



CHAD

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 31TH SESSION OF THE UPR WORKING GROUP, NOVEMBER 2018

FOLLOW-UP TO THE PREVIOUS REVIEW

Since Chad's last UPR in 2013, the country has made little progress in terms of improving the human rights situation and has failed to implement the vast majority of the recommendations it accepted then. The authorities continue to unduly restrict human rights through national legislation, to repress dissent, and to violate human rights with impunity.

The national human rights commission

Despite accepting recommendations to expedite the adoption of a bill to reform and strengthen the National Human Rights Commission,¹ it was only on 8 December 2017 that Chad adopted the law on reform of the Commission; the law was promulgated on 30 December 2017.² Under the new law, the Commission is recognized as an independent administrative body mandated to promote and protect human rights and to investigate cases of human rights violations.³

The death penalty

Following recommendations accepted in 2013,⁴ the Criminal Code was revised in 2017 and the death penalty abolished, except for "terrorism".⁵ Prior to its adoption, on 29 August 2015, 10 suspected members of Boko Haram were sentenced to death in a trial held behind closed doors. They were executed the next day by firing squad.⁶

Protection of human rights defenders and journalists

In 2013, Chad rejected all recommendations on the protection of human rights defenders and journalists, including to ensure that they can operate freely and in a safe environment and be safe from arbitrary arrest and intimidation.⁷ Over the past three years, the human rights situation has deteriorated amid highly contested presidential elections, attacks by Boko Haram and a severe ongoing economic crisis provoked by a sharp drop in the price of crude oil. During this time, as political and economic discontent has grown, individuals and organizations have increasingly voiced their dissent. The

¹ Report of the Working Group on the Universal Periodic Review – Chad, A/HRC/25/14, para 110.40 – 110.53 (Niger, Uruguay, Burkina Faso, Botswana, France, India, Mexico, Nigeria, Philippines, Sierra Leone, Indonesia, South Africa, Tunisia).

² Law no.026/PR/2017 portant réforme de la Commission Nationales des Droits de l'Homme (CNDH).

³ Article 2, Law no.026/PR/2017 portant réforme de la Commission Nationales des Droits de l'Homme (CNDH).

⁴ Report of the Working Group on the Universal Periodic Review – Chad, A/HRC/25/14, para 110.13 (France).

⁵ Articles 16 - 20 of the new Criminal Code, Law no 001/PR/2017 do not require death penalty as punishment for crimes. However, articles 14 – 17 of the law no.034/PR/2015 on the repression of acts of terrorism prescribe the death penalty for crimes related to terrorism.

⁶ The 10 suspected Boko Haram members were convicted of carrying out the twin attacks that killed 38 people in N'Djamena in June. It was the first execution since 2003. In 2014 Chad had announced that it would abolish the death penalty, but in July 2015 included it in a new anti-terrorism law.

⁷ Report of the Working Group on the Universal Periodic Review – Chad, A/HRC/25/14, para 110.139 – 110.144 (Czech Republic, Germany, United Kingdom of Great Britain and Northern Ireland, Ireland, Netherlands, Spain).

authorities have responded by banning protests and arresting, prosecuting and intimidating government critics, including human rights defenders and journalists.

Freedom of peaceful assembly and association

Although Chad accepted recommendations to bring its legislation in line with international law and standards,⁸ it has failed to do so. National laws regulating the rights to freedom of association and peaceful assembly have not been amended and brought into conformity with Chad's obligations under international law. In 2016, Chad issued at least 13 decrees confirming a ministerial decision to refuse authorization to protest.

Rights to education and health

In 2013, Chad committed to prioritize the social sectors, such as health and education, in government expenditures and to step up efforts to ensure better access to and quality of health and education services.⁹ Yet, since the economic crisis was announced in 2015, the government has taken several austerity measures that do not conform to the minimum core content of economic, social and cultural rights, including in relation to health care, education and an adequate standard of living (see also below).

Impunity for human rights violations

Despite commitments made in 2013 to tackle impunity,¹⁰ Chad has failed to prosecute suspected perpetrators of acts of intimidation or threats, arbitrary arrests, enforced disappearances, torture and other ill-treatment, or killings (see also below).

