



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

Distr.
GENERAL

CAT/C/SR.870
4 May 2009

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Forty-second session

SUMMARY RECORD OF THE FIRST PART (PUBLIC)* OF THE 870th MEETING

Held at the Palais Wilson, Geneva,
on Wednesday, 29 April 2009, at 10 a.m.

Chairperson: Mr. GROSSMAN

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Chad

* The summary record of the second part (closed) of the meeting appears as document CAT/C/SR.870/Add.1.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Editing Unit, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 19 OF THE CONVENTION (continued)

Initial report of Chad (CAT/C/TCD/1)

1. At the invitation of the Chairperson, the members of the delegation of Chad took places at the Committee table.
2. Mr. DJASNABAILLE (Chad), introducing his country's initial report (CAT/C/TCD/1), said that his delegation's presence was proof of the importance his Government attached to human rights issues and of its willingness henceforth to honour its commitments in that area. The consideration of the initial report was an opportunity to evaluate action taken to promote and protect human rights and to determine the efforts that were required in order to improve the situation. Since independence, human rights had been a priority in the country's national and international policies. The preamble to the Constitution reaffirmed the country's commitment to human rights as defined in the Charter of the United Nations, the Universal Declaration of Human Rights, and the African Charter of Human and Peoples' Rights. Chad was a party to several other international instruments relating to human rights.
3. Chad's intention to establish a democratic regime, following a violent dictatorship characterized by acts of torture, killings and disappearances, had come to fruition at the Sovereign National Conference in 1993, at which precise guidelines on the creation of institutions for the protection of human rights had been formulated. In 1994, the National Commission on Human Rights had been the first of several such institutions to be set up, and had been followed by the signing of the Convention against Torture in 1995, the adoption of the Constitution in 1996, the organization of presidential and legislative elections, and the establishment of many other human rights institutions.
4. Aware that human rights formed the basis of international relations and were a condition for development partnerships, his Government had established the Ministry for Human Rights, whose mandate had been expanded in 2008 to include the promotion of freedoms. The Ministry had established an inter-ministerial technical committee for follow-up to international instruments, responsible for drafting reports on human rights for submission to international organizations.
5. The initial report outlined the historical, social and environmental context in which human rights were exercised in Chad, as well as the difficulties encountered and the action envisaged by the Government to ensure the full enjoyment of those rights. The report described the legal and institutional framework for the promotion and protection of human rights.
6. The right to respect for human dignity naturally excluded any form of physical or mental assault, arbitrary arrest or detention, abduction or illegal confinement. Chadians needed security, peace and stable democratic institutions. Despite the efforts of the Government, political actors and civil society to make Chad's human rights commitments a reality, Chad had been affected by the crisis in Darfur, in particular by the influx of displaced persons and refugees, clashes between communities, and incursions by the Janjaweed and other armed groups, which had led to attacks

on N'Djamena in April 2006 and February 2008. Those crises had resulted in further violations of human rights, which had led the Government to declare a state of emergency. Although that measure had restricted freedoms, it had allowed public and constitutional order to be established. To shed light on the events and to find those responsible for human rights violations, the Government had taken various measures, including the setting-up of a commission of inquiry. With assistance from international observers, the commission, composed mainly of civil society actors, had published its conclusions in September 2008. To pursue the commission's recommendations, the Government had set up a follow-up committee and action was being taken.

7. The Government had taken the necessary measures, with the support of development partners and NGOs, to provide assistance and protection to the refugees in Chad as a result of the conflicts in Darfur and the Central African Republic.

8. War and inter-community conflicts had led to numerous human rights violations, thereby nullifying the efforts made to promote and protect those rights. Faced with such difficulties, the Government was aware of the inevitable failures that would be highlighted by the Committee and remained committed to work, to the extent possible, to improve the human rights situation in Chad. Those difficulties had also prevented the Government from bringing its legislation into line with the Convention. However, efforts were being made, with the support of Chad's partners, including the European Union and United Nations bodies. A national forum on human rights would be held in 2009, at which short, medium and long-term plans of action would be formulated. He called on the international community to support the progress on human rights made by his Government.

