



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Forty-third session

Geneva, 2–20 November 2009

## Consideration of reports submitted by States parties in accordance with articles 16 and 17 of the Covenant

### Concluding observations of the Committee on Economic, Social and Cultural Rights

#### Chad

1. The Committee on Economic, Social and Cultural Rights considered the combined initial and second and third periodic reports of Chad on the implementation of the International Covenant on Economic, Social and Cultural Rights (E/C.12/TCD/3) at its 35th meeting held on 5 November 2009 (E/C.12/2009/SR.35), and adopted the following concluding observations at its 53rd meeting held on 18 November 2009.

#### A. Introduction

2. The Committee regrets that, in the absence of a delegation from the State party, it was unable to follow its usual practice of considering the reports of States parties in the presence of representatives of the State concerned. The Committee applied rule 62, paragraph 3, of its rules of procedure, which stipulates that once a report has been scheduled for consideration by the Committee, the Committee will proceed with the examination of the report at the time scheduled, even in the absence of a representative of the State party. The Committee wishes to remind the State party that dialogue is a key component of the consideration of the report and provides a unique opportunity for the Committee and the State party to hold constructive, in-depth discussions which, together with the report submitted by the State party, the written replies to the list of issues and other information received, allow the Committee to assess the progress made and to indicate to the State party the areas where further efforts are needed. The Committee wishes to draw the State party's attention to the opportunity that it has missed to introduce its report, present supplementary information or updates and provide the necessary clarifications and answers to the questions put by Committee members. The Committee deeply regrets that its task of evaluating the implementation of the Covenant in the State party as objectively as possible should have been so severely compromised by the State party's failure to attend the meeting to consider its report, and urges the State party to be present during the

consideration of its next report. That having been said, the Committee takes note of the fact that a delegation from the State party came on 9 November 2009 to explain, after the fact, why the delegation had not been able to be present during the Committee's consideration of its report.

3. The Committee welcomes the State party's submission of the document containing its combined initial and second and third periodic reports (E/C.12/TCD/3), but regrets that Chad waited 12 years to submit it and that the report does not contain sufficiently detailed information to enable the Committee to assess the degree of enjoyment of Covenant rights in the State party. It also welcomes the written replies to the list of issues (E/C.12/TCD/Q/3/Add.1), but regrets that the replies to a number of points merely repeat the information provided in the report.

## **B. Positive aspects**

4. The Committee welcomes the establishment of the National Committee for the Elimination of Illiteracy.

5. The Committee notes with satisfaction that the State party has adopted Act No. 007/PR/07 on the protection of disabled persons, which recognizes that disabled persons have the same rights as those enjoyed by any Chadian citizen under the Constitution, and that the Department for Disabled Persons of the Ministry for Social Action, Solidarity and the Family is mandated to promote, in the legal domain, the realization of all the rights accorded to this category of persons.

6. The Committee notes with satisfaction the efforts made by the State party to combat poverty, including the project of the Ministry for Social Action, Solidarity and the Family on poverty reduction and the advancement of women.

## **C. Factors and difficulties impeding the implementation of the Covenant**

7. The Committee notes that for some 30 years the State party has been beset by institutional and political crises characterized by armed uprisings and intercommunal conflicts, which have had and continue to have disastrous consequences for the situation in the country in general and for the enjoyment of economic, social, cultural, civil and political rights in particular. The Committee is particularly concerned about the impact of the Darfur crisis and the mass population displacements in eastern Chad, the still fragile peace in the interior and along the borders and the high and ever increasing incidence of poverty.

## **D. Main areas of concern and recommendations**

8. The Committee regrets that the report contains a limited quantity of disaggregated statistical information, taken from the 1993 census, which does not allow the Committee to gauge how far the Covenant is applied in the State party.

**The Committee recommends that, in its next periodic report, the State party provide statistical data on the enjoyment of economic, social and cultural rights, disaggregated by sex, age and rural/urban population, and on refugees/internally displaced persons, persons living with HIV/AIDS and persons with disabilities.**

9. While taking note of article 222 of the Constitution of 31 March 1996, as amended by Constitutional Act No. 08/PR/2005 of 15 July 2005, under which treaties or agreements take precedence over laws, the Committee is concerned that the State party has asserted, by

contrast, that there is no provision at the national level for applying the provisions of the Covenant and that the Committee has not been given any examples of jurisprudence in which the provisions of the Covenant have been directly applied by the State party's courts.