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Freedom of peaceful assembly and use of force

The authorities have regularly relied on Ordinance No. 45/62 on public meetings and Decree No. 193/62 regulating protests on public spaces to ban peaceful protests and arrest peaceful protestors on the grounds of "public disorder" or "incitement to and/or taking part in an unarmed gathering".¹¹ Peaceful protesters have also been sentenced to prison sentences under charges in the Criminal Code.¹² National laws require prior authorization for all demonstrations¹³ and prohibit spontaneous assemblies.¹⁴

Freedom of expression and the media

The Criminal Code punishes "contempt of public authorities", including members of the government, the national assembly and the judiciary, "through words, writings or drawings, gestures or throwing of any objects". The Criminal Code punishes such acts of "contempt" – a term that is not properly defined in law – with up to three years in prison and

⁸ A/HRC/25/14, recommendations 110.2 (Benin), 110.34–110.35 (Zimbabwe, Oman), 110.38 (Sierra Leone).

⁹ A/HRC/25/14, recommendations 110.155 (Sierra Leone), 110.158 (Cuba), 110.159–110.160 (Armenia, Comoros), 110.164 (Armenia), 110.166 (Hungary), 110.172 (Romania).

¹⁰ A/HRC/25/14, recommendation 110.132 (Argentina).

¹¹ Articles 1–2 of the Ordinance No. 45/62 on public meetings; articles 1, 4 and 5 of the Decree No. 193/62 regulating protests on public places.

¹² Article 126 of the new Criminal Code, Law no 001/PR/2017, stipulates that "any direct provocation of an unarmed gathering shall be punished with three (3) months to one (1) year imprisonment if it causes public disorder and, if not, with one (1) to six (6) months imprisonment".

¹³ Article No.1 of the Ordinance No. 45/62 on public meetings stipulates that "public meetings may not take place without prior authorization" while the article no. 1 Decree No. 193/62 regulating protests on public places says that all parades, outings and in a general manner, all demonstrations on public places - except those in accordance with local customs - are subject to the obligation of a prior notification and obtaining an authorization.

¹⁴ Article 1 of the Ordinance No.45 of 27 October 1962 on public meetings.

finances of up to XAF250,000 (US\$450).¹⁵ Law No. 10-017 2010-08-31 PR on the press includes provisions criminalizing “defamation”, which has been defined as “any imputation or allegation likely to undermine the honour or consideration of a person or governing body”, and is punishable with fines ranging from XAF10,000 (US\$18) to XAF500,000 (US\$900) and suspension of the media concerned for up to three months.¹⁶

Freedom of association

Ordinance No. 27/62 regulates the registration of associations and requires that they obtain authorization from the Minister of Interior within three months in order to be established as a legal entity. The Minister does not have to state the reason for a decision to deny registration to an association, and the Ordinance makes clear that “non-reply after the three months period should be regarded as a refusal.”¹⁷ The Ordinance explicitly prescribes prison terms of up to one year and fines of up to XAF500,000 (US\$900) for members of “unregistered movements”.¹⁸

Right to strike

In December 2016, following several months of strikes by a coalition of unions, the government promulgated Law No. 032/PR/2016 to limit strike actions to services, such as radio, television and financial services, that are not part of the International Labour Organisation (ILO) list of essential services.¹⁹ Under the new Law, the government is no longer responsible for remunerating government workers for unpaid strike days, but instead states that the trade unions themselves must pay workers for the days they go on strike.²⁰ While international standards do not require governments to cover strike pay,²¹ the imposition of this obligation on unions would potentially be a major financial barrier to the right to strike.

Torture and other ill-treatment

While torture is defined as a crime in the Criminal Code that could carry prison sentences of up to 30 years, the authorities have failed to use this provision when cases of torture of people during arrest or detention have been reported.

The National Security Agency

Despite the fact that agents of the National Security Agency (*Agence Nationale de Sécurité*, ANS) have regularly been involved in the unlawful surveillance, intimidation, arrest and detention of government critics, the ANS was given a new mandate in 2017 through Decree No. 008/PR/2017. The Decree is both vague and far-reaching, focusing on tackling “subversion and destabilization directed against the vital interests of the state and the nation” but also “any mission with which the political authority may entrust it”.²² Although the Decree says that “the scope of the ANS mission is only

¹⁵ Articles 142, 143, 144 of the Law No. 001/PR/2017 of the updated Criminal Code, Book II, Title II, chapter III, section I - Des outrages aux corps constitués.

¹⁶ Article No. 51, Law No. 10-017 2010-08-31 PR on the press, available on < <http://www.droit-afrique.com/upload/doc/tchad/Tchad-Loi-2010-17-regime-presse.pdf> >.

