



Protection of foreigner's right under international law: What prospect for implementation of foreigners right in chad?

Nana Charles Nguindip

Senior Lecturer in Law, University of Dschang, Faculty of Laws and Political Sciences, DS Chang, Cameroon

Abstract

The protection of foreigners' right in any given society is an essential factor for the preservation and respect of the identity and dignity of such persons. In order to protect foreigners' status and rights, there is that necessity for the country in question to implements its laws through the enhancement of the competent institutions vested with powers in protecting these foreigners residing in their respective territories in order for them to possess that sense of belonging and feel at home. The State of Chadhas contributed immensely in ensuring that laws enacted for the protection of foreigners entering,, staying, and exiting its territory should be offered some degree of implementation when dealing with foreigner's rights and status. The respect laws put into place will not only be a ground for human right protection of foreigners', but also act as a tool in enhancing proper implementation of laws enacted in the of protection of foreigners' in their territory even though some lapses can be identified in the laws. Enacting laws, conceiving policies, and creating institutions to enhance and protect foreigners is one thing, implementing, and enforcing these laws is another. The government of Chad is responsible for the protection of foreigners residing in their territory by providing the foreigners that maximum protection in all spheres of necessities.

Keywords: prospect -implementation-foreigners right-chad

1. Introduction

Issues of immigration are very topical and has drawn the interest and opinion of many others, who thought it wise in encouraging the movement of persons from one country to the other due to the benefits that accrues from such movement. Most countries around the world especially those of the CEMAC member countries has contributed enormously through the putting in place of credible laws and policies in enabling that those foreigners who intends taking resident within their various member states should be treated with lots of fairness. In this regard, Chad being g one of the country of this regional grouping has enacted a series of proliferated laws, and even putting in place competent authorities all with the aim at ensuring adequate protection for those foreigners residing in their territory through the provision of relevant protection of their fundamental human right and status. This protection has been felt by the country through international, regional and even national dispositions all vested toward foreigners protection.

1.1 International and Regional Engagements Relative to the Protection of Foreigners

Just as the Cameroon government in the encouragement and protection of foreigners' rights, Chad on its part have also contributed international and regional in ensuring that, the human right of foreigners' and migrants protected to the letter.

1.2 Express Principles Stipulated under International Law

Since 1960, Chad has initiated texts protecting and promoting of human rights of foreigners living within it's territory. They have ratified several international instruments and other specialized agencies all related to the fundamental human right, especially

those dealing with Foreigner's protection ^[1]. With all these ratification done, the fundamental texts protecting migrants was left out being the convention on migrant workers and family, 1990, which entered into force on the 1st of July 2003.

Notably, on the 27th of January 2010, the government of Chad signed a cooperation tie with the International Organization for Migration in order to establish cooperation by adhering to the principles and standard of the institution regarding the treatment of migrant workers taking residence in their territory. This situation has not been the same due to the instability that has plagued the country leading to the violation of most of the foreigner's rights and seizure of properties. The fact that Chad has not signed the Convention on the treatment of migrant workers has been a major drawback and an inadequate protection to those intending to reside in the country. Most of the foreigners especially those on investment basis are not secured thus threatening and frustrating protection. The situation of migrant protection is different at the regional and sub-regional level.

1.3 Regional and Sub-regional Implications on Foreigners Protection

Chad has complied with a number of regional and sub-regional organizations such as; African Union, Madagascan and Mauritian Communal Organization ^[2], the Sub-Saharan Community, the Central African Economic Monetary Community and the Economic Community of Central African States. Chad has engaged so much in protecting the rights of migrants at the level of its African counterparts. Madagascan and Mauritian Communal Organization has been one of the

multilateral organs adopting a convention dealing with the favourable protection of the rights of migrant workers. It stipulates that; “there should be liberty in the movement of persons within the sub-region, and so movement should be done with equal rights to that of nationals of the said states [3].”