**The Committee urges the State party to strengthen its efforts to give full effect to the Covenant in domestic law and to provide information on relevant jurisprudence in its next periodic report. In this respect, the Committee draws the attention of the State party to general comment No. 9 (1998) on the domestic application of the Covenant. The State party should ensure that judicial training takes full account of the justiciability of Covenant rights and should take measures to increase awareness of the right to invoke the Covenant before the courts.**

10. The Committee regrets that the National Human Rights Commission is not fully operational and is not in conformity with the Paris Principles and that the State party has not replied to the question of whether the promotion and protection of economic, social and cultural rights fall under the Commission's mandate.

**The Committee recommends that the State party take the necessary steps to ensure that the National Commission on Human Rights meets the requirements of independence and autonomy set out in the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles, General Assembly resolution 48/134). The Committee also recommends that the State party give the Commission a specific mandate to deal with violations of economic, social and cultural rights.**

11. The Committee notes with concern that the State party has yet to take firm and effective measures to combat corruption and impunity, even though the State party has experienced high levels of corruption. It regrets the lack of information on prosecutions and sentences for corruption.

**The Committee recommends that the State party train the police and other law enforcement officers, as well as prosecutors and judges in the strict application of anti-corruption laws, that it conduct awareness-raising campaigns and that it require the public authorities, in law and in practice, to operate in a transparent manner. It also recommends that the State party intensify its efforts to prosecute cases of corruption and review its sentencing policy for corruption-related offences. The Committee requests the State party to provide detailed information in its next periodic report about the progress made in combating corruption and impunity and any obstacles encountered.**

12. The Committee notes with concern, in the light of the information made available to it, that the justice system suffers from widespread corruption, is often subject to executive influence and is underfunded. It also notes with concern that judicial decisions are in some cases not applied by the Government.

**The Committee urges the State party to take effective measures to guarantee the independence of the judiciary and to ensure that this principle is fully implemented and promoted. It also requests the State party to ensure that judicial decisions are actually implemented. The State party is invited to conduct training for judges and lawyers on economic, social and cultural rights.**

#### **Article 2, paragraph 2**

13. The Committee is concerned about the adverse effects of the exploitation of natural resources, particularly mining operations and oil exploration in indigenous territories, which is carried out in violation of the right of indigenous people with regard to their ancestral lands and natural resources.

**The Committee urges the State party to carry out environmental and social impact assessments of economic activities, particularly mining and oil exploration, and to consult with the communities concerned, with a view to ensuring that these activities do not deprive indigenous peoples of the full enjoyment of their rights with regard to their ancestral lands and natural resources. In this respect, the Committee encourages the State party to consider ratifying the International Labour Organization (ILO) Convention concerning Indigenous and Tribal Peoples in Independent Countries, 1989 (No. 169).**

### **Article 3**

14. The Committee is concerned that women continue to face discrimination in many domains, especially where access to employment, land and credit and inheritance rights are concerned, even though, under article 14, paragraph 2, of the Constitution, the State is required to ensure that all forms of discrimination against women are eliminated and that women's rights in all spheres of private and public life are protected. It is also concerned about the State party's contention that women themselves help to perpetuate the stereotypes that marginalize them.

**The Committee requests the State party to take more stringent and effective legal and practical measures to counter inequality between the sexes and discrimination against women in the State party. It urges the State party swiftly to adopt the personal and family code that is currently being drafted, to indicate in its next report the key provisions of the code on equal rights for men and women and to state whether the code is consistent with the various obligations established under the Covenant. The Committee encourages the State party to take effective measures, including through the use of the media and education, to eliminate traditional stereotypes regarding the status of women in the public and private spheres and to ensure effective gender equality in all fields, as required by article 2, paragraph 2, and article 3 of the Covenant. In this regard, the Committee draws the attention of the State party to general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

15. The Committee is concerned about the low level of women's representation in Parliament, in senior Government positions and in the judiciary.

**The Committee recommends that the State party adopt special measures of affirmative action for women, such as guaranteed seats in Parliament and a statutory minimum quota for the appointment, recruitment and promotion of women in Government jobs and in the judiciary, including in positions of responsibility and in the most senior posts. The Committee requests the State party to indicate in its next report if the bill on quotas, which is supposed to remedy the problem of the underrepresentation of women in paid employment, has been adopted, and, if not, what is preventing its adoption.**

### **Articles 6, 7 and 8**

16. The Committee is concerned about the high unemployment rate and the lack of detailed information on national and regional employment programmes for the formal and informal sectors or other clear strategies to solve this problem. It regrets that the Labour Code does not provide for a labour inspection system.

**The Committee urges the State party to develop and implement action plans for employment that will progressively reduce unemployment in the informal sector. The Committee recommends that the State party amend its labour legislation in order to**

**set up a system of labour inspectors, and that it seek technical assistance from ILO in order to train them.**

17. The Committee notes with concern that the principle of equal remuneration for men and women workers for work of equal value is not applied uniformly by State-owned and private companies.

