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**ADVISORY SERVICES AND TECHNICAL COOPERATION
IN THE FIELD OF HUMAN RIGHTS**

Situation of human rights in Chad

Report prepared by the Independent Expert, Mónica Pinto

Summary

This report has been prepared in accordance with Commission on Human Rights resolution 2004/85, in which the Commission decided to appoint an Independent Expert to facilitate cooperation between the Government of Chad and the Office of the United Nations High Commissioner for Human Rights in the promotion and protection of human rights.

The Independent Expert's report takes into account the concerns expressed by the Commission regarding violence, the dependence of the judiciary upon the executive, the scarcity of physical and human resources in the judicial and prison sectors, the culture of impunity resulting from the dysfunction of the justice system and the political and social environment, and the weakness of the national human rights institutions. The Independent Expert's conclusions are intended to contribute to the project for technical assistance in the provision of support for the legislative and judicial reform which Chad formulated in 2003.

The Independent Expert went to Chad for the first time from 7 to 17 October 2004. She visited the capital, N'Djamena, as well as the east of the country, near the border with Darfur in the Sudan, the towns of Abéché and Adré and the refugee camps of Farchana and Bredjing. She held discussions with State and local authorities, members of the diplomatic corps and representatives of the churches in Chad, members of civil society organizations and individuals.

The information she gathered has led the Independent Expert to conclude that Chad is a country where national identity takes second place to ethnic or even clan identity. The current focus is on dichotomies, in particular between northerners and southerners, Muslims and Christians, nomads and sedentary people, Arabs and Africans. Yet these differences, which are often very hypothetical, are not insurmountable. The problem is that no one takes the trouble to try to improve the situation. On the contrary, differences within Chadian society are manipulated in order to exacerbate tensions among the different groups. A widespread lack of trust means that institutions are relegated to a position behind local traditions and customs. The same applies to written legislation, including the Constitution and human rights treaties. Consequently, there are major gaps which are not filled by the law but by a force outside anyone's control.

The crisis in Darfur has been an ordeal for Chad. Two hundred thousand people took refuge in a country where local people enjoy a poorer quality of life than refugees. Chad is a poor, highly indebted country, but possesses huge natural wealth, particularly oil, which is currently being exploited by the consortium composed of Exxon-Mobil, Chevron and Petronas. The consortium legally takes the bulk of the profits.

There is no deliberate policy of systematic violation of human rights in Chad. Yet human rights are constantly violated. Underdevelopment is structural, democracy is only a formality, the Government does not practise good governance. Nothing is done to overcome these obstacles. There is no development, or democracy, or respect for human rights.

The Independent Expert considers that Chadians have an inalienable right to development, and that their Government bears prime responsibility for creating conditions conducive to the realization of this right.

The State must practise good governance. It must take all steps to ensure that the legislation formally in force constitutes the rule to be followed. In that context, decentralization could play a major role in ensuring good governance.

There is a need to create a State founded on the rule of law through reform of the national administration, the strengthening of parliament as the representative of the people and guardian of human rights, reform of the judiciary so that judges are appointed from among the best, the most independent and impartial candidates. The prison system must be imbued with a sense of social rehabilitation.

The Independent Expert considers that the Government should integrate Chadian society, and to that end it should begin with women, who make up 52 per cent of the population. The roles that women play in daily life should be recognized, and they should be given the place they deserve for their personal advancement and that of society.

An intensive literacy campaign will be of benefit not only to the fundamental liberties of expression and information but also to the development of society. A society which is aware of its rights is better prepared to defend itself.

Civil society should be protected from harassment. It creates the social fabric and facilitates social movements for economic and social development. Training must be given to personnel involved in the country's economic, social and political development.

There is a need to take advantage of the local presence of United Nations agencies in order to build democracy in Chad, and this presupposes good governance, development and respect for human rights.

CONTENTS

	<i>Paragraphs</i>	<i>Page</i>
Introduction	1 - 9	5
I. INSTITUTIONAL FRAMEWORK IN CHAD	10 - 15	6
II. PRINCIPAL CONCERNS IN RELATION TO HUMAN RIGHTS	16 - 60	7
A. Right to life	17 - 19	7
B. Right to liberty and security of the person	20 - 30	8
C. Right to non-discrimination	31 - 32	10
D. Right to a fair trial	33 - 38	10
E. Fundamental freedoms	39 - 49	11
F. Traditional practices involving women	50 - 56	13
G. Traditional practices involving children	57	14
H. Core economic, social and cultural rights	58 - 60	14
III. CONCLUSIONS	61 - 77	15
A. A country where national identity takes second place to ethnic or even clan identity	61 - 63	15
B. A country where no one has confidence in the institutions	64 - 65	16
C. A country where national legislation takes second place to local customs	66 - 70	16
D. A country where everyone exerts a degree of pressure on everyone else, and where the most powerful prevail ...	71	17
E. A country where refugees enjoy a better quality of life than the local people	72 - 73	17
F. A poor country rich in natural resources	74 - 75	18
G. A country where there is no deliberate policy for the violation of human rights but where such violations are constant	76 - 77	18
IV. RECOMMENDATIONS	78 - 90	18
Annex. Programme of the Independent Expert's visit to Chad		21

