meetings in ordinary session, and extraordinary sessions may be convened by its Chairperson. Under article 30, the Board is composed of the following:

- (a) In magistrates’ courts, a presiding justice of the peace and a medical officer;
- (b) In district courts other than N’Djamena District Court, a presiding judge (President of the Court) and three members (a public prosecutor, a sub-prefect and a doctor);
- (c) In N’Djamena District Court, a presiding judge (President of the Court of First Instance) and three members (a public prosecutor, a mayor or mayor’s representative, and a doctor).

175. It should be noted that human rights associations and religious communities, the International Committee of the Red Cross (ICRC) and the Order of Malta may visit places of detention after obtaining authorization from the Director of the Prison Service.

176. However, owing to budgetary constraints preventing the construction of separate places of detention, presumed perpetrators of lesser offences are held in pretrial detention with convicted prisoners. During pretrial detention, there is a risk of abuse by some judicial officers.

177. The time limit on police custody is not often observed in police stations and gendarmeries.

### **Article 11. Imprisonment for the enforcement of a civil obligation**

178. Civil imprisonment is regulated by article 334 of the Code of Civil Procedure, as follows: “Upon application by the prosecuting creditor, the president of the civil court responsible for enforcement may, by a 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.”

179. 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.”

180. Article 335 specifies that “the application for committal shall be made by the prosecutor based on the order authorizing civil imprisonment”. The Public 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.

181. 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”.

182. Under article 489 of the Code of Criminal Procedure, the duration of civil imprisonment is fixed as follows:

- 10 days when the fine and pecuniary judgements do not exceed CFAF 5,000
- 20 days when they are between CFAF 5,001 and CFAF 15,000
- 30 days when they are between CFAF 15,001 and CFAF 30,000
- 50 days when they are between CFAF 30,001 and CFAF 50,000
- 3 months when they are between CFAF 50,001 and CFAF 100,000
- 6 months when they are between CFAF 100,001 and CFAF 200,000
- 10 months when they are between CFAF 200,001 and CFAF 500,000
- 16 months when they exceed CFAF 500,000

183. The duration of civil imprisonment to enforce more than one debt is based on the total of the judgements.

184. Civil imprisonment is subject to a restriction based on age and family relationship: it may not be imposed on persons aged under 18 years or those aged 60 or over (art. 490). Moreover, it may not be imposed simultaneously on a husband and wife, even for the enforcement of different judgements.

185. With respect to the enforcement of pecuniary judgements in favour of the Treasury, the Code of Criminal Procedure (art. 491) states that civil imprisonment is subject to no further notification other than that provided for in article 486.

186. Once the expiry of the time limit has been noted in the application for committal, the Public Prosecutor, resident judge or magistrate declares the total value of the debt and determines the duration of the incarceration with reference to articles 489 and 490. Orders are executed by law enforcement officers and other officials responsible for the execution of judicial warrants, in the manner prescribed for the execution of such warrants.

187. Under article 492 of the Code, an individual seeking civil imprisonment of a convicted person must address an application for committal to the Office of the Public Prosecutor attached to the court that issued the judgement, or that of the domicile or residence of the convicted person. The application must be accompanied by a copy of the notice to pay served on the debtor. The competent magistrate then issues an incarceration order and ensures that it is executed in accordance with the Code.

188. Article 493 of the Code, however, provides that, at the time of arrest, the debtor may request an interim injunction. In that case, the debtor is immediately brought before the presiding judge of the court of the place of arrest in interim proceedings. A debtor who has already been detained and on whom an incarceration order has been served has the same right. A debtor may prevent or terminate his or her imprisonment by paying a sum sufficient to cancel the debt. The interim relief judge may set a time line for payment and defer civil imprisonment for a period of one year or longer.

189. Terms of civil imprisonment are served under the same conditions as rigorous imprisonment, as laid down in article 494 of the Code of Criminal Procedure. Under article 495, when civil imprisonment has been terminated for any reason it can no longer be enforced either for the same debt or for prior pecuniary judgements, unless the combined total of the judgements amounts to a term of imprisonment longer than the period already served. In the latter case, the initial period of incarceration must always be deducted from the subsequent period of civil imprisonment. It should be noted, however, that under article 496, a convicted person who has served a term of civil imprisonment is not exonerated from the penalties for which he or she was imprisoned.

