



## IN THE NAME OF SECURITY?

ARRESTS, DETENTIONS AND RESTRICTIONS ON FREEDOM OF EXPRESSION IN CHAD

AMNESTY  
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*Cover photo:* A selection of Chadian publications related to arrests, detentions and attacks on freedom of expression.  
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# I. INTRODUCTION

For many years, successive Chadian governments have used arbitrary arrests and detention without charge or trial to silence government critics including suspected or real political opponents, journalists, human rights defenders, trade-unionists and students. Scores of people were arrested solely for expressing their opinion; others have been victims of arbitrary arrest and illegal detention with no apparent reason. Some provisions of the Chadian criminal code have repeatedly been used as the legal basis to charge those who had peacefully exercised their freedom of expression. Charges such as “inciting racial hatred”, “defamation”, “endangering national security” and “provocation directly linked to an unarmed demonstration” have been routinely used by the police and the judiciary in an effort to justify arrests and detention.

Members of the security services and the police were responsible for most of the arrests and detention that have taken place in Chad<sup>1</sup>. Security reasons were often referred to by the Chadian authorities to justify the various waves of arrests and detention that have regularly taken place in the country. Most of those arrested have been refused visits by family members, doctors or lawyers especially during the first days following their arrest. This situation increases the vulnerability of those held because detainees often rely on their family members for their basic needs such as food or medicine. Some have died during their detention, for example, nine men died of asphyxiation while detained in the cells of the Chadian National Gendarmerie in the town of Léré in September 2011<sup>2</sup>. Amnesty International is not aware of any official investigation opened in this and other cases of death in custody despite several requests made to the Chadian authorities by family members and human rights organizations.

In the cases investigated by Amnesty International, the majority of people arrested were held for several weeks, others for years, before being charged or released without any charge. Some were held incommunicado or in secret detention for months while others were victims of enforced disappearance during their detention and the authorities have repeatedly refused to disclose what happened to them.

In many other cases, arrests and detention fit a pattern of retaliation against residents of areas where armed groups were fighting government forces. Massive arrests and detention have taken place before, during and in the aftermath of offensives by opposition armed groups or “attempted coups”<sup>3</sup>. Those arrested were often accused by the government of complicity with the attackers or the conspirators because of their ethnic or regional origin or of their criticism towards government policies and practices. This was the case for instance after an attack on N’Djamena by a coalition of opposition armed groups in April 2006 during which scores of people were arrested, detained and some were victims of enforced disappearance<sup>4</sup>. Similarly, following fighting in the Dar Tama region, north eastern Chad, in November 2007 and after the February 2008 attack on N’Djamena, hundreds of people were killed, others arrested and some were victims of enforced disappearance including opposition leader Ibni Oumar Mahamat Saleh<sup>5</sup>.

More recently, in the aftermath of an alleged coup attempt that was reported to have taken place in N'Djamena on 1 May 2013, several people including members of parliament (MP) and journalists were arbitrarily arrested and unlawfully detained. Some of those arrested during this period have been released pending trial after spending several weeks in detention while others including MP Mahamat Saleh Makki remained in detention without trial in September 2013.

Most of those arrested are detained in police cells or in security services detention centres where conditions are even worse than in prisons. In a report published in September 2012<sup>6</sup>, Amnesty International described how the conditions of detention were so deplorable in Chadian prisons that they amounted to cruel, inhuman and degrading treatment or punishment. The report highlighted other serious violations of human rights that were taking place in the country's prisons with severely overcrowded cells, lack of adequate food and drinking water, absence of medical facilities and health care. The report called on the Chadian government to reform the country's prison system but more than a year after its publication, prisons conditions remain appalling in Chad including in Am Sinene prison in N'Djamena where some of those arrested in May 2013 were detained.

## II. ABOUT THIS REPORT AND METHODOLOGY

This report highlights longstanding and widespread use of arbitrary arrest and detention by the Chadian authorities. It also denounces restrictions on freedom of expression and the Chadian authorities' use of the judiciary to harass or intimidate perceived or real political opponents or any dissenting voice. The cases mentioned in this report -some of them emblematic- provide an overview of the patterns and highlight the common use of arbitrary arrests and unlawful detentions in Chad.