Introduction

1. On 16 April 2003, the Government of Chad lodged a request for technical assistance with the Office of the United Nations High Commissioner for Human Rights relating to the provision of support for legislative and judicial reform. The High Commissioner responded favourably, in the light of the willingness of the Government of Chad to improve its legislative and judicial system, and of Commission on Human Rights resolution 2003/81 of 25 April 2003, in which the High Commissioner was requested to elaborate a programme of technical assistance and advisory services in the field of human rights, in consultation with the Government.
2. On 21 April 2004, the Commission adopted resolution 2004/85. In this resolution, the Commission voiced its deep concern at the intercommunal violence exacerbated by ethnic tensions and the unhelpful contribution made to the situation by paramilitaries and demobilized soldiers, the dependence of the judiciary upon the executive, the scarcity of physical and human resources in the judicial and prison sectors, the culture of impunity resulting from the dysfunction of the justice system and political and social environment, and the weakness of the national human rights institutions.
3. In the same resolution, the Commission decided to appoint an independent expert for an initial period of one year to facilitate cooperation between the Government of Chad and the Office of the High Commissioner in the promotion and protection of human rights, and to submit a report to the Commission at its sixty-first session.
4. On 15 June 2004, this decision was endorsed by the Economic and Social Council by decision 2004/226. On 9 July 2004, the Chairperson of the Commission decided to appoint Ms. Mónica Pinto as the Independent Expert on the situation of human rights in Chad.
5. In pursuance of her terms of reference, the Independent Expert went to Chad for the first time from 7 to 17 October 2004. She travelled to the east of the country, near the border with Darfur, in the Sudan, and visited the refugee camps of Farchana and Bredjing. She held discussions with local figures, members of civil society and officials of international and non-governmental organizations in N'Djamena, Abéché and Adré. The programme of her visit is annexed to this report.
6. Between 4 and 7 October 2004, the Independent Expert held an initial series of consultations in Geneva. On return from her mission, she held discussions with the High Commissioner and staff working on cases related or linked to Chad.
7. The Independent Expert consulted all available and reliable sources in order to familiarize herself properly with the situation of human rights in Chad. In that regard, she enjoyed the full cooperation of the Government. She consulted all the documentation received from various United Nations agencies and intergovernmental and non-governmental organizations, and talked freely with many individuals and representatives of Chadian organizations.

8. The information collected was analysed in the light of the international human rights instruments to which Chad is a party, namely the International Covenant on Economic, Social and Cultural Rights (1995), the International Covenant on Civil and Political Rights (1995), the International Convention on the Elimination of All Forms of Racial Discrimination (1997), the Convention on the Elimination of All Forms of Discrimination against Women (1995), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1995), the Convention on the Rights of the Child (1990), the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2002) and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts (2003). In this context, Chad has accepted the competence of the Human Rights Committee to examine individual complaints under the Optional Protocol to the International Covenant on Civil and Political Rights.

9. Chad has also ratified the Convention relating to the Status of Refugees and the Protocol relating to the Status of Refugees. At the regional level, Chad is bound by the African Charter on Human and Peoples' Rights (1986) and the Protocol Establishing an African Court on Human and Peoples' Rights (1986), the African Charter on the Rights and Welfare of the Child (2000) and the Organization of African Unity's Convention governing the Specific Aspects of Refugee Problems in Africa (1981). Chad is a party to International Labour Organization Conventions Nos. 4, 5, 6, 11, 13, 14, 26, 29, 33, 41, 81, 87, 95, 98, 100, 105, 111, 116, 132, 135, 144, 151, 173 and 182, which were in force on 31 December 2000.

I. INSTITUTIONAL FRAMEWORK IN CHAD

10. Chad is a Sahelian country covering 1,284,000 square kilometres. It has 8.9 million inhabitants, 52 per cent of whom are women. The average population density is 5.1 per square kilometre. According to the 2003 national poverty reduction strategy document, 54 per cent of the population are living below the poverty threshold, life expectancy is under 47, and 48 per cent of the population is under 15 years of age.

11. After attaining independence on 11 August 1960, Chad was plunged into an institutional and political crisis which lasted three decades. Eventually, a Sovereign National Conference composed of all the dynamic forces of the nation was organized in 1993, and a constitution was adopted as the highest law of the State. Promulgated on 14 April 1996, it expresses the resolve of the Chadian people "to live together in a spirit of respect for ethnic, religious, regional and cultural diversity, to build a State governed by the rule of law and a united nation based on civil liberties and fundamental human rights, the dignity of the individual and political pluralism, and the African values of solidarity and fraternity".

12. Executive power is exercised by the President and the Government; the Prime Minister is appointed by Presidential decree. President Idriss Deby (Mouvement Patriotique du Salut, MPS) was elected in 1996 and re-elected in 2001. Under the Constitution, the President may not serve more than two terms. However, this restriction was removed by the National Assembly in May 2004. A referendum is to be held to endorse this change. For this purpose, an independent national electoral commission has been appointed, but voter registration has not begun. The opposition has protested against the membership of the Commission, and called on the people not to register to vote.

13. Legislative power is exercised by a parliament composed of two chambers, the National Assembly and the Senate, which represents decentralized territorial units. The Assembly first sat in 1997. New elections were held in 2002. The second parliament contains 155 deputies, 113 of them from MPS, the ruling party, plus 4 who allied themselves with it subsequently, as well as 36 deputies from opposition parties. Only 9 deputies are women.

14. Judicial power is exercised by the Supreme Court, the courts of appeal, the ordinary courts and justices of the peace. Judges, justices of the peace and court registrars and clerks are trained at the National College for Administration and the Magistracy. According to information provided to the Independent Expert by the Minister of Justice and Keeper of the Seals, there are 270 judges in Chad - court judges and procurators - and 160 court registrars and clerks.

15. The Constitutional Council assesses the constitutionality of laws, international treaties and the rules of procedure of the assemblies before they are put into effect. It hears disputes relating to presidential and legislative elections and resolves conflicts relating to areas of competence between State institutions. Its decisions are final and binding on all administrative, military and judicial authorities. An instrument which is declared to be at variance with the Constitution may not be promulgated.

II. PRINCIPAL CONCERNS IN RELATION TO HUMAN RIGHTS

16. The preamble to the Constitution states that “years of dictatorship and single-party rule prevented the development of any culture of democracy and political pluralism. The various successive regimes created and sustained regionalism, tribalism, nepotism, social inequalities and violations of individual and collective fundamental human rights and freedoms, leading to war, political violence, hatred, intolerance and distrust among the various communities which make up the Chadian nation”. Since then, the Chadian community is supposed to have begun to build a democratic State.

