

Chad

1. Discrimination in the family

a) Overarching legal framework for marriage

In Chad, the French Civil Code of 1958 is still applied. The adoption of a new Code of Persons and Family is underway, but as of July 2017 it had not been passed. The Civil Code (1958) establishes that marriage is based on consent and women are provided with the same rights as men to enter marriage (art. 146). Forced marriage is not specifically defined in the legal framework but lack of consent of one of the spouse can constitute a cause for annulment upon request of both spouses or the spouse whom did not give his/her consent freely (Civil Code, art. 146 & 180). Additionally, the Law on the Organisation of Civil Registry provides for the official registration of customary and religious marriages, as article 36 stipulates that spouses married under customary or religious law must present themselves to the civil officer in charge of registering marriages; each spouse must be accompanied by two witnesses who were present at the celebration and who can certify of the consent of each spouse. Informal or de-facto unions are not regulated by law.

The Chadian legal system recognises customary law (Constitution, art. 156). The co-existence of customary law with modern law may be particularly detrimental for women with regards to marriage, matrimonial regimes, household responsibilities, divorce and inheritance (CEDAW, 2011). The legal gap caused by the absence of a Code of Persons and Family leads to judicial decisions being settled according to customary law or the outdated French Civil Code of 1958.

The practices of levirate (by which a widow marries the brother of her deceased husband) and sororate (by which when a wife dies, her sister is offered in marriage to the widower) are still occurring in certain regions in Chad (Ligue Tchadienne des Droits de l'Homme, 2015). Polygamy is a common practice in Chad and the Ordinance No. 03/INT/SUR of 1961 (art. 11) establishes that the option of polygamy is allowed if the spouses do not renounce it when signing the marriage contract (CEDAW, 2011). Arranged marriage is also a common practice (Emery, 2013). Women and girls may be exposed to physical violence by family members or they may be expelled from the family home if they refuse to marry the man chosen by their parents or family (UNFPA, 2016).

b) Child marriage

The Decree on the Prohibition of Child Marriage (which was promulgated as law in 2015) establishes the legal age of marriage for women and men at 18 years old (art. 2). The Penal Code contains legal sanctions of imprisonment of five to ten years and a fine for those facilitating a marriage of an individual who is under the minimum age of marriage (art. 368). There are no legal exceptions to the that allow women and men under the legal age of marriage to marry.

The Ministry of Women, Social Action and National Solidarity, alongside the UN and civil society organisations, has elaborated a Road Map to Fight Child Marriage and Female Genital Mutilation

(2016-2018). This Road Map includes four objectives, namely: coordination, follow-up and monitoring; social mobilisation and advocacy; capacity building for actors; and multi-sectorial responses (MFASSN, 2015).

According to Amnesty International (2011), early and forced marriage of girls is prevalent and women and girls who oppose marriage reportedly face serious consequences from their families and communities, including violence. Legislation on early marriage is rarely enforced and the practice is widely accepted (Amnesty International, 2011). The practice is also linked with a high prevalence of early pregnancies (AFD & ATBEF, 2013).

c) Household responsibilities

The Civil Code stipulates that the husband is the head of household (art. 213). The legal framework provides the same rights to women and men to be the legal guardian of their children during marriage and in informal unions (Constitution, art. 38). Husband and wife share the same rights and responsibilities with regards to their children during marriage (Civil Code, art. 203).

Unmarried women are provided with the same rights as unmarried men to choose where to live, per the Constitution which recognises the right of every Chadian to choose where to live (art. 43). However, married women are not provided with the same rights as married men to choose where to live according to the Civil Code, which establishes that the husband is the one who has the right to choose where to live (art. 215). The law stipulates that the wife is obliged to live with her husband, and her husband is obliged to receive her.

The CEDAW Committee (2011) stresses that discriminatory notions on women's and men's roles and responsibilities within the family and society, as well as deeply-rooted patriarchal culture, are pervasive. The gendered division of household responsibilities assign all domestic tasks to women (UNFPA, 2016). Women are expected to care for the children and to be responsible for domestic chores; while men are engaged in income-generating activities (Oxfam et al., 2013). It is reported that the male referent within the family dominates all aspects of life of women (Emery, 2013). In some parts of the country, some women must be accompanied by a man to leave the house, even for regular daily activity (Emery, 2013).

d) Divorce

The Civil Code recognises fault-based divorce and establishes the same rights for women and men to initiate divorce. Women and men have the same requirements to finalise a divorce or annulment (art. 229 - 232). The law provides women with the same rights as men to be legal guardians and the same rights and responsibilities with regards to their children after divorce (Civil Code, art. 304).

