

CHAD STUDY ON OPPORTUNITIES FOR REPARATIONS FOR SURVIVORS OF CONFLICT- RELATED SEXUAL VIOLENCE

Breaking the silence





REDRESS

Ending torture, seeking justice for survivors



GLOBAL SURVIVORS FUND

FOR AND WITH SURVIVORS OF
CONFLICT-RELATED SEXUAL VIOLENCE

CHAD

STUDY ON OPPORTUNITIES

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ACRONYMS

ACHPR	African Charter on Human and Peoples' Rights	FAN	Forces Armées du Nord
AComHPR	African Commission on Human and Peoples' Rights	FANT	Forces Armées Nationales du Tchad
ACtHPR	African Court on Human and Peoples' Rights	FGM	Female Genital Mutilation
ATPDH	Association Tchadienne pour la Promotion et la Défense des Droits de l'Homme	FIDH	Fédération Internationale des Droits de l'Homme
AU	African Union	GSF	Global Survivors Fund
AVCRHH	Association des Victimes des Crimes du Régime d'Hisène Habré	HRW	Human Rights Watch
AVCRP	Association of Victims of Crimes and Political Repression	ICC	International Criminal Court
AVRE	Association pour les Victimes de la Répression en Exil	ICCP	International Covenant on Civil and Political Rights
CAT	UN Committee against Torture	IDP	Internally Displaced Person
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women	LTDH	Ligue Tchadienne des Droits de l'Homme
CFA	Central African Franc	NGO	Non-Governmental Organisation
CRC	Convention on the Rights of the Child	NTC	National Transitional Council
CRSV	Conflict-Related Sexual Violence	SEA	Sexual Exploitation and Abuse
CSO	Civil Society Organisation	SGBV	Sexual and Gender Based Violence
DDS	Direction de la Documentation et de la Sécurité	SGM	Sexual and Gender Minorities
EAC	Extraordinary African Chambers	SNVBG	Stratégie Nationale de Lutte Contre les Violences Basées sur le Genre
ECOWAS	Economic Community of West African States	TMC	Transitional Military Council
FACT	Front pour l'Alternance et la Concorde au Tchad	UNCAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
		UNIR	Union Nationale pour l'Indépendance et la Révolution
		WGDWLP	Working Group on Discrimination Against Women in Law and Practice



Since Chad gained independence in 1960, the divide between the north and the south of the country has been a driver of tension and conflict.

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EXECUTIVE SUMMARY

Since Chad gained independence in 1960, the divide between the north and the south of the country has been a driver of tension and conflict.¹ These tensions led to the first lengthy intrastate conflict in Chad, from 1965 to 1981, involving several rebel movements and active conflicts. In 1978, Hissène Habré, rebel leader of the *Forces armées du Nord*, became prime minister and subsequently seized power in 1982 following fighting between his supporters and those of the president.² A period of violent repression and armed conflict followed. In December 1990, Idris Déby Itno led a coup that ousted Habré and, two years later, Déby instituted a multi-party democracy. Déby remained as President of Chad from 1990 until 2021, when he was killed unexpectedly. Throughout Déby's tenure, rebel groups challenged governmental authority and both sides were charged with committing sexual violence.³ Refugees from neighbouring Sudan and Central African Republic have faced forced marriage, rape, and sexual exploitation.⁴

Conflict-related sexual violence (CRSV) was pervasive during the Habré era (1982-1990), even though the precise scope and prevalence have not been fully documented.⁵ Acts of sexual violence perpetrated under the Habré regime, specifically at the detention facilities and in military camps, were of such a systematic nature that they were characterised as a crime against humanity by the Extraordinary African Chambers (EAC) in 2016,⁶ an ad hoc court sitting in Dakar, Senegal, and established by the Government of Senegal and the African Union. Habré was convicted of rape and sexual slavery, among other offences.

The EAC awarded individual financial compensation and other forms of reparation to all the civil parties. Victims of sexual violence were awarded the highest amount: 20 million CFA (32,388 USD approx.) each.⁷

In March 2015, a local Chadian criminal court awarded over 125 million USD in reparations to 7,000 of Habré's victims.⁸ While the judgment does not address sexual violence, the victims include survivors of sexual violence. The Court also ordered the establishment of a monument and a museum. None of these reparation awards were implemented. To date, victims of CRSV perpetrated under the Habré regime have received no financial compensation or other forms of reparations. Many of the victims were left with profound physical and psychological problems but have received little to no rehabilitation.

The impacts of CRSV on survivors are manifold and include physical, psychological, and socio-economic impacts, compounded by social isolation caused by stigma. Inter-generational impacts are also present as stigma and discrimination are transferred to children of survivors. In certain cases, the exclusion and stigma faced by survivors was amplified by a backlash after they testified publicly in Court about their experience.⁹

Given that many survivors live in conditions of economic precarity, their main need is access to income-generating activities and resources that will allow them to live their daily lives as well as access to medical and psychological care. A majority of interviewees for this report stated that victims of

1 'Chad-State Based Violence Summary' (*Uppsala Conflict Data Programme*) <https://ucdp.uu.se/country/483> accessed 26 April 2021.

2 'Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories' in Neil J Krutz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press, 1995) 52. <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 26 April 2021.

3 Alexis Arieff, 'Sexual Violence in African Conflicts' (2010) *Congressional Research Service* 6 https://digital.library.unt.edu/ark:/67531/metadc491381/m1/1/high_res_d/R40956_2010Nov30.pdf accessed 6 March 2023.

4 UNHCR, 'SGBV Strategy 2012-2016: Chad' (UNHCR, 2016) <https://www.unhcr.org/56b1fd9f9.pdf> accessed 6 March 2023.

5 Human Rights Watch, 'Chad: No Reparations for Ex-President's Victims' (27 May 2022) <https://www.hrw.org/news/2022/05/27/chad-no-reparations-ex-presidents-victims> accessed 6 March 2023.

6 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises [303].

7 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises, Décision sur les réparations, 29 July 2016 para 62, as confirmed by *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises d'Appel (27 April 2017), paras 926-936.

8 Human Rights Watch, 'Chad: Habré-era Agents Convicted of Torture' (25 March 2015) <https://www.hrw.org/news/2015/03/25/chad-habre-era-agents-convicted-torture> accessed 6 March 2023.

9 Interview with an anonymous survivor (online, 2 June 2021).

Habré's regime want individual financial compensation as a form of reparation as matter of absolute priority. Survivors have had no access to interim relief nor to basic humanitarian aid so far.

Moreover, many barriers to access to justice exist for survivors of sexual and gender-based violence (SGBV) in Chad today. A mix of informal and traditional laws, formal statutory provisions, and cultural barriers

perpetuate harmful practices and make it impossible for survivors to report to the formal system.

The main recommendations at the conclusion of this report focus on finally enforcing the reparations judgments to survivors, reforming laws to guarantee non-repetition of CRSV, and ensuring that Chad's ongoing political transition includes a focus on gender-sensitivity and reparation to CRSV survivors.



I. BACKGROUND AND METHODOLOGY

1.1. About the project, project partners and acknowledgements

1.1.1. About the project

As part of a Global Reparations Study, the REDRESS Trust, the *Association Tchadienne pour la Promotion et la Défense des Droits de l'Homme* (ATPDH – Chadian Association for the Promotion and Defence of Human Rights), in collaboration with the Global Survivors Fund (GSF), have conducted a study to identify the reparations needs of survivors of CRSV in Chad, as well as the opportunities for delivering reparations to survivors through judicial and administrative processes. This study presents and analyses survivors' perceptions, and expectations for reparations, and offers practical, concrete and context specific recommendations to policy makers and other relevant actors at national and global levels to inform the design and delivery of survivor-centred reparations in Chad.

This study also seeks to establish whether survivors of CRSV have already received any form of assistance, and/or reparation through government programmes or from civil society initiatives, and if so, what lessons can be learned from those experiences, to inform the design and delivery of comprehensive reparations in the future, including the potential delivery of interim reparative measures by GSF. As an objective in itself, the Chad Study process further aimed to increase the understanding and awareness of survivors' rights to reparations and to create further momentum for the delivery of meaningful survivor-centred reparations to CRSV survivors in Chad. The Chad Study is part of a global study on reparations (the "Global Reparations Study") launched by GSF in 2020, which focuses on the status of and opportunities for reparations for survivors of CRSV in over 20 countries. The Global Reparations Study is a multi-actor effort led by GSF in collaboration with over 40 local and international partners, including survivors' networks and groups. It seeks to make recommendations for further action based on survivors' needs and aspirations and to identify potential support available among key actors and concrete action to enhance access to reparations for CRSV survivors around the world.

1.1.2. About the project partners

REDRESS

Ending torture, seeking justice for survivors

REDRESS Trust is an international human rights organisation that delivers justice and reparation for survivors of torture, challenges impunity for perpetrators and advocates for legal and policy reforms to combat torture and provide effective reparations. As part of its Discrimination programme, REDRESS works to push for accountability and reparations for victims of CRSV. For more information, visit www.redress.org/.



ATPDH works for peace, freedom, and fundamental human rights. It fights for democracy, development, and the rule of law. ATPDH denounces human rights violations through press releases, memorandums, open letters, and other actions. ATPDH has strong connections with the Association pour les Victimes de Hissène Habré, a survivors' group, who were consulted on the project and involved through stakeholder interviews. For more information, visit <http://www.atpdh-tchad.org/>.



GSF was launched in October 2019 by Dr Denis Mukwege and Ms Nadia Murad, 2018 Nobel Peace Prize laureates. Its mission is to enhance access to reparations for survivors of CRSV around the globe, thus seeking to fill a gap long identified by survivors. GSF acts to provide interim reparative measures in situations where states or other parties are unable or unwilling to meet their responsibilities. GSF advocates also for duty bearers, as well as the international community, to develop reparations programmes, and provides expertise and technical support to guide states and civil society in the design of reparations programmes. GSF's survivor-centric approach is the cornerstone of its work. For more information, visit www.globalsurvivorsfund.org.

1.1.3. Acknowledgements

This report was drafted by Lisa-Marie Rudi, REDRESS Legal Consultant, with support and review from a REDRESS team consisting of Ikram Ais, Legal Fellow; Mariana Baptista, Legal Intern; Julie Bardèche, Legal Advisor; Ely Cossio, Legal Fellow; Ana Cutts Dougherty, Legal Consultant; Jacob Palmer, Legal Fellow; Alejandro Rodriguez, Legal Officer; Rupert Skilbeck, Director; and Alejandra Vicente, Head of Law, with input from ATPDH and the GSF team.

REDRESS and ATPDH are grateful to the many CRSV survivors who worked with us and engaged during the project so that this study would reflect their views and expectations. REDRESS and ATPDH appreciate the assistance by those who agreed to be interviewed and provided input on the study during the project.

| 1.2. Methodology

1.2.1. Aim of the Chad Study

To identify what current avenues are available in Chad for accessing reparations for CRSV, what gaps between access and survivors' needs exist and how such gaps can be mitigated to ensure timely access to reparations for all survivors of CRSV.

1.2.2. Specific objectives of the Chad Study

1. Assess and summarise the best estimates of sexual violence committed during the conflict period or that was otherwise conflict-related.
2. Identify and assess legal and administrative remedies in place for awarding reparations to survivors of CRSV.
3. Identify and analyse survivors' perspectives, needs and expectations relating to reparation and interim reparative measures.

4. Identify gaps between current access to reparations and survivors' needs, and determine opportunities for, as well as possible challenges, to access to reparations in Chad.
5. Provide context-specific recommendations to ensure that reparations and interim reparative measures are provided to survivors of CRSV in Chad.

1.2.3. Study methods

This report is supported by desk-based research conducted by REDRESS, including a review of relevant publications; background information about the conflict; existing information on the scope, scale, and nature of CRSV and reparations (including from the EAC and Chadian courts' judgments); analysis of legal, institutional and policy frameworks relevant for CRSV survivors. REDRESS also conducted stakeholder interviews with experts, academics, one survivor, members of victims' associations and lawyers of civil parties (victims participating in criminal proceedings) in and outside Chad. Finally, the report integrates input and data gathered by ATPDH from consultations and activities conducted in the field with 18 CRSV survivors.

For this report, CRSV refers to *"rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict"*.¹⁰ This definition is deliberately wide, to account for the contextual differences in which CRSV occurs.¹¹

ATPDH conducted a census of 18 survivors (also referred to as "consultation") in 2021-2022. The census consisted in individual semi-structured interviews of survivors by Me Jacqueline Moudeïna and her assistant. The interviews were based on the questionnaires (demographic forms) provided by GSF. These consultations were conducted in person. With each consultation, Me Jacqueline Moudeïna

10 UN Security Council, 'Conflict-Related Sexual Violence: Report of the Secretary-General' (2020) UN Doc S/2020/487, para 4.

11 See on this: Elisabeth Jean Wood, 'Conflict-Related Sexual Violence and the Policy Implications of Recent Research' (2014) 96 *International Review of the Red Cross* 457, 461 <https://international-review.icrc.org/sites/default/files/irrc-894-wood.pdf> accessed 11 February 2022.

adopted a do-no-harm approach to the consultation, explained what the purpose of the consultation was about and avoided raising expectations of the survivors. The 18 survivors consulted were among the 35 survivors who participated in the N'Djamena forum described below.



18 survivors were interviewed for this study

Beyond having provided data about survivors' expectations and perceptions of reparations, it is hoped that this census will contribute to the creation of a database to influence and assist the Trust Fund ordered by the Extraordinary African Chambers for victims of the Hissène Habré regime (before and once it is fully established) in properly identifying CRSV victims and their needs for reparation.

Through outreach and engagement with survivor communities, and in the course of building towards this study, ATPDH contributed to increasing the understanding and awareness of the right to reparation of CRSV survivors. They used their existing knowledge, networks, and systems to gather insights on CRSV survivors' perceptions and expectations in relation to individual and collective reparations and interim reparation measures. ATPDH reached out to their contacts throughout the Chadian provinces to accurately identify survivors, and to civil parties to the EAC proceedings and local partners of ATPDH, to seek the survivors' views on the various project activities.

During a two-day forum held on 25-26 March 2022 in N'Djamena, ATPDH consulted 35 female survivors on their needs and understanding of reparations. The programming, which included a professional psychologist, sensitised the survivors to the EAC proceedings outcomes, trauma awareness and self-care. Following this forum, the survivors decided to organise themselves as a network, to advocate for themselves and for reparations. The conclusions and recommendations voiced by the survivors during this forum are included in this report.



35 survivors participated in a two-day forum in N'Djamena

ATPDH sought to organise a stakeholder meeting, gathering government representatives, survivor representatives and other domestic, regional and international stakeholders. Due to various obstacles, this meeting did not occur prior to the drafting of this study.

REDRESS staff conducted semi-structured online interviews of the following key informants. They were identified as existing contacts of REDRESS or through open-source research. They were approached with pre-determined interview questions, and they were able to edit the quotes and citations drawn from their interview, as well as provide comment on the report. They provided informed consent:

- Angèle Beguy Ramadji, *Bureau de la coopération suisse au Tchad*
- Clément Abaifouta and the *Association des victimes des crimes* du régime d'Hissène Habré (AVCRHH)
- Delphine Djiraibe-Public Interest Law Centre Chad, represented victims before the EAC
- Diombo Binon Adeline-UNFPA Chad
- Flora Touali Epes Dansi-OHCHR Chad
- Franck Petit, Justine Info formerly EAC outreach consortium
- Gaëlle Carayon, formerly REDRESS, currently Department of Justice of New South Wales
- Anonymous survivor, civil party before the EAC
- Henri Tulliez-formerly Human Rights Watch
- Jacqueline Moudeïna-lead civil party lawyer representing victims before the EAC
- Jeanne Sulzer-International Human Rights Lawyer, Amnesty International
- Kelma Manatouma, Researcher
- Maria Koulouris, formerly Human Rights Watch researcher
- Océane Amette, Researcher
- Olivier Bercault, formerly Human Rights Watch researcher
- Reed Brody, Human Rights Watch
- Souleymane Guengueng, AVCRP
- Yodé Miangotar, formerly EAC-Outreach Consortium

A. LIMITATIONS

Victim fatigue

Victim fatigue may limit the data collection on the ground. Most survivors are greatly frustrated they never received the compensation awarded to them by the EAC. Consequently, many survivors are no longer interested in speaking to anyone about reparations. Approaching CRSV survivors beyond the civil parties in the Hissène Habré case also proved very complicated and, according to ATPDH, most of the survivors who feel able to speak about CRSV were already members of victims' associations, although not identified as victims of sexual violence.

Stigma and reluctance to speak up

A severe limitation to this study is the reluctance in Chad to speak about sexual violence. This is the case for women, and even more so for men and members of the LGBTIQ+ community. As a result, consultations represent a very limited sample of women. The impact of CRSV during the Habré on the LGBTIQ+ community remains unknown. While men were subjected to sexual violence during the Habré regime,¹² ATPDH was unable to identify male survivors. As such, their views are not reflected in this study.

Narrow understanding of CRSV

As in other countries, people in Chad have a narrow understanding of CRSV, and a tendency to reduce the category exclusively to rape.¹³ As a result, survivors of other forms of CRSV were hard to identify. ATPDH sought to overcome this challenge by providing a clear definition of CRSV prior to and during each engagement with stakeholders and survivors.

Geographic and COVID-19 restrictions

This study is limited in terms of its geographic representation of the survivors. ATPDH was not able to gather views from survivors from as many provinces as it had originally set out to given that checkpoints were installed between the provinces because of the security situation and COVID-19. The weather conditions further restricted ATPDH and the survivors in their movements. Moreover, due to the COVID-19-related travel restrictions and safety concerns, REDRESS was unable to travel to Chad for a visit as planned.

Political unrest

On 20 April 2021, Idriss Déby, the Chadian president, was killed while visiting forces fighting on the front close to Chad's northern border against rebels from the Front for Change and Concord in Chad (FACT). He was succeeded by his son who became the head of the transitional military council after the army dissolved the government and the National Assembly.¹⁴ The rebels continued advancing towards N'Djamena after the military announced that it refused to negotiate with them. Protesters who took to the street to oppose military rule were met with violence and some were killed.¹⁵ Due to these events, ATPDH decided to suspend their operations for safety reasons. Therefore, ATPDH was unable to begin their consultation with key survivors before July 2021. On 2 October 2021, members of the opposition coalition and civil society Wakit Tama protested against the country's management by the transitional authorities and demanded the adjustment of Chad's transitional charter. Anti-riot police also violently handled this demonstration, wounding 45 people and damaging private property. As such, the recent situation has been unstable and has presented an obstacle in planning stakeholder consultations.

¹² Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

¹³ Interview with Océane Amette (Online, 8 September 2021).

¹⁴ Richard Moncrieff, Thibaud Lesueur and Claudia Gazzini, 'Tchad: quels risques après la mort d'Idriss Déby?' (*International Crisis Group*, 22 April 2021) <https://www.crisisgroup.org/africa/central-africa/chad/tchad-quels-risques-apres-la-mort-d-idriss-deby> accessed 22 April 2021.

¹⁵ RFI, 'France slams Chad over deadly violence at anti-junta protests' (*Radio France International*, 28 April 2021) <https://rfi.my/7Lft> accessed 09 July 2021.



II. INTRODUCTION

On 30 May 2016, former Chadian President Hissène Habré was sentenced to life in prison by the EAC, a court established by the Government of Senegal and the African Union (AU) in Dakar, Senegal. The crimes perpetrated by Habré's regime include systematic torture, widespread political killings, thousands of arbitrary arrests, rape, sexual violence, sexual slavery, and the targeting of civilian populations. The EAC awarded individual financial compensation to all the civil parties. Victims of sexual violence were awarded the highest amount: 33,880 USD each. In March 2015, a separate local Chadian criminal court awarded over 125 million USD in reparations to 7,000 of Habré's victims, including CRSV victims. The court also ordered the establishment of a monument and a museum.

However, to date, victims of CRSV perpetrated under the Habré regime have received no financial compensation or other forms of reparations.¹⁶ Many of the victims were left with profound physical and psychological problems yet have not received adequate rehabilitation. They continue to endure the mental and physical harm derived from the violations they suffered.

This report attempts to describe and analyse the current situation in Chad regarding CRSV survivors' needs and expectations regarding reparations, the applicable legal framework and avenues towards reparations. It also offers preliminary key recommendations to various stakeholders.



Entrenched gender inequality in Chadian society acts as a precursor to sexual violence, impunity of perpetrators and a lack of reporting by survivors.

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16 REDRESS, 'No redress for ex-dictator's victims in Chad: African Commission should press for Habré-era reparations' (23 October 2019) <https://redress.org/news/no-redress-for-ex-dictators-victims-in-chad-african-commission-should-press-for-habre-era-reparations/> accessed 6 March 2023; Human Rights Watch, 'Chad: No Reparations for Ex-President's Victims' (27 May 2022) <https://www.hrw.org/news/2022/05/27/chad-no-reparations-ex-presidents-victims> accessed 6 March 2023.



Under the Habré regime, sex was often used by the military in exchange for small services that women could not otherwise access. Similarly, the fear, intimidation and force used by soldiers led to instances of sexual coercion that constituted rape, as the survivors were not in a position to freely give their consent.