A. Right to life

17. In Chad, there is no policy for the execution of individuals. However, observation leads one to conclude that life is not respected in Chad. The possession of weapons has become accepted by society, and they are carried by almost everyone. As a heritage of the past and of fratricidal wars, a symbol of the prevailing insecurity, weapons are within everyone’s reach. Even though a permit is required to buy and carry weapons, everyone has one, from a knife to a Kalashnikov. There are many victims of score-settling and simple violence.

18. After a de facto moratorium lasting almost 10 years, executions resumed without explanation. This is a major step backward. It has been emphasized that the executions have had political and gangland overtones. On 6 November 2003, Mahamat Adam Issa, Adouma Ali Ahmat, Abderamane Hamid Haroun and Moubarack Bakhit Abderamane, who had been sentenced to death for the murder of Sheikh Ibn Oumar Idriss Youssouf, a Sudanese MP and director of the Chad Petroleum Company, were executed. The trial lasted one month, and the President refused to grant pardons even though the limited appeal procedure available to the condemned men had not run its course and the court of cassation had yet to make a ruling.

The allegation on this subject sent to the Government of Chad on 19 November 2003 by the Special Rapporteur on extrajudicial, summary or arbitrary executions has remained unanswered (see E/CN.4/2004/7/Add.1, paragraph 42).

19. It should be noted that at the time of the Independent Expert's field mission, 19 other persons were awaiting execution, and that presidential pardons were unlikely given the recent events. The Independent Expert met one of the condemned persons in this case during her visit to the N'Djamena prison.

B. Right to liberty and security of the person

20. The Working Group on Enforced or Involuntary Disappearances has not drawn any new cases to the Government's attention since 2000. However, there are past cases on which the State has never commented, in particular 13 disappearances between 1983 and 1999 (see E/CN.4/2003/70, paragraphs 58-61).

21. The same is true for the cases raised by the Special Rapporteur on the question of torture in 2002, 1999 and 1997, on which he has received no response (see E/CN.4/2004/56/Add.1, paragraph 242). The case of the lawyer Jacqueline Moudeina, who is handling the Habré case in Senegal, has possibly received a little more attention, even though the reminder sent by the Special Representative of the Secretary-General on the situation of human rights defenders, the Special Rapporteur on the independence of judges and lawyers and the Special Rapporteur on the question of torture has elicited no reply (see E/CN.4/2003/68/Add.1, paragraph 278).

22. Everywhere she went, the Independent Expert heard comments on the climate of insecurity which prevails in the country. However, opinions diverged as to the causes of this situation. According to the Minister of Justice and Keeper of the Seals, even if the phenomenon is on the wane, the drift from the countryside to the cities has supplied manpower to feed the violence. Education would offer the way out. He referred to the need to train security personnel so that they do not contribute to the state of insecurity. Some representatives of civil-society organizations, meanwhile, pointed to impunity as the cause of the climate of growing insecurity. In their view, Chadian society is governed by double standards, since the judiciary, with its close links to the political authorities, fails to punish those who have good relations with the centre of power.

23. One aspect of violence is the roadblocks which are set up by demobilized former members of the security forces. They carry weapons and force drivers to stop and hand over their valuables, and even their vehicles. They take people hostage and demand ransoms. Sometimes they are helped by serving members of the security forces. Despite the social integration programmes organized for them, most of them are illiterate, lack skills and make a living out of violence.

24. In this context, the security forces sometimes overreact, and carry out arrests at will, claiming to have caught the perpetrators in the act. In such cases, the law allows them to do so without an order from the competent judicial authority. But in most cases the competent court is not located in the place where the arrest is made, and remand in custody is extended by default. Human rights associations working in the interior have highlighted the level of illiteracy as one of the causes of human rights violations. In this way, arbitrary detention is becoming the rule.

25. The Independent Expert was told that, close to the border with the Sudan, Chadian militias operate at will, without any controls. Allegations of rape, torture and fines which end up in certain people's pockets are frequent. Justices of the peace are said to be absolutely powerless to deal with this phenomenon.

26. Around 40 prisons house persons due to appear in court (the authorities did not supply the precise figure). On 16 October 2004, the Independent Expert visited N'Djamena prison, where she spoke to the Director and his deputy, as well as prisoners. She went to the prison with the Director of the Prisons Administration, Assia Mahamat Abbo, a lawyer. She had previously read the August 2004 report of the National Commission on Human Rights (CNDH) on conditions in N'Djamena prison.

27. The prison, which was inherited from colonial times, houses around 900 persons, including 20 women and a dozen minors. More than half the inmates are awaiting trial. The perimeter is guarded by 15 members of the security forces whose role is limited to ensuring security along the perimeter. Inside, the prison is run by the inmates. The prisoners are organized in a hierarchy on the basis of the prevailing power structure. At the time of the Independent Expert's visit, women, girls and their children were housed in a separate wing. The same was true of minors, though the CNDH report states otherwise. A group of former officials were also held separately from the remaining prisoners. The authorities indicated that there is a 24-hour clinic with only one nurse. Visits to prisoners have to be paid for, except in the case of lawyers. It is worth noting the disparity between the amount indicated by the Director, on average 100 CFA francs [around 20 US cents], and that mentioned in the CNDH report, of between 500 and 700 CFA francs; each prisoner pays 50 CFA francs per visit. Food is provided by the State; it consists largely of ground millet rolled into balls.

28. The complaints made during the Independent Expert's visit concerned food (which is neither of good quality nor of sufficient quantity, as could be confirmed on the spot), medical services (non-existent), the periods for which remand prisoners are held without being informed of the charges against them, and the fact that judges do not visit the prison to talk to the prisoners, still less to inquire into their physical state. One group of prisoners complained that, because of their foreign status, no one came to provide them with food or clothing.

29. Allegations of complicity in escapes on the part of prison guards in return for payment, which were raised in the CNDH report, have been rejected by the authorities. As for prisoners' activities, it was said that in 2003/04 one person obtained a school-leaving certificate and eight others a BBC. There are no workshops for learning or practising a craft, because "the prison is very small". In that regard, the Minister of Justice and Keeper of the Seals had already indicated that in view of the uncertain supply of funds, it was not easy to entertain the idea that inmates should leave Chadian prisons in possession of a useful skill.

