



UPR: Review of Chad – 31st session of the Universal Periodic Review – 3rd cycle

29 March 2018

This submission, presented by REDRESS, the Chadian Association for the Promotion and Defence of Human Rights and Human Rights Watch, focuses on one issue: the Chadian government's failure to make reparations to victims of Hissène Habré-era abuses despite its legal obligations and a 2015 decision by a Chadian court ordering it to provide compensation to over 7,000 victims.

I. Background - The Hissène Habré era

Hissène Habré's government (1982-1990) was responsible for widespread political killings, systematic torture, thousands of arbitrary arrests, and the targeting of ethnic groups.¹ Habré's political police, the sinister Directorate de Documentation et Securite (DDS)² was responsible for the worst of the regime's crimes. DDS files recovered by Human Rights Watch in 2001 reveal the names of 1,208 people who were killed or died in detention, and 12,321 victims of human rights violations. Seven secret DDS prisons were dotted throughout the capital, including one on the grounds of Habré's presidential palace. The most notorious prison was La Piscine, converted from a colonial-era swimming pool that Habré divided into cells and covered over with a cement slab. Prisoners died of malnutrition and disease in the overcrowded underground cells, especially in the summer heat.

Abuses began as soon as Habré came to power in 1982, when he sent his forces to control the rebellious south. In the repression, culminating in "Black September" 1984, villages were attacked, pillaged, burned and destroyed. Educated Chadians from the south were systematically arrested and executed. When leaders of the Hadjerai and the Zaghawa ethnic groups, who had helped Habré take power, dared to oppose him, their entire populations were savagely persecuted. Mass arrests were followed by torture and killings. Many Hadjerai and Zaghawa

1 Human Rights Watch (2013): La Plaine des Morts, December 2013, at: https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf.

2 Reed Brody, "Inside a Dictator's Secret Police" Foreign Policy, March 2010, at: <http://foreignpolicy.com/2010/03/09/inside-a-dictators-secret-police/>.

villages were burned to the ground. In December 1990, Habré was deposed by Idriss Deby Itno, and he fled across the continent to Senegal.

In 1992, a Chadian national Truth Commission³ recommended the prosecution in Chad of those who participated in crimes during Habré's regime. It also called for DDS officers to be relieved of their state security duties and for measures to be taken to honor the memory of the victims. In particular, it called on the new government to "construct a monument honoring the memory of the victims of Habré's repression," to "designate a day for prayer and contemplation for the victims," and to "transform the former DDS headquarters and underground prison known as the Piscine into a museum." None of these measures was implemented.⁴

II. Victims pursue Justice in Senegal and Chad

Hissène Habré's victims have waged tenacious campaigns for justice in both Senegal, where Habré lives, as well as in Chad. After 25 years of relentless campaigning and litigation in the courts of several countries, the UN Committee against Torture⁵ and even the International Court of Justice,⁶ Habré was finally brought to trial before the Extraordinary African Chambers (the EAC), an African Union (AU)-backed court in Senegal.⁷ On May 30, 2016, the EAC convicted Habré of crimes against humanity, war crimes and torture, including sexual slavery, and sentenced him to life imprisonment.⁸ The case was widely hailed as a milestone for justice in Africa.

The EAC's verdict was welcomed by the United Nations High Commissioner for Human Rights, Zeid Ra'ad Al Hussein: "*After years of struggle and many setbacks on the way to justice, this verdict is as historic as it was hard-won. I sincerely hope that today, at last, Habré's victims will experience some sense of relief.*"⁹

On April 27, 2017, the EAC Appeals Chamber upheld the conviction and awarded 82 billion francs CFA (approximately US\$154 million) to 7,396 named victims through an African Union Trust Fund. An additional 3,489 victims who had not produced sufficient proof of their identity before the EAC are also able to apply to the Trust Fund to determine their eligibility. The Trust Fund, which begins with virtually no money, has been mandated to search for and recover Habré's assets and to seek voluntary contributions from countries and other willing parties.

³ 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, (L'Harmattan, Paris, 1992).

⁴ Human Rights Watch: Chad: The Victims of Hissene Habre Still Awaiting Justice. www.hrw.org/report/2005/07/12/chad-victims-hissene-habre-still-awaiting-justice.

⁵ *Guengueng et al. v. Senegal* (communication No. 181/2001, decision of 17 May 2006, UN doc. CAT/C/36/D/181/2001).

⁶ Questions Concerning the Obligation to Prosecute or Extradite (Belg. v. Sen.), Judgment (Jul. 20, 2012). www.icj-cij.org/docket/files/144/17064.pdf.

⁷ For a description of the campaign and trial, see Reed Brody, "Victims bring a Dictator to Justice: The case of Hissène Habré " Bread for the World, June 2017, https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachin...

⁸ Extraordinary African Chambers, Ministère publique c. Hissène Habré, Judgment of 30 May 2016 http://www.chambresafricaines.org/pdf/Jugement_complet.pdf.

