



**International covenant
on civil and
political rights**

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

Concluding observations of the Human Rights Committee

CHAD

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

A. Introduction

2. The Committee welcomes the submission of the initial report of Chad, while regretting that it was submitted 12 years late. The Committee invites the State party to take account of the timetable set by the Committee for the submission of reports. It thanks the State party for having submitted its written replies (CCPR/C/TCD/Q/1/Add.1) to the list of issues (CCPR/C/TCD/Q/1) far enough in advance to allow for their translation into the Committee's other working languages. The Committee appreciates the detailed information which the State party provided on its legislation. It regrets, however, that insufficient information was provided on the effective implementation of the Covenant.

3. The Committee welcomes the frank dialogue opened with the delegation of the State party on the various problems confronting the State party. It regrets, however, that a delegation from the State party could not be present in New York on 18 and 19 March 2009, when the report of Chad had initially been scheduled for consideration during the Committee's ninety-fifth session, since this hampered the smooth functioning of its work.

4. The Committee looks forward to the outcome of the human rights forum the State party is planning to hold in November 2009, and hopes that all due attention will be paid to the need to ensure compliance with the provisions of the Covenant.

B. Positive aspects

5. The Committee notes that, pursuant to article 222 of the 1996 Constitution, as amended in 2005, the Covenant takes precedence over domestic laws.

6. The Committee notes with satisfaction the adoption of Act No. 06/PR/2002 of 15 April 2002 prohibiting female genital mutilation, early marriage and domestic and sexual violence.

7. The Committee notes with interest the establishment of the National Commission of Inquiry to investigate the human rights violations that took place in the State party during the events of February 2008.

8. The Committee notes with interest the establishment in 2005 of the Ministry for Human Rights and Freedoms, as well as the formation of an inter-ministerial technical committee to follow up on international instruments.

C. Principal subjects of concern and recommendations

9. The Committee notes with concern that the rights protected by the Covenant have not been fully integrated into domestic law and that the Covenant has not been publicized widely enough to be readily invoked before the courts and authorities of the State party (article 2 of the Covenant).

The State party should ensure that remedies are available to guarantee the exercise of the rights recognized in the Covenant. It should provide information on the Covenant to the entire population, particularly law enforcement personnel, and should ensure its effective implementation.

10. The Committee notes with concern, particularly in the context of armed conflict, that serious human rights violations have been and continue to be committed with impunity on Chadian territory, including murder, rape, enforced disappearance, arbitrary detention, torture, destruction of property, forced displacement and attacks on the civilian population. The Committee is especially concerned about the State party's inability to combat impunity on its territory and about the lack of examples of cases in which perpetrators of serious crimes have been prosecuted and punished (articles 2, 3, 6, 7 and 12 of the Covenant).

The State party should take all appropriate steps to put a stop to such violations and to guarantee that all human rights violations brought to its attention are investigated and that the perpetrators are prosecuted and punished under criminal law. It should also ensure that State bodies and agents provide the necessary protection to victims of human rights violations and should undertake to guarantee in all circumstances that victims have effective access to remedies and to appropriate reparations.

11. While noting with satisfaction the adoption of Act No. 004/PR/00 of 16 February 2000 penalizing the misappropriation of public funds, corruption, extortion, influence-peddling and similar offences, and the establishment of the ministry responsible for State oversight and ethics, the Committee remains concerned about the persistence of a high level of corruption in the State party and about its adverse impact on the full enjoyment of the rights guaranteed by the Covenant (article 2 of the Covenant).

The State party should take all necessary and appropriate measures to combat effectively the misappropriation of public funds, extortion, influence-peddling and the high level of corruption, including measures to change societal patterns of behaviour, so that corruption will no longer be seen as inevitable.

12. While noting that the mandate of the National Human Rights Commission is to promote human rights, the Committee remains concerned that this institution does not discharge its functions effectively and is not in full compliance with the Paris Principles (art. 2).

The State party should promptly take the necessary measures to guarantee the proper functioning of the National Human Rights Commission. In particular, it should provide the Commission with its own budget, strengthen its mandate, broaden its oversight powers and take all necessary steps to guarantee its full independence, in line with the Paris Principles.