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III. CONFLICT-RELATED SEXUAL VIOLENCE

| 3.1. Context

Chad gained independence on 11 August 1960. Since then, the country has been tormented by unrest and ruled by authoritarian presidents, supported by a small and “mostly ethnically homogenous” ruling elite.¹⁷ The divide between the north, which is predominantly Muslim and Arab, and the south, with its largely Christian population, has contributed to tension and conflict.¹⁸ This divide is exacerbated by the French’s prior ‘development’ and governance of the south, resulting in the post-colonial power’s entrenchment within the south, where leaders instituted one-party rule and a campaign of marginalisation of the northern region.¹⁹ These tensions led to the first lengthy intrastate conflict in Chad, from 1965 to 1981, with several rebel movements and active conflicts. The conflict was complicated further when Colonel Qaddafi took power in Libya and became involved in the conflict by supporting certain armed factions. In 1978, Hissène Habré, rebel leader of the *Forces armées du Nord* (FAN), became prime minister. After fighting erupted between his supporters and those of the president, Habré seized power in 1982.²⁰

A period of violent repression and armed conflict followed. Domestically, Habré’s rule was challenged by several ethnic groups in the north, east and south

of the country, including opposition from Goukouni Oueddei, the president Habré had ousted. While the conflict took place primarily within Chad’s borders, it became internationalised with the involvement of Qaddafi’s invasion in the northern Chadian desert on one side, and support of Habré by France and the United States on the other.²¹ Against this backdrop, Habré created la Direction de la Documentation et de la Sécurité (Documentation and Security Directorate, DDS), over which he had full control.²² The DDS was a political police force that kidnapped, tortured and killed political opponents and other individuals. The estimated number of persons who died in prisons or were executed by Habré’s regime lies around 40,000, with a total of 54,000 people taken as political prisoners.²³ Under his regime, widespread political killings, systematic torture, arbitrary arrest and targeting of ethnic groups took place.²⁴ Sexual violence was part of this pattern of violence.

In 1990, following a brutal crackdown by Habré on the Zaghawa ethnic group, Idriss Déby Itno, from northern Chad, toppled Habré.²⁵ His party, the *Mouvement patriotique de salut*, brought together different armed and ethnic groups, including members of Idriss Déby’s own Zaghawa group, of the Gorane ethnic group and also a significant proportion of the Arab community and groups, like the Sara and

17 Patrick Berg, ‘A Crisis-Complex, Not Complex Crises: Conflict Dynamics in the Sudan, Chad and Central African Republic Tri-Border Area’ (2008) 4 *Internationale Politik und Gesellschaft Online: International Politics and Society* 72 https://library.fes.de/pdf-files/ipg/ipg-2008-4/08_a_berg_gb.pdf accessed 26 April 2021.

18 ‘Chad-State Based Violence Summary’ (*Uppsala Conflict Data Programme*) <https://ucdp.uu.se/country/483> accessed 26 April 2021.

19 Ibid.

20 ‘Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories’ in Neil J Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press 1995) 52 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 26 April 2021.

21 See for example: Human Rights Watch, ‘Enabling a Dictator: The United States and Chad’s Hissène Habré 1982-1990’ (28 June 2016) <https://www.hrw.org/report/2016/06/28/enabling-dictator/united-states-and-chads-hissene-habre-1982-1990>; and Human Rights Watch, ‘Allié de la France, condamné par l’Afrique’ (28 June 2016) <https://www.hrw.org/fr/report/2016/06/28/allie-de-la-france-condamne-par-lafrique/les-relations-entre-la-france-et-le>

22 République du Tchad, Cour Criminelle Spéciale de N’Djamena, Arrêt Criminel, Répertoire No 01/15 du 25 mars 2015, 2-4.

23 ‘Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories’ in Neil J Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press, 1995) 81 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 26 April 2021.

24 See for example: Olivier Bercault and Reed Brody, *La Plaine des Morts: Le Tchad de Hissène Habré 1982-1990* (HWR, 2013) 116-427 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

25 Celeste Hicks, *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (Zed Books 2018) 12.

Hadjarai, in the south and centre that had suffered under Habré's regime.²⁶ After the tumultuous period that Chad had experienced, Idriss Déby promised Chadians democracy and freedom.²⁷ The start of his rule was relatively stable compared to the preceding period, but his power was significantly challenged when the Constitution was amended in order to remove the two-term limit for Presidents in 2005.²⁸ This amendment, in conjunction with the involvement of Déby's regime in the Darfur conflict, allowed rebels to reach N'Djamena in 2006 and again in 2008. The country remained in turmoil, experiencing civil war until 2010, but Déby remained president, largely as a result of French and Libyan support.²⁹

Chad is also heavily impacted by its neighbouring States, particularly experiencing spill-overs of violence and displacement from the Darfur region. Refugees cross Chad's eastern and southern borders, mainly fleeing conflicts in Sudan and South Sudan, the Central African Republic, and Nigeria.³⁰ Moreover, the surrounding insecurity exacerbates the instability in Chad because it allows rebels to retract into Sudan and launch operations into Chad from there, as Idriss Déby did when he launched his coup against Habré.³¹ Finally, the underdevelopment of this region and the scarcity of natural resources fuels local disputes and assaults on the civilian population and specific ethnic groups.³² Armed conflict takes place regularly in the east and southeast of the country, often due to longstanding tension between ethnic groups over land for agriculture or livestock.³³

Tensions have heightened since April 2021, when the Chadian army announced that Idriss Déby was killed by rebels. His death was announced on 20 April 2021 and, according to official accounts, was the result of clashes between the army and the Front for Change and Unity in Chad. He had been re-elected for his sixth term as President of Chad.³⁴ On the same day, the Chadian army dissolved both the government and the parliament, and suspended the Constitution. Déby's son, Mahamat Idriss Déby, became head of the transitional military council (TMC).³⁵ On 21 April 2021, the TMC published a charter, which provided for a National Transitional Council (NTC) of 93 members "from all classes of society", alongside the TMC, to be responsible for legislative power and for examining the draft of the new Constitution.³⁶ The charter also provides for a transitional government and sets a time limit of 18 months to adopt a constitution and organise elections. This period can be renewed one time only, in the case of a deadlock.³⁷

The morning of 27 April 2021 was marked by demonstrations, the repression of which resulted in a dozen deaths. That day, Mahamat Idriss Déby promised a "government of national reconciliation" and an "inclusive national dialogue" that "will not evade any subject of national interest". He reaffirmed the objective of "organizing democratic, free and transparent elections as soon as possible".³⁸

In October 2021, the President Deby appointed 93 members to the NTC by decree, replacing the former

26 Roland Marchal, 'An emerging military power in Central Africa? Chad under Idriss Déby' (2016) 40 *Sociétés Politiques Comparées* 4 <https://www.almendron.com/tribuna/wp-content/uploads/2021/05/an-emerging-military-power-in-central-africa-chad-under-idriss-deby.pdf> accessed 22 April 2021.

27 Ibid 2.

28 Simon Massey and Roy May, 'Commentary: The Crisis in Chad' (2006) 105 *African Affairs* 443.

29 Roland Marchal, 'An emerging military power in Central Africa? Chad under Idriss Déby' (2016) 40 *Sociétés Politiques Comparées* 2

30 World Bank, 'Refugee Population by Country or Territory of Asylum—Chad' <https://data.worldbank.org/indicator/SM.POPREFG?locations=TD> accessed 6 March 2023.

31 Patrick Berg, 'A Crisis-Complex, Not Complex Crises: Conflict Dynamics in the Sudan, Chad and Central African Republic Tri-Border Area' (2008) 4 *Internationale Politik und Gesellschaft Online: International Politics and Society* 73 https://library.fes.de/pdf-files/ipg/ipg-2008-4/08_a_berg_gb.pdf accessed 26 April 2021.

32 Ibid 74.

33 Amnesty International, 'No Place For Us Here: Violence against Women in Eastern Chad' (Amnesty International Publications 2009) 8 <https://www.amnesty.org/en/documents/afr20/008/2009/en/> accessed 29 April 2021.

34 Richard Moncrieff, Thibaud Lesueur and Claudia Gazzini, 'Tchad: quels risques après la mort d'Idriss Déby?' (*International Crisis Group*, 22 April 2021) <https://www.crisisgroup.org/africa/central-africa/chad/tchad-quels-risques-apres-la-mort-d-idriss-deby> accessed 22 April 2021.

35 Christian Djimadeu, 'Tchad: Idriss Deby Itno est mort, tué par des rebelles' (*Journal du Cameroun*, 20 April 2021) <https://www.journalducameroun.com/tchad-idriss-deby-itno-est-mort-tue-par-des-rebelles-cameroun/> accessed 22 April 2021.

36 Ibid.

37 François Mazet, Aurélie Bazzara, 'Trois mois après la mise en place du CMT, où en est la transition du Tchad ?' (*Radio France Internationale*, 20 July 2021) <https://www.rfi.fr/fr/afrique/20210720-trois-mois-apr%C3%A8s-la-mise-en-place-du-cmt-o%C3%B9-en-est-la-transition-au-tchad> accessed 29 July 2021.

38 Ibid.

National Assembly.³⁹ Nevertheless, many critics are concerned about the NTC's composition and the influence the parliament may have on it, as many of the parliamentarians from the Assembly are members of the NTC, and a few opposition groups were not invited to integrate the NTC.

A date for the dialogue, the precursors for national elections, still has not been set.⁴⁰ On 18 January 2022, the transitional government freed 250 members of armed groups ahead of the peace talks, which were expected to start on 13 March 2022 in Doha, Qatar. The peace talks were suspended after representatives of the Front for Change and Concord in Chad (FACT) walked out at the inauguration of the negotiations.⁴¹ In late November 2021, Chad granted amnesty to members of armed groups ahead of the national dialogue to ensure the participation of the FACT in the dialogue. Some of the demands made by the rebel groups' representatives, including amnesties, and the return of confiscated assets, could negatively impact access to reparations for survivors. On 24 August 2021, Hissène Habré died in detention in Senegal after he contracted COVID-19. His death recalls the urgency to implement reparations for aging survivors.⁴²

3.2. Nature and scope of conflict-related sexual violence

3.2.1. Scale, scope, forms and pattern of crimes

Chad consistently scores poorly on international indicators for gender equality, ranking 160th out of 162 countries in the 2019 gender inequality index of the UN.⁴³ Chadian society is characterised by a patriarchal structure in households, family and community.⁴⁴ Women are one of the groups most discriminated against in Chadian society.⁴⁵ The UN Human Rights Council Working Group on Discrimination Against Women in Law and Practice (WGDWLP) noted in a 2018 report that women in Chad are generally considered second class citizens who are excluded from decision making structures.⁴⁶ The report found that women are often seen as the property of their husbands, who acquire them by paying a bride price.⁴⁷ For instance, doweries – monetary or property amounts brought by a bride to her husband on their marriage – form an important cultural tradition in Chad and women's 'morality' is highly valued.⁴⁸

39 DW, 'Chad: The Uphill Battle Facing Chad's New Transition Council' (8 October 2021) <https://www.dw.com/en/the-uphill-battle-facing-chads-new-transition-council/a-59449238> accessed 14 April 2022; Jeune Afrique, 'Chad: Mahamat Idriss Déby appoints a transitional parliament by decree' (*The Africa Report*, 29 September 2021) <https://www.theafricareport.com/131309/chad-mahamat-idriss-deby-appoints-a-transitional-parliament-by-decree/> accessed 6 March 2023.

40 Mahamat Ramadan, 'Chad pardons members of armed groups ahead of national dialogue' (*Reuters*, 29 November 2021) <https://www.reuters.com/world/africa/chad-pardons-members-armed-groups-ahead-national-dialogue-2021-11-29/> accessed 17 December 2021.

41 BBC, 'Chad frees 250 rebels ahead of talks' (*BBC*, 18 January 2022) <https://www.bbc.com/news/topics/c302m85q5zmt/chad> accessed 14 April 2022.

42 'Chad's former President Hissène Habré dies of COVID aged 79' (*Al Jazeera*, 25 August 2021) <https://www.aljazeera.com/news/2021/8/24/chads-former-president-hissene-habre-dies-of-covid-aged-79> accessed 15 December 2021.

43 Human Development Report, 'The Next Frontier: Human Development and the Anthropocene-Chad' (*UNDP*, 2020) <https://hdr.undp.org/sites/default/files/Country-Profiles/TCD.pdf> accessed 20 July 2021.

44 Virginie Le Masson, Colette Benoudji, Sandra Sotelo Reyes and Giselle Bernard, 'Violence against Women and Girls and Resilience: Links, Impacts and Perspectives from the Chadian Context' (*ODI*, 17 January 2018) <https://cdn.odi.org/media/documents/12011.pdf> accessed 28 July 2021.

45 Océane Amette, 'La condition socio-juridique des femmes tchadiennes: entre contrainte et levier d'émancipation. Histoire des statuts et sociologie des identités en contexte familial' (Mémoire de Master 2, Université Paris 1 Panthéon Sorbonne 2020) 38.

46 UNHRC 'Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice on its Mission to Chad' (2018) UN Doc/A/HRC/38/46/Add.2, para 35.

47 Ibid.

48 Océane Amette, 'La condition socio-juridique des femmes tchadiennes: entre contrainte et levier d'émancipation. Histoire des statuts et sociologie des identités en contexte familial' (Mémoire de Master 2, Université Paris 1 Panthéon Sorbonne 2020) 48.

According to the WGDWLP, 29% of women aged 15 to 49 have been victims of physical violence at some point in their lives, with the husband or partner cited as the perpetrator in 66% of cases; 12% of women aged 15 to 49 have been victims of sexual violence, committed in 73% of cases by the husband or partner; and 35% have been victims of acts of physical, emotional, or sexual violence at the hands of the husband or partner.⁴⁹ Female genital mutilation is also common, reaching 96% of women in some regions.⁵⁰ This backdrop of entrenched gender inequality in Chadian society acts as a precursor to sexual violence, impunity of perpetrators and a lack of reporting by survivors. Regardless of the social standing, women are often essentialised and reduced to their biology, their sexuality, or their so-called morality.⁵¹ For instance, they can be “sold or exchanged for goods”.⁵²

As a result of patriarchal structures, women are perceived as inferior in worth, and men have to fulfil certain standards of masculinity. For instance, women in rural Chad are often tasked with subsistence farming alongside domestic chores, even as they are denied a decision-making role in the family affairs.⁵³ Women who come forward after surviving acts of sexual violence are often faced with instances of victim blaming.⁵⁴ Unsurprisingly, underreporting of SGBV is therefore an issue in Chad due to the stigma, even from within people’s own families.⁵⁵ As a result, it is difficult to estimate the exact number of victims.⁵⁶

According to Amnesty International, throughout eastern Chad, there is “a deeply entrenched culture of impunity for rape and violence against women and girls.”⁵⁷

Moreover, due to the patriarchal structures, women are unlikely to report SGBV because they will be shamed. Sexual violence is often trivialised within families and women often do not recognise certain behaviours as sexual violence.⁵⁸ Men are also unlikely to report SGBV for fear of appearing weak or feminine.⁵⁹ These aspects will be further discussed in the section relevant to domestic legal and policy frameworks. During his rule, Habré implemented a deliberate policy of repression and systematic elimination of people the regime considered as ‘enemies’.⁶⁰ Human rights violations were widespread, as the government set up a network of “secret prisons” and carried out “night-time disappearance[s], the torture of political opponents, massacres and the destruction of entire villages.”⁶¹ Acts of sexual violence that were perpetrated under the regime of Habré, specifically at the detention facilities and at military camps, are recognised as crimes against humanity due to their systematic nature.⁶² Sexual violence was perpetrated in a broad context of violence and repression: women were placed in precarious situations, lacking access to basic necessities, and sex was often used by the military

49 United Nations Human Rights Council ‘Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice on its Mission to Chad’ (2018) UN Doc A/HRC/38/46/Add.2, para 58.

50 Ibid, para 59.

51 Océane Amette, ‘La condition socio-juridique des femmes tchadiennes: entre contrainte et levier d’émancipation. Histoire des statuts et sociologie des identités en contexte familial’ (Mémoire de Master 2, Université Paris 1 Panthéon Sorbonne 2020) 80.

52 United Nations High Commissioner for Refugees, ‘SGBV STRATEGY 2012-2016: Chad 2’ <https://www.unhcr.org/56b1fd9f9.pdf> accessed 29 April 2021.

53 DAI Global Belgium, ‘Analyse Genre Tchad’ (2021) 24-25 https://www.eeas.europa.eu/sites/default/files/documents/2018-3089%20Rapport%20analyse%20genre%20coope%CC%81ration%20Tchad-UE_Version%20Finale_0.pdf accessed 8 March 2023,

54 Ibid 1.

55 Ibid.

56 Ibid 12.

57 Amnesty International, ‘No Place For Us Here: Violence against Women in Eastern Chad’ (Amnesty International Publications, 2009) 4 <https://www.amnesty.org/en/documents/afr20/008/2009/en/> accessed 29 April 2021.

58 Interview with Océane Amette (Online, 8 September 2021).

59 Ibid.

60 Olivier Bercault and Reed Brody, ‘La Plaine des Morts: Le Tchad de Hissène Habré 1982-1990’ (HWR 2013) 4 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

61 Celeste Hicks, *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (Zed Books, 2018) 11.

62 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d’Assises [303].

in exchange for small services that women could not otherwise access.⁶³ Similarly, the fear, intimidation and force used by soldiers led to instances of sexual coercion that constituted rape, as the survivors were not in a position to freely give their consent. Moreover, the EAC found that sexual violence occurred in three main settings: within the DDS detention facilities and prisons, in the Ouadi-Doum and Kalait camps, and during massacres in the South.⁶⁴

SEXUAL VIOLENCE WITHIN THE DDS DETENTION FACILITIES AND PRISONS

Records of sexual violence committed by the authorities can be found in the archives of the DDS.⁶⁵ During Habré's regime, sexual violence was rampant in the detention facilities of the DDS.⁶⁶ The detainees at the DDS described horrific acts of sexual torture, as well as coercion to perform sexual acts and rape.⁶⁷

One of the lawyers of the victims of the Habré regime, Jacqueline Moudeïna, stated that rape was so systematic, that one could safely presume that "all the women who were among the victims had been raped."⁶⁸

Guards pressured or coerced many detained women into performing sexual acts. One of the most common reasons of death in the DDS was the lack of food and medical treatment, so women did not have the option to refuse sexual intercourse with guards due to their dependency on them for access to basic goods to survive, such as food, water and medicines.⁶⁹ Agents of the DDS would take girls and women at night, raping them and often perpetrating other acts of physical aggressions and torture.⁷⁰ Two individuals who were detained in the DDS prisons declared that they witnessed DDS agents inserting a bayonet in the vagina of a female prisoner.⁷¹ As a result of sexual violence, sometimes women in the detention facilities would become pregnant, which in turn led to clandestine abortions without medical assistance.⁷² The detainees of the DDS facilities were obliged to swear secrecy before being released. However, even after the women were released and left detention, soldiers continued to visit them.⁷³ Within the detention facilities, there were no specific groups of women that were targeted: soldiers took whichever woman they wanted, including when the woman's spouse was present.⁷⁴

Detention staff also raped men but according to Jacqueline Moudeïna, this issue was silenced.⁷⁵ Male survivors reported sexual torture including pulling of penis and testicles, with the result of losing a testicle,⁷⁶ electroshocks of the penis,⁷⁷ and tying of strings to the penis then pulling it, resulting in the penis being

63 Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

64 Ibid.

65 Olivier Bercault and Reed Brody, 'La Plaine des Morts Le Tchad de Hissène Habré 1982-1990' (HWR, 2013) 249 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

66 Human Rights Watch, 'Q&A: The Case of Hissène Habré before the Extraordinary African Chambers in Senegal' (2016) <https://www.hrw.org/news/2016/05/03/qa-case-hissene-habre-extraordinary-african-chambers-senegal> accessed 7 March 2023.

67 Ibid.

68 Jacqueline Moudeïna, 'From Victim to Witness and the Challenges of Sexual Violence Testimony' In Sharon Weill, Kim Thuy Seelinger, and Kerstin Bree Carlson (eds), *The President on Trial* (Oxford University Press 2020) 122.

69 Olivier Bercault and Reed Brody, 'La Plaine des Morts: Le Tchad de Hissène Habré 1982-1990' (HWR 2013) 234 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

70 Ibid 248.

71 Ibid 249.

72 Ibid 250.

73 Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

74 Ibid.

75 Jacqueline Moudeïna, 'From Victim to Witness and the Challenges of Sexual Violence Testimony' In Sharon Weill, Kim Thuy Seelinger, and Kerstin Bree Carlson (eds), *The President on Trial* (Oxford University Press 2020) 122.

76 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises [611].

77 Ibid [617].

split or maimed.⁷⁸ Lasting physiological effects often included sexual impotence but in some cases, it also led to the loss of life.⁷⁹ One survivor testified that in the DDS facilities, men were forced to have sexual relations with the corpses of lifeless women.⁸⁰ In general, all witnesses and victims of sexual violence in the detention facilities described that refusal to perform sexual acts that were demanded by the DDS agents would lead to beatings or being threatened in another way.