9. Ms. BELMIR, Country Rapporteur, paid tribute to the efforts made by the State party in drafting its report. It was making progress and its report showed it would not hide the truth. Chad had gone through various periods of political instability, and the state of emergency declared in 2006 had not afforded ideal circumstances for drafting such a report; however, the State party had managed to do so, and relatively well. The fact that elements in the report tallied with information provided in parallel reports, such as the NGO reports, lent it credibility, which was to be welcomed.

10. The country's unstable history, as well as other factors, including its economic conditions and proximity to Darfur, had to some extent been used as a justification for the disastrous human rights situation in Chad, as described in parallel reports.

11. With regard to the legal framework, the Constitution, unlike that of some other African or developing countries, contained provisions prohibiting torture. However, the offence of torture was not specifically covered in the Criminal Code or elsewhere in domestic law. Efforts were required to bring the domestic law into line with the Convention and a bill had been drafted to that end. The State party had signed and ratified a number of international conventions, which was commendable. Many elements combined to give a favourable impression of the system of governance in Chad, which was striving to put an end to instability.

12. There were reports of abductions, such as the case of Djimet Meyenan. In order to tackle impunity, a commission had been set up to investigate the crimes that had been committed under the Habré regime. Some individuals who had committed acts of torture under that regime remained in their high-level posts.

13. Referring to article 2 of the Convention, she said that under article 221 of the Code of Criminal Procedure a person could only be held for 48 hours for purposes of preliminary inquiries. The State party report recognized that, in practice, that time limit was not respected. Prosecutors were routinely obliged to free detainees who had been in custody for longer than the legal time limit when they visited police stations. There was also a failure to respect the provisions of the Code of Criminal Procedure pertaining to pretrial detention, which stated that an individual should be held for only a reasonable length of time. High-ranking officers, who were often illiterate, often failed to comply with that provision. The report suggested that was because individuals did not choose to complain or were not aware of the provisions for the possibility of filing a complaint. Suspects in pretrial detention were often held with convicted prisoners, which could lead to violence.

14. Illegal arrests and forced disappearances, in breach of the Code of Criminal Procedure, had taken place, in particular during the events of February 2008. The most famous case was that of Ibni Oumar Mahamat Saleh, an opposition politician.

15. Despite being provided for under the Code of Criminal Procedure, legal aid was almost non-existent.

16. Family visits were provided for by law. Particularly in the provinces, however, visitors were forced to pay guards in order to see a detainee.

17. The health of detainees was a serious problem as there was a lack of medical care in detention centres; she suggested that the Istanbul Protocol could be discussed in that regard.

18. On the question of action to combat impunity, even though acts of torture were not specifically provided for under domestic law, persons who had committed abuses could be held accountable under the law as it stood.

19. Prison overcrowding was a problem, as was the fact that adults were not separated from minors in either men's or women's prisons. The treatment of women in detention was a matter of concern. The health of female detainees, especially pregnant women, suffered in prisons and contagious diseases were a problem. Families were expected to provide food for detainees. In addition, prosecutors often failed to carry out visits to prisons.

20. It was necessary to bring the legislation in force in Chad into line with article 3 of the Convention because the lack of specific provisions on non-refoulement exposed people to the risk of torture. She asked whether the terms of the General Agreement on Judicial Cooperation and other agreements on judicial assistance between Chad and other countries in the region guaranteed that the transfer of a detainee to one of the signatory countries would take place through judicial proceedings and in strict compliance with article 3.

21. With regard to the administration of justice, the State party report indicated that judges, prefects and subprefects had judicial powers. She asked whether there was such a shortage of judges that judicial powers had to be granted to administrative officials. Judges' pay was low and allegations of corruption abounded. Were there sufficient guarantees in place to ensure that the judiciary could be relied on to carry out its functions? Was local justice a reality? Did courts

apply only positive law without being influenced by other systems or local customs? It would be of concern if the law was applied differently in different regions. As to family law, the continuing practice of levirate and sororate marriages was a matter of concern.

22. Certain criticisms of the National Commission on Human Rights were recognized in the State party report: it lacked resources, was composed mainly of representatives of the Government and was prone to absenteeism. Were steps being taken to reform and strengthen the Commission?

