



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Distr.: General  
15 February 2011  
English  
Original: French

---

## Committee against Torture

Forty-fifth session

1–19 November 2010

### List of issues prepared prior to the submission of the second periodic report of Chad (CAT/C/TCD/2)\*

### Information relating specifically to the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

#### Articles 1 and 4

1. In the light of the Committee's previous concluding observations (para. 13),<sup>1</sup> please indicate the legislative measures that have been adopted to complete the definition of torture in the bill to revise the Criminal Code so that it conforms with the definition in article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

2. In the light of the Committee's concluding observations (para. 13), please provide detailed information on the provisions of the Criminal Code and the Code of Criminal Procedure that criminalize acts of torture and other ill-treatment, as well as on provisions that make such acts punishable by criminal penalties that take account of their seriousness.

3. Please indicate what the status of customary law is in the State party and what measures have been taken to make it compatible with respect for human rights, and in particular with obligations under the Convention.

---

\* The present list of issues was adopted by the Committee at its forty-fifth session in accordance with the new optional procedure established by the Committee at its thirty-eighth session, which consists of the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

<sup>1</sup> Paragraph numbers in parentheses refer to earlier concluding observations adopted by the Committee, issued as document CAT/C/TCD/CO/1.

## Article 2<sup>2</sup>

4. Please provide detailed information on legal provisions and concrete measures taken by the State party to guarantee the absolute and non-derogable nature of the prohibition against torture and to encourage the assessment of the impact such measures have on efforts to combat torture. Indicate any measures aimed at ensuring that no exceptional circumstances, including a state of war or threat of war, internal political instability or any other state of emergency, may be invoked to justify the use of torture, as well as any measures intended to prevent military involvement in the arrest or detention of civilians.

5. Please specify whether article 143 of the Chadian Criminal Code, which establishes that any person who acts on the orders of a hierarchical superior shall be exempt from punishment, has been amended to ensure that orders from a superior may not be invoked as justification of torture under any circumstances. Where appropriate, provide detailed information on legislation that has recently entered into force and give examples of judgements in which a State official was prosecuted and convicted after invoking orders from a superior as justification for the use of torture.

6. In the light of the Committee's concluding observations, please indicate:

(a) The measures taken to guarantee that the National Human Rights Commission complies with the Paris Principles (General Assembly resolution 48/134 of 20 December 1993), insofar as the Commission's accreditation status is "A status with reserve".<sup>3</sup> Clarify the Commission's mandate, membership and selection procedures and the financial resources it receives.<sup>4</sup> Bearing in mind the Committee's concluding observations (para. 27), tell what organizational and budgetary measures have been taken to make the Commission functional and operational;

(b) The number of complaints filed with the Commission, the number accepted or rejected, and the reasons given. Cite any opinions issued by the Commission. In particular, information should be provided on opinions issued by the Commission concerning complaints of torture. To which authority were these opinions transmitted? What follow-up did they receive? In the light of the complaints mechanism's mandate, list the reports it has published and provide evidence of its effective participation in the legislative work of the State party's National Assembly.<sup>5</sup>

7. Bearing in mind the Committee's concluding observations (para. 26),<sup>6</sup> please indicate whether the National Human Rights Commission, which has a specific mandate to visit detention centres, has sufficient resources to fulfil this mission. Provide detailed information on other mechanisms that exist for the monitoring of places of detention. Indicate also whether non-governmental organizations (NGOs) have the right to make

<sup>2</sup> The issues raised under article 2 may also arise under other articles of the Convention, including, but not limited to, article 16. As stated in general comment No. 2, paragraph 3, "The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter 'ill-treatment') under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. (...) In practice, the definitional threshold between ill-treatment and torture is often not clear." See also chapter V of the same general comment.

<sup>3</sup> A/HRC/10/55, annex 1.

<sup>4</sup> More detailed information than that provided in document CCPR/C/TCD/Q/1/Add.1, para. 4.

<sup>5</sup> CAT/C/TCD/1, para. 101.

<sup>6</sup> Paragraph numbers in parentheses refer to earlier concluding observations adopted by the Committee, issued as document CAT/C/TCD/CO/1.

periodic independent, unannounced and unrestricted visits to places of detention. It would seem that such organizations are only allowed to make “guided” visits during which they are not permitted to have direct contact with detainees, record their testimonies or take photographs.

