



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

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## Committee against Torture

### Concluding observations on the second periodic report of Chad\*

1. The Committee against Torture considered the second periodic report of Chad<sup>1</sup> at its 1939th and 1943rd meetings,<sup>2</sup> held on 1 and 3 November 2022, and adopted the present concluding observations at its 1965th meeting, held on 18 November 2022.

#### A. Introduction

2. The Committee welcomes the submission of the second periodic report of the State party. The Committee expresses its appreciation to the State party for accepting the simplified reporting procedure, as this allows for a more focused dialogue between the State party and the Committee. However, the Committee regrets that the report was submitted seven years late.

3. The Committee appreciates having had the opportunity to engage in a constructive dialogue with the State party's delegation and the oral and written responses provided to the questions and concerns raised during the consideration of the periodic report. The Committee welcomes the efforts made to ensure that representatives of the Permanent Mission in Geneva could present the State party's periodic report but regrets that, despite its decision to postpone the second session of the dialogue from 2 to 3 November 2022 in response to a request from the State party, some members of the delegation initially announced by the State party were unable to take part in the dialogue. The Committee wishes to remind the State party that dialogue is a key component of the consideration of the report and provides a unique opportunity for the Committee and the State party to hold constructive, in-depth discussions, which, together with the report submitted by the State party and other information received, allow the Committee to assess the progress made and to indicate to the State party the areas where further efforts are needed. The Committee urges the State party to take the appropriate measures to be present and ready to engage in a constructive dialogue with the Committee during the consideration of its next periodic report.

#### B. Positive aspects

4. The Committee welcomes the fact that, since the consideration of the initial report, the State party has ratified or acceded to the following international instruments:

(a) Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, in 2022;

\* Adopted by the Committee at its seventy-fifth session (31 October–25 November 2022).

<sup>1</sup> CAT/C/TCD/2.

<sup>2</sup> See CAT/C/SR.1939 and CAT/C/SR.1943.



- (b) International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, in 2022;
- (c) Convention on the Rights of Persons with Disabilities, in 2019;
- (d) United Nations Convention against Corruption, in 2018;
- (e) United Nations Convention against Transnational Organized Crime, in 2009;
- (f) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, in 2009.

5. The Committee also welcomes the State party's initiatives to revise and introduce legislation in areas of relevance to the Convention, such as:

- (a) The abolition of the death penalty by removing it from the penalties set out in the Criminal Code of 2017 and the Counter-Terrorism Act (No. 003/PR/2020) of 28 April 2020;
- (b) The Asylum Act (No. 027/PR/2020) of 23 December 2020;
- (c) Ordinance No. 006/PR/2018 of 30 March 2018 on combating trafficking in persons;
- (d) Act No. 019/PR/2017 of 28 July 2017 on the prison system;
- (e) Act No. 029/PR/2015 of 21 July 2015 ratifying Ordinance No. 006/PR/2015 of 14 March 2015 prohibiting child marriage;
- (f) Presidential Directive No. 008/PR/EMP/2013 of 10 October 2013 on respect for the minimum age of recruitment into the Chadian National Army;
- (g) Act No. 011/PR/2013 of 17 June 2013 on the Code of Judicial Organization;
- (h) Ordinance No. 007/PR/2012 of 21 February 2012 establishing the regulations governing the judiciary;
- (i) Act No. 032/PR/2009 establishing a National Institute of Judicial Training.

6. The Committee commends the State party's initiatives to amend its policies and procedures in order to afford greater human rights protection and to apply the Convention, in particular:

- (a) The adoption of the Interim Strategy on Juvenile Justice (2017–2021) in 2016;
- (b) The establishment of the special criminal court to try agents of the Documentation and Security Directorate in 2014;
- (c) The adoption of the National Plan of Action to Combat the Worst Forms of Child Labour, Trafficking and Exploitation (2012–2015) in 2012;
- (d) The adoption of the National Strategy to Combat Gender Violence in 2014;
- (e) The establishment of the Interministerial Follow-up Committee on International Human Rights Agreements in 2011;
- (f) The creation of the National Commission for the Reception and Reintegration of Refugees and Returnees in 2011.

## C. Principal subjects of concern and recommendations

### Pending follow-up issues from the previous reporting cycle

7. In its previous concluding observations,<sup>3</sup> the Committee requested the State party to provide it with information on follow-up to its recommendations regarding: the definition of torture; the widespread use of torture and ill-treatment, especially during military operations;

<sup>3</sup> CAT/C/TCD/CO/1, para. 43.

impunity; the administration of justice; reparation and compensation; and child soldiers.<sup>4</sup> The Committee regrets that the State party did not provide this information, despite the reminder sent to it on 28 March 2011 by the rapporteur for follow-up to concluding observations. In the light of the information contained in the State party's second periodic report, the Committee considers that the recommendations made in paragraphs 13, 17, 22, 24, 28 and 34 of its previous concluding observations have not yet been fully implemented. Those issues are covered in paragraphs 19, 37 and 45 of the present concluding observations.