190. This legislation, which dates from 1967, was promulgated to meet the need at the time to solve the problem of bad faith debtors who took advantage of creditors' goodwill. The legislation will be reviewed in depth during the planned reforms, in the light of changes in attitudes and modern approaches to credit and debt recovery.

### **Article 12. Freedom of movement**

191. Freedom of movement is guaranteed by article 44 of the Constitution of Chad, which provides that all of its citizens have the right to move freely within the national territory and to leave and re-enter the country. No administrative document is required to travel between towns throughout Chad, whereas a laissez-passer was required in the 1980s. Moreover, the Government has removed a number of roadblocks and police and gendarmerie checkpoints that were scattered around the country. Only a few posts remain on roads leading into and out of major towns, for security purposes and to provide assistance in the event of accidents.

192. Restrictions on freedoms can, however, be imposed upon individuals as additional penalties by a court decision for reasons of national security and to maintain public order. For the same reasons, the administrative authorities may, on occasion, limit freedom of movement.

### **Article 13. Expulsion of aliens**

193. Under article 15 of the Constitution, aliens who have entered Chad legally enjoy the same rights and freedoms as nationals and are required to comply with national laws. However, if an alien enters the country without prior permission from the authorities, he or she can be expelled by an administrative measure. The same measure may be invoked in the case of legal residents who pose a threat to public order and security.

194. Similarly, Act No. 22/PR/95 of 28 September 1995 on drug control provides in article 142 that “in the event of the imposition of a ban from national territory on an alien ... the convicted person shall automatically be escorted to the border upon expiration of the term of imprisonment”. The competent authority in this regard is the Ministry of Public Security and Immigration.

195. The issue of the expulsion of foreigners is dealt with extensively in the report of Chad to the Committee on the Elimination of Racial Discrimination, which may be read in parallel with the present report.

### **Article 14. The right to procedural guarantees**

196. The provisions of article 14 of the Covenant are fully reflected in domestic law in the Constitution, the Criminal Code and the Code of Criminal Procedure. Articles 13 and 14 of the Constitution prohibit any discrimination on the grounds of ethnic, linguistic, racial or gender difference, physical condition or health, religious conviction or political opinion.

197. Although these provisions are commendable, in practice there is frequent discrimination in procedural matters.

198. Based on the principle of the separation of the executive, legislative and judicial branches as set out in article 7 of the Constitution, the State of Chad ensures equality for all before the courts, as well as providing judicial and procedural guarantees. Under article 141 of the Constitution, “the judiciary is independent of the executive and the legislative branches”. There is only one jurisdiction in Chad, of which the Supreme Court is the highest authority. Judicial

authority is exercised by the Supreme Court, courts of appeal, ordinary courts and magistrates' courts (arts. 142 and 143). Article 143, paragraph 2, of the Constitution assigns a key role to the judiciary, which "is the guardian of freedoms and of individual property and ensures respect for fundamental rights".

199. Article 145 of the basic law states that the President of the Republic is the guarantor of the independence of the judiciary. As such, he ensures the implementation of laws and judicial decisions with the assistance of the Superior Council of the Magistrature and guarantees the independence and impartiality of judges.

200. In accordance with article 2 of the Covenant, article 24 of the Constitution establishes the principle of presumption of innocence: an accused person is presumed innocent until proven guilty by a fair trial at which the necessary guarantees are provided for his or her defence.

201. Furthermore, article 64 of the Code of Civil Procedure states that hearings shall be public, with the exception of cases deemed dangerous or likely to disturb public order or morality.

202. Article 1 of the Code of Procedure provides for judicial proceedings as follows: civil proceedings to obtain the recognition or the protection of a right shall be brought before the courts of first instance and the Court of Appeal, in accordance with the provisions of the Act on the organization of the judiciary.

203. Act No. 004/PR/PM/98 on the organization of the judiciary provides that, in civil as in criminal cases, no person shall be tried without being given a fair opportunity to present his or her defence. A defendant may represent him or herself or be assisted by a lawyer, who may be appointed by the court in cases of hardship, as provided for by articles 38 and 39 of the Code of Civil Procedure.

204. Under article 38 of the Code of Civil Procedure, legal aid may be granted in any case to any litigant unable to exercise his or her rights in the judicial system as a claimant or a defendant owing to inadequate resources. Legal aid is available for all disputes and all acts of non-contentious jurisdiction.

