

SHADOW REPORT TO THE UNIVERSAL PERIODIC REVIEW OF CHAD

Submitted by the Centre for Human Rights, Faculty of Law, University of Pretoria, March 2013

i. Introduction

1. This submission summarises the key concerns of the Centre for Human Rights (CHR) regarding violence against women, children in armed conflict, prison conditions, freedom of press and expression and situation of internally displaced persons and refugees in Chad. In its first review in 2009, Chad agreed to take up eighty-six (86) of the key recommendation made to it including on these thematic issues.¹ This submission examines the progress that has been made in the implementation of these recommendations.

ii. Violence against women

2. Under the first review, Chad received recommendations pertaining to violence against women.² However, in most cases the recommendations that were made were either not implemented or were partially implemented. The levels of gender based violence are still extremely high especially in the eastern part of the country which has a big number of women refugees as well as IDPs.

3. The existing lack of capacity, under resourcing as well as limited judicial independence means that perpetrators of violence against women are almost never prosecuted. This allows for the undeterred continuation of violence. This same position was taken by the UN Deputy High Commissioner of Human Rights on her visit to Chad in 2012 where she noted that impunity still remained a challenge as the perpetrators of the various forms of violence against women were evading justice.³

iii. Children in armed conflict

4. Most of the recommendations made to Chad with respect to children in armed conflict⁴ have been partially implemented. Recruitment of young children and adolescents by armed groups and

¹ List of recommendations contained in Section II of the Report of the Working Group A/HRC/12/5, para 82 available at http://www.upr-info.org/IMG/pdf/Recommendations_to_Chad_2009.pdf (accessed 4 March 2013).

² A/HRC/12/5 (n 1 above) para 82: A-21. Review possible discriminatory laws from its legislation, with a view to guaranteeing the effective promotion and protection of the rights of vulnerable groups, such as women and children (recommended by Brazil); A 28 Take all necessary measures to effectively implement the national legislation prohibiting female genital mutilation (recommended by Slovenia).

³ Statement by the UN Deputy High Commissioner for Human Rights, Kyung-wha Kang, in N'Djamena, Chad 3 April 2012 available at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12037&LangID=E> (accessed on 8 March 2013).

⁴ A/HRC/12/5 (n 1 above) para 82: A-47. Release under-age fighters from its military forces and effectively prosecute persons who are responsible for recruiting children for armed groups, in particular in camps and villages in Eastern Chad, criminalize recruitment of children under domestic laws and establish a national institution to coordinate the release and reintegration of released children, as agreed during the visit of the Secretary-General's Special Representative in May 2008 (recommended by Austria); A-45. Continue its efforts, if necessary, in cooperation with United Nations agencies, namely UNICEF to combat the recruitment of children into military forces and to reintegrate children released from the army into normal life (recommended by Azerbaijan); A-43. Continue its efforts to stop the recruitment and use of children by all parties involved in the conflict in the country and work closely with OHCA, UNICEF and other relevant parties to demobilize children from the military and other armed groups (recommended by Malaysia); A-41. Increase efforts to release and demobilize child fighters and implement measures to ensure their reintegration into society (recommended by Sweden).

militia remains a common phenomenon, with children from internally displaced families particularly at risk.⁵ No positive progress has been achieved as regards legislative reforms such as reforming the Penal Code to include trafficking of children and adopting of a child protection code and a persons and a family code designed to enhance the protection of women and children.⁶

5. In April 2011, the Government of Chad signed the joint Government of Chad-UN Action Plan on Children Associated with Armed Forces and Groups in Chad to prevent children from being recruited in the future. However, the Government has not enacted laws that would improve its weak legal frame work on child labour, has not enforced laws to protect children from the worst forms of child labour and lacks programs to reduce the worst forms of child labour. There are no laws criminalizing the use of children as child soldiers and addressing the use of children for illicit or pornographic purposes.⁷