In case of divorce, according to customs and practices, it is reported that women may be granted custody of young children, only until they are six or seven years old when they are entrusted to the father (Emery, 2013). In case of polygamy, the first wife may divorce but she has to repay the bride price and expenses related to the marriage, which makes it hard for most women who do not own capital in their own name (Emery, 2013). There is little information on the incidence of divorce in Chad but discriminatory inheritance practices in addition to women not being considered the heads

of household leave single, divorced and widowed women marginalised and being vulnerable to poverty (Emery, 2013).

e) Inheritance

The formal law grants the same rights to daughters and sons to inherit land and non-land assets (Civil Code, art. 745). Female surviving spouses have the same rights as male surviving spouse to inherit land and non-land assets (Civil Code, art. 767). Moreover, the Civil Code provides women with the same rights as men to make a will (art. 895). However, the Constitution recognises the application of customary law with regards to matrimonial regimes and inheritance, only if the parties concerned consent (art. 157). If the parties do not consent, the Civil Code is applied. The coexistence of customary law and formal law leaves decision of which law to apply to the discretion of the judge and the parties concerned. Legal remedies available to women are limited within the context of inheritance.

The CEDAW Committee (2011) stresses that according to customs and traditional practices, women are not allowed to inherit or acquire ownership of land. According to customary law, the female surviving spouse is excluded from the inheritance (UNFPA, 2016). She may retrieve the goods she brought when she married and her sons owe her alimony, however she is not entitled to inherit any property or land not to enjoy usufruct (UNFPA, 2016). The practice of levirate is sometimes called “the inheritance of the widow”, which means that the female surviving spouse is to be “inherited” by the family of the deceased, and hence given into marriage to the brother of the deceased (UNFPA, 2016). The family of the deceased is usually entitled to the custody of the children, in line with customary law (UNFPA, 2016). The discriminatory customs and practices regarding inheritance impede on women’s economic and social empowerment.

In some parts of Chad, Islamic law is applied (UNFPA, 2016). According to Islamic law, women are entitled to inheritance but their share is lesser than men (UNFPA, 2016). The female surviving spouse receives 1/8 of the inheritance, which is to be shared between co-wives in case of polygamy (UNFPA, 2016). Daughters inherit half of what sons are entitled to (UNFPA, 2016).

It is reported that in urban areas, women are more likely to own property and land plots and can inherit from their parents or spouse or receive donations (UNFPA, 2016). However, in rural areas, it is the custom that women cannot own land and land is inherited from father to son (UNFPA, 2016).

2. Restricted Physical integrity

a) Violence against women

There is no law addressing violence against women specifically and in a comprehensive manner. The Law Concerning the Promotion of Reproductive Health includes a provision prohibiting all forms of violence, such as female genital mutilation, early marriage, domestic violence and rape and sexual violence (art. 9). However, reports show that the law is not applicable (AFD & ATBEF, 2013). The Government is reportedly examining a project of decree for the application of the Law Concerning the Promotion of Reproductive Health in 2018 (Presidency of the Republic of Chad, 2018).

In 2010, the Government created the National Coordination to Fight Gender-based Violence (MSPASSN, 2014). In 2014, the Government elaborated a National Strategy to Fight Gender-based Violence (MSPASSN, 2014). The Association for Women Jurists in Chad offers services and help to victims of gender-based violence, notably a helpline and legal aid (AFD & ATBEF, 2013).

When reporting violence, women may risk exposing themselves to exclusion from their family and community or face social pressure not to prosecute (AFD & ATBEF, 2013). The CEDAW Committee (2011) highlighted that violence against women is characterised by a culture of silence, underreporting for fear of retaliation, and stigma and impunity of perpetrators. Additionally, the CEDAW Committee (2011) reports that traditional justice mechanisms, such as *diyya* (a financial compensation is offered to the survivor or heir to settle cases of bodily harm or murder), are used to settle cases of gender-based violence, specifically cases of sexual violence. Additionally, The CEDAW Committee (2011) points out the lack of shelters and appropriate services for victims of gender-based violence.