8. In the light of the Committee’s concluding observations (para. 24), please indicate:

(a) The action taken to begin work on the judicial reform programme adopted in 2005, specifying the date on which the reform is expected to be completed, the means used and the mechanisms established for cooperating with the international community in this endeavour, as applicable;

(b) Measures aimed at providing adequate training for judges and increasing the human and material resources allocated to the administration of justice, in particular through the deployment of judges to all parts of the country;

(c) Legislative, administrative and judicial measures taken to combat corruption among judges;

(d) Legislative, administrative and judicial measures taken to guarantee that judges are fully independent of the executive, in accordance with the Basic Principles on the Independence of the Judiciary (General Assembly resolutions 40/32 of 29 November 1985 and 40/146 of 13 December 1985). To this end, describe in detail the provisions governing the selection of judges, their mandate and its duration, their security of tenure, promotion possibilities and dismissal.

9. In light of the Committee’s concluding observations (para. 16), please indicate whether the Code of Criminal Procedure has been revised to include the following fundamental guarantees of due process:

(a) Establishment of the duration of police custody from the time of arrest to the time the arrested person appears before a judge, given that the State party has acknowledged that the 48-hour limit established in article 221 of the Code of Criminal Procedure is not observed in practice. Indicate any measures taken to limit the possibility of custody being prolonged;

(b) Registration of individuals at the time they are taken into custody and the recording of all the detention centres to which they are transferred, in view of the shortcomings observed in the maintenance of detention registers (para. 16);<sup>7</sup>

(c) The right of detainees to contact a lawyer and the right to have that lawyer present during preliminary questioning by the police or public prosecutor;

(d) The right of detainees to contact family members, in view of the fact that numerous NGOs have reported that family visits are either forbidden or made subject to the payment of money;

(e) The right of detainees to be examined by an independent physician at the outset and at the end of police custody;

(f) The right of detainees to benefit from legal aid when they lack sufficient financial resources to pay for a lawyer or other type of counsel, and establishment of a system of court-appointed lawyers within the judicial system;

(g) The possibility for detainees to object to their pretrial detention and the remedies available to this end;

---

<sup>7</sup> CAT/C/TCD/CO/1, para. 16.

(h) The option of replacing pretrial detention with alternative measures, such as house arrest, thereby effectively reducing the problem of overcrowding in prisons.

10. In view of the information provided by NGOs and several independent newspapers on the Koro Toro penal colony, please indicate the circumstances under which secret detention may be ordered and specify which authorities may issue such orders and how long such detention may last. Indicate the number of persons held in such conditions. In the light of the Committee's concluding observations (para. 18), provide an exhaustive list of secret detention facilities and the dates on which each facility was closed. Indicate also what action was taken to place persons detained in such conditions under court supervision and what measures exist to guarantee respect for their fundamental freedoms.

11. Please indicate whether the concept of a "reasonable" period has been clearly defined in order to prevent any abuse or arbitrary use of pretrial detention (para. 25). In the light of the conclusions of the independent expert on the situation of human rights in Chad, tell what measures have been taken to address the problem of violence in prisons.<sup>8</sup>

12. Please explain what legislative, administrative and judicial measures have been taken to prevent enforced disappearances and extrajudicial killings by rebel groups or unidentified elements. In addition, provide statistics regarding these acts, and in particular the number of cases investigated and prosecuted and the number of convictions.

13. Please tell what legislative, administrative and judicial measures have been taken to prevent sexual violence against women and children in prisons or any other places of detention, including gendarmeries and police stations, by agents of the State.

14. Please indicate the legislative, administrative and judicial measures taken to criminalize domestic violence and combat the practice of forced marriage. Indicate also the status of the bill to include in the Family Code provisions making polygamy an offence.<sup>9</sup> Tell what action has been taken to make it impossible to invoke customary law or practices as justification for violations of the absolute ban on torture, to put an end to amicable settlements of such offences and to ensure that the perpetrators are brought to justice, prosecuted and convicted, as applicable.