### **Excessive use of force during the protests of spring 2021 and autumn 2022**

8. The Committee notes with concern the recurrent allegations of excessive use of force against demonstrators during the period under review. It is concerned at the numerous allegations that, during the demonstrations that took place in the context of the presidential election and following the establishment of the transitional military council in April 2021, as well as in the context of the inclusive and sovereign national dialogue in August and September 2022 and at its conclusion in October 2022, security forces and unidentified armed groups used excessive force and lethal weapons, resulting in deaths and injuries, including among children, made arbitrary arrests, carried out incommunicado detentions and transfers of detainees to the Koro Toro high-security prison, inflicted acts of torture and ill-treatment, and committed enforced disappearances. The Committee is also concerned at reports that the remains of some demonstrators killed during the protests of 20 October 2022 have still not been returned to their families. It takes note of the State party's commitment to ensuring accountability for the above acts, including by carrying out independent investigations in each town where demonstrations took place in order to establish the facts. However, it regrets the limited progress made in the investigations carried out and the lack of prosecutions to date, which creates a climate of impunity. Noting with interest the news that, following the constructive dialogue, the Prime Minister of Chad affirmed the State party's willingness to receive an international fact-finding mission to shed light on the events of 20 October 2022, the Committee emphasizes the importance of the State party's full cooperation with the mission and effective follow-up to its conclusions and recommendations. The Committee is also concerned about the vague and open-ended language in Ordinance No. 46 of 28 October 1962 on assemblies concerning the use of force in the context of the exercise of the right to peaceful assembly (arts. 2, 12, 13, 14 and 16).

#### **9. The State party should:**

(a) **Repeal Ordinance No. 46 on assemblies, review its other legislation on the use of force and weapons and develop clear guidelines, if necessary, incorporating the principles of lawfulness, necessity and proportionality and the precautionary principle, bring the laws and regulations governing the use of force, including Decree No. 413/PR/PM/MSPI/2016 of 15 June 2016 establishing the Code of Ethics of the National Police, into line with international standards, in particular the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the United Nations Human Rights Guidance on Less-Lethal Weapons in Law Enforcement, and strengthen its efforts to provide mandatory and comprehensive training to all law enforcement personnel on these principles;**

(b) **Ensure that public order is maintained, to the greatest extent possible, by civilian authorities and ensure that all officers can be effectively identified at all times when carrying out their functions, to help ensure individual accountability and protection against acts of torture and ill-treatment;**

(c) **Ensure that prompt, impartial and effective investigations are undertaken into all the allegations described above, and ensure that the perpetrators are prosecuted and punished appropriately and that the victims or their families receive full redress;**

(d) **Fully cooperate with the international fact-finding mission proposed by the mediator of the Economic Community of Central African States to shed light on the**

<sup>4</sup> Ibid., paras. 13, 17, 22, 24, 28 and 34.

**events of 20 October 2022 and provide effective follow-up to the conclusions and recommendations issued by that mission;**

**(e) Ensure that the remains of all those who died in the context of the demonstrations of 20 October 2022 are promptly returned to their families.**

#### **Definition of torture**

10. The Committee takes note of the prohibition of torture and ill-treatment under article 10 of the transitional charter and considers the new definition of the offence of torture set out in article 323 of the Criminal Code to be broadly in line with the provisions of article 1 of the Convention. It is concerned, however, that the notion of any “other person acting in an official capacity” contained in article 1 of the Convention has not been incorporated into this definition, which criminalizes only the actions of “traditional authorities acting in an official capacity”. The Committee is also concerned that acts of torture that do not lead to the death of the victim, permanent loss of the use of all or part of a limb, organ or sense, or illness or incapacity to work of more than 30 days carry sanctions equivalent to those applied for lesser indictable offences, i.e. from 2 to 5 years’ imprisonment, which runs counter to the requirement set out in article 4 of the Convention that torture should be made punishable by appropriate penalties that take into account its grave nature. Lastly, the Committee is concerned that the Criminal Code does not explicitly exclude application of a statute of limitations for the crime of torture (arts. 1, 2 and 4).

**11. The State party should amend article 323 of the Criminal Code to bring the definition of torture fully into line with article 1 of the Convention. In that connection, the Committee wishes to draw the State party’s attention to its general comment No. 2 (2007) on the implementation of article 2, in which it pointed out that serious discrepancies between the definition in the Convention and that incorporated into domestic law created actual or potential loopholes for impunity.<sup>5</sup> The State party should ensure that acts of torture and ill-treatment are punishable by appropriate penalties that take into account their grave nature, in accordance with article 4 (2) of the Convention. The Committee also encourages the State party to make the necessary amendments to its Criminal Code to explicitly exclude application of a statute of limitations for the crime of torture.**

#### **Fundamental safeguards**

12. While taking note of the safeguards to prevent torture and ill-treatment that are set out in the Code of Criminal Procedure, the Committee remains concerned about reports indicating that, in practice, persons in custody are not routinely afforded all fundamental legal safeguards from the very outset of deprivation of liberty. In that respect, it has been reported that: (a) the exercise of the right to consult a lawyer from the moment of arrest is regularly delayed and access is granted only after the preliminary investigation interviews with the security forces and the investigative judge have taken place; (b) persons suspected of terrorism-related offences are often not provided with effective legal representation; (c) the conduct of an independent medical examination aimed at uncovering signs of torture and ill-treatment is not standard practice, in particular for persons in pretrial detention; (d) the exercise of the right to notify a relative or a person of one’s choice is often delayed; (e) arrested persons are brought before the investigative judge several days or even weeks after their arrest, well beyond the 48-hour limit provided by Chadian law; and (f) registers of persons deprived of liberty are often incomplete and are not coordinated or centralized (art. 2).