Among the cited texts, we have the Organization of the African Unity Convention on the Specific Problems of Refugees of 10th September 1969, the African Charter on Human and Peoples Right of 27th June 1981^[4] has been of great importance to the Chadian government in handling and protecting migrants in their respective territories. Like the other member states of the CEMAC, Chad has not ratified the Convention on the Protection of Migrants Workers and members of their Families. All these provisions provided for give room for migrants residing in the country to be protected and respected, but the problems in all cases are at the level of implementing these laws. The non-application and ineffectiveness of immigrations laws will affect the objective and mission of the law and this will affect the human right situation of the country. The country as signatory to many international and regional commitments in migrant protection, the situation will not be the same when it comes to implementing these commitments taken by the State. Most of the public authorities in charge of enforcing and monitoring the activities of the human right situation of the country always abuse the power given to them for such protection and enforcement.

1.4 National Norms on Foreigners’ Protection

In meeting with international standards, the government of Chad has taken a number of texts both legally and through institutions to protect migrants within their territory.

1.4.1 Legal Dispositions on the Protection of Foreigners

Migration is an inevitable element in the economic and social life of every state. It is necessary for every state to lay down norms guaranteeing and protecting movement of persons into and within its territory. The Chadian legal framework on migrants’ protection is surrounded by a number of texts, starting with the Constitution of 31st March 1996 as modified by Law No. 08/PR/2005 of 15 July 2005. The constitution contains several provisions on public liberty and human rights. Its articles 12 to 58 are based on the protection of fundamental rights and duties of all citizens.

*Article 15 of the said constitution provides that
In relation to public rights, all foreigners regularly admitted into the Chadian Territory will benefit from the same rights as that of the national in the limit of the law. They are called to conform to the constitutional prescriptions of the Republic.*

This right also extends to the right to strike in its article 29 ^[5]. The interpretation of legislation makes us to understand that the constitution offers the same protection and treatment to foreigners as nationals. Foreigners acquire the same protection of their rights though the country has not ratified the fundamental instrument that guarantees and protects migrant’s rights. This instrument goes a long way to render protection to those persons who regularly come into the country.

The Labour Code initiated on 11th December 1996 gives room for the employment of migrants in Chadian enterprises. This code in its Article 2 provides that “a proportion of foreigners can be employed in Chad’s enterprise and their salaries should not be distinguished from that of Chadian nationals.” The above article has an exception in its article 3 which provides that such proportion should not be to the disadvantage of Chadian nationals. Articles 67 and 72 of the same code stipulate that there are certain conditions that the foreigner has to fulfil in order to be given authorization by the National office in charge of recruitment to indulge in gainful employment.

1.4.2 The situation of access to Public Service

According to article 5 of this statute, “access to the public service is open to everybody without distinction as to race, sex, religion, origin, and political opinion, social in so far as the said person is physically and mentally apt to carry out such task.” This provision of the law has an exception as article 36(a) makes us to understand that, for someone to be considered as a civil servant, such a person must have a Chadian nationality from birth or must have obtained naturalization for at least 5 years. This therefore means that a foreigner cannot be protected or treated as a national as far as the issue of employment in the public service is concerned. There is the existence of discrimination as to recruitment into the public service in Chad. Unlike in other countries, there exist text regulating the entry, stay, and exit of foreigners into Chad. This is governed by Order No. 3109/INT-SUR of 4 December 1961 on the regulations of entry and staying of foreigners into the Chadian territory. Any person who desires to take up residence in Chad is required to apply for a visa at the consulate in his country of origin. These documents vary depending the motive or reason for movement. Thus, if the movement is for professional reason, a justification has to be provided for such movement. Movement for leisure or others requires available document especially from the family intending to host such person together with an administrative authorization from the requesting employer for the period of stay of the said person when it concerns cases of foreign employment.

As for citizens from CEMAC, no visas are required for stay with that of less than 6 months ^[6]. All these legal texts are governed and guaranteed by several institutions put in place in ensuring and protecting foreigner’s rights and status.

1.5 Institutional Frameworks for Foreigners Protection

The first ministerial department in Chad endowed with the responsibility to protect migrants is the ministry of Internal and public security particularly the Directorate of Immigration. This department takes care of those who enter and reside in the country in a regular manner. All applications for entry and staying in Chad are forwarded to this ministerial department and they must conform to the provision of Order No. 3109/INT-SUR of 04 December 1961. By this Order, it is the responsibility of ministerial department to ensure the law is respected to the letter.

