



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

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Summary record of the 1939th meeting*

Held at the Palais Wilson, Geneva, on Tuesday, 1 November 2022, at 10 a.m.

Chair: Mr. Heller

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* No summary record was issued for the 1938th meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 19 of the Convention

Second periodic report of Chad (CAT/C/TCD/2; CAT/C/TCD/Q/2)

1. *At the invitation of the Chair, the delegation of Chad joined the meeting.*
2. **The Chair** said that the delegation of Chad had faced travel-related difficulties, making it impossible for most of its members to attend the meeting in person. Therefore, the Permanent Representative of Chad to the United Nations and other international organizations in Geneva would introduce the country's second periodic report (CAT/C/TCD/2) and the Committee members would ask their questions. The second part of the dialogue had been postponed until the Committee's 1943rd meeting, when it was hoped that a full delegation could be present to reply to the issues raised.
3. **Mr. Ahmad** (Chad) said that various constraints had regrettably prevented his country's second periodic report from being submitted in 2013, when due. The report now before the Committee had been prepared with the participation of the relevant government departments, including those of health and higher education, and with support from the Office of the United Nations High Commissioner for Human Rights. The report outlined the various measures taken by the Government in furtherance of its Convention obligations, including the adoption of a definition of torture consistent with international standards in the country's new Criminal Code, the creation of partnerships with the European Commission and the United Nations Development Programme in order to strengthen the judiciary and the implementation of institutional reforms to bring the National Human Rights Commission into conformity with the Paris Principles.
4. Chad was on the front line of counter-terrorism efforts, with armed terrorist groups operating in the Lake Chad region. The Government, mindful of the risks inherent in armed conflict, had set the minimum age for recruitment into the armed forces at 18. Measures to protect the most vulnerable segments of society included the provision of free treatment for tuberculosis and malaria. The United Nations human rights system had the full cooperation of the Government of Chad, which would welcome assistance in ensuring that it had the necessary human and institutional capacity to meet its Convention obligations.
5. **Mr. Touzé** (Country Rapporteur) said that the Committee was gravely concerned about the repression of demonstrations in Chad on 20 October 2022, which had, according to some reports, resulted in the deaths of between 50 and 150 persons, the disappearance of between 150 and 184 persons, the arrest of some 1,370 persons and the deportation of between 600 and 1,100 persons to the Koro Toro high-security prison. As a preliminary matter, before Mr. Buchwald addressed the events in greater detail, he wished to know why demonstrations that had been announced as peaceful had been repressed so severely; he would appreciate a complete account of the events, including a list of the victims.
6. **Mr. Buchwald** (Country Rapporteur) said that the numerous acts of torture and abuse that had been reported over the previous two years could be divided into four periods: the first was the run-up to the elections of April 2021, when more than 100 opposition members and civil society activists had been subjected to arbitrary arrest; the second had begun after the elections, with the killing of the former President and the assumption of power by a transitional military council and had involved the use of an increased level of violence against protesters; the third covered August and September 2022, when protesters objecting to the outcomes of the inclusive and sovereign national dialogue and the manner in which the dialogue had been organized by the transitional military council had been subjected to an excessive use of force; and the fourth involved the events of 20 October 2022 referred to by Mr. Touzé.
7. He wondered whether the delegation could comment generally on those developments. He would appreciate information on the numbers of people who had been detained, killed or injured and the severity of the injuries sustained. He wished to know how many of the people detained were still in detention; where they were being held; whether they had been allowed contact with a lawyer; what the legal basis for their detention was;

what charges, if any, had been brought against them; whether they had appeared before a judge and, if so, how long they had been detained before making such an appearance; whether their families had been informed of their location; whether they could contact their families; and whether they had had the opportunity to be examined by independent medical professionals, including for the purposes of identifying signs of abuse.

