

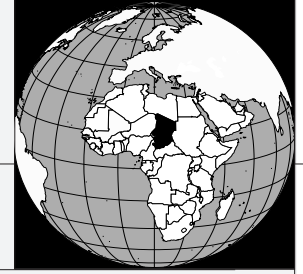


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# 5. Chad



## Statistics

### GENERAL

#### *Population*

- In 1997, the total population of Chad was approximately 6.9 million.<sup>1</sup>
- The average annual population growth rate between 1995 and 2000 was estimated to be 2.8%.<sup>2</sup>
- According to the 1993 general census, women comprise 51.6% of the total population.<sup>3</sup>
- In 1995, 21% of the population resided in urban areas.<sup>4</sup>

#### *Territory*

- Chad covers an area of 1,284,000 square kilometers.<sup>5</sup>

#### *Economy*

- In 1997, the estimated per capita gross national product (GNP) was U.S.\$240.<sup>6</sup>
- Between 1990 and 1997, the average annual growth rate of the gross domestic product (GDP) was 1.8%.<sup>7</sup>
- Approximately 30% of the population have access to primary health care.<sup>8</sup>
- In 1993, 5.8% of the national budget was devoted to the health sector.<sup>9</sup>

#### *Employment*

- In 1997, women comprised 44% of the workforce, or a 1% increase since 1980.<sup>10</sup>
- The distribution of women in the different sectors of the economy was as follows: 80% in agriculture, 19% in services, and 2% in industries.<sup>11</sup>
- Of persons identified as unemployed, 81.9% are male and live in cities. The unemployed are mainly young people (44% are between 15 and 30 years old) and have a relatively high level of education: 32.1% of the unemployed women have at least a primary education certificate, compared to 40.9% of the men.<sup>12</sup>

### WOMEN'S STATUS

- In 1997, the average life expectancy for women was 49.3 years, compared to 46.3 for men.<sup>13</sup>
- The adult illiteracy rate was 65% for women, compared to 38% for men.<sup>14</sup>
- In 1997, 39% of women lived in polygamous unions.<sup>15</sup>
- The average age at first marriage for women aged 20 to 49 was 15.9 years.<sup>16</sup>

### FEMALE MINORS AND ADOLESCENTS

- Approximately 48% of the population is under 15 years of age.<sup>17</sup>
- In 1993, primary school enrollment for school-aged girls was 28.38%, compared to 51.8% for boys.<sup>18</sup>
- In 1995, the fertility rate of adolescents aged 15 to 19 was estimated at 192 per 1,000.<sup>19</sup>
- Adolescents, who make up 23% of all women of childbearing age, contribute almost 15% to the total fertility rate.<sup>20</sup>
- The prevalence of female circumcision/female genital mutilation is estimated at 60%.<sup>21</sup>

### MATERNAL HEALTH

- The average total fertility rate (TFR) is estimated at 6.6 children per woman. In the capital, N'djamena, the TFR was 5.8, compared to 6.8 in the rural areas.<sup>22</sup>
- Maternal mortality is estimated at 800 per 100,000 live births.<sup>23</sup>

- Infant mortality is estimated at 180 per 1,000 live births.<sup>24</sup>
- Approximately 15% of births are assisted by trained birth attendants.<sup>25</sup>
- The average age at first birth is estimated at 18 years.<sup>26</sup>

### CONTRACEPTION AND ABORTION

- Contraceptive prevalence for all methods combined (traditional and modern) is estimated at 3.9% and at 1.2% for modern methods.<sup>27</sup>
- Of those using modern methods in 1993, 0.6% used the birth control pill, 0.2% used injectables, 0.3% used condoms, and 0.1% were sterilized.<sup>28</sup>
- Data from the N'Djamena general referral hospital show that between 1988 and 1992, post-abortion complications represented 6.35% to 25% of maternal deaths.<sup>29</sup>

### HIV/AIDS AND OTHER STIS

- In 1997, the number of HIV-positive adults was estimated at 83,000, or 2.72% of the adult population.<sup>30</sup>
- Among HIV-positive adults, the number of HIV-positive women was estimated at 42,000.<sup>31</sup>
- Since the beginning of the epidemic, 75,000 confirmed cases of AIDS have been recorded among adults and children.<sup>32</sup>
- In 1997, there were an estimated 4,200 HIV-positive children and 55,000 orphans due to AIDS.<sup>33</sup>

### ENDNOTES

1. UNITED NATIONS POPULATION FUND (UNFPA), THE STATE OF WORLD POPULATION, at 70 (1998).
2. *Id.*
3. BUREAU CENTRAL DU RECENSEMENT, DIRECTION DE LA STATISTIQUE, DES ÉTUDES ÉCONOMIQUES ET DÉMOGRAPHIQUES, ENQUÊTE DÉMOGRAPHIQUE ET DE SANTÉ, 1996-1997, at 2 (May 1998) [hereinafter, 1996-97 DHS].
4. THE STATE OF WORLD POPULATION, *supra* note 1, at 70.
5. 1996-97 DHS, *supra* note 3, at 1.
6. THE WORLD BANK, WORLD DEVELOPMENT REPORT, at 190 (1998/99).
7. *Id.*, at 210.
8. THE STATE OF WORLD POPULATION, *supra* note 1, at 70.
9. MINISTÈRE DU PLAN ET DE LA COOPÉRATION, DIVISION DE LA POPULATION, POPULATION ET DÉVELOPPEMENT AU TCHAD, at 12 (October 1994).
10. WORLD DEVELOPMENT REPORT, *supra* note 6, at 194.
11. UNITED NATIONS, THE WORLD'S WOMEN, at 147 (1995).
12. MINISTÈRE DU PLAN ET DE LA COOPÉRATION, RECENSEMENT GÉNÉRAL DE LA POPULATION ET DE L'HABITAT-1993, RAPPORT DE SYNTHÈSE, at 42 (December 1994) [hereinafter, RGPH-1993].
13. THE STATE OF WORLD POPULATION, *supra* note 1, at 67.
14. *Id.*
15. 1996-97 DHS, *supra* note 3, at 79.
16. *Id.*, at 81.
17. *Id.*, at 2.
18. RGPH-1993, *supra* note 12, at 25.
19. THE STATE OF WORLD POPULATION, *supra* note 1, at 67.
20. 1996-97 DHS, *supra* note 3, at 52.
21. NAHID TOUBIA, FEMALE GENITAL MUTILATIONS: A CALL FOR GLOBAL ACTION, at 25 (1995).
22. 1996-97 DHS, *supra* note 3, at xxxiii.
23. POPULATION ET LE DÉVELOPPEMENT AU TCHAD, *supra* note 11, at 11.
24. *Id.*
25. THE STATE OF WORLD POPULATION, *supra* note 1, at 70.
26. 1996-97 DHS, *supra* note 3, at 50.
27. *Id.*, at 63.
28. *Id.*
29. Magazine of the Association Tchadienne pour le Bien-être Familial (ASTBEF).
30. UNAIDS, REPORT ON THE GLOBAL HIV/AIDS EPIDEMIC, at 64 (June 1998).
31. *Id.*
32. *Id.*, at 67.
33. *Id.*, at 64.

## I. Introduction

A former French colony, the Republic of Chad (Chad) obtained its independence on August 11, 1960,<sup>1</sup> and is today a constitutional democracy. Its current constitution was drafted in 1996.<sup>2</sup> Its first president, Mr. François (subsequently Ngar-ta) Tombalbaye had been prime minister in 1959, when Chad was an autonomous state within the French Community.<sup>3</sup> Then in 1962 Tombalbaye outlawed all opposition parties,<sup>4</sup> and Chad became a one-party state. Tombalbaye's regime, which remained in power until 1975, was characterized by political repression and a succession of revolts throughout the country.<sup>5</sup> The country experimented with liberalization from the end of the 1960s to 1971. During this time, conflicts with its Libyan neighbor and a severe drought weakened Tombalbaye's presidency. On April 13, 1975, Tombalbaye was assassinated during a military coup, and his regime was overthrown.<sup>6</sup>

General Felix Malloum was the head of the High Military Council from 1975 to February 12, 1979. On that date, civil war broke out in N'Djamena, and fighting continued throughout the 1980s. On June 7, 1982, Hissein Habre, the leader of the Armed Forces of the North (FAN), ousted Goukouni Wedd-eye, the president of the National Union Transitional Government (GUNT). Habre again instituted a one-party system, the National Union for Independence and Revolution-UNIR, and state police, the Documentation and Security Department (DDS). This regime was characterized by the bloody repression of opponents, and resulted in roughly 40,000 deaths.<sup>7</sup>

On December 1, 1990, Colonel Idriss Deby, the head of a coalition of armed rebellions united within the Patriotic Salvation Movement (PSM), drove Mr. Hissein HABRE from power, and established a multi-party system. In 1996, Idriss Deby was proclaimed general of the army and elected president of the Republic through contested elections.<sup>8</sup> The election was held in accordance with the reform passed the same year. After the election, Chad established a 125-member National Assembly, with democratically elected members.

Chad's total population is estimated at 6.9 million,<sup>9</sup> with women making up 51.6%.<sup>10</sup> Muslims constitute roughly 53.8% of the population; Christians, 34.8% (Catholics, 20.4%; Protestants 14.4%). Seven point four percent of the population practice indigenous religions, and 3.1% say they do not have a religion.<sup>11</sup>

Culturally, Chad is quite diverse. The following ethnic groups are located in the north and center of Chad: Arabs, Toubou, Hadjerai, Fulbé, Kotoko, Kanembou, Baguirmi, Boulala, Zaghawa, and Maba.<sup>12</sup> In the south, the dominant ethnic groups are the following: Sara, Ngambaye, Gor, Mbaye, Goulaye, Moundang, Fulbé, Mousseye, and Massa.<sup>13</sup> Although

French and Arabic are the country's official languages, there are more than one hundred languages and dialects; the most frequently spoken are Sara, Ngambaye, and Sango, all spoken in the south.<sup>14</sup>

Administratively, the country is divided into 14 prefectures, 71 sub-prefectures, 23 administrative posts, 54 communes, 11 sultanates, and 446 cantons.<sup>15</sup>

## II. Setting the Stage: The Legal and Political Framework

To understand the various laws and policies affecting women's reproductive rights in Chad, it is necessary to examine the country's legal and political systems. Without this background, it is difficult to determine the manner in which laws and policies are enacted, interpreted, modified, and challenged. The passage and enforcement of laws often involve specific formal procedures. Policy enactments, however, are not subject to such processes.

### A. THE STRUCTURE OF GOVERNMENT

Chad's Constitution (the Constitution) was adopted by referendum on March 31, 1996,<sup>16</sup> and proclaimed Chad "a sovereign, independent, secular, social, united, and indivisible republic, founded on the principles of democracy and the rule of law and justice."<sup>17</sup> The Constitution, the fundamental law of Chad, establishes three branches of government: the executive, legislative, and judicial.