13. The Committee notes with concern that, between 2007 and 2008, some 160,000 Chadians were internally displaced, primarily in the Dar Sila and Ouaddai regions. It regrets that measures have not been taken to protect displaced persons and to enable them to return home in safety and dignity. The Committee notes with concern that most displaced persons are under the age of 18 and that displaced women have been victims of rape and other forms of sexual violence perpetrated by militias and armed groups (articles 2, 3, 7, 12 and 24 of the Covenant).

The State party should, in accordance with all international standards on the subject, including the Guiding Principles on Internal Displacement, take all necessary and appropriate measures to:

(a) Increase protection for displaced persons both within and around their camps;

(b) Strengthen its capacity to protect displaced women, conduct investigations, institute proceedings, punish all perpetrators of sexual violence and provide victims with all necessary assistance;

(c) Formulate and adopt a legal framework and a national strategy covering all phases of displacement; and

(d) Create conditions that offer lasting solutions to displaced persons, including their voluntary and safe return.

14. The Committee notes with concern that the level of domestic violence against women is high, despite the existence of laws penalizing this practice (articles 3, 7 and 26 of the Covenant).

The State party should take effective measures to eradicate domestic violence. It should encourage victims to report such acts and should provide them with effective assistance. The State party should also adopt implementing regulations expanding access to remedies under Act No. 06/PR/2002, and should ensure that the perpetrators of domestic violence are effectively penalized.

15. While taking note of Act No. 06/PR/2002 of 15 April 2002, the Committee remains concerned that female genital mutilation is practised on a considerable number of women in Chad and that, in violation of human dignity, it is carried out in one of its most severe forms (infibulation) (articles 3, 7 and 24 of the Covenant).

The State party should strictly enforce Act No. 06/PR/2002 and bring perpetrators of genital mutilation to justice. It should also take the necessary measures to raise the Chadian population's awareness with a view to the total eradication of this practice, particularly in border communities in the eastern part of the country, where it is still very widespread.

16. The Committee regrets the existence of polygamy within the State party, as it is a discriminatory practice that undermines women's dignity and is incompatible with the principles laid down in the Covenant (articles 3 and 26 of the Covenant).

The State party should take the necessary legislative and other measures to abolish polygamy and should adopt and implement public education measures with a view to preventing it. In this connection, the Committee draws the attention of the State party to its general comment No. 28 (2000) concerning equality of rights between men and women.

17. While noting the State party's willingness to undertake a process of reflection on the status of women and, in particular, its intention to review and codify customary law in accordance with its Constitution, the Committee remains concerned that the implementation of rights under the Covenant is not guaranteed in the State party, in part because of customary practices and rules that violate the Covenant and are extremely detrimental to women, in particular, in matters such as inheritance and property. The Committee is also concerned about the low level of women's representation in public life (articles 3, 25 and 26 of the Covenant).

The State party should:

(a) Redouble its efforts to bring customary law and customary practices into line with the rights laid down in the Covenant, attaching high priority to this issue;

(b) Pay special attention to the full participation of women in the current process of reviewing and codifying customary law and customary practices; and

(c) Make further efforts to promote women's participation in public life, improve their education and guarantee their access to employment.

18. The Committee notes with concern the lack of clarity in the legal provisions allowing the authorities to declare a state of emergency and to derogate from obligations provided for in the Covenant (article 4 of the Covenant).

The State party should ensure, in accordance with article 4 of the Covenant and bearing in mind general comment No. 29 (2001) concerning states of emergency, that its legislation is in conformity with the provisions of the Covenant in order to ensure, in particular, that non-derogable rights are not violated.

19. While noting with interest that the State party intends to take measures leading to the abolition of the death penalty, the Committee remains concerned about reports of extrajudicial executions in the State party. It also regrets that the State party has ended the de facto moratorium on the death penalty. Moreover, the Committee notes with concern reports that a number of people were executed in November 2003 after a summary trial and before the court had ruled on their appeal in cassation (arts. 6 and 14).

The State party should consider abolishing the death penalty or at least reinstating the moratorium on the death penalty. It should ensure that the death penalty is applied, if at all, for only the most serious crimes and that, whenever it is imposed, the requirements of articles 6 and 14 are fully met. In addition, the State party should consider commuting all death sentences and ratifying the Second Optional Protocol to the Covenant aiming at the abolition of the death penalty.

