



**International covenant  
on civil and  
political rights**

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HUMAN RIGHTS COMMITTEE

**REPLIES OF THE GOVERNMENT OF CHAD TO THE LIST OF ISSUES  
(CCPR/C/TCD/Q/1) TO BE TAKEN UP IN CONNECTION WITH THE  
CONSIDERATION OF THE INITIAL PERIODIC REPORT OF CHAD  
(CCPR/C/TCD/1)\***

[12 January 2009]

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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.

**Constitutional and legal framework for the implementation of the Covenant  
(arts. 1 and 2)**

***Question 1\****

1. Respect for the rights of peoples has been a cornerstone of Chad's national and international policy since it achieved national and international sovereignty. As a Member State of the United Nations mindful of its international obligations Chad freely decided to ratify the International Covenant on Civil and Political Rights on 9 June 1995. In so doing it not only incorporated the Covenant into its domestic legislation pursuant to the preamble to the Constitution of 31 March 1996, as amended in 2005, but also gave the Covenant precedence over domestic legislation. Article 221 of the Constitution states in that regard: "Duly ratified treaties or agreements take precedence over national legislation upon promulgation, subject, for each agreement, to its implementation by the other party."
2. Citizens may invoke the provisions of the Covenant as well as any other agreements duly ratified by Chad, as illustrated by ruling No. 026/CS/CA/SC of 15 December 2002. The case concerned an Iranian refugee resident in Chad for more than 20 years who was ordered by the Ministry of Justice to be deported for his civil society work setting up a community radio station. A group of lawyers appealed to the administrative chamber of the Supreme Court and the Court, in its ruling, revoked the Minister's order, finding that it violated the provisions of the Convention relating to the Status of Refugees, which Chad has ratified.

***Question 2***

3. The National Human Rights Commission (CNDH) was created in 1994 by Act No. 031/PR/94 of 9 September 1994. A branch of the Office of the President, it has very broad responsibilities and has a mandate to:
  - (a) Submit advisory opinions to the Government on human rights issues, including the status of women and the rights of children and persons with disabilities;
  - (b) Provide assistance to the Government and other national institutions with regard to all human rights issues in Chad;
  - (c) Help review existing legislation and draft new provisions in the light of the Charter on Human Rights and Freedoms adopted by the Sovereign National Conference and regional and international instruments, with a view to promoting the rule of law and strengthening democracy;
  - (d) Carry out surveys and studies and prepare publications; advise the Government on all issues relating to human rights and fundamental freedoms, in particular current practices and the ratification and implementation of international instruments.

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\* For the content of the question please see the corresponding paragraph in the list of issues (CCPR/C/TCD/Q/1).

4. With regard to measures to guarantee the independence of the National Human Rights Commission, the following may be noted:

- (a) It was established by law;
- (b) Its membership is balanced, with half its members from the administration and half from civil society;
- (c) It is free to choose to review any issue whatsoever on its own initiative;
- (d) It may freely express its advice to the Government and ensures that advice is made public;
- (e) Any citizens who believe they are victims of human rights violations may file a complaint with the Commission.

5. Its operational independence in terms of the Paris Principles is however limited in that it does not have its own budget. Its lack of financial independence means that it is not a category A institution under the Paris Principles.

**Right to freedom of movement  
(arts. 2 and 12)**

***Question 3***

6. Freedom of movement is guaranteed by article 44 of the Constitution, which provides that all citizens of Chad 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, unlike in the 1980s when a laissez-passer was required. 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.

7. Restrictions on freedoms can, however, be imposed on individuals as additional penalties (banning orders) by a court decision, or for reasons of national security and to maintain public order in exceptional circumstances. 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, they can be expelled by an administrative measure.

8. As a result of the conflict in Darfur in 2003, Chad was faced with an influx of Darfur refugees in the east of the country. In 2005 there were 220,000 refugees from Darfur, 60 per cent of whom were under the age of 18. The refugees are cared for by the Government of Chad with the support of the United Nations and international and national refugee organizations. In 2005 Chad signed a memorandum of understanding on the monitoring of separated or unaccompanied Sudanese children with the International Committee of the Red Cross (ICRC), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Children's Fund (UNICEF).

