

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 19 OF THE CONVENTION**

Concluding observations of the Committee against Torture
(Extracts for follow-up of CAT/C/TCD/CO/1)

CHAD

(...)

C. Principal subjects concerns and recommendations

Definition of torture

13. The Committee is concerned at the absence of an explicit definition of torture in the current Criminal Code that would make acts of torture punishable under criminal law, in accordance with articles 1 and 4 of the Convention. While welcoming the bill to revise the Criminal Code, which does contain a definition of torture, the Committee is concerned that the definition is incomplete and is therefore not entirely in conformity with article 1 of the Convention (arts. 1 and 4).

The State party should urgently revise and adopt the bill amending and supplementing the Criminal Code so that the Code includes a definition of torture in conformity with article 1 of the Convention, as well as provisions criminalizing acts of torture and making them punishable by criminal penalties proportional to the seriousness of the acts committed.

(...)

Widespread use of torture and ill-treatment, especially during military operations

17. The Committee is deeply concerned about: (a) Persistent and consistent reports of torture and ill-treatment allegedly carried out by the State party's security forces and services, especially in district police stations, gendarmeries and remand centres, and the apparent impunity enjoyed by the perpetrators of such acts; (b) Allegations that the newly formed environmental protection brigades and the brigade responsible for searching for weapons indulge in acts that contravene the Convention; (c) The conclusions of the commission of inquiry into the events of February 2008, and conclusions drawn from other sources, which report summary and extrajudicial executions, rapes, kidnappings followed by enforced disappearance, torture and cruel, inhuman or degrading treatment, arbitrary arrests, intimidation and harassment of political opponents, human rights defenders and civilians. The Committee is particularly concerned about the fate of Mr. Ibni Oumar Mahamat Saleh, a political opponent and former minister who was arrested on 3 February 2008 and who has since disappeared; (d) Reports that torture and ill-treatment are commonly used on prisoners of war and political opponents (arts. 2 and 12)

The State party should:

- (a) Take immediate steps to guarantee in practice that all allegations of torture and ill-treatment are the subject of a thorough, prompt and impartial investigation and that the perpetrators of such acts are brought to trial and, if found guilty, sentenced to penalties proportional to the seriousness of the acts committed;**
- (b) Investigate the involvement of government agents, members of the armed forces and government security forces and allies of the Government in acts of torture, rape, enforced disappearance and other abuses committed during the events of February 2008;**
- (c) Investigate the activities of the environmental protection brigade and the brigade responsible for searching for weapons and ensure effective control over their future actions;**
- (d) Implement, as soon as possible, the recommendations of the commission of inquiry into the events of February 2008;**
- (e) Offer full reparation, including fair and adequate compensation for the victims of such acts, and provide them with medical, psychological and social rehabilitation.**

(...)

Impunity

22. The Committee expresses serious concern about: (a) The fact that credible allegations of acts of torture and ill-treatment are rarely the subject of investigations or judicial proceedings and that the perpetrators are rarely convicted or, when they are, are given light sentences that do not reflect the seriousness of their crimes; (b) The climate of impunity for the perpetrators of acts of torture, including for members of the armed forces, the police, the National Security Agency, the former Documentation and Security Directorate and other State bodies, particularly when these are highly placed officials who reportedly planned, ordered or perpetrated acts of torture, notably during the regime of Hissène Habré or during the armed conflicts in 2006 and 2008; (c) The fact that the judicial investigation under way since October 2000 into the alleged accomplices of Hissène Habré has still not been the subject of any procedural action or judicial decision; (d) The absence of any measures to protect the complainant and witnesses from ill-treatment or intimidation once they have filed a complaint or statement, which means that only a small number of complaints are filed for acts of torture or cruel, inhuman or degrading treatment (arts. 12 and 13).

The State party should demonstrate firm commitment to eliminating the persistent problem of torture and impunity. It should:

- (a) Publicly and unambiguously condemn the use of all forms of torture, addressing in particular members of the forces of law and order, the armed forces and prison staff, and including in its statements clear warnings that any person committing such acts, participating in them or acting as an accomplice shall be held personally responsible before the law and shall be liable to criminal penalties;**
- (b) Take immediate steps to ensure that in practice all allegations of torture and ill-treatment are the subject of prompt, impartial and effective investigations and that those responsible - law enforcement personnel and others - are prosecuted and punished. Investigations should be conducted by a fully independent body;**

(c) In prima facie cases of torture, suspects should be systematically and immediately suspended from duty for the duration of the investigation, particularly if there is a risk that they might otherwise be in a position to obstruct the investigation;

(d) Ensure that, in practice, complainants and witnesses are protected from any ill-treatment and acts of intimidation related to their complaint or testimony.