8. If it was true that the bodies of people killed in the events of 20 October 2022 had not been returned to their families, he wished to know how many bodies had not yet been returned, why they had not been returned and when they would be. He would like to know what the legal basis had been for the use of lethal force against those individuals and to what extent the “transitional charter”, as opposed to the Constitution and domestic laws such as the Criminal Code, served as the legal basis for detentions and the use of force. It would be helpful to know whether Ordinance No. 46 of 1962, which included a reference to gatherings that were likely to disturb the peace, could serve as the legal basis for the use of lethal force, what criteria were used to determine whether a gathering was likely to disturb the peace and who was responsible for making such a determination.

9. He would appreciate information on any measures taken to conduct a full, impartial and independent investigation into the violence that had occurred in the spring of 2021, including the name of the investigating authority and the status of the investigation. He wished to know when the last visits of the International Committee of the Red Cross or other human rights organizations to the Koro Toro prison had taken place, whether those entities could currently conduct visits unimpeded and what permission, if any, they needed to obtain prior to conducting a visit. He would also like to know whether lawyers could visit their clients freely and whether detainees’ conversations with their lawyers or with representatives of the International Committee of the Red Cross or other human rights organizations were monitored. He would be interested to find out how many people had been or continued to be detained at the Koro Toro prison in connection with the events of 20 October 2022, what steps were being taken to ensure transparency with respect to their detention and what agency was responsible for the administration of the prison.

10. It would be helpful to know what steps the State party had taken to provide compensation and redress to victims of violations of the Convention and to ensure that such violations did not recur. He wished to learn about any training or instructions received by security personnel regarding the use of force against protesters. He wondered whether the delegation could comment on the many reports of men getting out of unmarked cars and shooting into crowds. He wished to know whether those men were public officials and whether such tactics were permissible under domestic law.

11. He wished to know what measures the State party had taken to ensure greater transparency and accountability in, and tighter control over the activities of, the National Security Agency. He wondered whether the delegation could clarify the statements made in the second periodic report regarding the confusion about the Agency’s goals that had been created by certain officials and the managerial restructuring that had been undertaken to address the issue. He wished to know whether the courts exercised any oversight of the Agency and the intelligence services.

12. The Committee would welcome further information on any specific allegations of torture, abuse or incommunicado detention that were being actively investigated and any cases where perpetrators had been convicted and were serving prison sentences. It would also be useful to understand what steps were being taken to ensure that people were able to lodge complaints and that their complaints were made the subject of prompt, impartial and independent investigations. Statistical data on the number of complaints reported, investigations launched and prosecutions made would also be of interest to the Committee, as would further details on any steps taken to ensure that complainants were protected against the risk of reprisals.

13. He wished to receive confirmation from the delegation that the National Security Agency did not run any secret detention facilities and that the International Committee of the Red Cross had continued to enjoy access to all places of deprivation of liberty during the period of political transition. More generally, he invited the delegation to comment on reports that the transitional administration was not committed to safeguarding human rights. It would

be useful to understand whether the administration considered itself to be legally bound by international human rights law and, if not, whether it was prepared to override any provisions of the Convention during the current period of public exigency. The Committee would also be interested to know what, if any, affirmative measures were being taken to ensure that human rights, including the right to peaceful assembly and the right to protest, were respected during the transitional period and to hear whether any investigations had been opened in order to ensure that anyone violating those rights was brought to justice. He wondered whether any specific steps were being taken to ensure that any force used by the police, the military and others during the transitional period was strictly necessary and proportionate, and whether security personnel received specific training on the fundamental need to respect human rights.

14. Given the importance of the availability of statistical data in enabling the Committee to assess the implementation of the Convention, he would appreciate further information on the State party's efforts to develop a reliable database of statistics with the support of the European Union. In particular, he wished to know what kind of statistics the State party intended to collect and how it planned to disaggregate the data collected. It would also be useful to understand what goals had been set for the project, what progress had been made so far and whether any other measures were being taken by the State party to improve its ability to collect and analyse disaggregated statistics.