**The Committee urges the State party to implement the measures recently adopted to ensure equal remuneration for work of equal value, in accordance with the Covenant, and to reduce the wage gap between men and women.**

#### **Article 9**

18. The Committee is concerned that the State party's social security system does not provide universal coverage and that a large number of vulnerable and marginalized groups, such as casual workers and the self-employed, are excluded.

**The Committee recommends that the State party ensure universal social security coverage in Chad, giving priority to vulnerable and marginalized groups. In this regard, the Committee encourages the State party to explore the possibilities afforded by international cooperation, in keeping with article 2 of the Covenant.**

#### **Article 10**

19. The Committee is concerned about the prevalence of traditional practices that violate the physical integrity and human dignity of women and girls and notes with concern that Act No. 06/PR/2002 on the promotion of reproductive health, which prohibits female genital mutilation, early marriage, domestic violence and sexual violence, does not specify penalties for the perpetrators of such acts. The Committee notes with concern that 45 per cent of women and girls are victims of some form of genital mutilation, according to the report of the Secretary-General on children and armed conflict in Chad (S/2007/400).

**The Committee recommends that the State party launch awareness-raising campaigns to combat harmful traditional practices and educate parents, particularly mothers, and children and community leaders on the harmful effects of genital mutilation, which constitutes cruel, inhuman or degrading treatment, and that it amend Act No. 06/PR/2002 as a matter of urgency to stipulate penalties consistent with the seriousness of the offences defined in the Act. The Committee calls on the State party to take the necessary measures to eliminate harmful traditional practices such as female genital mutilation and to provide detailed information on that subject in its next periodic report.**

20. The Committee is seriously concerned about the extent of sexual violence, including rape, against women and girls, particularly in and around sites for internally displaced persons and refugee camps. It is particularly concerned about reports that women and girls in communities of refugees and internally displaced persons are not afforded appropriate protection from, or remedies in respect of, violence in all its forms. It is also concerned about the use of traditional conflict-resolution methods that perpetuate impunity and open the way for violence.

**The Committee requests the State party to provide comprehensive information in its next report on the situation of refugee and internally displaced women and children in Chad, in particular on the means used to protect these women and children from all forms of violence and the mechanisms to offer them remedies and opportunities for social reintegration. It further urges the State party to take steps to investigate and punish all perpetrators of violence against refugees and internally displaced women and children. The Committee urges the State party to assign more staff to, and include**

**more women in, the police forces responsible for security at camps for refugees and internally displaced persons. It also encourages the State party to continue working with the United Nations Mission in the Central African Republic and Chad (MINURCAT) and United Nations specialized agencies in the field.**

21. The Committee is deeply concerned about the prevalence of child labour, particularly the economic exploitation and frequent ill-treatment of children who tend the herds of nomadic herders (*enfants bouviers*), of Koranic students who are sent out to beg (*muhajirin*) and of child domestic workers.

**The Committee urges the State party to provide information in its next periodic report on the measures taken to combat child labour and to put an end to the practice of employing child livestock-herders, *muhajirin* and domestic workers, together with details on the outcome of such measures and the assistance provided to victims of these practices and their families.**

22. The Committee notes with concern the presence of child soldiers, including girls, in military camps and armed groups and the method of recruitment whereby families are encouraged to send their children in exchange for payment.

**The State party should put a stop to all recruitment of child soldiers, including girls, by armed groups. To this end, it should set up a monitoring system comprising regular follow-up visits to military camps and military training centres in order to prevent any further recruitment of minors. The State party should step up efforts to assist and reintegrate children who have been involved in the army.**

#### Article 11

23. The Committee notes with concern that funding for social services and public infrastructure is far from adequate, despite the country's great natural wealth and the provision under article 212 of the Constitution which states that local government must be given a share of the proceeds from land and mineral resources.

**The Committee recommends that the State party take all appropriate measures, including by using oil revenues, to speed up the renovation or rebuilding of public infrastructure and social services in both urban and rural areas and to ensure that the exploitation of natural resources benefits national development and promotes public welfare.**

24. The Committee notes with concern that, notwithstanding the poverty reduction strategy, a high percentage of the State party's population lives in poverty or extreme poverty, particularly the inhabitants of rural and deprived urban areas; landless persons; women; children; households headed by women; families living with HIV/AIDS; persons with disabilities; and internally displaced persons. It notes in particular that the State party has yet to create an effective coordination mechanism to combat poverty.