30. If one conclusion may be drawn from this experience, it is that questions need to be asked concerning the *raison d'être* for prisons such as this one, where it is impossible to accomplish any of the purposes for which prison terms are imposed, and which ultimately are no more than human dumps where all hope of social rehabilitation vanishes. Nevertheless, the Director of the Prisons Administration said that many prisoners returned to prison periodically, if only for the sake of the meals.

C. Right to non-discrimination

31. In 1993, according to the Government, “Chad, a cosmopolitan and secular country, had 110 tribes and dialects; despite that diversity the population of Chad had lived together peacefully from time immemorial. However, during the eight years of Hissène Habré’s dictatorship, from 1982 to 1990, the Goranes, members of the deposed President’s tribe, had engaged in all kinds of discriminatory practices throughout the national territory. Conflicts had then arisen between the north and the south, between Christians and Muslims and, at the linguistic level, between Arabic and French” (see CERD/C/SR.980, paragraphs 4 and 5). The situation has now been reversed, and opposition groups find themselves denouncing discrimination aimed solely at favouring the Zaghawas, the dominant and ruling ethnic group.

32. In 1995, the Committee on the Elimination of Racial Discrimination warned of “the ethnic aspect of the human rights violations, the predominant influence of certain ethnic minorities close to the State within the administration and the army, and the growing antagonism between the north and south of the country” (A/50/18, para. 659). Discrimination is a cultural matter in Chad, as it is elsewhere. Because they are women, Christians, Muslims, Arabs, children or Africans, many individuals suffer everyday discrimination based on stereotypes. The gap between the different ethnic and religious groups is not insurmountable. They are all Africans, and the law only needs to be enforced, with determination.

D. Right to a fair trial

33. The Constitution lays down a reasonable formal structure for the judiciary. However, the country has only some 300 judges, a figure which includes both court judges and procurators with law diplomas; the function of justice of the peace is often performed by the subprefects in each region. Objectively there are not enough judges for a population of 9 million, and they are unevenly spread over the country.

34. The Governor of Ouaddaï pointed out that the appeal court sits in Ouaddaï only twice a year. At the time of the Independent Expert’s visit, the Minister of Justice announced the creation of two courts of appeal outside N’Djamena, as well as five commercial courts, in order to meet the need for legal machinery to govern the world of business.

35. Skilled human resources are rare. This means that Chad has no free legal advice service, undermining the right of access to the law for the majority of the population. The same cause is cited to explain why the same person acts as judge and prosecution, leading to a violation of the rights set out in article 14 of the International Covenant on Civil and Political Rights.

36. The safety of judges is a sensitive issue which was at the focus of attention at the time of the Independent Expert’s visit following the murder of Daynguirim Étienne, the deputy procurator in Abéché, on 5 October 2004, in his office in the Palais de Justice. Two days later, a march took judges and lawyers to the government office. They were promised that the matter would be fully investigated. The members of the profession were on strike when the Independent Expert left the country on 17 October 2004.

37. In Chad, the written legislation coexists with customary law, to which the people resort in order to settle their disputes. As codification has not yet been completed, the application of customs requires consent among the parties in family matters and inheritance; it must not run counter to public order or to the principle of equality. Each community has its own customs and its traditional chiefs recognized by the Constitution.

38. “Dia” is the term for payment of compensation in cash in civil matters, but it is not intended to preclude criminal proceedings. However, it was emphasized by both civil society and the authorities that once “dia” has been paid, neither the accused nor his or her family, nor even any claimant for criminal indemnification, can understand why the procurator-general should initiate criminal proceedings. The legislation is thus set aside with the argument that it is not well understood, and is only the legacy of the courts which have little influence in the country. At the same time, the increasingly widespread use of force combines with a lack of clarity as to which law is applicable to foster the existence of a parallel system of justice in which disputes are settled by the most powerful party, and there is no right of appeal.

E. Fundamental freedoms

39. Many comments were received during the field mission concerning religious intolerance, which is growing daily. The Independent Expert was told that non-Muslims are attacked when they wear Western clothes - especially young women - or otherwise behave in a non-Islamic manner. Sometimes, distrust grows between the Christian and Muslim communities. The secular State does not seem capable of handling this situation. At all events, the administration marks the Muslim holy day on Friday as well as observing Saturday and Sunday as days of rest.

40. It is a corollary of the practice of a religion that certain qualities or faults are ascribed to its members. For example, it is said that “southerners”, mostly Christian or animist, are better-educated - especially the women - and developed and that “northerners”, mostly Muslim, are less literate and consequently less culturally advanced. This antithesis is also expressed in terms of African southerners versus Arab northerners. However, no scientific source supports this distinction. On the contrary, they are all Africans. These superimposed polarizations in Chadian society generate ever-sharper discriminatory attitudes.

41. As regards freedom of expression and information in Chad, here too the formal machinery is in place, but this does not lead to better practical results. The Constitution provides for a Higher Council on Communication as an independent administrative authority to “monitor compliance with the code of conduct in the field of information and communication, and guarantee freedom of the press and the pluralistic expression of opinions”. It was set up in 1994.

42. The existence of the Higher Council on Communication enables the authorities to state that “freedom of the press is a reality in Chad”, or that “we have reasons for pride, we have a free press”. In contrast, they warn of the poverty of the media stemming from the illiteracy and poverty of the population. A number of publications circulate in Chad, none of them over 10 pages, particularly weeklies.

43. During the meeting held with the President of the Higher Council on Communication, it was pointed out that the legislation lays down prison terms for “press-related offences”, even though the international instruments which are officially in force in Chad recognize only the “subsequent imposition of liability”. During this meeting, mention was made of the latest urgent appeals made by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression. The Independent Expert was told that such appeals were normally addressed to the office of the President, and that they had not yet been forwarded to the Higher Council on Communication.