This report is primarily based on findings of Amnesty International's research mission conducted in Chad in June 2013 and subsequent information from meetings and communications with a range of sources including the Chadian authorities and victims' lawyers. During their June stay in Chad, Amnesty international delegates interviewed a range of people including past and recent victims of arbitrary arrests and illegal detentions; some of them were arrested and detained solely for exercising their freedom of expression. All the interviewees were informed of the purpose of the interviews and the use that Amnesty International intended to make of the information gathered. The locations for interviews were chosen after discussing with the individuals to be interviewed, taking into consideration security, confidentiality and privacy concerns. Some victims gave permission to Amnesty International to use their photographs and testimonies in this report and in subsequent publications of the organization.

The report also refers to information gathered from previous Amnesty International research missions to and on Chad including during the presidency of Hissène Habré from 1982 to 1990. It also contains information gathered from a mission conducted in Dakar, Senegal, in March 2013 during which delegates met a range of people including Abderrhamane Gueye, a Senegalese national who was illegally held in secret in N'Djamena for six months in 1987. Information obtained through interviews conducted in both Chad and Senegal was verified and cross-checked with other sources. All the information contained in this report was reviewed and analysed in accordance with relevant provisions of international human rights law and standards as well as with the Constitution and the laws of Chad.

For the victims who could not be reached by the delegates for various reasons, including refusal by prison guards to allow access to them, close family members, lawyers and eye witnesses were interviewed instead. This was the case for two journalists and a writer who were still held at the Am Sinene prison situated in the outskirts of N'Djamena when Amnesty International delegates visited the country in June 2013. The delegates were also not able to meet the two members of the Chadian parliament who were still held at the *Renseignements Généraux*<sup>7</sup> in June 2013, as they were informed by lawyers, family members and the authorities that access to individuals detained there was denied.

Amnesty International delegates had the opportunity to discuss their primary findings and concerns with the Chadian authorities including the Minister of Justice, the Minister of Human Rights and the Director General of prisons and correctional services. Amnesty

International regrets that its delegates were not allowed access to Am Sinene prison despite authorization provided by the Director General of the prison and correctional services and despite having been allowed to visit on previous research visits.<sup>8</sup>

The delegates also discussed concerns raised in this report, in particular those related to the arrest and detention of Chadian members of parliament (MPs) with members of the Bureau<sup>9</sup> of the Chadian National Assembly, including the second Vice-President and the Secretary-General of the Chadian National Assembly. The Chadian National Assembly representatives expressed their view that these arrests and detention were illegal and conducted with no respect for the legal procedures and immunity of the members of the parliament.

The delegates also met with members of the diplomatic community accredited in N'Djamena and representatives of United Nations agencies. They also discussed several issues related to the arrests and detention as well as freedom of expression in Chad with staff of international and local humanitarian and human rights organizations. The delegates also met with representatives of various journalists' associations as well as with trade union leaders.

Amnesty International continued to engage with the Chadian authorities during the drafting of this report. For instance, on 10 July 2013, the organization sent a letter<sup>10</sup> to the Minister of Justice with copies to the Prime Minister, the Minister of Human Rights and the Minister in charge of the National Gendarmerie requesting updated information on various cases, including the situation of individuals arrested in N'Djamena in May 2013 and that of people who were victims of enforced disappearance following their arrest in April 2006. In his reply to Amnesty International's concerns, the Director General of prisons and correctional services, acting on behalf of the Minister of Justice, updated the organization on the cases of those arrested in May 2013 but did not address other issues raised by Amnesty International, such as the fate and whereabouts of individual victims of enforced disappearance since April 2006.

## III. LEGAL FRAMEWORK

The right to freedom of expression, as well as the right not to be subjected to enforced disappearance, secret, incommunicado or otherwise arbitrary or unlawful detention, are guaranteed under international human rights law, including in several binding international and regional treaties to which Chad is a State Party. These treaties include the International Covenant on Civil and Political Rights (ICCPR)<sup>11</sup> and the African Charter on Human and Peoples' Rights (ACHPR)<sup>12</sup>. Chad is also a signatory to the International Convention for the Protection of all Persons from Enforced Disappearance<sup>13</sup>.