#### 1. Executive Branch

Executive authority lies with the President of the Republic (the President), who is the head of state.<sup>18</sup> He monitors compliance with the Constitution and ensures the smooth functioning of the administration, as well as continuity of the State.<sup>19</sup> As head of state, he is the guarantor of independence, national sovereignty and unity, territorial integrity, and compliance with international treaties and agreements.<sup>20</sup> Directly elected by popular vote for a five-year term, the President is limited to serving two terms in office.<sup>21</sup>

After naming the Prime Minister,<sup>22</sup> the President acts on the latter's advice to appoint the other members of the Cabinet (he also has the power to terminate their tenures).<sup>23</sup> In addition, the President presides over the Council of Ministers,<sup>24</sup> appoints ambassadors,<sup>25</sup> acts as the commander-in-chief of the armed forces,<sup>26</sup> and enjoys the right of pardon.<sup>27</sup>

After consulting with the Prime Minister and the chairmen of the two assemblies (see the section on the Legislative Branch below), the President can dissolve the National Assembly under one of two circumstances: when continual crises

between the executive and legislative branches pose a threat to the smooth functioning of the administration; and when the National Assembly votes the Cabinet members out of office twice in a single year.<sup>28</sup> General elections must then take place within 45 days after the National Assembly's dissolution.<sup>29</sup>

When the nation's institutions, independence, territorial integrity or fulfillment of its international commitments are imminently threatened, and the smooth functioning of the administration is interrupted, the President can implement exceptional measures in the Council of Ministers for a period that does not exceed 15 days.<sup>30</sup> He may do so only after consulting with the chairmen of the assemblies and the chairman of the Constitutional Council. This period can be extended only when both assemblies approve.<sup>31</sup>

Upon the Cabinet's proposal or the joint proposal of the two assemblies, the President can submit to a referendum any bill concerning the operation of the administration that would affect the functioning of the institutions, including approval of a union agreement or a bill aimed at ratification of a treaty.<sup>32</sup>

The Cabinet is made up of the Prime Minister and other ministers. It implements the nation's policy approved upon in the Council of Ministers<sup>33</sup> and ensures enforcement of the laws.<sup>34</sup> The Prime Minister is the head of the Cabinet,<sup>35</sup> and as such manages, coordinates, and spearheads executive action. He is the head of the administration and is responsible for implementing national defense policy.<sup>36</sup> Under the Prime Minister's supervision the executive ensures national security and the maintenance of order.<sup>37</sup>

In order to carry out its program, the Cabinet may ask Parliament for authorization to issue executive orders for a limited time period to take measures normally within the legislative domain.<sup>38</sup> The executive orders are established in the Council of Ministers after consultation with the administrative chamber of the Supreme Court.<sup>39</sup>

The Constitution establishes decentralized territorial states that ensure public safety, the administration and development of the territory, and economic, social, health, cultural, and scientific development, as well as protection of the environment.<sup>40</sup>

## **2. Legislative Branch**

A bicameral Parliament comprising the National Assembly and the Senate exercises legislative authority.<sup>41</sup> Assembly members hold the title of deputies,<sup>42</sup> and are directly elected by popular vote to four-year renewable terms.<sup>43</sup> The Senate, in contrast, represents the decentralized territorial states.<sup>44</sup> Members of the Senate, who hold the title of senators, are elected indirectly by an electoral college of regional, departmental, and municipal counselors.<sup>45</sup> Their length of term is six years; one

third of them stand for reelection every two years.<sup>46</sup>

Parliament has the power to legislate in most areas, including issues related to civil rights, criminal law, taxation, the family, education, and public health.<sup>47</sup> The government and members of the Parliament can initiate bills and amendments concurrently.<sup>48</sup> The President must enact laws within 15 days after Parliament adopts acts and submits them.<sup>49</sup> Before this time period has expired, he can ask Parliament to review the bill or some of its articles, and the Parliament may not refuse this request.<sup>50</sup> Organic laws can be enacted only if the Constitutional Council, to which the President must submit the law, ensures their compliance with the Constitution.<sup>51</sup>

The National Assembly may hold the Cabinet accountable by voting a motion of censure,<sup>52</sup> a motion that is admissible only if signed by one tenth of the members of the National Assembly.<sup>53</sup> When the National Assembly adopts a censure motion, or when it disapproves of the executive's program or a general policy statement, the Prime Minister must submit his Cabinet's resignation to the President.<sup>54</sup>

## **3. Judicial Branch**

Under the Constitution, judicial power is autonomous from both executive and legislative power. The President, with the assistance of the High Magistracy Council, guarantees this autonomy.<sup>55</sup>

The Constitutional Council judges the constitutionality of laws and international treaties and agreements.<sup>56</sup> Its nine members are appointed in the following way: three by the President, three by the chairman of the National Assembly, and three by the President of the Senate;<sup>57</sup> they are appointed for a nine-year, nonrenewable term and cannot be removed during this term.<sup>58</sup> The Constitutional Council ensures that presidential elections and referenda proceedings are legal.<sup>59</sup> It must rule on the constitutionality of organic laws before they are enacted, and on the assembly's domestic regulations before implementation.<sup>60</sup> In addition, at the request of the President, the Prime Minister, the chairman of the National Assembly, the President of the Senate, or at least one tenth of the members of the National Assembly or the Senate, the Constitutional Council may be called upon to make a ruling on the constitutionality of an ordinary bill before it is enacted.<sup>61</sup>

The Constitutional Council is the body that regulates the functioning of the state's institutions and the administration's activities. It settles jurisdiction conflicts between the state's institutions.<sup>62</sup> A citizen may invoke the defense of unconstitutionality before any jurisdiction in a case that involves him or her. In this case, the jurisdiction delays its ruling and submits it to the Constitutional Council, which must make a decision within 45 days.<sup>63</sup>

The Court of Appeals hears appeals introduced in all cases initially heard by the courts of first instance.<sup>64</sup> It also hears appeals of rulings of last resort by all jurisdictional bodies, regardless of whether they are administrative or judicial. Its rulings cannot be revised or annulled.<sup>65</sup> The Court of Appeals includes at least one administrative and one financial chamber, an appeal chamber, a civil, commercial, and social chamber, a grand jury chamber, and a misdemeanor and police court chamber.<sup>66</sup> At least three magistrates deliver the rulings.<sup>67</sup>

The criminal courts are nonpermanent jurisdictions called upon to judge crimes that are submitted to them under the provisions of the Criminal Procedure Code.<sup>68</sup> The criminal court consists of the chairman of the Court of Appeals or a counselor, two counselors to the Court of Appeals, and four magistrate's assistants.<sup>69</sup> The latter represent customs that play an important role in Chad's justice system.

The courts of first instance are the common law authority in civil and commercial cases as well as in minor offense and police-court matters.<sup>70</sup> The chairmen of the courts of first instance hold hearings in the presence of the state prosecutor or a deputy public prosecutor.<sup>71</sup> The court divisions are separate jurisdictions to which the judges of the courts of first instance are assigned. They report to the chairman of the court for civil and commercial cases and to the state prosecutor for criminal cases.<sup>72</sup>

Justices of the peace may be established in any sub-prefecture seat where a court of first instance or a court division has not been established.<sup>73</sup> The justices of the peace have jurisdiction in civil, commercial, misdemeanor, and police-court matters.<sup>74</sup>

The clauses of the Labor Code govern the labor courts.<sup>75</sup> In addition, district police squads, police commissioners, and the Islamic committee deliver judgments that have the force of law, although they do not carry any legal authority.

There are also judicial bodies for regulation and control. In particular, these are the High Court of Justice, and the High Communications Board. The High Court of Justice is comprised of 15 members, including six deputies, four senators, two members of the Constitutional Council, and three members of the Supreme Court.<sup>76</sup> The High Court of Justice has jurisdiction to judge the President and members of the Cabinet, as well as their accomplices, in cases of high treason.<sup>77</sup> The Constitution defines high treason as any action that threatens the republican form of government, the state's uniqueness and secularity, or the nation's sovereignty, independence, and territorial integrity.<sup>78</sup> Serious human rights violations, embezzlement, or misappropriation of public funds, corruption, drug traffic, and the smuggling of toxic or danger-

ous waste in order to transport, dump or store it within the country are also considered to be acts of high treason.<sup>79</sup> The President and members of the Cabinet can be indicted by a two-thirds majority of the members that make up each of the two chambers of Parliament.<sup>80</sup>

The High Communications Board is an autonomous administrative authority that monitors compliance with professional rules of ethics regarding information and communication. It is responsible for: guaranteeing freedom of the press and of speech; regulating communication arrangements among the government, the media, and the public; ensuring equal and equitable access of political parties and associations to the media; and giving technical opinions on issues related to the information domain.<sup>81</sup> Of the High Communications Board's nine members, two are appointed by the President, one by the chairman of the National Assembly; and one by the president of the Senate. Three members are from the audio-visual and print media fields selected by their peers; one is a magistrate designated by the chairman of the Supreme Court; and one is a celebrity from the world of culture, the arts, or literature designated by his or her peers.<sup>82</sup>

## B. SOURCES OF LAW

The laws that affect women's legal status in Chad—including their reproductive rights—derive from a variety of sources, both international and domestic.

### 1. International Sources of Law

Several international human rights treaties recognize and promote specific reproductive rights. Because they are legally binding on governments, these international instruments impose specific obligations to protect and advance these rights. In Chad, as soon as legally ratified or endorsed treaties or agreements are issued, they override national laws, as long as, in cases of bilateral agreements, they are also enforced by the other party.<sup>83</sup>

Chad is a signatory to, *inter alia*, the African Charter on Human and People's Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, and the Convention against Torture.<sup>84</sup>

### 2. Domestic Sources of Law

Chad's legal system is based on civil law. Legislation is the main source of law and the Constitution is the supreme law of the land. It guarantees equality of all citizens before the law regardless of origin, gender, religion, political opinion, or social position.<sup>85</sup> It also stipulates that the state has the duty to ensure

that all forms of discrimination against women are eliminated and that women's rights are protected in all areas of public and private life.<sup>86</sup> It guarantees to each individual the right to life, the integrity of his or her person, security, and liberty, and the protection of his or her private life and property.<sup>87</sup>

The French civil and commercial codes remain in force.<sup>88</sup> The Civil Procedures Code was enacted by decree in 1976, and the Criminal Code and Criminal Procedures Code were enacted by rulings in 1967.

Formal legal instruments provide for recourse to customary law. The Constitution stipulates that when there is no code, customary and traditional rules apply only in those communities where they are recognized.<sup>89</sup> The Constitution prohibits customs, however, that conflict with law and order, or those that advocate inequality among citizens.<sup>90</sup> It also stipulates that customary and traditional rules governing marriage contracts and inheritances can be applied only with the consent of the interested parties.<sup>91</sup> Without that consent, national law alone is applicable—and the same principle applies regarding a conflict between two or more customary rules.<sup>92</sup> Finally, the Constitution stipulates that a person who is subject to public prosecution cannot invoke as a defense the prior payment of customary or traditional damages.<sup>93</sup>

### III. Examining Reproductive Health and Rights

In Chad, issues of reproductive health and rights are addressed in the context of the country's health and population policies. Thus, an understanding of reproductive rights in Chad must be based on an examination of the documents that set forth these policies.

#### A. HEALTH LAWS AND POLICIES

##### 1. Objectives of the Health Policy

In June 1998 Chad adopted its "National Health Policy,"<sup>94</sup> which was an outgrowth of the September 1993 advisory plan entitled "Chad to the Year 2000." The plan's objective was to "promote development of the citizenry to enable it to handle the cultural, social, economic, and technological changes the country is undergoing."<sup>95</sup> The plan paid considerable attention to the promotion of women's welfare, particularly with regard to the prevention of certain diseases, as well as maternal and infant health/family welfare (MIH/FW) (e.g., prenatal care, childbirth, and prevention of malnutrition, diarrhea, and infectious diseases).

The main objective of the National Health Policy, which

makes primary health care a priority in Chad, is to expand the accessibility of minimum quality services—and its main beneficiaries are mothers and children. By 2005, it aims to achieve the following: a 50% reduction in the maternal mortality rate from 800 per 100,000 to 400 per 100,000 live births; a reduction in the infant mortality rate from 132 per 1,000 to 100 per 1,000 live births. To attain these goals, it will implement the following strategies:<sup>96</sup>

- Improving vaccination coverage, with special emphasis on measles;
- Controlling diarrhea through early detection and distribution of oral rehydration salts;
- Expanding the detection of at-risk deliveries by increased monitoring of pregnancies and deliveries;
- Increasing the weight of infants under two kilograms and monitoring children's growth from birth to five years old;
- Reducing by 80% morbidity linked to vitamin A deficiency, and by 70% the occurrence of iron-deficiency anemia in children younger than five years of age;
- Increasing the number of attended child births;
- Reducing by 70% mortality related to malaria in children under the age of five.

In 1988, the National Conference on Family Welfare brought together the nation's politicians, religious leaders and executives. The conference defined the concept of family welfare (FW) as the promotion of maternal and infant health (MIH), the spacing of births, the prevention of sexually transmissible infections (STIs) including HIV/AIDS, the prevention of sterility, and health education. The conference also recommended that family welfare be integrated into the national MIH program. While the concept of primary health care is now a familiar one in Chad, that of reproductive health is less so, as it involves a new approach.