44. As a result, it was not possible to obtain any news of the situation of Évariste Ngaralbaye and Allahissem Ibn Miangar, journalists at the radio station FM-Liberté, who received death threats following an interview with the Ivorian musician Tiken Djah Fakoly in May 2004, in which he criticized certain African Governments. Although these incidents were reported to the police, it seems that no investigation has been initiated.

45. The same is true of Tchanguiz Vathankha, an Iranian who is director of the private radio station Brakoss in Moissala, who is reported to have been arrested on 9 February 2004 following an interview with the head of the Parti de l’Union Nationale pour le Développement et le Renouveau concerning the socio-economic situation in Chad. During 48 hours’ detention at the Moissala prefecture, it is said that he was tortured and seriously hurt, but received no medical attention. The radio station is reported to have been shut down on the orders of the prefect of Bahr Sara, and then reopened on 16 February 2004 with restricted programming. An urgent appeal from three Special Rapporteurs on 1 March 2004 has yet to receive a reply.

46. The President of the Higher Council on Communication explained his actions in this regard: seeking the release of Mr. Tchanguiz and the reopening of the radio station. In addition, he recounted a rather surprising family history which he said lay behind the problems encountered by the radio station. The Independent Expert was able to speak to Mr. Tchanguiz in N’Djamena, and he confirmed that harassment was continuing.

47. The Government failed to provide explanations regarding two other communications (see E/CN.4/2004/62/Add.1, paragraphs 133-135). One is an urgent appeal dated 18 February 2003 concerning the situation of Nadjikimo Bénoudjita and Mbainaye Bétoubam, of the newspaper *Le Temps*, who are reported to have been sentenced on 6 February 2003 to six months’ imprisonment and a fine of 100,000 CFA francs for libel, as well as a ban on practising their profession for eight months, following the publication of accounts of inhuman and degrading treatment allegedly inflicted on persons accused of stealing jewellery from a senior official. The judge is said to have ordered the closure of the newspaper for three months and the payment of damages to the tune of 2 million CFA francs. During the trial, the two journalists are reported to have been forbidden to call witnesses in their defence, and the defence counsel are reported to have resigned in protest. It should be noted that CNDH has issued a press release (No. 002/PM/CNDH/03) in which it emphasized the violation of the rights of the defence and the right to a fair trial, as well as the right to freedom of opinion and expression.

48. The other communication relates, once again, to the situation of the community radio station FM-Liberté, which is reported to have been shut down by the Ministry of Public Security in October 2003 for an indefinite period, on grounds of “unlawful operation and deviant behaviour”, apparently following the broadcasting of a critical item on President Deby. It would seem that this radio station, whose news editor is Dobian Assingar, also Chair of the Chadian League of Human Rights (LTDH), had been warned to stop broadcasting political debates during the presidential election campaign in 2001 and 2002, and that it was suspended for three weeks for disturbing public order after covering a student demonstration in Cameroon.

49. The Independent Expert also notes that the editor of the newspaper *Notre Temps* was given a suspended prison sentence of six months and ordered to pay substantial damages after having been found guilty of libel in January 2001 in a case involving persons close to President Deby (see E/CN.4/2003/67/Add.1, paragraph 106). It should be noted that the Government has never provided any explanation relating to the situations raised by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

F. Traditional practices involving women

50. The burden of tradition weighs on women in Chad. This is experienced at the social level. Physical abuse is common, and most people do not regard it as grounds for divorce. Abandonment of a woman by her family is regarded as an ordinary situation. There is no gender equity in Chad. In Chadian tradition, girls are brought up with a view to marriage. Yet at home and in family relations, the division of responsibilities generally favours the man. The roles are not interchangeable. During conversations in the refugee camps in Farchana region, where the population belongs to the same ethnic groups as in Chad, men complained that women who left the camp to collect wood were raped. Yet it occurred to none of them to accompany the women in future or even to carry out the task in their place.

51. Article 9 of Act No. 006/PR/2002 on the promotion of reproductive health prohibits all forms of violence such as female genital mutilation, early marriage, domestic violence and sexual abuse of individuals. Yet matters are different in practice. Information supplied by the Association of Women Jurists, which is a component of the women’s associations’ Liaison and Information Unit, and the explanations given to the Independent Expert by the Chair of the Higher Council of Islamic Affairs, are inconsistent. While the women lawyers argue for women’s right to inherit from their husbands and not to marry against their will, the Higher Council of Islamic Affairs maintains that “in our Chadian customs, there is no forced marriage”. Indeed, it points out that a father must consult his daughter before giving her in marriage. Yet the national poverty reduction strategy indicates that, even if the law permits girls to marry from the age of 13, 30 per cent of women say they were forced to marry against their will.

52. Regarding inheritance, the Independent Expert was told that all parties receive their share. Nevertheless, the document submitted to the World Bank indicates that 33.9 per cent of women cannot inherit from their husbands, fathers, etc. Civil legislation offers no obstacle, but certain customs impose de facto discrimination.

53. Lastly, according to the Islamic authorities, only natural excision is permitted under Koranic law, which also offers a justification for it. While the political authorities did not wish to speak of excisions “as they are forbidden by law”, the Muslim authorities emphasized that there are no cases where such practices are refused or rejected. Neither side accepted or commented on the arguments put forward by the Independent Expert concerning the possibility of improving sterilization of the instruments used in such practices, or the possibility that they might be carried out in hospital. Rape and prostitution are forbidden by law, but sexual harassment is not. The law prohibits trafficking in persons, for which the Criminal Code imposes a prison term of 20 years (see E/CN.4/2003/75/Add.1, paragraphs 145-149).

54. In the sphere of education, only 20 per cent of the students at the University of N’Djamena are women. Among the staff, there are no more than 15 women in the various departments.

55. As a result of sociocultural inertia, women are viewed as mothers, spouses and housewives, so that they hardly participate at all in national decision-making. In October 1999, 30 per cent of women explained that their husbands did not want them to work, and 21 per cent said that their husbands refused to allow them to go to their work. This view of society gives rise to discrimination in favour of boys at the time of school enrolment. In this way, women receive no education, even though they make up the largest part of the country’s labour force, and this holds back output. They are generally unable to own or inherit land. Yet it is they who have to cope when poverty worsens.

