

Query response a-6443 of 5 December 2008

Chad: Status of homosexuality and treatment of homosexuals

This response was commissioned by the UNHCR Status Determination and Protection Information Section. Views expressed in the response are not necessarily those of UNHCR.

This response was prepared after researching publicly accessible information currently available to ACCORD within time constraints and in accordance with ACCORD's methodological standards and the *Common EU Guidelines for processing Country of Origin Information (COI)*.

This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status, asylum or other form of international protection.

Please read in full all documents referred to.

Non-English language information is comprehensively summarised in English. Original language quotations are provided for reference.

Status of homosexuality - legal situation

SodomyLaws, a collection of worldwide legal information created by Bob Summersgill and hosted by the Gay & Lesbian Archives of the Pacific Northwest (GLAPN) indicates that lesbian as well as male gay behaviour is legal in Chad (SodomyLaws, last update 24 November 2007).

In its overview on the legal situation of LGBTI (lesbian, gay, bisexual, transgendered, and intersex) persons in the African countries, the African communication initiative on LGBTI rights and affairs "behind the Mask", provides similar information:

„There is no law against gays. Homosexual behaviour is not mentioned as a criminal offence in the penal code. Gay sexual activity is legal. The age of consent is equal.“
(behind the Mask, without date)

For further information ACCORD contacted David John Frank, Associate Professor at the Sociology School of Social Sciences, University of California, who specialises in questions of legal regulation of sexuality. In his e-mail reply of 26 November 2008 he differentiates between the de jure and the de facto situation of homosexuals in Chad:

"(1) De jure, it appears that sodomy is legal. It seems the country retains its old French-colonial penal code, which has no sodomy law per se. Given the history of unrest, it's not hard to believe the old penal code remains largely intact.

(2) De facto, it may well be sodomy is illegal, perhaps punished under some more general

provision. A few African countries have taken this route, to draw a cultural boundary against the colonial West.

(3) De facto, the national penal code is probably mostly irrelevant in the country, given extreme poverty and longtime internal disorder. Under these circumstances, local political structures might arise (including some fundamentalist Muslim ones) that enforce strict prohibitions against sodomy regardless of official national law." (Frank, 26 November 2008)

The International Gay Guide Spartacus 2008 states that "homosexuality is illegal although it is not mentioned in the local criminal law." (Spartacus, 2008, p. 1218)

In a press release published on 15 March 2006, the LGBT-organisation Exaequo in Reims states that the penal code of Chad does not regulate the question of homosexuality. Nevertheless it is considered a violation of public morals and de facto sanctioned:

"De plus, si le code de procédure pénal tchadien est muet sur la question de l'homosexualité, ce vide juridique engendre une grande confusion entre proxénétisme, homosexualité, prostitution clandestine, considérés comme atteinte aux bonnes mœurs. Une répression de fait s'exerce donc au Tchad." (Exaequo, 15 March 2006)

In its travel advice for Chad, the UK Foreign & Commonwealth Office mentions that "homosexuality is not widely accepted in central African society and some sexual acts between members of the same sex are illegal." (FCO, last updated 28 November 2008, Section: „Local laws and customs“)

In its Report „Reproductive Rights are Human Rights“, published in 2003, the Center for Reproductive Rights mentions a regulation of the Penal Code which refers to same-sex couples with one partner younger than 21:

"The Penal Code punishes any person who commits an obscene or 'unnatural' act with an individual of his or her own sex who is a minor younger than 21, by imprisonment of three months to two years and a fine of 5,000 (U.S.\$7.97) to 100,000 CFA francs (U.S.\$159.19).274" (Center for Reproductive Rights, 2003, p. 107)

The International Labour Organization (ILO) collects legislation concerning social security and related human rights legislation and lists the documents in its database NATLEX. In its Chad section, NATLEX mentions the existence of the penal law of 1996 (ILO, without date). We asked ILO on 3 December 2008 for a copy of same. As soon as we receive an answer we will forward it to you.