205. Article 39 of the Code of Civil Procedure sets out the components of legal aid. It exempts the applicant from expenses, which are advanced by the Treasury and authorized for payment out of criminal justice funds, and may include the free services of legal counsel and free assistance of an enforcement agent. Enforcement actions and procedures are automatically covered.

206. Court-appointed counsel remains available only in criminal cases, in the absence of implementing legislation provided for by article 40 of the Code of Civil Procedure establishing the conditions of eligibility for legal aid.

207. The Code of Civil Procedure sets out the manner in which citizens may initiate legal proceedings. Under article 41, legal proceedings are initiated by filing either an application or a writ of summons with the clerk of the court. The application is filed by the applicant or his or her representative in as many copies as there are parties with an interest. The identity of the person filing the application must be verified, either by documents or witnesses.



208. For the purposes of evidence, articles 96 to 101 of the Code of Civil Procedure and articles 78 to 86 of the Code of Criminal Procedure provide for the hearing of witnesses to guide the decision of the judge. Article 49 of the Code of Criminal Procedure requires recourse to an interpreter where necessary.

209. Sometimes the procedures required by the law are not observed. One example is the case of the journalists arrested in 2005.

210. In Chad, the law provides for a single jurisdiction and the right to a second hearing. Accordingly, a number of courts of first instance were established, as well as magistrates' courts, in order to make justice more accessible. It should also be noted that a juvenile court was established to deal with cases involving minors. The higher-level courts are the courts of appeal and the Supreme Court. Appeals may be lodged with these bodies under article 39 of Act No. 004/98 on the organization and functioning of the Supreme Court and article 216 of the Code of Civil Procedure. Although the law is clear, the judicial process is, regrettably, lengthy, owing to the lack of infrastructure and staff and to the degree of cooperation by those subject to the legal system.

211. In Chad, there are a number of provisions aimed at reinstating the rights of victims of judicial errors or their beneficiaries. Redress in such cases can be sought against the State on grounds of administrative liability, or against informers and false witnesses, where an action is brought against the claimant for criminal indemnification.

212. Cases involving administrative liability may be referred to the court of first instance under article 30 of Act No. 004/98 on the organization of the judiciary, which provides that the court of first instance is competent to conduct a full review of administrative acts, including in cases involving administrative liability. Under article 31 of the Act, the court of first instance is competent to decide on claims in which the State or another public entity is held accountable for the actions of its agents or officials.

213. This system rules out personal liability of judges, who, under article 3 of Ordinance No. 008 of 1991 on the organization of the magistrature, may in no manner be troubled on account of their actions in the course of their duties and, specifically, the decisions they have handed down or in which they have taken part. That is why articles 409 to 411 of the Code of Criminal Procedure, make provision for the payment of damages as reparation for harm caused to the victims of judicial errors.

214. Under article 264 of the Code of Criminal Procedure, once a case has been dismissed the accused cannot be investigated again for the same act unless new evidence against him or her emerges, such as witness statements, documents and statements' which could not be considered by the judge and which either corroborates evidence that would otherwise have been found insufficient or sheds new light on the facts that would help to ascertain the truth. The decision to reopen a case is made by the Office of the Public Prosecutor. However, according to the principle of *res judicata*, no person may be subject to further proceedings once a final judgement has been rendered in his or her favour.

215. Until October 1997, electoral cases were under the jurisdiction of the constitutional chamber of the N'Djamena Court of Appeal. Accordingly, following the 1996 elections, for example, nine candidates referred a complaint dated 21 June 1996 to the Court of Appeal seeking to overturn Decision No. 003/CENI/96 dated 13 May 1996. The applicants claimed that the decision was in violation of articles 38, 39 and 69 of Act No. 004/PR/95 of 22 March 1995. By Decision No. 001/96 of 5 June 1996, the applications were declared admissible, but unfounded.

216. Articles 68 and 161 of the Constitution established the Constitutional Council, with responsibility for handling presidential and legislative electoral cases and verifying the legality of referendums. Act No. O19/PR/98 of 22 November 1998 was promulgated in order to regulate the organization and functioning of the Council.