Furthermore, in recent years, Chad has faced a series of terrorist attacks by the armed group Boko Haram, particularly active in the Lake region – killing people, looting and destroying property (Amnesty International, 2017). The violence inflicted by Boko Haram and the government's response led to internally displaced population (Amnesty International, 2017). The CEDAW Committee (2011) highlights that refugee and internally displaced women and girls are vulnerable and face high risks of being victims of gender-based violence.

b) Domestic violence

The legal framework in Chad does not address domestic violence as a criminal offense. There are aggravated penalties for crimes against a spouse or family member (Penal Code, art. 342). These penalties which range from six months to three years of imprisonment and a fine are applicable in the case of afflicting degrading, humiliating or inhuman treatment causing psychological harm, traumatism or mental illness to one's spouse or a family member (Penal Code, art. 342). They exclude however violation of the physical integrity (Penal Code, art. 342). The Law Concerning the Promotion of Reproductive Health includes a provision prohibiting all forms of violence, including domestic violence (art. 9). However, reports indicate that a decree for the application of this law has never been adopted, which renders the law obsolete (ACCORD, 2015). Additionally, the Penal Code contains a legal exception which stipulates that in the case of adultery of *flagrance delicto*, the murder of one's spouse and his/her accomplice committed by the other spouse is excusable (art. 69). The National Strategy to Fight Gender-based Violence includes some provisions concerning domestic violence (MSPASSN, 2014). The CEDAW Committee (2011) stresses the lack of appropriate services for victims of domestic violence.

Domestic violence is reportedly prevalent (CEDAW, 2011). The Human Rights League in Chad reports that domestic violence is generally tolerated due to socio-cultural factors placing women in a position of inferiority to their husband (Ligue Tchadienne des Droits de l'Homme, 2015). Domestic violence is socially accepted by some women based on the belief that the dowry paid by their husband for the marriage allows them to use violence (AFD & ATBEF, 2013). A report by the United Nations Population Fund (2016) shows that physical violence is often applied by husbands when

their wife disobeys or refuses to do something for him. Domestic violence cases are rarely prosecuted, except in cases of serious injury (resulting in infirmities for instance) where authorities are warned (UNFPA, 2016). It is reported that in most cases, women remain silent and it is considered a familial and private matter (UNFPA, 2016).

c) Rape

Under the Penal Code, rape or attempted rape is punished by eight to fifteen years of imprisonment (art. 349). Rape is defined as any act of sexual penetration committed on a person with the use of violence, coercion, threat or surprise (Penal Code, art. 349). Aggravated forms of rape and sexual violence include age of the victim, disability, gang rape, or if the perpetrator is an ascendant of the victim (Penal Code, art. 350). Aggravated forms of rape are punishable of imprisonment of ten to twenty years (Penal Code, art. 350). The legislation does not explicitly criminalise marital rape, however a wife can file a complaint against her husband for rape or sexual assault (Penal Code, art. 349).

In 2007, the Government implemented a project to assist women and girls victims of sexual violence in Eastern Chad. The project facilitated the training of administrative staff as well as traditional and religious leaders on sexual violence and the introduction of focal points in the municipality of N'Djaména (MSPASSN, 2014).

Rape and sexual violence remain widespread (CEDAW, 2011). One of the major obstacles is that women do not report cases for fear of social exclusion or abandonment from their families, stigma and reprisal from perpetrators (Amnesty International, 2011). Perpetrators of rape and sexual violence are rarely brought to justice. Reports suggest that women in detention are often the victims of sexual violence by prison male guards, but seldom report the crimes (Ligue Tchadienne des Droits de l'Homme, 2015). Marital rape is reportedly not accepted socially as a form of violence, as it is considered that the vows of marriage are based on consent and imply consent for sexual intercourse between the spouses (UNFPA, 2016).

d) Sexual harassment

The legal framework provides legal protection from sexual harassment under article 341 of the Penal Code. Sexual harassment is punished by imprisonment of six months to two years and a fine (Penal Code, art. 341). Aggravated forms of sexual harassment on the basis of authority, age, disability, vulnerability, are punished by imprisonment of one to three years and a fine (Penal Code, art. 341). The Penal Code (art. 342) includes a provision for sexual harassment towards a spouse, a partner, a parent or an ally which is punishable of imprisonment of six months to three years and/or a fine. The Penal Code does not cover specifically the workplace, educational establishments, sporting establishments, public places or cyber harassment.