20. The Committee is concerned about reports that many people have been victims of enforced disappearance and have sometimes been kept in secret detention centres, and regrets that the recommendations of the Commission of Inquiry on the human rights violations that took place during the events of February 2008 have not been implemented by the State party and that information has yet to be provided on the fate of disappeared persons, including Ibni Oumar Mahamat Saleh. The Committee notes with concern that these recommendations have not resulted in the prosecution of State agents responsible for serious human rights violations during that period (articles 6 and 9 of the Covenant).

The State party should take all necessary and effective measures to bring to justice all those responsible for serious human rights violations, including the violations committed during the events of February 2008. It should promptly implement the recommendations made by the Commission of Inquiry in 2008.

21. While noting that torture is prohibited under article 18 of the Constitution, the Committee is concerned that torture is not defined as an offence under the Criminal Code and that no remedies are available to victims of torture. The Committee notes with concern reports that detainees, particularly prisoners of war and political opponents within the State party, are frequently subjected to torture and to cruel, inhuman or degrading treatment (art. 7).

The State party should:

(a) Define torture as a separate offence, in order to comply with article 7 of the Covenant;

(b) Guarantee that all allegations of torture and of cruel, inhuman or degrading treatment are investigated by an independent authority, that the perpetrators of such acts are prosecuted and punished accordingly and that the victims receive adequate reparations;

(c) Improve the training of State agents in this regard, to ensure that anyone who is arrested or detained is informed of his or her rights; and

(d) Provide, in its next report, detailed information on complaints filed for such violations, the number of individuals prosecuted and convicted, including members of the national security forces, and the reparations awarded to the victims.

22. The Committee is concerned that, in practice, police custody can last for long periods, during which the detainee has no access to counsel or to medical attention (article 9 of the Covenant).

The State party should take all necessary and appropriate measures to ensure that the rights of persons in police custody are respected. Information on the methods for supervising the conditions of police custody and on their results should be provided in the next periodic report.

23. The Committee is concerned about reports of deplorable conditions of detention in gendarmerie and police stations and in detention centres in the State party, including overcrowding, severe lack of hygiene, very limited access to medical care and insufficient and low-quality food. The Committee is particularly concerned about reports that prisoners are shackled in some prisons, including the Mao prison (articles 7 and 10 of the Covenant).

The State party should take urgent and effective measures to address overcrowding in detention centres and to ensure that conditions of detention are compatible with respect for human dignity, in accordance with article 10 of the Covenant. It should, in particular, take measures to ensure that the United Nations Standard Minimum Rules for the Treatment of Prisoners are implemented. Regular and independent inspections should be carried out for this purpose.

24. The Committee notes with concern that, while the principle of separating accused persons from convicted persons is established in article 234 of the Chadian Code of Criminal Procedure, detention centres do not have suitable structures for separating accused persons from convicted persons or juveniles from adults (art. 10).

The State party should institute a system for ensuring that accused persons are separated from convicted persons and juveniles are separated from other detainees, in accordance with article 10 of the Covenant.

25. The Committee notes with concern that imprisonment for non-payment of debts is common (article 11 of the Covenant).

The State party should take appropriate measures to end the practice of imprisonment for non-payment of debts, in accordance with article 11 of the Covenant.

26. The Committee is concerned about reports that the State party's judicial institutions are dysfunctional owing to a shortage of judges and prosecutors and to unmet infrastructure needs, as well as the lack of defence counsel in the eastern part of the country. The Committee is particularly concerned about the extent of corruption and interference with the independence of judges (article 14 of the Covenant).

The State party should take all necessary and effective measures to ensure respect for due process and to provide full guarantees of the appropriate and independent functioning of the justice system. In particular, the State party should promptly implement the judicial reform recommended for the period 2005-2015 by the Forum on Justice held in 2003. A timetable should be established for its implementation.

27. The Committee notes with concern that a very large number of births go unregistered, particularly in rural areas (articles 16 and 24 of the Covenant).

The State party should take the necessary budgetary and other measures to guarantee that all births and all unregistered adults are registered. The deployment of mobile registration units of the civil registry should be strengthened. The Committee invites the State party to provide, in its next report, information on the results of the projects to modernize the civil registry and support measures to strengthen it, which are being implemented with support from the specialized agencies of the United Nations and the European Union.