**The Committee urges the State party to take all effective measures to implement a poverty reduction strategy that integrates economic, social and cultural rights, in line with the Committee's statement on poverty and the International Covenant on Economic, Social and Cultural Rights (E/2002/22-E.12/2001/17, annex VII). It recommends that the State party adopt measures to assess the impact and identify the weaknesses of its strategy. It requests the State party to include in its next periodic report comparative data, disaggregated by sex, age and rural/urban populations, together with indicators on the number of persons living in extreme poverty and on the progress made in combating poverty.**

25. The Committee is deeply concerned about the chronic food insecurity experienced by a large section of the population.

The Committee recommends that the State party set up, and provide sufficient funding for, programmes designed to ensure for everyone, especially the most disadvantaged and marginalized persons and social groups, physical and economic access to the minimum of essential food that is sufficient, nutritionally adequate and safe to ensure freedom from hunger, in line with the Committee's general comment No. 12 on the right to adequate food (1999) and its statement on the world food crisis (E/C.12/2008/1).

26. The Committee notes with concern the State party's statement that the entire population, except for a very few people living in city centres, lacks basic amenities such as drinking water, waste removal, sanitary facilities and electricity.

**The Committee urges the State party to ensure access to drinking water and adequate sanitation facilities in all rural and urban communities, if necessary by seeking international cooperation and assistance.**

27. The Committee is concerned about the high proportion of the population that is homeless and the lack of effective measures to provide social housing for low-income, vulnerable and marginalized individuals and groups living in informal settlements, most of whom are deprived of affordable access to clean water and proper sanitation facilities.

**The Committee recommends that the State party adopt a comprehensive set of housing plans and policies and allocate sufficient budgetary resources to guarantee their implementation, especially for low-income, vulnerable or marginalized individuals and groups. The Committee also recommends that the State party take immediate measures to ensure affordable access to clean water and proper sanitation, in line with the Committee's general comment No. 15 (2002) on the right to water. The Committee also requests the State party to include in its next periodic report data, broken down by sex, age and rural/urban population, on the phenomenon of homelessness.**

28. The Committee is concerned about the large number of forced evictions and housing demolitions that have taken place in districts of N'Djamena without prior notice being provided or adequate alternative housing or compensation being offered.

**The Committee recommends that the State party take appropriate measures to ensure that forced evictions are used only as a last resort and that it adopt effective legislative or other measures strictly defining the circumstances and safeguards subject to which evictions may be carried out, in line with the Committee's general comment No. 7 (1997) on the right to adequate housing (Covenant, art. 11, para. 1) and forced evictions. The Committee also recommends that the State party ensure that victims of forced eviction are provided with appropriate compensation or alternative housing, that evictions are not carried out without those affected being consulted and that victims have access to an effective remedy. It requests the State party to include in its next periodic report data on forced evictions, disaggregated by sex, age and rural/urban population.**

#### **Article 12**

29. While taking note of the detailed and informative statistics provided in paragraphs 193 to 206 of the State party's report, on the subject of article 12 of the Covenant, the Committee is concerned about the high maternal, infant and under-five mortality rates, the high prevalence of HIV/AIDS, the shortage of health professionals in rural areas and the mediocre quality of health services. The Committee regrets that no information on the results of the national health policy launched in 1998 has been provided.

**The Committee urges the State party to take steps to deal with the current situation in the health sector, where the basic health needs of the population are not being met, including by improving basic health services, increasing public spending on health and taking measures to prevent and treat the HIV/AIDS pandemic and other communicable diseases. The Committee also recommends that the State party take into account the Committee's general comment No. 14 on the right to the highest attainable standard of health. It requests the State party to provide detailed and up-to-date information in its next report, including indicators and disaggregated statistical data, that will allow the Committee to assess progress in this area.**

30. The Committee notes with concern the alarming situation with regard to the population's right to sexual and reproductive health and the lack of basic sexual and reproductive health services in the State party.

**The Committee recommends that the State party should adopt specific measures to develop basic sexual and reproductive health services and care and should carry out educational programmes on sexual and reproductive health.**

31. The Committee notes with concern the serious health risks posed by the contamination of groundwater and rainwater arising from the fact that in 2000 more than 70 per cent of the population lacked proper toilets, while only 24 per cent had access to an adequate sewage system.

**The Committee urges the State party to provide all rural and urban communities with appropriate systems for ensuring access to drinking water and to adequate sanitation infrastructure, if necessary by seeking international assistance and cooperation.**

### **Article 13**

32. While noting that article 35 of the Constitution guarantees that every citizen has the right to education, that public education is free of charge and that basic education is compulsory, the Committee regrets that the State party has not provided an adequate reply concerning the application of these provisions, particularly with regard to poor children from rural and urban areas and indigenous children, thus preventing the Committee from assessing the implementation of this constitutional guarantee. The Committee commends the 10-year programme adopted by the State party to support the reform of the education system over the period 2004–2015, but notes with concern the high school dropout rate in the poorest regions of the country, particularly rural areas.