**13. The Committee urges the State party to ensure that all fundamental legal safeguards against torture are guaranteed in practice for all detained persons from the outset of their deprivation of liberty and regardless of the reasons for their detention, including:**

**(a) The right to be informed in a language they understand of the reasons for their arrest, the nature of any charges against them and their rights;**

<sup>5</sup> Committee against Torture, general comment No. 2 (2007), para. 9.

(b) **The right to legal representation at all stages of criminal proceedings, including interviews;**

(c) **The right to request and receive a medical examination by an independent medical doctor free of charge, or by a doctor of their choice, upon request, that is conducted out of hearing and sight of police officers and prison staff, unless the doctor concerned explicitly requests otherwise;**

(d) **The right to have their medical records immediately brought to the attention of a prosecutor whenever the findings therein or allegations made may indicate torture or ill-treatment;**

(e) **The right to inform a family member or any other person of their choice about their detention;**

(f) **The right to be registered at the place of detention;**

(g) **The right to be brought before a judge without delay;**

(h) **The right to challenge the legality of their detention at any stage of the proceedings.**

14. **The State party should also provide adequate and regular training for officials involved in detention-related activities on legal guarantees, and monitor compliance and penalize any failure on the part of officials to comply.**

#### **Pretrial detention**

15. While taking note of the safeguards set out in the Code of Criminal Procedure, under which pretrial detention is limited to a maximum of one year for lesser indictable offences and two years for serious indictable offences, the Committee is concerned about reports alleging that pretrial detention routinely exceeds the legal limits (and that over 50 per cent of the prison population are awaiting trial). The Committee is also concerned that individuals arrested in the fight against terrorism are reportedly subjected to long periods of pretrial detention, far exceeding the maximum of three years established under the Code of Criminal Procedure, before they are brought before a judge. Lastly, the Committee notes with concern that the routine use of pretrial detention is contributing directly to prison overcrowding (art. 2).

16. **The State party should:**

(a) **Ensure that pretrial detention is effectively reviewed, that its duration does not exceed the legally established maximum and is as short as possible, and that its use is exceptional, necessary and proportionate;**

(b) **Actively promote the use of alternatives to pretrial detention within the prosecution service and among judges, in accordance with the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules) and the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules);**

(c) **Review the case files of all persons held in pretrial detention and immediately release those who have already been in detention for periods exceeding the maximum sentences carried by the offences of which they stand accused.**

#### **National Human Rights Commission**

17. While it notes the adoption of Act No. 28/PR/2018 of 22 November 2018 on the powers, organization and functioning of the National Human Rights Commission, the Committee is concerned that the resources allocated to the Commission remain insufficient to allow it to perform all its functions effectively, notably its role in conducting visits to places of detention and in receiving and investigating complaints about alleged human rights violations. It is also concerned about reports of the Commission's lack of independence from the executive branch, in particular allegations of interference in the selection and appointment of members and in the Commission's activities and decision-making processes. Lastly, the Committee is concerned about the lack of information on the systematic measures taken by

the State party to ensure the effective implementation of the Commission's recommendations, including with regard to the follow-up of investigations and prosecutions and the outcome of cases involving allegations of torture referred by the Commission to the Public Prosecutor's Office (art. 2, para. 1).

18. **The State party should, without delay, take the steps necessary to ensure the functional autonomy of the National Human Rights Commission, including by ensuring that it has an adequate budget for recruiting staff, establishing regional offices and carrying out its mandate, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). It should also take all necessary steps to ensure the full independence of the Commission from the executive branch, including with regard to the selection and appointment of members and the Commission's activities and decision-making processes. Lastly, it should take all necessary measures to ensure that the Commission's recommendations are taken into account and effectively implemented, including measures to monitor whether government agencies are following up on those recommendations, particularly with regard to the follow-up of complaints of torture or ill-treatment filed with the Commission.**

#### **Counter-terrorism**

19. While acknowledging the State party's national security concerns, the Committee remains deeply concerned about reports of arbitrary arrest and detention, extortion, forcible relocation, refoulement, extrajudicial killings, torture, sexual and gender-based violence and enforced disappearance being perpetrated by State officials, in particular members of the defence forces, in the context of counter-terrorism operations, especially in the Lake Chad region, and regrets the lack of information on the investigations and prosecutions conducted and their outcome, including redress for victims. It is also concerned that Act No. 003/PR/2020 contains a definition of terrorism that is vague and overly broad and that it has been used to oppress those critical of the Government. The Committee is further concerned that the Act provides for a maximum period of 30 days in police custody and excessive restrictions on the rights of persons suspected or accused of involvement in terrorist acts, including the right to due process and a fair trial and the right to liberty and security of person (arts. 2, 11, 12 and 16).

