



Submission to the Universal Periodic Review – 17th session of the UPR Working Group

Chad

March 2013

I. Background

This submission will focus on the legacy of injustice for the crimes committed during the rule of Chad's former dictator, Hissène Habré.

Habré ruled Chad from 1982 until he was deposed in 1990 by the current president, Idriss Déby Itno, and fled to Senegal. His one-party regime was marked by widespread atrocities, including waves of ethnic cleansing. The exact number of Habré's victims is not known. A 1992 Truth Commission established by President Déby accused Habré's regime of systematic torture and responsibility for 40,000 deaths. Files of Habré's political police, the *Direction de la Documentation et de la Sécurité* (DDS), which Human Rights Watch unearthed in 2001, reveal the names of 1,208 people who were killed or died in detention and 12,321 victims of torture, arbitrary detention and other human rights violations.

For more than 22 years, Habré's victims have struggled to bring the former dictator and his accomplices to justice. On February 8, 2013, Senegal – where Habré lives in exile – and the African Union (AU) inaugurated the "[Extraordinary African Chambers](#)" within the Senegalese justice system to try the worst crimes of Habré's regime. The Chadian government has supported the Chambers, pledging three million euros towards its costs. It also lifted Habré's immunity from jurisdiction.

As important as Habré's prosecution is, however, it cannot guarantee full justice to the victims of his government nor would it permit Chadian society to confront its past before finally moving on. Unfortunately, the Chadian government has not taken complementary measures at home to ensure such justice.

In 1992, the Truth Commission recommended the prosecution in Chad of those who participated in crimes under Habré's government. It also called for DDS officers to be relieved of their state security duties and recommended that the Chadian government "construct a monument honoring the memory of the victims of Habré's repression [...], designate a day of prayer and contemplation" for the victims and "transform the former DDS headquarters and underground prison known as the *Piscine* into a museum." None of these recommendations has been implemented, however.

II. The Continuing Legacy of the DDS

a. Large presence of former DDS leaders in key government posts

Despite the Truth Commission recommendations, Habré's former accomplices continue to enjoy impunity for their acts. A 2005 Human Rights Watch report listed 41 former leaders of the DDS and other

Habré-era repressive organs holding key positions in the state administration or security services.¹ In a letter to Human Rights Watch dated 18 August 2005 in response to the report, Chad's Prime Minister, Mr. Pascal Yoadimnadj, stated that the "former DDS agents will be relieved of their official duties while waiting the outcome of their trials."² Additionally, he said that some former DDS agents had already been let go and that he would inform Human Rights Watch when all former agents had been relieved of their positions. Despite this commitment, most agents listed in the HRW report remain in security and administration positions and we have yet to receive any further correspondence regarding these commitments.

The presence of these former DDS leaders intimidates victims and human rights defenders and in some cases facilitates attacks on them, creating obstacles to restoring the rule of law in Chad. In a 2003 speech, the then-president of the Chadian Association of Victims of Political Repression and Crime (AVCRP), Ismael Hachim, stated: "Our torturers and killers wander freely among us every day without fear of the justice system with whom we filed our cases... Our tormentors continue to laugh in the face of a justice that remains powerless to punish those responsible and their accomplices."³

b. The Cases against Habré's Accomplices at a Standstill for over a Decade

On October 26, 2000, seventeen victims lodged criminal complaints for torture, murder, and "disappearance" against named members of the DDS. Despite initial legal hurdles, the investigation began in May 2001, after which dozens of other victims came forward to file their complaints against their *direct* torturers. Some of the named defendants appeared before the judge, while others refused. One of the defendants, Mahamat Wakaye, who was deputy director of National Security under Habré, reportedly tore up his summons in front of the judge.

All activities quickly stagnated, however, and have remained at a standstill since. The Chadian investigating judge has repeatedly stated that he needs additional funding and, in particular, personal protection if he is to carry out an investigation against the DDS' powerful former figures. In May 2003, two years after the initiation of the investigation, the Minister of Justice informed the Council of Ministers of the investigating judge's requests for additional support, after which the Council declared itself "ready to implement any action so as not to impede the path of justice, so that the truth comes out and the case is able to proceed."⁴

Over ten years later, the Chadian government has yet to follow up on its commitment. Neither financial aid nor security measures have been implemented so as to enable the investigating judge to carry out his work in proper conditions.

III. State of Danger for Human Rights Activists Exemplified: The Case Jacqueline Moudeina

The aggression against Jacqueline Moudeina, the Chadian lawyer for Habré's victims in the Chadian cases against the ex-DDS agents, is evidence that the power of the former agents stands in the way of justice for Habré's victims.

¹ Human Rights Watch Report, *Chad: The Victims of Hissène Habré Still Awaiting Justice*, July 2005, Vol. 17, No. 10(A).

² "Les anciens de la Direction de la Documentation et de la Sécurité (DDS) seront relevés de leurs postes en attendant leur jugement."

³ Discours du Président de l'association des victimes des crimes et repressions politiques au Tchad à l'occasion de la tenue des états généraux de la justice à N'Djaména, 19 juin 2003, <http://hrw.org/french/press/2003/tchad0619.htm>.

⁴ "Engagé à tout mettre en oeuvre pour ne pas entraver le cours de la justice, afin que la vérité sorte au grand jour et que le process aboutisse."