**The Committee requests the State party to indicate, in its next report, to what extent compulsory primary education is provided free of charge to all children in the State party, including poor children in urban and rural areas and indigenous children. In this regard, the Committee refers the State party to its obligations under article 14 of the Covenant, which require it to secure "compulsory primary education free of charge for all". The Committee recommends that the State party, in implementing its national plan on education, take into account the Committee's general comments Nos. 11 and 13 (1999) and establish an effective monitoring mechanism for the plan. The State party is also encouraged to seek technical advice and assistance from the United Nations Educational, Scientific and Cultural Organization (UNESCO) for the implementation of its plan.**

33. The Committee is concerned about the persistently high illiteracy rate in the State party, which is higher among women than men. It also notes with concern the preference traditionally given to male children where education is concerned.

**The Committee urges the State party to take all effective measures to improve the literacy rate, particularly among women. It recommends that the State party step up**



its efforts to provide girls and boys with equal access to education. It urges the State party to implement a comprehensive national plan on education for all, as required under paragraph 16 of the Dakar Framework for Action, taking into account the Committee's general comments Nos. 11 and 13 (1999) and general comment No. 1 (2001) of the Committee on the Rights of the Child on the aims of education. The Committee also requests the State party to provide detailed information in its next periodic report on the measures taken to improve the quality of education and to promote equal opportunities for all in education, including in vocational training. The Committee encourages the State party to consider ratifying the 1960 UNESCO Convention against Discrimination in Education.

#### Article 15

34. The Committee regrets the lack of information on the measures taken by the State party to preserve, protect and promote the right to take part in cultural life.

**The Committee requests the State party to include in its next report information on the measures that it has taken to preserve, protect and promote the right to take part in cultural life.**

35. The Committee is concerned about the system of exploitation of natural resources in the State party, which adversely affects the land and the way of life of indigenous peoples, depriving them of rights related to their ancestral land and cultural identity.

**The Committee recommends that the State party adopt specific measures to protect the cultural identity and ancestral land of the indigenous population.**

36. The Committee recommends that the State party provide economic, social and cultural rights education to students at all levels, and extensive human rights training for members of all professions and sectors with a direct role in the promotion and protection of human rights, including judges, lawyers, civil servants, teachers, law enforcement officers, immigration officers, the police and the military.

**The Committee requests the State party to provide in its next periodic report an exact list of all the international conventions on environmental protection to which it is a party. It also requests the State party to provide details of the respective mandates of the Ministry of the Environment and the National High Committee on the Environment. The Committee wishes to know if the State party, as a party to the United Nations Convention to Combat Desertification, benefits from the subregional and Global Environment Facility programmes of action for the implementation of the Convention.**

37. The Committee strongly recommends that the State party draw on the technical assistance offered by the Office of the United Nations High Commissioner for Human Rights and the relevant United Nations specialized agencies and programmes in its efforts to realize economic, social and cultural rights in accordance with its international legal obligations under the Covenant and when preparing and submitting its next report and following up on the present concluding observations.

38. The Committee recommends that the State party consider ratifying the following ILO conventions: the Unemployment Convention, 1919 (No. 2); the Social Security (Minimum Standards) Convention, 1952 (No. 102); the Social Policy (Basic Aims and Standards) Convention, 1962 (No. 117); the Equality of Treatment (Social Security) Convention, 1962 (No. 118); the Employment Policy Convention, 1964 (No. 122); the Labour Statistics Convention, 1985 (No. 160); the Indigenous and Tribal Peoples Convention, 1989 (No. 169); and the Prevention of Major Industrial Accidents Convention, 1993 (No. 174).

39. The Committee recommends that the State party consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the Convention on the Rights of Persons with Disabilities and its Optional Protocol.

40. The Committee invites the State party to update its core document in accordance with the instructions on the common core document set out in the harmonized guidelines on reporting which were recently approved by the international human rights treaty bodies.

41. The Committee encourages the State party to consider signing and ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

42. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, in particular among State officials, members of the judiciary and civil society organizations, and to inform the Committee in its next periodic report on the steps taken to implement them. It also encourages the State party to include non-governmental organizations and other members of civil society in the national discussions that are held prior to the submission of its next periodic report.

43. The Committee requests the State party to submit its fourth and fifth periodic reports by 30 June 2012.

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