1.5.1 Responsibility of the National Commission for Refugee Protection

As far as the problems of refugees’ in Chad are concerned, it is the responsibility of the National Commission In charge of

Assistance to Refugees who work in collaboration with the United Nations High Commission for Refugees and the International Committee of the Red Cross whose main function is that of protecting refugees. It should be noted that in view of the agreement signed between the government of Chad and the UNHCR relating to the refugee Convention ratified by Chad on 18th August 1981, this commission examines all documents pertaining to the seeking of asylum in Chad. The reason for the examination of the application in accordance with the Refugee Convention is that the said country has no national laws on the protection of refugee. In order to have a mastery of the movements of Chadian into and out of the country, the government of Chad has created a service in the Ministry of External Relations, International Cooperation and African Integration, a Directorate in charge of Chadians living in foreign countries.

1.5.2 Aspect of Job Regulation

In matters of job regulation, the ministry of Public Service and employment defines the conditions for the acquisition of jobs by foreigners through the National Employment Agency. This Agency is organized by Decree No. 471/PR/MFPT/92 of 10th September 1992 and ensures the putting in place of national policies in the domain of jobs, orientation, investment, and movement of work force ^[7]. The agency is equally responsible for the acquaintances with the service of immigration, recruitment of foreign man power and the organization of introductory operations together with the repatriation of man power ^[8]. The recruitment of foreign workers depends on an employment document issued by the Director in charge of National Employment and visas stipulating a contract of employment for a specified duration ^[9]. It should be noted that syndicates and Human Rights Defence Groups have also taken initiative to promote labour migration in their respective activities.

As affirmed by B. Lututala Mumpasi, we may conclude that less is known on issues of migration in Central Africa contrary to West Africa where migrant movements have been an instrument of great importance and implication. One can even think that migration in Central Africa is of marginal interest to the member states given the fact that regular chaos and wars usually plague this region and cause the population to be displaced to other parts of the territory and millions of others seek refuge in neighbouring or far away countries.

This issue of displacement has enormous impact on states such as the violation of laws by those foreigners residing within a given state. Foreigner's protection is a fundamental provision stipulated by international law where states who are parties to these laws and conventions are bound to respect the provisions by offering adequate protection of the rights of every individual residing in its given territory. The enactment of legal and institutional provisions will be of no essence if it could not comply with available laws. To this effect, States human rights agencies, human rights activists, Non-Governmental Organisations and Humanitarian actors engaged in the protection of foreigner status and rights must respect the fundamental human right of these persons even though they are not nationals of the state in question.

2. An application of the legal standard in Foreigners Protection in Chad

The protection and promotion of the status and rights of foreigners in a given society be it economic, social or cultural rights are essential components for the preservation restatus and rights, there is the necessity for the country in question to implement its laws and enhance its institutions so that foreigners residing in their respective territories should have that sense of belonging and feel at home. Chad have highly contributed in the respect of the laws enacted to ensure the protection of foreigners' in their territory even though some lapses can be identified in the laws. Enacting laws, conceiving policies, and creating institutions to enhance and protect migrants' status is one thing, implementing, and enforcing these laws is another. The government of Chad is responsible for the protection of foreigners residing in their territory. As result, they have furnished considerable efforts to provide foreigners with the protection they need.

2.1 Chad and its Non-Discriminatory Policies

The Chad has contributed largely in ensuring that economic, social and cultural rights of all nationals be it foreigners residing in their territory are being respected to the latter. Section 18 of the 1990 Migrant Worker Convention emphasise that the principle of equality should be respected by all states harbouring migrant workers. These workers should be offer the same protection and accessibility to fundamental services of states without discrimination. This section stipulated that migrant workers in Chad should not be discriminated upon when it comes to issues pertaining to the application and procedure in acquiring justice before the Chadian National when such migrant is allege of committing a crime. The same procedure followed by a Chadian national should also applied to a migrant worker and his family. The problem here is that, Chad has not ratified the said convention and this explained the constant violation of migrant workers' rights in the country. To respect international prescription, Article 15 of the Constitution provides that "Foreigners who have been admitted legally to the territory of the Republic of Chad enjoy the same rights and freedoms as nationals, excluding political rights. They are required to abide by the Constitution and the laws and regulations of the Republic." This therefore means that in Chad foreigners have the same rights as nationals. This is not completely true because the unstable nature of the country has a negative effect on foreigner involved in huge investment in the country. Setting up a business in the country has been blemished with many irregularities ^[10] and discrimination. Nationals are given privilege to the detriment of foreigners who reside in the territory.