SEXUAL VIOLENCE IN THE OUADI-DOUM AND KALAÏT CAMPS

Some women who were detained during the Habré regime were taken to military camps in the Northern Chadian desert: the Ouadi-Doum camp and the Kalaït camp. In the Ouadi-Doum camp, the women were forced to work and cook and received only the little food that was also distributed to other detainees.⁸¹ The women who were taken to these camps reported daily rape.⁸² For more than a year, the women were treated as domestic and sexual slaves, including two underage girls who were present.⁸³ Some women became sterile as a result of the sexual violence. One of the underage girls, the 12-year-old daughter of one of the arrested women, died as a result of the repeated sexual assaults.⁸⁴ The rape committed against the women and girls in the camp was premeditated: they were forced to take medicines without being sick or knowing why they had to take them, which the EAC concluded indicated that they were given contraceptive pills to prevent pregnancies.⁸⁵ When the women were finally liberated from the camp, they had to swear secrecy, like the DDS detainees. Similar instances of sexual slavery and violence were reported in the Kalaït military camp.⁸⁶

SEXUAL VIOLENCE DURING MASSACRES IN THE SOUTH

As described above, under Habré's regime, a climate of constant terror was inflicted upon Chadians. Southern Chad, and in particular its educated elite or members of the security forces whom Habré did not trust, were targeted due to their opposition to Habré.⁸⁷ However, the repression and systematic attacks in southern Chadian villages and the countryside were indiscriminate. Under the pretext of fighting against the opposition army, Habré's forces attacked, looted and burned multiple villages, which had members suspected of sympathising with guerrilla groups, many of them were killed. Sexual violence was committed as part of this climate of terror, particularly in the form of rape.⁸⁸ Many people fled into the bush, where they hid for months without regular access to water or food, while others fled to neighbouring countries.⁸⁹

Considering the patterns of CRSV seen through the conflict, acts of CRSV were likely committed in other contexts and other parts of the country but are widely undocumented (see section 3.2.2. below).

The survivors interviewed as part of this study (18 persons) all stated that they were raped, 16 stated that they suffered from gang rape, nine stated that they underwent sexual torture. None described other forms of sexual violence. 17 stated that they suffered from torture, 10 said they were arbitrarily arrested, five stated they were imprisoned, and one said she underwent other physical violence. All but one stated this happened in 1985. One said this happened in 1986.

78 Ibid [613].

79 Ibid [616]-[617].

80 Ibid [622]-[623].

81 *Ministère Public c. Hissèin Habré* [2016], Chambre Africaine Extraordinaire d'Assises, [792].

82 Ibid [794].

83 Ibid [795].

84 Celeste Hicks, *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (Zed Books 2018) 94.

85 *Ministère Public c. Hissèin Habré* [2016], Chambre Africaine Extraordinaire d'Assises, [800].

86 Ibid [816].

87 Olivier Bercault and Reed Brody, 'La Plaine des Morts: Le Tchad de Hissène Habré 1982-1990' (HWR 2013) 13 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

88 Ibid 306.

89 Ibid.

3.2.2. Profile and mapping of victims

GENDER OF VICTIMS

The majority of survivors of rape in Chad, especially when it comes to instances of sexual slavery in the North and reported rape in the context of southern Chad, are women. All the survivors of sexual violence interviewed for this study are women. However, as mentioned above, men were also victims of sexual violence. Indeed, H el ene Jaff e,⁹⁰ a French doctor who examined Habr e-era torture victims with her colleagues between 1991 and 1996, reported that men who came to see her talked more openly about the sexual abuse they endured compared to women. On the other hand, the former President of a victims' association mentioned that sexual violence against men in the Habr e era is less talked about and needs more research.⁹¹

UNDERREPORTING

Regarding the women who were sent to the two northern camps as sexual slaves, the DDS archives refer to nine and 11 women respectively.⁹² Beyond those camps, the majority of cases remain undocumented.

Jacqueline Moudeina, the Chadian lead civil party lawyer, noted that she worked for about 10 years to build a relationship with approximately 10 female survivors who eventually felt comfortable sharing their experiences with her. This group of women also testified in N'Djamena and in Dakar in the cases against DDS agents and Hiss ene Habr e.⁹³ Moudeina and her team represented over 7,000 Chadian victims and travelled around the country to establish contact with them. Yet, nobody beyond the small group of women who testified opened up to the lawyers about acts of sexual violence. Even the first survivor who spoke to Jacqueline Moudeina simply alluded to the

fact that one could imagine what they did to a woman detained among so many men. Sexual violence is taboo in most societies around the world, but it seems to be particularly so in Chad.

All stakeholders interviewed for this study, including researchers and lawyers who worked on accountability for the Habr e regime for many years, referred to the "deep secret" that is sexual violence in Chad and the fact that, beyond the group of women who testified at trial, nobody reported this type of violence to them.⁹⁴

In the reparations filing of the civil parties in the EAC case, it is explained that 92 civil parties fall within the category of "victims of rape in detention."⁹⁵ The filing also references the above-mentioned assumption that all detained women and girls suffered sexual violence.⁹⁶ In a stakeholder interview, Jacqueline Moudeina explained that many of the 92 civil parties have expressed to her that they were indeed survivors of sexual violence, although not always in explicit terms, but none of them would talk about it openly.⁹⁷

As part of this study, 18 women answered a census interview on sexual violence during the Habr e regime. 35 female survivors participated in a survivors' forum in N'Djamena. They decided to constitute a network of survivors to break the silence and advocate for survivor-centred reparations.

Both H el ene Jaff e, who provided medical treatment to Habr e torture survivors, and Olivier Bercault, who researched crimes committed by the Habr e regime for Human Rights Watch (HRW) for many years, explained in their testimony in front of the EAC that women in Chad were not comfortable talking about Habr e-era

90 *Minist re Public c. Hiss ein Habr e* [2016], Chambre Africaine Extraordinaire d'Assises [619].

91 Interview with Cl ement Abaifouta, President of the Association des Victimes des Crimes du R gime de Hiss ene Habr e (online, 26 May 2021).

92 *Minist re Public c. Hiss ein Habr e* [2016], Chambre Africaine Extraordinaire d'Assises [779], [813].

93 Interview with Jacqueline Moudeina, Lead Civil Party lawyer representing victims in front of the EAC (online, 30 June 2021).

94 Interview with Olivier Bercault, formerly Human Rights Watch (online, 21 June 2021); Interview with Cl ement Abaifouta, President of the Association des Victimes des Crimes du R gime de Hiss ene Habr e (online, 26 May 2021); Interview with Henri Thulliez, Former Staff Human Rights Watch (online, 19 May 2021); Interview with Delphine Djiraib e, Public Interest Law Centre Chad (online, 27 May 2021); Interview with Jacqueline Moudeina, Lead Civil Party lawyer representing victims in front of the EAC (online, 30 June 2021); Interview with Maria Koulouris, formerly Human Rights Watch researcher (online, 8 May 2021).

95 *Minist re Public c. Hiss ein Habr e* [2016] Chambre Africaine Extraordinaire d'Assises, Civil Parties Reparations Filing, Annex [8], [51], [57] (On file at REDRESS).

96 Ibid.

97 Interview with Jacqueline Moudeina, Lead Civil Party lawyer representing victims in front of the EAC (online, 30 June 2021).

sexual violence in prisons.⁹⁸ However, Olivier Bercault declared that one could infer the history of violence from interacting with women in Chad.⁹⁹ H  l  ne Jaff   elaborated that women who admitted to having been tortured were implicitly indicating that they had been subjected to sexual abuse. She added that this was often not understood by the survivors' families.¹⁰⁰ According to her, women were in denial about what had happened to them because they did not want to remember anymore. Jaff   declared in her testimony to the EAC that only two of the patients she saw were women, but that there were definitely more cases. Olivier Bercault reiterated the point by asserting that sexual violence against women is underestimated due to underreporting. One victim's testimony confirmed this, as she declared she was afraid of the shame and did not want to talk about her experience because of her children.¹⁰¹ Underreporting, therefore, remains a pattern in the context of sexual violence under the Habr   regime such that the exact number of victims and survivors of CRSV in the country is hard to estimate.¹⁰²

According to the report of the National Commission of Inquiry, "*individuals arrested by the DDS had very little chance of coming out alive.*"¹⁰³ Thus, a large number of those who experienced acts of sexual violence in detention were most likely killed before they could ever tell their story. Additionally, many of those victims who initially survived their detention are no longer alive. The Association des Victimes des Crimes du R  gime d'His  ne Habr   (AVCRHH) reported in June 2021 that by then, more than 300 victims had already passed away.¹⁰⁴

ETHNIC TARGETING

While the majority of the population suffered under the Habr   regime, the crimes committed as laid out above did include a degree of ethnic targeting. Many of the women who survived sexual slavery or violence in the military camps were Muslim and spoke Arabic and were arrested due to their alleged or perceived connection with Libya. The reasons for their arrests included trips to Libya, accusations of supplying documents to Libyans, or supposed contact with spy agents.¹⁰⁵ Those subjected to sexual violence at the DDS were usually targeted because they were (perceived as) opponents of Habr   or belonged to targeted ethnic groups, such as the Saras and other southern Chadian groups, Arab Chadians, and the Hadjarais and Zaghawas.¹⁰⁶

Of the survivors interviewed for this study, 12 stated they had Gor ethnicity (an ethnic group from Southern Chad), three stated that they are N'Gambaye (a group mainly located in the Logone Occidentale), one stated that she is Mbaye (an ethnic group from the Moundou region) and two identified themselves as Sara (a group mainly located in the Moyen Chari – also the majority ethnic group in Chad).

98 *Minist  re Public c. Hissein Habr  * [2016], Chambre Africaine Extraordinaire d'Assises [706]-[707].

99 *Ibid* [706].

100 *Ibid* [707].

101 *Ibid* [797].

102 UNHCR, 'SGBV Strategy 2012-2016: Chad' <https://www.unhcr.org/56b1fd9f9.pdf> accessed 8 March 2023 p 1.

103 'Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habr  , His Accomplices and/or Accessories' in Neil J Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press 1995) 75 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 26 April 2021.

104 Moussa Guedmbaye, 'Tchad: 300 victimes de Hissein Habr   sont d  c  d  es sans se faire indemniser' (*Nouvelles.td*, 22 June 2021) https://nouvelles.td/2021/06/22/tchad-300-victimes-de-hissein-habre-sont-decedes-sans-se-faire-indemnise/?fbclid=IwAR0tK5n62hXlBibWwPL8-K_b5UEIQYIM8QdOjiA440B8Em9vkO1ffFonbQQ accessed 28 June 2021.

105 Olivier Bercault and Reed Brody, 'La Plaine des Morts: Le Tchad de Hissein Habr   1982-1990' (HWR 2013) 166-167 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

106 *Ibid* 306.

POLITICAL MAP OF CHAD



Source: ReliefWeb, 2004

GEOGRAPHICAL LOCATION OF VICTIMS

As mentioned above, CRSV committed outside of the main torture centres in N'Djamena and the military camp of Ouadi Doum is largely undocumented in the form of testimony of survivors. According to the report of the National Commission of Inquiry, one of the characteristics of the regime was the proliferation of detention centres such as the DDS “cover[ing] the length and breadth of the country.”¹⁰⁷ Its branches were installed in every city and all the big market towns of Chad.¹⁰⁸ Acts of sexual violence were likely a common occurrence in those centres. This is illustrated by, among others, the general assumption that women who were detained were subject to sexual violence, as stated by the civil parties in their reparations filing.¹⁰⁹ The National Commission of Inquiry estimated that about 54,000 people were detained under the Habré regime.¹¹⁰ Many previously-detained witnesses who testified before the EAC stated that rapes during the night and coercion of female detainees to have sex with guards to survive were a common occurrence.¹¹¹

There appears to be particular shortcomings in relation to the documenting of CRSV and other crimes committed in the North of Chad (except for the above-mentioned military camps). To find the 7,000 civil parties, Jacqueline Moudeïna and her team travelled throughout the country, except for the Grand Nord, because it is geographically difficult to reach and culturally closed to ‘outsiders’. The Outreach Consortium of the EAC also did not reach the far north and heard that, consequently some victims felt excluded.¹¹² Survivors from the far north were not consulted as part of this study either.

It is currently impossible to assess how CRSV survivors are distributed geographically, although they are likely located throughout Chad. For those not a civil party or witness during the EAC or N'Djamena trials, the sexual violence committed against them remains, for the most part, undocumented.

16 survivors consulted as part of this study stated the sexual violence they suffered took place in the Logone Oriental Province, one stated it happened in N'Djamena and one stated it happened in Mandoul Province.

3.2.3. Profile of perpetrators

Throughout his time in power, Hissène Habré was President of the Republic, Supreme Commander of the Army, Head of the Presidential Guard and President of the single party, the UNIR (*Union nationale pour l'indépendance et la révolution*). In addition to his de jure powers, Hissène Habré exercised de facto control over many aspects of Chad's political and economic life.¹¹³ Habré entrusted the management of the country to a limited number of individuals, mostly members of his own ethnic group. The repression was carried out primarily by the DDS and the Forces Armées Nationales du Tchad (FANT), two State organs that were subordinate to Habré and over which he exercised effective and total control.¹¹⁴ Most documented violations committed by his regime can be either directly or indirectly attributed to Habré through these two organs. Even if he did not directly order every single act of violence, he was aware of the repression.¹¹⁵ In particular,

107 'Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories' in Neil J Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press, 1995) 72, 83 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 26 April 2021.

108 Ibid.

109 *Ministère Public c. Hissèin Habré* [2016], Chambre Africaine Extraordinaire d'Assises, Civil Parties Reparations Filing, Annex [8].

110 'Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories' in Neil J Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press, 1995) 81 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 26 April 2021.

111 *Ministère Public c. Hissèin Habré* [2016], Chambre Africaine Extraordinaire d'Assises [737], [739], [761], [776]; Olivier Bercault and Reed Brody, 'La Plaine des Morts: Le Tchad de Hissène Habré 1982-1990' (HWR 2013) 234-235 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf.

112 Interview with Franck Petit, Justice Info (online, 11 May 2021).

113 Olivier Bercault and Reed Brody, 'La Plaine des Morts Le Tchad de Hissène Habré 1982-1990' (HWR 2013) 498 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

114 *Ministère Public c. Hissèin Habré* [2016], Chambre Africaine Extraordinaire d'Assises [2150] - [2156].

115 Olivier Bercault and Reed Brody, 'La Plaine des Morts Le Tchad de Hissène Habré 1982-1990' (HWR 2013) 500 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.

acts of CRSV like rape and sexual slavery formed an integral part of his regime's widespread and systematic attacks against the civilian population.¹¹⁶ He was reportedly connected by 'walkie-talkie' when at least one woman was raped.¹¹⁷ The EAC held him responsible for the crimes of sexual slavery and rape as crimes against humanity under the mode of liability joint criminal enterprise, category 3.¹¹⁸

In addition to establishing Habré's criminal responsibility for the crimes and convicting him, the EAC trial judgment named certain high-level officials who created the detention circumstances conducive to the perpetration of CRSV. Those perpetrators included the Director of the DDS, Saleh Younous, the Chief of the documentation service, Issa Arawai, the Director of National Security, Brahim Djidah, the Deputy Director of the DDS, Bichara Chaïbo and the Commander of the Ouadi Doum camp.¹¹⁹ Some DDS agents were specifically mentioned as direct perpetrators of acts of sexual violence.¹²⁰ None of them have ever been held accountable for the acts of sexual violence they committed. Some of them, however, were held accountable for other crimes, such as torture, by a Chadian court.¹²¹ The court convicted 26 former members and ordered them

to pay reparation to victims.¹²² To date, the material perpetrators of CRSV have not been investigated or sanctioned.

Hissène Habré was also convicted of directly committing acts of rape himself. Khadija Hassan Zidane testified that Habré raped her three or four times and forced her to drink his sperm.¹²³ The direct rape charges were not upheld on appeal because they were based on facts not mentioned in detail during her testimony in front of the investigative judge.¹²⁴ The appeals court found that the facts were introduced too late during trial, which is contrary to the civil law procedure of Senegal.¹²⁵ The appeals chamber did not find her testimony to be weak or not credible, but the charge was dismissed instead for procedural reasons.

It appears that no measures were taken by Habré or any authority figures under his command in the DDS or FANT to investigate and hold perpetrators accountable at the time of his regime. To the contrary, the EAC found that Habré had absolute control over DDS agents and the FANT and was closely involved in the daily management of their tasks. Thus, their crimes were committed with his full knowledge and under his orders.¹²⁶

All of the survivors consulted for this study stated that the FAN forces¹²⁷ perpetrated the sexual violence against them in 1982 (1 survivor), 1985 (16 survivors) and 1986 (1 survivor), although they did not specify the exact setting.

116 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises [1519], [1532], [1538].

117 *Ibid* [716].

118 *Ibid* [2170]. In cases involving a common purpose, this category of joint criminal enterprise is meant to cover all acts that, while outside of the common purpose, are a "natural and foreseeable consequence" of the common purpose.

119 *Ibid* [711], [713], [714], [716], [789].

120 *See- Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises Issa Arawai and other DDS agents [717] Mahamat Djibrine El Jonto [722] (Khadija Hassan Zidane), Saleh Younous – Fatime Sakine in the Locaux [762]; corroborated by others as Fatime Sakine was nicknamed Madam Younous Saleh because of the sexual abuse she was subjected to, Hawa Brahim testified: Abakar Torbo, Abba Moussa, Issa Arawai and Mahamat Bidon came to take three of two women from des Locaux to rape them; if the women resisted, they received hits [763], Adoum/Atoum – chef de poste adjoint in des Locaux [766] took one or multiple women each night.

121 For example, Saleh Younous and Mahmat Djibrine El Jonto; *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres* [2015], Cour d'Appel de N'Djamena.

122 *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres* [2015], Cour d'Appel de N'Djamena.

123 *Ministère Public c. Hissène Habré* [2017], Chambre Africaine Extraordinaire d'Assises d'Appel [722]-[724].

124 *Ibid* [509].

125 *Ibid* [454].

126 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises [1950].

127 FAN forces disappeared in 1983 and formed the base of the national army (ANT – Armée nationale tchadienne), which concomitantly changed its name to FANT: Olivier Bercault and Reed Brody, 'La Plaine des Morts Le Tchad de Hissène Habré 1982-1990' (HWR 2013) 111 https://www.hrw.org/sites/default/files/reports/chad1013frwebwcover_0.pdf accessed 22 April 2021.



IV. SURVIVORS' PERCEPTIONS, NEEDS, PRIORITIES AND RISKS

This section is based on information from consultations of survivors, stakeholder interviews, desk-research and court transcripts.

4.1. Impact of conflict-related sexual violence on victims, families and communities

The impacts of CRSV on victims are numerous. For this reason, this section sub-divides them into physical, psychological, and socioeconomic impacts. Some of the impacts of CRSV are a result of the marginalisation and stigmatisation that arose once survivors came forward.

4.1.1. Physical impacts

As explained earlier, Dr. H el ene Jaff e provided medical treatment to many victims of the Habr e regime. In her testimony, she commented that it was difficult to make an exhaustive list of the types of harms and their physical consequences, but that it was important to note that she witnessed a lasting impact from the torture on her patients.¹²⁸ Due to the shame surrounding sexual violence in Chad, details about the exact injuries suffered are difficult to obtain but assumptions of chronic pain and genital deformities can be made, given the knowledge around the typical consequences of sexual violence. For men, she described lasting physical problems, such as impotence or urinal incontinence, that were directly related to the abuse and required medical treatment. As a result of sexual torture in the form of electric shocks on genitals, she described survivors with

lasting skin issues, such as severe burns.¹²⁹ One known clear example of this was a male victim who lost a testicle as a result of the sexual violence he suffered.¹³⁰ Most survivors were unable to have children or were forced to seek treatment for long periods before regaining their reproductive health.¹³¹ Dr. Jaff e's testimony revealed that many women suffered miscarriages, premature deliveries and still births.¹³² Some of the children were born out of rape suffered from developmental issues.¹³³

Non-reproductive medical issues are also common amongst survivors as a result of what they endured. Survivors have noted long-term conditions that impact their daily lives such as difficulties with their sight and hearing that typically resulted from head injuries.¹³⁴ While the physical consequences of CRSV are manifold, as illustrated in the above cases, there is a lack of documentation of the physical impacts on most victims and survivors.

As part of the consultations for this study, the respondents did not answer the questions on physical impacts.

4.1.2. Psychological impacts

Sexual violence can lead to enormous psychological impacts on survivors that affect numerous aspects of their mental and physical wellbeing.¹³⁵ According to one interviewee, the troubles are of "all sorts".¹³⁶ Several interviewees relayed that these types of experiences are "deeply hidden" in Chadian society

128 Ibid.

129 Testimony of H el ene Jaff e, Forum Interactif CAE, Part I, <https://www.youtube.com/watch?v=gIVXvjomil4&t=5480s> accessed 28 July 2021.

130 *Minist ere Public c. Houssein Habr e* [2016], Chambre Africaine Extraordinaire d'Assises, Civil Parties Reparations Filing [62] (On file at REDRESS).

131 Ibid [612].

132 Ibid [60].

133 Ibid [62].

134 Testimony of Khadija Hassan Zidane (Court Transcript, 19 October 2015) 82 (On file at REDRESS); Testimony of Fatime Sakine (Court Transcript, 22 October 2015) 82 (On file at REDRESS).