A ruling of the Social Chamber of the N'Djaména Court of Appeal of 8 December 1999 established the refusal or resistance of a victim of sexual harassment in the workplace as a cause of unfair dismissal giving rise to damages (UNFPA, 2016).

Sexual harassment is most common in the workplace, where the employer abuses his position of power (UNFPA, 2016). Some of the women who resist are reportedly fired without justification (UNFPA, 2016). Sexual harassment is prevalent in other places but by fear and stigma, women do not report it (UNFPA, 2016).

e) Female genital mutilation

The Penal Code contains a provision addressing female genital mutilation (FGM) and stipulates that anyone who performs FGM is punishable of imprisonment of one to five years and a fine (art. 318). The law includes criminal penalties for medical practitioners, parents and other practitioners of FGM (Penal Code, art. 318). If the author of the act regularly performs FGM, the sentence is imprisonment of five to ten years and a fine (Penal Code, art. 318). Anyone who exposes a child to the practice of FGM is liable to imprisonment of six months to five years and a fine (Penal Code, art. 320).

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Amnesty International (2011) reports that the practice of FGM is common in Chad. Young girls are particularly vulnerable to the practice, which customarily represents a rite of passage into womanhood (Amnesty International, 2011). In some areas, a girl who is not excised may not be allowed to marry and may be considered to bring shame to her family (Ligue Tchadienne des Droits de l'Homme, 2015). Amnesty International (2011) reports that those who perform FGM - usually an elderly female circumciser – are rarely prosecuted and go unpunished.

f) Abortion

Abortion on request is illegal in Chad. Anyone who helps or attempts to help a woman obtain an abortion is punishable by imprisonment of one to five years and a fine, under article 356 of the Penal Code. The woman who had an abortion or attempted to have one is punishable of imprisonment of two months to two years and a fine (Penal Code, art. 356). Abortion is authorised to preserve the mental health of the woman, due to rape, statutory rape or incest, to preserve the physical health of the woman, due to foetal unviability or to save the woman's life (Penal Code, art. 358). The authorisation is delivered by the Ministry upon the deliverance of a certificate by a doctor (Penal Code, art. 358).

The severe legal restrictions concerning abortion lead women to have abortions performed clandestinely, usually in unhealthy conditions (Foumsou et al., 2017).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

The Law on the Limitation of Land Rights guarantees the right to everyone to own, use, make decisions and use as collateral land (art. 1). The Constitution guarantees the right to private property

(art. 41). Regarding land, property and non-land assets, women and men enjoy the same rights after divorce or separation (Civil Code, art. 242). The Civil Code additionally stipulates that married women enjoy the administration and ownership of all assets and property they may have earned through their independent profession (art. 224). However, the legal framework does not grant married woman with the same rights as married men to administer marital property (World Bank, 2016).

The Government's five-year plan for the development of agriculture includes a gender-sensitive approach and identifies women as one of the main beneficiaries of the plan (MAI, 2013). The Plan recognises the increasing role of women within the agricultural economy. As such, it envisions the implementation of projects targeting female agricultural entrepreneurship and recognises the need to involve women in all phases and decisions of development projects (MAI, 2013).

Nonetheless, customary law continues to coexist with formal law. This legal process and the absence of a code of persons and family impede on women's rights with regards to access to land and non-land assets. According to customary law, matrimonial regimes, property and inheritance prevail through the male line (MSPASSN, 2014). This legal confusion leads to judges legislating either according to customary law or modern law depending on the option chosen by the concerned persons (MSPASSN, 2014). In its report to the 20 years of the implementation of the Beijing Platform of Action, the Government of Chad reiterated some of the barriers women continue to face with regards to access to land and assets, notably a lack of access to technologies related to agriculture, a lack of knowledge on climate change, a lack of access and control of resources in particular land and a lack of decision-making power in the family and community (MSPASSN, 2014).