15. He wished to know what, if any, specific steps had been taken to implement the recommendation received from the Human Rights Council that the State party should take action to protect journalists and human rights defenders and to investigate, prosecute and sentence those who threatened, harassed or intimidated them. The Committee would also like to know whether Chad would be prepared to ratify the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Were there any particular concerns that were currently preventing the State party from proceeding with the ratification of those instruments?

16. **Mr. Touzé** said that the definition of torture set out in the Criminal Code only extended to acts committed by, at the instigation of or with the consent or acquiescence of a public official or traditional authority acting in an official capacity. However, to his mind, there were many other categories of people who could perpetrate acts of torture, including officials working for the financial authorities, environmental protection officers and customs officers. He wished to understand how the State party interpreted the term "traditional authority" in that context, since that wording meant that the definition was not in line with article 1 of the Convention.

17. There appeared to have been several instances where judges in Chad had been unable to classify criminal acts as torture offences because they had taken place before the adoption of the new Criminal Code in 2017. It would be useful to know whether any such cases remained open and whether it would still be possible to proceed to prosecution and sentencing on the basis of the current legislation. He also invited the delegation to explain why certain police officers had escaped conviction despite having committed offences that were punishable under the Criminal Code. Such incidents fostered a disturbing culture of impunity.

18. In general, the Committee would welcome more tangible proof that the State party's legislative reforms were applied in practice and that all investigations, prosecutions and sentencing were in compliance with the latest amendments to the Criminal Code. Unfortunately, there was a complete lack of statistical data in the State party's report, despite the fact that the Directorate for Judicial Statistics had been set up under the Ministry of Justice and Human Rights. He failed to understand why the State party was unable to provide the Committee with at least some of the data that it had requested, particularly since a law on statistics had been passed in 2016.

19. All too often, customary law took precedence over positive law in Chad. That state of affairs made it difficult to adopt legislation and policies promoting human rights. Furthermore, the practice of paying blood money to the next of kin of a person who had been killed or seriously injured was commonplace, even though such arrangements were against the law. He wished to know whether paying blood money could lead to the termination of

court proceedings against individuals accused of committing acts prohibited under the Convention.

20. The Committee would welcome further information on the circumstances under which an individual's stay in police custody could be extended beyond 48 hours. In particular, it would be helpful to understand who was authorized to take that decision and whether a judge was always consulted to ensure that the proposed extension of custody was in compliance with the law. He also wished to know what steps the State party had taken to ensure that suspects were always informed of their right to a lawyer and whether police officers were legally authorized to start questioning without the accused's lawyer being present. It would be useful to understand whether any action was being taken to tackle the shortage of lawyers in certain regions of the country and whether the State offered accused persons assistance with their legal fees.

21. The Committee would welcome further statistical information on the prison population in Chad. It would also be interesting to hear more about the visits that were carried out at places of deprivation of liberty by independent organizations, including the International Committee of the Red Cross and other human rights organizations. He invited the delegation to confirm that such visits did indeed take place, since no information or reports appeared to have been made publicly available and certain non-governmental organizations claimed to have been refused access when arriving at detention sites.

22. The Committee would welcome an explanation as to what measures were being taken to address the serious issue of prison overcrowding in the State party. The prison population of Chad had doubled between 2010 and 2017, and the entire penitentiary system was currently running well beyond capacity. He invited the delegation to comment on the statistics obtained from the Department of Penitentiaries indicating that less than half of the prison population had actually been convicted of a crime. The Committee would also welcome a response from the delegation to its request relating to the use of secret detention at the Koro Toro penal colony, which had been included in its list of issues prior to reporting. Uncertainty and secrecy surrounded that facility, and no information concerning visits to the facility had yet been made public.

23. It would be useful to understand whether the State party would consider taking measures to cut down on the use of pretrial detention in order to tackle prison overcrowding. Levels of pretrial detention in Chad were particularly high because so many offences were referred for investigation, resulting in delays to proceedings. Investigations often ran into difficulties caused by the loss of files, the incompetence of certain judges and judges' lack of job security, thereby exacerbating the problem of prison overcrowding.