2.2 The Situation of Free Movement of Foreigners

The state of Chad has contributed enormously in ensuring the fundamental human right of foreigners as to freedom of movement by providing in its article 44 that all citizens have the right to move freely within the national territory which include leaving and re-entering the country. In this regard, there exist no particular document needed for persons to take resident in the country, a mere laissez-passer is the sole document needed in having access required. Moreover, the Government has removed a number of roadblocks, police, and gendarmerie checkpoints

that were scattered around the country. Only a few posts remain on roads leading into and out of major towns for security purposes and to provide assistance in event of accidents. Restrictions can only be imposed on foreigners if the national security and public order of the country is threatened by the stay of these foreigners.

The enjoyment witnessed by foreigners taking resident in that is also encourage under article 15 of the Constitution, aliens who have entered Chad legally will enjoy the same right as if there were nationals of the said country, and in no circumstances should the authorities of the said country restrict or infringed their fundamental human right on the basis that they are foreigners. However, an alien entering the country without prior permission from the authorities can be expelled through an administrative measure or even faced criminal sanctions.

2.3 Prohibiting Torture, Cruel, Inhuman, or degrading treatment

Article 17 of the Chadian Constitution is to the effect that; *“the human person is sacred and inviolable. Every individual has the right to life, personal integrity, security, freedom and the protection of privacy and property.”*

It continues by providing in its article 18 that, “no person may be subjected to degrading or humiliating abuse or treatment or to torture”. Chad has also acceded to nearly all human rights conventions and treaties. Yet, however, Chad has not ratified the Second Optional Protocol to the International Covenant on Civil and Political Rights aiming at the abolition of the death penalty. This negligent on the part of the country has exposed the country to wide spread of insecurity with the aim of protecting its citizens and their property.

2.4 The place of sexual violence of Women

As for traditional practices that are concerned, the Government has adopted measures to prevent and eliminate sexual violence against foreign women in particular. Act No. 06/PR/2002 on promotion of reproductive health for example, prohibits all forms of violence, including female genital mutilation, early marriage, domestic violence and sexual violence.

Chad has specifically failed in criminalizing the act of torture; which in many instances seen as an aggravating factor. As a result of this, criminal act who was subjected to torture could sue for criminal damages under article 6 of the Code of Criminal Procedure ^[11]. Other means of redress available to the victim are the remedies provided under article 1382 ^[12] of the French Civil Code in force in Chad ^[13] and, on grounds of grievous bodily harm, articles 252 and 253 of the Criminal Code.

2.5 The role of the Criminal Procedure Code

This Code regulates police custody in its article 221 providing that “A police officer may not detain a person for purposes of preliminary inquiries for more than 48 hours. On expiry of this period the person must be released or presented to the prosecutor’s department.” The prosecuting department has the power to authorize an extension of police custody for a further period of 48 hours if he considers this essential for the

satisfactory conclusion of the investigation. Such authorization must be in writing after the magistrate has satisfied himself that that person has not been subjected to ill-treatment. In practice however, the time limit for police custody badly respected on fear of the sanction and the integrity and sovereignty of the state which will be affected internationally. This situation has been remedy by the continuous intervention of the government in every case of violation and torture.

Even though the constitution and law prohibit illegal practices, security forces sometimes violates these laws and still continue in initiating depravity measures on Foreigners residing in the country. Reports in recent years shows that security forces beat prisoners and detainees in order to extract confessions ^[14]. In early November 2013 four off-duty gendarmes beat, arrested, and jailed a man in Libreville. On November 10, 2013, two police officers in Libreville beat an off-duty gendarme after a car accident in his personal vehicle. According to a local newspaper report ^[15], police ordered the gendarme to move his vehicle after the accident, but he refused to do so until a record of the accident had been taken according to standard police procedure. The two officers were arrested but released almost immediately. Unconfirmed reports from the African immigrant community assert that police and soldiers occasionally beat non-citizen Africans during operations to round up and deport irregular immigrants. Refugees continued to complain of harassment and extortion by security forces. All these affected the efficiency and implementation of the provisions the Convention Against Torture of 1984 which frowns on such practices.