56. Women’s organizations are working to shape “responsible citizenship on the part of women”. The activists are courageous. One thing is clear: if Chad does not acknowledge the roles women play in daily life, and does not give them the place they deserve for their personal advancement as subjects of law and citizens, the country will be unable to develop.

G. Traditional practices involving children

57. Aside from the question of girls, there is in Chad a practice of exploiting boys to look after cattle as “enfants bouviers”. Rather than the sale of a person, this involves a contract for the hire of services concluded between the child’s parents or guardians and a cattle-owning pastoralist. The boy is paid in kind - one animal at the end of the year - but he is placed in semi-slavery where it is difficult to maintain his identity and personality. The report of a mission to investigate human rights in the Mandoul region issued by CNDH in August 2004 provides a detailed account of this practice, and attaches copies of “contracts” which have been signed. The report states that such children, who are aged between 6 and 15, die and are abandoned in the bush.

H. Core economic, social and cultural rights

58. The progressive nature of obligations arising from economic, social and cultural rights cannot be interpreted to mean that the State bears no such obligations until such time as resources become available. As far as the Independent Expert is concerned, there is no doubt that requirements in this area cannot wait for resources to be available. They require States to

take steps which enable at least the core of such rights to be delivered. The right to food, the right to primary health care, the right to housing and basic education, as well as the rights which, under article 4 of the International Covenant on Civil and Political Rights, may not be suspended, are the most limited expression of human dignity. At all events, 151 States, including Chad, have so agreed.

59. The walls of the hospital on avenue Mobutu in N'Djamena speak of the country's health problems. They carry posters on polio, malaria, cholera, AIDS, meningitis and yellow fever, as well as the need for latrines. The population benefits from vaccinations - even if only 16-20 per cent of the country's children are covered by vaccination programmes - but other diseases demand potable water, such as cholera, or electricity, such as malaria. There is no development in Chad, and in the health sector this cannot be concealed. Moreover, a large proportion of the population suffer from chronic food insecurity. Only 1 per cent of the population have access to electricity, and 30 per cent have access to safe water. No town or city, not even the capital, N'Djamena, has a sewerage system. The climate is extremely harsh - during the rainy season, some regions of the country are cut off, while during the dry season, nothing grows - and houses are not designed to cope with it.

60. It was emphasized during almost all the meetings attended by the Independent Expert that one of the causes of underdevelopment and failure to respect human rights is the fact that 80 per cent of the population is illiterate. Infrastructure is inadequate. Chad has 3,653 primary schools, of which 3,100 are in the interior, 209 secondary schools and 36 high schools. On average there are 70 pupils per class and per teacher. Only 57 per cent of children aged between 6 and 11 go to school. The school curriculum does not correspond to the needs of the country or to the modern age.

III. CONCLUSIONS

A. A country where national identity takes second place to ethnic or even clan identity

61. Chad is home to almost 9 million persons who identify themselves first and foremost in terms of their ethnic group, religion or otherwise, rather than by reference to the Chadian State. There are at least 235 ethnic groups, some of which straddle the borders with neighbouring countries. Traditionally, the southerners are farmers and hence sedentary. They were trained in the colonial schools and fall within the Christian sphere. The north is the home of the nomadic pastoralists and the part of the country where Islam is most widespread. The conflict between pastoralists and agriculturalists is long-standing, but it has been more acute in recent years, in particular because of the lack of pastureland and the steady degradation of the soil. It is superimposed on the ever-growing gap between the Christian and Muslim communities, which has led to the adoption of discriminatory attitudes that are incorporated in the day-to-day behaviour of people in certain areas, as indicated above.

62. The differences are present, but they are not immutable or insurmountable in some respects, such as differences in level of education or participation in the management of public affairs. Throughout the country, it seems that no one takes the trouble to try to change the situation. On the contrary, differences within Chadian society are manipulated in order to

exacerbate tensions among the different groups. The authorities acknowledge that they have yet to succeed in shaping a nation, and attribute the strengthening of ethnic identity to the development of the multiparty system.

63. These observations lead to only one conclusion: Chad is a fragile State as an institutional entity.

B. A country where no one has confidence in the institutions

64. In Chad, people turn to customary law to settle their disputes. If the sphere of human rights encompasses the principle of respect for the cultural heritage of the various peoples of the world, the same is true for the existence of an independent and impartial judiciary. Yet in Chad the authorities have not been able to set up a system for the administration of justice, and Chadians themselves do not make use of what is available to them.

65. Chadians love justice and are litigious people, in the view of the authorities, who emphasized several times that litigants like swiftness and hence do not wish to wait for the judicial system, which covers the country unevenly, to provide a judge, or for the procedure to take its course. Competence, that is, the ability to dispense justice in a particular case, is in practice acknowledged to rest with brigade commanders. Customary rules, which vary from one ethnic group and/or one clan or family to another, are frequently applied in civil, commercial and even criminal matters.

C. A country where national legislation takes second place to local customs

66. Getting to know Chad by reading its Constitution and the human rights treaties it has ratified leads nowhere: the reality is quite different.

67. Whether out of a concern for modernity or because it allowed itself to be carried away by the vogue for human rights, the Sovereign National Conference which met in 1993 produced a Constitution which protects all human rights and contains all the elements of the rule of law. However, this instrument is implemented in a very fragmentary fashion, and, what is more, on the basis of local customs and even actual practices which have no basis in the habits of the country or in enacted law.

68. The authorities acknowledge that the legislation does not correspond to the actual situation in the region. Several senior figures cited the three decades of turmoil which the country passed through and the difficulty of consolidating the administration after its disintegration in such circumstances. Most of them emphasized the new climate created by the multiparty system introduced by the 1993 Constitution and consolidated by President Deby's Government. However, all pointed out that old habits die hard. It must therefore be assumed that the authorities expect a long learning period, which will eventually produce a population with a high level of democratic awareness, and that meanwhile matters must be left to take their course, and national unity to become consolidated. This type of wishful thinking is hard to accept in view of the fact that there has been a clear demonstration of the will of the Chadian people and authorities to draw a line under a past marked by dictatorial power and systematic violations of human rights and open the door to a form of democracy which should be nourished through daily action.