24. He would be interested to hear the delegation's view on how to ensure that the time limits on pretrial detention set out in the Code of Criminal Procedure were respected, how to reduce prison overcrowding and how to prevent situations in which the duration of pretrial detention exceeded the potential sentence for the alleged offence. He would appreciate more detailed information on any health issues resulting from overcrowding and outdated facilities, including issues encountered with the implementation of measures to combat the coronavirus disease (COVID-19) pandemic.

25. He wished to hear the delegation's comments on the impact of exceptional counter-terrorism measures on the fundamental legal safeguards applicable to persons deprived of their liberty. He would appreciate information on implementation of the counter-terrorism law of 2015, particularly the provisions allowing for longer periods of police custody, apparently without judicial oversight, and pretrial detention for suspects in terrorism cases. Specifically, he wished to know how many adults and juveniles had been held in police custody under the provisions, and for how long, and how many had been placed in pretrial detention, for how long and on what grounds.

26. He wondered whether there was any possibility that the death penalty would be reinstated in the future, given that the moratorium had been temporarily ended following terrorist attacks and that the abolition of capital punishment was not enshrined in the Constitution. Lastly, he would like to have information on the effect of legislative amendments intended to prevent and punish female genital mutilation, including any impact on the number of prosecutions and convictions.

27. **Mr. Buchwald** said that he would be interested to hear about the financial resources allocated to the National Human Rights Commission, including the amount of its annual budget in recent years, the process for determining the budget and the proportion of the budget funded by the Government. He also wished to know whether conditions were placed on the use of government funding, how much funding the Commission had requested each year compared to the actual amount provided and whether any mechanisms were in place to ensure that the Commission itself decided how to prioritize and allocate the funding it received.

28. He would like to hear the delegation's comments on the validity of concerns raised about the selection process for members of the Commission carried out in 2022, under which members were appointed directly pursuant to a presidential decree, and any action taken to address such concerns. He would appreciate clarification on the status of the decree and any prospects for its withdrawal. It would be helpful to know how the members appointed to represent particular sectors were selected, who made the final decision in the event of disagreement and whether representation of the health sector had been considered.

29. He wished to know whether the Commission made decisions on the adoption of opinions or reports by consensus, by voting or through another procedure. He wondered whether the Commission was organizationally independent or part of the Ministry of Justice and Human Rights or another government body. He wished to hear about the measures in place to ensure that victims of torture or ill-treatment, including persons deprived of their liberty, could communicate confidentially with the Commission without fear of reprisals.

30. He would like to know whether the Commission was subject to any restrictions on the conduct of unannounced visits to places of detention, including those administered by the military, other security forces or the National Security Agency. He also wished to know whether the visiting Commission members could speak with anyone without restriction and whether their communications were monitored, whether the Commission was free to take photographs during visits, whether it had adequate resources and staffing for the conduct of visits and whether its visits were subject to approval. If no restrictions on the Commission's conduct of visits applied, he wished to hear of any difficulties encountered in practice. He wondered whether the General Directorate of Prison Administration applied specific rules in deciding whether to grant authorization for non-governmental organizations to conduct visits to places of detention.

31. It would be useful to receive a list of the recommendations or reports submitted to the Government by the Commission since its inception in 2018. He would like to have information on the number of rejected recommendations, the implementation status of accepted recommendations and the number of recommendations relating specifically to torture or ill-treatment. He wished to know whether government bodies were required to consider the Commission's recommendations using a formal process and whether any mechanism was in place to track the receipt of recommendations by the relevant bodies and record the responses. He wondered what had been done to ensure the widespread dissemination of the Commission's publicly available reports.

32. He would be interested to hear about any efforts to ensure that the Commission could participate independently in the process of reporting to the Committee in the future. He wished to have information on the reasons for the Commission's withdrawal from the inclusive and sovereign national dialogue and any efforts made to address its concerns and ensure its participation in the process. He would appreciate an explanation of the Commission's role during the transitional period, formally and in practice, and of any commitment made by the transitional military council to take into account the views of the Commission in the transition process.