15. Pursuant to the Committee's concluding observations (para. 33), please indicate whether domestic legislation has been amended to criminalize and punish the trafficking of children with a view to their sexual exploitation, as well as the trafficking and slavery of women and children. In fact, no provisions, legislative or otherwise, specifically prohibit or punish trafficking in human beings. Provide information on steps taken to implement the regional Action Plan to Combat Trafficking in Human Beings (CCPR/C/TCD/Q/1/Add.1, para. 42) and the national action plan to combat sexual exploitation and abuse (CRC/C/TCD/CO/2, para. 81) and to eradicate the sale of children to the various armed forces. Lastly, please indicate the legal provisions that criminalize and punish these offences.

16. In light of the Committee's concluding observations (para. 20 (d)), please indicate the legislative, administrative and judicial measures taken to eradicate female genital mutilation. Indicate also legislative measures that criminalize such acts, as well as the penalties that have been established and enforced, with due account taken of the seriousness of the crime, under the new Criminal Code.

---

<sup>8</sup> E/CN.4/2005/121, para. 27.

<sup>9</sup> CCPR/C/TCD/Q/1/Add.1, para. 30.

17. Please indicate the legislative, administrative and judicial measures taken to criminalize and punish rape and other acts of sexual violence committed in and around refugee camps.

### **Article 3**

18. Please provide detailed information on legislative, administrative and judicial measures aimed at ensuring that no person may be extradited to a third State when there are serious grounds for believing that he or she will risk torture in that State. Indicate whether expulsion, refoulement or extradition orders against persons, undocumented or otherwise, are based on judicial decisions reached after a careful examination of the possible risk of torture involved in each case and whether such decisions are subject to appeal with suspensive effect.

19. Please tell what legislative, administrative and judicial measures exist to ensure that the guarantees mentioned in article 3 of the Convention are respected in the case of detainees who are transferred to a third State, and explain how the State party guarantees that its obligations under that article of the Convention are fulfilled.

20. Please provide information disaggregated by age, sex and ethnic origin on the number of extradition, refoulement and expulsion requests filed, approved or refused. Cite any cases in which a refusal to deport has been based on the risk that the person might face torture.

21. Please provide data disaggregated by age, sex and ethnic origin on the number of asylum applications filed, approved and rejected, and of persons whose applications are based on their experience of torture in a third State or on the risk of being tortured if they are sent back.

### **Articles 5 and 7**

22. Please indicate whether the State party has for any reason rejected a request from a third State for the extradition of a person suspected of committing an act of torture and, if so, whether the State party has itself prosecuted the person. Where applicable, provide information on the resulting proceedings and their outcome. Indicate what steps have been taken by the State party to cooperate with Senegal in bringing former President Hissène Habré promptly to justice.

23. Please provide information on the measures the State party has taken to establish and exercise its jurisdiction over acts of torture when the alleged author is in Chad, either to extradite or to prosecute the person, in accordance with the provisions of the Convention.

24. Please provide specific data on the number of requests submitted by Chad to a third State for the extradition of persons residing in that State, the grounds for the requests and the outcome thereof. Have any requests for extradition been denied on the ground that the extradited person ran a serious risk of being tortured?

### **Article 10**

25. Please provide information on the measures taken to ensure that adequate training, covering the absolute prohibition of torture and other cruel, inhuman or degrading treatment, is provided for all law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or

imprisonment. Provide detailed information on the arrangements made to allow these officials to receive such training on an ongoing basis. Indicate whether the training provided for judicial personnel, prosecutors and judges specifically mentions the prohibition against accepting confessions and/or statements obtained through torture or other ill-treatment. Provide specific examples of the training provided to members of the armed forces and police in the context of torture prevention, and clarify the impact of such training on the personnel in question.<sup>10</sup>

26. Does the training provided include development of the skills required for detecting signs of torture and ill-treatment? Please indicate whether the 1999 Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment is an integral part of the training received by doctors. If so, provide illustrative examples.

## Article 11

27. In the light of the Committee's concluding observations (para. 19), please indicate the measures taken to ensure greater transparency and tighter control over the activities of the National Security Agency, including covert defence operations.

