



International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the second periodic report of Chad**

1. The Committee considered the second periodic report of Chad (CCPR/C/TCD/2) at its 3048th and 3049th meetings (CCPR/C/SR.3048 and 3049), held on 17 and 18 March 2014. At its 3061st meeting (CCPR/C/SR.3061), held on 26 March 2014, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the second periodic report of Chad, which was submitted in a timely fashion, and the information presented therein. It expresses appreciation for the high level of the State party's delegation and the dialogue it had with the Committee on the implementation of the provisions of the Covenant. The Committee is grateful to the State party for its written replies (CCPR/C/TCD/Q/2/Add.1) to the list of issues (CCPR/C/TCD/Q/2), which were supplemented by the oral responses provided by the delegation during the dialogue.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party since the consideration of its initial report in 2009:

(a) The adoption in 2009 of Act No. 006/PR/2009 amending Organic Act No. 024/PR/2006 of 21 June 2006 and Organic Act No. 19/PR/98 of 2 November 1998 on the organization and operation of the Constitutional Council;

(b) The adoption in 2009 of Act No. 032/PR/2009 establishing a National Institute of Judicial Training;

(c) The adoption in 2009 of Act No. 019/PR/2009 on the Political Parties Charter;

* Reissued for technical reasons on 2 May 2014.

** Adopted by the Committee at its 110th session (10–28 March 2014).



(d) The adoption in 2009 of Act No. 020/PR/2009 on the status of political opposition in Chad; and

(e) The signing in 2011 of Ministerial Decree No. 3912/PR/PM/MDHLF/2011 on the establishment of a committee to monitor the implementation of international human rights instruments.

4. The Committee welcomes the ratification by the State party, in 2010, of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

C. Principal matters of concern and recommendations

Incorporation of the Covenant into national law and applicability of the Covenant in domestic courts

5. While noting that article 222 of the Constitution provides for the primacy of international instruments ratified and promulgated by the State party over domestic laws, the Committee is concerned that the provisions of the Covenant have not yet been directly invoked or applied by domestic courts (art. 2).

The State party should ensure that all the provisions set out in the Covenant are given full effect in its domestic legal order. The State party should take the necessary measures to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account before and by domestic courts.

National Human Rights Commission

6. The Committee is concerned that the State party has still not taken the necessary measures to ensure the independence of the National Human Rights Commission, to strengthen its mandate and to grant it an autonomous budget with sufficient resources of its own, in accordance with the Paris Principles (art. 2).

The State party should expedite the process to adopt the bill to reform the National Human Rights Commission to bring it into full compliance with the Paris Principles. The Committee encourages the State party to continue its collaboration with the Office of the United Nations High Commissioner for Human Rights in this regard; that cannot, however, be regarded as a valid reason for delaying the reform.

Non-discrimination and equality between men and women

7. The Committee is concerned about the absence, in the State party's legislation, of a definition of discrimination and of penalties that may be imposed by courts (art. 2).

The State party should take the necessary measures to incorporate into its legislation a definition of discrimination and of penalties that may be imposed by courts.

8. The Committee is concerned about the persistence of traditional stereotypes which are detrimental to the dignity of women, resulting from their subordination within the family and society. Thus, the Committee notes with concern the existence of customary and religious laws which permit practices such as polygamy, repudiation and early and forced marriage. It is also concerned about the unequal treatment of men and women in the area of inheritance and marital regimes. Lastly, the Committee is concerned that the draft Personal and Family Code, which has been under consideration for 20 years, has still not been adopted (arts. 2, 3, 23 and 26).

The State party should expedite the adoption of the Personal and Family Code and ensure its full compliance with the Covenant by repealing or amending those

provisions that are inconsistent with the Covenant, in particular in the area of inheritance and marital regimes. It should abolish polygamy and the right of repudiation and consider measures to be taken to prevent those practices. In addition, it should organize awareness-raising programmes and campaigns among women, local chiefs and religious leaders to change traditional attitudes detrimental to women's enjoyment of their human rights.

Female genital mutilation

9. The Committee is concerned about the continuing practice of female genital mutilation (FGM) despite the measures taken by the State party, including the adoption of Act No. 06/PR/2002 of 15 April 2002. The Committee is further concerned about the lack of information on the penalties imposed on those responsible for this practice pursuant to the Act, and on the impact of the awareness-raising campaigns conducted among affected populations (arts. 2, 3, 7 and 26).