135 Interview with an anonymous survivor (online, 2 June 2021).

136 Interview with Cl ement Abaifouta, President of the Association des Victimes des Crimes du R egime de Hiss ene Habr e (online, 26 May 2021)

and that most survivors carry their experiences and traumas with them silently.¹³⁷ Beyond the stigma that surrounds the issue of CRSV, its impact on mental health is tremendously negative; as one interviewee observed during the trial, there was a lot of built-up anger within the women who testified.¹³⁸ One survivor described herself as “*morally traumatised*” as a result of the sexual violence she had endured.¹³⁹

The cultural prejudices and shame associated with sexual violence have caused psychological damage to survivors. It has also resulted in ongoing psychological harm as the lack of aftercare exacerbated the mental and physical health issues arising from survivors’ traumatic experiences.¹⁴⁰ Some of the women who were detained with their children or gave birth while detained have suffered additional anxiety caused by the presence of their children in such violent surroundings.¹⁴¹ The EAC noted that mothers who witnessed their underage daughters being taken away to be sexually abused had suffered acute psychological suffering that constituted torture.¹⁴²

The continued repercussions of the trauma suffered by survivors has manifested in sleep and memory disorders, anxiety, lack of concentration, and depression.¹⁴³ One survivor interviewed for this study mentioned that she was unable to sleep without the help of medication.¹⁴⁴

The daughter of a survivor interviewed for this study described that her mother cries and is in a dissociated state whenever she talks about what happened to her or about how she was treated after testifying about it. She is therefore reluctant to talk about her traumatic experience.¹⁴⁵

Stigma around received psychiatric care also impacts the ongoing suffering of survivors. Societal perceptions about those with mental health issues deter survivors from accessing psychiatric services. When asked by the court whether she had consulted a psychiatrist since her release, one survivor responded by saying that she was not a ‘crazy person’ in need of such a doctor.¹⁴⁶

As part of the consultations for this study, all 18 respondents said that they suffered from ‘*unresolved functional trauma*’ as a result of the sexual violence suffered. They did not expand on the type of psychological harm they still experience. It is unclear whether the meaning of this phrase was clearly reflected to the survivors and it is thus possible that this response may mean that survivors suffered from ongoing physical harm.

4.1.3. Socio-economic impacts

In Chad, being a survivor of sexual violence has a considerable impact on one’s place in the community. Sex outside of marriage is often perceived as damaging a woman’s ‘value’ and women, particularly in rural areas, are often stigmatised as a result.¹⁴⁷ A woman victim of rape can be perceived as having

137 Interview with Olivier Bercault, Case Coordinator, Human Rights Watch (online, 21 June 2021); Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

138 Interview with Olivier Bercault, Case Coordinator, Human Rights Watch (online, 21 June 2021).

139 *Ministère Public c. Hissène Habré*, Chambre Africaine Extraordinaire d’Assises d’Appel (27 April 2017) [730].

140 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d’Assises, Reparations Filling, Annex [8] (On file at REDRESS).

141 *Ibid* [64].

142 *Ministère Public c. Hissène Habré*, Chambre Africaine Extraordinaire d’Assises d’Appel (27 April 2017) [1587].

143 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d’Assises, Reparations Filling, Annex [8] (On file at REDRESS).

144 Interview with an anonymous survivor (online, 2 June 2021).

145 *Ibid*.

146 Testimony of Khadidja Hassan Zidane (Court Transcript, 20 October 2015) 29 (On file at REDRESS).

147 Océane Amette, ‘La condition socio-juridique des femmes tchadiennes: entre contrainte et levier d’émancipation. Histoire des statuts et sociologie des identités en contexte familial’ (Mémoire de Master 2, Université Paris 1 Panthéon Sorbonne 2020) 107.

taken part in adultery, which is particularly harmful to women.¹⁴⁸ According to several interviewees, survivors of sexual violence are considered a shame to the community.¹⁴⁹ Families are often torn apart as a consequence. For example, if a woman got married after the Habré era ended and talked about the sexual violence she endured during the regime, she could get into trouble with her in-laws.¹⁵⁰ Rejection from male family members is a common outcome for sexual violence survivors in Chad, and if a woman was married prior to her arrest and experience of CRSV, this can be viewed as dishonourable or a betrayal of her marriage.¹⁵¹ In her court testimony, one survivor described the shame she felt in making her statement in front of her parents and brothers-in-law. She stated that while she could only speak to her own experience of rape, others who had similar experiences would not speak about it due to the associated shame.¹⁵² Another survivor told the EAC that to speak publicly of sex was shameful in Chad and, as a result of the proceedings being broadcast, she would not discuss details of the sexual violence.¹⁵³

As a result of the marginalisation they suffer, many survivors of sexual violence withdraw from the community, spending the majority of their time alone and avoiding interactions with others.¹⁵⁴

According to one interviewee, survivors live “a life in slow motion”, as a result of the social and moral impact of the sexual violence.¹⁵⁵

Survivors also become more wary and suspicious of others.¹⁵⁶ Civil parties noted that survivors’ belief and trust in their communities and in State institutions were often destroyed.¹⁵⁷

One survivor mentioned that she no longer felt comfortable in Chad after she testified against Hissène Habré, which was broadcast.¹⁵⁸ A negative impact on some of the survivors may also have been related to their testimony in the sense that survivors who spoke out about their experiences would be considered traitors by people close to Hissène Habré, his clan or his supporters, and be attacked on that basis.¹⁵⁹ One of the survivors interviewed for this study explained that the backlash she experienced after her testimony was the main reason that she fled Chad and sought refuge elsewhere.¹⁶⁰

The material cost of the harm survivors endured had a long-term social impact. Their detention deprived them of access to education and employment, affecting potential earnings. In conjunction with the medical assistance that many required, the material damages suffered have impacted survivors’ ability to reintegrate into society.¹⁶¹ For example, one survivor, who worked as a flight attendant with Air Afrique before being arrested, explained how her career prospects were impacted as her injuries prevented her from being cleared to return to her previous role and confined her to activities on the ground with the airline.¹⁶² The property of those arrested and detained was often confiscated and survivors have described how they were unable to locate their belongings when they were released.¹⁶³ One survivor described that after her release, she was materially destitute

148 Ibid 70.

149 Interview with an anonymous survivor (online, 2 June 2021).

150 Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021)

151 Ibid.

152 Testimony of Khadija Hassan Zidane (Court Transcript, 19 October 2015) 108 (On file at REDRESS).

153 Testimony of Kaltouma Defallah (Court Transcript, 20 October 2015) 62 (On file at REDRESS).

154 Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

155 Ibid.

156 Ibid.

157 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d’Assises, Civil Parties Reparations Filing [31] (On file at REDRESS).

158 Interview with an anonymous survivor (online, 2 June 2021).

159 Ibid.

160 Ibid.

161 Ibid [73].

162 Testimony of Khaltouma Defallah (Court Transcript, 20 October 2015) 46 (On file at REDRESS).

163 Testimony of Madina Fadoul Kitir (Court Transcript, 13 October 2015) 19 (On file at REDRESS).

and therefore had no means to seek medical care. As a result, she had no choice but to buy medicine on the street.¹⁶⁴ Another spoke of how when she was released, she had no money to send her daughter to school and described her life as “disturbed and destabilised.”¹⁶⁵ Such material loss exacerbates the difficulties survivors face in rebuilding their lives after they were released from the detention centres.

The ability to meet subsistence needs is also a challenge for CRSV survivors in Chad, since the average household income of many victims and survivors is below the poverty line. 16 of the 18 respondents to the consultation led by ATPDH for this study expressed that they live on less than 1.90 USD per day, and the remaining two survivors stated that they lived on less than 3.10 USD per day. This situation is worsened by the fact that none of the participants are currently employed or have received financial support to meet their subsistence needs.

Out of the eight survivors who answered the question on the impact of the conflict on their employment status, six responded that they were house bound, one responded she was incapacitated to work, and one stated she was unemployed and looking for employment. Only one of the survivors stated she had dependents at the time of conducting the study; of the 18 survivors consulted, 14 stated that they had one to seven children but that none of the other children were still dependents at that time.

4.1.4. Inter-generational impacts

The inter-generational impact of sexual violence that took place under the Habré regime is considerable. When talking to one of the women who survived and currently resides outside of Chad, it became clear that

the impact on her children is very present. Not only because they fled Chad with her and had to leave their home and family members behind, but also because they experienced forms of stigma similar to their mother. For example, the daughter mentioned that she would no longer be able to marry in Chad as a result of her mother’s public testimony about sexual violence. She and her siblings were all rejected by the community.¹⁶⁶

4.2. Survivors’ perceptions and agency

Survivors played an important role in bringing Habré to justice, as well as in the conviction in N’Djamena of several high-profile DDS perpetrators, as discussed below. Both of these cases were driven by a coalition of actors including survivor-led NGOs, local and international NGOs, and civil party lawyers. Survivors have thus been very engaged in the process.

During interactions between international NGOs, lawyers and survivors, reparations were not extensively discussed. Firstly, because it was not the priority of the work that many CSOs were doing; instead, many organisations focused on documenting the crimes and collecting evidence for criminal accountability. Secondly, a discussion of reparations was often avoided to prevent raising survivors’ expectations without knowing whether reparations would ever be implemented.¹⁶⁷ A will to fight impunity, rather than a desire to obtain reparations, was the original driver of the process to bring Habré to justice.¹⁶⁸ However, as reparations became a possibility years later, through the cases before the N’Djamena courts and EAC, it had to be discussed. NGOs engaging with survivors tried to manage expectations to ensure the victims understood that the actual chance to receive reparations would be low.¹⁶⁹ Civil party lawyers noted that victims expressed a strong preference that reparations be provided primarily on an individual or family basis.¹⁷⁰

164 Testimony of Kadidja Hassan Zidane (Court Transcript, 20 October 2015) 22 (On file at REDRESS).

165 Testimony of Kaltouma Defallah (Court Transcript, 20 October 2015) 73 (On file at REDRESS).

166 Interview with an anonymous survivor (online, 2 June 2021).

167 Interview with Henri Thulliez, Former Staff at Human Rights Watch (online, 19 May 2021).

168 Ibid.

169 Interview with Henri Thulliez, Former Staff at Human Rights Watch (online, 19 May 2021), Interview with Jeanne Sulzer, International Human Rights Lawyer (online, 3 May 2021).

170 *Ministère Public c. Hisssein Habré* [2016], Chambre Africaine Extraordinaire d’Assises, Civil Parties Reparations Filing [31] (On file at REDRESS).

There is already a general perception among victims that large amounts of international donor money have been misused and put into funding NGOs working with victims instead of giving victims themselves the monetary compensation to which they are legally entitled.¹⁷¹ Thus, rehabilitation measures need to be carefully crafted and explained and go hand in hand with advocacy for monetary compensation.¹⁷²

During the consultations conducted by ATPDH, only one survivor stated she had some knowledge of her rights (and specifically the right to reparations). All others responded that they did not. All of them were part of a victims' association with 17 being part of the AVCRHH (and one did not respond).

During the survivor forum organised by ATPDH, survivors designated two representatives among themselves to raise the voices of the group and pass messages to stakeholders detailed in section 4.3 below. The survivors then formed a network to advocate on behalf of the group.

4.3. Survivors' current needs

Based on consultations led by ATPDH and interviews REDRESS has held with individuals who work closely with CRSV survivors, it is clear that the vast majority of survivors (and of Chad's general population for that matter) live in extreme poverty. Chadian's primary need is survival, which is why so many survivors are urgently waiting for monetary compensation.¹⁷³ During the survivor forum led by ATPDH and described in the methodology section, 30 survivors of CRSV voiced their need for financial assistance for the most vulnerable victims, including those who are ill, to enable them to obtain medical products or receive treatment in specialised centres.

Survivors consulted by ATPDH and some stakeholders interviewed by REDRESS mentioned the need to access psychosocial care.¹⁷⁴ An interviewee mentioned that the women survivors need to be reintegrated at the social, economic, and communal levels. At the same time, he mentioned that victims do not want what happened to them to be forgotten and that memorialisation is important to them.¹⁷⁵ A survivor living outside of Chad mentioned that her focus is on the future and the opportunities for her children.¹⁷⁶

From the ATPDH-led survivor forum, it became clear that survivors are in urgent need of psychological and medical care to cope with the psychological and physical trauma originating from the violations they suffered. All the participants wished that they could receive psychological accompaniment, and they agreed that only a psychologist could intervene and help them with advice to address their unresolved trauma. Survivors also expressed the need to obtain recognition by the Chadian authorities of their status as rape victims, which would allow them free access to medical care.

Moreover, survivors who participated in the forum highlighted the need to continue the identification and consultation of victims (also called a census). They remarked that consultations could not reach all the CRSV victims. All the survivors present found this consultation process important to allow them to identify each other and jointly advocate for themselves.

Based on the above, the needs of CRSV survivors identified are as follows (in a non-hierarchical order):

- Access to psychological care
- Access to physical (including gynaecological and other specialised) health care
- Access to medical products
- Social support to facilitate reintegration into society
- Financial support
- Memorialisation
- Consultations and identification of more survivors

171 Interview with Jacqueline Moudeina, Lead Civil Party Lawyer representing the victims at the EAC (online, 30 June 2021).

172 Interview with Jacqueline Moudeina, Lead Civil Party Lawyer representing the victims at the EAC (online, 30 June 2021).

173 Interview with Jacqueline Moudeina, Lead Civil Party lawyer representing victims in front of the EAC (online, 30 June 2021); Interview with Clément Abaifouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

174 Interview with Delphine Djiraibé, Public Interest Law Centre (online, 27 May 2021).

175 Interview with Clément Abaifouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

176 Interview with an anonymous survivor (online, June 2021).

- Creation of opportunities for children and grandchildren
- Survivors' Views and Priorities on Forms and Modalities of Reparations

When asked by REDRESS what reparations mean to her, a survivor of sexual slavery noted that because what happened to her was so particularly inhumane, her biggest wish was that it could be guaranteed to never occur again.¹⁷⁷

A majority of interviewees, many of whom worked very closely with survivors or were a part of the victims' associations and communities, stated that victims of the Habré regime had always wanted individual financial compensation as a form of reparations.¹⁷⁸ Another interviewee, however, mentioned that a poll he conducted before the EAC proceedings with 300 survivors of the Habré regime showed they were in favour of collective reparations.¹⁷⁹ During the poll, all of the victims were together, and it was conducted before the judicial process took place, so that the EAC judgment had not yet created any expectations.¹⁸⁰ These circumstances set the poll apart from the interviews, which took place individually and after the EAC judgment, perhaps affecting the disparate responses.

In the N'Djamena trial, survivors from the DDS agreed to include limited demands for collective reparations in their reparations filing, following lengthy discussions with their lawyers.¹⁸¹ The survivors however specified that collective reparations could never replace individual financial compensation.¹⁸² Jacqueline Moudeïna, head civil party lawyer, proposed various other reparation measures to her 7,000+ clients, such as programmes for medical and psychosocial care as well as programmes that would allow victims to generate income for

themselves.¹⁸³ Her clients refused to include them in their reparation filing, agreeing only to request a museum and monument, reiterating what had already been requested by the National Commission of Inquiry and only adding individual monetary compensation (see section 7.1.1). There was no specific consultation held exclusively with CRSV survivors regarding their wishes.

As mentioned above, before the civil party lawyers wrote the reparation filing in the Hissène Habré case, they organised a consultation with victim representatives (also named "focal points") in N'Djamena. As had been the case for the national litigation, there was no conversation regarding the expectations of victims of CRSV specifically, but rather with the group of victims and focal points as a whole.¹⁸⁴ They all expressed clearly that they wanted monetary compensation, as a result of living in extreme poverty.¹⁸⁵ An interviewee who worked with the outreach consortium of the EAC noted that since the beginning of their engagement, which was before the trial in Dakar even began, victims wanted reparations in the form of monetary payments.¹⁸⁶ After a consultative process with victims, a desire for collective reparations was also indicated to the Chamber by the civil parties, in addition to the request for monetary compensation. Examples of collective reparations that were discussed included: the development of income-generating community projects, the erection of memorial monuments, education in schools about this period in Chadian history, commemorating the day of the EAC's ruling as a symbol of victims fighting impunity and the construction of multi-purpose socio-professional training centres for the children of victims.¹⁸⁷ However, the request for such collective reparations was rejected by the Chamber. They claimed that the request was unfeasible and given that the State of Chad was not a party to the proceedings, the Chamber

177 Ibid. However, in her view the Chadian state was not responsible for what happened to her, it was solely Habré himself. She did not expect the Chadian state to repair the harm caused by Habré's regime.

178 Interview with Jacqueline Moudeïna, Lead Civil Party lawyer representing victims in front of the EAC (online, 30 June 2021); Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021); Interview with Souleymane Guenguén, Vice-President of Association des Victimes des Crimes du Régime de Hissène Habré (online, 2 July 2021); Interview with Jeanne Sulzer, International Human Rights Lawyer (online, 3 May 2021).

179 Interview with Henri Thulliez, Former Staff at Human Rights Watch (online, 19 May 2021).

180 Ibid.

181 Interview with Jacqueline Moudeïna, Lead Civil Party lawyer representing victims in front of the EAC (online, 30 June 2021).

182 Ibid.

183 Ibid.

184 Interview with Jeanne Sulzer, International Human Rights Lawyer (online, 3 May 2021).

185 Ibid.

186 Interview with Yodé Miangotar, formerly EAC-Outreach Consortium, (online, 01 July 2021).

187 *Ministère Public c. Hissène Habré* [2016], Chambre Africaine Extraordinaire d'Assises, Reparations Filing, [147]-[152] (On file at REDRESS)

could not infringe on Chad's sovereignty by imposing reparation obligations.¹⁸⁸ During the survivor forum held by ATPDH in N'Djamena, survivors expressed their priorities as follows (in a non-hierarchical order):

- Access to free medical and psychological care;
- Providing women with tools to sustain a livelihood (vocational training, distribution of sewing machines, establishing a local product transformation centre to enable them to sell local products);
- Granting micro-credits to victims of rape so they can develop income-generating activities;
- Creating a literacy centre for women victims of rape.

| 4.4. Risks and security assessment

4.4.1. Main risks faced by CRSV survivors

Survivors who testified publicly during the Habré trial faced backlash online and within their communities. The social stigma that they suffered as a result of their CRSV victim status manifested itself in many forms.

As outlined above in section 3.2.1, societal rejection was commonly experienced by survivors. Many also faced verbal and physical attacks. Throughout the

trial, articles were posted on Habré's official website, attacking the women who testified. An attempt was made to smear survivors' reputations, insulting them with labels such as "nymphomaniac prostitute", "cabaret dancer" and "crazy whore".¹⁸⁹ The website also accused many of the women of being drug addicts, prostitutes, and Libyan spies.¹⁹⁰ As a result of this smear campaign, two of the survivors filed cases for defamation against the website.¹⁹¹ Similarly, Habré's defence team attempted to de-legitimise survivors' testimony by shaming them. Throughout the trial his lawyers used the shame surrounding CRSV to question the veracity of victim statements, querying why survivors had not revealed instances of rape before the trial, pointing out the lack of corroborating witnesses and commenting that a President could not have been sexually interested in a woman who "did not wash".¹⁹²

After the trial, survivors faced instances of verbal and physical abuse. In a media interview, one survivor shared her experience and stated that since testifying, she had been threatened, physically attacked by strangers in the street and abused in her own home.

When she returned from the trial in Senegal, people arrived at her home and shouted at her saying "Whore. You went to Dakar to testify; something will happen to you this year. We'll do something to you."¹⁹³ One person slapped her, asking. "[w]hat would Habré want with an ugly woman like you?" While she was walking down the street, a man ripped off her veil and told her she would die that year.

188 Ibid Annex [71] [72].

189 Brody R, 'Victims Bring a Dictator to Justice. The Case of Hissène Habré' (Bread for the World – Protestant Development Service Protestant Agency for Diakonie and Development, June 2017) 17 https://www.brot-fuer-die-welt.de/fileadmin/mediapool/2_Downloads/Fachinformationen/Analyse/Analysis70-The_Habre_Case.pdf

190 Jean-Pierre Bat 'Nymphomane, collabo, droguée: les partisans d' Hissène Habré se déchainent en ligne' (*Le Monde*, 2 November 2015) https://www.lemonde.fr/afrique/article/2015/11/02/nymphomane-collabo-droguée-les-partisans-d-hissene-habre-se-dechainent-en-ligne_4801204_3212.html accessed 21 July 2021.

191 Bénédicte Weiss, 'Au procès de Hissène Habré, le courage des femmes' (TV5 Monde-Info, 30 May 2016) <https://information.tv5monde.com/terriennes/au-proces-de-hissene-habre-le-courage-des-femmes-66292> accessed 21 July 2021.

192 Celeste Hicks, *The Trial of Hissène Habré: How the People of Chad Brought a Tyrant to Justice* (Zed Books, 2018) 19.

193 Ruth Maclean, 'I told my story face to face with Habré: courageous rape survivors make history' (*The Guardian*, 18 September 2016) <https://www.theguardian.com/global-development/2016/sep/18/hissene-habre-chad-dictator-courageous-rape-survivors-make-history> accessed 21 July 2021.