6. Despite the UN reporting a reduction in the number of children associated with armed groups in Chad in 2012 there are still child soldiers in armed groups including the Chadian army. The Minister of Defence in late September condemned the recruitment of child soldiers and stated that offenders would be punished. However laws that would formally criminalise recruitment and help identify child soldiers (the Penal Code, Child Protection Act, Family Code and Civil Code) are still all with the Government for drafting.⁸

iv. Condition in Prisons

7. The 2009 UPR process made a series of recommendations to Chad to inform proposed improvement of prison conditions.⁹ Some steps were undertaken especially in the legal reform sector including two ordinances on the Statute of the Penitentiary and Social Reinsertion Personnel that the President signed in 2011.¹⁰ However, their implementation calls for sufficient resources and staff which are not readily available. The prison conditions continue to be very harsh and far below international standards.

8. Men and women, children and adults, civilians and soldiers are mixed indiscriminately together in most prison facilities thus placing the women and children at a significant risk of gender-based and sexual violence.¹¹ Even in prisons where women have separate accommodation it is often easy for male prisoners and guards to move to and from the women's courtyard and cells.¹²

9. Prisoners have limited access to medical health care, and lack food and water as well as beddings. Poor prevention and treatment of disease poses serious public health issues in Chadian prisons as prisoners suffering from tuberculosis, sexually transmitted diseases as well as those

⁵ SOS BARNBYAR SVERIGE General information on Chad available at <http://www.sos-barnbyar.se/om-sos-barnbyar/har-finns-vi/africa/chad/pages/default.aspx> (accessed 26 February 2013).

⁶ Statement by the UN Deputy High Commissioner for Human Rights (n 3 above).

⁷ United States Department of Labour's Bureau of International Labour Affairs 2011 Findings on the worst forms of child labour available at <http://www.dol.gov/ilab/programs/octf/2011TDA/Chad.pdf> (accessed on 9 March 2013).

⁸ British Foreign and Commonwealth Office Human rights and democracy 2012 report, last updated 31 December 2013 available at <http://fcohrdreport.readandcomment.com/human-rights-in-countries-of-concern/chad/quarterly-updates-chad/> (accessed on 9 March 2013).

⁹ A/HRC/12/5 (n 1 above) para 82 A - 2. Accede to the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment CAT-OP (recommended by Czech Republic); A-52. Make urgent efforts to ensure humane conditions for detainment in prisons (Recommended by Ireland).

¹⁰ Ordinance No 31/PR/2011 of 4th October 2011 of the Penitentiary and Social Reinsertion Personnel.

¹¹ Amnesty International 'Chad: "We are all dying here"- Human rights violations in prisons' (2012) 7 available at <http://www.amnesty.org/en/library/asset/AFR20/007/2012/en/de5e6bea-5e6d-4455-ad82-6ae6d08e6ab4/afr200072012en.pdf> (accessed 3 March 2013).

¹² Amnesty International (n 11 above) 43.

infected with HIV and AIDS do not receive adequate medical treatment.¹³ There is limited access to medical and health care in prisons with no medical doctors assigned to the prisons.¹⁴ Nurses are assigned to some prisons but lack basic facilities such as essential drugs and gloves.¹⁵ The prisons are overcrowded and poorly ventilated. The total prison population (including pre-trial detainees/remand prisoners) stood at 4,831 as of 25 January 2012 while the official capacity is 2080 (as at 2010).¹⁶

v. Freedom of press and expression

10. At the last UPR, recommendations were made for the repeal of the press law which at the time increased the maximum penalty for false news and for defamation and for the establishment of legislative framework to protect journalists and human rights defenders.¹⁷ There has been little progress towards implementing the same. Lately, there have been efforts to revise the media laws. However, should the proposed legislation be passed, it will lead to the loss of media freedom in Chad. Stakeholders are concerned that the proposed legislation, drafted without stakeholder consultations and participation and in a manner lacking transparency will sound a death knell for media independence.