20. **The State party should:**

(a) **Ensure that the measures taken to combat terrorism are in conformity with the provisions of the Convention and strictly necessary in the light of the situation and the requirements of the principle of proportionality;**

(b) **Review the definition of terrorism in Act No. 003/PR/2020 to ensure that it is in line with international standards and ensure that the rights of persons suspected or accused of involvement in terrorist acts are duly protected;**

(c) **Reduce the maximum length of time that a person suspected of terrorism can be held in police custody, ensure that any extension is limited to exceptional circumstances that are duly justified and in line with the principles of necessity and proportionality and provide for the judicial review of the lawfulness of the detention;**

(d) **Carry out prompt, impartial and effective investigations into allegations of human rights violations, including acts of torture and ill-treatment, committed in the context of counter-terrorism operations, prosecute and punish those responsible and ensure that victims have access to effective remedies and full reparation.**

#### **Sexual and gender-based violence**

21. The Committee notes with concern the high levels of spousal abuse and the persistence of sexual violence, including rape. It is particularly concerned about the lack of legal and institutional measures, including with regard to the enforcement of criminal provisions on protection against spousal abuse, and the failure to criminalize incest, marital rape and sexual harassment. It is concerned about the information it has received regarding low reporting rates by victims owing to cultural taboos and fear of being stigmatized by their

communities, and low prosecution and conviction rates for sexual and gender-based violence. It is also deeply concerned about reports that most cases of spousal abuse and sexual violence are settled out of court through financial compensation under the authority of religious and traditional leaders. The Committee also notes with concern the criminalization of adultery in article 385 of the Criminal Code and the fact that, under article 69 of the Code, homicide and assault resulting in bodily injury are excusable if the victim was the spouse caught in the act of adultery, thus legalizing crimes of honour, of which women are the primary victims. In addition, the Committee is concerned about reports of continued sexual and gender-based violence, including rape, suffered by refugee women and girls in or near camps for refugees and for internally displaced persons. Lastly, the Committee expresses its concern about the inadequacy of protection and assistance measures for victims of gender-based violence, particularly with regard to shelter and rehabilitation services (arts. 2 and 16).

**22. The State party should:**

(a) **Ensure that all cases of gender-based violence, especially those involving actions or omissions by State authorities or other entities that engage the international responsibility of the State party under the Convention, are thoroughly investigated, that alleged perpetrators are prosecuted and, if found guilty, punished appropriately and that the victims or their families obtain redress, including adequate compensation;**

(b) **Ensure the strict enforcement of the criminal provisions on protection against spousal abuse, including through the allocation of adequate human and financial resources, and amend the Criminal Code in order to criminalize incest, marital rape and sexual harassment;**

(c) **Conduct major information campaigns to raise awareness among the population and all parties concerned that spousal abuse and sexual violence are offences under criminal law, to break the taboos on these crimes and to eliminate the stigmatization and exclusion of victims, which discourages them from lodging complaints;**

(d) **Ensure that customary law and practices are not a substitute for positive law and that their application does not lead to the termination of criminal proceedings in cases of spousal abuse or sexual violence;**

(e) **Revise articles 69 and 385 of the Criminal Code to decriminalize adultery and ensure that perpetrators of spousal abuse are not exempt from criminal prosecution, even in cases where a spouse is caught in the act of adultery;**

(f) **Redouble efforts to improve security in camps for refugees and for internally displaced persons to ensure that women and girls are effectively protected against sexual and gender-based violence and to ensure that all cases are promptly and thoroughly investigated and that perpetrators, whether State or non-State actors, are brought to justice and that victims obtain adequate redress;**

(g) **Intensify its efforts to provide victims and their families with protection, assistance, and remedies, including appropriate compensation and psychosocial and rehabilitation services.**

**Female genital mutilation and harmful traditional practices**

23. The Committee is concerned about the persistence of deeply rooted harmful traditional practices, such as female genital mutilation, child marriage, sororate and levirate marriage, and polygamy. While noting the criminalization of female genital mutilation in the Criminal Code and the establishment of a brigade for the protection of minors and morality, the Committee is concerned that this harmful practice remains common in most communities in the country (with a prevalence of 38.4 per cent among women aged 15 to 49, 46.7 per cent of whom underwent excision between the ages of 5 and 9). It is also concerned about the lack of accurate statistical data, the relatively low rate of prosecutions and the continuing impunity of perpetrators. The Committee also regrets the lack of information on the impact of the awareness-raising campaigns conducted by the State party to eradicate female genital mutilation (arts. 2 and 16).