2.6 Examining the phenomenon of Foreigners Employment

Employment protection of foreigners is spelled out in article 32 of the constitution which is very fundamental as its give the equal opportunity to all as far as employment is concerned. It guarantees workers fair remuneration for their services or output. No one may be prejudiced in their employment on account of their origins, opinions, beliefs, sex or marital status. To ensure the practical application of this constitutional right, Act No. 038/PR/96 of 11 December 1996 establishing the Labour Code, and other implementing regulations, including the General Collective Agreement of 2002 have been adopted. The Labour Code is applicable throughout the national territory, and governs relations between employers and workers. Article 1, paragraphs 2 and 3, provide as follows:

It governs relations between employers and workers resulting from employment contracts intended to be executed on the territory of the Republic of Chad, regardless of the place of conclusion of the contracts or the residence or nationality of the parties.

Concerned by the steady rise in unemployment, Chad has created a body to promote employment, the National Employment Promotion Office (ONAPE), whose mission is to increase employment opportunities and to encourage integration of first-time job seekers into the job market. ONAPE has directed competent Chadians to the petroleum project, for example, as well as many other areas such as the private sector.

3. Legal Implications of Foreigners Protection

Chad, on its part, has not ratified or signed the main instrument regulating and supervising the condition of refugees into its

country^[16]. That is why we keep on experiencing unpleasant infringement of refugee rights and status in the country. The Sudanese refugees, who sought asylum in the eastern part of the country, continue to face violation and sometimes harassment on the part of women who are tortured and raped. Even though a signatory to many international human instruments protecting and promoting migrants and foreigners rights, Chad does not respect the provisions of this law thereby affecting the effective protection and promotion of the status and rights of those entering their territory. For example, its main instrument which is the constitution provides Article 15 that “in relation to public rights, all foreigners regularly admitted into the Chadian Territory will benefit from the same rights as that of the national within the limit of the law. They are called to conform to constitutional prescriptions of the Republic.” This is a very imperative aspect common to every country protecting or encouraging human rights, but as far as employment into the public service is concerned, only those of Chadian nationality are given such a privilege to the detriment of others. Authorities of the same state have violated the same provision of the constitution.

4. Institutional inconsistencies

To provide for human rights in international, regional, and municipal legal documents is one; ensuring their implementation is another. Experience has proven that it is easier to provide human rights laws and instruments than implementing them^[17]. Promotion of these rights is easier by civil society, but enforcement remains a headache at all levels. This is due to three main reasons: legal blockades, a lack of effective institutions or the existence of weak institutions and the lack of political will to implement human rights with differing degrees at all three levels. One of the methods devised for enforcing human rights at national level is through the establishment of human rights institutions. These institutions go by different names. Migrants residing in Chad have undergone violations as far as the protection of their status is concerned. These difficulties arise from the fact that, institutions put in place to guarantee their status have failed in their mission of protection and even when protecting their rights, the protection accorded to them is inadequate thus having a great impact on their status. Institutional impediments on migrants’ status have been felt by those international organizations operating in the territories of the member states and, consequently, those national human rights agencies and institutions. For the purpose of this work, our examination shall be limited to those international and national institutions vested with authority to guarantee migrants status and rights in Chad.

4.1 Xenophobia, Violence, Discrimination and Racism

Foreigners are often subjected to discrimination because of their colour and race, or their actual or perceived religion, or a combination of these, and they may be the target of unfavourable treatment simply because of their migrant status^[18]. Women migrant workers, who make up half the total, can be doubly penalized. The plight of migrant workers is a growing concern, since foreign-born workers represent significantly a rising proportion of the workforce in many countries. Estimated at 4 million, migrant persons in this country and some 32 million in other developing regions, the movement of men and

women seeking better job opportunities in these countries are likely to increase in the coming years^[19]. Ten per cent of the workforce in Chad is currently made up of migrants, while in a number of Asian or American countries percentages are higher, representing over 50 per cent of the workforce in some Gulf States. One manifestation of discrimination against migrants is their concentration, often regardless of their skill levels in “3D” jobs^[20] where protection is often inadequate or absent in law or in practice^[21].