23. The State party's attention was drawn to the problem of the trafficking of children and juvenile justice.

24. The CHAIRPERSON, speaking as Alternate Country Rapporteur, addressing issues relating to articles 10 to 16 of the Convention, noted that paragraph 316 of the State party's report said that training workshops for magistrates, police officers and others routinely produced recommendations, which were submitted to the Government. He would like to hear some examples of such recommendations and would also like to know whether they had been followed. Referring to paragraph 318 of the report, he enquired how often training on human rights was provided and whether that training addressed issues relating to torture and other cruel, inhuman or degrading treatment. With regard to paragraph 321, he asked whether the reference centre on international humanitarian law had developed its training programme and designed and published teaching materials.

25. Paragraph 329 indicated that 25 trainers had received training in the use of an instructor's manual on international humanitarian law and that 500 copies of the manual were to be printed. He wondered whether those manuals had indeed been printed, whether more copies would eventually be produced and whether additional trainers would be trained in use of the manual. If so, when would that training begin? The report also indicated that the National School for Administration and the Magistracy had drawn up a training manual on international human rights standards. He would like to know whether that manual was currently being used, how many training sessions had been held and how many people had received training.

26. Turning to matters relating to article 11 of the Convention, he observed that the State party's legal framework and legislative measures were generally adequate, but there appeared to be problems with implementation. The report stated that the magistrate of the prosecutor's department could authorize the extension of police custody beyond 48 hours if necessary for the satisfactory conclusion of an investigation. He wondered whether there was a legal limit to such extensions and, if so, how that limit was enforced. The report also stated that all correctional facilities were required to keep records of admissions; he would like to know whether such records were, in fact, being kept. With regard to pretrial detention, referred to in paragraph 346 of the report, he enquired what percentage of Chad's prison population was being held without having been tried.

27. Paragraph 355 of the report indicated that magistrates in the prosecutor's department frequently resorted to a measure known as an "order to hold available" (ordre de mise à disposition), which had no basis in law. He could not understand why magistrates, who were public officials, would be allowed to engage in a practice that was illegal and, as stated in the report, impeded the effective application of mechanisms for the surveillance of detainees.

Similarly, he could not understand why the insubordinate attitudes of criminal investigation officers, mentioned in paragraph 355 (e), would be tolerated. Surely, the Government could take some disciplinary action to discourage such behaviour, such as denial of promotions or dismissal.

28. Referring to paragraph 359, he welcomed the proposal to establish a corps of professional prison warders. The existence of such a body was crucial to the maintenance of order in prisons, and he wondered, therefore, why the draft decree establishing the corps had not been signed by the Head of State.

29. With regard to article 12 of the Convention, paragraph 369 of the report stated that the Commander-in-Chief of the armed forces was responsible for investigating all offences that came under the jurisdiction of military courts. He enquired how many such investigations had been conducted, how many had resulted in acquittals and how many in guilty verdicts. He also asked whether military courts had jurisdiction only in cases involving acts committed by military personnel in the performance of their official duties or whether they also heard cases involving ordinary offences committed by such personnel. For example, if a soldier used his firearm to rob or assault a civilian, would he be tried in a military or a civilian court?

30. The report acknowledged that torture was not classified as a separate crime in Chad, which made it difficult for torture victims to obtain reparation. He enquired whether the State party intended to criminalize torture and what obstacles there might be to the enactment of legislation for that purpose. According to paragraphs 372 to 374 of the report, the Code of Ethics of the National Police prohibited inhuman or degrading treatment of persons in police custody, but did not establish any penalties for police officers found guilty of acts of torture. He wondered why that was.

31. Concerning articles 13 and 14 of the Convention, he found it surprising that the complaints filed by victims of crimes committed under the regime of former President Hissène Habré all remained pending. Noting that, in his introductory statement, the head of the delegation had highlighted his country's need for support from the international community in its efforts to advance human rights, he asked what the Committee might do to help facilitate the resolution of those cases. He also requested information on the status of the proposed law on compensation of torture victims mentioned in paragraph 389 of the report.

32. With regard to article 15 of the Convention, the report stated that confessions continued to be obtained through torture and attributed the persistence of that phenomenon to the impunity enjoyed by perpetrators. He asked what action the Government intended to take to put an end to impunity for officials who practised torture. Had it considered, for example, setting up a truth and justice commission?

33. As to article 16 of the Convention, the report made reference to several forms of cruel or degrading treatment that affected women in particular - such as female genital mutilation and forced marriage - although it also stated that such practices were disappearing. He wondered whether the delegation could provide statistics to support that assertion. He would also like to know what measures were being taken to stop sex tourism, paedophilia, trafficking, exploitation and corporal punishment of children, and recruitment of child soldiers.