24. **The State party should effectively enforce the laws prohibiting certain harmful traditional practices, including Act No. 029/PR/2015 ratifying Ordinance No. 006/PR/2015 prohibiting child marriage, Act No. 006/PR/2002 of 15 April 2002 on the promotion of reproductive health, and relevant criminal provisions, and it should conduct awareness-raising activities for the general public and the media, as well as religious and community leaders. The State party should, in particular, intensify its efforts to eliminate female genital mutilation, by strictly enforcing the provisions criminalizing this practice, in particular article 318 of the Criminal Code, so that persons who engage in it, including doctors, are prosecuted and duly punished. It should, moreover, step up awareness-raising activities aimed at religious and traditional leaders and the general public, in cooperation with civil society, about the criminal nature of these acts, their adverse effects on the human rights and health of women and the need to eradicate them and their underlying cultural justifications.**

#### **Abortion**

25. The Committee is concerned that abortion is an offence under the Criminal Code, except in cases of sexual assault, rape, incest, or when the pregnancy endangers the mental or physical health or the life of the mother or the fetus, and that access to safe abortion requires the prior authorization of the Public Prosecutor's Office,<sup>6</sup> a situation which encourages women to perform illegal and unsafe abortions that endanger their health (arts. 2 and 16).

26. **The State party should revise articles 356 and 358 of the Criminal Code to decriminalize abortion and allow women and girls to gain access to safe abortion without having to seek the prior authorization of the Public Prosecutor's Office.**

#### **Conditions of detention**

27. Despite the legislative and institutional measures taken by the State party and the refurbishment of several prisons in recent years, the Committee remains deeply concerned at reports indicating overcrowding in some prisons and poor material conditions of detention in places of deprivation of liberty, in particular insalubrity and inadequate hygiene, lack of ventilation, the poor quality and insufficient quantity of the food and water provided, and limited recreational or educational activities to foster rehabilitation. Furthermore, the limited access to quality health care, including mental health care, and the lack of trained and qualified prison staff, including medical staff, remain serious problems in the prison system. The Committee is also concerned at reports regarding the prevalence of prison violence, including violent acts committed by prison staff against detainees and inter-prisoner violence, and the failure to effectively separate different categories of detainees (arts. 2, 11 and 16).

28. **The Committee calls on the State party to take all necessary measures without delay to bring conditions of detention into line with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). The State party should:**

(a) **Reduce overcrowding in prisons by making more use of alternatives to detention and continue to develop the prison infrastructure and improve detention conditions;**

(b) **Ensure that the necessary resources are allocated for the proper medical and health care of prisoners, in accordance with rules 24–35 of the Nelson Mandela Rules;**

(c) **Increase the number of trained and qualified prison staff, including medical staff, and strengthen the monitoring and management of inter-prisoner violence;**

<sup>6</sup> Chad, Criminal Code, arts. 356–358.

(d) **Ensure that prompt, impartial and effective investigations are undertaken into all allegations relating to acts of torture or ill-treatment by prison personnel and that the alleged perpetrators are prosecuted and adequately punished;**

(e) **Ensure that, in accordance with rule 11 (d) of the Nelson Mandela Rules, detained minors are kept strictly separate from adults, and that they are deprived of their liberty only as a last resort and for the minimum necessary period, in accordance with the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules).**

#### **Unofficial places of detention**

29. While taking note of the prohibition under national law of unlawful detention in places not designated as detention facilities and the State party's assertion that there are no secret places of detention in the country, the Committee is deeply concerned about the information it continues to receive from credible sources about unlawful detention and incommunicado detention in unknown locations (arts. 2, 11 and 16).

30. **The Committee urges the State party to ensure, as a matter of priority, that national laws are enforced effectively throughout the country and to close all unofficial places of detention immediately. The State party should order the immediate placement of persons who may be detained in such places, including persons suspected of terrorism, under court supervision and ensure that they enjoy all fundamental safeguards to prevent and protect them from acts of torture or ill-treatment.**

#### **National Security Agency**

31. The Committee notes the Government's assurances regarding the obligation of the National Security Agency to respect human rights in general and the provisions of the Convention in particular. The Committee also notes the State party's statement, according to which the detention centres administered by the Agency are in no way secret detention facilities and are subject to the same rules as other detention facilities in the country. Nevertheless, the Committee is deeply concerned about the lack of transparency and allegations of arbitrary arrest and detention, incommunicado detention, abduction and confinement, torture and ill-treatment, enforced disappearances and extrajudicial killings by the Agency. The Committee remains concerned that the Agency's activities are not subject to judicial review and that the conditions of detention in the facilities under its authority are not assessed (arts. 2, 11 and 16).

32. **With reference to its previous concluding observations,<sup>7</sup> the Committee urges the State party to ensure full transparency and to exercise civilian control over and effective monitoring of the activities of the National Security Agency. The Committee recalls that the activities of all public institutions, including the National Security Agency, regardless of who carries them out, their nature or the place where they are carried out, are acts of the State party that fully engage its international obligations under the Convention.**

#### **Death in custody**

33. The Committee is concerned about several cases of deaths in custody in suspicious circumstances that have remained unresolved by the courts, including the deaths of 44 suspected members of the Islamist sect Boko Haram in a cell at a gendarmerie station in N'Djamena following alleged torture and ill-treatment. The Committee also regrets the lack of reliable information on the total number of deaths in custody, the causes of those deaths and any follow-up investigations that were carried out (arts. 2, 11–13 and 16).