These direct attacks experienced by victims were coupled with major changes in their personal lives. Some of the survivors' husbands left them, and they were treated with suspicion by family and friends.¹⁹⁴ A CRSV survivor interviewed by REDRESS for this study left Chad with her family as she did not find it safe to live there anymore.¹⁹⁵

Survivors of CRSV were not the only subjects of abuse following and during the trial. Those involved in the trial who were advocating and supporting the victims also suffered attacks and harassment. The Chadian lawyer for Habré's victims, Jacqueline Moudeïna, survived a hand grenade attack in 2001.¹⁹⁶ The offices of Richard Kladoum, the President of the Chadian Bar Association, were broken into – likely by supporters of Habré still in positions of power. Souleymane Guengueng, Vice-President of the *Association des Victimes de Crimes et de la Répression Politique* (AVCRP) and one of the plaintiffs in the case against Habré, was suspended for one month without pay from his job and later lost his job because of his position at AVCRP. The offices of the AVCRP were also broken into.¹⁹⁷ Some stakeholders noted that these

types of threats against advocates had decreased since Habré had been sentenced, while others pointed out that some former DDS agents still hold positions of power in Chad and presented a potential risk for justice advocates. It remains to be seen how this develops with the recent power shift in Chad.¹⁹⁸

The nature of the insults suffered by survivors who testified reflects the attitudes towards survivors of CRSV in Chadian society, and the examples of abuse highlight the potential risks that others might face when continuing to speak out about their experiences and to fight for reparations. Known survivors may face renewed backlash in the event of the award of reparations and if new survivors are identified, they may also be targeted.

4.4.2. Mitigating measures

During the survivor forum led by ATPDH, survivors mentioned that improving community support and victims' organisations, would enable survivors to be better equipped to strategically respond to any risk.

194 Ibid.

195 Interview with an anonymous survivor (online, 2 June 2021).

196 Human Rights Watch, 'Chad: The Victims of Hissène Habré Still Awaiting Justice' (2005) Human Rights Watch Vol. 17, No. 10(A) 27 <https://www.hrw.org/reports/2005/chad0705/chad0705.pdf> accessed 28 July 2021.

197 Ibid.

198 Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).



V. ACCESS TO ASSISTANCE OR INTERIM RELIEF

Idriss Déby seized power in 1990 and became President in 1991. In this role, he took very limited steps to deal with the past. He established a Commission of Inquiry to investigate the crimes committed under the Habré regime; however, after the Commission published its findings, Déby's government did not take any steps to act upon them or implement any recommendations. The government has not made assistance or interim relief or assistance available to CRSV victims, or in fact to any other victims of the Habré regime.

After the Habré regime fell, only a limited number of NGOs were present in Chad and they focused more on documentation of the crimes than on providing assistance or interim relief to victims. Eleven years had passed since the end of Habré's regime when HRW began a two-year long mission documenting the DDS' archives in 2001 (the most extensive such documentation work done on this). Former HRW researchers noted that at that time, no meaningful support or interim relief was offered to the survivors.¹⁹⁹ While there were victims' organisations that arose after the Habré regime ended, these usually offered a space for survivors to gather, rather than specific services.²⁰⁰

One area in which survivors from the Habré regime received some form of interim relief/assistance was through the French *Association pour les Victimes de la Répression en Exil* (AVRE), which organised several missions to Chad from 1991 to 1996.²⁰¹ These missions were conducted by civil society and not the State, and their goal was to provide survivors of the Habré regime with physical examinations, answer health-related questions and address the traumas

that needed physical, social and psychological examinations.²⁰² AVRE tried to include Chadian doctors who were linked to the *Ligue Tchadienne des Droits de l'Homme* (LTDH) and reached out to patients through advertisement on television.²⁰³ By 1992, AVRE had seen 250 patients.²⁰⁴ As mentioned above, Dr Hélène Jaffé explained that the clinic saw some women but that many hesitated to come for a consultation because they were ashamed. Many told the doctors only that they were tortured, but implicitly including sexual abuse.²⁰⁵

Responses from the international community were likewise very limited. In fact, most of the stakeholders interviewed confirmed that reparations and interim relief were not a priority at the time, but rather an issue that was only seriously discussed later.

A CRSV survivor REDRESS interviewed for this study was also not aware of any programmes offering help to survivors, whether these were organised within or outside Chad, by NGOs or governments.²⁰⁶

This was confirmed by an interviewee working with UNFPA, who told REDRESS that she was not aware of any care services in place specifically for survivors of the Habré regime.²⁰⁷

199 Interview with Maria Koulouris, former Human Rights Watch Researcher (online, 28 May 2021); Interview with Jeanne Sulzer, International Human Rights Lawyer (online, 3 May 2021).

200 Interview with Maria Koulouris, former Human Rights Watch Researcher (online, 28 May 2021).

201 Testimony of Hélène Jaffé, Forum Interactif CAE, Part I <https://www.youtube.com/watch?v=glVXvjomil4&t=5480s> accessed 28 July 2021.

202 Ibid.

203 Ibid.

204 Hélène Jaffé and Marie-Hélène Beaujolin, 'Le centre de soins l'AVRE' (1992) 17 *Santé mentale au Québec* 293, 294.

205 Testimony of Hélène Jaffé, Forum Interactif CAE, Part I, <https://www.youtube.com/watch?v=glVXvjomil4&t=5480s> accessed 28 July 2021.

206 Interview with an anonymous survivor, (online, 2 June 2021).

207 Interview with Binon Adeline Diombo, UNFPA Chad (online, 19 July 2021).

In Chad, there are currently several general humanitarian aid programmes being implemented by national and international actors. However, regarding access, there are two obstacles that negatively impact survivors of the Habré regime. First, some of the programmes implemented after 1990 focus on other conflicts and dynamics in Chad, such as the spill-over effects from South-Sudan. As a result, aid agencies had a narrow approach with respect to their beneficiaries, and Habré regime survivors did not always fit in this definition, as their suffering 'preceded' the situation to which these organisations were responding.²⁰⁸ It was therefore not necessarily CRSV victims alone that were excluded, but Habré regime survivors more broadly. Second, while there are programmes for other types of assistance, such as for widows of soldiers or people living with disabilities, these do not include survivors of the Habré regime.²⁰⁹ The reasons for this are unclear, but according to one interviewee it may be because some former DDS agents still hold positions of power in Chad and

may control many of the services offered through government agencies.²¹⁰ In this way, they can block aid to victims.

More generally, access to welfare services is a question of means. Medical care is not provided freely to the public in Chad and services provided by humanitarian actors are limited. For example, the UNFPA provides post-rape kits in humanitarian centres nationally but not in health centres, which prevents widespread use. They also support health structures in certain areas, allowing them to provide free healthcare to SGBV victims as a result. Some centres can provide free immediate medical assistance, but long-term care requires payment. This system negatively impacts CRSV survivors who, as mentioned above, commonly have long-term medical issues. Humanitarian organisations provide certain health and welfare services, but these are highly reliant on funding and are therefore not always available.²¹¹

The African Union (AU), which was legally obliged by the EAC judgment to establish a Trust Fund for Victims and administer reparations (see section 7.1.1 below), has not taken any measures to provide interim relief to some of the most vulnerable survivors.

208 Interview with Maria Koulouris, former Human Rights Watch Researcher (online, 28 May 2021).

209 Interview with Clément Abaïfouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

210 Ibid.

211 Interview with Binon Adeline Diombo, UNFPA Chad (online, 19 July 2021).



Chad has ratified most core human rights treaties.
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VI. AVENUES FOR REPARATIONS

6.1. International human rights obligations, legal and policy frameworks for reparations

Chad has ratified most core human rights treaties, apart from the Convention for the Protection of All Persons from Enforced Disappearance and the Convention on Migrant Workers. The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) were ratified by Chad on 9 June 1995. Chad also accepted the individual complaints procedure under the ICCPR, and the inquiry procedure under UNCAT.²¹²

Both regional and international law instruments and jurisprudence require States to provide redress to victims of human rights violations, through the right of survivors to an effective remedy.²¹³ Five forms of reparations are typically recognised: restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.²¹⁴ States have a duty to investigate human rights violations, including SGBV, and mechanisms to seek relief should be made known and accessible to the victims.²¹⁵

Chad has signed CEDAW's Optional Protocol but has yet to ratify it. It also ratified the Convention on the Rights of the Child (CRC) and its two Optional Protocols in 2002 but has not accepted the individual complaints procedure.²¹⁶ In 2006, six torture survivors of the Habré regime filed a complaint before the Committee against Torture (CAT) against Senegal for failing to prosecute or extradite Habré and won the case (as explained in detail below).²¹⁷

Chad is a party to the 1949 Geneva Conventions since 1970, and to its additional protocols since 1997. It acceded to the Statute of the International Criminal Court (ICC) on 1 November 2006. This provides the ICC with jurisdiction in Chad over core international crimes committed since November 2006.²¹⁸

At the regional level, Chad is a member of the AU, and in this capacity has signed and ratified the African Charter on Human and Peoples' Rights (ACHPR). General Comment 4 by the African Commission on Human and Peoples' Rights (ACoMHPR) on redress for victims of torture states that *"the failure by States to prevent and respond to [SGBV] may amount to torture and other ill-treatment."*²¹⁹ It emphasises that State Parties are required *"to adopt specific measures to address the barriers that prevent access to redress"*

212 UN Treaty Body Database Chad https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=TCD&Lang=EN accessed 29 July 2021.

213 UN General Assembly (UNGA), Universal Declaration of Human Rights (10 December 1948) UN Doc 217 A (III), art 8; UNGA, International Covenant on Civil and Political Rights (16 December 1966) United Nations Treaty Series vol. 999, p. 171, art 2(3); UNGA, Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (10 December 1984) United Nations Treaty Series vol. 1465, p. 85.

214 UN Committee Against Torture (CAT), 'General Comment No. 3, 2012: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Implementation of Article 14 by States Parties' (13 December 2012) UN Doc CAT/C/GC/3, 2 <https://www.refworld.org/docid/5437cc274.html> accessed 29 July 2021; UNGA, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 16 December 2005 <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation> accessed 1 July 2022.

215 UN Committee Against Torture (CAT), 'General Comment No. 3, 2012: Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Implementation of Article 14 by States Parties' (13 December 2012) UN Doc CAT/C/GC/3, 2 <https://www.refworld.org/docid/5437cc274.html> accessed 29 July 2021, [23], [25].

216 UN Treaty Body Database Chad https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Countries.aspx?CountryCode=TCD&Lang=EN accessed 29 July 2021.

217 CAT, *Suleymane Guengueng et al. v. Senegal*, CAT/C/36/D/181/2001 (19 May 2006).

218 Rome Statute of the International Criminal Court, (last amended 2010), 17 July 1998, art. 7 and 8.

219 African Commission on Human and Peoples' Rights, *General Comment No. 4 on the African Charter on Human and Peoples' Rights: The Right to Redress for Victims of Torture and Other Cruel, Inhuman or Degrading Punishment or Treatment (Article 5)* (Adopted at the 21st Extra-Ordinary Session of the African Commission on Human and Peoples' Rights, held from 23 February to 4 March 2017) [57] https://www.achpr.org/public/Document/file/English/achpr-general-comment-no_4_english.pdf accessed 19 July 2021.

for [SGBV]" and "to take a range of measures to ensure that victims of [SGBV] obtain redress."²²⁰ So far, there has been one decision on Chad issued by the AComHPR concerning the harassment of journalists in 1995, but none in relation to conflict.²²¹ As explained below, REDRESS and others have filed a human rights complaint against the Government of Chad before the AComHPR for failure to implement reparations.

Chad has also signed the Maputo Protocol on the Rights of Women in Africa, but to this date has failed to ratify it.²²² Chad has neither signed nor ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence, known as the Istanbul Convention, which is open to States that are not Council of Europe members.²²³

The EAC was established by agreement between the AU and Senegal with the mandate to prosecute international crimes committed in Chad from 7 June 1982 to 1 December 1990. It is deemed to have completed its mandate and is therefore no longer a potential avenue for victims of CRSV. It did, however, issue a landmark decision for victims of CRSV (see below).

6.2. Relevant domestic legal and policy frameworks

The current Chadian legal framework is key to ensuring access to justice for CRSV survivors, particularly in relation to international crimes which have not been investigated by the EAC or the Chadian courts. Additionally, many survivors of CRSV experience other forms of SGBV, such as domestic violence, as well as discrimination and exclusion, which need to be addressed effectively by the authorities.²²⁴ Finally, the current legal framework is relevant to assess

opportunities for reparation for survivors. Addressing the legislative gaps in the Chadian legal system would lead the path to changing people's perceptions and individuals' government actors' courses of actions surrounding CRSV and SGBV. Changing the legal system to prevent recurrence of SGBV and CRSV in the future is an important step and constitutes in itself a form of reparation (guarantees of non-repetition).

6.2.1. Domestic legal and policy frameworks relevant to CRSV

A. LEGAL FRAMEWORK – SEXUAL VIOLENCE

The Chadian Constitution provides that the State "has a duty to ensure the elimination of all forms of discrimination with regard to women and to assure the protection of their rights in all the domains of private and public life."²²⁵ As recognised by the Working Group on the Issue of Discrimination against Women in Law and in Practice (WGDWLP), Chad has a strong constitutional framework for gender equality.²²⁶ While the Constitution guarantees the inherent right to life, dignity, and the integrity of the person²²⁷ and prohibits torture,²²⁸ it does not address sexual violence.

The 2017 Penal Code contains a rather comprehensive legal protection from sexual violence. The Penal Code defines sexual harassment as "repeatedly expos[ing] another person to comments or behaviour with sexual connotations that either undermine his or her dignity because of their degrading or humiliating character, or create an intimidating, hostile or offensive situation."²²⁹ Sexual harassment also encompasses acts of severe pressure for "the real or apparent" purpose of obtaining an act of a sexual nature (either for the benefit of the perpetrator or a third party).

220 Ibid [60-61].

221 African Commission on Human and Peoples' Rights, 'Chad', <https://www.achpr.org/states/detail?id=10> accessed 19 July 2021.

222 See Centre for Human Rights University of Pretoria, 'Maputo Protocol Ratification Map', <https://www.maputoprotocol.up.ac.za/index.php/countries/interactive-map> accessed 29 July 2021.

223 United Nations Human Rights Council, 'Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice on its Mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2, para 24.

224 On the link between CRSV and other forms of SGBV, see United Nations, 'Handbook for UN Field Missions on Preventing and Responding to Conflict-Related Sexual Violence' (2020) 6 <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/06/2020.08-UN-CRSV-Handbook.pdf> accessed 8 March 2023.

225 Tchad Constitution du 14 Avril 1996, version du 04 Mai 2018, art. 14.

226 United Nations Human Rights Council, 'Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice on its Mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2, para 18.

227 Tchad Constitution du 14 Avril 1996, version du 04 Mai 2018, art. 17.

228 Ibid art. 18.

229 République du Tchad, *Loi n°001/PR/2017 du 8 mai 2017 portant Code Pénal*, art. 341.

The 2017 Penal Code also criminalises rape and “*other indecent acts*”. Rape is defined as: “[a]ny act of sexual penetration, of whatever nature, committed on another person by violence, coercion, threat or surprise [...]”.²³⁰ Rape can thus be committed by all genders and against all genders and includes any kind of penetration through violence, threat, coercion, or surprise. There is no national legislation specifically addressing spousal rape although the Penal Code appears to be clear on that matter in that its definition applies to all people, regardless of their gender and, pre-existing relationship, or marital status.²³¹ Finally, the 2017 Penal Code makes reference to CRSV in the context of the Geneva Conventions and crimes against humanity.²³²

The Chadian Penal Code provides for the modes of liability of commission, co-perpetration and complicity.²³³ The definition of complicity encompasses a long list of behaviours, some of which could also be described as aiding and abetting under international criminal law.²³⁴ The penalty for an accomplice under Chadian law is the same as for the main perpetrator. Command responsibility is also provided for in the Penal Code.²³⁵

B. LEGAL FRAMEWORK – REPRODUCTIVE RIGHTS

The Chadian Constitution prohibits female genital mutilation (FGM), as well as slavery, human trafficking, forced labour, torture and ill-treatment, physical violence and “*all other forms of degradation of the human being*.”²³⁶

A 2002 law on reproductive health provides that couples and individuals have the right to freely decide about reproductive health issues within the limits of the laws and customs.²³⁷ All forms of violence, including FGM, early marriage, domestic and sexual abuse and violence are prohibited under this law.²³⁸

In principle, abortion is criminalised in Chad: pregnant women who receive an abortion incur a two-month to two-year imprisonment sentence.²³⁹ The risk for doctors, midwives and other persons who recommend or practice abortions is high, as they incur a one to five-year imprisonment sentence (and a fine: 50,000-500,000 CFA, which represents 80-810 USD approx.) when it happens once, or five to ten years (and a fine: 100,000-1,000,000 CFA, which represents 161-1,619 USD approx.) for repeated involvement.²⁴⁰ Abortion is exceptionally permitted in cases of sexual assault, rape, incest, or circumstances in which the pregnancy endangers the mental and physical health or the life of the mother or the foetus, or where a serious defect is diagnosed in the unborn child. However, even in cases where the mother’s life is at risk, authorisation for abortion must be issued by the Public Prosecution Service after a doctor issues a certification.²⁴¹ Many women do not have access to relevant authorities to request this authorisation and have to resort to clandestine and potentially dangerous abortions without the assistance of medical professionals.²⁴² Regarding contraceptive methods, Chad has been making slow progress. It is estimated that in 2020, 4.8% of women used modern contraceptive methods (compared to 2.7% in 2012). However, still 24.2% of women have an unmet need for contraception.²⁴³

230 Ibid art. 349.

231 U.S. Department of State Bureau of Democracy, Human Rights and Labor, ‘2020 Country Reports on Human Rights Practices: Chad’ (State Department, March 30, 2021) <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/chad/> accessed 28 July 2021. Nb: Regarding the legislation on domestic violence there appears to be some confusion. While the State Department in its most recent report documents that there is no specific legislation addressing domestic violence, the UN Working Group mentioned above interprets Article 342 to be categorizing domestic violence as a punishable offense.

232 War crimes, crimes against humanity and genocide are included in the Chadian penal code in book 3-4 of the penal code République du Tchad, *Loi n°001/PR/2017 du 8 mai 2017 portant Code Pénal*, livres 3-4, arts. 285-301 with art. 286 y) listing rape as a war crime and art. 292 i) rape as a crime against humanity.

233 République du Tchad, *Loi n°001/PR/2017 du 8 mai 2017 portant Code Pénal*, art. 80

234 Ibid.

235 Ibid art. 292.

236 Tchad Constitution du 14 Avril 1996, version du 04 Mai 2018 art. 19.

237 République du Tchad, *Loi n°006/PR/2002 du 15 avril 2002 portant promotion de la santé de reproduction*, art. 4.

238 Ibid art. 3.

239 République du Tchad, *Loi n°001/PR/2017 du 8 mai 2017 portant Code Pénal*, art. 356.

240 Ibid.

241 Ibid art. 358.

242 United Nations Human Rights Council, ‘Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Chad’ (8 May 2018) UN Doc A/HRC/38/46/Add.2, paras 23 and 55.

243 Family Planning 2020, ‘2020 Core Indicators 1-9 Country Fact Sheet Chad’ <http://www.familyplanning2020.org/sites/default/files/Chad%202020%201-9%20Handout.pdf> accessed 12 June 2021.

Chadian law criminalises consensual same-sex sexual conduct between adults and does not prohibit discrimination against members of the LGBTIQ+ community.²⁴⁴

C. (LACK OF) IMPLEMENTATION IN PRACTICE

Strict enforcement of anti-discrimination legal guarantees to protect women remains difficult due to social and cultural barriers.²⁴⁵ Chad has repeatedly agreed upon and supposedly implemented national strategies to combat violence against women.²⁴⁶ However, little has been done in recent years at the national level. For example, a national plan to implement Security Council resolution 1325 has been under discussion for many years but it has not yet been finalised.²⁴⁷

Patriarchal structures and deeply rooted stereotypes of women's roles in society continue to lead to harmful practices. The plurality of socio-legal influences that come from customary and religious beliefs often adversely impact the implementation of legal frameworks.²⁴⁸

For example, most doctors only issue contraception with the husband's consent even though the law grants women the right to decide freely and independently.²⁴⁹ Similarly, even though property and inheritance laws provide the same legal status and rights for women as men, local leaders settle most inheritance disputes in favour of men according to traditional practice.²⁵⁰ In addition to societal structures that perpetuate harmful practices in contradiction to the law, the Chadian legal system is a mixture of civil law and customary law. These different legal traditions' coexistence weakens the force of statutory law.²⁵¹ For example, even though the Penal Code's definition of rape is neutral and applies to perpetrators regardless of whether they are married to the victim, marital rape is not considered illegal under customary law, under which sexual relationships in a marriage are presumed to be consensual. This is a considerable problem, given that 73% of instances of violence against women involve the husband or partner of the victim.²⁵²

*While Chad has ratified CEDAW, its implementation remains problematic because of the co-existing legal systems. In its 2011 Concluding Observations, the CEDAW Committee noted it was "concerned about the lack of clarity with respect to the actual status of customary and religious law vis-à-vis national law and its impact on the effective incorporation of the Convention in the national legislation and on its effective implementation in the State party, due to the strong patriarchal character of Chadian society, as well as the guarantor role of the traditions and customs of the country constitutionally granted to traditional leaders".*²⁵³

244 U.S. Department of State Bureau of Democracy, Human Rights and Labor, '2020 Country Reports on Human Rights Practices: Chad' (State Department, March 30, 2021) <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/chad/> accessed 28 July 2021.

245 Government of the Republic of Chad, 'Combined Periodic Report of The Republic of Chad -1998 to 2015 on the Implementation of the African Charter on Human and Peoples' Rights' (September 2016) para 294.

246 See for example Government of the Republic of Chad, 'Combined Periodic Report of The Republic of Chad - 1998 to 2015 on the Implementation of the African Charter on Human and Peoples' Rights' (September 2016) para 303, and Global Database on Violence Against Women – Chad <https://evaw-global-database.unwomen.org/fr/countries/africa/chad> accessed 28 July 2021.