The pharmaceutical purchasing center (see the section on the Infrastructure of Health Services) is responsible for making essential medicines available in Chad. It does so by distributing and supplying such drugs on a regular basis to public and private non-profit health facilities. The government plans to adopt legislative and regulatory reforms in this area, along with improving the financing, management, and usage of medicines. In addition, the government plans to encourage pharmacists in the private sector to sell essential generic drugs, as well as to promote traditional pharmacopoeia.<sup>97</sup>

Decree No. 86/PR/94 of February 10, 1994 established the Ministry of Public Health. Its mission is to monitor public health.<sup>98</sup> Within this bureaucracy is the Minister of Public

Health's Office, the general management, and the technical departments. It is at this bureaucratic level that the nation's health priorities are set. Specifically, the Ministry of Public Health is responsible for developing health policies, coordinating outside assistance, and supervising, managing, and assessing the implementation of national health programs.<sup>99</sup>

### **2. Infrastructure of Health Services**

Decree No. 86/PR/94 instituted three administrative levels—the central level, the intermediate level, and the peripheral level.<sup>100</sup> The central level consists of four national institutions: the Central National Referral Hospital (HCRN); the National Health and Social Services Workers School (ENASS); the National Surgical Equipment and Readjustment Center (CNAR); and the Pharmaceutical Purchasing Center (CPA).<sup>101</sup>

The intermediate level consists of 14 prefectural health delegations, each of which contains a central prefectural hospital. Within each delegation is a team in charge of coordinating and implementing national policies. This involves adapting such policies to local realities, while contributing technical support to the health districts. Only four central hospitals, however, meet the required standards; they are located in Ouaddai, in Moyen-Chari, in Logone Occidental, and in Chari Baguirmi. The other 10 central prefectural hospitals have a limited technical capacity corresponding to that of a district hospital. As part of its plan to extend health coverage, the Ministry of Public Health intends to build one new prefectural hospital and to renovate several others.<sup>102</sup>

The peripheral level includes 51 health districts divided among the 14 prefectural delegations. These delegations are responsible for implementing the activities defined in the health policy, including the Minimum Activities Package (MAP) at the health-center level and the Complementary Activities Package (CAP) at the district hospital level. The MAP is designed to address 90% of the nation's health problems and includes the following activities: health care for children up to four years old, including vaccinations and detection of malnutrition; services for pregnant women and women of childbearing age, including prenatal care, delivery of newborns, and family welfare; and a referral and counter-referral system for patients who cannot be cared for at the first level.<sup>103</sup> The CAP includes all activities that the second-level services—that is, the district hospitals—should offer: medical and surgical emergencies; treatment of complicated pregnancies; hospitalization; laboratory and radiological diagnoses; and referrals.<sup>104</sup>

The peripheral level consists of the district management, district hospitals, and health centers designated for specific areas of responsibility.<sup>105</sup> Of the 49 health districts—not including

those of Benoye and Danamadji, which are not yet operational—30 have a functional hospital. Out of 642 areas of responsibility, 407 have a functional health center (HC) or one HC per 17,000 inhabitants. The national standard forecast is one HC for 10,000 inhabitants.<sup>106</sup>

With regard to equipment, the Ministry of Public Health has developed equipment standards for the peripheral-level infrastructures. These standards grew out of the June 1994 report, "Study of the Operational Programming of Chadian Health Infrastructures."<sup>107</sup> Based on these standards, it seems that most of the health centers and district hospitals are under-equipped and that medical equipment is either obsolete or nonexistent. Worn-out equipment is also common in the prefectural hospitals and the N'Djamena National General Referral Hospital.

The health infrastructure covers only 59% of the population. Chad is far from meeting the international standards established by World Health Organization (WHO). In addition, the qualitative and quantitative deficiency of human resources is deplorable. There is one doctor per 36,500 inhabitants, one state certified nurse per 22,500 inhabitants, and one state-certified midwife per 7,000 women of childbearing age.<sup>108</sup> The government health policy's goal is to strengthen human resources by accelerating initial training and improving personnel management.

### **3. Cost of Health Services**

The government, international donors, non-governmental organizations (NGOs), and patients themselves pay the costs of health services. Chad's government finances only personnel and operating expenses. In 1993, the share of the national budget allocated to health was 2,415,117,000 CFA francs (U.S.\$3,848,335.44), or 5.8% of the budget.<sup>109</sup> That same year, the total expenditures for health were 5.7 billion CFA francs (U.S.\$9,082,361.82) or less than 1,000 CFA francs (U.S.\$1.59) per capita.<sup>110</sup> International donors provided 80% of all health expenditures, 44% of investment expenses, and 56% of operating expenses.<sup>111</sup> This aid is distributed among health management levels as follows: 21% to the central level; 41% to the intermediate level; 16% to the district level; and 21% to the health-center level. It is important to note that assistance is unevenly distributed among the different prefectures.

The private sector, NGOs and patients themselves contribute significantly to the cost of health services. Individuals participate through the cost recovery system. The government adopted this system in 1989 and codified it through a series of regulations in February 1989, October 1990, and January 1994.<sup>112</sup> Individuals participate by purchasing medicines and health records, and by paying hospitalization, delivery costs,



and fees for laboratory tests. It is estimated that households finance 20% of the health budget.<sup>113</sup> NGOs and associations pay for investments, such as the building and renovation of health facilities. Although there are no exact figures, the share of health expenses financed by individuals and NGOs is estimated to be roughly 4 billion CFA francs (U.S.\$6,373,587.53).<sup>114</sup>

The recovery costs vary considerably from region to region in terms of the cost of services, the conditions for exemption, and protocols regarding the poor. The Health Ministry issued a decree on June 2, 1995 that established fees at the N'Djamena National General Referral Hospital.<sup>115</sup> Thus, consultations are 1,000 CFA francs (U.S.\$1.59) for referred patients and 2,000 CFA francs (U.S.\$3.19) for patients without referrals.<sup>116</sup>

Hospital rooms fall into three categories. The first type are air-conditioned or ventilated rooms, which cost 10,000 CFA francs (U.S.\$15.93) or 5,000 CFA francs (U.S.\$7.97) per day. The second are rooms that cost 4,000 CFA francs (U.S.\$6.37) or 2,000 CFA francs (U.S.\$3.19) per day. The third have a 10-day fixed rate. Costs also vary for different medical departments: the maternity ward costs 3,000 CFA francs per day (U.S.\$4.78); rooms in the pediatric ward cost 1,000 CFA francs (U.S.\$1.59); and surgery costs 4,000 CFA francs (U.S.\$6.37). Services in the pneumology department are free.<sup>117</sup> Labor and delivery for pregnant women who have been monitored at the hospital is 2,500 CFA francs (U.S.\$3.98). The fee for pregnant women who have not been monitored is 4,000 CFA francs (U.S.\$6.37).<sup>118</sup> The cost of radiological examinations varies from 1,500 (U.S.\$2.39) to 7,500 CFA francs (U.S.\$11.95). Fees for surgical procedures vary between 500 CFA francs (U.S.\$0.80) and 40,000 CFA francs (U.S.\$63.74).<sup>119</sup> The June 1995 decree stipulates that consultations in the emergency room are free at the general hospital.<sup>120</sup>

According to the Ministry of Public Health, the uneven quality of services is accompanied by significant disparities in the conditions for hospitalization. The appointment of a national coordinator for community participation failed to resolve this issue of disparities. The government plans to establish a charter that sets the financial contribution of individuals, broadens individual participation at all levels, defines the terms for treating the poor, and creates greater solidarity between patients and non-patients.<sup>121</sup>

In addition to the official cost-recovery program, it is important to note the informal practice of paying for services. In this regard, costs vary according to the type of services, the region, and the particular customer-patient. This informal system of payment provides an incentive for health care personnel. Indeed, it is so powerful an incentive that in some

health facilities, only the wealthiest patients receive special attention. Because there is still no clear definition of the poor, it is difficult to identify them. Moreover, systematic biases and cumbersome procedures affect available services and often significantly delay patient follow-up.

The devaluation of the CFA franc in 1994, among other things, resulted in an increase in the price of pharmaceutical products. This, in turn, led to the population's lack of interest in modern health services. Many individuals prefer to go to traditional healers, charlatans, or even marabouts (traditional priests). The extremely high rate of home births (88%) reflects the widespread mistrust of modern medicine.<sup>122</sup>

#### **4. Regulation of Health Care Providers**

Chad's National Pharmacists Association was created on August 20, 1991. It was placed under the supervision of the Ministry of Public Health.<sup>123</sup> The Association ensures that the moral principles indispensable to the practice of pharmacy are upheld, that the rules of professional ethics are respected, and that pharmacists fulfill their professional obligations in both the public and the private sector.<sup>124</sup> The Association can also help promote traditional pharmacopoeia.<sup>125</sup> The Association is directed by a council of nine official members and nine substitute members elected for a four-year, renewable term.<sup>126</sup> The council elects an office of six members from among its own ranks to serve two-year terms.<sup>127</sup> A disciplinary chamber imposes sanctions that can range from a simple warning to removal from the Association's register.<sup>128</sup> A Chamber of Appeal created within the association has jurisdiction to examine the council's decisions and those of the disciplinary chamber.<sup>129</sup>

Decree No. 519/PR/91 of August 20, 1991 gives the Minister of Public Health jurisdiction to supervise the opening of private dispensaries for doctors, dentists, and midwives. By decree, the Minister of Public Health provides authorization for members of these dispensaries to practice their profession under the following conditions: they must be of Chadian nationality, hold a certified degree, and belong to the association of doctors, dentists and midwives.<sup>130</sup>

A research facility for traditional health care practices was created within the Health Department of the University of N'Djamena,<sup>131</sup> called: "The Pharmacopoeia and Traditional Medicine Research and Study Unit" (CERPHAMET). Affiliated with the Central African traditional medicine and pharmacopoeia network, it has the following mission:<sup>132</sup>

- Studying medicinal plants and any other product or diagnostic or therapeutic procedure used in traditional medicine in order to approve and popularize them;
- Improving and manufacturing medicines;

- Selling developed products;
- Exercising medical control over medicinal plants;
- Providing training in traditional practices;
- Organizing the practice of traditional health practitioners and promoting collaboration between modern and traditional medicine;
- Supervising and coordinating the activities of all the traditional medical centers in the country.

### 5. Patients' Rights

The Penal Code contains no explicit clauses that stipulate punishment for health care professionals who do not respect a patient's rights. However, certain articles of the Code related to "the usurping of a title or office" may be applied. For example, Article 136 stipulates that "Anyone who, without a title, interferes in public, civilian, or military duties or performs the duties for one of these positions, shall be punished with imprisonment of three months to five years, in addition to the penalty for forgery, if that charge pertains." Similarly, Article 138 stipulates that "a person who uses or claims a title attached to a legally regulated profession without meeting the legally required conditions" shall be punished with a sentence of 15 days to two years and a fine of 5,000 (U.S.\$797) to 50,000 CFA francs (U.S.\$795.94).

In addition, some articles of the Penal Code related to carelessness and ineptness can also be invoked to protect patients' rights. Thus Article 262 provides that: "Anyone, who by ineptness, carelessness, inattention, negligence, or noncompliance with the regulations, commits an involuntary homicide or involuntarily causes a homicide, shall be punished by three months to two years in prison and a fine of 5,000 (U.S.\$797) to 1,000,000,000 CFA francs (U.S.\$1,591.88)." Similarly, Article 263 stipulates that: "If the lack of attention to, or care of injuries or illnesses, leads to an incapacity to work for more than six days, the guilty person shall be punished with 15 days to one year of imprisonment and a fine of 5,000 (U.S.\$797) to 500,000 CFA francs (U.S.\$795.94)."

Regulations regarding the liability of health professionals vary depending on whether contractual liability, civil liability, felonious liability, or criminal liability is involved. With regard to civil liability, Article 1382 of the Penal Code stipulates that "any person's action that causes damage to others requires compensation by that person for said error."