The State party should increase its efforts to end the harmful practice of female genital mutilation by stepping up its targeted awareness-raising and information programmes and by applying its relevant legislation effectively.

Domestic violence

10. The Committee notes with concern the persistence of domestic violence in the State party despite the adoption of Act No. 06/PR/2002 of 15 April 2002 and of the Criminal Code, and it regrets that the State party has not yet issued the decree implementing this law. The Committee is also concerned about the lack of information on the application of relevant legislation and the impact of its awareness-raising campaigns on this subject. The Committee expresses its concern about the lack of social assistance services and shelters for victims of domestic violence, in particular residential facilities, and the lack of information on complaints filed, investigations, prosecutions and convictions, and on penalties imposed on the perpetrators of domestic violence (arts. 3, 7 and 26).

The State party should ensure the effective application of its 2002 legislation and the Criminal Code. It should facilitate complaints relating to domestic violence and protect women from any reprisals and social disapproval. It should guarantee that cases of domestic violence are thoroughly investigated and that the perpetrators are brought to justice. The State party should also ensure that law enforcement officials are provided with appropriate training to deal with domestic violence and that sufficient, adequately resourced shelters are available. The State party should further organize awareness-raising campaigns for men and women on the adverse effects of violence against women and on the enjoyment of their basic human rights.

Death penalty

11. The Committee is concerned about reports that the death penalty continues to be imposed despite the moratorium (art. 6).

The State party should consider abolishing the death penalty as part of the revision of the Criminal Code and acceding to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, to mark the Protocol's twenty-fifth anniversary.

Extrajudicial executions

12. The Committee is concerned about allegations of further extrajudicial executions in the State party, in respect of which investigations have not yet resulted in the prosecution, conviction and sentencing of those responsible (arts. 6 and 14).

The State party should take all necessary and effective measures to conduct prompt and effective investigations in order to identify the perpetrators of those extrajudicial executions, prosecute them and impose appropriate penalties.

Enforced disappearance

13. The Committee is concerned that the judicial inquiry opened by the examining judge into allegations of enforced disappearances during the events of February 2008, in particular the case of Ibni Oumar Mahamat Saleh, and which the Committee addressed in its previous concluding observations, has resulted in a decision not to pursue those allegations and has not led to the identification of the perpetrators of those violations with a view to their prosecution.

The State party should pursue investigations into enforced disappearances, bearing in mind the nature of this crime, and identify the perpetrators with a view to prosecuting them and bringing them to justice, including members of the police and security forces. The State party should also take all necessary measures to prevent cases of enforced disappearance in its territory and avoid impunity for the perpetrators.

Prohibition of torture and ill-treatment

14. The Committee is concerned at reports that torture is commonly practised by police, defence and security forces, using particularly brutal and cruel methods. It is also concerned at the lack of information on complaints, investigations, prosecutions, convictions, penalties imposed on perpetrators, compensation awarded to victims and measures taken for their rehabilitation. The Committee is further concerned at the lack of an independent mechanism to receive and investigate complaints regarding allegations of torture by police and defence forces. The Committee notes with regret that the draft Criminal Code defining torture has not been adopted, thus making it impossible for courts in the State party to prosecute acts of torture in an appropriate manner (arts. 7 and 14).

The State party should ensure that torture is prevented in its territory, that allegations of torture and ill-treatment are thoroughly investigated, that perpetrators are prosecuted and, if convicted, punished with appropriate penalties, and that the victims are adequately compensated and offered rehabilitation. It should establish an independent mechanism to investigate complaints of torture and ill-treatment by members of the police and security forces. In this connection, it should also ensure that law enforcement officials continue to receive training on investigating torture and ill-treatment by integrating the Istanbul Protocol (Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1999) in all training programmes for them. Lastly, it should expedite the adoption of the draft Criminal Code, ensure the Code's compliance with the provisions of the Covenant and guarantee its effective implementation.

Corporal punishment

15. The Committee is concerned that corporal punishment is still practised in some Koranic schools, despite the provisions of article 113 of Act No. 16/2006 of 13 March 2006, which prohibit physical abuse and any other form of violence or humiliation against pupils and students, and that it is tolerated in the home, where it is traditionally practised (arts. 7 and 24).

The State party should guarantee the effective implementation of Act No. 16/2006 of 13 March 2006 and take other practical steps to put an end to corporal punishment in all settings. It should encourage non-violent forms of discipline as alternatives to

corporal punishment and conduct public information campaigns to raise awareness of the harmful effects of violence of this kind.