¹⁷ Article 5, para 2 of the Decree No. 165 of 25 August 1962 on the application of Ordinance No. 27 of 28 July 1962 on associations.

¹⁸ Article 6 of the Ordinance No. 27 of 28 July 1962 on associations.

¹⁹ ILO, ‘Importance of the right to strike and its legitimate exercise’, Freedom of Association, Digest of decisions and principles of the Freedom of Association Committee of the Governing Body of the ILO, para.541.

²⁰ Article 15 of the Law No. 032/PR/2016 modifying law No. 008/PR/2007 of 09 May 2007 on the right to strike in public services, “Days not worked due to strikes are not remunerated. Salaries for days not worked shall be borne by the trade unions which initiated the strike unless the reason for the strike results from a general delay in payment of wages and up to three (3) days' strike in the same month. At the expiry of this period, the salaries of the unpaid days shall be paid by the unions which initiated the strike.” While international standards do not require governments to cover strike pay, the imposition of this obligation on unions would provide a potential major financial barrier to the right to strike and function freely.

²¹ According to the ILO Committee on Freedom of Association (CFA) set up in 1951 for the purpose of examining complaints about violations of freedom of association (regardless of whether or not the country concerned had ratified the relevant conventions), wage deductions for days of strike gives rise to “no objection from the point of view of freedom of association principles.”, para 654. See <http://ilo.org/global/standards/applying-andpromoting-international-labour-standards/committee-on-freedom-of-association/lang-en/index.htm>.

²² Decree No. 008/PR/2017 on the restructuring of the ANS.

limited by human rights” as well as “the Laws of the Republic and Chad’s international commitments”, such limitations are insufficient and often not respected by the Agency.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Restrictions on the right to peaceful assembly

At least four platforms and movements²³ – comprising at least 65 associations – and two other organizations told Amnesty International that they have never received authorization to organize a peaceful protest since they were created between 2014 and 2016. Other organizations, including the Chadian National Students’ Union (*Union National des Etudiants Tchadiens*, UNET) and three trade union organizations, have stated that they have not been granted such authorization since 2008.

Restrictions on freedom of expression and the media

At least 10 websites and blogs critical of the government have been blocked in Chad.²⁴

On 30 September 2016, online activist Tadjadine Mahamat Babouri was arrested by ANS agents after posting videos on Facebook criticizing the government’s alleged mismanagement of public funds. He was charged with undermining the constitutional order, threatening territorial integrity and national security, and collaborating with an insurrectional movement. On 22 February 2018, he was transferred to the Ndjamena prison and on 19 March he was interviewed, for the first time, by an investigating judge who altered the charges against him to defamation.

On 20 June 2017, Sylver Beindé Bassandé, director of community radio *Al Nada FM* in Moundou, was sentenced to two years in prison and fined XAF100,000 (US\$180) by the High Court of Moundou for complicity in contempt of court and for undermining judicial authority after airing a radio interview with a municipal councillor. The municipal councillor had criticized the judges who convicted him and two other councillors in a separate proceeding. Sylver lodged an appeal and was released on bail on 19 July 2017. On 26 September 2017, the Court of Appeal overruled the decision by the High Court of Moundou, sentencing Sylver for complicity in defamation and fined him XAF100,000 (US\$180).

Restrictions on freedom of association and the right to form and join trade unions

On 6 January, the Minister of Territorial Administration banned the activities of the National Movement of Citizen Awakening (*Mouvement d’Eveil Citoyen*, MECI), a movement bringing together civil society organizations, trade unions and political parties to campaign against the mismanagement of public funds and calling for democratic changes, describing it as “unnatural” and “without any legal basis”.²⁵ On 27 May 2017 the police interrupted and banned MECI’s General Assembly.

In January 2017, the authorities interfered in the internal affairs of the trade union representing researchers and university teachers (*Syndicat National des Enseignants Chercheurs du Supérieur*, SYNECS), to force the removal of its president and end its strike action against austerity measures and non-payment of salaries initiated in October 2016. The same month, visas were denied to representatives of the Organization of African Trade Union Unity, the International Trade Union Confederation, and the General Confederation of Labour, hindering the unions’ international collaboration.²⁶

²³ As of June 2017, Trop c’est trop had 15 member organizations, Ça suffit had five member organizations, Iyina had eight member organizations, CAMOJET had 37 associations. Interviews with platform leaders in March 2017 and July 2017.