247 Interview with Delphine Djiraibé, Public Interest Law Centre Chad (online, 27 May 2021).

248 Océane Arnette, 'La condition socio-juridique des femmes tchadiennes: entre contrainte et levier d'émancipation. Histoire des statuts et sociologie des identités en contexte familial' (Mémoire de Master 2, Université Paris 1 Panthéon Sorbonne 2020) p. 99.

249 United Nations Human Rights Council, 'Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice on its Mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2, para 54.

250 U.S. Department of State Bureau of Democracy, Human Rights and Labor, '2020 Country Reports on Human Rights Practices: Chad' (State Department, March 30, 2021) <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/chad/> accessed 28 July 2021.

251 United Nations Human Rights Council, 'Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice on its Mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2, para 18.

252 Ibid para 24.

253 Committee on the Elimination of Discrimination against Women, 'Concluding observations of the Committee on the Elimination of Discrimination against Women' (21 October 2011) UN Doc CEDAW/C/TCD/CO/1-4, para 12.

Moreover, Chad lacks a specialised police unit or court handling cases of sexual violence and has barely any female judges or police officers, which constitutes a barrier for women to gain access to justice.²⁵⁴ A Child Protection Unit within the police force with the mandate to combat SGBV exists only in N'Djamena.²⁵⁵ Besides this barrier, access to justice for women is also harder due to poverty and illiteracy.²⁵⁶ Cases might also be settled through traditional justice mechanisms that discriminate against women.²⁵⁷ Stakeholder interviews confirmed a general lack of gender-sensitivity in the judiciary and mentioned that sometimes judges are not comfortable discussing the topic of sexual violence.²⁵⁸

According to a Chadian female lawyer, judges do not know how to ask the right questions to victims or even ask questions in a way that further harm victims.²⁵⁹ Questions that judges often ask include why victims were dressed in a certain way or why they did not scream during an act of violence.²⁶⁰ Public Interest Law Centre Chad has worked on training judges to improve this situation but more work is needed to train judges and police officers to implement good practices.²⁶¹ To improve respect for the victim and security of the victim, it is also necessary to implement protection measures, in which safety on social media plays an important role. Several stakeholders highlighted spreading survivors' pictures on social media once they go to court as an issue.²⁶²

D. LEVELS OF IMPUNITY

Barriers to justice have contributed to a culture of impunity in Chad regarding sexual violence. The WGDWLP found that justice officials do not enforce the law and that Chad's justice system suffers from "systemic delays and inefficiency."²⁶³ The WGDWLP was informed that political interference had influenced the release of persons detained for perpetrating violence against women and that certain groups of society appeared to be exempt from the enforcement of judicial decisions.²⁶⁴

Regarding FGM, a recent US State Department report notes that, even though under the law FGM can be prosecuted as a form of assault and charges may be brought against parents of victims, medical practitioners and others involved, the lack of specific penalties hinders prosecution and authorities prosecuted no cases in 2020.²⁶⁵

Additionally, the WGDWLP noted that language barriers, monetary hurdles and the "virtual non-existence of any legal aid other than that provided by NGOs" also contribute to forming barriers to justice in Chad.²⁶⁶ Stakeholders in Chad interviewed by REDRESS have similarly described how a fear of reprisals contributes to impunity in society and that the progress of sexual violence complaints is heavily influenced by the status of the perpetrator.²⁶⁷

254 United Nations Human Rights Council, 'Report of the Working Group on the issue of Discrimination against Women in Law and in practice on its mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2., para 28; See also Interview with Delphine Djiraibé, Public Interest Law Centre Chad (27 May 2021).

255 Ibid.

256 Committee on the Elimination of Discrimination against Women, 'Concluding observations of the Committee on the Elimination of Discrimination against Women' (21 October 2011) UN Doc CEDAW/C/TCD/CO/1-4, para. 14.

257 Ibid.

258 Interview with Delphine Djiraibé, Public Interest Law Centre Chad (online, 27 May 2021); Interview with Clément Abaifouta, President of the Association des Victimes des Crimes du Régime de Hissène Habré (online, 26 May 2021).

259 Interview with Delphine Djiraibé, Public Interest Law Centre Chad (online, 27 May 2021).

260 Ibid.

261 Ibid.

262 Ibid.

263 United Nations Human Rights Council, 'Report of the Working Group on the issue of Discrimination against Women in Law and in practice on its mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2., para 27.

264 Ibid.

265 U.S. Department of State Bureau of Democracy, Human Rights and Labor, '2020 Country Reports on Human Rights Practices: Chad' (State Department, March 30, 2021) <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/chad/> accessed 28 July 2021.

266 United Nations Human Rights Council, 'Report of the Working Group on the Issue of Discrimination against Women in Law and in Practice on its Mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2, para 27.

267 Interview with Flora Touali Epes Dansi, OHCHR Chad (online, 13 July 2021).

According to the most recent State Department Report on Human Rights in Chad, police often detain perpetrators, but rape cases are rarely tried.²⁶⁸ Authorities fined and released most rape suspects and communities sometimes compelled rape victims to marry their attackers.²⁶⁹ Similarly, across the widespread cases of domestic violence, police rarely intervened, women had limited legal recourse, and the law against sexual harassment was not enforced effectively.²⁷⁰

As the CEDAW Committee noted, cases in which sexual violence is reported are mainly “solved through traditional dispute settlement mechanisms due to the absence of legal protection alternatives for victims and a fragile judiciary system.”²⁷¹

Long delays within the judicial system also form a barrier to justice: one stakeholder highlighted this, adding that the criminal court sits only for a short period each year.²⁷² These issues, coupled with the occasional strikes that take place within the Chadian judiciary exemplify the levels of impunity that exist.²⁷³

6.2.2. Domestic legal and policy frameworks relevant to reparations (including for CRSV)

A. COMMISSION OF INQUIRY

There was no peace process in Chad following the fall of the Habré regime as Déby ousted Habré in a coup. There was, however, a Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories between 1982 and 1990,²⁷⁴ which was established by Déby in 1990 by Decree. The Commission’s mandate was to investigate illegal detentions, assassinations, disappearances, torture, mistreatment, other attacks on the physical and mental integrity of persons, as well as all violations of human rights and embezzlement of State funds between 1982 and 1990. Besides preserving archives and documentation and hearing victims’ testimonies, the Commission was also mandated to audit the financial operations and bank accounts of the ex-president and his accessories and to take inventory of Habré’s and his accomplices’ goods and properties both in Chad and abroad.²⁷⁵ The Decree creating the Commission named ten members, only one of whom was female. The chair was Chad’s Chief Prosecutor Mahamat Hassan Abakar.²⁷⁶ The final report of the Commission was published in May 1992.

268 U.S. Department of State Bureau of Democracy, Human Rights and Labor, ‘2020 Country Reports on Human Rights Practices: Chad’ (State Department, March 30, 2021) <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/chad/> accessed 28 July 2021.

269 Ibid.

270 Ibid.

271 Committee on the Elimination of Discrimination against Women, ‘Concluding observations of the Committee on the Elimination of Discrimination against Women’ (21 October 2011) UN Doc CEDAW/C/TCD/CO/1-4, para 40 (emphasis added).

272 Interview with Binon Adeline Diombo, UNFPA Chad (online, 19 July 2021).

273 Interview with Flora Touali Epes Dansi, OHCHR Chad (online, 13 July 2021).

274 ‘Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories’ in Neil J Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press, 1995) 52 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 08 July 2021.

275 The Council of State Chad, Decree Creating the Commission of Inquiry into the Crimes and Misappropriations committed by Ex-President Habré, His Accomplices And/Or Accessories, Decree No. 014/P.CE/CJ/90 1990, Article 2 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Charter.pdf> accessed 08 July 2021.

276 Ibid Article 3.

The Commission faced many material challenges such as the lack of office space and resources.²⁷⁷ Further, in its report it noted victims were afraid to give testimony because they feared being identified and suffering retaliation. At the time, they also worried that Habré might return.²⁷⁸ Others did not want to talk about what happened because they did not want to relive the trauma.²⁷⁹ Moreover, due to the lack of office space, the Commission was forced to set up its offices in the former DDS building, which greatly hindered survivors' willingness to come forward.²⁸⁰ The Commission interviewed 662 former political detainees or prisoners of conscience in addition to former DDS agents, pointing out that its work only covered about 10% of the crimes committed under Habré's regime.²⁸¹ The Commission recommended several reparation measures to deal with the past such as the prosecution without delay of the perpetrators of crimes committed under the Habré regime, the erection of a monument to commemorate the victims, and the conversion of the old DDS headquarters and subterranean prison into a museum to remind people of Habré's dark reign. It also recommended other measures of guarantees of non-repetition, such as the creation of a National Human Rights Commission to investigate human rights violations and to promote human rights at the national level; the re-examination of the powers and structures of the new special service, the General Directorate of the Centre for Intelligence Coordination; the removal of all the former DDS agents from their positions, the elimination of detention centres under the control of the special service, a general respect for and enforcement of laws regarding offences against the internal or external security of the State; and training on human rights in schools, universities, police academies, the gendarmerie and army.²⁸²

The Commission report does not address sexual violence specifically even though it does explain that *"women were held in the same prisons as men. Some of them even gave birth to a child in this macabre setting."*²⁸³

The Commission does not mention the sexual slavery of women deported to military camps in the north either. For the reasons mentioned above, it was probably not possible for the Commission to consult survivors of sexual violence at the time. The reference to women as the *"weaker sex"* in the Commission's reports and the complete lack of acknowledgment of the sexual violence committed during the regime, however, also indicate that the Commission was not gender sensitive and lacked expertise on this topic.²⁸⁴

B. (LACK OF) NATIONAL LAWS

There are currently no specific national laws that address reparations for CRSV.²⁸⁵ In 2005 the AVCRP proposed a bill to the National Assembly which recommended the establishment of a compensation fund for victims of the abuses committed by the Habré regime.²⁸⁶ This bill was never adopted.²⁸⁷ In 2009 the UN Committee Against Torture (CAT) issued concluding observations on Chad and noted the failure to follow up on the bill and the lack of implementations of the reparation measures recommended by the National Commission of Inquiry.²⁸⁸ This situation has still not changed as of September 2022.²⁸⁹

277 'Chad: Report of the Commission of Inquiry into the Crimes and Misappropriations Committed by Ex-President Habré, His Accomplices and/or Accessories' in Neil J Kritz (ed) *Transitional Justice: How Emerging Democracies Reckon with Former Regimes, Vol. III Laws, Rulings, and Reports* (US Institute of Peace Press, 1995) 54 <https://www.usip.org/sites/default/files/file/resources/collections/commissions/Chad-Report.pdf> accessed 08 July 2021.

278 Ibid.

279 Ibid.

280 Ibid.

281 Ibid 57.

282 Ibid 93.

283 Ibid 73.

284 Ibid.

285 Interview with Delphine Djiraibé, Public Interest Law Centre Chad (online, 27 May 2021).

286 Ibid.

287 Ibid.

288 *"The Committee regrets the National Assembly's failure as yet to follow up on the bill proposed in 2005 by, Moreover, the Committee notes the absence of a reparation programme or other national reconciliation measures such as that proposed in 1992 by the commission of inquiry into the crimes and abuses of power committed by former President Habré and his accomplices (art. 14). The State party should, as a matter of great urgency, adopt the bill on material compensation for the victims of torture under the Hissène Habré regime and establish appropriate mechanisms to meet the victims' legitimate needs for justice and to promote national reconciliation."*; UN Committee Against Torture (CAT), Concluding observations of the Committee against Torture: Chad, 4 June 2009, CAT/C/TCO/CO/1, para 28 <https://www.refworld.org/docid/4a645fc02.html> accessed 8 July 2021.

289 Interview with Delphine Djiraibé, Public Interest Law Centre Chad (online, 27 May 2021); Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing victims in front of the EAC (online, 30 June 2021).



Forum on reparations with survivors of CRSV in Chad, organised by ATPDH, with support from REDRESS and GSF, in 2022. The biggest problem with reparations to date is the lack of implementation of the judgments on reparations.

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VII. STATUS OF IMPLEMENTATION OF REPARATIONS

| 7.1. Access to reparations

7.1.1. Access to full reparations to date

A. DOMESTIC REPARATION AWARDS

Survivors of the terror caused by the Habré regime were not offered any interim reparations, as described above. This can be partially explained by the fact that Habré was ousted in a coup, rather than a peace accord or similar transitional processes. The power transition was accompanied by waves of insecurity and chaos. There was no systematic review of the violations that took place under the Habré regime by the new government, except for the above-mentioned Commission of Inquiry, which was limited in scope, reach, and resources. None of the stakeholders interviewed for this study knew of any attempt of national accountability or transitional justice mechanism after 1990. However, victims of the Habré regime, including CRSV victims, fought hard to bring Habré and the figureheads of his regime to justice, including by fighting for reparations.

On 26 October 2000, victims initiated proceedings in Chad by filing a complaint against Habré and some leading DDS agents, accusing them of having perpetrated illegal and arbitrary detention, torture, murder and other grave violations.²⁹⁰

In 2014, 20 of the accused were arrested (the other had either died in the meantime or their whereabouts were unknown), and 25 March 2015 finally marked the first time that survivors of the Habré regime were awarded reparations in a judgment handed down against 33 DDS agents, including most of the perpetrators listed in section 3.2.3 above. In the end, the judgment did not involve Habré, as he was in Senegal and preparing to stand trial there. The March 2015 judgment, however, confirmed the charges against 21 of the agents, while acquitting four others.²⁹¹ The civil parties asked for reparations both from the accused and the Chadian State.

The N'Djamena Court awarded them 75,000,000,000 CFA, which represents 121,456,500 USD approx. (in total), to be paid by the accused and the Chadian State to the 7,000 listed civil parties, to be attributed proportionally to the severity of the harm suffered by each. The Court attributed civil responsibility to the State of Chad, considering that the DDS agents acted as agents of the State.²⁹² The judgment does not include detail as to how the Court calculated the compensation amount it granted. These reparations have not yet been afforded.

The civil parties had also asked for collective reparations: a monument in the memory of victims as well as a museum at the former site of the DDS, which the Court agreed to in order to ensure that the crimes would not be forgotten. Regarding the administration of the reparations, the Court mandated that the Chadian Prime Minister should establish a commission to ensure the collection and disbursement of funds and the implementation of all measures.²⁹³ The judgment ordered these collective measures to be implemented within a

290 Human Rights Watch, 'Plainte avec constitution de partie civile, Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres', Cour d'Appel de N'Djamena [30 November 2000] <https://www.hrw.org/legacy/french/themes/habre-hachim.html> accessed 06 July 2021.

291 *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres* [2015], Cour d'Appel de N'Djamena 6-7.

292 République du Tchad, Cour Criminelle Spéciale de N'Djamena, Arrêt Criminel, Répertoire No 01/15 du 25 mars 2015, 4, 12.

293 *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres* [2015], Cour d'Appel de N'Djamena 11-14.

year.²⁹⁴ However, seven years later, none of this has yet happened.²⁹⁵ On the contrary, some of the DDS agents have been released without explanation, and the judgment has had relatively little effect beyond the symbolic decision.²⁹⁶

The complaint filed by the civil parties and the prosecutor's indictment did not include charges of rape or other forms of sexual violence, as the Chadian Penal Code did not cover these crimes at the time.²⁹⁷ Conversely, the case before the national Chadian courts did not mention sexual violence in its indictment or verdict. However, amongst the 7,000 civil parties who were awarded reparations, at least ten were victims of sexual slavery and others forms of CRSV, some of whom testified before the Court.²⁹⁸ Based on the 2015 judgement, these victims hold the legal entitlement to individual compensation should these ever be disbursed.

B. REGIONAL REPARATIONS AWARDS

In parallel to the pursuit of justice in Chad, concerted international efforts were ongoing for decades to bring Habré to justice, which culminated in the establishment of the EAC in Senegal (see below on advocacy initiatives).

In 2016, the EAC found that Habré was guilty of war crimes and crimes against humanity, including sexual violence in the form of sexual slavery and sexual torture, amongst others.

In its reparation award, the EAC underlined that victims of rape and sexual slavery are subject to lasting physical, material, moral and psychological effects. For this reason, the civil parties had asked for 60 million CFA (97,165 USD approx.) for victims of rape and 75 million CFA (121,456.50 USD approx.) for victims of sexual slavery. In the end, the EAC awarded both groups of victims 20 million CFA (32,388 USD approx.) for each victim.²⁹⁹

The collective reparations that were requested by the civil parties were denied by the EAC.³⁰⁰ Originally, the civil parties asked to reserve 30% of the Fund, or a sum of 50,515,500,000 CFA (81,805,811 USD approx.), for development projects, the erection of monuments in the memory of victims, the inclusion of this period of history into the Chadian history curricula, and a national day of commemoration (30 May, 'Day Against Impunity'). They also asked for vocational training centres for children victims of Habré in various towns in Chad.³⁰¹ The EAC argued that because Chad was not a civil party to the case, the Court could not order measures that would infringe on Chad's sovereignty, such as the national day or history curricula.³⁰² Regarding the other reparations, the EAC concluded they were not specific enough to be ordered.³⁰³

Reparations (15 million CFA, which represents 24,291.30 USD approx.) were awarded to victims of torture who were not subjected to sexual violence.³⁰⁴ Indirect victims were awarded 10 million FCFA.³⁰⁵ No specific measures were taken to ensure gender-sensitive and survivor-centric awarding of the reparations. But considering the reparations ordered have not yet been implemented, it would be possible to take this into account during the implementation phase.

294 Ibid.

295 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims in front of the EAC (online, 30 June 2021).

296 See for example, REDRESS, 'Chad: Government Fails Ex-Dictator's Victims' (REDRESS, 22 March 2018) <https://redress.org/news/chad-government-fails-ex-dictators-victims> accessed 06 July 2021.

297 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims in front of the EAC (online, 30 June 2021).

298 Interview with Delphine Djiraïbé, Public Interest Law Centre Chad (online, 27 May 2021); Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims in front of the EAC (online, 30 June 2021).

299 *Ministère Public c. Hissain Habré* [2016], Chambre Africaine Extraordinaire d'Assises, Décision sur les réparations, 29 July 2016 para. 62, as confirmed by *Ministère Public c. Hissain Habré* [2016], Chambre Africaine Extraordinaire d'Assises d'Appel (27 April 2017) paras 926-936.

300 Ibid.

301 Ibid para 69.

302 Ibid para 71.

303 Ibid para 70.

304 Ibid para 82.

305 Ibid.

Consultation with civil parties, including CRSV survivors, on the topic of reparations happened mainly through civil party lawyers. The first consultation on reparations happened when the trial was already ongoing, and reparations had not yet been discussed with survivors.³⁰⁶ The reparation filing that was eventually submitted to the EAC was based on the results of the consultation workshop where survivors clearly stated that they wanted individual monetary reparations, and collective reparations only in combination with individual reparations.³⁰⁷ Because the civil parties had only ten days to file the reparations filing, there was no room to do in-depth work with the victims around needs that could be met by reparations programmes. There was no specific consultation with survivors of CRSV. In hindsight, those who worked on the consultation and filing agree that the consultation and the groundwork for reparations was rushed and could have been more thorough.³⁰⁸ The victims themselves collectively wished to have the women who survived sexual slavery be recognised as a specific category of victims, who should receive more money.³⁰⁹

As highlighted by Franck Petit, in many places in Chad, only people who were part of an association were able to apply as civil parties to the EAC.³¹⁰ This created tensions among and between communities and families, as this has placed them in a situation of inequality:³¹¹ while all suffered harm, only those in an association at the time gained access to the EAC proceedings and are now entitled to reparation as per the EAC judgement. An EAC Outreach Consortium was established to explain the work of the EAC to the people in Chad. It also helped to “point victims towards associations that could help

them participate” in the proceedings.³¹² The Outreach Consortium also organised open dialogue sessions with the victims.³¹³ However, this Outreach Consortium was set up for outreach purposes rather than with a mandate to work on documenting reparation needs. As such, it has not facilitated the reparation process. The outreach activities failed to reach the far north of Chad, but interacted with local associations throughout the country, and often used local radio channels.³¹⁴ It also failed to adequately reach Arabic-speaking Chadians, some of whom have expressed feeling left out of the consultation process.³¹⁵ The Consortium organised sessions specifically for women to allow them to express themselves freely, but survivors of CRSV did not speak about their experiences during those sessions.³¹⁶

C. THE AU TRUST FUND

The EAC Statute provides for the establishment of a Trust Fund “for the benefit of victims of crimes”, within the EAC’s jurisdiction and of their beneficiaries, and for individual or collective reparations, regardless of the victims’ participation to the proceedings.³¹⁷ In line with its Statute, the Appeals Chamber decided that the Trust Fund would be the implementing body for the mandated reparations and urged the AU to set it up quickly. The appeals judgment specifies among others that the Trust Fund should involve victims in the reparation process through their representatives, give the opportunity to those whose civil party applications were rejected by the Court to submit additional documents,³¹⁸ and assess the requests of those who were not at all involved in the EAC proceedings.³¹⁹

306 Interview with Gaelle Carayon, formerly REDRESS (online, 12 May 2021).

307 Ibid.

308 Interview with Gaelle Carayon, formerly REDRESS Trial (online, 12 May 2021). Interview with Jeanne Sulzer, International Human Rights Lawyer (online, 3 May 2021), see also Gaelle Carayon and Jeanne Sulzer, ‘The Real fight Begins – Victims Struggle for an Effective Right to Reparation’ in Sharon Weil, Kim Thuy Seelinger and Kerstin Bree Carlson (eds), *The President on Trial* (Oxford University Press 2020).