217. The decisions handed down include those relating to the constitutional referendum of 6 June 2005, in which a number of irregularities were observed. These included a discrepancy between the total votes obtained and votes recorded, failure to abide by polling station opening hours, an inordinate number of voters, lack of results sheets, lack of the required number of signatures, excessive number of absentee ballots, irregular signatures, absence of signatures and contradictions between records and results sheets.

218. Moreover, at the time of the 2002 legislative elections, a number of candidates were able to refer their candidatures, which had not been validated, to the Constitutional Council. Out of 28 applications registered with the clerk of the Constitutional Council, some were declared founded and were validated. Others were deemed to be unfounded and were rejected by Decision No. 002/PCC/SG/02 of 15 March 2002 on consideration of the eligibility of candidates for the legislative elections of 21 April 2002.

219. It should be noted that two courts of appeal have been established in Abeche and Moundou, in order to ensure the proper administration of justice.

#### **Article 15. Legality of offences and penalties**

220. The principle of the legality of offences and penalties, as a general principle of law, is applicable in Chad. Article 23 of the Constitution affirms that no one shall be arrested or charged except under a law promulgated prior to the acts with which he or she is charged. Moreover, article 1 of the Criminal Code provides that no crime, offence or misdemeanour shall be punishable by penalties not imposed by law prior to their being committed.

#### **Article 16. The right to recognition as a person before the law**

221. The revised version of the Constitution of Chad recognizes the right of all to recognition as persons before the law. Specifically, article 13 provides that the citizens of Chad have the same rights and responsibilities and are all equal before the law. Article 14 provides further that the State ensures equality for all before the law without distinction of origin, race, religion, political opinion or social status. It is the duty of the State to ensure that all forms of discrimination against women are eliminated and that their rights are protected in all spheres of private and public life. The National Human Rights Commission (CNDH) and human rights associations make a considerable contribution through awareness campaigns and radio broadcasts.

222. As the draft personal and family code has not yet been promulgated, Chad continues to use the French Civil Code of 1958 to deal with family issues. Article 488 of the Code provides that majority is reached at 18 years of age and that, at this age, a person is capable of all acts of civil life. Nevertheless, a person who has attained majority but whose individual faculties are impaired in such a way that he or she is not competent to look after his or her interests, is protected by the law, whether for a specific act or on a continuous basis.

223. Similar protection may be granted to a person who has attained majority but who because of profligacy, immoderation or indolence risks poverty or jeopardizes his or her ability to fulfil his or her family obligations. The Code also ensures that minors enjoy certain civil rights by providing for legal representation.

224. In practice, these constitutionally recognized fundamental rights and freedoms are infringed by certain authorities responsible for protecting and promoting them. The illiteracy and ignorance of the holders of these rights obstructs the effective implementation of the relevant laws. However, the Government has taken steps to disseminate human rights texts in schools. The establishment of the Ministry for Human Rights is evidence of the Government's commitment to making human rights a priority.

#### **Article 17. Protection of privacy, family, the home and correspondence**

225. 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 the protection of privacy and possessions."

226. Part 3 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 hard labour. Article 288 stipulates that persons who, having been entrusted with the care of a child, do not return the child to those claiming it back, shall be liable to the penalties provided for in article 286.

227. It should also be recalled that certain Chadian customs protect the family in that they condemn practices such as desertion of the family, adultery and abortion.

228. Protection of the home is afforded in article 42 of the Constitution, which provides that the home is inviolable. Searches may only be conducted in the cases and in the manner prescribed by law.

229. 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 capacity 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 imprisonment from six days to one year and to a fine from CFAF 5,000 to CFAF 500,000, without prejudice to article 143, paragraph 2.

230. 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 imprisonment from six days to six months and to a fine from CFAF 5,000 to CFAF 50,000.

231. 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 purpose 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.

232. Article 45 of the Constitution of Chad provides that the privacy of correspondence and communications is guaranteed by law. Article 44 of Act No. 029/PR/94 on the press regime states that any allegation or attribution of an act that damages the honour or reputation of the person or entity against which the allegation or attribution is made constitutes defamation.

233. The direct publication or reproduction of such an allegation or attribution is punishable, even if it is phrased in such a way as to express doubt or if it refers to a person or entity not expressly named but identifiable by the wording of the text, by the images, writings or printed matter, photographs or posters in question.