9. A total of 437 separated and 104 unaccompanied children have been identified and taken into care. A National Refugee Commission (CNAR) was created by a decree dated 31 December 1991. That decree also created a subcommission on eligibility responsible for granting refugee status to individuals, in accordance with the Convention relating to the Status of Refugees and the Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa. Children requesting refugee status are entitled to protection and humanitarian assistance under these international instruments, which have been ratified by Chad. Protection and humanitarian assistance are guaranteed to refugees and their children as part of their civil rights and economic, social and cultural rights.

10. Conflict between communities, Janjaweed incursions and rebel attacks have caused the internal displacement of 50,000 persons in the Dar Sila region, 1,981 of them school-aged children and 136 children separated from their parents. Protection and humanitarian assistance are provided by United Nations agencies, the Government and national human rights organizations.

11. In 2005 some 7,500 children were attending primary school or preschool in the east of the country. Approximately 360 classrooms have been built and another 135 are under construction. The children also receive basic social and health services. Social workers and humanitarian personnel have received training in listening and counselling techniques, humanitarian law and children's rights in general. Play-based activities have been developed to help the children deal with the trauma they have suffered.

12. In order to guarantee security and provide better assistance, the Government of Chad, with the support of the international community, has deployed security forces in and around the refugee camps. An early recovery project for the east of the country is in the process of being adopted to help refugees and displaced persons manage their own affairs.

**Equality between men and women and prohibition of discrimination  
(arts. 2, 3 and 26)**

***Question 4***

13. The Constitution, the highest authority in the national juridical hierarchy, prohibits all forms of discrimination (article 14) and reaffirms the desire of the people of Chad to live their lives in full respect for ethnic, religious, regional, social and cultural diversity. No law makes any distinction between men's and women's rights: they are equal before the law (Constitution, art. 13).

14. In the area of 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.

15. To that end a unit for the promotion of girls' education has been created within the competent ministry in order to implement State policy in this area. 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 education free of charge. Article 35, paragraph 1, of the Constitution guarantees every citizen the right to education.

16. In the area of employment, article 31 of the Constitution guarantees every citizen access to civil service posts without discrimination, having due regard to the specific requirements of each position.

17. Article 32 recognizes every citizen's right to work, and states (para. 3) that "no one may be prejudiced in their employment on account of their origins, opinions, beliefs, sex or marital status". With a view to eliminating discrimination against women and children, Chad has ratified the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. Discussion and awareness-raising days on women's living and working conditions are organized every year during National Women's Week and on International Women's Day. Similarly, as part of these efforts to promote women's rights, a draft family code is making its way through Parliament, new institutions have been created, including the Ministry for Human Rights, the National Human Rights Commission, the Office for the Advancement of Women and Gender Protection and the Ministry for Social Action and National Solidarity, and there is greater openness in human rights issues.

18. With regard to child abduction, article 286 of the Criminal Code 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, as illustrated by the Zoé's Ark affair, involving a French NGO that, on the pretext of saving Sudanese children, tried to kidnap 103 Chadian children from Abéché, in the east of the country.

19. The substitution of one child for another or the 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.

20. Abduction or corruption of a minor under the age of 15, not aggravated by fraud or violence, is punishable by a prison sentence of between two and five years and a fine of CFAF 5,000 to CFAF 100,000. However, where the abductor marries the abducted person, prosecution and conviction is by law subject to a complaint being brought by someone with the right to request annulment of the marriage, and only once the marriage is annulled (Criminal Code, art. 289).

21. The question of land rights is no longer a problem in cities or the countryside; even in rural areas, progress is being made. More and more women not only have gardens at home but also have access to plots of a size limited solely by their ability to exploit them.

### ***Question 5***

22. The culture of violence that is the legacy of several decades of war has not spared families and there have been many cases of domestic or marital violence against women and children. The perpetrators are however always severely punished when such cases are brought before the courts. Furthermore, civil society organizations, including the Chad Association of Women

Jurists and the women's organizations' education and information service, make a significant contribution by running legal clinics that serve as women's rights information, education and awareness centres. It should be noted that families and victims often do not reveal this type of violence for fear of breaking up the family, which makes punishment difficult. No statistics on domestic violence are available.