4.2 Arbitrary Expulsion and Deportation

Human right is a fundamental principle of international law and one of the strongest limitations on the right of States is to control entry into their territory and to expel aliens as an expression of their sovereignty. Sections 7 (1) and 15 of Law No. 2005/006, it forbids State to extradite, turn back, or to take any measures whatsoever which force anyone, covered by the above definition, to return or remain in a country where his life, physical integrity or freedom could be threatened. If such a person is an illegal immigrant, no criminal sanction may be taken against him, but he shall present himself, without delay, to competent national authorities for regularization of his situation^[22]. A refugee shall enjoy economic and social rights and especially the right to naturalization. Even Chad has to discourage the arbitrary expelling of aliens from their territory since they considered this as violation to fundamental human rights of all. The situation becomes different for the purpose of public peace, order and security as the said person can be extradite forcefully to his country of origin for fear of insecurity and his involvement in other crimes that can affect public order and peace. But such expulsion should be done with the permission of the state of origin of the alien since it is forbidden by law to send back somebody where the person will face torture or persecution in the country expelled to^[23]. This has not been the case with the countries under consideration, where most of them used the pretext of expulsion as a means of maintaining public peace and security stipulating that foreigners are the primary suspects of criminal activities and encourage all types of illegal activities.

4.3. Foreigners Detention

Aspect of detention are also handle and managed by the government of Chad. The Chadian law is to the effect that detained foreigners have special protection and the country of their nationality must be informed by the prison administration of the reasons of their detention, the place where they are detained and the conditions of their detention^[24]. Detained refugees and asylum seekers are subject to specific protections under international law and standards, including Article 16 of the 1951 Refugee Convention, as well as under Article 21 of the Chadian Constitution

Foreigners who were accused of illegal entry into a country were held in police custody in most of these countries^[25], but the treatment given to them was deplorable and some were even sent to prison where the conditions of living were harsh and amounted to cruel, inhuman and degrading treatment or punishment^[26]. Detention facilities were overcrowded and prisoners often had no access to adequate health services and other basic facilities. Many of the prisoners were sick and malnourished. Foreigners in this side of the country continued to

be arrested and detained without charge by ANS members, and in some cases were prevented from receiving visits from any friends or love ones, doctors or lawyers. The police and gendarmerie-detained persons for civil matters, contrary to provisions of the Chadian Constitution and laws. Conditions remained harsh, amounting to cruel, inhuman, and degrading treatment. Cells were overcrowded, and food and drinking water were inadequate. There was no health care in prisons, including for serious transmissible diseases such as tuberculosis. Men, women and children were held together indiscriminately in the majority of prisons. No mechanisms were in place to allow prisoners to complain about their treatment. Inmates were often chained in the prisons in Abéché, Sarh and Doba ^[27].

Conclusion

The overall examination of the foreigners' climate in Chad reveals that there are immense and intense legal instruments and policies that protect the treatment and rights of foreigners in this country, comprising national, regional and international components. The arsenal is indeed not only vast but also mindful of the uncertainty and the complexity surrounding the rules governing the treatment of migrants in Chad. These complexities have rendered the reticence of migrant treatment to be difficult in assessing empirical investigation. It is seen that most of the laws governing migrants in Chad have the habit of postponing issues to subsequent enactments that are often belated and that these laws protecting migrants in these countries often suffer from amendments shortly after entry into force. The slow pace, poor output and mismanagement of these laws on migrants' protection in Chad is considered as setbacks to the overall immigration policies framework and migrants protection in the country. The existence of much international, regional and local legislation aimed at protecting migrants in Chad shows the laudable efforts made by the country to deal with immigration issues and that of migrant protection. Despite all the efforts by international humanitarian, human rights, migration, labour and refugee laws, it is surprising that refugees and migrants residing in Chad continue to face many challenges which have rendered or posed a threat on the livelihood of these persons, thus creating a non-conducive environment for habitation.