11. The stated aim of the proposed legislation¹⁸ is to clean up the media and making journalists more accountable.¹⁹ However, critics are sceptical and view this as an attempt by the government to emasculate the press.²⁰ The proposed law for example, provides for a very narrow scope in terms of qualifications of journalists. Article 9 of the draft states that every journalist is required to possess a master's diploma from a school of journalism, or a university degree as well as vocational training at a state-approved school of journalism. This strict requirement is viewed as an attempt to ensure that key opposition personalities are effectively locked out from journalism.²¹ Under Article 17 printers must have their head office inside Chad. This measure is aimed at N'Djamena-based newspapers that, for financial reasons, are printed in towns in northern Cameroun. This applies to *Abba Garde*, for example, which prints in Garoua²² in the North region of Cameroon.

12. Article 19 of the draft requires that two copies of each edition must be lodged with the public prosecutor's office, two with the High Council for Communication and two with the national archives on the eve of publication. Should this be allowed, it would most certainly stifle media freedom of expression and amount to censorship. The proposed law also provides for press offences for journalists for the offence of defamation. Higher fines are imposed as well as the

¹³ Amnesty International (n 11 above) 8.

¹⁴ Amnesty International (n 11 above) 7.

¹⁵ 'Chad prisoners "face death in jail"-Amnesty report' *BBC News Africa* 10 September 2012 available at <http://www.bbc.co.uk/news/world-africa-19540332> (accessed 4 February 2013).

¹⁶ International Centre for Prison Studies World Prison Brief-Chad (2012) available at http://www.prisonstudies.org/info/worldbrief/wpb_country.php?country=10 (accessed 5 February 2013).

¹⁷ A/HRC/12/5 (n 1 above) para 82: A-86 - As soon as possible complete its review and repeal the new press law as it appeared to go against the Chadian Constitution and the International Covenant on Civil and Political Rights, to which Chad is a party (recommended by United States).

¹⁸ French version of draft law available at http://en.rsf.org/IMG/pdf/projet_de_loi_tchad.pdf.

¹⁹ Reporters Without Borders 'Media Law revision would sound a death knell for independent press' (23 Nov 2012) available at <http://en.rsf.org/tchad-media-law-revision-would-sound-23-11-2012,43715.html> (accessed 3 March 2013).

²⁰ Reporters Without Boarders (n 19 above).

²¹ As above.

²² As above.

extension of temporary closures from three months to a year and the possible imposition by a court of an indefinite publication ban.²³

13. There are reports of the use of threats by state authorities and agents to threaten and intimidate journalists. The government continues to hold control over the media and there is little tolerance to any form of opposition. On 18 September 2012, Jean – Claude Nekim, editor in chief of the opposition newspaper *N’Djamena bi – hebdo* was convicted of defamation and handed a suspended sentence of one year in prison and a fine of one million CFA. In addition, the newspaper was suspended for three months. The charges came in response to the newspaper’s publication of a news brief that reported on a brief about a petition referring to the social crisis in Chad and condemning poor governance.²⁴

14. Ahmadou Bouba Bondaba was fired as privately owned weekly newspaper *La Voix’s* accountant and now free-lances for the popular bi monthly newspaper *Abba Garde*. He was attacked and beaten on the evening of 2 July, sustaining a fracture to a collarbone that needed several hours of treatment in a hospital. His phone and motorcycle were also taken. In the afternoon before the attack, he was threatened by Padaré – the land affairs minister and leading *La Voix* shareholder – during a phone conversation. According to Bondaba, Padaré asked him to stop working for *Abba Garde*.²⁵

vi. Internally displaced persons and refugees

15. At the first UPR process, there was a recommendation to Chad to foster closer engagement with United Nations High Commissioner for Refugees (UNHCR) and other international organizations to seek a comprehensive and durable solution to the refugee and internally displaced persons (IDPs) situation.²⁶

16. Chad has witnessed the presence of a large number of IDPs as well as refugees coming from abroad as result of the armed conflict in neighbouring states. Displacement and population movement remain a cause of concern. Owing to the crises in Libya, more than 83,244 Chadian migrant workers returned to their regions of origin, mostly in and around N’Djamena and the Sahel belt.²⁷ Reports indicate that there are still 288,000 Sudanese refugees in eastern Chad and 75,000 refugees from Central African Republic in the southeast of the country. Chad also has 131,000 internally displaced persons (IDPs) and 50,000 former IDPs who have returned to their areas of origin.²⁸

17. Even though the Government estimates that 30,000 IDPs are ready to return to their homes soon, lack of basic social services, the absence of rule of law and the lack of a functioning justice in return areas prevent many IDPs from returning.²⁹ A joint effort of the Chadian authorities,

²³ Article 25 (Francais) Loi N° / PR / 2012 portant régime de la presse au Tchad available at http://en.rsf.org/IMG/pdf/projet_de_loi_tchad.pdf (accessed 3 March 2013).