69. Chad has indicated its consent to be bound by most of the human rights treaties adopted at the global and regional levels. Under the Constitution, duly ratified treaties, once published, take precedence over domestic laws. Obviously, if domestic laws are not enforced, treaties are not enforced either.

70. During the discussions prompted by the resumed application of the death penalty after 10 years' de facto moratorium, some judges explained that they could not invoke the provisions of treaties until such time as they had been published in the *Journal de la République*. On the other hand, in the Constitutional Council and the National Assembly, it was emphasized that what is important is the approval of the treaty by the legislature and its ratification. No one mentioned the reference to United Nations human rights instruments in the preamble to the Constitution.

D. A country where everyone exerts a degree of pressure on everyone else, and where the most powerful prevail

71. In Chad, there is also an area outside the law where the most powerful prevail. Every day, the inhabitants of the country, and especially those of the workers' neighbourhoods in the capital, N'Djamena, or the villages in the interior, suffer abuse at the hands of the members of the security forces, the most powerful elements of society. A vehicle, whether a car or a bicycle, may be seized by force, as well as money or other valuables. On the northern edge of the city, it is said that searches are so frequent that the Habré era seems to have returned. It is the rule of force. In this state of affairs, there are no offices where complaints can be lodged, no traditional chiefs who can negotiate a "dia". As for the roadblocks, a phenomenon on everyone's lips in Chad, the use of force is involved in any demand made in return for releasing persons held up along the road. Decentralization of the function of supervising the use of force by police and security personnel, and the strike in the system of justice, mean that the people are defenceless in the face of violence.

E. A country where refugees enjoy a better quality of life than the local people

72. The crisis in Darfur has been an ordeal for Chad. It opened its borders generously to Sudanese refugees, most of them Zaghawas, from the Chadian President's ethnic group, but as time passes the overpopulation of the region has highlighted competition for natural resources. The large-scale arrival of refugees has also underlined the fact that living conditions in the camps are better than those of the local people. Deforestation and borehole drilling to obtain wood and water for the camps are leading to an ecological disaster. Moreover, the recruitment efforts carried out by the international teams have probably benefited population groups whose training - in foreign languages and a variety of skills - was closer to what was needed to address the crisis.

73. The refugees have food, drinking water, latrines, housing; they benefit from medical care, security and human rights which cannot be suspended, even in a state of emergency. The struggle for survival is a daily one for Chadians. This disparity has been noted by the United Nations and its partners, which have worked hard to ensure that the local people also benefit from the aid. In this way, Médecins sans frontières (Netherlands) has opened a dispensary halfway between the town and the camp at Farchana, where medical care is available to all, and UNICEF is running schools for children from the camps and the nearby villages.

F. A poor country rich in natural resources

74. Chad is classified among the poorest countries in the world, and is also one of the most highly indebted. Traditionally, its economy has depended on farming and livestock-raising. However, it is an oil producer. Since 10 October 2003, oil is being extracted from the Doba field by the consortium composed of Exxon-Mobil, Chevron and Petronas. Distribution of profits from oil is governed by a law which shares them among the priority sectors, the oil-producing region and a fund for future generations. However, no authority was able to indicate to the Independent Expert the amount of oil revenue for the first year of operation.

75. During the mission of the Independent Expert, the Government of Chad held its first international conference on oil and gas. At the opening meeting, President Deby is reported to have emphasized the Government's political will to develop the country's resources so as to enable the country's "immense natural wealth" to be better exploited.

G. A country where there is no deliberate policy for the violation of human rights but where such violations are constant

76. All those consulted described the Deby era as the best period since independence. It has led to formal legalization and a small step towards democracy. However, after more than 10 years in power, no integration has taken place. There is no national community. The Government does not reply to the appeals sent under the special procedures of the Commission on Human Rights. It submits reports due to the treaty monitoring bodies only very sporadically. Five reports have been submitted to the Committee against Racial Discrimination, and one to the Committee on the Rights of the Child. A draft report to the Committee on the Elimination of Discrimination against Women was under preparation at the time of the Independent Expert's visit.

77. The Chadian State has no deliberate policy of violating human rights. However, human rights violations are constant owing to failure to respect such rights. The unsupervised exercise of force produces large numbers of victims, who have no opportunity to lodge complaints, still less to seek compensation. "The existence of widespread absolute poverty inhibits the full and effective enjoyment of human rights and makes democracy and popular participation fragile." Freedom of expression is constantly obstructed. The judiciary is dependent on the executive and lacks resources. The culture of impunity prevails. The political will to change this state of affairs is unclear.

IV. RECOMMENDATIONS

78. **Chadians have an inalienable right to economic, social, cultural and political development. Their Government has the prime responsibility to create conditions conducive to the realization of this right. In particular, it must discharge its duty to protect the people and provide them with decent living conditions and to eliminate the obstacles to development.**