## B. POPULATION AND FAMILY PLANNING

### 1. The Population and Family Planning Policy

Chad adopted its Population Policy Declaration through Act No. 025/PR/94 of July 22, 1994.<sup>133</sup> Cultural, social and economic conditions led to its adoption, with individuals, couples,

and families as its central concern. These conditions included: the composition of the population, with women and youths under 20 years of age constituting the majority (51.9% and 57.7%, respectively);<sup>134</sup> a fertility rate of nearly 6.6;<sup>135</sup> a 2.5% population growth rate that is likely to double the population over the next 28 years;<sup>136</sup> a life expectancy rate of 50.3 years, or 54.5 years for women and 47 for men;<sup>137</sup> an infant mortality rate estimated at 132 per 1,000; and a maternal mortality rate estimated at 800 for 100,000 live births.<sup>138</sup> To prevent these numerous problems from interfering with long-term development, the government has taken a number of steps, including:<sup>139</sup>

- Creating, in 1984, the maternal and infant health and family welfare department (MIH/FW);
- Organizing, in 1988, the first International Conference on Family Welfare in Chad;
- Recognizing the Chadian Association for Family Welfare (ASTBEF) in 1991 and the Chadian Association of Women Jurists in 1992;
- Creating, in 1992, a coordinating unit (currently a division) for population-related activities;
- Establishing by decree an interministerial technical committee on population in 1993;<sup>140</sup>
- Creating a technical committee to study the terms of reference and to assess the costs related to the Family Code, and effectively establishing a drafting committee for the Code;
- Repealing in 1993 the part of the 1920 French law related to contraceptive propaganda;<sup>141</sup>
- Prohibiting children from working before the age of 14;<sup>142</sup>
- Issuing Order No. 15/PR/86 devoted to equal access to employment for men and women.

Despite these initiatives, population problems persist. Thus, the government adopted a population policy aimed at improving the quality of life of all sectors of the population within the context of integrated and sustained development. The policy's general objectives are the following:<sup>143</sup>

- Promoting general welfare by raising everyone's standard of living, especially that of the most impoverished;
- Significantly reducing morbidity and mortality with a special emphasis on maternal, infant, and child mortality;
- Reducing the total fertility rate;
- Stabilizing population growth;
- Implementing a territorial development policy that enables a better redistribution of the population throughout the country.

The policy's more specific objectives are the following:

improving Chad's ability to meet the population's basic needs in the fields of health, nutrition, and education; increasing health care coverage and improving the accessibility of health facilities; reducing the population growth rate from 2.4% to 2% by the year 2005; strengthening women's ability to exercise their rights fully; promoting and ensuring the rights and welfare of children and youth in accordance with the recommendations of the World Summit on Childhood; increasing women's participation in development; improving the status of women in Chad; and strengthening and expanding maternal and infant health and family welfare activities (MIH/FW) to all levels of the health care system.<sup>144</sup>

In the maternal and infant health field, the government is seeking to provide primary health care to the greatest number of mothers and children, with priorities in the areas of education and disease prevention. In order to succeed in this endeavor, it has opted to integrate family planning into maternal and infant health services, and plans to take the following actions:<sup>145</sup>

- Reducing maternal and infant mortality rates;
- Raising the percentage of deliveries in a supervised environment to 80%;
- Providing detection and better management of at-risk pregnancies;
- Informing and educating mothers to increase their awareness of the health problems of their children;
- Preventing clandestine abortions, sexually transmissible infections (STIs), and the spread of HIV/AIDS, through awareness-raising campaigns directed at young people;
- Developing information, education, and communication activities (IEC) with regard to family welfare for young people, especially in schools;
- Providing training and refresher courses for at least 60% of paramedical and social services personnel in the field of family welfare;
- Increasing the contraceptive prevalence rate, mainly with modern contraception.

The Population Policy also contains strategies related to the advancement of children, youth, and women; IEC campaigns on population, migration, urbanization, territorial development, agriculture, the environment, and animal breeding; data collection and analysis, research, and training on population issues.<sup>146</sup>

The Population Policy provides an institutional framework on four levels; the work at each level will be facilitated by the revision of all laws and regulations on population. The first level is the decision-making body called the Higher Population and Human Resources Committee (HCPRH). The head of state will preside over this committee; it will include representation of all the ministries involved in implementing popula-

tion policy and programs, and will be responsible for defining the overall design of such programs. It will also adopt the recommendations submitted to it by the National Population and Human Resources Commission (CNPRH).<sup>147</sup> The CNPRH, an advisory body, constitutes the second level. Its role will be to assist the government in implementing the Population Policy and to submit recommendations and proposals to the Higher Population and Human Resources Committee.<sup>148</sup>

The third level is the technical body called the Department of Planning, Development, and Reconstruction, and is part of the Ministry of Planning; it will coordinate and monitor the Population Policy's implementation, along with the secretariat of the CNPRH.<sup>149</sup> Finally, the ministries involved in the Population Policy shall constitute the fourth implementing level. They are as follows: the Ministry of Planning and Territorial Development; the Ministry of Public Health, Social Action and the Family; the Ministry of Justice; the Ministry of Tourism and the Environment; the Ministry of Agriculture; the Ministry of Education; the Ministry of Youth, Culture, and Sports; and the Ministry of the Interior.<sup>150</sup>

The government also created a Population Activities Support Fund (FOSAP) to help carry out the activities planned within the scope of the Population Policy.<sup>151</sup> FOSAP will finance health, family welfare, advancement of women and youth, and STI/HIV/AIDS prevention projects. It will also finance projects developed by NGOs, government organizations, and private non-profit associations and institutions. The Chadian Association for Family Welfare (ASTBEF) is an integral part of this policy and its implementing bodies.

## **2. Government Delivery of Family Planning Services**

The Ministry of Public Health has a maternal and infant health and family welfare (MIH/FW) program to promote the health of mothers and children. This program is supported by several projects, collectively entitled, "Development of MIH/FW Services" in the three areas of N'Djamena-Abéché-Moundou.<sup>152</sup> In addition, in February 1995 the government established a project on health and safe motherhood. Financed by the World Bank, this project was designed for a five-year period, ending in 2000.<sup>153</sup> The project was organized around three themes: strengthening the Ministry of Public Health's capacities at the central level; assistance to health, nutrition, and family welfare services in the prefectures of Guera and Tandjile; and support of the pharmaceutical sector.

The health centers and district hospitals provide safe-motherhood services. The objective determined in the UNFPA/Government/ASTBEF project is to develop the reproductive health/family welfare component in 240 health centers, 22 maternity units, five regional hospitals, and three ASTBEF clinics. This objective seeks to raise the contraceptive

prevalence rate from 1.2% to 3.5% in 10 prefectures, and from 1.9% to 5% in the city of N'Djamena.<sup>154</sup>

### 3. Services Provided by NGOs and the Private Sector

Several NGOs and private clinics are active in the family planning field. Among them is ASTBEF, a nationally recognized public-purpose NGO. The government and ASTBEF are engaged in a joint reproductive health/family welfare/sexual health project. The project entails the creation of three model ASTBEF clinics. Currently, however, there is only one, in N'Djamena, and it offers a variety of contraceptive and family planning services, including the following four contraceptive methods: the pill; injectables (Depo-Provera<sup>®</sup> and Noristerat<sup>®</sup>); the intrauterine device (IUD); and barrier methods (condoms, spermicides).

The main obstacles the ASTBEF clinics face in terms of attracting clients are illiteracy and religious reticence. Women's illiteracy makes it difficult for them to follow the rigorous schedules for taking birth control pills. For this reason, women often request injectable contraceptive methods. Religious barriers to contraceptive use stem mainly from lack of information: initially ASTBEF was widely perceived to be an association that advocated limiting births.<sup>155</sup>

Private family planning clinics are found only in N'Djamena, where there are several. The services they offer are relatively expensive, but are of high quality.

## C. CONTRACEPTION

### 1. Prevalence

Contraceptive methods used in Chad can be grouped into three categories: modern methods, including the birth control pill, coil or IUD, injectables, vaginal methods (e.g., spermicides, diaphragms, foams, or gels), condoms, female and male sterilization, and implants (e.g., Norplant<sup>®</sup>); traditional methods, including periodic abstinence and withdrawal; and so-called "folk" methods, including herbs and roots.<sup>156</sup>

The use of contraception is still a recent phenomenon in Chad, and the level of public awareness regarding it is extremely low. In this regard, there are significant differences between men and women. According to Chad's 1996-97 Demographic and Health Survey (1996-97 DHS), 44.6% of all women and 71.5% of all men are familiar with at least one contraceptive method.<sup>157</sup> Modern methods are relatively better known than traditional methods: 42.1% of women and 67.1% of men stated they were familiar with at least one modern method. Only 19% of women and 40.4% of men are familiar with traditional methods.<sup>158</sup>

With regard to contraceptive prevalence, the 1996-97 DHS indicates that at the time of the survey, only 3.9% of Chadian

women used any form of contraceptive; 2.6% used a traditional or folk method (almost exclusively periodic abstinence); and 1.2% used a modern method (mainly the birth control pill and condoms).<sup>159</sup>

The cost of contraceptives in public clinics varies depending on the particular method. Condoms are usually free, or are sometimes sold at a low price. Other contraceptive methods are usually prescribed, or sold at points of service at costs that vary depending on the type.

### 2. Legal Status of Contraceptives

Order No. 008/PR/93 of April 30, 1993 regulates the sale and distribution of contraceptives; contraception is defined as "an action meant to manage fertility voluntarily through the use of natural, medical, or surgical methods."<sup>160</sup> For legal purposes, contraceptive methods can be classified in two categories: reversible methods (e.g., hormonal and injectable, mechanical, barrier, and natural methods), and irreversible methods (e.g., tubal ligation and vasectomy).<sup>161</sup>

Reversible contraceptives are considered to be medicines, and cannot be obtained without a prescription.<sup>162</sup> Reversible methods may be prescribed to any married person with a spouse's consent, to any mentally handicapped person at the request of his or her legal representative, or with medical consent, to any person who has reached the age of majority or to any minor with the written authorization of his or her father, mother, or guardian.<sup>163</sup> Gynecologists or obstetricians, medical and paramedical personnel, doctors, midwives, medical technicians, health aides, and nurses with state degrees may write the prescriptions.<sup>164</sup> Barrier methods, except for the diaphragm, do not require a prescription.<sup>165</sup>

The importation of reversible contraceptives is prohibited to any individual or legal entity that does not have the title of "pharmaceutical products importer."<sup>166</sup> Only public and private hospitals authorized to sell pharmaceutical products can sell contraceptives.<sup>167</sup>

The Pharmacy Inspection Department and the Medical Control Commission regulate the importation of contraceptives.<sup>168</sup> Violators risk a prison sentence of six months to two years and a fine of 100,000 (U.S.\$159.19) to 1,000,000 CFA francs (U.S.\$1,591.88). The penalty for legal entities is a fine of 500,000 (U.S.\$795.94) to 2,000,000 (U.S.\$3,183.75).<sup>169</sup>

### 3. Regulation of Information on Contraception

Order No. 008/PR/93 revises the part of the 1920 French law related to contraceptive propaganda, with Article 17 stating that "birth control methods may be advertised through all information resources: awareness-raising meetings in cities, neighborhoods, and villages; radio and television broadcasts, and films." It is the Ministry of Public Health and the Infor-

mation Ministry's responsibility to disseminate information about the types of contraceptive methods available.<sup>170</sup>

## **D. ABORTION**

### **1. Prevalence**

Clandestine abortions are frequent in Chad, and often lead to complications, sometimes even death. The D'jamena General Referral Hospital's maternity-ward records show that between 1988 and 1992, post-abortion complications represented 6.35% to 25% of the causes of maternal deaths.<sup>171</sup>

Clandestine abortions are still an underestimated health problem. In fact, there are no official statistics on abortion. Until now, no study on the problem has been conducted. The only statistics that are available are provided by hospitals that admit women for post-abortion care after clandestine abortions.