23. The Government pays particular attention to these problems and has adopted measures to prevent and eradicate violence, especially sexual violence against women. For example, Act. No. 06/PR/2002 on the promotion of reproductive health has been promulgated, prohibiting all forms of violence, such as female genital mutilation, early marriage, domestic violence and sexual violence.

**State of emergency  
(art. 4)**

***Question 6***

24. The Constitution guarantees citizens the right to enjoyment of all applicable civil and political rights. However, it also restricts some of those rights if a state of emergency is proclaimed, in particular with regard to public meetings, press freedom and the movement of persons and goods. Such measures, involving restriction or derogation of 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". Those 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 state of emergency must not last longer than 15 days, renewable once only with the approval of the National Assembly, the nation being informed in a message by the President of the Republic. Decisions taken in such circumstances are considered to be acts of Government and are not subject to any appeal on the grounds of abuse of power. However, citizens who believe their rights have been violated may apply to the civil courts for redress.

**Right to life and prohibition of torture and other cruel, inhuman or degrading  
treatment and treatment of persons deprived of their liberty  
(arts. 6, 7 and 10)**

***Question 7***

25. The basic laws of the Republic of Chad guarantee protection of the rights of the family and the person. Article 17 of the Constitution provides that "the human person is sacred and inviolable. Every individual has the right to life, personal integrity, security, freedom and the protection of privacy and property". Under article 18 of the Constitution, "no person may be subjected to degrading or humiliating abuse or treatment, or to torture". Chad has also acceded to nearly all human rights conventions and treaties.

26. As yet, however, Chad has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. Thus, faced

with rapidly spreading insecurity and the challenges for the Government in trying to protect citizens and their property, the criminal court sentenced four people to death for the murder of a Sudanese businessman. They were executed on 6 and 9 November 2003 but were guaranteed the right to a fair trial. As provided in the Criminal Code, they were assigned legal counsel, they were allowed to speak and the trial was public. They sought a presidential pardon under article 89 of the Constitution, but their appeal was denied.

27. The crimes punishable by death are murder, patricide, poisoning, attacks on a person's life, on the constitutional order or national security, attempts on the life of the Head of State or a member of the Government or of the National Assembly, etc.

### ***Question 8***

28. Since independence Chad has been caught up in a cycle of violence, civil war, armed rebellion and foreign aggression whose effects are still very present in attitudes and behaviours. The conflicts facilitated the circulation of firearms, now in the possession of bandits who attack the population. In order to ensure the safety of its citizens the Government has established a security zone along the border and deployed an integrated defence and security force in the areas concerned. The force is supported by the European Union-led peacekeeping force (EUFOR) and the Co-ordination nationale d'appui à la force internationale au Tchad (CONAFIT). In addition the Government has just established a national disarmament commission with a view to halting the proliferation of weapons of war.

### ***Question 9***

29. Following the events of 2 and 3 February 2008 in N'Djamena, which led to serious human rights violations, the Government established a National Commission of Inquiry made up of representatives of the public authorities, civil society and religious faiths, and also of foreign partners, acting as observers. After several months of investigation, the Commission submitted a report containing its recommendations to the Government. The Government then established a follow-up committee made up of some of the members of the Commission. The committee itself established a technical subcommittee whose role is to make concrete proposals to the Government on implementation of the recommendations. One concrete measure has been to lodge a complaint against persons unknown in order to bring those responsible for the violations to justice. The technical subcommittee has also recommended the provision of financial and psychological assistance.

### ***Question 10***

30. As for traditional practices that are consistent with the Covenant, the Government has adopted measures to prevent and eliminate sexual violence against women in particular. Act No. 06/PR/2002 on promotion of reproductive health, for example, prohibits all forms of violence, including female genital mutilation, early marriage, domestic violence and sexual violence. Polygamy is to be regulated by the draft family code currently going through Parliament.

### ***Question 11***

31. There is no law in Chad specifically criminalizing the act of torture; torture can only be an aggravating factor. Thus the victim of a criminal act who was subjected to torture may sue for criminal damages under article 6 of the Code of Criminal Procedure. Other means of redress available to the victim are the remedies provided under article 1382 of the French Civil Code in force in Chad and, on grounds of grievous bodily harm, articles 252 and 253 of the Criminal Code.