The Chadian Constitution recognizes the primacy of international law over Chadian law and international and regional treaties ratified by Chad are binding to all state agents including police officers and members of the Chadian security services. The Chadian Constitution and laws also protect freedom of expression and prohibit arbitrary arrests and illegal detentions. In its preamble, the Constitution of Chad reaffirms its adherence to the principles of the Universal Declaration of Human Rights (UDHR) of 1948<sup>14</sup>.

### RELEVANT PROVISIONS RELATED TO THE RIGHT TO FREEDOM OF EXPRESSION

The right to freedom of expression explicitly includes the right to "seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice". Any restrictions on the right to freedom of expression must be provided by law, for one of the aims listed in article 19(3) of the ICCPR and must be shown to meet the requirements of necessity and proportionality<sup>15</sup>. Any law restricting the right to freedom of expression must be "formulated with sufficient precision to enable an individual to regulate his or her conduct accordingly"<sup>16</sup>. Any restriction on expression that the government seeks to justify on grounds of national security must have the genuine purpose and primary impact of protecting a legitimate national security interest<sup>17</sup>.

Individuals must enjoy their right to freedom of expression and must not be subject to harassment or intimidation in the exercise of their right.

#### ICCPR, article 19

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice. [...]

#### ACHPR, article 9

1. Every individual shall have the right to receive information.

2. Every individual shall have the right to express and disseminate his opinions within the law.

**UDHR, article 19**

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

**Constitution of Chad, article 27**

The freedoms of opinion and of expression, communication, conscience, religion, the press, association, meeting, circulation, demonstration, and parade are guaranteed to all. [...]

**ICCPR, article 19 (3)**

The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (ordre public), or of public health or morals.

**ACHPR, article 27**

[...]

2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

**RELEVANT PROVISIONS RELATED TO ARBITRARY ARRESTS AND UNLAWFUL DETENTIONS**

Under international law, arrests and detention must be conducted in accordance with the procedures established by law and all arrested persons have the right to be informed promptly of the charges against them. They have the right to be brought before a judge or other judicial officer to be tried within a reasonable time and in fair proceedings. They also have the right to challenge the lawfulness of their detention.

Article 9 of the ICCPR prohibits arbitrary or unlawful restrictions on liberty. Arrests and detention for the lawful exercise of the right to freedom of expression -or certain other rights- are arbitrary. The same is true of arrests or detentions that lack a clear basis in law, or those

based on trials characterized by sufficiently serious violations of fair trial rights<sup>18</sup>.

Anyone deprived of his liberty has the right to immediately communicate with counsel. Denial of the right to communicate with the outside world, including counsel, family or other third parties or medical professionals, may amount to incommunicado detention, which may violate the right to liberty and also the right not to be subjected to torture or other ill-treatment<sup>19</sup>. Secret detention is also prohibited. Detainees should be held only in officially recognized places<sup>20</sup>. It is when individuals are placed in secret or incommunicado detention that violations such as torture or ill-treatment are most likely to occur.

In addition to Chad's international legal obligations and its Constitution that reaffirms the country's adherence to the UDHR in its preamble; specific laws such as the penal code and the code of penal procedure protect individuals and groups against arbitrary or unlawful arrests and detention. Various provisions of the Chadian code of penal procedure explain the conditions and procedure to be followed by law enforcement officers and judicial authorities before proceeding to the arrest or detention of any person.

#### **ICCPR, article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.
2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.
3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.
4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.
5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

#### **ACHPR, article 6**

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

**UDHR, article 9**

No one shall be subjected to arbitrary arrest, detention or exile.

**Constitution of Chad, article 21**

Arbitrary arrests and illegal detentions are prohibited.

**Chadian Code of Penal Procedure, article 274**

Preventive detention is a measure designed to ensure appearance of an accused person before the courts and to prevent any activity of a nature to interfere with the establishment of the truth.