33. He wished to know whether the Ministry of Territorial Administration and Public Security was legally required to apply specific criteria when deciding whether to authorize civil society associations and, if so, which criteria were applied. He also wondered whether decisions to rescind authorization were subject to a given procedure and set of criteria.

34. He would appreciate further information on the implementation of the judgment of the Extraordinary African Chambers against Hissène Habré, including the status of the trust fund established by the African Union for the victims of Hissène Habré's crimes. Had Chad

made, or did it intend to make, a voluntary contribution to the fund? He would like to know whether steps had been taken to provide compensation to victims and create a memorial, as ordered by a national court in a case against former agents of the Habré regime. Specifically, he wondered whether a source of government funding had been identified, how much funding had been or would be made available, whether a mechanism to determine awards had been established and whether the members of the body that would oversee the fund had been appointed.

35. He would like to understand how the measures listed in paragraph 53 of the State party's periodic report, such as the adoption of the National Strategy for Juvenile Justice, would prevent sexual violence against women and children in prison and other places of detention. He wished to emphasize the importance of providing disaggregated statistics on such violence.

36. He would like to know which specific criminal law provisions prohibited incest, marital rape and sexual harassment. He would like to hear about any measures taken to prevent domestic violence and forced marriage in practice, including public awareness or education campaigns and training for law enforcement, judicial and other officials. He wondered whether steps had been taken to facilitate the reporting of domestic violence and protect those reporting such violence from reprisals. He wished to know what the State party had done to provide appropriate social assistance services and shelter facilities to victims of domestic violence.

37. He would appreciate clarification as to how the Criminal Code prohibited amicable settlements and made it impossible to invoke customary laws or practices as justification for violating the absolute prohibition of torture. He wished to know whether the provision under which homicide and assault causing bodily harm were excusable if committed against a spouse caught in the act of adultery was still in effect and whether there were any plans to repeal it. He would like to hear about provisions of the new Family Code or other legislation relating to violence against women, the marriage of young girls, access to medical abortions and female genital mutilation.

38. It would be helpful to have additional information about steps taken to address the sale of children to the military services and to hear the delegation's assessment of the extent to which the phenomenon remained a problem, including more information on the presidential directive on respect for the minimum age of recruitment into the Chadian national military. He would appreciate an update on action taken to implement the recommendation of the Human Rights Committee to ensure that all perpetrators of trafficking in persons were brought to justice and that victims were afforded redress (CCPR/C/TCD/CO/2).

39. He would like to hear about any awareness-raising or educational initiatives to combat female genital mutilation and their impact. He wished to know whether any legislative provisions had been adopted specifically targeting sexual violence in and around refugee camps and what other practical measures had been taken to address the issue. He wished to receive information on measures to provide redress for victims of sexual violence, prevent sexual violence and establish structures to provide victims with health care and psychological and financial support.

40. **Ms. Racu** asked how the State party coped with fluctuations and shortages in prison staff, including medical staff, and, since those shortages were so substantial, how it ensured prison security, compliance with the detention regime and application of disciplinary sanctions. Were there any relevant statistics available in that connection? She would also be interested to know whether the national gendarmerie was still involved in maintaining prison security.

41. **Mr. Liu** said that, in light of accounts that female victims were reluctant to report gender-based violence due to the lack of female police officers, he wondered what the current situation was with regard to women's representation among police officers, judges, prosecutors and prison staff and whether any measures were in place to improve it. He also wondered whether typical torture cases were used for the training of public officials and awareness-raising purposes. He would be interested to know whether the unprecedented

flooding in August 2022 had affected the living conditions of any detainees and whether any measures were in place in places of detention to respond to such natural disasters.

42. Noting that many systems of law and legal practices, including customary law and the payment of blood money, coexisted in the State party, he said the Government had the ultimate responsibility for ensuring that justice was done: the rule of law did not only entail arresting suspects and prosecuting criminals, but also supporting victims, and if more resources were allocated to supporting victims, fewer people would resort to customary laws.