⁹ "Zeid welcomes "historic and hard-won" verdict in Hissène Habré trial," May 30, 2016. <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20033&L...>

III. A Chadian criminal court orders reparations

The launch of proceedings against Habré before the Extraordinary African Chambers in Senegal also spurred justice efforts back in Chad, where a complaint filed in 2000 against Habré-era officials by the victims had languished for 13 years. Many of the accused held key positions in the Chadian administration until they were arrested in 2013 and 2014.¹⁰

On March 25, 2015, after a three-month trial, the Court of Appeals of N'Djaména convicted 20 Habré-era security agents on charges of murder, torture, kidnapping, and arbitrary detention. The Court ordered the convicted persons to pay damages to the 7,000 civil parties the equivalent of 50% of 75 billion CFA francs (approximately \$125 million USD), with the remaining 50% to be borne by the Chadian state. The Court held that the Chadian government was liable for the acts of its agents. The Court ordered that the Prime Minister establish a Commission to implement the judgment. It also ordered the erection of a memorial to the victims within a period not exceeding one year from the date of the judgment. Additionally, the Court ordered that the headquarters of the former DDS be transformed into a museum.¹¹

IV. Chad's failure to comply with the Court's decision

Three years after the 2015 Chadian court judgment, the Chadian government has failed to implement any of the measures of reparation awarded. The Commission to oversee the payment of compensation has not been created. The monument has not been built. The DDS headquarters have not been transformed into a museum. No reparation has been paid.

Faced with the non-implementation of the decision, Me Jacqueline Moudeïna, one of the lawyers representing the 7,000 victims, requested twice to meet with the Prime Minister as the person responsible for the establishment of the implementation commission but without success. Me Moudeïna then sent a letter to the Prime Minister on February 16, 2017 to request the implementation of the reparations ordered by the court. On March 25, 2017, two years after the 2015 decision was rendered, she also seized the UN Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence. In response, the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition; and the Special Rapporteur on violence against women, its causes and consequences, in a joint letter to Chad, expressed:

notre inquiétude concernant les informations qui indiquent qu'à ce jour, aucune des mesures de réparations ordonnées par la Cour d'appel de N'Djamena n'a été mise en

¹⁰ Human Rights Watch: Chad: The Victims of Hissene Habre Still Awaiting Justice, at: www.hrw.org/report/2005/07/12/chad-victims-hissene-habre-still-awaiting-justice.

¹¹ Decision of 25 March 2015 – *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres*, at: https://www.hrw.org/sites/default/files/supporting_resources/arretcrimin...

*place. Nous rappelons que les manquements aux engagements et obligations de l'Etat en matière de réparation touchent non seulement les victimes mais ont également des répercussions sur les générations futures et sur la société entière. Les mesures de réparation, notamment, offrent aux victimes la reconnaissance de leur statut de victime et également la reconnaissance de leurs droits. En outre, ces mesures peuvent contribuer à favoriser la confiance dans les institutions, et contribuer à renforcer l'état de droit et à promouvoir l'intégration sociale et la réconciliation.*¹²

On November 10, 2017, Me Moudeïna and other victims' lawyers submitted a complaint regarding Chad's failure to implement the 2015 reparation award to the African Commission on Human and Peoples' Rights, where it is currently pending.¹³

It is a well-established principle under international law that States are obliged to provide reparation, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition, to victims of torture and other serious human rights violations. The International Covenant on Civil and Political Rights (Art. 2(3)), for instance, 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)). The UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, ratified by Chad in 1995, specifically provides in Article 14 that each State Party shall ensure "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."

V. Conclusion

Hissène Habré's victims, who waged "one of the world's most patient and tenacious campaigns for justice"¹⁴ and have been awarded judgements of \$154 million at the CAE and \$125 million in Chad, have not seen one penny in reparations.

¹² UN Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-repetition; Special Rapporteur on violence against women, its causes and consequences, Letter to Chad, AL TCD 2/2017, 2 August 2017, at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=23202> (in French).

¹³ Redress, Complaint against Chad: 7,000 victims of Habré regime turn to African Commission in their struggle for reparation, at: <https://redress.org/news/complaint-against-chad-7000-victims-of-habre-re...>

¹⁴ York, Geoffrey : Former dictator of Chad arrested on allegations of 40,000 murders. In: Toronto Globe and Mail, June 30, 2013, at: <https://www.theglobeandmail.com/news/world/former-dictator-of-chad-arrested-in-senegal-on-allegations-of-40000-murders/article12901175/%2021.2.2017>.

In particular, the Chadian government has failed to make reparations despite its legal obligations and the 2015 decision by a Chadian court. Nor has it made any symbolic reparations as recommended by the national Truth Commission and the Chadian court.

VI. Recommendations

The government of Chad should:

- Promptly implement the March 25, 2015 decision by the Court of Appeals of N'Djaména in the case brought by Hissène Habré's victims, and in particular:
 - Pay compensation to Hissène Habré's victims as determined by the court;
 - Erect a memorial to the victims; and
 - Transform into a museum the headquarters of the former political police, the DDS.