34. **The State party should:**

<sup>7</sup> CAT/C/TCD/CO/1, para. 19.

(a) **Ensure that all deaths in custody are promptly and impartially investigated by an independent entity, including by means of independent forensic examinations, and, where appropriate, apply the corresponding sanctions;**

(b) **Assess the effectiveness of strategies and programmes for the prevention of suicide and self-harm and evaluate the existing programmes for the prevention, detection and treatment of chronic, degenerative and infectious diseases in prisons;**

(c) **Compile and provide to the Committee detailed information on deaths in all places of detention, their causes and the outcome of the investigations.**

#### **Monitoring of detention facilities**

35. The Committee is concerned that civil society organizations that have been authorized to monitor places of detention must obtain additional authorization from the General Directorate of Prison Administration before undertaking a visit. The Committee is also concerned about reports that civil society organizations have been denied access to some places of detention, including the Koro Toro maximum security prison and facilities under the authority of the National Security Agency (arts. 2, 11 and 16).

#### **36. The State party should:**

(a) **Ensure that monitoring bodies responsible for visiting places of deprivation of liberty, such as the National Human Rights Commission and civil society organizations authorized to monitor places of detention, are able to conduct regular, independent and unannounced visits to all places of deprivation of liberty in the country, including those operated by the military, the National Security Agency and the Directorate General of Intelligence and Investigation, to speak confidentially with all detainees and to ensure that detainees are protected against any form of reprisal;**

(b) **Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment at the earliest possible time.**

#### **Combating impunity**

37. In view of the scale of allegations and complaints of torture and ill-treatment by State officials, including by police officers and gendarmes during the arrest, transport, police custody and interrogation of persons and during law enforcement activities, as well as by military personnel and members of the National Security Agency, and the reports that police oversight mechanisms remain ineffective, the Committee is deeply concerned at the failure to hold to account those responsible, as demonstrated by the limited number of disciplinary measures and criminal prosecutions reported, which contributes to a climate of impunity. The Committee also regrets the lack of precise information and statistical data on the number of complaints of torture and ill-treatment that have led to investigations and prosecutions, as well as on the sentences handed down. Moreover, the Committee is seriously concerned about the multiple factors that prevent victims of torture and ill-treatment from having effective access to justice, such as poverty, illiteracy and the fragile justice system in the State party. It notes with concern that despite efforts to reform the judiciary, the number of courts and qualified judicial personnel is insufficient, particularly outside the major cities; legal aid is difficult to access, despite the adoption of Act No. 021/PR/2019 of 15 April 2019 regulating legal aid and judicial assistance; the independence of judges is not guaranteed and impunity prevails over the application of the law; and customary justice mechanisms such as blood money (*diya*) continue in practice to be used to settle cases that should be dealt with by the criminal justice system (arts. 2, 4, 11–13 and 16).

#### **38. The State party should:**

(a) **Ensure that all alleged acts of torture or ill-treatment are investigated promptly, effectively and impartially by an independent body; that there is no institutional or hierarchical relationship between the investigators and the suspected perpetrators; and that suspected perpetrators are duly brought before a court and, if found guilty, sentenced to punishment commensurate with the gravity of their acts;**

- (b) **Ensure that the authorities launch investigations whenever there are reasonable grounds to believe that an act of torture or ill-treatment has been committed;**
- (c) **Ensure that, in cases of alleged torture or ill-treatment, suspected officials are suspended from duty immediately for the duration of the investigation, particularly where there is a risk that they might otherwise be in a position to repeat the alleged act, commit reprisals against the alleged victim or obstruct the investigation;**
- (d) **Take urgent steps to establish an effective and independent police oversight mechanism;**
- (e) **Put in place an independent, effective, confidential and accessible complaints mechanism in all places of detention, including police custody facilities and prisons, and protect complainants, victims and members of their families from any risk of reprisals;**
- (f) **Step up its efforts to reform and strengthen the judicial system to ensure that victims of torture and ill-treatment have effective access to justice, including by redoubling its efforts to increase the number of judges and lawyers throughout the country and by providing systematic training to judges, prosecutors and lawyers on the application of relevant laws, in particular article 323 of the Criminal Code;**
- (g) **Take measures to raise public awareness of the importance of dealing with cases of torture and other serious human rights violations through justice mechanisms based on positive law rather than traditional law and practices such as *diya*, and ensure that they are not invoked to justify violating the absolute prohibition against torture, as the Committee pointed out in its general comment No. 2 (2007) on implementation of article 2 by States parties;**
- (h) **Provide sustainable free legal aid services to victims of torture and ill-treatment, implement legal literacy programmes and increase awareness of the ways to use available legal remedies, and monitor the results of such efforts;**
- (i) **Compile and disseminate disaggregated statistics on the complaints filed, investigations conducted, prosecutions launched and convictions handed down in cases involving torture or ill-treatment.**