²⁴ The list includes amongst others: tchadonline.com, magazine-charilogone.over-blog.com, tchadhanana.info, makaila.fr, east-side.chad.overblog.com/tag/tchadenligne, alwihdainfo.com, nouvelessor.over-blog.com, juliette.abandokwe.over-blog.com, zoomtchad.com and tchadoscopie.overblog.com.

²⁵ Lepaystchad.com, Djimnayel Ngarlem, ‘La plateforme MecI interdit d’activités’, 6 January 2017, <http://lepaystchad.com/index.php/politique/835-laplateforme-meci-interdit-d-activites> and RFI, ‘Tchad : le pouvoir réagit à la création d’un nouveau mouvement d’opposition’, 6 January 2017, <http://www.rfi.fr/afrique/20170106-tchad-le-pouvoir-reagit-creation-nouveau-mouvement-opposition>.

²⁶ Amnesty International, *Between recession and repression. The rising cost of dissent in Chad* (Index: AFR 20/7045/2017).

Torture and other ill-treatment

On 6 and 15 April 2017, respectively, Nadjo Kaina and Bertrand Solloh, leaders of the citizen movement IYINA ("We are tired" in local Arabic), were arrested by ANS agents for calling on citizens to wear red on 10 April, the anniversary of the 2016 presidential election, to protest against corruption and impunity. They were detained by the ANS without access to their families or lawyers of their choice, before being handed over to the judicial police. They were charged with attempted conspiracy and organizing an unauthorized gathering and given a six-month suspended sentence. The two men reported being tortured while in detention, including being suffocated with plastic bags containing chili.²⁷

Impunity for human rights violations

Officers of the police force, the gendarmerie and the ANS regularly commit human rights violations without repercussions. Of the human rights violations documented in this submission, only one case has led to a prosecution. In May 2015, following international and national pressure after a video was released showing officers of the Police Mobile Intervention Group (GMIP) whipping students while ordering them to roll on the ground and pour sand on themselves, the N'Djamena High Court sentenced eight police officers to six months in prison and fined them XAF50,000 (US\$90) for illegitimate violence, wilful assault and complicity in perpetrating those crimes. Six other officers were acquitted and the GMIP Commander identified by the students as giving the orders for their ill-treatment was not prosecuted.²⁸

Rights to education and health

The economic crisis prompted by the drop in oil prices and resultant austerity measures have led to reduced public expenditure in the health and education sectors. In August 2016, the government adopted 16 austerity measures, which included a 50% reduction of benefits for civil servants and the cancellation of scholarships for 17,000 students studying in public universities.²⁹ In August 2017, the free emergency health care policy³⁰ was revised and the list of emergencies it covers reduced to five, including complicated deliveries, malaria for pregnant women and children below 5 years old, fistulas, and snake and scorpion bites.³¹ Patients now have to pay for other emergency health care services that used to be available free of charge. Several public health centres and hospitals told Amnesty International that since 2015 they have not received allocations of free drugs and equipment³² from the government. As a result, these supplies are either unavailable, or health centres ask patients to pay for medicines and the equipment they use.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Chad to:

Freedom of expression, association and peaceful assembly

- Immediately and unconditionally release online activist Tadjadine Mahamat Babouri and drop all charges against him;

²⁷ See cases reported in footnote 24 and in Amnesty International, *Between recession and repression. The rising cost of dissent in Chad* (Index: AFR 20/7045/2017).

²⁸ Amnesty International, *Between recession and repression. The rising cost of dissent in Chad* (Index: AFR 20/7045/2017).

²⁹ According to austerity measure No. 6 on the revision of the criteria for granting scholarships for students studying in Chad. Students enrolled in private universities are excluded and austerity measure No. 9 on the reduction by 50% of all benefits', The Communication on emergency reform measures, Extraordinary Council of Ministers, Wednesday 31 August 2016, signed by the Prime Minister, Head of Government, Mr Pahimi Padacke Albert.

³⁰ Adopted in 2007 by the President.

³¹ The free emergency health care policy adopted by the government in 2007 the government covered 100 per cent of all the cost of emergency in hospitals including deliveries and emergency obstetric and neonatal care. In 2013, the policy was extended to health centres and targeted only pregnant women and children under five years old.