32. The Government's commitment to the respect and protection of its citizens in this regard is Demonstrated by its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 9 June 1995 and the establishment of the National Human Rights Commission in 1994. Steps are being taken to align domestic law and these could lead in the very near future to the implementation of the Convention against Torture. The Criminal Code and the Code of Criminal Procedure date back to 1967, however, and will have to be amended to include the new offences.

33. The Criminal Code allows justice system personnel to be prosecuted for abuses committed against detainees. For example, following the abuses committed under the regime of former President Habré, victims filed for criminal damages with the chief investigating judge in what could be called the "Habré and accomplices case". As a result of their application investigations were launched in Chad and Senegal.

### ***Question 12***

34. Detention is a deprivation of liberty under the conditions set out in the basic legislation of Chad. 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.

35. As for the separation of pretrial detainees from convicted criminals, article 234 of the Code of Criminal Procedure provides that "preventive detention must be in a prison, in accommodation separate from that of convicted persons". Accordingly, detainees are held in correctional facilities which are regulated by Decree No. 371/77/CSM/MJ of 9 November 1977 on the regulation of correctional facilities in Chad under the Ministry of Justice. However, facilities do not permit separate accommodation in local prisons allowing pretrial detainees and convicted persons, or minors and adults, to be kept apart.

36. Police custody is regulated by the Code of Criminal Procedure, article 221 of which states: "A police officer may not detain a person for purposes of preliminary inquiries for more than 48 hours. On expiry of this period the person must be released or presented to the prosecutor's department." The magistrate of the prosecutor's department may authorize an extension of police custody for a further period of 48 hours if he considers this essential for the satisfactory conclusion of the investigation. The authorization must be given in writing after the magistrate has satisfied himself (if necessary by direct contact with the detainee) that that person has not been subjected to any ill-treatment. In practice however the time limit on police custody is not



respected. Citizens are often detained in police and gendarmerie premises beyond the statutory period. To justify these irregularities police officers refer to the obsolescence and inadequacy of the equipment with which they are provided.

37. The following measures are being implemented in the context of reform of the justice system: construction of modern local prisons; establishment of a corps of prison wardens; improvement of the working conditions of justice system personnel; training for criminal investigation police; provision of the resources required to do the work; etc.

**Prohibition of slavery and forced labour, right to recognition as a person  
before the law and special protection for children  
(arts. 8, 16 and 24)**

***Question 13***

38. 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 establishing the Labour Code provides that “forced or compulsory labour is prohibited”. Certain practices in rural and urban areas are however deemed to be a form of modern slavery because they exploit the employee in an abusive manner. Such practices include: the use of the children of sedentary populations to tend the herds of nomadic herders (child herders), muhajirin (mendicant Koranic students) or domestic workers.

39. In consultation with development partners and local communities, the Government is considering ways of eliminating this social phenomenon, which is becoming increasingly common despite its negative impact on the life and health of the victims. To that end they have formulated an integrated communication plan on the use of children as herders, which addresses all the stakeholders; it was put into effect in 2002 with UNICEF support. The activities carried out under this plan have led to the involvement of the administrative and religious authorities in the campaign. Positive results have been obtained, including the reduction of the problem in some areas and the rescue of child herders and their return to their families. A total of 264 children were rescued and return in 2004 and 2005.

40. In order to put these activities on a sustainable footing, a network to combat the use of child herders was established in March 2006 with UNICEF support. The poverty reduction strategy likewise devotes great attention to the problem. Chad has ratified the various International Labour Organization (ILO) conventions prohibiting forced labour, in particular Convention No. 29 (1930) concerning Forced or Compulsory Labour, Convention No. 41 (1934) concerning Employment of Women during the Night and Convention No. 105 (1957) concerning the Abolition of Forced Labour.

41. Domestic legislation also reflects certain provisions of ILO Convention No. 138 (1973) concerning Minimum Age for Admission to Employment and Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour. Examples include: articles 20, 32, 35 and 38 of the Constitution of

31 March 1996; articles 18, 52, 206, 208 and 210 of Act No. 38 of 11 December 1996 establishing the Labour Code and Decree No. 55/PR/PM-MTJS-DTMOPS of 8 February 1996 concerning child labour, which has just been amended to take into account the provisions of ILO Convention No. 182.