### **2. Legal Status of Abortion**

In Chad, abortion is treated as a criminal act. It is allowed only in a very limited number of cases. In fact, the Medical Ethics Code authorizes an abortion only for therapeutic reasons to save the woman's life.<sup>172</sup> The Penal Code punishes the practice of abortion harshly, by stipulating that: "Whosoever, by food, drink, medicine, violence or by any other means, procures the abortion of a pregnant woman or a woman assumed to be pregnant, whether or not with her consent, will be punished with imprisonment of one to five years and a fine of 50,000 (U.S.\$79.59) to 500,000 CFA francs (U.S.\$795.94)."<sup>173</sup> If the perpetrator routinely practices abortion, the penalty is doubled.<sup>174</sup>

The Code further states: "The woman who procures or attempts to procure her own abortion, or who consents to the use of the means administered for this purpose, shall be punished with imprisonment of two months to two years and a fine of 5,000 (U.S.\$7.97) to 50,000 CFA francs (U.S.\$79.59)."<sup>175</sup>

Medical personnel, specifically doctors, midwives, dental surgeons, and pharmacists, as well as medical students, pharmaceutical students or employees, herbalists, truss manufacturers, surgical instruments merchants, nurses, or masseurs, who have suggested, promoted, or practiced the means of procuring an abortion will be sentenced to the penalties provided for in the other cases of abortion. In addition, they will be suspended for at least five years, with a ban on practicing their professions.<sup>176</sup> If, in spite of these prohibitions, the perpetrators continue to practice their professions, they shall face imprisonment of six months to two years and a fine of 100,000 (U.S.\$159.19) to 1,000,000 CFA francs (U.S.\$1,591.88).<sup>177</sup>

### **3. Requirements for Obtaining a Legal Abortion**

The Medical Ethics Code allows for a therapeutic abortion,

with Article 38 stipulating that "an abortion may be performed only if it is the sole method capable of saving the [woman's] life." The Code further states that "when saving the seriously threatened life of a [woman] requires either surgical intervention or use of a treatment that can cause the interruption of a pregnancy, the attending physician or surgeon is obliged to obtain the opinion of two consulting physicians, one of whom must be included on the list of civil court experts. After an examination and discussion, these consulting physicians shall certify in writing that the woman's life can be saved only by such a therapeutic procedure."

The Code also leaves open the possibility of the patient refusing this intervention. Paragraph five of Article 38 stipulates: "When a therapeutic abortion is indicated, the doctor should accept the potential refusal of a duly informed patient. There can be an exception to this rule only in cases of extreme emergency when the patient is not in a condition to give her consent."

### **4. Policies Related to Abortion**

The Population Policy recommends the prevention of clandestine abortions as a specific action to promote the health of women and children.<sup>178</sup>

### **5. Penalties for Abortion**

Penalties for abortion cited in the Penal Code are very severe (see the section on the Legal Status of Abortion).

### **6. Regulation of Information on Abortion**

The Penal Code sanctions all of the following for promoting or practicing abortion: "doctors, midwives, dental surgeons, and pharmacists, as well as medical students, pharmaceutical students or employees, herbalists, truss manufacturers, surgical instruments merchants, nurses, or masseurs."<sup>179</sup> In addition, the Code calls for suspending those found guilty of such crimes for a minimum of five years, with a ban on practicing their professions.<sup>180</sup>

## **E. STERILIZATION**

Sterilization, which is an irreversible contraceptive method, may be performed only if an individual consents to it in writing, except in cases when a woman's life is at risk if she becomes pregnant.<sup>181</sup> In the case of married persons, the spouse's written consent is required.<sup>182</sup> Some husbands oppose this procedure, even if it is intended to save their wives' lives, on the pretext that it violates their religious beliefs.

Persons who may be legally sterilized fall into three categories: women whose life would be endangered by a new pregnancy; women older than 35 who have at least five living children; and men who have at least five living children.<sup>183</sup>

Medical and paramedical professionals (e.g., doctors, midwives, medical technicians, health aides, and certified nurses) who have received the necessary training are allowed to prescribe and/or perform reversible and irreversible contraceptive methods.<sup>184</sup> Surgical contraception, however, may be performed only in hospitals and public or private maternity centers that have an operating room.<sup>185</sup>

## **F. FEMALE CIRCUMCISION/FEMALE GENITAL MUTILATION**

### **1. Prevalence**

Female circumcision/female genital mutilation (FC/FGM), is widespread in Chad; the prevalence rate is roughly 60%.<sup>186</sup> The only form of FC/FGM practiced is clitoridectomy, either done deeply (cutting of the base of the clitoris) or superficially (cutting of the tip of the clitoris) and sometimes accompanied by excision of the *labia minora*.<sup>187</sup>

According to a 1991 survey by Madame Aché Nabia, an assistant professor at the University of Chad, women of all ages and social classes endorse the practice of FC/FGM. In fact, 68.5% of women in the south favor it, as do 85% of those in the east-central part of the country. In these same areas, the percentage of men supporting FC/FGM almost equals that of women (90% of men in east central Chad). That is not the case in the south, where 63% of the men are opposed to the practice.<sup>188</sup> On the other hand, in the city of N'Djamena, both women and men on the whole are opposed to FC/FGM: roughly 62% of women and 75% of men condemn the practice.<sup>189</sup>

In general, the operation occurs in villages under precarious conditions. The person performing the circumcision uses razor blades or scissors. After the procedure, it is up to close relatives to provide care. This care consists of administering plant-based brews, tea-leaf powder, and putting medicated plaster made of a dried cow pat on the wound. Although rare, there are reports of some families using medicines, such as alcohol and antibiotics.<sup>190</sup>

The age at which FC/FGM is performed varies according to region and family. The operation is generally performed between six and 14 years of age, but girls as young as two to five years old are also circumcised. The family successfully persuades them by offering them presents.<sup>191</sup>

### **2. Laws to Prevent FC/FGM**

In Chad there are no specific laws prohibiting FC/FGM. The Constitution, however, proclaims the human person as "sacred and inviolable," and stipulates that "every individual is entitled to life, bodily integrity, security, liberty, and protection of his/her private life and property."<sup>192</sup> In addition, acts of torture or abuse, or degrading and humiliating treatment,

are prohibited.<sup>193</sup>

The Penal Code section on bodily integrity stipulates that "any individual who has voluntarily administered blows and caused injuries, or committed any other act of assault or battery on another, shall be punished by imprisonment of six days to one year and a fine of 500 (U.S.\$0.80) to 50,000 CFA francs (U.S.\$79.59).<sup>194</sup> When the blows or injuries were inflicted upon a child under the age of 13, the penalty will be doubled."<sup>195</sup>

With regard to involuntary blows and injuries, the Penal Code stipulates that: "Anyone who by ineptness, imprudence, inattention, negligence, or failure to observe a regulation, involuntarily commits or causes a homicide shall be punished by imprisonment of three months to two years and a fine of 5,000 (U.S.\$7.97) to 1,000,000 CFA francs (U.S.\$1,591.88)."<sup>196</sup> When the blows or injuries result from a lack of skill or precaution, and they cause an incapacity to work for more than six days, the guilty person shall be punished by imprisonment of 15 days to one year and a fine of 5,000 (U.S.\$7.97) to 500,000 CFA francs (U.S.\$795.94).<sup>197</sup>

### **3. Policies to Prevent FC/FGM**

The government has no specific policy to prevent FC/FGM.

### **4. Additional Efforts to Prevent FC/FGM**

A number of NGOs and women's associations, like AST-BEF and the National Association for the Prevention of Practices Harmful to Women and Children, are leading the struggle against female circumcision. The U.S. government has just provided ASTBEF with a grant of U.S.\$23,500 to develop an awareness-raising project called "Elimination of Female Genital Mutilation."

## **G. HIV/AIDS AND OTHER STIS**

### **1. Prevalence**

The HIV/AIDS virus spread insidiously but massively in Chad from 1980-1990. Data collected in 1997 showed how the epidemic has grown to unexpected proportions.<sup>198</sup> According to the most recent UNAIDS report, in 1997, the number of HIV-positive adults was estimated at 83,000, or 2.72% of the adult population.<sup>199</sup> Among HIV-positive adults, the number of women was estimated at 42,000.<sup>200</sup> HIV-positive children numbered 4,200, and the number of orphans due to AIDS was estimated at 55,000.<sup>201</sup> Since the beginning of the epidemic, the number of confirmed AIDS cases among the total population is estimated to be 75,000.<sup>202</sup>

### **2. Laws Related to HIV/AIDS**

There are no laws that specifically address HIV/AIDS in Chad. However, one of the National Health Policy's objectives

is to reduce morbidity and mortality resulting from STIs/HIV/AIDS. To reach this goal, the following strategies to prevent HIV transmission are recommended: establishing a team of trainers to relay information; producing educational material; strengthening the operational capacities of the National AIDS Prevention Program; and ensuring safe blood transfusions.<sup>203</sup>

### **3. Laws Related to other STIs**

There are no laws that specifically address STIs in Chad.

### **4. Programs Related to Prevention and Treatment of HIV/AIDS**

The government has established a number of institutions to address the HIV/AIDS epidemic. In particular, it has created the National AIDS Prevention Program (PNLS), which is responsible for implementing the national AIDS prevention policy. The National AIDS Prevention Committee (CNLS) and the Technical AIDS Prevention Commission (CTLS) assist the PNLS.<sup>204</sup> The government developed the first medium-term AIDS prevention plan in 1989 and implemented it from 1989 to 1993. The plan's implementation illustrated the need to develop a multi-sector approach to AIDS prevention.<sup>205</sup>

Thus, the ministries involved directly in HIV/AIDS prevention were designated as "the lead ministries." They are responsible for spearheading the HIV/AIDS prevention effort in their respective sectors. Each lead ministry has created an anti-AIDS unit. The PNLS provides technical assistance in the form of qualified personnel and educational materials to the anti-AIDS units, which are responsible for the design and development of HIV/AIDS prevention projects for their clientele. At the level of the National Education Ministry, the role of the anti-AIDS unit is to raise the awareness of students, teachers, and parents about the detrimental effects of HIV/AIDS. The priority is to emphasize the prevention of sexual transmission of HIV.

Since 1991, Chad has had an epidemiological tracking system that makes it possible to monitor HIV prevalence in four operational sentry sites.<sup>206</sup> Due to the inadequacy of these sites, it has become necessary to increase the AIDS control posts. In 1995, the government developed a second medium-term plan for the 1995-1999 period.

The government has called upon NGOs, private associations, local communities, religious denominations, and the private sector to help in the struggle against AIDS. It has devised strategies to mobilize the necessary resources.<sup>207</sup> In particular, it has created the Population and AIDS Prevention Project (PPLS). With PPLS support numerous activities have been undertaken, including: developing and implementing instruments and documents that support program resource and

activity management; holding many reflective workshops with a variety of participants on the struggle against AIDS in Chad; and producing and disseminating educational materials.<sup>208</sup> Several other NGOs participate in AIDS prevention in Chad.

In its struggle against HIV/AIDS, the government has also targeted STIs. It has adopted a syndrome-by-syndrome approach, which will enable it to treat the disease more effectively. Indirectly, this also will reduce HIV/AIDS transmission in Chad. In fact, this approach makes it possible for patients to have access to appropriate treatment as early as their initial visits to the health service, and may by itself interrupt the HIV/AIDS transmission cycle. To carry out this approach successfully, the National AIDS Prevention Program has developed a guide to using health services at all levels, entitled "The National Guide to Managing STIs."<sup>209</sup>

## **IV. Understanding the Exercise of Reproductive Rights: Women's Legal Status**

Women's reproductive health and rights cannot be fully evaluated without investigating women's status within the society in which they live. Not only do laws relating to women's legal status reflect societal attitudes that affect reproductive rights, but such laws often have a direct impact on women's ability to exercise those rights.

The legal context of family life, women's access to education, and the laws and policies affecting their economic status can contribute to the promotion or the restriction of women's access to reproductive health care and their ability to make voluntary, informed decisions about such care. Laws regarding the age of first marriage can have a significant impact on a young woman's reproductive health. Furthermore, rape laws and others related to sexual assault or domestic violence present significant rights issues and can also have direct consequences for women's health.