References

1. These include; the Convention relating to the Status of Refugees of 28th July 1951 and its Protocol of 1967, the Convention Against Torture and other Degrading treatments of 10th December 1984, the eight fundamental conventions on the International Labour Organization which are the Convention 29 on force labour, 105 on the abolition of force labour, 100 and 111 concerning professional, occupational and employment discrimination, 138 on the minimum working age, 182 on the prohibition child labour and 87 and 98 on collective negotiations and syndicate freedom.
2. This Organization has today become the African Economic Community.
3. Babacar SALL, *Labour Migration and the Protection of Human Rights in Africa: Obstacles to the Convention of the Protection of Migrants Workers and their Families in Sub-*

Saharan Africa. UNESCO Studies on Migration-N°2, UNESCO 2007, 17.

4. Article 12 of the Charter.
5. The right to strike is recognized as long as it is in conformity with the available rules and regulation of the Constitution.
6. The case here is different for Gabon and Equatorial Guinea who till date are reluctant in encouraging the free movement of persons and establishment in the various CEMAC member states. Gabon and Equatorial Guinea continue to emphasise on a valid passport and visa before one can enter their territories.
7. Article 492 of the Chadian Labour Code.
8. Ibid, Article 493.
9. Decree No. 191/PR/MFT/96 of 15 April 1996 regulating the conditions of recruiting workers in Chad.
10. This is a report given by a Malian citizen that intend doing business in Chad that it takes several months before the Chadian authority could offer him a license to operate, and even when such permission is granted, he received discrimination and increase in tax rate something not experienced by Chadian nationals.
11. Ordinance No. 12 ET 13/PR/MJ of 9th June 1967 establishing the Penal Code and Penal Procedure Code of Chad
12. This article provides that any act of person which causes damage to another makes him by whose fault the damage occurred liable to make reparation for the damage.
13. The Code Napoleon or otherwise known as the French Civil Code of 1804
14. Amnesty International Report 2013 on the Situation of Human Right Practices in Chad.
15. The Chadian Daily
16. That is the United Nation Convention on Refugee Protection 1951.
17. Amnesty International Report on Human Right violation by States, 2012.
18. This is the case of Ms. Marie Loubaky who experienced many difficulties since she became a refugee. She no longer had a permanent job with a steady income to support her family. She and her family had lost their former high social standing and, as Congolese refugees, became a marginalized and discriminated part of Gabonese society. As a refugee she was subjected to verbal abuse and sexual insinuations from the Gabonese police. Marie was used to take care of her children by herself but, as a refugee, the absence of a spouse made her and her family even more vulnerable to physical and mental abuse. Moreover, her affiliation with the former government of Congo-Brazzaville and her work as a journalist put her at risk politically in Gabon. As such, around the time of the Gabonese presidential elections of autumn 2005, Marie's situation became extremely precarious. The unease and the fear for forcible removals increased among the Congolese refugee community and Ms. Loubaky felt threatened. It was clear that Marie's safety could no longer be guaranteed and that she needed to leave Gabon for a safe country of asylum.
19. "Towards a fair deal for migrant workers in the global economy", Report VI, International Labour Conference,

92nd Session, Geneva, 2004; OSCE; IOM; ILO: Handbook on establishing effective labour migration policies in countries of origin and destination (Vienna, 2006).

20. Dirty, dangerous and degrading.
21. Ibid, "*Towards a fair deal for migrant workers in the global economy*", P. 150–165 (agriculture), 173–178 (sweatshops), 181–194 (care economy, domestic work) and, to some extent, 166–172 (construction).
22. Section 8 of the same law.
23. Ibid, Section 33(1) of the 1951 Refugee Convention which talks about the principles of non-refoulement.
24. Ordinance No 32/PR/2011, 4 October 2011, article 36 of Chad.
25. The Human Right Reports on the Practice of Human Right in Cameroon, Chad, and Gabon, 2012.
26. Ibid
27. Amnesty International Report 2013 on the stakes of Human Rights Situation in Chad.