42. With the aim of protecting women and child victims of trafficking in human beings Chad recently signed the regional multilateral cooperation agreement. It has also adopted the regional Action Plan to Combat Trafficking in Human Beings, especially women and children, signed in Abuja (Nigeria) on 7 July 2006. The multilateral agreement deals with the prevention of trafficking, prosecution of those perpetrating it, assistance and protection for victims and their rehabilitation and social integration and the coordination of investigation, arrest and sentencing of traffickers and their accomplices.

43. A number of measures are provided for in the Action Plan. These include refusal of admission to Chad, or the cancellation of visas, for persons wanted for crimes relating to trafficking in human beings and mutual judicial assistance of a nature to lead to the extradition of perpetrators.

#### ***Question 14***

44. The right to life is a principle that applies to children. It is given effect in Act No. 07/PR/99 of 6 April 1999 containing the procedure for prosecuting and trying offences committed by children aged 13-18; the Act protects a child's dignity and personality even when the child has perpetrated an offence. It prohibits the imposition of the death penalty on minors and stipulates that imprisonment shall be ordered only as a measure of last resort. It provides for alternative sentences including in criminal cases tried by a juvenile court: the court cannot sentence a minor to death but may replace the death penalty with a prison term of between 5 and 10 years.

45. The banning order that can be imposed on a minor, as mentioned in the report, removes the minor from the place where the offence was committed to allow them to be monitored for the period set in the sentence.

46. Decree No. 46/PR/INT of 18 February 1971 stipulates the criteria for imposing a banning order. In accordance with Chad's international commitments, Act No. 14 of 14 November 1959 regulates deportation, refoulement and administrative detention. All child offenders are however provided with legal aid.

#### ***Question 15***

47. The recruitment into the army of minors under 18 is officially prohibited by law. Children can nevertheless be found in military camps and among armed groups, although there are no statistics on this. Awareness campaigns have been organized by United Nations agencies and international NGOs with a view to curbing the problem and a children's parliament has been established to give children a voice, as recommended by the United Nations. The Government has signed an agreement with UNICEF on the reintegration of child soldiers into the working population. Chad has also undertaken to implement the Paris Commitments adopted at the "Free Children from War" conference held in Paris on 5 and 6 February 2007. In addition, international humanitarian law is taught in the gendarmerie and police academies.

**Question 16**

48. In 2005 the Government drafted and approved a policy for the comprehensive development of young children with the objective of ensuring that, by 2015, 100 per cent of children aged 0 to 8 are registered at birth, enjoy protection against violence, exploitation and discrimination, are in good health and developing in a well-balanced manner in the physical, cognitive, socio-affective and psychological terms.

49. To that end a programme to educate parents was implemented under the Chad-UNICEF cooperation programme 2006-2010. In order to encourage civil registration a civil registry modernization project and a project to promote civil registration have been implemented with the support of the United Nations Development Programme (UNDP), the European Union and UNICEF.

50. The following table indicates girls' enrolment rates in primary school.

**Table 1**  
**Girls enrolment rates in primary education**

	1996-1997	1997-1998	1998-1999	1999-2000	2000-2001	2001-2002
Gross enrolment rates						
Boys	74.9	83	84.6	88.2	91.5	92.2
Girls	39.7	46.2	50	54.6	58.9	63.2
Both sexes	57.5	64.8	67.4	71.6	75.4	80.5
Ratio girls: boys	0.55	0.56	0.59	0.62	0.65	0.65
Net enrolment rates						
Boys	58.3	65.3	66.2	68.2	71.1	76.2
Girls	33.1	38.8	42.4	44.7	48.5	52.5
Both sexes	45.8	51.1	54.5	56.6	59.9	64.5
Ratio girls: boys	0.57	0.59	0.64	0.66	0.68	0.69

*Source:* Ministry of National Education

**Question 17**

51. For national adoption the legal basis is the Civil Code. Concerns persist in the case of international adoption for Chad has not yet ratified the Hague Convention of 1993 on Protection of Children and Cooperation in respect of Inter-Country Adoption. This legal lacuna makes it impossible to monitor children adopted by foreigners and it exposes some children to the risks of exploitation in a context of increasing trafficking in children. In practice however the legal procedure for adoption is rarely followed. The traditional method of adoption, as highlighted by the drafting committee for Chad's periodic report to the Committee on the Rights of the Child, is unfortunately expanding as a result of the increasing number of orphans and children rendered vulnerable by conflict and HIV/AIDS, who are taken in by families without any legal proceedings.