43. Finally, given the serious overcrowding in prisons, the State party should consider introducing some technical measures, such as the use of electronic monitoring, to reduce the number of people in detention.

44. **Mr. Tuzmukhamedov** said that he wondered how the previous inconsistency between counter-terrorism law and the Criminal Code had been resolved in light of the effective prohibition of capital punishment in 2020. He wondered whether it could be said that a death row existed in Chad, since, following the reinstatement of the death penalty in 2015, some death sentences had been handed down and executed, whereas others had not been executed. He wished to know whether those sentences that had not been executed had been commuted or replaced, as the extended presence of a person on death row amounted to cruel and inhuman treatment.

45. Commending the State party's major contribution of uniformed personnel to the peacekeeping operations of the United Nations, he wondered how sensitized such personnel were to human rights issues, since they effectively represented both the United Nations and the State party.

46. **Mr. Ahmad** (Chad) said that he would make some preliminary comments and further details would be provided when the rest of his delegation arrived in Geneva.

47. Many questions had been raised regarding the events of 20 October 2022 and their aftermath. The report by the Office of the United Nations High Commissioner for Human Rights had mentioned both police violence and violence by protesters, but no one had mentioned the latter at the current meeting. In the interests of justice and transparency, he would have preferred a more balanced reference to the report and its accompanying press release.

48. It was necessary to be sceptical of social media reports. While Koro Toro was a notorious high-security prison, it was not a "penal colony" (*bagne*), as suggested by Mr. Touzé. The latter had also referred to the transfer of prisoners to that prison as their "deportation" (*déportation*), a term with certain connotations; but it was not possible to deport someone within their own country.

49. The announcements of the outcome of the inclusive and sovereign national dialogue, as referred to by Mr. Buchwald, had not, in fact, been made by the transitional military council; they were the outcome of the national dialogue itself. Information on the number of people who had died or been detained during the events of 20 October 2022 would be provided when the rest of the delegation arrived.

50. Although the country was in a transitional period, the Transitional Government remained committed to upholding all its human rights commitments. In that connection, the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was under review, and no circumstances preventing their ratification were envisaged.

51. He wished to explicitly clarify that the practice of paying blood money had never sought to nullify or contravene criminal proceedings.

52. The questions posed regarding prison overcrowding, time limits for pretrial detention and shortages of prison staff would be answered when the rest of the delegation arrived. He wished to point out that a direct link could often be observed between growth in the prison population and events in a specific year. Efforts had been made to improve the weak staff-to-prisoner ratio with the establishment in N'Djamena of the first judicial training college since independence.

53. Chad had contributed approximately 1 billion CFA francs to the trust fund set up by the African Union to compensate the victims of the Habré regime. Once contributions had been received from other partners and the African Union had made the fund operational, it would be possible to compensate victims; however, since the events in question had taken place many years ago, there was concern that victims would die before they received compensation.

54. Although the death penalty had been briefly reinstated in light of the unprecedented 2015 terrorist attacks, it was prohibited in Chad and there was no possibility of restoring it. Moreover, the concept of death row did not exist in Chad: before the abolition of the death penalty, those convicted were executed in a timely manner, and, following abolition, there was no one awaiting execution.

55. Mr. Touzé had highlighted the difficulties faced by those visiting prisons who had been granted authorization by the judicial authority but found that they were not allowed to enter once they arrived at the prison. Clearly an effort must be made to resolve that administrative hurdle and to ensure that such judicial decisions were respected.

56. There was no doubt as to the independence of the National Human Rights Commission, as evidenced by the latest documents produced by it concerning the events of 20 October 2022. Indeed, it was in the interest of the Government to ensure the Commission's independence. He wished to clarify that the Commission had not withdrawn from the inclusive and sovereign national dialogue, as stated by Mr. Buchwald; in fact, the president of the Commission had left in protest towards the end of the dialogue because he had not been given the floor. Nonetheless, that did not constitute the withdrawal of the National Human Rights Commission from the dialogue.

The meeting rose at 12.40 p.m.