

# Immigration and Refugee Board of Canada

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## Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR's [Refworld](#) website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the [Knowledge and Information Management Unit](#).

17 July 2015

**TCD105225.FE**

Chad: Custom of levirate, particularly the tradition among the Zakawa [Zagawa, Zaghawa, Zakhawa], including frequency and recourse available to victims; possibility of a woman living alone in major cities (2014-July 2015)

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

### 1. The Custom of Levirate in Chad

An article published in 2012 by the Centre for Development Studies and Training (Centre d'études et de formation pour le développement, CEFOD), an organization in Chad that is a [translation] "place for studies and critical thinking," whose mission is, among other things, to "promote the country's development towards a constitutional state" (Jésuites de la province de l'Afrique de l'Ouest n.d.), indicates that according to the custom of levirate, [translation] "the wife of the deceased man ... is offered in marriage to the deceased's brother without the widow's consent" (CEFOD 6 Jan. 2012). In a report on Chad published in 2011, the UN Committee on the Elimination of Discrimination Against Women defines levirate as [UN English version] "a man tak[ing] on in marriage the widow of his deceased brother" or "wife inheritance" (UN 4 Nov. 2011, para. 20).

According to sources, levirate is practised in Chad (ibid.; LTDH 24 June 2015; AFJT 1 July 2015). In its National Gender Policy (*Politique nationale genre*), published in December 2011, the Department of Social Action, Family and National Solidarity of Chad indicates that forced marriages and levirate are [translation] "common" and that women often have "problems with the estate" (Chad Dec. 2011). According to a report produced by a coalition of 10 civil society organizations in Chad, including the AFJT and LTDH [see below], about the International Covenant on Civil and Political Rights being implemented in Chad, levirate [translation] "continues in certain areas of the country," which are the Mayo-Kebbi and Tandjilé [in the southwestern part of the country] (Civil Society Coalition 8 Feb. 2014, 29). In correspondence with the Research Directorate, the President of the Association of Female Lawyers of Chad (Association des femmes juristes du Tchad, AFJT), a women's and children's rights organization that aims to improve their "socio-legal conditions" (Insight on Conflict May 2015), stated that levirate is practised [translation] "in certain regions [both] in the north [and] the south" (AFJT 1 July 2015). In correspondence with the Research Directorate, the President of the Chadian Human Rights League (Ligue tchadienne des droits de l'homme, LTDH), an organization that aims to [translation] "defend and promote the human rights set out in international and national legal instruments" (LTDH n.d.), stated that he did not know of areas in Chad where levirate is not practised (ibid. 24 June 2015). However, those two sources indicated, without providing further detail, that in certain regions, the HIV/AIDS pandemic has meant that the practice of levirate has [translation] "slowed somewhat" (AFJT 1 July 2015) or that it is has [translation] "beg[un] to disappear" (LTDH 24 June 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. The president of the LTDH added that the tendency for levirate to disappear in certain areas can also be explained by the [translation] "spread of Christianity," particularly in the southern area of the country, and by advances in education, which means that young men wish to choose [translation]

"their future wives themselves" (ibid.). The president of the AFJT, for her part, stated that, in certain regions, [translation] "latitude has been given to the woman to choose whether to take one of her brothers-in-law" as a husband (AFJT 1 July 2015). However, she added that there were no set rules as for how levirate is practised in the country and that [translation] "each ethnic group [had] its individual characteristics" (ibid.).

### 1.1 Levirate in the Zakawa Tradition

Information on the practice of levirate by the Zakawa was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to two sources, the practice of levirate is part of the customs of the Zakawa ethnic group (ibid.; LTDH 24 June 2015). However, according to the President of the LTDH, there are no statistics on the subject (ibid.).

For more information on the Zakawa, see Response to Information Request TCD104695.

## 2. The Consequences of Refusing to Take Part in Levirate

Information on the consequences of refusing to take part in levirate in Chad was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources stated that when a woman refuses to take part in levirate, she is [translation] "condemned to living alone" (AFJT 1 July 2015) or that she must become self-sufficient (LTDH 24 June 2015). In addition, according to the President of the AFJT, the widow remains [translation] "the property of her in-laws" and forfeits any possibility of remarrying (AFJT 1 July 2015). A 2010 report published by a coalition led by the International Federation of Human Rights (Fédération internationale des ligues des droits de l'homme, FIDH) to assess the women's rights situation in more than 30 African countries indicates that "many women" do not receive their inheritance because their deceased husband's belongings and property are "plundered by the men in the family" (FIDH et al. Mar. 2010, 31). The President of the LTDH indicated that, generally speaking, in the northern area of Chad, [translation] "victims were exposed to repression and humiliation" (LTDH 24 June 2015).

Without providing further explanation, the President of the AFJT stated that, among the Zakawa, tradition holds that the wife of a recently deceased man is automatically given in marriage to the deceased's brother but, in this day and age, the deceased's family tries instead to [translation] "negotiate with her" (AFJT 1 July 2015). However, the President of the LTDH stated that if a widow in a Zakawa community refuses to participate in levirate, she would be [translation] "forced to submit," and he explained his remarks as follows: "sometimes, the widow may be kidnapped, beaten and locked up," and she may be "sexually abused until she becomes [pregnant], unless the 'heir' decides otherwise" (LTDH 24 June 2015).

## 3. Laws and Enforcement of the Laws

According to article 157 of Chad's Revised Constitution of March 31, 1996 (*Constitution du 31 mars 1996 révisée*),

[translation]

Until they are enshrined in law, the practices and customs apply only in the communities in which they are recognized.