It is estimated that rural women compose 40% of the population in Chad (Oxfam et al., 2013). Division of labour in agricultural households is gendered; women are tasked with the production and transformation and men are tasked with the ploughing of the land (Oxfam et al., 2013). In addition, women are solely responsible for domestic work (Oxfam et al., 2013). The lack of education and the weight of domestic work hinders women's ability to engage in income-generating activities (Oxfam et al., 2013). Furthermore, women are usually involved in subsistence farming while men are involved in commercial activities (Oxfam et al., 2013). This division impedes on women's access to resources and their abilities to buy land. Exceptions are to be noted, notably women "mosso" who are involved in commerce (Oxfam et al., 2013).

Most women don't own land and usually work on the land of their father or husband (Oxfam et al., 2013). Even if they generate income from those lands, it is usually given back to their father or husband (Oxfam et al., 2013). Moreover, women are under-represented in rural cooperatives and municipal decision-making positions (Oxfam et al., 2013). The CEDAW Committee (2011) reports on the "disadvantaged position of women in rural and remote areas, recognising that the conditions faced by such women, who represent almost 80 per cent of the women in Chad, are often characterised by poverty, the impact of armed conflict, difficulties in access to health and social services and a lack of participation in decision-making processes at the community level".

b) Secure access to formal financial resources

The Civil Code stipulates that a woman can open a bank account at a formal institution for the funds given by her husband. However, the husband must be notified and must authorise withdrawals from the account (art. 221). Women are allowed to open a bank account for the funds they earn by a separate professional activity (art. 222).

The Government has elaborated a policy on women's and youth empowerment and a national strategy on micro-credit (MSPASSN, 2014). In 2012, the government created a special fund for women and youth (MSPASSN, 2014). In 2011, the Government created a Ministry tasked with enhancing micro-credit for the promotion of women and youth (MSPASSN, 2014).

Men tend to obtain and apply for credit more than women due in part to the persistence of a discriminatory division of labour within families and discriminatory access to land and property (MEP, 2009). Furthermore, women are more likely to use informal processes of credit, such as "tontines", an informal network where people gather their savings to invest on each member alternately (MEP, 2009). The CEDAW Committee (2011) stresses that women's access to credit is limited, due to discrimination and stereotypes, their lack of collateral and lack of information regarding credit. Additionally, it is reported that in some parts of Chad, women must seek the approval of their husband if they wish to take a bank loan to open a business (Emery, 2013).

c) Workplace rights

The principle of non-discrimination on the ground of sex, age or nationality prevails within the Labour Code with regards to employment, notably recruitment, hiring, terms and conditions, promotions, training, assignments and termination (art. 6). The Labour Code additionally provides for equal remuneration for work of equal value (art. 247).

However, the Code prohibits women from entering certain professions which could endanger their health, safety or morality (art. 336). Night work is prohibited for women in industries; this prohibition does not apply to women who work in management positions or in services that do not require manual work, or to women working within family establishments (Labour Code, art. 205).

The Labour Code guaranteed paid maternity leave of 14 weeks, during which mothers are entitled to the totality of their wages (art. 108). Workers can also ask for 10 days of paid leave for familial events, at the employer's charge (Labour Code, art. 216). The Labour Code further provides for unpaid parental leave of 6 months renewable once to care for a child (art. 133). The legal framework protects women's employment security when they are on maternity leave (Labour Code, art. 112). The Civil Code stipulates that a woman can choose a profession on the condition that her husband agrees (art. 223).

Women are mostly involved in the informal sector and precarious jobs and remain excluded from income-generating activities in the formal sector and legal protection (MSPASSN, 2014). Estimations show that 28% of women in urban areas and 25% of women in rural areas decide by themselves to engage in a professional activity to earn a wage (MSPASSN, 2014).

4. Restricted Civil liberties

a) Citizenship rights

The Nationality Code provides women with the same rights as men to acquire, change and retain nationality and to confer nationality to their spouses and children (art. 11 & 17). The Law on the Organisation of Civil Registry provides women with the same rights as men to register the birth of their children (art. 25). Registration of birth is mandatory within one month after the birth. Late or delayed registration of unregistered adults and children is allowed upon a judge's decision (art. 25).