**Security of the person and right not to be subject to arbitrary arrest  
(art. 9)**

***Question 18***

52. Officially, there are no secret places of detention. 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, i.e. in any other place, 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.”

53. Nevertheless, a very small number of cases of secret detention came to light during the events of 2 and 3 February 2008, when the State institutions were destabilized. Immediately on return to the normal functioning of the administration, however, that situation was remedied.

54. Article 149 and subsequent articles of the Criminal Code penalize unlawful arrest. Article 152 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”. 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). For example, a group of women who had been assaulted by police officers was able to bring proceedings against a senior police officer.

55. Various measures have been adopted to facilitate people’s access to justice. Two additional courts of appeal have been established, in Abéché and Moundou. The old chambers of the courts of first instance have been reconstituted as courts in their own right. Magistrates’ courts have been created in the sub-prefectures and the districts of N’Djamena. The poor state of the justice system led to the holding of the Forum on Justice and a programme for judicial reform was developed based on the Forum outcome document and approved by Decree No. 065/PR/PM/MJ/2005 of 18 February 2005. It identifies six main areas for action:

- Reform and review of legislation and documentation
- Strengthening of law courts’ human resources
- Promotion and protection of human rights
- Information, education and communication
- Infrastructure and equipment
- Combating corruption and impunity

56. The total cost of this reform is an estimated CFA 17 billion or US\$ 34,000,000. Several donors have indicated their willingness to support reform efforts. That financial support has made it possible to carry out numerous actions, some of which are still under way.

57. In the case of actions with no financial implications, letters have been sent to the services responsible for implementation. Field visits and direct contacts are planned in order to evaluate progress in implementing the Forum's recommendations.

58. The Commission of Inquiry has investigated the circumstances surrounding the abduction of Mr. Ibni Oumar Mahamat Saleh during the disturbances of 2 and 3 February 2008. The commission could not give any details. As the case has been brought before the courts, its conclusions should help explain what happened to him.

#### ***Question 19***

59. Police custody is regulated by the Code of Criminal Procedure, article 221 of which states: "A police officer may not detain a person for purposes of preliminary inquiries for more than 48 hours. On expiry of this period the person must be released or presented to the prosecutor's department." The magistrate in the prosecutor's department may authorize an extension of police custody for a further period of 48 hours if this is considered essential for the satisfactory conclusion of the investigation. The authorization must be given in writing after the magistrate has satisfied himself (if necessary by direct contact with the detainee) that that person has not been subjected to any ill-treatment. In practice the time-limit on police custody is not respected. Citizens are often detained in police and gendarmerie premises beyond the statutory period. To justify these irregularities police officers refer to the obsolescence and inadequacy of the equipment with which they are provided. Citizens' ignorance of their rights and the corruption riddling the police and gendarmerie are additional obstacles to respect for the legal limits to preventive detention.

#### **Imprisonment for failure to discharge a contractual obligation (art. 11)**

#### ***Question 20***

60. Imprisonment for failure to discharge a contractual obligation is much more widespread in gendarmerie and police station cells. In the courts, on the other hand, civil imprisonment is possible but strictly regulated. For example, it does not apply to persons aged 60 or older and minors and may only be ordered on the basis of a duly reasoned report of failure to comply.

#### **Right to a fair trial (art. 14)**

#### ***Question 21***

61. The judicial system in Chad is governed by Act No. 004/PR/98 of 28 May 1998. Pursuant to article 1 of the Act, justice in Chad is administered by a single jurisdiction, made up of the Supreme Court, appeal courts, criminal courts, courts of first instance, labour courts, commercial courts and magistrates' courts.

62. 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.