³² Such as antibiotics, malaria prophylactics, gloves,

- Amend Ordinance No. 45/62 on public meetings and Decree No. 193/62 regulating protests on public places to ensure they meet international and regional human rights law and standards on the rights to freedom of expression, association and peaceful assembly;
- Ensure that defamation is not treated as a criminal matter in accordance with the Law No. 10-017 2010-08-31 PR on the press, and that charges of contempt of court and defamation are not used to restrict the legitimate exercise of the right to freedom of expression;
- Amend Ordinance No. 27/62 to ensure that associations are not required to obtain prior authorization to be registered as a legal entity, and provide for a simple and non-burdensome notification process;
- Amend Ordinance No. 27/62 to ensure that it does not consider unregistered associations as illegal, that associations are able to carry out their activities and that their members are not subjected to criminal sanctions due to lack of registration;
- Amend the Law No. 032/PR/2016 regulating the right to strike, in line with relevant ILO Conventions,³³ and ensure that it is discussed in an inclusive manner with unions before being adopted and promulgated;
- Immediately unblock access to all websites which are currently blocked because there is critical content to the authorities, and refrain from restricting access to the internet and messaging applications such as Facebook and WhatsApp;
- Allow civil society platforms, including the National Movement of Citizen Awakening (*Mouvement d'Eveil Citoyen*, MECI) and IYINA, to carry out their activities without fear of prosecution or reprisals;
- Refrain from misusing the criminal justice system to target or harass people for exercising their rights to freedom of expression, peaceful assembly and association, including human rights defenders and journalists.

Protection of human rights defenders and journalists

- Refrain from using language that stigmatizes, abuses, disparages or discriminates against human rights defenders and journalists, including characterizing them as “rebels”, “enemies” or “opponents”;
- Effectively address threats, attacks, harassment and intimidation against human rights activists and journalists, including by thoroughly, promptly and independently investigating human rights violations and abuses against them and bringing the suspected perpetrators to justice in fair trials without recourse to the death penalty, and providing effective remedies and adequate reparations;
- Ensure there is a clear chain of accountability within the ANS and that the use of the power of arrest is subject to judicial oversight;
- Ensure that persons who allege being victims of abuse of ANS powers have effective recourse to remedies and access to full reparation;
- Develop and promulgate a law to recognize human rights defenders, protect them from reprisals and attacks, and support their work in accordance with the UN Declaration on Human Rights Defenders.

Torture and other ill-treatment, and detention facilities

- Immediately and publicly instruct the police, the army, the National Security Agency (*Agence Nationale de Sécurité*, ANS) and the gendarmerie, to end unlawful arrests and detention, incommunicado detention and refrain from detaining people without charge beyond the 48-hour period stipulated in the Criminal Code;
- Permit all detainees, after their arrest and regularly during their detention, to see their families, independent medical practitioners and lawyers of their choice;
- Allow independent national and international human rights monitors access to all detention centres, including ANS facilities;

³³ Namely the Freedom of Association and Protection of the Right to Organise Convention (1948), the Right to Organise and Collective Bargaining Convention (1949) and the Workers' Representatives Convention (1971), all ratified by Chad.

- Amend the laws founding and regulating the ANS and ensure that they comply with “UN good practices on legal and institutional frameworks for intelligence services and their oversight”;³⁴
- Ensure that all persons arrested by the ANS are brought before a judge within 48 hours, as mandated by the Criminal Code;
- Ensure that the Public Prosecutor is informed whenever a suspect is arrested by the ANS, as well as the reasons for the arrest, and that the Public Prosecutor is allowed to visit detainees;
- Ensure that the ANS does not detain individuals in unregistered or unlawful facilities and that all detainees have prompt access to their families and a lawyer of their choosing from the moment of arrest and throughout the proceedings.

The death penalty

- Abolish the death penalty for all crimes;
- Pending full abolition of the death penalty, immediately establish an official moratorium on executions.

Right to education and health

- Ensure that the austerity measures do not result in discrimination of any kind, prioritize the most marginalized groups when allocating resources, and adopt all necessary measures to address any disproportionate and compounded effects of such measures on them;
- Ensure that austerity measures allow the maintenance of a minimum core content of economic, social and cultural rights including health care, education and adequate standard of living, with a view to progressively realising these rights;
- Where the government of Chad cannot meet the obligations listed above, it should take all steps to seek and receive international cooperation and assistance.

³⁴ UNGA, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, Martin Scheinin, Good practices on legal and institutional frameworks and measures that ensure respect for human rights by intelligence agencies while countering terrorism, including on their oversight, A/HRC/14/46, 2010.