#### **Inadmissibility of confessions obtained through torture**

39. The Committee is concerned about article 89 of the Code of Criminal Procedure, which provides that the courts may form their own opinion of confessions, as of other pieces of evidence, thereby allowing judges a degree of latitude to accept evidence obtained through coercion or torture. It is particularly concerned at the lack of legal provisions explicitly prohibiting the use as evidence in judicial proceedings of confessions obtained through torture. The Committee also remains concerned about reports indicating that confessions obtained through torture or coercion are admitted as evidence in court and that such practices persist owing to the impunity of guilty parties and pressure on judges (art. 15).

#### **40. The State party should:**

- (a) **Take the necessary legislative measures, including by revising the Code of Criminal Procedure, to explicitly prohibit the use as evidence in judicial proceedings of confessions or other statements obtained through torture, except against a person accused of torture as evidence that such a statement was made;**
- (b) **Adopt effective measures to ensure that, in practice, confessions, statements and other evidence obtained through torture or ill-treatment are not admitted as evidence, except against a person accused of torture as evidence that a statement was made under duress, that all allegations of torture and ill-treatment raised in judicial proceedings are promptly, effectively and independently investigated and that alleged perpetrators are prosecuted and, if found guilty, punished;**
- (c) **Ensure that all police officers, national security officers and military personnel, judges and public prosecutors receive mandatory training emphasizing the link between non-coercive interrogation techniques, the prohibition against torture and**

**ill-treatment and the obligation on the judiciary to invalidate confessions made under torture, in that regard taking note of the Principles on Effective Interviewing for Investigations and Information Gathering (Méndez Principles).**

#### **Death penalty**

41. While welcoming the abolition of the death penalty for all crimes with the adoption of the new Criminal Code in 2017 and Act No. 003/PR/2020, the Committee regrets that this principle is not enshrined in the transitional charter of the Republic of Chad adopted in April 2021. The Committee also regrets that the State party has not yet acceded to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty (art. 16).

42. **The State party should:**

(a) **Ensure that all death sentences handed down prior to the adoption of the legislation abolishing this practice are commuted to prison sentences;**

(b) **Consider enshrining the abolition of the death penalty in the transitional charter of the Republic of Chad and in any subsequent constitutional text;**

(c) **Accede to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.**

#### **Human rights defenders, members of civil society, journalists and political opponents**

43. The Committee expresses its concern about the high number of reports alleging that human rights defenders, political opponents, representatives of civil society and journalists continue to be regularly subjected to intimidation, threats, harassment, physical assault, arbitrary arrest and detention, prosecution, torture and ill-treatment, enforced disappearances and extrajudicial killings. It is also concerned about the insufficient efforts of the State party to provide these people with adequate protection, including by conducting prompt, effective and impartial investigations and punishing perpetrators with appropriate penalties. The Committee regrets the lack of information on measures taken to promote a civic space where persons can effectively exercise their right to freedom of expression and association and defend human rights in a safe environment (arts. 2, 12, 13 and 16).

44. **The State party should ensure that human rights defenders, political opponents, representatives of civil society and journalists are adequately protected against all forms of intimidation, harassment, violence, arbitrary arrest and detention, prosecution, torture and ill-treatment, enforced disappearances and extrajudicial killings to which they may be subjected as a result of their activities. It should also take all necessary steps to undertake prompt, effective and impartial investigations into the allegations of human rights violations, punish those responsible with appropriate penalties and ensure that they are duly enforced. The State party should also take measures to promote the civic space and the right to freedom of expression and association, including by revising Ordinance No. 023/PR/2018 of 27 June 2018 containing the rules governing associations.**

#### **Transitional justice**

45. While noting the conviction of Hissène Habré in 2015 by the Extraordinary African Chambers in Dakar and of 19 agents of the Documentation and Security Directorate by a special criminal court, as well as the establishment by the African Union of the trust fund for victims of the crimes of Hissène Habré and the decision of the special criminal court to provide those victims with financial compensation, the Committee is concerned that the fund is still not operational and that the victims are yet to receive any compensation. Lastly, the Committee notes with regret that the memorial dedicated to the victims mentioned in the court order has not yet been created (arts. 2, 12–14 and 16).

46. **The State party should encourage its partners to contribute to the trust fund set up by the African Union for victims of the crimes of Hissène Habré in order to make it operational without delay. It should also promptly implement the ruling of the special criminal court to provide victims of serious human rights violations committed by**

**agents of the Documentation and Security Directorate with due compensation. Lastly, it should take appropriate measures to create a memorial dedicated to the victims of the Hissène Habré regime without delay.**

### **Redress**

47. The Committee regrets that the State party did not provide comprehensive information on the redress afforded to victims of torture or ill-treatment through the civil remedies available under existing legislation, or through any other effective remedy allowing those victims to claim pecuniary, as well as non-pecuniary, damages and acquire access to medical and psychosocial rehabilitation. The Committee also regrets that there are no specific rehabilitation programmes for victims of torture that include all the forms of redress covered by article 14 of the Convention (art. 14).