34. He expressed appreciation to the State party for the extraordinary frankness of its report and its willingness to acknowledge its problems and shortcomings with respect to the protection of human rights.

35. Ms. SVEAASS, noting that the State party's report emphasized the importance of women in Chad, said she was curious as to why no women had been included in its delegation.

36. Paragraph 120 of the report mentioned a draft law aimed at strengthening the Office of the Ombudsman. She enquired when the provisions of that law would be implemented and what measures were envisaged to improve cooperation between the Ombudsman and government ministries and officials.

37. Like Ms. Belmir, she was concerned about the situation of women in detention, especially those who were pregnant, and about the non-separation of minors from adults in prisons. She also shared the Chairperson's concerns about the mistreatment of children described in paragraphs 408 and 409 of the report. She enquired what legal measures the Government intended to take to stop such abusive practices and hold those responsible to account. She also wondered what was being done to assist street children and to reduce their number.

38. Referring to the training module on torture mentioned in paragraph 327 of the report, she asked whether health personnel were being trained to detect and document signs and symptoms of torture and whether any documentation prepared in accordance with the Istanbul Protocol had been submitted to Chadian courts to substantiate claims for compensation by victims of torture.

39. She commended the Government for its efforts to assist and protect refugees, but voiced concern about the militarization of refugee camps. She wondered what action was being taken to address that problem and create a secure environment for refugees. Lastly, she requested information on the steps being taken by the Government to protect human rights defenders.

40. Mr. GAYE commended the efforts being made in Chad to promote the rule of law and to outlaw torture, which had apparently been widely practised under previous regimes since the colonial era.

41. The definition of torture contained in article 18 of the bill amending the Criminal Code failed to reflect the part of the definition in article 1 of the Convention which referred to pain or suffering "inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity". The concept of "consent or acquiescence" was particularly important, since States parties were required under the Convention to ensure that officials did not condone acts of torture under any circumstances.

42. The legislature should also consider including in the country's criminal legislation special provisions targeting the "secret police", who had been a notorious feature of previous regimes and had been known to commit acts of torture.

43. Mr. MARIÑO MENÉNDEZ asked whether the National Security Agency exercised police powers and whether the Agency or other similar bodies or vigilante groups ran secret detention centres over which there was no judicial control. An NGO had alleged that military units, under the orders of senior military officers, were involved in irregular detention practices. Was there any truth in the allegation?

44. With regard to detainees' right to medical attention, he asked whether there were forensic physicians who carried out physical and psychological examinations, especially where it was suspected that torture might have occurred. While he realized that the establishment of a forensic body with sufficient resources to cater for all detention centres was a major undertaking, he asked whether any action was being taken in that regard. Noting that the Code of Criminal Procedure made no provision for free legal aid, he asked whether the judiciary offered any type of assistance to destitute persons who were deprived of their liberty.

45. Paragraph 226 of the report cited article 143 of the Criminal Code, which exempted persons who infringed either individual liberty or the Constitution from punishment if they had acted on orders from their superiors. He asked whether that provision would also cover cases of torture or ill-treatment.

46. Referring to the case of a French NGO which had unlawfully arranged for the adoption of Chadian children abroad in 2007, he asked whether Chad intended to adopt international instruments regulating adoption.

47. Paragraph 170 of the report cited article 46 of the Constitution, which stated that the right of asylum was granted to non-nationals and that the extradition of political refugees was prohibited. He asked whether asylum was granted on humanitarian grounds and whether Chad's definition of a "political refugee" was different from that of other refugees who were covered by the 1951 Convention relating to the Status of Refugees and the 1969 OAU Convention governing the Specific Aspects of Refugee Problems in Africa. Were there any political refugees currently residing in Chad?

48. Mr. KOVALEV, noting that four persons had been sentenced to death in November 2003 without being accorded the right to appeal, asked what action the Government was taking to put an end to what constituted extrajudicial killings.

49. The Committee would welcome any statistics that the delegation could provide on disappearances, since it regarded any enforced disappearance as a form of torture, not only for the abducted person but also for his or her family.

50. Ms. KLEOPAS emphasized that no exceptional circumstances of any kind, including terrorism, could be invoked as a defence for torture.