234. However, it is not considered an offence within the meaning of article 44 when the statement of opinion merely reports comments made by a third party on acts or statements by a person in public office.

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

236. Arbitrary interference in private life is often perpetrated by over-zealous officials, of whom there is no shortage in the administrative authorities. The law offers various remedies to victims, who can file criminal or civil liability claims. Article 154 of the Criminal Code provides for applicable penalties (see para. 229, above).

### **Article 18. Freedom of thought, conscience and religion**

237. Freedom of thought, conscience and religion are guaranteed by the Constitution. Paragraph 3 of the Preamble to the Constitution reaffirms Chad's commitment to the human rights principles laid down in the Charter of the United Nations, the Universal Declaration of Human Rights and the African Charter of Human and Peoples' Rights.

238. Similarly, article 14 of the Constitution declares that "The State ensures equality for all before the law without distinction on grounds of origin, race, sex, religion, political opinion or social status. It is the duty of the State to ensure that all forms of discrimination against women are eliminated and that their rights are protected in all spheres of private and public life."

239. Moreover, article 27 states that freedom of opinion and expression, communication, conscience, religion, the press, association, assembly, movement, demonstration and procession are guaranteed to all. These freedoms may 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 these freedoms may be exercised.

240. Lastly, article 32, paragraph 3, of the Constitution declares that “No one may be prejudiced in his or her employment on account of his or her origins, opinions, beliefs, sex or marital status.”

241. Article 5 of Act No. 017/PR/2001 on the Civil Service Regulations gives effect to these freedoms, stating that access to civil service posts is open to all Chadians meeting the conditions set out in part IV of the Act, on an equal basis and without distinction of sex, religion, origin, race, political opinion or social status, subject to physical and mental aptitude requirements or requirements inherent in certain posts determined by special statutes.

242. Article 58 of Act No. 029/PR/94 on the press regime states that the prosecution of offences and minor infractions committed by means of the press or any other media shall be initiated as follows: in the case of abuse or defamation of the persons mentioned in article 45 and in the case of defamation of the individuals provided for in article 49, the case shall be prosecuted only at the instigation of the person who has been defamed or abused. However, the case may be prosecuted by the Public Prosecutor’s Office when the objective of the defamation or abuse of persons belonging to a particular race or religion was to incite tribal or religious hatred.

243. Article 7 of the Labour Code states that no employer may take into consideration a worker’s membership or non-membership of a trade union or trade union activity, origin or opinions, in particular religious or political opinions, when making the decisions provided for in the previous article (employment and working conditions).

### **Article 19. Freedom of expression and opinion**

244. In Chad, freedom of opinion and expression is recognized for all. Everyone is free to seek and receive information, since the Constitution provides that freedom of opinion and expression, communication, conscience, religion, the press, association, assembly, movement, demonstration and procession are guaranteed to all. These freedoms may only be restricted by respect for the freedoms and rights of others and the need to safeguard public order and morals (art. 27).

245. The freedom to form a political party or to belong to the political party of one’s choice is recognized in the national legislation. With regard to political parties, Act No. 45 of 14 December 1994 introduced a charter of political parties. Several political parties have been established and operate freely throughout the country.

246. Moreover, freedom of opinion is recognized for civil servants. Article 10 of the Civil Service Regulations states that “freedom of opinion is recognized for civil servants. No civil servant shall be discriminated against on grounds of sex or their views on political, trade union or philosophical matters. However, they are requested to express their political, philosophical or

religious views outside the Service. Such opinions shall not be mentioned in civil servants' personal files. The State shall not take membership of a trade union, political, philosophical or religious organization or an association into consideration for purposes of disciplinary action against a civil servant".

247. Similarly, the freedom of all citizens to express their ideas and opinions through any means of communication is recognized, as is freedom of the press and printing (arts. 1 and 2 of the Act on the press regime). Chad's numerous independent radio stations and newspapers contribute to the expression of these freedoms.

248. The Government of Chad has issued a law regulating the press, namely, Act No. 029 of 12 August 1994 on the press regime. All citizens exercise the freedom of expression recognized by law. Political debates are broadcast even on the national radio station. Private radio stations are regulated in Chad by a specific regulation, Decision No. 007/HCC/P/SG/99 of 10 June 1999 on the conditions for the operation of private radio stations.