48. **The State party should:**

(a) **In accordance with the Committee's general comment No. 3 (2012),<sup>8</sup> take the necessary legislative and administrative measures to ensure that civil proceedings for reparation can be initiated by victims of torture or ill-treatment, their families and the person defending them independently of any criminal proceedings that might have been initiated or completed, including in cases in which the perpetrator has not been identified;**

(b) **Conduct a comprehensive assessment of victims' needs and ensure that specialized rehabilitation services are promptly available;**

(c) **Provide detailed information on cases in which victims of torture or ill-treatment have had access to effective remedies and obtained redress, and provide the Committee with this information when the next periodic report is submitted.**

### **Training**

49. While noting the efforts made by the State party to offer general training in human rights and international humanitarian law, including for police personnel, defence and security forces and judges, the Committee regrets the lack of specific training on the Convention and the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).<sup>9</sup> It also regrets that no mechanism for evaluating the effectiveness of training programmes has been set up and that there is no specific training for the armed forces and relevant medical personnel (art. 10).

50. **The State party should:**

**Further develop mandatory training programmes to ensure that all State officials are well acquainted with the provisions of the Convention, especially the absolute prohibition of torture, and that they are fully aware that violations will not be tolerated and will be investigated and that those responsible will be prosecuted and, on conviction, appropriately punished;**

(b) **Ensure that all relevant staff, including medical personnel, are specifically trained to identify cases of torture and ill-treatment, in accordance with the revised Istanbul Protocol;**

<sup>8</sup> Committee against Torture, general comment No. 3 (2012), para. 26, where the Committee established that a civil proceeding and the victim's claim for reparation should not be dependent on the conclusion of a criminal proceeding, since the victim's right to compensation is independent of the establishment of criminal liability.

<sup>9</sup> The Istanbul Protocol was updated in 2022 (available in English only at the time of issuance of these concluding observations); see Office of the United Nations High Commissioner for Human Rights, *Istanbul Protocol: Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (United Nations, 2022).

(c) **Systematically provide training to all law enforcement officials on the use of force, especially in the context of controlling demonstrations, taking due account of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;**

(d) **Develop a methodology for assessing the effectiveness of educational and training programmes in reducing the number of cases of torture and ill-treatment and in ensuring the identification, documentation and investigation of such acts, as well as the prosecution of those responsible.**

#### **Data collection**

51. While noting the establishment of the Directorate for Judicial Statistics under the Ministry of Justice and Human Rights and the adoption of a law on statistics in 2016, the Committee regrets the lack of comprehensive and disaggregated statistical data on cases of torture and other cruel, inhuman or degrading treatment or punishment, including with regard to allegations of police violence and excessive use of force, and on cases of gender-based violence and human trafficking. The Committee is concerned about the lack of a more focused and coordinated system of data collection and analysis, which is necessary to guarantee effective monitoring of the implementation of the State party's obligations under the Convention.

52. **The State party should step up its efforts to strengthen its capacity to compile, disaggregate and analyse statistical data relevant to monitoring the implementation of the Convention in a more focused and coordinated manner, including complaints, investigations, prosecutions and convictions related to cases of torture and ill-treatment perpetrated by security forces and prison staff, gender-based violence and human trafficking, as well as on means of redress, including compensation and rehabilitation, provided to the victims. The State party should also provide up-to-date statistical data, disaggregated by sex, age, national or ethnic origin and nationality, on: (a) the number of pretrial detainees and convicted prisoners and the occupancy rate of all places of detention; and (b) the number of asylum applications received during the period under review, the number of successful applications and the number of asylum seekers whose applications were accepted because they had been tortured or might be tortured if returned to their country of origin. The State party should also provide information, disaggregated by country of origin, on the number of persons who have been returned, extradited or expelled since the consideration of its initial report, including a list of countries to which those individuals were returned.**

#### **Follow-up procedure**

53. **The Committee requests the State party to provide, by 25 November 2023, information on follow-up to the Committee's recommendations on excessive use of force during the demonstrations of spring 2021 and autumn 2022, conditions of detention, deaths in custody and data collection (see paras. 9 (c) and (e), 28 (d), 34 and 52 above). In the same context, the State party is invited to inform the Committee about its plans for implementing, within the coming reporting period, some or all of the remaining recommendations in the concluding observations.**

#### **Other issues**

54. **The Committee encourages the State party to consider making the declarations provided for in articles 21 and 22 of the Convention.**

55. **The State party is requested to disseminate widely the report submitted to the Committee and the present concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations, and to inform the Committee about its disseminating activities.**

56. **The Committee requests the State party to submit its next periodic report, which will be its third, by 25 November 2026. For that purpose, and in view of the fact that the State party has agreed to report to the Committee under the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting. The replies of the State party to the list of issues will constitute its third periodic report under article 19 of the Convention.**

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