

£CHAD

@Appeal to Chad's National Conference and political leaders for action to protect human rights

The government of President Idriss Déby, which came to power in Chad in December 1990, inherited a 25-year legacy of violence which devastated the country's people and its economy and obliterated respect for human rights and the rule of law. Many of those responsible for the gross human rights violations of the past now hold office in government and the security forces.

The previous government of Hissein Habré had masterminded a level of human rights violations with few rivals in the 1980s; at least 40,000 people, out of a total population of little over five million, are believed to have been killed or "disappeared" during the eight years he held power. Captured rebels and unarmed civilians were extrajudicially executed: shot, burned alive, poisoned, and tortured or starved to death.

Existing tensions between different ethnic-based armed groups in Chad have been exacerbated by foreign governments which have supported successive Chadian governments to further their own interests in the region. During the 1980s the United States (US) and France backed President Habré as a bulwark against Libya, which invaded the northern part of Chad in 1987 and backed the armed opposition to Hissein Habré led by Goukouni Oueddei. An official commission of inquiry in Chad into past abuses reported, in May 1992, that the US Government had provided training, the nature of which is unknown, and funding for members of the Directorate for Documentation and Security¹ (DDS), Hissein Habré's secret police, which was responsible for gross violations of human rights. Both the US and France provided Hissein Habré with military equipment and funding, and France also sent troops to Chad, during and after the 1987/88 war against Libya, thereby strengthening an army that was responsible for gross human rights violations. After Hissein Habré was overthrown he was given safe haven in Senegal. The Senegalese authorities have failed to investigate reports that he ordered the torture and extrajudicial execution of prisoners, although they are bound to do so by international human rights law.

Much of what happened in Chad was hidden from the world. The names of all the victims and their true numbers may never be known. The government ignored pressure from independent human rights organizations, refused to give investigators access and simply denied reports of wholesale massacres and "disappearances". Nor did the international community take effective action to halt the violations. Amnesty International repeatedly called attention to the

¹ Direction de la documentation et de la sécurité

grave and systematic human rights violations in Chad, and urged international action, including through the UN, to end these abuses. If governments cannot, or will not, implement the standards they have developed through the UN, then the international community must take decisive action. The action it has taken so far is a woefully inadequate response to the scale of human rights violations in Chad.

The Government of Idriss Déby at first appeared to offer hope for human rights in Chad. It condemned the human rights record of the Habré government and set up a commission of inquiry to investigate the past. The surviving political prisoners were released, and political exiles were invited to return from abroad. Steps were taken towards establishing a multi-party system and political parties other than the ruling Patriotic Movement for Salvation² (MPS) were allowed to form, although on less favourable terms. A National Charter was adopted, outlining the government's objectives of guaranteeing fundamental rights and freedoms, including freedom of opinion and association, the right to organize trade unions, freedom of the press, and freedom of movement. As a result a number of independent human rights organizations were formed, notably the Chadian Human Rights League³ (LTDH).

However, within a few months of the new government taking office it was clear that human rights had slipped from the agenda. No steps were taken to restrict the use of lethal force against unarmed civilians or captured insurgents by the security forces or to make them accountable for their actions. They have been allowed to operate with impunity. As a result President Déby's Government has presided over the very human rights violations for which it condemned its predecessors.

Several hundred people, at least, have been extrajudicially executed since October 1991, mainly during counter-insurgency operations and reprisal attacks on people identified with rebel groups because of their ethnic origin or place of residence. Unarmed civilians are still at the mercy of soldiers bent on punitive revenge for rebel attacks. Government critics have also been targeted. In February 1992 Joseph Behidi, Vice President of the LTDH, was shot dead by soldiers. Although the government announced that four senior officials had been dismissed in connection with the killing, Amnesty International knows of no independent inquiry into this or other apparent extrajudicial executions.

Despite the extent of the killings since late 1991 there appear to have been no independent investigations to establish the identities of those responsible and bring them to justice. Instead the truth about killings by the security forces appears to have been obscured by denials and propaganda. In August 1992 the security forces reportedly extrajudicially executed over 100

² *Mouvement patriotique du salut*

³ *Ligue tchadienne des droits de l'homme*

unarmed civilians, including children, in Doba. Instead of ordering a thorough, independent, investigation into the killings, government officials appeared to trivialise the incident, first by suggesting that there were just six victims, and later by saying that "only" 34 had died.