However, customs that run contrary to public policy and those which promote inequality between citizens are prohibited. (Chad 1996, art. 157)

Article 158 states that the following:

[translation]

The practices and customs governing matrimonial and inheritance regimes may only be applied with the consent of the parties concerned.

Failing that, national law alone is applicable. (ibid., art. 158)

However, the FIDH et al. report states that, according to article 289.2 of Chad's Criminal Code, a woman's consent is not a condition for marriage (FIDH et al. Mar. 2010, 4, 31). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The FIDH et al. report indicates that in Chad, customary law and Islamic law apply alongside statutory law (ibid., 30). The same source adds that, despite the fact that article 158 is part of the Constitution, "in practice customary and religious law continue to govern many aspects of family life (parental authority, inheritance, etc.), especially in the North of the country" (ibid., 30). In 2014, in its Gender Profile for Chad (*Profil genre Tchad*), the French Agency for Development (Agence française de développement) states that, in practice, customary law prevails in property rights and that, in certain regions, it [translation] "governs the matrimonial regime, property, and inheritance rights" and it "gives men higher status and disadvantages women, particularly with respect to access to land and the inheritance" (France 1 July 2014, 2).

In a report presented to the UN Committee on the Elimination of Discrimination Against Women in 2010, pursuant to the Convention on the Elimination of All Forms of Discrimination Against Women, Chad explains that [translation] "customary animist state law does not recognize the widow's estate entitlements. In certain areas, not only is she exempt from the inheritance, but she is also part of the estate" (Chad 20 Oct. 2010, para. 539). That same source acknowledges the following:

[translation]

There are still difficulties with respect to legal rulings on inheritance. Notably, there is an issue with heirship of the widow as an asset in Chad which, to some advocates of customary norms, appears to be an object of rights, not subject to rights.

...

In the Muslim context, the premises is part of the estate and the widow is a beneficiary. However, it has been demonstrated that Chadian judges are not always sensitive to the widow's fate (ibid., para. 225-226).

According to sources, property and inheritance laws do not discriminate against women; however, local leaders settled most inheritance disputes in favor of men, according to traditional practice (US 25 June 2015, 17; FIDH et al. Mar. 2010, 31).

FIDH et al. state that as of 2010, there were no laws relating to the family: "women are thus excluded from legal protection" (ibid.). Corroborating and further information on family rights in Chad could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

#### **4. Recourse Available to Widows Who Refuse to Participate in Levirate**

According to the President of the AFJT, authorities [translation] "do not systematically intervene" when a widow refuses to participate in levirate (AFJT 1 July 2015). The President of the AFJT explained that police intervene only if they are seized of the matter or if the woman has been a victim of physical violence (ibid.). The President of the LTDH, for his part, stated that when a widow refuses to participate in levirate, she receives [translation] "no protection" from the authorities (LTDH 24 June 2015). He explained that a Zakawa widow receives [translation] "even less from the authorities" than a widow from another ethnic group, because "the Zakawa wield significant influence and control the reins of power, particularly with respect to the police" (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response. According to the President of the AFJT, some widows who are stripped of their belongings when their husband dies call on human rights associations, which help them come to a [translation] "compromise" to reclaim their belongings, or they appeal to the courts and, in some cases, are able to reclaim their belongings in the wake of a legal decision (AFJT 1 July 2015). However, the President of the LTDH made the following distinction: to his knowledge, [translation] "legal decisions remain unenforced" (LTDH 24 June 2015). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

#### **5. The Possibility for a Woman to Live Alone**

Information on the possibility for a woman to live alone in Chad was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to the FIDH et al. report, it is "very difficult" for women to gain access to land in Chad because that right is traditionally reserved for men (FIDH et al. Mar. 2010, 32).

The US Department of State's *Country Reports on Human Rights Practices for 2014* indicates that exploitations of and discrimination against women is "widespread" in Chad (US 25 June 2015, 17). According to the same source, women face discrimination in access to employment, housing, credit and pay equity as well as in owning businesses (ibid.). In addition, women do not have equal opportunities for education or training, which makes it difficult for them to compete for jobs in the official economy (ibid.).

The President of the AFJT explained that, in Chad's major cities, it is not illegal for a woman to live alone and that [translation] "many" women do it, whether they are widows or not (AFJT 1 July 2015). She added that [translation] "verbal or physical abuse" targeting women is "frequent" in major cities, whether women live alone or not (ibid.).

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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## Additional Sources Consulted

**Oral sources:** The following people and organizations were unable to provide information for this Response: professor of cultural African history, Emory College of Arts and Sciences; professor of history and Black studies, New York University.

The following people and organizations were unable to provide information within the time constraints of this Response: professor of sociology and anthropology, Rochester Institute of Technology.

Attempts to contact the following people and organizations within the time constraints of this Response were unsuccessful: Association pour la promotion des libertés fondamentales au Tchad; Cellule de liaison et de l'information des femmes du Tchad; Centre d'étude et de formation pour le développement; Chad – ministère de l'Action sociale, de la Solidarité nationale et de la Famille; head of Department of Gender and Development Studies, University of Nairobi; Observatoire du genre en Afrique centrale; professor of African studies, Carleton University; professor of history, University of California, Davis; professor of African history and anthropology, Leiden University; professor of history and women's studies, Ohio State University.

**Internet sites, including:** Afrik.com; AllAfrica.com; Amnesty International; Canada – Justice Department; Chronic Poverty Research Centre; Factiva; Freedom House; Human Rights Watch; Journal du Tchad; Minority Rights Group International; Tchadinfos.com; Tchadonline.com; UN – Economic Commission for Africa, Refworld, UN Women.

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