28. In the light of the Committee's concluding observations (para. 25):

(a) Please provide updated statistics disaggregated by age and sex on prison overcrowding, including holding capacities and real occupation rates. Indicate the number of persons held in pretrial detention. Provide information also on the creation of any new detention centres, on revisions to the Criminal Code aimed at reducing prison sentences and on alternative penalties contemplated with a view to limiting the use of incarceration;

(b) Please indicate the measures taken to improve the living conditions of detainees and bring them into line with the Standard Minimum Rules for the Treatment of Prisoners (General Assembly resolution 43/173), in particular with regard to health care and food. Tell what has been done to ensure that persons in pretrial detention are held separately from convicted prisoners, that male detainees or prisoners are held separately from female detainees or prisoners and that minors are held separately from adult detainees or prisoners;

(c) Please describe the measures taken to combat corruption in prisons, particularly the practice of requiring members of detainees' families to pay in order to visit their detained relatives. Include measures taken to combat the practice among prison guards of arranging escapes in return for payment;<sup>11</sup>

(d) Please specify whether the instructor's manual on interrogation techniques has been revised to incorporate the absolute prohibition against torture.<sup>12</sup>

## Articles 12 and 13

29. In the light of the Committee's concluding observations (para. 21), please describe the measures taken to enable the authorities to institute, systematically and on their own initiative, prompt, effective, impartial and objective investigations without the need for a

---

<sup>10</sup> CAT/C/TCD/1, para. 323 ff. and CCPR/C/TCD/Q/1/Add.1, para. 47.

<sup>11</sup> E/CN.4/2005/121, para. 29.

<sup>12</sup> (Order No. 24/MDNACVG/ENP/05, cited in the national report submitted by Chad in connection with the universal periodic review, A/HRC/WG.6/5/TCD/1, para. 85.)

complaint from the victim when there is reason to believe that an act of torture has been committed.

30. In the light of the Committee's previous concluding observations, please describe the measures taken to ensure that alleged victims are protected against any acts of intimidation or cruel, inhuman or degrading treatment.<sup>13</sup>

31. Please provide detailed statistical data, broken down by age, ethnic origin and sex, on complaints filed alleging acts of torture or other cruel, inhuman or degrading punishment or treatment by law enforcement or army personnel, as well as on the corresponding investigations, proceedings, penalties or disciplinary measures, as appropriate. Indicate the measures taken to ensure that any public official or member of the armed forces against whom a complaint of torture has been filed is suspended from duty for the duration of the investigation and dismissed from service if found guilty. Indicate also the number of public officials who have been suspended from duty as a result of such investigations and convictions for torture. Examples of specific cases should be provided to facilitate an assessment of the effectiveness of the measures adopted.

32. Please provide precise statistical data on the number of complaints filed and registered, the investigations conducted and the prosecutions carried out, as well as on the outcome of such proceedings and the sentences handed down for the torture of children, trafficking of women and children, and acts of violence against women, including sexual violence committed by State agents and military personnel in detention centres and acts of domestic violence against women.

33. Please provide precise statistical data on the number of complaints filed and registered, related investigations and prosecutions, on the outcome of such proceedings, and on the criminal or disciplinary sanctions imposed on Government agents or members of the armed forces or State security services, in order to determine their involvement in torture and other ill-treatment, acts of rape, summary and extrajudicial killings and enforced disappearances during the events of February 2008. Please also provide information on the status of the investigation into the disappearance on 3 February 2008 of Mr. Ibni Oumar Mahamat Saleh.<sup>14</sup>

34. Bearing in mind the Committee's concluding observations (para. 17), please provide precise statistical data on the number of complaints filed and registered, related investigations and prosecutions, as well as on the outcome of these proceedings and the criminal or disciplinary sanctions imposed on members of the environmental protection brigade and the brigade responsible for searching for weapons.

## Article 14

35. Please provide an exhaustive list of the compensatory measures ordered by the various courts, broken down by type. Please confirm that victims have the possibility of benefiting from these measures in all cases, including when disciplinary or non-judicial sanctions have been imposed on those found guilty of torture. In particular, tell what measures have been taken to establish adequate mechanisms for guaranteeing full reparation and rehabilitation to persons who were subjected to torture and other ill-treatment during the events of February 2008.

---

<sup>13</sup> CAT/C/TCD/CO/1, para. 22 (d).

<sup>14</sup> This information was not available in document CCPR/C/TCD/Q/1/Add.1, para. 58.

36. In its concluding observations (para. 28) the Committee encouraged the State party to create a compensation fund for victims of the abuses committed by the regime of President Hissène Habré. Describe the steps taken to create this fund. Provide specific information about the fund's mandate, composition, selection procedures and financial resources as well as information about its employees.