### **A. LEGAL GUARANTEES OF GENDER EQUALITY/NON-DISCRIMINATION**

Chad's Constitution makes equality a fundamental right of all citizens and cites this freedom in several of its clauses. For example, Article 13 specifies that "Chadians of both sexes have the same rights; they are equal before the law." The government ensures equality before the law for every citizen, regardless of origin, race, gender, religion, caste, political opinion, or social position.<sup>210</sup> It has "the duty to oversee the elimination of

all forms of discrimination against women and to ensure the protection of women's rights in all areas of public and private life."<sup>211</sup>

## **B. RIGHTS WITHIN MARRIAGE**

### **1. Marriage Law**

There is no Family Code in force in Chad. As a result, rights within marriage are governed by several texts that are sometimes contradictory. In particular, these are the 1958 French Civil Code, which is still in force in Chad; Order 03/INT/61 of June 21, 1961; and various customs. Islamic religious practices also play a significant role.

The 1958 Civil Code recognizes a certain set of rights for women before, during, and after marriage. Before marriage, during the engagement period, a prospective spouse who breaks the engagement without reason may be punished if the abandoned spouse can prove she suffered damage.<sup>212</sup> She also is entitled to keep the customary wedding presents, even if the marriage does not take place.<sup>213</sup>

Before marriage, prospective spouses may choose one of three forms of property management: community property, separation of property, and limited community property. The choice should be specified in a marriage contract drawn up before the marriage in the presence of a notary and both prospective spouses. Without this contract, the type of marriage is assumed to be community property.<sup>214</sup> Order 03/INT/61 of June 21, 1991, was intended to complement the Civil Code but in fact turned out to contradict some of its provisions. The order stipulates that if no arrangement is specified, the separation of property system applies. As noted above, the Civil Code assumes that a community property system applies.

The legislature protects women by establishing certain standards. Thus, the minimum age at first marriage is set at 16,<sup>215</sup> and the consent of the prospective spouses is required. If a marriage was contracted without her consent, a woman may contest it in court and ask for an annulment.<sup>216</sup> In addition, the husband owes his wife fidelity.

The legislature addresses polygamy by making it the norm. Spouses, however, may opt for monogamy. This option is specified in Order 03/INT/61, which stipulates that "spouses may renounce polygamy. When this clause is violated, the marriage may be dissolved at the wife's request alone with or without reimbursement of the bride-price."<sup>217</sup> By contrast, the Civil Code requires a monogamous system and specifies that no one may contract a second marriage without dissolution of the first.

Chadian law gives predominance to customs. Order 6/67 concerning Chad's legal system stipulates that in civil matters, statutory law is applied only when customs are silent on a particular matter, or when customs oppose law and order. Order

03/INT/61 instituted and made mandatory some customary practices, such as the payment of bride-price.

### **2. Divorce and Custody Law**

Divorce or a spouse's death terminate a marriage. The court must pronounce a divorce, which may be either fault-based or mutually consented to; also, an extended separation may be converted into a divorce. If the divorce is pronounced as the husband's fault, the wife obtains custody of the children and is entitled to alimony. In addition, if she was married under the community property system, she is entitled to half of the household's property. The property is to be divided after an inventory is presented to the court.<sup>218</sup>

When the husband dies, the Civil Code stipulates that the wife, as surviving spouse, has guardianship rights over the children. She is entitled to inherit a share of her husband's property. If she was married under the community property system, she is entitled to half the property, to which she adds her share of the half inherited by her children.

With regard to marriage and divorce, it must be noted that Chadian women are legally less protected than men. Although a certain number of legislative and regulatory texts grant women numerous rights, in practice, equal rights do not exist at all levels. Institutional factors and the status of women in Chad explain this inequality.

## **C. ECONOMIC AND SOCIAL RIGHTS**

### **1. Property Rights**

Act No. 24 of July 22, 1967 focuses on land and customary rights. This Act discusses procedures for recording property through registration, though only land and buildings may be registered.<sup>219</sup> According to Article 4 of the Act, a land title can be granted only to the owners and co-owners of a property. The text makes no distinction between genders.

In practice, the procedures regarding property ownership vary, and are evolving. In cities, it is easier for women to acquire large property domains than in rural areas, though it always depends on their financial capacity. Women, therefore, have organized themselves into groups in order to acquire real estate.

### **2. Labor Rights**

The Constitution guarantees the right to work in Article 32, which stipulates: "The state recognizes the right to work for all citizens. It guarantees workers just compensation for their services or work product. No one may be wronged in their work because of origin, opinions, beliefs, gender, or marital status."<sup>220</sup> In addition, access to public jobs is guaranteed to all Chadians without discrimination, subject to the conditions appropriate to each job.



The new Labor Code, adopted in November 1996, and its implementation texts—including the former Decree No. 58 of February 8, 1969 regarding women's night work—govern the right to work. These texts make no distinction with regard to women's work. On the contrary, several clauses in the Labor Code give special protection to women.

The Labor Code protects pregnant women. In fact, “employees are prohibited from making pregnant women work in the four weeks prior to their expected due date and in the six weeks after childbirth.”<sup>221</sup> The Code also gives women the right to interrupt their work contract for a period of six weeks before their expected due date and eight weeks after childbirth.<sup>222</sup> If delivery occurs before the due date, a woman may extend her contract-suspension period after childbirth to the 14 weeks to which she is entitled. If delivery occurs after the due date, a woman is obligated to resume work eight weeks after childbirth.<sup>223</sup>

If a medical record states that the pregnancy or delivery caused illness or disability, the length of leave may be extended by three weeks both before and after delivery.<sup>224</sup> During this period, a woman is entitled to free medical care. Her employer is responsible for paying for this care if it is not covered by the National Social Security Fund (CNSS), and assumes responsibility for this care under conditions provided for by existing collective bargaining agreements.<sup>225</sup>

A mother is entitled to one hour of break time per day to nurse for the first 15 months after childbirth.<sup>226</sup> During pregnancy, no employer may fire a woman, unless she is guilty of gross misconduct or it is impossible for her to continue her work contract. A woman cannot be fired during the prenatal and postnatal leave periods, whether she exercises her right to this leave or not.<sup>227</sup> When these rules are violated, a woman is entitled to compensation equal to 12 months' salary. In addition, she may be owed further compensation because of her dismissal.<sup>228</sup>

Pregnant women, or women in the 15 months after childbirth, can break their work contract without notice and without having to pay any compensation.<sup>229</sup> Any employer who forces a pregnant woman or a woman who has given birth to work, or who fires her during her maternity leave, is subject to a fine of 147,000 (U.S.\$234.23) to 294,000 CFA francs (U.S.\$468.46). Repeated cases merit a fine of 588,000 (U.S.\$936.92) to 882,000 CFA francs (U.S.\$1,405.38).<sup>230</sup>

A woman is entitled to time off for a minimum of 12 consecutive hours.<sup>231</sup> In addition to maternity leave, women are entitled to four weeks' annual vacation. This period of time may be extended through a collective bargaining agreement for mothers.<sup>232</sup>

The Labor Code protects women with regard to night

work. Night work hours extend from 10 p.m. to 5 a.m. Women are prohibited from night work in industries, unless they supervise or do not perform services that involve manual labor. They may also be exempted if they work with other members of their family.<sup>233</sup>

Workers and employees of both genders are prohibited from working more than 39 hours per week.<sup>234</sup> In agricultural and similar establishments, work hours cannot exceed 2,400 hours per year.<sup>235</sup>

The Labor Code guarantees equal pay to salaried employees of both genders for the same or equivalent work.<sup>236</sup> Pay scales for men and women should be based upon identical standards. Criteria for professional promotion should also be identical. Noncompliance with these provisions can cause a decision about pay or other matters to be null and void.

The former Labor Code's implementing order, which is still in effect in Chad, also protects women. Thus, it is prohibited to employ women for work that exceeds their strength or presents risk, or which by its nature might offend one's moral code. Women's workday cannot exceed 10 hours; nor can women be employed in underground work or work in mines. Nor can they be required to carry or push loads that exceed the authorized weight limit.<sup>237</sup>

### 3. Access to Credit

There are no specific laws or regulations governing women's access to credit. Although women have the same legal rights as men, in reality disparities exist. In Chad, women participate fully in the country's economic life, even if their work is undervalued. Women represent 85.9% of agricultural workers.<sup>238</sup>

In the informal sector—where the majority of women work—and especially in the small business sector, it is difficult for women when it comes to obtaining bank loans. Although banks do not formally discriminate against women, the social and economic inequalities women experience put them at a disadvantage in obtaining bank loans. In general, women do not own land or property with any economic value that might be used as collateral for a loan application, especially for a significant loan. To overcome these difficulties, some NGOs grant women loans at a reduced cost with flexible conditions.

In Chad, women's access to loans of any size is a new phenomenon. Women do not always understand the rules and procedures governing these loans. They remain attached to the traditional *tontine* system that has retained a social value. These types of loans are at women's discretion, while loans granted by organizations or institutions have very specific targets.

The Population Activities Support Fund (FOSAP), which is a component of the Population and AIDS Prevention Project

(PPLS), is supported by a loan from the United States Agency for International Development (loan No. 2692 C.D). This loan aims to promote development of small income-generating activities by offering micro-credits for disadvantaged social classes and for women without collateral who cannot obtain a formal bank loan.<sup>239</sup>

#### **4. Access to Education**

The Constitution guarantees the same educational rights to women and men. Article 35 stipulates that “every citizen is entitled to education. Public education is both secular and free. The state recognizes private education, which is regulated under conditions defined by law. Basic education is compulsory.”<sup>240</sup>

In Chad, there are two types of education: “informal” basic education, and “formal” or modern education. Until recently, the only form of education that girls received was informal education, the main objective of which was to prepare them for marriage and family life. Girls were taught an attitude of reserve and submission, and that home life is a priority. They were also subjected to certain rites, such as initiation or female circumcision, which were meant to mark their passage into womanhood.

Today, women in Chad receive not only informal education, but also formal education. Although modern education is a determining factor in the emancipation of women, it has yet to gain widespread social acceptance. In fact, many families still regard education as a locus of depravity.

Access to education for boys and girls is unequal. In primary school, one out of three students is female. Girls constitute 28.3% of primary school students. In the first year of secondary school, the ratio between girls and boys is one to four, and gender inequality in school grows with each succeeding grade.<sup>241</sup>

There are, however, several measures underway aimed at reversing this trend. To increase the number of girls in formal schooling, the government, with help from international donors, has established a girl’s school enrollment project. This project is now in the trial stages in four regions.<sup>242</sup> In addition, within the National Education Ministry, there is a Women’s Education Division under the Department of Training and Pedagogical Action. In a dozen women’s training centers, this division offers courses that are directed at girls in primary school, as well as at older women.

With regard to literacy, the government holds basic education for women as a priority. One of the government’s recommendations for the advancement of women in its Population Policy is to “to develop special programs for women’s literacy to raise the current rate from 13% to 30% by the year 2000 and to 60% by the year 2010.”<sup>243</sup>

## **D. RIGHT TO PHYSICAL INTEGRITY**

### **1. Rape**

The Penal Code does not define rape, but nonetheless punishes it with a sentence of forced labor.<sup>244</sup> If the rape was committed on a child younger than 13, or with the assistance of one or several persons, or by one of the victim’s older relatives, the sentence is forced labor for life.<sup>245</sup> In addition, the older relatives are stripped of their paternal rights.<sup>246</sup>

In 1996-1997, 65 cases of rape were submitted to the N’Djamena court of first instance. Most of these were corroborated by medical records. The records showed that 17 of these cases were deemed to be crimes of indecency.<sup>247</sup>

No law or other texts provide for or punish marital rape. Marital rape is common and considered “normal,” since it is assumed to be a woman’s obligation to submit to and obey her husband.