More than 1,000 people have been arrested for political reasons and detained, mostly for short periods, since President Déby came to power. No-one arrested for political reasons since December 1990 is known to have been brought to trial or had their case examined by a court of law. This is a violation of internationally recognized standards for the respect of detainees' rights and of Chad's own laws, notably the Code of Penal Procedure, which requires suspects to be brought before a judicial authority within 24 hours of arrest. Many detainees were tortured, including some of the 200 people who were forcibly returned to Chad by the Nigerian authorities in early 1992. At least 20 detainees are known to have died as a result of torture. Dozens of people are reported to have "disappeared" while in the custody of the security forces. There are fears that those who "disappeared" may have been killed. Issa Mahamat Goran, aged 61, was one of dozens of people detained by Nigerian soldiers in February 1992 and interrogated about their alleged links with Chadian rebels. He appears to have been held in Nigeria for about two weeks before being forcibly returned to N'Djamena, where he was last reported seen by a fellow detainee in the Presidency. He was reportedly killed on 5 March 1992 at the security police headquarters in N'Djamena.

The government's failure to take action to stop these abuses has created a climate which encourages gross violations of human rights. The government has the means to identify and punish those responsible for the abuses. It apparently lacks the political will to do so.

Human rights have little chance of survival unless the rule of law is established throughout Chad. The immunity from prosecution extended to officials responsible for human rights violations appears to have led to an increase in violent crime. Numerous murders and armed robberies have been attributed to members of the current armed forces, many of whom were, until December 1990, members of irregular forces fighting against the Habré government.

The government's response to the rising level of criminal violence appear to be motivated by short-term expediency. In October 1991 four people convicted of criminal offences and sentenced to death by a military court were publicly executed. The same court sentenced two members of the security forces to death in August 1992. The rule of law in a free society cannot be established until respect for human rights by governments themselves is restored. By its very nature as a gross violation of the most fundamental right to life the death penalty can never instil respect for human rights.

Although human rights remain in grave peril in Chad, for the first time in years, change is possible. The forces of non-violence and popular protest, silenced for so long, are again

making their voices heard. Organizations and associations of ordinary people have emerged, independent of the ruling party, which are committed to securing respect for human rights.

For the first time in almost three decades human rights have a window of opportunity. Chadian citizens from all walks of life and foreign governments with links to the country, as well as the international community, have a duty to ensure that the rule of law and respect for human rights takes root. The National Conference due to begin in January 1993 can take a crucial step towards this goal by adopting safeguards to prevent human rights violations. The conference, composed of members of government, independent organizations and opposition groups, aims to review the country's political and social problems and debate the way to achieve stability, democracy, and respect for human rights.

Amnesty International is appealing to participants in the National Conference, on behalf of the victims, their families, and those who defend human rights throughout the world, to take up this challenge: make the protection of human rights your most urgent priority, make an unequivocal commitment to ensuring that Chad ceases to be a country in which human rights violations may be committed with impunity.

Amnesty International's recommendations

The following recommendations are intended not only to address the human rights violations of the past, but to provide safeguards which will prevent similar abuses in the future. Amnesty International is submitting these recommendations to the National Conference in the hope that they will be discussed during the proceedings and incorporated in all legal documents, including a new or amended Constitution. While the recommendations stress the government's obligation to prevent abuses, it is the responsibility of all participants in the conference to ensure that safeguards are adopted which will reinstate respect for human rights in Chad.

Prohibit human rights violations

- ! The government should issue clear orders to the security forces that human rights violations, in particular extrajudicial execution, "disappearance", torture and ill-treatment and arbitrary arrest, are absolutely prohibited, whatever the circumstances, and will be punished.

- ! The government should establish strict control, including a clear chain-of-command, over all security force units engaged in counter insurgency operations as well as over all officials responsible for arrests, detention or imprisonment. A clear chain-of-command would indicate who is responsible for supervising arrest, detention and interrogation procedures and for disciplining officers and others who violate these procedures.
- ! The government should order all members of the security forces to cooperate fully with investigations into human rights violations and the bringing to justice of those responsible.
- ! Orders from superior officers or public officials authorizing or inciting others to carry out extrajudicial executions or other human rights violations should be prohibited. Members of the security forces should be reminded that they have the right and the duty to disobey any such orders, and that under international standards obedience to superior orders is no defence for those accused of human rights violations.
- ! Members of the security forces implicated in extrajudicial executions, "disappearances" or torture under the present or the previous government should not hold, or be appointed to, any positions in which they might have custody over prisoners or the power to order the use of force unless and until they are exonerated by an independent and impartial judicial body.