63. 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 their defence. A defendant may represent themselves 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. Under article 38 of the Code of Civil Procedure, legal aid may be granted in any case to any litigant unable to exercise their 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.

64. Lawyers are independent professionals and the State cannot therefore require them to practise their profession in any given location in the country. Nevertheless, if requested by a client, or if the circumstances require that the State assign them to a case, lawyers do travel to the east of the country to plead a case. The increase in the number of human rights violations in the east of the country has caused renewed interest among lawyers in the situation in that region.

### **Right to privacy (art. 17)**

#### ***Question 22***

65. The basic laws 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 property.” 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 circumstances and in the manner prescribed by law. Article 154 of the Criminal Code states that any administrative or judicial official, police officer or official, or law enforcement officer or official acting in their 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. The same applies to unlawful entry by private individuals.

66. The Constitution also provides for the privacy of correspondence and communications. Thus, under article 45, 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 impugns the honour or reputation of the person or entity against which the allegation or attribution is made constitutes defamation.

67. In practice there are cases of arbitrary interference in private life on the part of over-zealous officials. The law does however offer remedies to victims, who can file criminal or civil liability claims.

**Freedom of conscience and religion  
(art. 18)**

***Question 23***

68. 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.

69. Article 1 of the Constitution provides that Chad is a sovereign, independent, secular, social, united and indivisible Republic, founded on democratic principles and governed by the rule of law and justice. The separation of State and religion is affirmed. 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 be restricted only by respect for the freedoms and rights of others and the need to safeguard public order and decency. The law determines the conditions under which these freedoms may be exercised.

70. However, the increasing number of religious cults and the rise of fundamentalism, with all the consequences they entail, have led the Government to adopt the following measures, inter alia: prohibition of public preaching, closing of some Koranic schools and prosecution of the leaders of those schools.

**Freedom of expression, assembly and association  
(arts. 19, 21 and 22)**

***Question 24***

71. Freedom of association and peaceful assembly is a right enshrined in the Constitution, recognized and officially proclaimed under article 27. The exercise of this right is, however, 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 ...". This right is regulated by the following:

- Ordinance No. 27/INT/SUR of 12 July 1962 and Decree No. 165 of 23 August 1962 on associations
- Ordinance No. 45 of 27 October 1962 on public assembly

72. Since the adoption of various laws on freedom of association, and especially since 1991, numerous associations and unions have been established. Today there are three major labour confederations: the Union of Chadian Trade Unions (UST), the Free Confederation of Workers of Chad (CLTT) and the Chad Teachers' Union (SET), in addition to some 3,000 associations in various fields, all of which receive government subsidies.

73. 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.

74. Similarly, the freedom of all citizens to express their ideas and opinions using any medium of communication is recognized, as is freedom of the press and printing (arts. 1 and 2 of the Act on the press regime).

75. Chad's numerous independent radio stations and newspapers contribute to the expression of these freedoms. The Government of Chad has however issued a law regulating the press, namely, Act No. 029 of 12 August 1994 on the press regime, as amended by Ordinance No. 5. Private radio stations are governed 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. Political debates are broadcast even on the national radio and television stations.

76. It is true that human rights defenders and journalists chose, like everyone else, to keep under cover during the events of 2 and 3 February 2008, but they were never really in danger.

**Right to take part in the conduct of public affairs  
(art. 25)**

***Question 25***

77. Successive Governments in Chad, in particular the Habré regime, have repressed freedoms and instituted practices incompatible with respect for human rights. However, since the advent of democracy and liberties in December 1990, Chad has shown a real political will to transform itself into a State based on the rule of law where human rights are respected, guaranteed and protected. This desire led to the organization of the Sovereign National Conference and the adoption of the Constitution by referendum in 1996. The opening up of political debate has facilitated the creation of political parties, whose leaders are free to carry out their political activities.

78. Pursuant to article 62 of the Constitution, any Chadian, whether male or female, may stand for election to the office of President of the Republic, provided they are of Chadian nationality, in good physical and mental health, of good moral character, at least 35 years of age, and in full enjoyment of all their civil and political rights. Pursuant to article 108 of the Constitution, both male and female Chadian nationals may stand for election to the National Assembly providing they meet the conditions laid down under law. Article 152 of the Electoral Code stipulates that a candidate for the National Assembly must be a Chadian citizen (of either sex), at least 25, a registered voter, resident in the territory of the Republic of Chad for at least one year and able to read and write French or Arabic.