### **2. Domestic Violence**

The Penal Code strictly prohibits assault and battery. Under Article 252, any person who voluntarily strikes, injures, or commits any other act of assault or battery against another shall be punished by imprisonment of six days to one year and a fine of 500 (U.S.\$0.80) to 50,000 CFA francs (U.S.\$79.59).<sup>248</sup> If there is premeditation or a trap, imprisonment will be six months to five years, and the fine 5,000 (U.S.\$7.97) to 100,000 CFA francs (U.S.\$159.19).<sup>249</sup> If these violent acts result in illness or an incapacity to work for more than 20 days, imprisonment will be one to five years, and the fine, 5,000 (U.S.\$7.97) to 100,000 CFA francs (U.S.\$159.19).<sup>250</sup> If the acts caused mutilation, amputation, or deprivation of the use of a limb or an eye, the loss of an eye, or other injuries, or if they inadvertently caused death, imprisonment will be five to 10 years and the fine 10,000 (U.S.\$15.93) to 500,000 CFA francs (U.S.\$795.94).<sup>251</sup>

The Penal Code does not include specific articles on violence against women committed inside the home. Certain general clauses, however, can be invoked in the effort to obtain justice. In practice, public opinion supports women’s rights against their husbands only if the violence was accompanied by unmistakable animosity or if serious injuries or other incapacities resulted. Simple blows and slight injuries are considered to be acceptable and appropriate in marital relations and part of a wife’s “education.” Six out of 435 court decisions regarding violations of women’s bodily integrity involved situations where the woman died as a result of the blows and injuries.<sup>252</sup>

### **3. Sexual Harassment**

Although common in professional environments, Chad’s Penal Code neither mentions nor prohibits sexual harassment.

Four cases were brought before the N'Djamena Penal Court, but the perpetrators were released due to lack of evidence that a crime was committed. Most of the victims remain silent and do not denounce persons guilty of committing these acts for fear of reprisals or losing their jobs.

## v. Focusing on the Rights of a Special Group: Female Minors and Adolescents

The reproductive health needs of adolescents are often unrecognized or neglected. Because early pregnancy has disastrous consequences for the health of mothers and children, it is important to study the reproductive lives of adolescents between 15 and 19 years old. Approximately 48% of Chad's population is under 15 years old.<sup>253</sup> Chad's 1996-97 DHS showed that adolescents, who constitute 23% of women of childbearing age, constitute almost 15% of the country's total fertility rate.<sup>254</sup> Between the ages of 15 and 19, 39% of women have already begun childbearing: 30% have already had a child, and 9% are pregnant for the first time.<sup>255</sup> Thus it is particularly important to meet the reproductive health needs of this group.

### A. REPRODUCTIVE HEALTH OF FEMALE MINORS AND ADOLESCENTS

By the age of 15, 9% of women in Chad have begun childbearing, and this percentage rapidly increases with age: at 17, 40% of women have already had at least one child or are pregnant; at 19, more than two thirds of women (68%) have begun childbearing, and most of them (62%) have already had at least one child.<sup>256</sup>

Chad's 1996-97 DHS shows the early start of sexual relations among Chadian women: 40% of women 25 to 49 years of age had already had their first sexual relationship at 15; 95% at 22, and 98% at 25. The average age of first sexual relationship is 15.5 years, while the age at first marriage is 15.8 years.<sup>257</sup> On the other hand, it is notable that men's sexual activity does not begin as early as women's: only 4% of men had had their first sexual relationship by the age of 15.<sup>258</sup>

### B. FEMALE CIRCUMCISION/FEMALE GENITAL MUTILATION OF FEMALE MINORS AND ADOLESCENTS

According to a report presented by Madame Aché Nabia, Chadian women are subject to female circumcision/female genital mutilation (FC/FGM) at a young age, generally between six

and 14 years old. Until recently, in certain ethnic groups, FC/FGM was performed on girls between 10 and 16 years of age. Now the operation is done on girls between two and five years old.<sup>259</sup>

Chadian statutory law does not specifically prohibit FC/FGM of adolescents. However, without referring explicitly to female circumcision, the Penal Code punishes mutilations, amputations, or deprivation of the use of a limb (...) or other infirmities resulting from blows, injuries or other types of assault and battery.<sup>260</sup> With regard to minors, the Penal Code specifies that when a child below the age of 13 is struck or injured, the penalty is doubled.<sup>261</sup> The minimum sentence for such a crime is 20 years in prison and a possible fine of up to 1,000,000 CFA francs (U.S.\$1,591.88).

Although the practice of female circumcision is sometimes denounced in radio broadcasts by prominent personalities, the government has not taken any official action to prohibit it. Political leaders seem to be content to state their objections to this dangerous practice without pushing for any practical results.

### C. MARRIAGE OF FEMALE MINORS AND ADOLESCENTS

The age at first marriage or first sexual relationship has a significant effect on a woman's reproductive behavior, as well as on her reproductive health and social status. Generally, marriage of a minor results in early pregnancy. Early pregnancy, in turn, constitutes a major risk factor in both maternal mortality and the school dropout rate. It also constitutes a major risk factor for the children born to these young mothers. In light of these risks, the Chadian legislature has expressly determined a minimum age at first marriage.

According to contemporary law based on the French system, a registry official must ensure that the stipulations regulating marriage have been met, especially the minimum age requirements. At the time of first marriage, girls must be at least 16 years of age, and boys, at least 19. Chadian statutory law, however, contains contradictions concerning the legal age of marriage. Article 277 of the Penal Code stipulates that "the consummation of a customary marriage before a girl has reached the age of 13 is similar to rape and shall be punished as such." Thus since the adoption of the Penal Code in 1967, customary marriages have been allowed, even when girls have not yet reached the age of 13, under the condition that it is not consummated.<sup>262</sup>

Most marriages in Chad are customary, and the primary objective of these marriages is to have children. In practice, the age at the time of customary marriage for girls varies between 10 and 12 years old. Generally, the girl's consent is not required;

she is educated to submit to her parent's decisions and those of her future husband. By law, however, consent of the prospective wife is one of the fundamental conditions for a marriage's validity. A woman can go to court to annul a marriage that was made without her consent.<sup>263</sup>

The reason for early marriages is that parents' have the desire to safeguard their daughter's virginity, and thereby, their honor. The fact that parents may request a significant bride-price if their daughter is a virgin only reinforces the incentive to marry daughters at an early age. Marital rape is punished only in cases of girls under the age of 13.<sup>264</sup> For girls 13 and older, courts rarely sentence husbands for marital rape.

#### **D. EDUCATION FOR FEMALE MINORS AND ADOLESCENTS**

With regard to formal education, school attendance overall remains low. The Chadian school system, however, has experienced a rapid growth in the number of students in recent years. Unfortunately, this trend does not hold for girls. To a large extent, this is due to the fact that for girls, marriage is the priority. Thus 28.3% of girls and 51.8% of boys are enrolled in primary school. By the first cycle of secondary school, 2.6% of girls and 8.8% of boys attend school. The percentage falls to 0.6% and 3.1% respectively, in the second cycle.<sup>265</sup> For this reason, the government expressed its desire in the Population Policy to "fight the taboos that prevent girls' education and take the appropriate steps to raise their school enrollment rate."<sup>266</sup>

#### **E. SEXUALITY EDUCATION FOR FEMALE MINORS AND ADOLESCENTS**

In the Population Policy, the government also expressed its desire to create conditions for the happiness and well-being of children and youth, while respecting their fundamental rights. Within this context, one of the recommended actions is to "promote and strengthen family life education and education about population issues, and integrate them into school and extra-curricular programs."<sup>267</sup>

The government and NGOs, with funding from international donors, have designed sexuality education programs. They have also developed information programs to help raise adolescent awareness about certain facts to promote responsible sexuality.

#### **F. SEXUAL OFFENSES AGAINST FEMALE MINORS AND ADOLESCENTS**

The Penal Code punishes crimes and sexual offenses against minors with varying degrees of penalties. Older relatives implicated in these offenses will be deprived of their paternal rights.<sup>268</sup>

##### **1. Indecent Assault**

Indecent assault committed or attempted without violence against a child of either sex younger than 13 years of age is punishable by imprisonment of two to 10 years.<sup>269</sup>

##### **2. Rape**

The rape of a child under the age of 13, rape committed with the assistance of others, or rape committed by an older relative of the victim, carries the penalty of a life sentence to forced labor.<sup>270</sup> To these penalties, complementary penalties may be invoked, such as the removal of certain rights (in particular, loss of civil rights) or the prohibition on practicing a profession, activity, or trade.<sup>271</sup> Loss of civil rights involves:<sup>272</sup>

- Dismissal and exclusion from all duties, employment, or public offices;
- Deprivation of all civil and political rights and the right to wear any military decorations;
- Inability to be a guardian, subrogate guardian, trustee, or legal advisor of children who are not ones' own, and to be part of a family council;
- Deprivation of the right to bear arms, run a school, teach, and be an employee in an educational institution as a professor, teacher, or supervisor;
- Deprivation of the right to direct or manage a company with capital and to be part of the board of directors of such a company.

##### **3. Assault on Morals**

Anyone who attacks morals, either by provoking, promoting, or facilitating debauchery or corruption of a young person under the age of 21 of either gender, or even occasionally, minors under the age of 13, will be punished by the penalties that apply to procuring.<sup>273</sup>

##### **4. Homosexuality**

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.\$797) to 100,000 CFA francs (U.S.\$15919).<sup>274</sup>

##### **5. Kidnapping or Abduction of Minors**

Other rules protect minors from kidnapping, abduction, concealment, substitution, or the failure to return them to their parents or legal guardians. For example, anyone who, without fraud or violence, kidnaps or attempts to kidnap, abducts or attempts to abduct, a minor 15 years of age or younger is subject to imprisonment of two to five years and a fine of 5,000 (U.S.\$797) to 100,000 CFA francs (U.S.\$15919).<sup>275</sup>

If an abducted minor marries her abductor, however, the abductor can be prosecuted only by those who have the authority to request annulment of the marriage. He can be convicted only after this annulment.<sup>276</sup> If the abduction

involved fraud or violence or if the minors were led, diverted, or moved from the places they were put by those who exercise authority or guidance over them, the perpetrators shall be punished by imprisonment of five to 10 years. Attempts to do any of the above are also punished with the same penalties.<sup>277</sup>

The penalties are doubled for minors under 13 years of age. Failure to provide food or care to an extent that compromises a child's health is punished in the same way as assault and battery.

The environment in which a young girl or adolescent girl lives makes her vulnerable to a situation in which her fate is decided by others. With regard to marriage, she cannot escape the weight of tradition and statutory law. Despite its adoption of the Population Policy in 1994, the government's efforts are still tentative when it comes to helping adolescents meet their needs, especially their reproductive health needs through IEC programs.

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65. *Id.*
66. *Id.*, TITLE II, Chapter I, Art. 5.
67. *Id.*, TITLE II, Chapter I, Art. 6.
68. *Id.*, TITLE II, Chapter II, Art. 10.
69. *Id.*, TITLE II, Chapter II, Art. 11.
70. *Id.*, TITLE II, Chapter III, Art. 17.
71. *Id.*, TITLE II, Chapter III, Art. 18.
72. *Id.*, TITLE II, Chapter III, Art. 20.
73. *Id.*, TITLE II, Chapter III, Art. 25.
74. *Id.*, TITLE II, Chapter III, Art. 26.
75. *Id.*, TITLE II, Chapter III, Art. 36.
76. *Id.*, TITLE VIII, Art. 177.
77. *Id.*, TITLE VIII, Art. 178.
78. *Id.*
79. *Id.*
80. *Id.*, TITLE VIII, Art. 180.
81. *Id.*, TITLE IX, Arts. 183, 186.
82. *Id.*, TITLE IX, Art. 184.
83. *Id.*, TITLE XIII, Art. 222.
84. United Nations Human Rights Website, *Treaty Bodies Database Status by Country* (last visit, November 16, 1999) <http://www.unhchr.ch/tbs/doc/nsf/all+views/...>
85. CHAD CONST., TITLE II, Art. 14.
86. *Id.*
87. *Id.*, TITLE II, Chapter I, Art. 17.
88. THOMAS H. REYNOLDS AND ARTURO A. FLORES, FOREIGN LAW: CURRENT SOURCES OF CODES ANDS LEGISLATION IN JURISDICTIONS OF THE WORLD; CHAD 2-3 (1993).
89. CHAD CONST., TITLE VI, Chapter II, Art. 161.
90. *Id.*
91. *Id.*, TITLE VI, Chapter II, Art. 162.
92. *Id.*
93. *Id.*, TITLE VI, Chapter II, Art. 163
94. MINISTÈRE DE LA SANTÉ PUBLIQUE, POLITIQUE NATIONALE DE SANTÉ, RAPPORT DE LA