309 Interview with Gaelle Carayon, formerly REDRESS (online, 12 May 2021).

310 Interview with Franck Petit, Justice Info (online, 11 May 2021).

311 Ibid.

312 Franck Petit, ‘Outreach for the EAC: An Extraordinary Experience’ in Sharon Weil, Kim Thuy Seelinger and Kerstin Bree Carlson (eds), *The President on Trial* (Oxford University Press 2020), 19.

313 Ibid.

314 Interview with Franck Petit, Justice Info (online, 11 May 2021).

315 Ibid.

316 Ibid.

317 *Statut des Chambres africaines extraordinaires au sein des juridictions sénégalaises pour la poursuite des crimes internationaux commis au Tchad durant la période du 7 juin 1982 au 1^{er} décembre 1990*, annexé à l'accord sur la création de Chambres Africaines Extraordinaires au sein des juridiction sénégalais, signé entre le Gouvernement de la République du Sénégal et l'Union Africaine, le 22 aout 2012, art. 28(1) and (2).

318 *Ministère Public c. Hissène Habré* [2017], Chambre Africaine Extraordinaire d'Assises d'Appel [610].

319 Ibid [608],[609].

As a result of the EAC judgment, the AU decided to establish the Trust Fund in July 2016 and adopted the Statute of the Trust Fund in January 2018.³²⁰ The Trust Fund has officially opened an office in N'Djamena. The Trust Fund, however, is not yet operational.

According to the Statute of the Trust Fund, it should be financed from the recovery of the assets of persons sentenced in accordance with the verdict of the EAC, including through the judicial mutual assistance mechanism. The Fund should also be financed by voluntary contributions of the AU Member States, foreign governments, international institutions, NGOs and other entities willing to support the victims.³²¹ The Trust Fund will define the modalities of disbursement of reparations to beneficiaries and may take into account their current situation and place of residence in doing so.³²² It may also decide to resort to services of intermediaries to facilitate the disbursement, such as national or international NGOs working in close proximity with victims.³²³

The biggest issue with reparations to date is the lack of implementation of the judgments. The failure to deliver on the promises of reparations – made through both the reparation award by the EAC and at the national level – have led to great disappointment among the victims, who continue to ask their lawyers for the monetary compensation to which they are entitled.³²⁴ One stakeholder interviewed by REDRESS stated that it could be considered a mistake by the EAC to order these compensation amounts without

some assurances that some of the funds were available to implement at least part of the order.³²⁵ Multiple stakeholders have commented that this failure in the reparations phase has partially erased the great success that the trial of Habré represented in terms of accountability and justice.³²⁶ At the time of the trial, one survivor stated in a radio programme on sexual violence that the victims were relieved with the judgment and that she herself was very satisfied.³²⁷ Some stakeholders who had significant direct interaction with the CRSV survivors who testified echoed this comment.³²⁸ However, survivors are now frustrated and angry with the reparations process.³²⁹ These emotions overshadowed the reparative nature of the Habré trial in itself, according to several stakeholders REDRESS interviewed for this study.³³⁰

7.1.2. Government and other duty-bearers' position

A. NATIONAL DUTY-BEARERS

Even though, according to civil society, the late president Idriss Déby publicly declared several times that victims of the Habré regime need to

320 Human Rights Watch, 'Hissène Habré Case: Trust Fund for Victims' (HWR, 07 February 2018). <https://www.hrw.org/news/2018/02/07/hissene-habre-case-trust-fund-victims> accessed 28 July 2021.

321 Union Africaine, Statut du Fonds Fiduciaire au profit des victimes des crimes de Hissène Habré, EX.CL/1040(XXXI) 2018 Art. 15.

322 Ibid Art. 21.

323 Ibid.

324 Interview with Franck Petit, Justice Info (online, 11 May 2021).

325 Ibid.

326 Interview with Franck Petit, Justice Info (online, 11 May 2021); Interview with Henri Thulliez, Former Staff at Human Rights Watch (online, 9 May 2021).

327 'Justice Pour Tous', Radio show interviewing survivors of sexual violence who testified in Dakar organized by the Outreach Consortium in October 2017, it was broadcasted on the 12 local radio shows in October 2017, (On file at REDRESS).

328 Interview with Reed Brody, Human Rights Watch (online, 04 May 2021); Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims in front of the EAC (online, 30 June 2021).

329 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims in front of the EAC (online, 30 June 2021); Interview with Henri Thulliez, Former Staff at Human Rights Watch (online, 9 May 2021); Interview with Reed Brody, Human Rights Watch (online, 04 May 2021); Interview with Souleymane Guengueng, Vice President of the Association des victimes des crimes et répressions politiques au Tchad (AVCRP) (online, 02 July 2021); Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

330 Interview with Franck Petit, Justice Info (online, 11 May 2021); Interview with Souleymane Guengueng, Vice President of the Association des victimes des crimes et répressions politiques au Tchad (AVCRP) (online, 02 July 2021); Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

be compensated for their suffering,³³¹ the Chadian government has not shown any willingness to provide reparations to survivors. The national judgment handed down by the N'Djamena Appeals Court in March 2015 held the Chadian State directly responsible for the crimes committed by DDS agents. It ordered the government to pay half of the 750,000,000,000 CFA (1,214,565,000 USD approx.) reparation award, with the other half to be paid by the convicted former DDS agents through the freezing of their assets.³³² If the former agents' assets did not suffice to cover their half, the judgment determined that the rest should be covered by donations from "friendly States", international organisations and other donors. While the DDS agents convicted in the judgment were not held responsible for sexual and gender-based crimes specifically, the 7,000+ civil parties did include CRSV survivors, who would benefit from this payment.³³³

Further, the N'Djamena Appeals Court mandated that the Chadian Prime Minister establish a Commission to ensure the collection and disbursement of the financial compensation it had ordered.³³⁴ Such a Commission could ensure that compensation be awarded in a gender-sensitive and survivor-centric manner. However, the Commission has not been set up yet, and the government has not made a statement explaining why, despite numerous public calls from civil society over the years to do so.³³⁵ The court also ordered some collective satisfaction measures, namely the construction of a memorial within a year and the transformation of the former DDS prison into a museum.³³⁶ Both of these memorialisation measures offer the opportunity to acknowledge, among others, responsibility for the

multiple ways in which perpetrators, including the Chadian State, harmed and failed to protect CRSV survivors. However, the Chadian authorities have shown no interest in their creation.

The Chadian government has failed to implement both material and symbolic measures to repair the harm perpetrated against victims, including survivors of CRSV. The only measure of reparation that victims have seen is the judgment itself, and this did not include a mention of CRSV. Indeed, as mentioned above, some of the perpetrators have even been released since the judgment.

B. REGIONAL DUTY-BEARERS

At the regional level, the AU has similarly not operationalised the Trust Fund it was legally ordered to establish, though the AU did adopt the Statute of the Trust Fund in 2018 and has allocated 5 million USD to the Trust Fund.³³⁷ A Headquarters Agreement was signed in 2019 and the government of Chad

331 'Président de la République n'a-t-il pas déclaré à plusieurs occasions que les victimes devront être indemnisées' AVCRHH 'L'AVCRHH Commémore la journée du 25 mars Déclaration de victimes' (ATPDH website, 30 mars 2021) <http://www.atpdh-tchad.org/lavcrhh-commemore-la-journee-du-25-mars/> accessed 10 June 2021; Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021); Interview with Reed Brody, Human Rights Watch (online, 04 May 2021).

332 *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres* [2015], Cour d'Appel de N'Djamena [11]-[14].

333 Interview with Delphine Djirabé, Public Interest Law Centre Chad (online, 27 May 2021); Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims in front of the EAC (online, 30 June 2021).

334 *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres* [2015], Cour d'Appel de N'Djamena [11]-[14].

335 See for example AVCRHH 'L'AVCRHH Commémore la journée du 25 mars Déclaration de victimes' (ATPDH website, 30 mars 2021) <http://www.atpdh-tchad.org/lavcrhh-commemore-la-journee-du-25-mars/> accessed 10 June 2021; Ezechiël Kita Kamdar, 'Société: six ans dans l'attente, les victimes de HH ne se lâchent pas dans leur lutte' (Tachad, 23 June 2021) https://www.tachad.com/societe-six-ans-dans-lattente-les-victimes-de-hh-ne-se-lachent-pas-dans-leur-lutte?fbclid=IwAR3on76MVy2_7eRynY96POF7qgBbS4qjvJ9PThmlNo5gVMFs53bav14KG2 accessed 23 June 2021; REDRESS, 'African Commission on Human and Peoples' Rights, *Clément Abaïfouta and 6, 999 Others v Chad*, (REDRESS Communication, 10 November 2017) <https://redress.org/wp-content/uploads/2017/04/englishcomplaint-clementabaifouta-and-others.pdf> accessed 28 July 2021; Reed Brody, 'Hissène Habré's Victims Continue to Fight for Reparations' (HWR, 26 May 2021), <https://www.hrw.org/news/2021/05/26/hissene-habres-victims-continue-fight-reparations> accessed 28 July 2021.

336 *Ministère public et Ismael Hachim et autres contre Saleh Younous Ali, Warou Fadoul Ali et Autres* [2015], Cour d'Appel de N'Djamena [13].

337 Amnesty International, 'African Union: No Reparations for Ex-Chad President's Victims' (26 January 2021) <https://www.amnesty.org/en/latest/news/2021/01/african-union-no-reparations-for-ex-chad-presidents-victims/> accessed 28 July 2021.

has designated a building to house the Fund.³³⁸ In February 2020, AU Commission Chairperson Moussa Faki promised to convene a Resource Mobilisation Conference to fundraise, but there had been no progress until very recently.³³⁹ In September 2022, the President of the Transitional Military Council, Mahamat Déby, pledged to allocate 10 billion CFA (16,1 million USD) to the compensation fund.³⁴⁰ Déby was officially inaugurated as 'transitional' president of Chad on 10 October 2022 and committed to implementing the recommendations of the National Dialogue process, and to organise the allocation of compensation for victims of the Habré regime.³⁴¹

On 24 August 2021, Hissène Habré died of COVID-19 while in detention in Senegal.³⁴² His death has no impact on the AU and Chadian government's obligations to implement reparations orders. It did, however, increase the pressure on the AU to finally operationalise the fund. His death drew renewed international attention to the plight of victims; an AU team arrived in Chad on 15 September 2021 for an impromptu four-day visit to prepare for the operationalisation of the Trust Fund for the Victims.³⁴³ The delegation held discussions with the government and Habré's victims' lawyers and implemented the headquarters agreement signed with the Chadian government. The building, which will house the Trust Fund's executive secretariat was officially handed over by the Chadian authorities to the AU.³⁴⁴

Several additional steps must still be taken before the Trust Fund is fully operational, including the selection of some members of the Board of Directors and the hiring of an Executive Secretary. Then, the Fund can initiate actions to locate, seize, and recover Habré's property, including the assets frozen by the court in Dakar, and organise a conference to mobilise voluntary contributions to the Trust

Fund. The delegation has announced that they will return to Chad. Even though this announcement gives some reason for hope, the delay of the AU in operationalising the Fund is startling considering the age and deaths within the group of survivors, who have never seen their right to reparation materialise.

7.2. Key challenges and obstacles faced in accessing remedies

As mentioned above, the main challenge for victims is the holdup in the materialisation of the reparations ordered. An additional challenge for survivors will be access. It was complicated or impossible for many survivors to apply as civil parties during trial proceedings, and it might be similarly difficult for them to apply for reparation measures and access them. One of the reasons why some civil parties were not recognised during the Habré trial was the lack of identification documents.³⁴⁵ This may also be a challenge if the reparations were to be disbursed. One REDRESS interviewee who has studied the history of identity documents in Chad explained that they have historically been used as a tool of repression and used by the DDS to find people they were planning to target. Moreover, some women are denied access to identity documents by their husbands or family as a way of ensuring dependence on them.³⁴⁶

For CRSV survivors specifically, a significant obstacle faced in accessing remedies is stigma. As mentioned above, CRSV remains largely undocumented because of the intense stigma in Chadian society attached to sexual violence. Stigma may also be the main reason why many survivors will not even attempt to access reparations. There is little attention paid to the survivors of the violent Habré regime in society in general,³⁴⁷ but

338 Ibid.

339 Ibid.

340 RFI, 'Le gouvernement tchadien annonce le versement de 10 milliards de FCFA aux victimes d'Habré' (RFI, 29 September 2022), <https://www.rfi.fr/fr/afrique/20220928-le-gouvernement-tchadien-annonce-le-versement-de-10-milliards-de-fcfa-aux-victimes-d-habr%C3%A9> accessed 15 March 2023.

341 Franck Petit, 'Chad's President Promises to Compensate Habré Victims' (Justiceinfo.net, 14 October 2022) <https://www.justiceinfo.net/en/107774-chad-president-promises-compensate-habre-victims.html> accessed 8 March 2023.

342 'Convicted ex-Chadian leader Hissène Habré dies at 79' (BBC, 24 August 2021) <https://www.bbc.com/news/world-africa-58316923> accessed 28 July 2021.

343 Marième Soumaré, 'Mission de l'UA au Tchad: les victimes d'Hissène Habré', (Jeune Afrique, 21 September 2021) <https://www.jeuneafrique.com/1237170/politique/mission-de-lua-au-tchad-les-victimes-dhissene-habre-bientot-indemniees/> accessed 28 July 2021.

344 Ibid.

345 *Ministère Public c. Hissène Habré* [2017], Chambre Africaine Extraordinaire d'Assises d'Appel [914].

346 Interview with Kelma Manatouma (online, 01 October 2021).

347 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

the topic of sexual violence is particularly sensitive. All the stakeholders REDRESS spoke to for this study confirmed that stigmatisation of survivors of sexual violence is a very big problem throughout Chadian society, with some indicating that stigma might be culturally even stronger in the north and among Muslim communities than in the south.³⁴⁸ The fact that a group of women talked openly about their experiences with CRSV at the EAC did not have a major impact on the stigma that continues to make CRSV and SGBV taboo. One of the interviewees attributed this to the fact that while sexual violence represented a significant portion of the human rights violations that took place under the Habré regime, it might not have been as widespread as in other contexts in Africa. This means that sexual violence is not considered as a 'common experience', and this complicates opening up about it, or initiate a dialogue in broader society.³⁴⁹

Some stakeholders, however, did indicate that there was a cautious opening within Chadian society after the testimonies of sexual violence survivors in Dakar were broadcasted all over Chad and that, in their view, women slowly start to feel more empowered to report incidents of sexual violence.³⁵⁰ Others, however, emphasised that those who testified were met with a backlash (sometimes from within their own families)³⁵¹ and with public insults and cannot live the same life that they lived before they testified.³⁵²

During the forum held by ATPDH, survivors identified as a key challenge to obtaining reparations the lack of outreach to women victims of sexual violence to information about reparation and opportunities for reparation.

348 Interview with Delphine Djiraibé, Public Interest Law Centre CHad (online, 27 May 2021); Interview with Olivier Bercault, Human Rights Watch (online, 21 June 2021).

349 Interview with Maria Koulouris, former Human Rights Watch Researcher (online, 28 May 2021).

350 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021); Interview with Franck Petit, Justice Info (online, 11 May 2021).

351 Interview with Anonymous survivor (online, 2 June 2021).

352 Interview with Reed Brody, Human Rights Watch (online, 04 May 2021).



In a 2012 judgement, in a case brought by Belgium against Senegal, the ICJ found that Senegal was under the obligation to extradite or prosecute Habré.

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VIII. ANALYSIS OF OPPORTUNITIES AND THREATS FOR REPARATIONS

8.1. Considerations regarding further documentation of CRSV violations and needs of victims

Habré's victims not only fought for criminal justice and a chance to be heard for decades, they have also been waiting for the implementation of court-ordered reparations for eight years. Regarding survivors of sexual violence, victims' advocates are in contact primarily with ten women who testified both in N'Djamena and Dakar as they are the only ones who agreed to have their CRSV experiences documented prior to and during the Habré trial. Their stories and experiences are well documented, and they have been clear about their expectations and desire to obtain individual financial compensation.

Approaching these survivors again for documentation purposes is not advisable and also reportedly not something to which they would be open. In fact, some interviewees were clear in noting that asking these victims about the violations and their needs would be like a *"slap in the face."*³⁵³ Beyond this small pool of CRSV survivors, it is unclear how many others are still alive and may be willing to talk. Not only would they be very difficult to locate and identify (something that Chadian lawyers and civil society who travelled around the country for years did not achieve), but they may also not be interested in having their stories documented, particularly since they know that the other survivors were unsuccessful in obtaining reparations and faced some major backlash and stigma after testifying publicly about the violence they endured.³⁵⁴ Several interviewees pointed out that especially the far north of Chad is difficult to access and it is difficult to connect with communities there.³⁵⁵

Notwithstanding the above, 18 survivors were individually consulted by ATPDH for the purpose of this study, and 35 survivors took part in the forum they organised in N'Djamena. During the forum, the survivors expressed the need for the continuation of the identification of CRSV survivors to help them *"break the silence"* and enable them to advocate jointly for their rights.

This goes to show that if done in the right circumstances by organisations trusted by the survivors, honouring the do-no-harm principle and necessity to not raise expectations, further documentation may be beneficial. It would also help facilitate the work of the Trust Fund which, once operational, will have the duty to identify victims of the Habré regime and adopt a gender-lens in doing so.

8.2. Reparation advocacy initiatives

The Habré trial and judgment were the product of a journey by Chadian victims' associations, with the cooperation of international NGO partners.³⁵⁶ Essential to the establishment of the EAC was a transnational advocacy network: the victims' perseverance, with the support of *"effective lobbying and resources from international NGOs."*³⁵⁷ Within this advocacy network, several victims and/or human rights associations that were formed after Habré's fall were active within Chad: for example the AVCRHH, the LTDH as well as ATPDH. However, aside from the Commission of Inquiry created by the late President Déby, no action was taken by Chad

353 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims in front of the EAC (online, 30 June 2021).

354 Ibid.

355 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the Victims in front of the EAC (online, 30 June 2021); Interview with Franck Petit, Justine Info (online, 11 May 2021).

356 Christoph Sperfeldt, 'The Trial against Hissène Habré: networked justice and reparations at the Extraordinary African Chambers' (2017) 21 The International Journal of Human Rights 1243, 1244.

357 Ibid.

to prosecute Habré or provide reparations through other transitional justice mechanisms in the 1990s. This might be because Déby himself had been involved in the Habré regime before turning against him, and therefore transitional justice mechanisms including reparations might highlight his complicity and threaten his power.³⁵⁸ The recent death of Idriss Déby may offer renewed opportunities for justice.

Survivors of the regime have been active in leading advocacy campaigns to push for the prosecution of Habré. In 2000, initiatives for justice and reparations were taken outside Chad. In 2000, seven Chadians filed a complaint in Dakar against Habré, who was residing in Senegal, with support of some of the Chadian NGOs mentioned above, HRW and the Fédération Internationale des Droits de l'Homme (FIDH).³⁵⁹ The case was dismissed on appeal due to lack of jurisdiction. In Belgium, survivors of Habré's crimes filed a universal jurisdiction complaint in 2002, and in 2005 a Belgian judge issued an international arrest warrant for Habré, which led to a dispute about the extradition of Habré between Belgium and Senegal.

Conversely, in 2006, survivors filed a complaint with the CAT. The CAT found that Senegal's refusal to prosecute Habré violated Chadian State's obligations under the UNCAT and called on Senegal to prosecute or extradite Habré.³⁶⁰ In 2009, Belgium filed a case with the International Court of Justice (ICJ) against Senegal. Belgium alleged that Senegal was in violation of its obligation to prosecute or extradite Habré under UNCAT. In a 2012 judgement, the ICJ found that Senegal was under the obligation to extradite or prosecute Habré.³⁶¹

In parallel, Habré fended off Senegal's attempts to amend its legislation in order to prosecute him. He litigated a retroactive law establishing Senegal's

jurisdiction to prosecute international crimes before the Economic Community of West African States (ECOWAS) Court of Justice in 2008 (the Court found in his favour) and the agreement establishing the EAC in 2013 (which the EAC denied).³⁶² He also attempted litigation before the African Court on Human and Peoples' Rights (ACtHPR), which rejected his claim based on lack of jurisdiction.³⁶³

In all these proceedings, victims' groups were mobilised and engaged both in advocacy and support efforts towards the initiation of prosecution. These cumulative decisions led to the establishment of the EAC, which paved the way for the reparations awarded as described above.

CLÉMENT ABAÏFOUTA AND 6,999 OTHERS V CHAD

Considering the failure to implement EAC-ordered reparations, survivors took the case to the AComHPR in 2017. The case was submitted by civil party lawyers who were active in both the Chadian case against former DDS agents as well as the case in front of the EAC: Jacqueline Moudeïna, Delphine Djiraibé and Lambi Soulgan.³⁶⁴ They were assisted by ATPDH, REDRESS, HRW, and Freshfields Bruckhaus Deringer LLP.³⁶⁵ This case focuses on the national case, rather than the case in front of the EAC. The case argues that the failure of Chad to comply with the 2015 N'Djamena decision violates the right to a fair trial, the right to redress and the right to property.³⁶⁶ To this date, the AComHPR has not yet considered the admissibility of the case. REDRESS has been engaged with the other parties to advocate at the AComHPR to submit this case to the jurisdiction of the ACtHPR.

