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Refugee Documentation Centre

Country Marriage Pack

Chad

Disclaimer

Country Marriage Packs (CMPs) are prepared by researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. CMPs contain a selection of representative links to and excerpts from sources under a number of categories for use as Country of Origin Information. Please note that CMPs are not, and do not purport to be, exhaustive with regard to conditions in the countries surveyed or conclusive as to the merit of any particular claim to refugee status or protection.

1. Types of Marriage

Civil Marriage

See below

Religious Marriage

A report published in November 2011 by the *UN Committee on the Elimination of Discrimination against Women (CEDAW)* states on page 12:

“The Committee is concerned about the existence of a combination of customary, religious and modern marital laws, which contain discriminatory elements against women. In particular, it expresses its concern about the possibility of polygamy if the spouses do not expressly renounce it when signing the marriage contract (art. 11 of Ordinance No. 03/INT/SUR of 1961); the lack of recognition of the full legal capacity of a married woman to execute legal deeds; the existence of discriminatory legal provisions relating to inheritance and succession rights for women; and the persistence of early marriages, despite its prohibition under article 9 of the Act on reproductive health (2002).” (UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (4 November 2011) Concluding observations of the Committee on the Elimination of Discrimination against Women – Chad)

Traditional/Other Marriage

A report published in November 2011 by the *UN Committee on the Elimination of Discrimination against Women (CEDAW)* states on page 10:

“The Committee also notes with concern the inconsistencies regarding the minimum age of marriage for women: in article 144 of the Civil Code, the minimum age is set at 15 years, while according to article 277 of the Criminal Code, customary law marriages of girls above 13 years are legal.” (UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (4 November 2011) Concluding observations of the Committee on the Elimination of Discrimination against Women – Chad)

The *United States Department of State Country Report on Human Rights Practices* published in April 2013 notes:

“The law does not address polygyny, but husbands may opt at any time to declare a marriage polygynous. If a husband takes a second wife, the first wife has the right to request that her marriage be dissolved, but she must repay her bride price and other marriage-related expenses” (United States Department of State (19 April 2013) *Chad: Country Report on Human Rights Practices – 2012*)

A report from the *UN Country Team – Chad* to the Committee for the Elimination of Discrimination against Women states:

“However, in practice for the Muslims, we often encounter polygamy, as they would invoke the possibility for them, according to the religion, to have several wives (up to 4 simultaneously). Art. 11.6 of the Ordinance no 3, recognize woman’s right to request the dissolution of the marriage if the spouses have renounced polygamy at moment when the marriage was celebrated. A similar provision stipulates the right of the woman to opt for a monogamous or polygamous marriage, and to request the dissolution of marriage in case the option of monogamy, if taken, was not respected. We should conclude, in fact, that the provisions of art 11 are not in conformity with the Civil code, and there fore, not applicable.” (UN Country Team – Chad (February 2011) *Confidential Reports to CEDAW*)

2. Formalities of Marriage (Consent, Minimum Age and Registration of Marriage)

A report published by *Amnesty International* in October 2011 notes:

“Chadian legislation prohibits early and forced marriages. This is the case of the Chadian Law related to reproductive health that prohibits early marriage and the Chadian penal code. Section I of Chapter II of the Chadian penal code protects young girls against early and forced marriages. According to article 277 of the Chadian penal code, the marriage of a child under the age of 13 can be considered equal to the rape of a girl under the age of 13, however “marriages” of girls aged 13 are tolerated by the local authorities and the community. Legislation is rarely implemented in practice as traditions are deeply enshrined in the lives of the population, leading to impunity that covers most of the cases related to early and forced marriages.” (Amnesty

International (October 2011) *Chad: "Briefing to the UN Committee on the Elimination of Discrimination against Women, 50th session, October 2011)*

A report published by the *Childs Rights Information Network* in November 2011 notes the concluding observations of 'UN Committee on the Rights of the Child' (January 2009) which state:

"The Committee regrets that the Draft Code on the Person and the Family sets the minimum age for marriage at 18 for boys and 17 for girls, that legally set minimum ages for marriage are not respected and early marriages are widespread in the State party's territory. It is also concerned about the conflict between customary law and the principles and provisions of the Convention in these areas, particularly with regard to the age of the child and the minimum age for marriage." (Childs Rights Information Network (November 2011) *CHAD: Persistent violations of children's rights)*

The *United States Department of State Country Report on Human Rights Practices* published in April 2013 notes:

"The legal age for marriage is 18, although traditional law allows children to marry at 13 and 14. In practice families arranged marriages for girls as young as 12 or 13, with 11 being the minimum age for engagement. The law prohibits forced marriages of anyone younger than 18 and provides for imprisonment of six months to two years and a fine of 50,000 to 500,000 CFA (\$100 to \$1,000).