37. Given the massive scale of the sexual violence committed against women and children in the home and in detention centres as well as in refugee camps, please specify what compensation and rehabilitation mechanisms have been established to ensure that they receive medical, psychological and financial support. Describe the steps taken to ensure free and universal testing for sexually transmitted diseases (STDs) and HIV/AIDS.

### **Article 15**

38. In the light of the Committee's concluding observations (para. 29), please describe the amendments made to the Code of Criminal Procedure to guarantee that no evidence obtained by torture or cruel, inhuman or degrading treatment may be used as evidence in the courts. Provide specific information on the steps taken to ensure that no person may be convicted solely on the basis of a confession and that confessions must be corroborated by other evidence. Cite the steps taken to review all criminal convictions based on confessions obtained solely by means of torture or other ill-treatment. Indicate the corrective measures taken in the light of such reviews.

### **Article 16**

39. In the light of the Committee's concluding observations (para. 31), please provide information on legislation and practice regarding the corporal punishment of children. Specify the measures taken to extend the scope of the prohibition against corporal punishment to the home, religious establishments, care institutions and juvenile detention facilities, and to criminalize such acts. Tell of any measures aimed at eradicating the economic exploitation of children and protecting them, in particular with regard to the most vulnerable children: child livestock-herders, *muhajirin* (mendicant Koranic students) and child domestic workers.

40. Please tell what measures exist to guarantee that juveniles have access to a justice system that complies with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) and the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Tokyo Rules). Indicate the age at which a minor may be held criminally responsible.

41. Bearing in mind the Committee's concluding observations (para. 34), please describe the steps taken by the State party, in collaboration with the United Nations, to draw up a plan of action to prevent the enlistment of children in the armed forces, procure their release and ensure their rehabilitation and reintegration in society. Indicate the steps taken to extend the disarmament, demobilization and social reintegration programme to children. Cite the legislative or other measures that have been taken to ensure that members of the armed forces are aware of the prohibition against the recruitment of children. Include any measures aimed at criminalizing and punishing the recruitment and illicit use of children in conflicts. Tell what action has been taken to enable the United Nations to establish a mechanism for verifying the presence of children in military camps and in training or detention centres, in the light of the most recent concluding observations of the Committee on the Rights of the Child (CRC/C/TCD/CO/2).



42. Please indicate the legislative, administrative, judicial or other measures taken to protect persons rendered vulnerable through discrimination or marginalization, in particular persons or groups belonging to a minority or who are marginalized because of their ethnic origin, religious belief or affiliation, political or other views, national or social origin, sex, sexual preference, mental or other disability, or economic or indigenous status, as well as asylum-seekers, refugees and anyone who is detained, including persons accused of committing political offences or acts of terrorism.

### **Other aspects**

43. Please indicate any measures taken with a view to the ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

44. Please provide the Committee with information on legislative, administrative or judicial measures taken by the State party to respond to the threat of terrorism and tell whether such measures have affected human rights safeguards in both law and practice, and, where applicable, how the State party has ensured that such counter-terrorism measures are consistent with all its obligations under international law. Describe the counter-terrorism training provided to law enforcement officers and indicate the number and types of convictions obtained under relevant legislation as well as the legal remedies available to persons subject to counter-terrorism measures. Tell whether any complaints of non-compliance with international standards have been lodged and what follow-up they received. Concrete examples of the application of such measures and their impact on human rights should be provided in order to enable the Committee to assess the State party's implementation of the Convention.

### **General information on the human rights situation in the State party, including new measures and developments relating to the implementation of the Convention**

45. Please provide detailed information on new developments that have occurred since the consideration of the initial report with regard to the legal and institutional framework for the promotion and protection of human rights at the national level, including any relevant jurisprudential decisions.

46. Please provide detailed information on new political, administrative and other measures taken since the consideration of the initial report to promote and protect human rights at the national level, particularly with regard to any national human rights plans or programmes that have been adopted, and specify the resources allocated thereto, the means used, the objectives thereof and the results obtained.

47. Please provide any other information regarding new measures or initiatives taken since the consideration of the initial report in 2009 with a view to implementation of the Convention and following up the Committee's recommendations, including useful statistical data, and tell of any events that have occurred in the State party that may be of interest in the light of the Convention.

---