51. An independent judiciary was essential for the protection of human rights. The Committee had been informed that the judiciary had actually called a strike some years ago to protest against interference by the executive. She also understood that judges' salaries were very low. In a report issued in January 2005 (E/CN.4/2005/121), the Independent Expert on the situation of human rights in Chad had stated that reform of the judiciary was vital. She asked what criteria were applicable to the appointment of judges and what measures had been taken to implement the recommendations contained in paragraph 83 of the Independent Expert's report.

52. The Representative of the Secretary-General on the human rights of internally displaced persons, who had visited Chad in February 2009, had stated in his report (A/HRC/10/CRP.1) that gender-based violence, including rape of displaced girls and women by armed groups or members of their own communities, genital mutilation and domestic violence, was still a poorly

documented challenge requiring more attention from the Chadian authorities and the international community so that displaced women and girls could be better protected. What action were the authorities taking on that recommendation?

53. The Committee had heard the previous day from Chadian human rights defenders, who made an extremely important contribution to the promotion and protection of human rights, that they felt that they were being persecuted. That seemed to be borne out by the fact that no representative of a Chadian NGO had attended the present meeting with the delegation.

54. Ms. GAER noted that the Chadian Government had sought technical support from the United Nations for the preparation of its report, which was very candid but lacked certain data and statistical information. She wished to hear more about how it had been prepared.

55. Referring to the report of the commission of inquiry on the abuses of power by President Habré's regime, she said that the forms of torture listed in paragraph 23 of the State party's report were truly horrifying. The commission's report had prompted people to bring criminal actions against the perpetrators. Twenty officials had been charged but there had so far been only one "confrontation". She asked what that term meant and how far the proceedings had progressed since the submission of the State party's report. Had anyone been found guilty of the practices listed in paragraph 23?

56. According to paragraph 36 of the report, the most frequent complaints from human rights associations concerned the practice of torture in police and gendarmerie stations. The practices, which were consistently punished by the Government, were apparently linked to the inadequate training of criminal investigation officers in interrogation techniques. She asked how many officers had been held to account and what penalties had been imposed.

57. According to paragraph 279, there were numerous cases of abusive pretrial detention in all correctional facilities on account of the lack of complaints. She would welcome any additional information that the delegation could provide on such abuses. Had there been any allegations of sexual violence in that context?

58. According to paragraph 396, many confessions extracted in police or gendarmerie stations were deemed to be inadmissible as evidence. She asked whether any officers had been charged in connection with the extraction of confessions.

59. In 2005 the Special Rapporteur on violence against women, its causes and consequences and the Special Rapporteur on the sale of children, child prostitution and child pornography had issued an urgent appeal in connection with the situation described in paragraph 208 of the report. The Committee on the Rights of the Child had also recommended in its concluding observations on Chad issued in February 2009 (CRC/C/TCD/CO/2) that corporal punishment in Koranic schools should be outlawed. She asked what jurisdiction the authorities had over such schools. Were they licensed, investigated or funded by the State? And could it close them down if necessary? Had anyone been held accountable for violent acts perpetrated in the schools? Children had reportedly been chained together as a means of punishment. How could such practices be halted and the children treated more humanely.

60. Mr. GALLEGOS CHIRIBOGA commended the clear and objective analysis contained in the report and expressed the hope that Chad would continue to benefit from technical assistance in that regard.

61. He stressed the importance of taking firm action to put an end to impunity, which was a prerequisite for full compliance with the Convention. He agreed with the Chairperson's suggestion regarding the establishment of a truth commission.

62. Mr. WANG Xuexian said that he fully understood and supported Chad's efforts to achieve security and stability. In his view, a clear break with the past and the intolerable practices of previous regimes was the key to achieving that goal.

63. He further stressed the importance of combating harmful traditional practices. He challenged the argument that they must be preserved as part of the culture. Female genital mutilation, in particular, must be abolished.

64. Mr. DJASNABAILLE (Chad) expressed satisfaction with the delegation's dialogue with the members of the Committee, who had commended the frankness of the report and had, equally frankly, drawn attention to shortcomings in his country's compliance with its obligations under the Convention. He assured the Committee that his delegation would endeavour to provide detailed and objective answers to its questions at the meeting scheduled for the following day.

65. The Chadian authorities had the political will to improve their performance and they would request additional technical cooperation from the United Nations.

The public part of the meeting rose at 12.05 p.m.