²⁴ PEN International Writers in Prison Committee ‘Case List – July to December 2012’ (2012) 5 available at <http://www.pen-deutschland.de/wp-content/uploads/2012/10/Caselist-2012-Juli-Dezember.pdf> (accessed 1 March 2013).

²⁵ Reporters Without Borders ‘Government Minister Insists that no journalist is being targeted’ (5 July 2012) available at <http://en.rsf.org/chad-government-minister-insists-that-05-07-2012,42961.html> (accessed 8 March 2013).

²⁶ A/HRC/12/5 (n 1 above) para 82: A-77.

²⁷ United NATIONS Office for the Coordination of Humanitarian Affairs (OCHA) ‘Consolidated appeal for Chad 2012’ (9 December 2011) available at http://docs.unocha.org/sites/dms/CAP/CAP_2012_Chad.pdf (accessed 09th March 2013).

²⁸ As above.

²⁹ OCHA ‘Mid-year review of the consolidated appeal for Chad 2012’ (13 July 2012) available at http://docs.unocha.org/sites/dms/CAP/MYR_2012_Chad.pdf (accessed 9 March 2013).

United Nations agencies and the humanitarian community was launched through the Early Recovery cluster that resulted in a common strategy for durable solutions for IDPs that focuses on return, local integration and relocation.³⁰ Following the withdrawal of Mission des Nations Unies en République Centrafricaine et au Tchad (United Nations Mission in the Central African Republic and Chad) at the end of 2010, arrangements to reinforce security conditions in eastern and southern Chad have been devised, with the additional deployment of the national police and gendarmerie, the Garde National et Nomade du Tchad (National and Nomadic Guard of Chad) and Détachement Intégré de Sécurité (Integrated Security Unit) plus as the joint Chado-Sudanese Force.³¹

vii. Recommendations

18. The Chadian government should be given the following recommendations:

- To put in place practical policies to implement the various gender sensitive laws that have already been enacted by the Government; to ratify the optional Protocol to CEDAW; to do away with discriminatory practices which undermine the status of women and ensure that victims of VAW are able to access adequate and timely justice
- To include and enforce provisions in its domestic law criminalising recruitment as well as the use of child soldiers in armed conflict; to put in place a plan of action elaborating the procedure to be adopted in re-integrating former child soldiers back into their communities.
- To ensure that the legal provisions governing prisons are in accordance with international laws and standards especially the UN standard Minimum Rules for the Treatment of Prisoners; to ratify the Optional Protocol on the Convention Against Torture; to take steps to promptly investigate and prosecute perpetrators of the various forms of ill treatment in prisons; to encourage alternatives for imprisonment for petty crimes such as community service as one of the mechanisms of addressing overcrowding in prisons
- To ensure strict and supervised separation of male and the female prisoners and that male security staff are not allowed in the premises of women prisoners except when accompanied by female security staff; ensure provision of adequate food to the prisoners and availability of at least one fully equipped clinic for every prison
- To amend or do away with provisions of the 2010 media bill which restrict freedom of expression in order to bring it in conformity with international provisions such as the International Covenant on Civil and Political Rights; to undertake concrete measures to protect journalists as well as human rights defenders from intimidation and threats as well as fully investigate and prosecute perpetrators
- To put in place a comprehensive policy in line with the U.N Guiding Principles on Internal Displacement governing the return and resettlement of IDPs back to their homes; to continue to provide basic social services to IDPs in their villages of return as well as for refugees in Chad.

³⁰ As above.

³¹ OCHA (n 28 above).