Police custody, pretrial detention and basic legal guarantees

16. The Committee is concerned about the lack of awareness in police and gendarmerie stations of the 48-hour limit for police custody established in article 221 of the current Code of Criminal Procedure, which leads to prolonged periods of detention in police custody. The Committee is also concerned at the fact that the current Code of Criminal Procedure does not establish a limit for pretrial detention regardless of the offence, leading to a large number of persons being held in pretrial detention for excessive and unreasonable periods of time. Lastly, it is concerned that basic legal guarantees, particularly the rights of access to a lawyer and doctor, to communicate with family members and to be brought promptly before a judge, are often not respected (arts. 9, 10 and 14).

The State party should ensure that police and gendarmerie officers effectively implement the provisions of the current Code of Criminal Procedure relating to the length of police custody. It should also revise its legislation, particularly the new draft Code of Criminal Procedure, in order to establish a specific limit for pretrial detention and guarantee its implementation with the aim of avoiding excessive and unreasonable periods of pretrial detention. It should take urgent measures to remedy the situation of persons who have been in pretrial detention for many years. The State party should systematically guarantee access to a lawyer, doctor and family members to persons held in custody or pretrial detention and ensure that they are brought promptly before a judge.

17. While noting that the State party's delegation has undertaken to resolve the situation of Khadidja Ousmane Mahamat, and despite the recommendation to the State party in its previous concluding observations, the Committee regrets that the young woman, Ms. Khadidja, is still in pretrial detention. The Committee is alarmed at reports that, imprisoned since 2004, with no decision having yet been handed down in her case, she has given birth to another child, and that the perpetrator of the first rape from which she bore a first child has still not been prosecuted or tried (arts. 2, 7, 9, 14 and 24).

The State party should urgently order the immediate release of the young woman, Ms. Khadidja Ousmane Mahamat, in accordance with article 9 of the Covenant, and take appropriate steps to provide her with the necessary assistance, including rehabilitation measures. It should also prosecute the perpetrator of the abuse that she suffered, try him and sentence him, imposing appropriate penalties.

Conditions of detention

18. The Committee notes with concern that conditions of detention remain inadequate in the State party's prisons, particularly in respect of prison overcrowding. The Committee regrets that the decree implementing Ordinance No. 032/PR/2011 of 4 October 2011 on the prison system has not yet been issued. It is concerned at reports of a lack of hygiene and the poor and inconsistent quality of the food served to prisoners. The Committee is concerned that families have difficulty visiting prisoners. It is also concerned that there is no separation of detainees according to their age and detention regime. It regrets the lack of an adequate mechanism to handle complaints from prisoners effectively (arts. 9 and 10).

The State party should strengthen its efforts to improve the living conditions and treatment of detainees and address the problem of overcrowding in line with the Standard Minimum Rules for the Treatment of Prisoners. The State party should ensure the effectiveness of a confidential mechanism for receiving and processing complaints lodged by detainees and include information thereon in its next periodic

report, in addition to data on the prison population. It should take the necessary measures to separate detainees according to their age and detention regime. The State party should issue a decree implementing Ordinance No. 032/PR/2011 of 4 October 2011 on the prison system and ensure that the inspection committees established for places of detention function effectively and regularly and have the necessary resources to fulfil their mandate.

Functioning of the judiciary and fair trial

19. The Committee notes the measures taken to combat corruption in the judiciary and to improve access to justice, including the improved working conditions for judges, the increased number of judges and the establishment of a judicial training school and the Directorate for Access to Law. It is concerned, however, about reports of the executive branch attempting to interfere with the functioning of the judiciary. The Committee is also concerned that not all persons subject to the law have effective access to justice, and that not all fair criminal trial guarantees are available, particularly access to legal counsel during the various stages of judicial proceedings, as well as legal aid (art. 14).

The State party should take all necessary measures to guarantee the independence of the judiciary. It should also strengthen measures to improve access to justice and ensure that everyone is afforded all legal safeguards in law and in practice, including the right to be assisted by a lawyer or counsel. In addition, it should provide favourable conditions for a fair criminal trial. It should also provide the Directorate for Access to Law and its branch offices with the necessary means to ensure legal aid for all.