Forced marriage of girls was a serious problem, including among refugees. According to the UNICEF data collected between 2000 and 2009, approximately 72 percent of women between the ages of 20 and 24 were married before the age of 18. The custom of buying and selling child brides was widespread. Girls who objected to being forcibly married often were physically assaulted by their family members and husbands. Many young wives were forced to work long hours for their husbands in the fields or at home." (United States Department of State (19 April 2013) *Chad: Country Report on Human Rights Practices – 2012)*

The *UN Population Fund* report published in 2012 notes:

"Chad has one of the highest child marriage prevalence rates in the world. On average, almost three out of four girls will be married before their 18th birthday. In 2004, nearly three quarters of the women aged 20–24 (72%) were married/in union before age 18. [...] Child marriage prevalence in Chad is significantly higher than the regional average for sub-Saharan Africa (37%)." (UN Population Fund (2012) *Marrying Too Young: End Child Marriage)*

An *Immigration and Refugee Board of Canada* response to an information request states:

"According to ordinance 6/67 of 21 March 1967, customs prevail in the Chadian judicial system and [translation] "in practice, the marriage contract, which is concluded by a notarial act, is ignored by the future couple" (ibid.). However, a commentary on decision number 179/02 of 26 April 2002 in the *Revue juridique tchadienne* indicated the following:

[translation]

Regarding the standing of civil marriage, this decision radically changes the position defended to date by Chadian jurisprudence. Concerning the argument . . . that 'it is common knowledge that many Chadian citizens go to the civil registrar to make their customary marriage official, for administrative reasons, and that, without outwardly wanting to evade customary law, it will govern the couple's life, and the official marriage is simply a screen in the couple's civil life,' the Court of Appeal adopted a clear position by affirming the predominance of civil marriage over customary marriage." (Immigration and Refugee Board of Canada (21 October 2004) *TCD43071.FE – Chad: Methods for dissolving a marriage that was celebrated before a sheik and duly registered with the state; possibility that the paternal family of the bride (whose father is deceased) may obtain a customary divorce against the will of the married couple (the husband having been held up abroad) and of the maternal family of the bride (including the mother); protection and recourse available to the bride (2004)*)

The report also notes:

"Decisions regarding marriage are generally made by the male heads of both families, with or without the consent of the couple (ibid.). This information could not be corroborated among the sources consulted by the Research Directorate." (ibid)

A report from the *UN Country Team – Chad* to the Committee for the Elimination of Discrimination against Women states:

"The woman's rights in marriage find their source in the Civil Code of 1958 and in the Ordinance no 3/1961 on the civil status. Article 11 of the Ord. 11/1961 on the civil status stipulates the obligation of the civil registration officer, before recording the declaration of marriage, to ensure that the dispositions with regards to minimum age with regard to marriage and the consent of the spouses have been fulfilled. The substantive conditions of marriage found their source in the art 144 of the Civil code that fixes the age of marriage at 15 for the woman, and stipulates that 'a man who is not 18 and a woman who is not 15 cannot contract a marriage'. Thus there is a discrimination in the marriage age. Furthermore, most marriages are governed by customary rules, which tend to sanction the marriage of girls under the age of 15. In modern law, the monogamy is valid, and polygamy is being rejected, as per the art 147 of the Civil Code that stipulates that "one cannot contract a second marriage if the first marriage has not been dissolved." (UN Country Team – Chad (February 2011) *Confidential Reports to CEDAW*)

This report also notes that:

"Registration of marriage is not compulsory in Chad" (ibid)

3. Divorce

Paragraph 44 of a report published by the *UN Committee on Economic, Social and Cultural Rights (CESCR)* in August 2009 notes:

“If the Criminal Code and the Persons and Family Code are adopted the issues of marriage, divorce, inheritance, property and nationality will be resolved. These issues present considerable difficulties:

- (a) Early marriage is condemned since it takes no account of age;
- (b) Divorce is not acceptable in Christian circles, yet early marriage generally leads to divorce;
- (c) In some cases orphans and widows are disadvantaged in terms of inheritance because customary law prevails over positive law.