249. The full development of these public freedoms is obstructed by illiteracy, widespread poverty, inadequate resources of newspapers and private radio stations (small newspaper print runs, poor radio transmitter coverage) and the psychological aftermath of long years of political repression.

#### **Article 20. Prohibition of war propaganda**

250. Chad has suffered severely from the war, and all of 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, based on the principles of equality, reciprocal interests and mutual respect, and of national sovereignty, territorial integrity and non-interference. Article 5 of the Constitution provides that "any propaganda of an ethnic, tribal, regional or religious character which might prejudice national unity or the secular nature of the State is prohibited".

251. Articles 40 and 43 of Act No. 029/PR/94 on the press regime provide for penalties in the event of such violations. The guiding principle of Government policy is the development of a culture of peace, both inside the country and abroad.

#### **Article 21. The right of assembly**

252. Article 27 of the Constitution recognizes and officially proclaims the right of peaceful assembly. The exercise of this right, however, is subject to prior authorization. Article 1 of Ordinance No. 45/62 on public assembly provides that "public assemblies shall not take place without prior authorization ...".

253. The Government has had to limit these public freedoms on a provisional basis under exceptional circumstances (such as a state of emergency or of siege) and during elections, for reasons of public order and security (art. 124 of the Constitution). Public assemblies may not take place without prior authorization and must comply with the conditions prescribed by

Ordinance No. 45/62. Decree No. 193/INT.-SUR of 6 November 1962 regulating public demonstrations requires the prior notification and authorization of all processions, parades, assemblies and, in general, public demonstrations. Assemblies on the public highway in accordance with local custom are exempt from this requirement.

254. However, armed assemblies or those likely to disturb public order are clearly prohibited. Ordinance No. 46 of 28 October 1962 on unlawful assembly prohibits any armed unlawful assembly or any unarmed unlawful assembly that is likely to disturb public order on the public highway or in a public place. Unlawful assembly is defined as any assembly of persons that is likely to disturb the public peace.

## **Article 22. Freedom of association**

255. Since the adoption of various laws on freedom of association, and especially since 1990, a variety of associations and unions have come into being. Today there are two major confederations: the Union of Chadian Trade Unions (UST) and the Free Confederation of Workers of Chad (CLTT), in addition to some 3,000 associations in various fields.

256. Freedom of association is recognized by article 28 of the Constitution. A trade union may be dissolved only by judicial or statutory means (Constitution, art. 30).

257. Associations are regulated by Ordinance No. 27 of 28 July 1962. Under articles 3, 4 and 5 and subject to the exceptions set forth in article 2, associations may be formed by submitting a notification and obtaining authorization, but shall enjoy legal capacity only if explicitly requested. However, all associations may collect subscriptions and use them in accordance with their by-laws. Except where otherwise provided in the by-laws, any person who is a member of an association for an unspecified period of time may withdraw membership at any time, after paying subscriptions arrears and current annual subscriptions.

258. Notification of the founding of an association must be made to the administrative centre of the prefecture in which the association has its headquarters. The notification must be submitted in triplicate and indicate the name and purpose of the association and the headquarters and local office addresses, in addition to the names, occupations and addresses of those who are responsible for its administration or management in any capacity. A receipt is issued for the notification.

259. The Ministry of the Interior shall grant or refuse authorization within three months of the date on which the notification was submitted, as indicated on the receipt. Three copies of the by-laws must be attached to the notification.

260. Associations are required to inform the administrative authority which received its founding notification of any changes in the administration or management of the association within 30 days, as well as any amendments to their by-laws. Such amendments and changes are effective against third parties only from the day on which they were notified.

261. Amendments and changes shall be recorded in a special register, to be presented to the administrative or judicial authorities at their request. This may be the same register in which the by-laws and minutes of the meetings and sessions of the association are kept.

262. The founding of an association must be published in the Official Gazette, as must subsequent modifications. Decree No. 165 of 25 August 1962 provides for the implementation of the above-mentioned Ordinance.

### **Article 23. The right to marry**

263. The concept of family is fundamental and underpins the organization of society in Chad. Children's education is designed to prepare them to assume family and social responsibilities in later life. Customary law also protects the family.

264. The minimum marriageable age and the consent required of intending spouses conflict with certain persistent customs. The Criminal Code of Chad therefore penalizes the marriage of girls under the age of 13 years and provides, in article 277, that "the consummation of a customary marriage before a girl has reached the age of 13 years is deemed to be rape and punishable as such".