Freedoms of expression, assembly and association

20. The Committee is concerned about: (a) restrictions placed on freedom of expression in the State party, particularly the freedom of the press, by, inter alia, suspending or closing certain newspapers. It is also concerned about the continued inclusion of press offences in Act No. 17/PR/2010 of 13 August 2010 on the press regime in Chad, whose implementation has led to some journalists being prosecuted and given prison sentences; (b) reports of widespread threats against, and harassment and intimidation of, human rights defenders and journalists by the police and security forces; (c) reports of numerous obstacles faced by many human rights defenders in exercising the freedom to demonstrate (arts. 19, 21 and 22).

In the light of general comment No. 34 (2011) on freedoms of opinion and expression, the State party should review its legislation to ensure that any restriction on press and media activities is in strict compliance with article 19, paragraph 3, of the Covenant. In particular, it should review its legislation and consider repealing the provisions establishing press offences and prison sentences for the media. It should also take the necessary measures to ensure that journalists and human rights defenders are protected from threats and intimidation and give them the freedom they need to do their work, and it should investigate, prosecute and sentence those who threaten, harass or intimidate them.

Refugees and displaced persons

21. The Committee is concerned about cases of violence against women refugees and displaced women and about the difficulties in gaining access to justice faced by refugees and displaced persons living in camps. It regrets the lack of information on judicial action taken in cases of violence. The Committee is also concerned about the fact that many children born to refugees receive a “declaration of birth” rather than a proper, official birth certificate. Lastly, the Committee is concerned about the fact that the process of

determining refugee status has shortcomings regarding the reliability of the information, the lack of proper training for the members of the National Commission for the Reintegration of Refugees and Returnees (CNARR) and the lack of necessary human resources within the Subcommittee on Eligibility. In addition, the Committee regrets that the Subcommittee on Appeals ceased to operate in 2011 (arts. 2, 7 and 24).

The State party should:

(a) Continue to strengthen measures to prevent and protect against sexual violence and gender-based violence targeting women refugees and displaced women living in camps; foster access to justice for them, including through mobile courts; and prosecute persons responsible for such acts;

(b) Continue to conduct birth registration campaigns in refugee camps and issue a birth certificate to every newborn child of refugee parents;

(c) Strengthen the National Commission for the Reintegration of Refugees and Returnees (CNARR) by providing it with well-trained staff in sufficient numbers to process asylum applications in an efficient and equitable manner, and reinstitute its Subcommittee on Appeals;

(d) Expedite the adoption of the bill incorporating into national law the provisions of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

Situation of children

22. The Committee is concerned that the lack of clarity concerning the minimum age for marriage in the State party's law and practice encourages early marriage, which is widespread in certain regions of the country. While noting the efforts made to eliminate the recruitment of children into the Armed Forces and to reintegrate them into society, the Committee is concerned that some child soldiers have not yet been identified and reintegrated (art. 24).

The State party should clarify its legislation by including a minimum age for marriage for boys and girls in accordance with international norms, particularly in the future Personal and Family Code, and should resolutely combat early marriage. The State party should reactivate its programme to demobilize children from the Armed Forces and armed groups and continue to integrate them into society.

Human trafficking

23. The Committee notes with concern that human trafficking is still practised in the State party and regrets the lack of specific information on the extent of the problem, on the implementation and results of the national plan of action for 2012–2015 to combat the worst forms of child labour, trafficking and exploitation, and on prosecutions and convictions of traffickers. The Committee is also concerned about the situation of child herders (art. 8).

The State party should continue its efforts to train the relevant officials to apply human trafficking legislation. It should also step up efforts to ensure that all perpetrators of human trafficking are brought to justice, and take the necessary steps to ensure that victims are adequately compensated. Lastly, it should continue its awareness-raising campaigns on child herders and reintegrate them into society.

24. The State party should widely disseminate the text of the Covenant, the two Optional Protocols thereto, the second periodic report, the written replies to the list of issues drawn up by the Committee and the present concluding observations, with a view to

increasing awareness among the judicial, legislative and administrative authorities, civil society and NGOs operating in Chad, as well as the general public. The Committee also suggests that the report and the concluding observations be translated into the official and local languages of the State party. The Committee also requests that the State party, when preparing its third periodic report, broadly consult with civil society and NGOs.

25. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, information on its implementation of the recommendations made in paragraphs 5, 10, 13 and 16.

26. The Committee requests that the State party, in its next periodic report, due by 28 March 2018, provide specific, up-to-date information on its implementation of the other recommendations and of the Covenant as a whole.