Advocacy through the means of press releases and communications to relevant stakeholders, such as the AU, has also taken place since the judgment

358 See for example, Julien Seroussi, 'L'internationalisation de la justice transitionnelle: l'affaire Hissène Habré' (2006) 30 Critique internationale 83, 86.

359 Christoph Sperfeldt, 'The Trial against Hissène Habré: networked justice and reparations at the Extraordinary African Chambers' (2017) 21 The International Journal of Human Rights 1243, 1246.

360 CAT, *Suleymane Guengueng et al. v. Senegal*, CAT/C/36/D/181/2001 (19 May 2006).

361 ICJ, *Questions relating to the Obligation to Prosecute or Extradite* (Belgium v. Senegal) [20 July 2012].

362 ECOWAS Court of Justice, *Hissein Habré v. Senegal* No. ECW/CCJ/RUL/05/13 (12 June 2013); ECOWAS Court of Justice, *Hissein Habré v. Senegal* No. ECW/CCJ/JUD/06/10 (18 November 2010).

363 ACtHPR, *Yogogombaye v. Sénégal* (15 December 2009).

364 REDRESS, 'African Commission on Human and Peoples' Rights, *Clément Abaïfouta and 6,999 Others v Chad*, (REDRESS Communication, 10 November 2017) <https://redress.org/wp-content/uploads/2017/04/englishcomplaint-clementabaifouta-and-others.pdf> accessed 28 July 2021.

365 Ibid.

366 Ibid para 56.

was rendered. The majority of these have focused on operationalising the Trust Fund and calling upon the AU to act. The actors that have been engaged in these initiatives are (amongst others): ATPDH, AVCRHH, Amnesty International, HRW, REDRESS and the survivors themselves. Given the high number of survivors, they are not always all directly consulted for every advocacy action, but activities are usually carried out in cooperation with either ATPDH (which works directly with survivors) or AVCRHH (the victims' association) and the victims' lawyers.

In Chad, survivors have led domestic advocacy efforts for reparations through victims' associations such as AVCRHH. These efforts are designed to put pressure on the government to provide the promised reparations. For example, the most recent initiative, a multi-day march organised in N'Djamena in June 2021, called upon the newly established Military Transitional Council to fulfil the obligations put upon the government by the national decision, namely to establish the Commission to administer the court-ordered reparations.³⁶⁷ The survivors have carried out such initiatives since the judgments in N'Djamena and Dakar but have encountered resistance by the police.³⁶⁸ Current reparations advocacy initiatives mainly entail putting pressure on duty-bearers to deliver the reparations that were awarded in the N'Djamena and EAC case, by local actors through marches like this or by international NGOs through communication with the AU, for example.

While CRSV is mentioned in all these initiatives, these advocacy measures usually focus on the victims of the Habré regime in general and that there is no distinction made between CRSV survivors and 'other' victims. Still, these efforts should also benefit survivors of CRSV.

8.3. Asset-tracing

The EAC did not focus on tracing or freezing Habré's assets because of a lack of funds and time.³⁶⁹ However, asset recovery has been one of the proposed ways of financing the Trust Fund.³⁷⁰ Habré's house and bank accounts in Senegal have been seized, but it is possible that he has more assets in the form of shares in businesses or accounts held in other people's names (possibly in Chad or France). The seized house and two small bank accounts in Senegal were "only" worth around 1 million USD. However, these assets have not been liquidated, supposedly because of "coordination problems between the various civil parties."³⁷¹ It has been difficult to trace Habré's assets as he has most likely created a network of investments, many of which are held in the name of family members and high-profile friends. Surprisingly little is known about his money and assets.³⁷²

8.4. Other opportunities for reparations

It still remains to be seen whether the recent political changes in Chad represent a setback, a continuation of the status quo or possibly even an opportunity when it comes to the implementation of the court-ordered reparations measures. As mentioned above, two weeks after Déby's death, the ruling junta appointed a transitional government. While the government is largely composed of members of the late president's party, some notable opposition figures were also integrated.³⁷³ The new Minister of Justice, Mahamat Ahmat Alhabo, has publicly promised to investigate the deaths and violent arrests that occurred during recent anti-military protests and,³⁷⁴ according to some, he may turn out to be an ally or at least an independent defender of the

367 Ezechiel Kita Kamdar, 'Société: six ans dans l'attente, les victimes de HH ne se lâchent pas dans leur lutte' (*Tachad*, 23 June 2021) https://www.tachad.com/societe-six-ans-dans-lattente-les-victimes-de-hh-ne-se-lachent-pas-dans-leur-lutte?fbclid=IwAR3on76MVy2_7eRynY96POF7qBbS4qivj9PTHmlNo5gVMEs53bav14KG2 accessed 23 June 2021.

368 Ibid.

369 Celeste Hicks, *The trial of Hissène Habré – How the People of Chad brought a Tyrant to Justice* (Zed Books Ltd. 2018) 100-101.

370 Union Africaine, Statut du Fonds Fiduciaire au profit des victimes des crimes de Hissène Habré, EX.CL/1040(XXXI) 2018 Art. 15(1).

371 Deguène Cissé, 'Habré stays in jail but his support grows' (*Justice Info*, 26 April 2021) https://www.justiceinfo.net/en/76395-habre-stays-in-jail-but-his-support-grows.html?mc_cid=dfcd7d234e&mc_eid=b845d5240d accessed 06 May 2021.

372 Celeste Hicks, *The trial of Hissène Habré – How the People of Chad brought a Tyrant to Justice* (Zed Books Ltd. 2018) 100-101.

373 Africanews, 'Chad's ruling junta appoints transitional government' (*Africanews*, 03 May 2021) <https://www.africanews.com/2021/05/03/chad-s-ruling-junta-appoints-transitional-government/> accessed 08 July 2021.

374 David Baché 'Mahamat Ahmat Alhabo: «Le procureur doit ouvrir une enquête» sur les manifestants tués au Tchad' (*RFI*, 05 May 2021) <https://www.rfi.fr/fr/podcasts/invit%C3%A9-afrique/20210505-mahamat-ahmat-alhabo-le-procureur-doit-ouvrir-une-enqu%C3%AAta-sur-les-manifestants-tu%C3%A9s-au-tchad> accessed 08 July 2021.

rule of law.³⁷⁵ Depending on how the new political climate develops, there may even be an opening to go through the Chadian court system to enforce the reparations order of the national judgment, even though several interviewees were pessimistic with regard to the overall independence and efficacy of the national court system.³⁷⁶

At the same time, many fear that the rule of law in Chad is under threat by what some see as a military power grab: a report written by several CSOs, the Chadian diaspora and independent personalities 100 days after the death of Idriss Déby deplored the lack of progress in the ongoing military transition in Chad and called for the involvement of the UN in this process.³⁷⁷

8.5. Threats to effective reparations for CRSV

Generally, there has been no sign of political will in Chad or the AU to implement reparations. It is doubtful whether either has the capacity or political will to conduct an in-depth asset-tracing exercise or to raise funds for reparations. Some stakeholders believe that the AU mostly supported the EAC because it was a welcome demonstration of the fact that African leaders did not need to be judged in The Hague and supported their arguments against the ICC.³⁷⁸ According to some, political will to implement the reparation decisions has not been demonstrated at the AU level. The AU stopped engaging directly with some of the leading civil society actors who worked intensely on the Habré trial after the judgment was handed down.³⁷⁹ There is hope that this may be changing, given the 2021 mission of the AU to Chad, which some saw as a sign of renewed

momentum, as well as the gathering of the Council of Administration in August 2022 and the new President's October 2022 pledge to fund the Trust. These steps, however, should be accompanied with civil society organisations and survivor consultations and transparent communication.

Another possible threat is the potential for conflict within victims' communities generated by the process of identifying the victims eligible for monetary awards by the Trust Fund. As mentioned above, the EAC case awarded monetary compensation to some 7,000+ civil parties. Yet, the judgment stated the Trust Fund should not limit its mandate to civil parties. In addition, Jacqueline Moudeïna's law firm was continuously and diligently updating their records on the 7,000+ civil parties she represented during the first few years after the EAC judgment.³⁸⁰ However, she has recently not had the funds to continue this work.³⁸¹ Several of the victims have died and/or moved since the judgment was issued. Supporting Moudeïna to continue maintaining, professionalising, and digitalising her database will be crucial to supporting the mandate of the Trust Fund.³⁸² Since the judgment, lawyers have also been approached by other victims, non-civil parties to the EAC proceedings, to determine how to access their reparation entitlements.³⁸³ The lawyers have not had the capacity to gather these victims' personal data or keep proper records of these interactions.³⁸⁴ Providing proper resources for lawyers, NGOs and CSOs to continue supporting the victims and the work of the Trust Fund is thus key to the success of the Trust Fund's mandate.

The Trust Fund must be extremely cautious and transparent in identifying the recipients of monetary awards and in assigning priorities and amounts to victims. Its outreach programme will have to

375 Interview with Clément Abaifouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

376 Interview with Delphine Djiraibé, Public Interest Law Centre Chad (online, 27 May 2021); Interview with Henri Thulliez, Former Staff at Human Rights Watch (online, 19 May 2021).

377 Blaise Dariustone, 'Nous sommes en train de faire du surplace (Sitack Yombatina Beni)' (Deutsche Welle, 28 July 2021) <https://www.dw.com/fr/tchad-transition-cent-jours-bilan-wakit-tama/av-58671623> accessed 28 July 2021.

378 Interview with Reed Brody, Human Rights Watch (online, 04 May 2021).

379 Ibid.

380 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims at the EAC (online, 30 June 2021).

381 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims at the EAC (online, 30 June 2021).

382 After the judgment in Dakar Maître Moudeïna, in order to have an accurate record of their clients, conducted a physical census of her clients as some names were missing in the judgment or some were counted doubly. In addition to the civil parties who are her clients, she keeps a list of additional victims who have come to her offices, saying that they are victims of the Habré regime and want to be considered for reparations. Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims at the EAC (online, 30 June 2021).

383 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims at the EAC (online, 30 June 2021).

384 Interview with Jacqueline Moudeïna, Lead Civil Party Lawyer representing the victims at the EAC (online, 30 June 2021).

be extremely strong and well thought-out. Its procedures will need to put victims at the centre of the process. NGOs and CSOs working to support or complement its work will need to be equally cautious to manage victims' expectations, respect the do-no-harm principle, and ensure that both the staff and the victims they engage with fully understand the process and its limitations.

Another risk connected to the disbursement of lump sum awards promised both by the EAC and the domestic courts is that around 80% of the victims are

illiterate, and some do not own a bank account.³⁸⁵ If lump sums were to be distributed in cash, this would put victims at risk of it being stolen.³⁸⁶ For this reason, it is necessary to prepare, train and accompany survivors in the compensation process.³⁸⁷ One way to overcome this obstacle could be for civil society and other actors to help survivors open bank accounts and assist with basic financial training and advice.³⁸⁸ Other methods could be explored, such as enabling financial transactions through a SIM card in a phone, or providing a personalised ID card to access priority services and financial services.

385 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

386 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

387 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

388 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).



IX. RECOMMENDATIONS

The following recommendations are based on the views of the survivors and the findings of this report and are targeted to the relevant stakeholders identified through the research.

1. Recommendations to the Chadian Government

The Government of Chad is the primary duty bearer for the implementation of all reparation measures and programmes to survivors of all international crimes committed during the Habré regime, including CRSV. The transitional government and any democratically elected government thereafter should, in accordance with the new President's engagement, fully fund the Trust Fund and ensure that the funding is disbursed without delay. While it may potentially be limited by its resources, the government should nonetheless implement, as a priority, measures that respond to the most urgent needs of CRSV survivors.

The Chadian transitional government should:

- Demonstrate its commitment to human rights and the rule of law and immediately fulfil its legal obligations to establish the court-ordered commission which will implement the court-ordered reparations awarded to 7,000 civil parties, including survivors of CRSV;
- Ensure that the commission is gender-sensitive and survivor-centric and awards reparations in a way that takes into account stigma faced by CRSV survivors and the gender dynamics within families that can affect who can access and use money;
- Ensure that the memorialisation measures ordered highlight the different experiences of the various groups of victims, including CRSV survivors;

- Ensure that the commission organises victims' consultations prior to and throughout the implementation process, at least every six months. Other measures to enable survivors to participate effectively in every phase of the process must be developed.

Further, regarding guarantees of non-repetition, the Chadian government should:

- Implement all reforms recommended by the WGDWLP to promote gender equality and eradicate SGBV;
- Ratify and implement the Optional Protocol to the CEDAW;
- Adopt a comprehensive law preventing and combating violence against women;
- Ensure effective implementation of existing legislation on the protection of women's rights and gender equality;
- Establish specialised courts/chambers to rule on matters involving violence against women, ensuring access to medical, psychological, rehabilitation and legal services in response to instances of GBV;
- Strengthen the Ministry of Women, Social Action and National Solidarity and support the efforts of CSOs working to promote and protect women's rights, amongst others;³⁸⁹
- Cooperate fully with the African Union in establishing the Trust Fund in N'Djamena;
- Ensure that legislative reforms are taken into account in the process of drafting the new Constitution and that the prohibition of SGBV and CRSV are included in the Constitution.

389 United Nations Human Rights Council, 'Report of the Working Group on the issue of discrimination against women in law and in practice on its mission to Chad' (8 May 2018) UN Doc A/HRC/38/46/Add.2, para 71-76.

The new Minister of Justice should:

- Implement domestic reforms to improve access to the judicial system and ensure impartiality and efficacy within judicial proceedings. Further areas of focus should include awareness campaigns on sexual violence and a commitment to the prosecute perpetrators of sexual violence;
- Ensure adequate gender representation in the police and judicial institutions.

2. Recommendations to the African Union

The AU Commission tasked with the operationalisation of the Trust Fund for victims should:

- Take all the necessary steps, as described in its February 2021 letter, to make the Trust Fund in N'Djamena fully functional before the end of 2023;
- Staff the Trust Fund with professionals trained on CRSV;
- Ensure that the Rules of Procedure of the Trust Fund are survivor-centric and provide for independence, efficiency, transparency, impartiality, non-discrimination and confidentiality;
- Ensure that the Trust Fund follows best practice and international standards in identifying survivors;
- Ensure that the Trust Funds applies a gender-sensitive, survivor-centric and intersectional methodology when deciding how to award its reparations;
- Ensure in its Rules of Procedures and activities, that the Trust Fund is cognizant of the realities of Chad (lack of bank accounts, difficulties of territorial access, stigma and others) and the different situations of the victims;

- Ensure that the Trust Fund takes into account the strong stigma that may prevent CRSV survivors from reaching out to the Trust Fund to claim reparations. Gender-sensitive outreach programmes must be established to carefully approach CRSV survivors with the assistance of victims' associations and Chadian women's groups;
- Ensure that the Trust Fund is independent and subject exclusively to judicial control. Meeting the highest standards of transparency is essential for the successful completion of the Trust Fund's mandate. This will ensure the Fund enjoys the confidence of the victims, donors and other relevant stakeholders.³⁹⁰

3. Recommendations to the International Community

The international community should:

- Support the AU and the government of Chad in establishing reparation measures with funds or technical advice as may be required and appropriate;
- Support the AU when it calls the international donor conference to discuss the funding of the Trust Fund and to make any contributions dependent on progress and actual implementation of reparations to victims;
- Provide the Trust Fund with technical advice and resources to find and seize any additional assets that Habré might have outside of Chad.

The Office of the High Commissioner for Human Rights should:

- Empower and equip its offices in Chad to be a strong supporter of CRSV victims to obtain reparations;³⁹¹
- Play a stronger role in promoting and providing technical assistance on the implementation of non-repetition measures to prevent SGBV and CRSV.

390 See, REDRESS TRUST and ATPDH, 'Establishing a Trust Fund for Victims in the case of Hissène Habré: options for the way forward' (April 2017) for more detailed recommendations regarding the Trust Fund for Victims.

391 Interview with Flora Touali Epes Dansi, OHCHR Chad (online, 13 July 2021).

4. To all donors, international and national NGOs and CSOs

On inclusivity of reparations and interim relief:

- Ensure inclusivity when involved in reparations and interim relief;
- In particular, ensure inclusion of non-civil parties to the criminal proceedings;
- Do a mapping of all actors involved in reparations and interim relief and jointly design a strategy to involve a broad and diverse range of actors (ethnic, religious, geographic, political diversity) to ensure access to the broadest, largest and most diverse group of CRSV survivors possible;
- Prioritise survivors belonging to groups in situations of extreme vulnerability in providing reparations and interim relief.

On documentation:

- Given the state of victim fatigue in Chad, prioritise advocacy actions around actual implementation of reparations over engaging in further documentation efforts;
- Advocate for and support the establishment of a Truth Commission with the government to set an accurate historical record of Chad's recent history, starting from its independence;³⁹²
- Launch action to create a victim registry for the purpose of the AU Trust Fund's operations, but also as a reparative measure and to preserve information for the historical record and potential memorialisation initiatives;
- Ensure that any documentation initiative does not unduly raise expectations, revictimise or generate further victim fatigue;
- Ensure that documentation efforts are accompanied with and contingent upon strong efforts to implement and disburse reparations;

- Given the stigma surrounding CRSV in Chad, build documentation efforts on existing expertise and relationships and invest more time, resources and energy into building trust with the survivors.

On advocacy:

- Make it a top priority to raise awareness around reparations for CRSV and other international crimes of the Habré regime in the international media and among members of the international community;
- Bring and amplify the survivors' stories and voices to duty-bearers;
- Mobilise funds and continuously support the local actors;
- Support and engage in continuous advocacy activities targeting the AComHPR to make the case against Chad on reparations for victims of the Habré regime a priority;
- Support and engage in continuous advocacy activities targeting the AU to pressure it to make the Trust Fund functional;
- Raise awareness around the lack of implementation of reparations for victims of the Habré regime.³⁹³

On the establishment and maintenance of databases and networks and preparation of victims for reparations:

- Support measures to strengthen a database and network of victims;
- Support initiatives to preserve information on the whereabouts of, and harms suffered by victims, so that the national committee and the Trust Fund may make informed decisions on how to distribute compensation;
- Strengthen the capacity of Chadian victims' associations and NGOs to enable them to reach out to a maximum number of victims, so as to update victims' data and identify CRSV victims and other priority victims. Sensitise these associations and NGOs to the importance of not contributing to conflict among victim groups and individuals over monetary awards;

³⁹² Interview with Olivier Bercault, formerly Human Rights Watch (online, 21 June 2021).

³⁹³ Interview with Reed Brody, Human Rights Watch (online, 04 May 2021).

- Provide financial support to lawyers representing victims and civil parties to enable them to properly represent their clients, update their databases, and represent more clients, including priority clients such as victims of CRSV;
 - Prepare, train and accompany survivors in the compensation process;³⁹⁴
 - Help survivors open bank accounts and assist them with basic financial training and advice.³⁹⁵
 - Provide women with tools to sustain a livelihood (vocational training, distribution of sewing machines, establishing a local product transformation centre to enable them to sell local products);
 - Grant micro-credits to victims of CRSV so they can develop income-generating activities;
 - Create a literacy centre for women victims of CRSV;
- On rehabilitation measures (as interim relief and reparation):
- Support medical and psychological care for survivors in a sustained manner;
 - Support the creation of a centre for victims to interact, be heard and access a variety of rehabilitation measures.³⁹⁶

394 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

395 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 26 May 2021).

396 Interview with Clément Abaïfouta, President of the Association des victimes des crimes du régime de Hissène Habré (AVCRHH) (online, 6 May 2021); Interview with Delphine Djiraïbé, Public Interest Law Centre Chad (online, 27 May 2021).



The Government of Chad is the primary duty bearer for the implementation of all reparation measures and programmes to survivors of international crimes during the Habré regime.

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X. CONCLUSION

This report described and analysed the current situation in Chad in relation to CRSV survivors' needs and expectations regarding reparations, the applicable legal framework, and avenues towards reparations.

The report showcased the forms of violence survivors suffered during the Habré regime. Survivors have provided accounts of forced abortions, rape of underage girls, sexual torture, sexual slavery and instances of death as a result of repeated sexual violence. This violence has left survivors suffering from long-term physical and psychological issues impacting their daily lives and mental well-being which is worsened by the lack of medical support and reparations for victims.

Access to reparations has been challenging for survivors in Chad. Survivors have sought reparations including monetary compensation and collective reparation measures, which have been awarded to some of them by both domestic and hybrid tribunals – albeit not always specifically for CRSV crimes – but never implemented. Furthermore, the lack of

reparation programmes or other non-judicial remedies at the domestic level has led to victim fatigue and mistrust in State institutions and the government.

In the absence of reparation programmes and support for survivors of CRSV, survivors have led initiatives to counter the challenges they face. For example, survivors have tried and are still trying to access compensation through the AComHPR, leading domestic advocacy efforts for reparations through victims' associations and creating networks to support their efforts. Still much more needs to be done to safeguard survivors' rights.

The recommendations from this study reiterate survivors' voices and the need to support their efforts to access reparations. They also include an urgent appeal to the national authorities and the international community to take action to assist, support and sustain survivors' efforts to obtain the implementation of the above recommendations and achieve effective reparation.



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OHCHR Human Rights Treaty Database <https://tbinternet.ohchr.org>

REDRESS www.redress.org

UN Treaty Body database <https://tbinternet.ohchr.org/>



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