Treatment of homosexuals - social situation

Regarding the social situation of homosexuals in Chad, the US Department of State (USDOS) indicates in its Report on Human Rights Practices 2007 that "societal discrimination continued to be practiced against homosexuals and those afflicted with HIV/AIDS." (USDOS, 11 March 2008, Section 5)

In its 2008 report to the United Nations General Assembly Special Session on HIV/AIDS (UNGASS), the Ministry of Health of Chad points out that homosexuals are strongly discriminated against and stigmatised in Chad:

"La difficulté d'établir un contact avec les populations les plus à risque, telles que les prostituées et même les hommes ayant des rapports sexuels avec des hommes, n'a pas permis d'obtenir des chiffres; cela est d'autant plus vrai que la prostitution n'est pas légalisée et l'homosexualité n'a point fait l'objet d'une documentation officielle comme l'analyse du phénomène de la prostitution au Tchad. Par ailleurs, les homosexuels sont fortement discriminés et stigmatisés au Tchad." (Ministere de la Sante Publique, 31 January 2008, p. 35)

According to an abstract on the question of HIV-infections due to homosexual behaviour in prison published by the International Aids Society for the XV International Aids Conference in Bangkok (11-16 July 2004), homosexuality is a taboo subject in Chad:

"Homosexuality in Chad is considered as a taboo subject, an immoral practice, uncalled for. It is difficult to talk about it and to sense the realities bound to it. Practice illegally, homosexuality is systematically rejected. Our observations have enabled us to notice the facts related to the treatment of homosexuals and hazards that might arise as it has to do with HIV/AIDS, specially in confined areas as a prison." (International Aids Society, 1 July 2004)

Among the sources consulted by ACCORD within time constraints no further information could be found on the treatment of homosexuals in Chad.

The following institutions and experts have been consulted for more information on the legal as well as the social situation of homosexuals in Chad:

- International Gay and Lesbian Human Rights Commission (IGLHRC): *Cary Johnson*, Senior Africa Specialist (<http://www.iglhrc.org/site/iglhrc/>)
- UK Lesbian and Gay Immigration Group: *Sebastian Rocca*, Executive Director (<http://www.uklgig.org.uk/index.htm>)
- Human Rights Watch (HRW): *Scott Long*, Director, Lesbian, Gay, Bisexual, and Transgender Rights Program (<http://www.hrw.org>)
- National Asylum Partnership on Sexual Minorities National Immigrant Justice Center (NIJC): *Dusty Araujo*, Asylum Documentation Coordinator (<http://www.immigrantjustice.org>)

In their responses all contacted organisations stated that they could not provide further information on the issues in question.

References: (all links accessed on 3 December 2008)

Status of homosexuality - legal situation

- behind the Mask: Africa by Country: Chad, without date
<http://www.mask.org.za/index.php?page=chad>
- Center for Reproductive Rights: Reproductive Rights are Human Rights: 4th Edition, 2003
<http://www.reproductiverights.org/pdf/chad.pdf>
- Exaequo – LGBT Reims: Ibrahim, jeune Tchadien pacsé en France risque l'expulsion, 15 March 2006 (published on: FQRD - France Queer Resources Directory)
http://www.france.qrd.org/staff/article.php?id_article=2347
- FCO – Foreign & Commonwealth Office: Travelling & Living Overseas – Travel Advice by country, last update 28 November 2008
<http://www.fco.gov.uk/en/travelling-and-living-overseas/travel-advice-by-country/sub-saharan-africa/chad/>
- Frank, David John: Associate Professor, Sociology School of Social Sciences, University of California, Department of Sociology, E-Mail, 26 November 2008
- ILO - International Labour Organization: NATLEX – Chad Criminal and penal law, without date
http://www.ilo.org/dyn/natlex/natlex_browse.details?p_lang=en&p_country=TCD&p_classification=01.04&p_origin=COUNTRY&p_sortby=SORTBY_COUNTRY
- SodomyLaws: Laws Around the World, Chad, last edited: 24 November 2007
<http://www.sodomylaws.org/world/world.htm>
- Spartacus International Gay Guide (editor: Bruno Gmünder): Chad, 2008

Treatment of homosexuals - social situation

- International Aids Society: Abstract from the XV International Aids Conference in Bangkok (11-16 July 2004), (Authors: Ngareyasse et al.), 1 July 2004
<http://www.iasociety.org/Default.aspx?pageld=11&abstractld=2174123>
- Ministere de la Sante Publique: Programme National de Lutte contre les IST/VIH/SIDA, Rapport de la Situation Nationale a l'Intention de l'UNGASS (United Nations General Assembly Special Session on HIV/AIDS), 31 January 2008
http://www.ecoi.net/file_upload/1329_1212502840_chad-2008-country-progress-report-fr.pdf
- USDOS - US Department of State: Country Report on Human Rights Practices 2007, 11 March 2008
<http://www.state.gov/g/drl/rls/hrrpt/2007/100473.htm>