The Constitution does not recognise multiple or intersectional forms of discrimination, but guarantees equality before the law without distinction of origin, race, sex, religion, political opinion or social status (art. 14). The Constitution further stipulates that the State has the duty to ensure the elimination of all forms of discrimination towards women and to ensure women's rights in all domains of public and private life (art. 14). The Constitution guarantees the right of every Chadian to travel freely within and outside the national territory (art. 44).

There is no legal discrimination regarding citizenship rights or women's legal rights to register the birth of their child and there are no discriminatory practices that may restrict those rights.

b) Voting

The Constitution establishes universal suffrage for all Chadians of both sexes, aged 18 years or more (art. 6). Despite equal rights to vote established by the legal framework, married women face social and familial barriers in the exercise of their voting rights (UNFPA, 2016). Some women reportedly do not register on electoral lists due to the refusal of their husbands; do not vote because their husbands prohibit it; or are likely to vote for the candidate as told by their husbands (UNFPA, 2016).

c) Political voice

The Constitution provides women with the same rights as men to hold public and political office in the legislative, executive and judiciary spheres (art. 108, 62 & 147). There are no legal quotas nor special measures to promote women's political participation at the national or local levels (University of Florida, 2014). The Charter of Political Parties establishes that political parties shall lose 10% of financial benefits if they do not have elected women representatives.

Reports suggest that women tend not to register as candidates because of social pressure (UNFPA, 2016). Very few women occupy positions of power, due notably to low education levels, lack of self-esteem, domestic responsibilities, societal expectations and lack of institutional commitment to women's participation in politics (MSPASSN, 2014; Counterpart International et al., 2011). In certain areas, women who wish to pursue activities related to the political, economic, social and cultural sectors, must seek permission from their husband beforehand (MSPASSN, 2014).

However, reports highlight that women play a role within civil society organisations – which are highly organised and coordinated (Counterpart International et al., 2011). Amongst other activities, women's organisations lead awareness-raising activities and civic education campaigns for women (Counterpart International et al., 2011).

d) Access to justice

The legal framework provides married and unmarried women with the same capacity as married and unmarried men to sue and be sued as the Constitution guarantees equality before the law for men and women (art. 13). Additionally, legally a married/unmarried woman's testimony carries the evidentiary weight in court as a married/unmarried man's testimony in all types of court cases such as civil, criminal, family court, and tribunal (Constitutional, art. 13).

The Ministry of Women, Social Action and National Solidarity is tasked with coordinating the government's response in terms of gender equality. The Directorate for the Promotion of Women and the Integration of Gender is tasked with coordinating the implementation and monitoring of all gender-related policies as well as advocacy and awareness-raising activities (MSPASSN, 2014). The Directorate collaborates with ministerial focal points on gender, civil society organisations and technical and financial partners (MSPASSN, 2014). At the local level, regional delegations are tasked with the coordination, follow-up and monitoring of policies and action for the promotion of women (MSPASSN, 2014).

The National Policy on Gender (2011-2020) includes six objectives: the systematic integration of a gender dimension in the planning, budgeting, implementation and monitoring of strategies, policies or development programmes; the development of a communication strategy to change mentalities on gender equality and to promote women's rights in the public and private sphere; to ensure an equal access to social services, resources and benefits; to increase women's access to decision-making positions at all level; to promote human rights by addressing gender-based violence and facilitating women's empowerment; to develop an active partnership for gender equality (Republic of Chad, 2011).

Amnesty International (2011) reports that women and girls enjoy limited access to justice and perpetrators of gender-based violence are rarely prosecuted and sentenced. In rural areas, the lack of a formal legal system forces women to resort to traditional dispute resolution for cases of discrimination and violence. This often results in financial compensation to settle cases of murder, rape and other forms of violence (Amnesty International, 2011). Reports also point to corruption within the judicial system that may impinge on women's ability to access justice (AFD & ATBEF, 2013). The CEDAW Committee (2011) reports that "despite efforts to reform the judiciary, the number of courts and qualified judicial personnel insufficient; the independence of judges is not guaranteed and impunity prevails over the application of law".

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