Investigate human rights violations

- ! An independent investigative body composed of individuals known in Chad for their impartiality, integrity and competence should be established to investigate reports of human rights violations since the overthrow of President Hissein Habré and those which may occur in the future.
- ! The commission should be empowered to obtain all the necessary information and to compel witnesses, including members of the security forces allegedly involved in human rights violations, to appear and give evidence.
- ! Investigations should take place promptly and should proceed whether or not victims or their relatives have lodged formal complaints.
- ! Complainants, witnesses and investigators should be protected against violence, threats of violence or any other form of intimidation.
- ! Obstruction of investigations into human rights violations should be a criminal offence and offenders should be brought to justice.

- ! The commission should issue written reports, including its findings, and make them public as soon as the investigations are completed.
- ! Reports of investigations should give details of the scope of the inquiry and the procedures followed. They should describe in detail what took place in the alleged incident, the evidence on which findings are based and the procedures used to evaluate evidence.
- ! The authorities should promptly implement the commission's recommendations both on action to be taken against those found responsible for human rights violations and on action to prevent the recurrence of such violations.

Bring to justice all security force personnel responsible for human rights violations

- ! Those against whom there is evidence of responsibility for human rights violations committed at any time should be brought to justice. In order to ensure that appropriate prosecutions take place, the government should end the practice of effectively granting immunity to members of the security forces accused of human rights violations.
- ! Members of the security forces and other officials accused of involvement in human rights violations should be suspended from duty and removed from any positions in which they might be able to obstruct investigations by influencing complainants, witnesses or others, or by tampering with evidence, while the allegations against them are investigated.
- ! Security force personnel and other officials accused of human rights violations should be tried in accordance with international standards for fair trial, including by being given the right of appeal if they are convicted.

Take measures to prevent future human rights violations

Prevent extrajudicial executions

- ! Regulations governing the use of firearms should be established, in accordance with the principles of the United Nations (UN) Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These regulations should be communicated to all members of the security forces, orally and in writing.

- ! In particular, the government should clearly indicate to all members of the security forces that the killing of prisoners, including combatants who are *hors de combat*, is absolutely forbidden in any circumstances. Clear instructions should be given to members of the security forces that the use of force is unjustified other than in exceptional situations where life is threatened, and that the use of military or other weapons against unarmed civilians in other circumstances is a violation of fundamental human rights for which those responsible will be brought to justice.

- ! The security forces should be explicitly ordered to:
 - Keep records for inspection by investigators of the identities of officers and soldiers deployed on counter insurgency operations;

 - Record the identities of personnel who participated in arrest, detention and any interrogation of detainees;

 - Make available to investigators the records of armed forces' patrols deployed in counter insurgency operations.

- ! All killings must be thoroughly investigated by an independent and impartial body, so that those responsible for them are identified, and all government officials or members of the security forces involved in extrajudicial executions or other unlawful killings must be brought to justice.

- ! As a matter of urgency, the authorities should conduct impartial investigations into all reports of extrajudicial executions and bring those responsible to justice.

- ! In its efforts to end extrajudicial executions the government should abide by the UN Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions⁴.

End detentions outside the framework of the law

⁴By Resolution 1989/65 on 24 May 1989 on "Effective prevention and investigation of extra-legal, arbitrary and summary executions", the UN's ECOSOC called on all governments to take into account and respect a series of Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. The Principles give some guidance on procedures for investigation and suggest that if the established investigative procedures (for example of the Procuracy) are inadequate, governments should establish independent commissions of inquiry.