79. **The State must operate a system of government characterized by transparency, responsibility, accountability and participation in order to guarantee democracy and the full realization of human rights. Decentralization, for which provision is made in the Constitution, can play a major role in good governance if it enables local governments to manage their budgets autonomously and at the same time requires them to account for their actions. In addition, in each administrative division, officials must be elected by the people in free, periodic and fair elections.**
80. **Democracy, development and respect for human rights and fundamental freedoms are interdependent and reinforce one another. Democracy is based on the freely expressed will of the people, who determine their own political, economic, social and cultural system, and on their full involvement in all aspects of the life of society.**
81. **The legislation officially in force in Chad must become the effective rule. Customary law must be retained where it is not incompatible with the human rights set out in the legislation and international treaties in force in Chad. The Government must assume responsibility for monitoring the use of force in the country and guarantee dignity, freedom and security to each person.**
82. **A State based on the rule of law must be built. The public sector as it stands, where reorganization takes place every three months, is incapable of managing public affairs. A programme of reform of the national administration must be contemplated. Respect for the will of the people as expressed in free, periodic and regular elections must lead to the consolidation of the legislature as the representative of the people and the guardian of human rights. The parliament must adopt all necessary legal rules to give effect to the rights set out in the Constitution and the human rights which enjoy the protection of the treaties in force in Chad.**
83. **Reform of the judiciary is vital. All judges must have legal qualifications. Court judges and procurators must be separated into two corps. A free legal advice service must be established at various levels, possibly by law students supervised by a professor and by professional associations, along the lines of the service provided by the Association of Women Jurists. Provision must be made for a system for the selection of judges in which the most independent and impartial candidates are appointed. An independent, impartial judiciary which is established in accordance with the law and is effective puts a stop to impunity, guarantees the rule of law and safeguards human rights. It encourages investment for development.**
84. **The prison system has no meaning if it does not embrace treatment of prisoners in which the fundamental objective is their reform and social rehabilitation. All inmates must be treated with humanity and respect for human dignity. The Government must guarantee the quality of the food and the health of prisoners. Pseudo-military units in prisons must be dismantled. Prisoners must be taught income-generating skills. Judges responsible for the execution of sentences must be appointed; meanwhile, criminal judges must perform this function.**

85. **The integration of Chadian society cannot be delayed. Several groups of stakeholders must participate and find a role in the national community which needs to be built. In first position, the 52 per cent of the population made up of women. Gender equity must be incorporated. There is an absolute need to recognize the roles women play in daily life and give them the place they should occupy in society in order to exercise the citizenship which is denied them today. Women are a major force in society. By educating them, society moves forward. Their participation in political life must be encouraged. Awareness of practices which discriminate against women must be promoted at all levels. Women's rights must be regarded as human rights and the State apparatus must be organized for a policy of prevention and, where necessary, to consider violations as violations of human rights.**

86. **Steps must be taken to ensure protection for the most vulnerable groups. The practice of employing "enfants bouviers" must be abolished. The recruitment of young girls as domestic servants must be supervised by the authorities.**

87. **An intensive literacy campaign is urgently needed in Chad. An educated people becomes a good guardian of its rights. A programme must be set up to teach the country's adults to read and write. International agencies will have a role to play in this campaign if a strong political will and a reasonable programme are visible. In this context, freedom of expression and information must be respected. The public and private media must be able to operate without interference from the authorities. The State must involve them in its literacy campaign.**

88. **The Government must take action to assure sustainable human development. Chad has significant prospects thanks to its natural resources and the initiative aimed at the highly indebted poor countries. The oil boom must be harnessed for the benefit of society. The main aim of oil exploitation must be to find policies which have maximum impact on reducing poverty. Development policies must be evaluated from the standpoint of human rights and the environment.**

89. **Civil society must be protected from harassment. It creates the social fabric and facilitates social movements for development. It also plays a role in the policy of good governance, efforts to combat corruption and impunity, respect for the rule of law and democracy, and transparency. The Government must plan the training of truly qualified personnel, who are committed to the country's future, who are ready to take up the construction of the country with civil society, and who can lead it along the path of development.**

90. **The Government cannot shirk its responsibility for everything that has not been accomplished since it first took power. It must shoulder its responsibilities and govern the country democratically with the aim of the development of society. If it strives to move democratization forward and pursues economic measures whose aim is the well-being of the people, it should enjoy the support of the international community. There is a need to take advantage of the local presence of United Nations agencies in order to launch the building of democracy in Chad, and this presupposes good governance, development and respect for human rights.**

Annex

**Programme of the Independent Expert's visit to Chad
from 7 to 17 October 2004**

7 October

Arrival in N'Djamena

8 October

Meeting with focal points at the offices of the United Nations Development Programme (UNDP):

Minister of Justice and Keeper of the Seals and his staff
Officer-in-Charge of UNDP in Chad
Mission planning
Collective of human rights associations

9 October

Panel discussion on the death penalty (FIDH) at the Centre d'étude et de formation pour le développement (CEFOD):

Office of the High Commissioner for Refugees (UNHCR) in Chad
Press conference, FIDH/LTDH

11 October

Abéché:

Briefing by UNHCR staff
Visit to the Farchana refugee camps

Adré:

Briefing by UNHCR staff
Prefect of Adré

12 October

M. Abdel Karim Mohamed Nour, LTDH/Adré unit
Visit to the Bredjing refugee camp: coordination meeting and meeting of the Refugee Committee. Visit to the MSF Health and Nutrition Centre.

Abéché:

Governor of Ouaddaï
CICR sub-office
Mr. Awada Youssouf, APLFT/Abéché unit

13 October

N'Djamena:

French Ambassador
Ngarlejy Yorongar, opposition leader

14 October

Supreme Court
National Commission on Human Rights
Constitutional Council
National Assembly
Embassy of the United States of America
German Embassy
Mr. Souleymane Guengueng, Association des victimes des crimes et répressions politiques
au Tchad

15 October

Commission diocésaine justice et paix
Minister for Foreign Affairs and African Integration
Minister of Justice and Keeper of the Seals
President of the Higher Council on Communication
Cellule de liaison et d'information des associations féminines (women's associations'
Liaison and Information Unit)
Officer-in-Charge of UNDP in Chad

16 October

Visit to N'Djamena prison
President of the Higher Council of Islamic Affairs
President of LTDH, at FM-Liberté radio station
President of the Association of Women Jurists and Academic Secretary at the Law and
Economics Faculty in the University of N'Djamena

17 October

Flight Paris-Geneva

18 October

Consultations with the secretariat and preparation of the report
Consultations with the Chairperson of the sixtieth session of the Commission on Human Rights

19 October

Consultations with the secretariat and preparation of the report
Consultations with the High Commissioner for Human Rights
Consultations with Mr. Maurice Hel-Bongo, former Chair of the Sovereign National Conference

20 October

Consultations with the secretariat and preparation of the report
Departure from Geneva