- RÉUNION SECTORIELLE "SANTÉ" (June 1998) [hereinafter, POLITIQUE NATIONALE DE SANTÉ].
95. *Id.*, at 33.
96. *Id.*, at 44.
97. *Id.*, at 52.
98. Decree No. 86/PR/94 of February 10, 1994 organizing the Ministry of Public Health.
99. *Id.*
100. POLITIQUE NATIONALE DE SANTÉ, *supra* note 94.
101. *Id.*
102. *Id.*
103. *Id.*, at 43.
104. *Id.*, at 44.
105. *Id.*
106. *Id.*
107. MINISTÈRE DE LA SANTÉ PUBLIQUE, DIRECTION DES ARCHIVES, ÉTUDE SUR LA PROGRAMMATION FONCTIONNELLE DES INFRASTRUCTURES SANITAIRES AU TCHAD (1994).
108. POLITIQUE NATIONALE DE SANTÉ, *supra* note 94, at 11.
109. *Id.*, at 15 and 16.
110. MINISTÈRE DU PLAN ET DE LA COOPÉRATION, DIVISION DE LA POPULATION, POPULATION ET LE DÉVELOPPEMENT AU TCHAD, at 12 (October 1994).
111. POLITIQUE NATIONALE DE SANTÉ, *supra* note 94, at 56, 57.
112. *Id.*, at 56.
113. *Id.*, at 72.
114. *Id.*, at 19.
115. Ministère de la Santé Publique, Direction des Archives, Decree No. 300/MSP/DG/HGRN/DA/95 concerning the prices at the national general referral hospital.
116. *Id.*, at 2.
117. *Id.*
118. *Id.*
119. *Id.*, at 5.
120. *Id.*
121. POLITIQUE NATIONALE DE SANTÉ, *supra* note 94, at 56, 57.
122. 1996-1997 DHS, *supra* note 10, at 112.
123. Order No. 010/PR/91 of June 1991 creating the National Pharmacists Association.
124. *Id.*, Art. 4.
125. *Id.*, Art. 6.
126. *Id.*, Art. 4.
127. *Id.*, Art. 12.
128. *Id.*, Art. 31.
129. *Id.*, Art. 32.
130. Decree No. 519/PR/91 of August 20, 1991 concerning the organization and responsibilities of the Ministry of Health and Social Affairs, Art. 6.
131. Order No. 160/MENJES/DG/DRST/93 of November 8, 1993.
132. *Id.*
133. MINISTÈRE DU PLAN ET DE LA COOPÉRATION, DIVISION DE LA POPULATION, DÉCLARATION DE POLITIQUE DE POPULATION DU TCHAD, adopted by Act 025/PR/94 of July 22, 1994 [hereinafter, POLITIQUE DE POPULATION].
134. 1996-97 DHS, *supra* note 10, at 2.
135. *Id.*, at XXIII.
136. *Id.*, at 2.
137. *Id.*, at 3.
138. *Id.*
139. POLITIQUE DE POPULATION, *supra* note 133, at 3.
140. Order 003/MPC/SE/DG/DPDR/93 of January 13, 1993 creating an Interministerial Technical Committee on Population.
141. Order 008/PR/93 of April 30, 1993 regulating contraception in Chad, Chapter IV, Art. 17.
142. LABOR CODE, new Art. 52.
143. POLITIQUE DE POPULATION, *supra* note 133, at 7.
144. *Id.*, at 8.
145. *Id.*, at 9.
146. *Id.*, at 11-25.
147. *Id.*, at 26.
148. *Id.*, at 27.
149. *Id.*, at 28.
150. *Id.*
151. Decree No. 250/PR/MPC/94 of October 5, 1994.
152. MINISTÈRE DES AFFAIRES SOCIALES ET DE LA CONDITION FÉMININE, POLITIQUE DE PROMOTION DE LA FEMME TCHADIENNE, Vol. I, at 50 (1995).
153. PROGRAMME NATIONAL DE LUTTE CONTRE LE SIDA (PNLS), LA LUTTE CONTRE LE VIH/SIDA/MST AU TCHAD, UNE RÉPONSE NATIONALE ÉLARGIE AUX DIMENSIONS DE LA PROBLÉMATIQUE (October 1997) [hereinafter, LA LUTTE CONTRE LE VIH/SIDA/MST]
154. Government/ASTBEF/UNFPA, Report on the Reproductive Health/Family Welfare/Sexual Health Project.
155. Interview with Madame Madingué Mariam, Midwife, Head of the ASTBEF model clinic.
156. 1996-97 DHS, *supra* note 10, at 56.
157. *Id.*, at 56, 57.
158. *Id.*
159. *Id.*, at 64.
160. Order 008/PR/93 of April 30, 1993, *supra* note 141, Chapter I, Art. 2.
161. *Id.*, Art. 3.
162. *Id.*, Art. 4.
163. *Id.*, Art. 5.
164. *Id.*, Arts. 8 to 11.
165. *Id.*, Art. 12.
166. *Id.*, Art. 14.
167. *Id.*, Art. 15.
168. *Id.*, Art. 16.
169. *Id.*, Art. 19.
170. *Id.*, Art. 18.
171. ASTBEF Magazine.
172. Decree No. 55-1591 of November 28, 1995 concerning the Professional Code of Ethics, Art. 38.
173. PENAL CODE, TITLE VIII, Chapter III, Section 3, Art. 296, ¶ 1.
174. *Id.*, TITLE VIII, Chapter III, Section 3, Art. 296, ¶ 2.
175. *Id.*, TITLE VIII, Chapter III, Section 3, Art. 296, ¶ 3.
176. *Id.*, TITLE VIII, Chapter III, Section 3, Art. 296, ¶ 4.
177. *Id.*, TITLE VIII, Chapter III, Section 3, Art. 296, ¶ 5.
178. POLITIQUE DE POPULATION, *supra* note 133, at 10.
179. PENAL CODE, TITLE VIII, Chapter III, Section 3, Art. 296, ¶ 4.
180. *Id.*
181. Order 008/PR/93 of April 30, 1993, *supra* note 141, Chapter II, Art. 6.
182. *Id.*, Art. 7.
183. *Id.*, Art. 6.
184. *Id.*, Art. 9.
185. *Id.*, Art. 13.
186. NAHID TOUBIA, FEMALE GENITAL MUTILATION: A CALL FOR GLOBAL ACTION, at 25 (1995).
187. MME. ACHÉ NABIA, ASSISTANT TEACHER AT THE UNIVERSITY OF CHAD, RAPPORT D'ENQUÊTE SUR L'EXCISION FÉMININE, at 3 (August 1991).
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189. *Id.*
190. *Id.*, at 5.
191. *Id.*
192. CHAD CONST., TITLE II, Chapter I, Art. 17.
193. *Id.*, TITLE II, Chapter I, Art. 18.
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195. *Id.*, TITLE V, Chapter I, Art. 254.
196. *Id.*, TITLE V, Chapter II, Art. 262.
197. *Id.*, TITLE V, Chapter II, Art. 263.
198. LA LUTTE CONTRE LE VIH/SIDA/MST, *supra* note 153.
199. UNAIDS, REPORT ON THE GLOBAL AIDS EPIDEMIC, at 64 (June 1998).
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201. *Id.*
202. *Id.*, at 67.
203. POLITIQUE NATIONALE DE SANTÉ, *supra* note 94, at 65.
204. LA LUTTE CONTRE LE VIH/SIDA/MST, *supra* note 153.
205. *Id.*
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207. *Id.*
208. *Id.*
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210. CHAD CONST., TITLE II, Art. 14, ¶ 1.
211. *Id.*, TITLE II, Art. 14, ¶ 2.
212. 1958 CIVIL CODE, Art. 1382.
213. *Id.*, Art. 852.
214. RAKIA KABA DIAKITE, RAPPORT SECTORIEL, ASPECTS JURIDIQUES ET ÉDUCATION, FEMMES ET DÉVELOPPEMENT, at 5 (Consulting done for the UNDP in 1994).
215. 1958 CIVIL CODE, Art. 186.
216. *Id.*, Art. 144.
217. Order 03/INT/61 of June 21, 1961, First Art.
218. RAPPORT SECTORIEL, ASPECTS JURIDIQUES ET ÉDUCATION, FEMMES ET DÉVELOPPEMENT, *supra* note 214, at 7.
219. Act No. 24 of July 22, 1967, concerning the land system and customary rights, Arts. 2 and 3.
220. CHAD CONST., TITLE II, Chapter I, Art. 32.
221. LABOR CODE, PART III, Chapter 3, Section 1, Art. 107.
222. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 108, ¶ 1.
223. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 108, ¶ 2.
224. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 109.
225. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 110.
226. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 111.
227. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 112.
228. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 113.
229. *Id.*, BOOK II, TITLE III, Chapter 3, Section 1, Art. 114.
230. *Id.*, BOOK II, TITLE V, Art. 186.
231. *Id.*, BOOK III, TITLE I, Chapter 3, Art. 208.
232. *Id.*, BOOK III, TITLE I, Chapter 3, Section 2, Art. 214.
233. *Id.*, BOOK III, TITLE I, Chapter 2, Art. 205.
234. *Id.*, BOOK III, TITLE I, Chapter 1, Art. 194.
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236. *Id.*, BOOK III, TITLE III, Chapter 1, Art. 246.
237. Implementing decree of the Labor Code, No. 58/PR/MTJS/DOPS of February 8, 1969 Arts. 1 and 2.
238. MINISTÈRE DU PLAN ET DE LA COOPÉRATION, RECENSEMENT GÉNÉRAL DE LA POPULATION ET DE L'HABITAT-1993, RAPPORT DE SYNTHÈSE, at 38 (December 1998) [hereinafter, RGPH-1993].
239. FOSAP, Manual of Procedures, Vol. II, Micro-loans.
240. CHAD CONST., TITLE II, Chapter I, Art. 35.
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242. *Id.*
243. POLITIQUE DE POPULATION, *supra* note 133, at 15.
244. PENAL CODE, TITLE VI, Chapter I, Art. 275.
245. *Id.*, TITLE VI, Chapter I, Art. 276.
246. *Id.*, TITLE VI, Chapter I, Art. 278.
247. MME. MASSALBAYE, RAPPORT SUR LES VIOLENCES FAITES AUX FEMMES.
248. PENAL CODE, TITLE V, Chapter I, Art. 252, ¶ 1.
249. *Id.*, TITLE V, Chapter I, Art. 252, ¶ 2.
250. *Id.*, TITLE V, Chapter I, Art. 253, ¶ 1.
251. *Id.*, TITLE V, Chapter I, Art. 253, ¶ 2.
252. RAPPORT SUR LES VIOLENCES FAITES AUX FEMMES, *supra* note 247.
253. 1996-97 DHS, *supra* note 10, at 2.
254. *Id.*, at 52.
255. *Id.*
256. *Id.*
257. *Id.*, at 83.
258. *Id.*, at 84.
259. RAPPORT D'ENQUÊTE SUR L'EXCISION FÉMININE, *supra* note 187, at 5.
260. PENAL CODE, TITLE V, Chapter I, Arts. 252, 253.
261. *Id.*, TITLE V, Chapter I, Arts. 254.
262. ASTBEF Magazine, No. 1, at 5 (March 1998).
263. 1958 CIVIL CODE, Art. 144.
264. PENAL CODE, TITLE VI, Chapter I, Arts. 277.
265. RGPH-1993, *supra* note 238, at 25.
266. POLITIQUE DE POPULATION, *supra* note 133, at 13.
267. *Id.*, at 12.
268. PENAL CODE, TITLE VI, Chapter I, Art. 278.
269. *Id.*, TITLE VI, Chapter I, Art. 273.
270. *Id.*, TITLE VI, Chapter I, Art. 276.
271. *Id.*, First BOOK, First Chapter, Art. 31.
272. *Id.*, First BOOK, First Chapter, Art. 16.
273. *Id.*, TITLE VI, Chapter II, Art. 281.
274. *Id.*, TITLE VI, Chapter I, Art. 272.
275. *Id.*, TITLE VIII, Chapter II, Art. 289, ¶ 1.
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277. *Id.*, TITLE VIII, Chapter II, Art. 290