In June 2001, Maitre Moudeina was the victim of a hand grenade attack while she was participating in a non-violent women's demonstration. The police squad responsible for the attack was commanded by Mahamat Wakaye (see above), a former deputy director within the DDS and a named defendant in the criminal complaint brought by Maitre Moudeina. At the time of the attack, Wakaye was director of the Judicial Police of Chad. In 2002, Maitre Moudeina's office was broken into. She continues to receive threats until this day. .

IV. Chad's Failure Provide Material and Moral Reparations and Recourse to Habré's Victims

Chad is bound by a number of international instruments to provide reparations to victims of torture and other gross human rights violations.⁵

a. Chad's Failure to Make Material Reparations to Habré's Victims

The 1992 Truth Commission estimated the losses during Habré's rule at "more than 40,000 victims, more than 80,000 orphans, more than 30,000 widows, and more than 200,000 people who found themselves without moral or material support."⁶ Despite these numbers, to this day, material reparations have yet to be granted to Habré's victims.

Following several years of campaigning, in March 2005, the AVCRP presented the National Assembly with a draft law on victim compensation. According to the draft, the direct victims as well as indirect victims (widows, orphans, parents, brothers and sister) of crimes committed by the Hissène Habré regime would be able to seek claim up to 40,000, 000 CFA (approximately \$74,000) during 10 years. In his August 2005 letter, Prime Minister Yoadimnadj said that "the proposed bill providing for compensation of victims and their beneficiaries will be placed on the National Assembly's agenda as soon as possible."⁷ The National Assembly has not yet taken up the draft law, however.

b. Chad's Failure to Award Moral Reparations to Habré's Victims

The Truth Commission recommended moral reparations as well, including, the construction of a monument, a day for prayer and the transformation of the former DDS headquarters and the notorious underground *Piscine* prison into a museum. None of this has been done, however. To date, the sole effort by the Chadian government was a preliminary ceremony for the victims at Habré's largest mass grave and the planned site of a victims' memorial. The ceremony, which was held in October 2011, included speeches by the Minister of Public Security and the Minister of Human Rights who assured the victims

⁵The International Covenant on Civil and Political Rights (ICCPR) (Art. 2(3)), ratified by Chad in 1995, requires parties to "ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity" and also to provide compensation for unlawful detention (Art. 9(5)). Additionally, under Article 14 of the Convention Against Torture, also ratified by Chad in 1995, each "State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible." These provisions build on the principle set forth in Article 8 of the Universal Declaration of Human Rights: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law." According to the revised 2005 Draft Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Violations of International Human Rights and Humanitarian Law, "the obligation to respect, ensure respect for and enforce international human rights and humanitarian law includes, inter alia, a State's duty to [...] investigate violations and, where appropriate, take action against the violator in accordance with domestic and international law; afford appropriate remedies to victims; and provide for or facilitate reparations to victims.

⁶*Les crimes et détournements de l'ex-Président Habré et de ses complices*, Rapport de la Commission d'Enquête Nationale du Ministère tchadien de la Justice, Éditions L'Harmattan, 1993, p. 97.

⁷"Le projet de loi portant indemnisation des victimes ou de leurs ayants droit sera inscrit dès que possible à l'ordre du jour de l'Assemblée Nationale. "

that the government was committed to constructing a monument to immortalize the tragic events and to reaffirm the country's desire that the same atrocities never be committed again. No further action has been taken, however.

The victims are still waiting for their suffering and the ordeals that they or their families went through to be recognized by Chadian society. As a complement to the prosecution of the ex-dictator and his accomplices, recognition of these atrocities would have tremendous beneficial effects on national reconciliation. Louis Joinet, the former U.N. rapporteur on the question of the impunity of perpetrators of violations of human rights, noted that:

“On a collective basis, symbolic measures intended to provide moral reparation, such as formal public recognition by the State of its responsibility, or official declarations aimed at restoring victims' dignity, commemorative ceremonies, naming of public thoroughfares or the erection of monuments, help to discharge the duty of remembrance.”⁸

However, in Chad, the *Piscine* remains off-limits and the ceremony breaking ground for a future victims' memorial at Hamrol-Goz has been just that. There is no place that Chadians can go to learn about or remember the Habré period or to honor its victims.

V. Human Rights Watch's Recommendations to Chadian Government

- Remove all former high-level Habré-era security agents from security posts;
- Declare publicly that it will not tolerate any intimidation against those seeking redress and justice in the courts;
- Give full support to the Chadian justice system in its handling of the cases against former DDS agents, including security and material support for the investigating judge.
- Provide financial compensation to each victim or family or create an assistance fund in order to redress the violations committed by the agents of the Chadian state.
- In order to honor the memory of those who perished during Habré's regime and in order to educate Chadian society about the horrors of that regime, implement the recommendations of the Truth Commission and “construct a monument honoring the memory of the victims of Habré's repression,” “designate a day for prayer and contemplation for said victims,” and “transform the former DDS headquarters and underground prison known as the ‘Piscine’ into a museum.”

⁸Report of the Special Rapporteur on the question of the impunity of perpetrators of violations of human rights (civil and political rights), 29 June 1996, E/CN.4/Sub.2/1996/18.