265. 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 Code will repeal the provisions of the French Civil Code of 1958, which enshrines male primacy in the family.

### **Article 24. Children's rights**

266. Chad has ratified the Convention on the Rights of the Child and steps have been taken to incorporate it in domestic law. Article 38 of the Constitution requires parents to raise and educate their children, and the State and the decentralized territorial units support them in that endeavour.

267. Article 254 of the Criminal Code strictly prohibits corporal punishment of children; moreover, article 7 of Act No. 007/PR/99 of 6 April 1999 limits the period of time for which a minor may be held in custody to a maximum of 10 hours. The Act establishes a juvenile court and a juvenile judge.

268. Article 206 of the Labour Code prohibits night work for children aged under 18 years.

269. In order to remedy current shortcomings in the organization of the civil registry, which is regulated by Ordinance No. 03/INT of 2 June 1961, and as part of its plan to modernize the civil registry, the Government of Chad has developed a national strategy document, the objectives of which include increasing public awareness of the importance of the civil registry. It has also prepared a draft bill on the organization of the civil registry which, if promulgated, would respond to the Committee's concerns with regard to the registration of births, by providing for compulsory registration of births for sedentary and nomadic populations and inhabitants of rural areas, with the possibility of introducing mobile offices for nomadic populations. The deadline for registration will be reduced from two months to one month for sedentary populations and from four to two months for nomads.



270. The key elements of identity, which are family name, forenames, date and place of birth, sex, and the family name of the father and mother or the person who recognizes the child, are noted upon registration with the civil registry. Awareness campaigns targeting opinion makers and community leaders have been conducted, and social workers and health workers have been trained on the importance of registering births.

271. Every child has the right to acquire a nationality, in accordance with the Nationality Code, which provides that nationality shall be granted to legitimate or natural children born in Chad who have no nationality by birth, to children of unknown parentage born in Chad or to children born in Chad of foreign parents (Nationality Code, arts. 9 and 10).

272. Despite the existence of a legal arsenal on the subject, Chad is experiencing severe difficulty in fulfilling its international obligations. Socio-cultural pressures on parents, who do not understand the point of birth registration, the nomadic way of life of part of the population and the vast size of the territory, which makes access to civil registry offices difficult, combined with the State's limited resources, obstruct the registration of births throughout the entire country.

273. The Government plans the imminent ratification of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

#### **Articles 25 and 26. The right to take part in the conduct of public affairs without discrimination**

274. In Chad, a number of laws prohibit discrimination on grounds of sex, age, religion and nationality. The Constitution entrusts the management of public affairs directly to citizens or indirectly to their representatives (art. 3 of the Constitution), without distinction of sex, religion or any other consideration (arts. 13 and 14).

275. The Electoral Code recognizes the right to vote of all Chadians of both sexes over the age of 18 (Electoral Code, art. 3). The right to stand for election is subject to age requirements, according to the type of election (presidential, legislative or local) (Electoral Code, art. 115).

276. Equal "access to civil service posts is guaranteed to all Chadians without any discrimination, subject to the inherent requirements of each position" (Constitution, art. 31). This constitutional equality is enforced by Act No. 017/PR/2001 on civil service regulations.

277. Article 5 of the Act provides that "all Chadians meeting the conditions set out in part IV of the present Act shall have equal rights to access to public office without distinction on grounds of gender, religion, origin, race, political opinion or social status".

278. Lastly, no employer may base decisions relating to recruitment, division of labour, training, promotion, remuneration or termination of an employment contract on the national origin of workers (Labour Code, art. 6).

279. Although the penalties are severe, the corruption and nepotism practised by some public and private officials give rise to a form of discrimination with respect to equal access to positions. The Ministry responsible for State oversight and ethics was established in order to track down and punish corrupt or dishonest officials.

**Article 27. Minority rights**

280. Although minorities exist in Chad, they are not subject to any official discrimination. However, the survival in the northern part of the country of certain traditional pariah practices establishing castes (such as blacksmiths, commonly referred to as “Haddad”) means that the groups concerned suffer from persistent ostracism. 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 these backgrounds to decision-making positions.

281. In Chad, the ethnic origin of individuals is not indicated on official identification papers or in other administrative documents.

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