- ! Branches of the security forces which are not entitled by law to carry out arrests should be prohibited from doing so. Those who contravene this regulation should be brought to justice.
- ! Procedures for arrest, interrogation and custody by security force personnel should be set out precisely in written regulations and kept under regular review.
- ! Everyone should be informed, at the time of their arrest, of the specific reasons for their arrest.
- ! All detainees should be produced before an independent judicial authority and charged with a recognizably criminal offence within the period specified by law (24 hours), or released.
- ! No one should be held as a hostage, in order to persuade a relative to surrender to the authorities or with the prime objective of putting pressure on the leadership of any organization to which the prisoner belongs.
- ! All detainees should be informed of their right to access to lawyers and relatives promptly after arrest and regularly throughout their period in custody. No one should be detained incommunicado for long periods.
- ! Relatives should be informed immediately of any arrest and should be kept informed of the detainee's whereabouts.
- ! Legislation should guarantee the right of *habeas corpus* (the right of detainees or their representatives to request a court of law to oblige the detaining authority to justify the legal basis for detention) by specifying that the courts are required in every case to rule on the legality of detainees' arrest and detention and to order their release if it is illegal.
- ! A senior officer of each branch of the security forces should be made responsible for answering inquiries from the judiciary, human rights groups, lawyers and relatives about prisoners in their custody or reports of human rights violations by members of the security forces under their command.
- ! Records should be kept of everyone taken into detention, however brief the period of detention, by both the detaining authority and any authority or prison receiving prisoners. Actions should be taken against members of the security forces who fail or refuse to keep such records.

- ! A central registry should be established to receive information about the names and whereabouts of all people detained without charge to which lawyers and the relatives of those believed to have been arrested should have access.
- ! All places of detention should be open to regular independent inspection both by the Procuracy and by international humanitarian organization with the appropriate expertise.

Prevent torture

- ! The government should publicly condemn the torture and ill-treatment of detainees and prisoners. All members of the security forces should be issued with orders prohibiting all forms of torture and ill-treatment. Torture and ill-treatment should be prohibited by law and subject to penalties which are appropriate to the severity of the offence.
- ! The date, time and duration of each period of interrogation should be clearly recorded, as well as the names of all those present. These records should be open to judicial scrutiny and to inspection by lawyers.
- ! Confessions obtained solely as a result of torture or ill-treatment should never be admitted in legal proceedings except as evidence against the perpetrators.
- ! In cases where prisoners complain that confessions have been extracted under torture, the burden should be on the detaining and interrogating authorities to prove that the confession was voluntary and that torture and ill-treatment did not occur.
- ! The authorities should order prompt and impartial investigations into all cases where there are reasonable grounds to believe that torture may have occurred, whether a complaint has been filed or not.

End reliance on the death penalty as a deterrent

- ! The government should publicly recognize that the death penalty is not an effective deterrent to violent crime.
- ! All death sentences should be commuted.
- ! The death penalty should be abolished for all offences. If this is not immediately possible, then the government should take urgent steps to reduce the number of capital offences as part of the process towards eventual abolition.

Strengthen the judiciary

- ! The judiciary should be protected against acts of intimidation and violence.
- ! The judiciary should receive the political support and necessary resources to carry out its duties.
- ! All branches of the security forces should be ordered to cooperate with judicial investigations, including investigations into members of all ranks of the security forces implicated in human rights violations.
- ! Judges should be encouraged to exercise their authority to request immediate and unrestricted access to all places of detention. If access is refused, or if the detention is denied despite evidence of the involvement of members of the security forces in the arrest, judges should have full authority to order that the detainee be brought before them. Failure to present the detainee before the judge should be punished.
- ! International standards pertaining to the judiciary, prosecutors and lawyers, including those contained in the UN Basic Principles on the Independence of Judiciary, the Guidelines on the Role of Prosecutors and the Guidelines on the Role of Lawyers, should be incorporated in Chadian law, including the Constitution, and legal practice in the interests of a genuinely independent and impartial judiciary.

Compensate the victims

- ! All victims of torture should receive medical treatment and rehabilitation where necessary, and fair and adequate compensation.
- ! A relief program should be initiated for families and dependents of those who have "disappeared".
- ! Families and dependants of victims of extrajudicial execution should receive compensatory and exemplary damages.

Promote human rights awareness

- ! The government should ensure that all members of the security forces receive adequate training on human rights standards, both domestic and international, and the means for their protection.

- ! Human rights education, including the text of the Geneva Conventions and their 1977 Additional Protocols and their application, should be included in the curriculum at every stage of the education system.
- ! There should be a broad program aimed at promoting human rights awareness among all sectors of society, particularly among those sectors most vulnerable to abuses of authority.

Ratify international treaties

- ! As evidence of its commitment to upholding human rights the government should ratify major international human rights instruments. These include the International Covenant on Civil and Political Rights and its Optional Protocols, the International Covenant on Economic, Social and Cultural Rights and the UN Convention Against Torture and Other Forms of Cruel, Inhuman or Degrading Treatment or Punishment. The government should ensure that it implements its obligations under these treaties in its national law and practice.