(...)

Administration of justice

24. The Committee is concerned at the numerous shortcomings in the Chadian justice system which undermine the right to prompt and impartial examination of cases and the right to reparation and compensation, and which promote impunity. The Committee regrets in particular that the shortcomings highlighted in 2005 by the independent expert on the situation of human rights in Chad, namely the dependence of the judiciary upon the executive, the scarcity of physical and human resources and the climate of insecurity affecting certain judges, continue to apply (E/CN.4/2005/121, para. 5). The Committee notes with concern that because of understaffing among professional judges, sub-prefects have been given the powers of district judges. Moreover, allegations have been received of corruption among judges, police officers and gendarmes and of a lack of training for judicial personnel. The Committee is also concerned that responsibility for the appointment and promotion of judges rests entirely with the President, which jeopardizes the independence of the judiciary (arts. 2, 13 and 14).

To address the shortcomings in the administration of justice, the State party should:

(a) Urgently implement the Justice Reform programme approved in 2005 and request the support of the international community to that end;

(b) Provide appropriate training for all judicial personnel in order to address the shortage of judges and ensure, to the extent possible, that professional judges are deployed to all judicial districts;

(c) Pursue and intensify anti-corruption efforts, including by adopting the necessary legislative and operational measures;

(d) Ensure that the judiciary is fully independent, in accordance with relevant international standards.

(...)

Reparation and compensation

28. The Committee regrets the National Assembly's failure as yet to follow up on the bill proposed in 2005 by the Association of Victims of Crimes and Political Repression (AVCRP), which recommended the establishment of a compensation fund for victims of the abuses committed by the regime of President Hissène Habré. Moreover, the Committee notes the absence of a reparation programme or other national reconciliation measures such as that proposed in 1992 by the commission of inquiry into the crimes and abuses of power committed by former President Habré and his accomplices (art. 14).

The State party should, as a matter of great urgency, adopt the bill on material compensation for the victims of torture under the Hissène Habré regime and establish appropriate mechanisms to meet the victims' legitimate needs for justice and to promote national reconciliation.

(...)

Child soldiers

34. The Committee welcomes the protocol of agreement signed by the State party and the United Nations Children's Fund (UNICEF) in April 2007 on the liberation and sustainable reintegration of all children involved in armed groups in Chad. The Committee nevertheless remains deeply concerned at the continued and, according to some allegations, increased recruitment of child soldiers by all parties to the conflict, in particular in sites for displaced persons and refugee camps. The Committee also regrets that only a small number of children have been demobilized since the signing of the agreement with UNICEF, including only very few of the children involved in the Chadian armed forces (art. 16).

The State party should:

- (a) With the support of the United Nations and civil society, draft a time-bound plan of action to prevent the illicit recruitment of child soldiers and to facilitate their rehabilitation and reintegration into society and institute transparent procedures for the liberation and monitoring of the demobilization of children involved in armed groups operating in Chadian territory;**
- (b) Criminalize the illicit recruitment and use of children in armed conflicts;**
- (c) Investigate and prosecute persons responsible for recruiting child soldiers in order to put an end to impunity;**
- (d) Launch a public information campaign to ensure that all members of the armed forces are aware of Chad's international obligations to prevent the use and recruitment of child soldiers in armed conflicts;**
- (e) Authorize the verification by United Nations led teams of the presence of children in military camps, training centres and detention centres, as agreed by the State party in May 2008 during the visit of the Special Representative of the Secretary-General for Children and Armed Conflict;**
- (f) Ensure that refugee camps and sites for displaced persons are of a civilian and humanitarian nature and increase the security and protection of civilian populations both within and around them, given that such measures help in preventing the recruitment of children and in protecting them.**

(...)

43. The Committee requests the State party to provide it with information on follow-up to the Committee's recommendations contained in paragraphs 13, 17, 22, 24, 28 and 34 above, within one year.

(...)