45. Measures taken by the Government to end discrimination against women with regard to marriage, divorce, inheritance, property and nationality include: the Persons and Family Code, which will establish a legal framework, and the creation of the Gender Directorate within the Ministry for Social Action, National Solidarity and the Family. (UN Committee on Economic, Social and Cultural Rights (CESCR) (20 August 2009) *Implementation of the International Covenant on Economic, Social and Cultural Rights : consideration of reports submitted by States parties in accordance with article 16 of the International Covenant on Economic, Social and Cultural Rights : Replies by the Government of Chad to the list of issues (E/C.12/TCD/Q/3) to be taken up in connection with the consideration of the third periodic report of Chad concerning the rights referred to in articles 1 to 15 of the International Covenant on Economic, Social and Cultural Rights (E/C.12/TCD/3)*)

Under the heading ‘Marriage and family relations’ the *UN Committee on the Elimination of Discrimination against Women* state in a February 2011 publication:

“The report mentions that the adoption of the Persons and Family code by the National Assembly has been put on hold since February 2010. (UN Committee on the Elimination of Discrimination against Women (11 February 2011) *List of issues and questions with regard to the consideration of periodic reports*)

A report from the *UN Human Rights Council* published in January 2005 notes under the heading ‘Traditional practices involving women’ paragraph 50:

“The burden of tradition weighs on women in Chad. This is experienced at the social level. Physical abuse is common, and most people do not regard it as grounds for divorce. Abandonment of a woman by her family is regarded as an ordinary situation. There is no gender equity in Chad.” (UN Human Rights Council (25 January 2005) *Situation of human rights in Chad. Report prepared by the Independent Expert*)

Under the heading ‘Marital disputes and conflicts’ a report published in October 2010 by the *UN Committee on the Elimination of Discrimination against Women* states:

“544. Concerning the dissolution of marriage, article 289 of the draft code on the person and the family stipulates that “divorce can be pronounced, either at the joint request of the couple, or on the demand of one of the spouses and the acceptance by the other”. On the question of inheritance, equality between girls and boys is decreed by the Civil Code of 1958 and the interests of women are protected. The custody of the child is given to one of the

parents after a social inquiry and taking into account the prime interest of the child.

545. The Code of civil and military pensions is also favourable to the widow, and the practice of levirate is forbidden.” (UN Committee on the Elimination of Discrimination against Women (20 October 2010) *Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Chad*)

4. Marriage between Non Nationals and Nationals

No information on the above issue could be found among sources available.

Marriage between two Non Nationals

No information on the above issue could be found among sources available.

References:

Amnesty International (October 2011) *Chad: "Briefing to the UN Committee on the Elimination of Discrimination against Women, 50th session, October 2011*

<http://www.amnesty.org/en/library/asset/AFR20/009/2011/en/e5bc377c-a561-45ba-9684-5c04565b5062/afr200092011en.pdf>

Childs Rights Information Network (November 2011) *CHAD: Persistent violations of children's rights*

<http://www.crin.org/resources/infoDetail.asp?ID=26647&flag=report>

Immigration and Refugee Board of Canada (21 October 2004) *TCD43071.FE – Chad: Methods for dissolving a marriage that was celebrated before a sheik and duly registered with the state; possibility that the paternal family of the bride (whose father is deceased) may obtain a customary divorce against the will of the married couple (the husband having been held up abroad) and of the maternal family of the bride (including the mother); protection and recourse available to the bride (2004)*

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UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (4 November 2011) *Concluding observations of the Committee on the Elimination of Discrimination against Women – Chad*

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UN Committee on the Elimination of Discrimination against Women (20 October 2010) *Consideration of reports submitted by States parties under Article 18 of the Convention on the Elimination of All Forms of Discrimination against Women – Chad*

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