79. The conditions governing eligibility, ineligibility and disqualification are laid down in articles 10 to 14 of Act No. 003/PR/2000 of 16 February 2000 on the electoral regime for decentralized territorial units. Article 10 on eligibility provides that candidates for election to municipal, departmental or regional councils must be Chadian citizens (of either sex), at least 25, registered voters, in full enjoyment of their civil and political rights and resident in the national



territory for at least one year or with strong ties to the community, department or region. A number of other measures have been or are about to be adopted, for example: the Act establishing the independent electoral commission (CENI), the Act on the Electoral Code, the Charter of Political Parties, and the Act on Democratic Opposition.

***Question 26***

80. Corruption and nepotism on the part of public officials are punishable under the Criminal Code and Act No. 004/PR/00 on misappropriation of public funds, corruption, extortion, influence-peddling and similar offences.

81. In addition to this legal framework, the Government has established the Ministry responsible for State oversight and ethics with a view to making the administration more ethical and monitoring the management of public funds. Thanks to the Ministry's efforts a number of cases have been referred to the Office of the Public Prosecutor for the laying of charges. There are around 20 cases; 4 have already been tried and the remainder are pending.

**Dissemination of the Covenant  
(art. 2)**

***Question 27***

82. In the field of promotion and defence of human rights, associations for the defence of human rights took the first initiatives in the defence and promotion of human rights, organizing training workshops on the subject. These training workshops have a variety of target audiences (officials from ministerial departments directly concerned with the question of rights, magistrates, police officers, members of associations for the defence of human rights, etc.); they are usually chaired by persons with high-level political responsibilities (ministers, secretaries-general of ministries).

83. Recommendations arising from the workshops are transmitted to the Government, which usually makes a commitment to implement them. The human rights defence associations also organize awareness-raising campaigns on a variety of subjects for the populations of different towns. Thus, at the request of the Chadian Human Rights League (LTDH) and the Association for the Promotion of Fundamental Freedoms (APLFT), they have been given classroom time to provide training in general and special criminal law, judicial procedure and human rights in police and gendarmerie training schools and on national radio and television.

84. In order to adapt human rights and international humanitarian law to the context of national defence missions and operations for the maintenance of public order and security which have to be undertaken by the Armed Forces, a reference centre on international humanitarian law (CRDIH) was established by the Minister of National Defence in March 2002 by Order No. 059/MNDR/EMP/02.

85. Another regulatory instrument of the Minister of Defence (Order No. 24/MDNACVG/ENP/25 of 26 January 2005) permitted the establishment of a commission to prepare texts on international humanitarian law. This commission is also responsible for the revision of the Code of Ethics of the Gendarmerie to incorporate the

human rights and international humanitarian law dimension. The next step was the integration of international humanitarian law into the training programme of the Armed Forces under Order No. 85/MDN/ENP/05. This order makes the teaching of international humanitarian law in the training establishments of the Armed Forces compulsory.

86. The reform process led to the publication of a document entitled “Instructor’s manual for use with the armed forces and the security services”. The manual was prepared with the participation of the national army, the group of inter-service military training colleges, the Air Force, the national gendarmerie, the Nomadic Guard and the national police, in cooperation with LTDH. It consists of two parts:

- (a) The first part is devoted to humanitarian law. It is arranged in three levels. The content of the training is specific to each target group and corresponds to a particular level:
  - (i) Level 1: common basic training for all private soldiers and gendarmes (private soldiers and cadets in the gendarmerie, the Guard and the national police);
  - (ii) Level 2: training for first-year cadets, including non-commissioned officers;
  - (iii) Level 3: training for second-year officer cadets, including subaltern officers.
- (b) The second part deals with human rights and is common to all levels. This part deals with the subject of torture.

87. Twenty-five trainers have now received training in the use of the manual, 500 copies of which are to be printed to make it available in all training establishments for members of the Armed Forces and security services in Chad. The content of the teaching on humanitarian law and human rights will henceforth be the same in all military academies and is also to be introduced in primary and secondary schools.

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