28. The Committee notes with concern that cases of arbitrary or unlawful interference in private life are common in Chad, as recognized by the State party. It is particularly concerned about cases of unlawful entry, break-ins (sometimes accompanied by rapes) and evictions, particularly those that took place in N'Djamena during the events of February 2008 (article 17 of the Covenant).

The State party should ensure respect for the provisions of article 17 of the Covenant and should take effective measures to eliminate arbitrary or unlawful interference, to make remedies available to victims and to prosecute and punish those responsible for such violations.

29. The Committee notes with concern that freedom of association and peaceful assembly cannot be exercised without prior authorization and that states of emergency are allegedly being used to control and censor the free press. It regrets the numerous violations of freedom of expression, particularly freedom of the press, that reportedly took place during the events of February 2008, particularly as a result of the adoption of Ordinance No. 5 of 20 February 2008 on the press regime, which increases the penalties applicable to journalists for press offences (article 19 of the Covenant).

The State party should take all necessary and effective legislative and other measures to guarantee the exercise of freedom of association and freedom of expression and to ensure the effective exercise of freedom of the press, pursuant to article 19 of the Covenant.

30. The Committee is concerned about reports that many human rights defenders are unable to carry out their activities without impediment because they have been subjected to harassment, intimidation and aggression and have been forbidden by the security services from holding demonstrations (articles 21 and 22 of the Covenant).

The State party should respect and protect the activities of human rights defenders and should ensure that any restrictions on their activities are compatible with the provisions of articles 21 and 22 of the Covenant.

31. The Committee is concerned about the situation of Chadian children, which is characterized by human rights violations such as commercial sexual exploitation, kidnapping, trafficking, early marriage and modern forms of slavery in the case of child cattle-herders and domestic workers. In addition, the Committee notes that kidnappings can easily be disguised as adoptions and that street children are especially likely to be victims of such acts.

The State party should take all necessary and appropriate measures to:

- (a) Eradicate the exploitation of child cattle-herders and domestic workers and find lasting solutions for poor families so that they can properly care for and protect such children;**
- (b) Investigate kidnappings and cases of missing children;**
- (c) Enact a legal framework and implementing regulations for the adoption of children in accordance with article 24 of the Covenant; and**
- (d) Strictly enforce its criminal laws by punishing the perpetrators of crimes and violence against children and providing the necessary assistance to victims.**

32. The Committee expresses its concern about the case of one child, Khadidja Ousmane Mahamat, who was forced into an early marriage at the age of 13½ and was accused of poisoning her 70-year-old husband. While no decision has yet been handed down in her case, since 2004 she has been in prison, where she has been raped by a prison official and has borne a child as a result, and continues to be sexually abused (articles 2, 7, 8 and 24 of the Covenant).

The State party should protect Khadidja Ousmane Mahamat, provide her with all necessary assistance and prosecute and punish those who have committed violence against her. The State party is invited to include information on this case in its next periodic report.

33. The Committee notes with concern the presence of child soldiers in armed groups and the recruitment of children into the Chadian National Army, particularly from displaced person camps (articles 8, 9 and 24 of the Covenant).

The State party should put a stop to all recruitment of child soldiers, including girls, into armed groups. To this end, it should set up a monitoring system, including regular follow-up visits to military camps and military training centres, to prevent any further recruitment of minors. The State party should take steps to assist and reintegrate children who have been in the army.

34. The Committee is concerned that the State party has not taken effective measures to spread awareness of human rights in general, and the Covenant in particular, among State agents and the population at large.

The State party should institute a nationwide human rights education programme. Training sessions on all the subjects addressed in these concluding observations should be organized for all State agents, including the police, judges and lawyers, and for traditional leaders and the general public. The State party should widely disseminate the text of the initial report, its written replies to the list of issues drawn up by the Committee and the present concluding observations.

35. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on the follow-up action it has taken on the recommendations contained in paragraphs 10, 13, 20 and 32 above.

36. The Committee requests the State party to include in its second periodic report, due to be submitted by 31 July 2012, specific, up-to-date information on the implementation of all the recommendations made and of the Covenant as a whole. The Committee also requests the State party to prepare the second periodic report in consultation with civil society and non-governmental organizations operating in the country.