**Chadian Code of Penal Procedure, article 275**

Preventive detention is applicable only to persons being prosecuted for acts designated as crimes or as offenses carrying a penalty of imprisonment.

**Enforced disappearance**

An enforced disappearance occurs when a person is subject to:

"arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law"<sup>21</sup>.

Enforced disappearances violate numerous human rights enshrined in the ICCPR and other binding treaties and are prohibited at all times under customary international law, binding on all states. Enforced disappearances are crimes under international law, subject to universal jurisdiction, and may, in certain circumstances, amount to crimes against humanity, including under the Rome Statute of the International Criminal Court<sup>22</sup>. It is important that Chad ratifies the Convention for the Protection of All Persons from Enforced Disappearance as soon as possible in order to increase protection for individuals against enforced disappearances. It is equally important that Chad accepts the competence of the Committee of the International Convention for the Protection of All Persons from Enforced Disappearance to receive individual cases and inter-State complaints<sup>23</sup>.

## IV. A LONGSTANDING PATTERN

Arbitrary or unlawful arrests and detention have been too common in Chad as were repeated violations of the freedom of expression. There is a widespread, consistent and longstanding pattern of arrests and detention of people without charge. The situation, already of great concern during the former President Hissène Habré's era, has continued under the rule of President Idriss Déby Itno<sup>24</sup>.

In the majority of the cases documented by Amnesty International, those arrested or detained were not promptly informed of the accusations made against them nor did they have an opportunity to challenge the legality of their detention. Scores of arrests and detention were conducted in violation of Chad's international obligations as well as the country's Constitution and laws including various provisions of its code of penal procedure related to the right to a fair trial. Scores of people were arrested and detained solely for exercising their freedom of expression.

### A. ARBITRARY ARRESTS AND UNLAWFUL DETENTIONS DURING THE HABRE ERA

Amnesty International has conducted investigations and published several reports on human rights violations and abuses committed in Chad between 1982 and 1990. The organization found for instance that, during this period, thousands of people suspected of not supporting the government were arrested and held in secret by the Directorate of Documentation and Security (Direction de la Documentation et de la Sécurité, DDS)<sup>25</sup>. Research conducted by Amnesty International and other entities in Chad during his reign and after Hissène Habré's downfall in 1990 demonstrated that thousands of individuals who were held incommunicado, in secret or subject to enforced disappearance had died in detention as victims of extrajudicial executions, torture, or ill-treatment, including inhuman conditions of detention. Some of the released prisoners told Amnesty International that most of the hundreds of the secret killings in Chad between 1987 and 1989 took place in the presidential palace compound in N'Djamena<sup>26</sup>. Journalists, members of the opposition in exile and ordinary citizens were among the victims<sup>27</sup> targeted for exercising their freedom of expression. Other people were targeted because of their regional or ethnic origins<sup>28</sup>.

A National Commission of Inquiry was set up in 1990 to investigate human rights violations committed under Habré's rule. The violations investigated included killings, enforced disappearances, torture, ill-treatment, cases of sequestration and unlawful detention. The Commission also investigated issues related to drug trafficking and the embezzlement of public funds. In its report published in May 1992, the Commission mentioned 3,806 names of people, including 26 foreign nationals, who had died in detention or been victims of extrajudicial executions between 1982-1990. The report also estimated that the total of those who died in the hands of Habré's security services could reach 40,000. The Commission considered that the work it carried out represented less than 10 per cent of the violations and crimes committed during Hissène Habré's presidency.

During a research and advocacy mission to Senegal in March 2013, Amnesty International

delegates met with Abderahmane Gueye, a Senegalese national who was arrested in N'Djamena in March 1987 and spent six months in detention before he was released without charge following intervention by the then Senegalese authorities. He told Amnesty International delegates how he was arrested by members of Hissène Habré's security services on suspicion of being in contact with the opponents of the Habré's regime and held in dire conditions in various Chadian detention facilities.

At the time of his overthrow in 1990, Hissène Habré was granted refuge in Senegal and the Senegalese authorities blocked any attempt to hold him accountable. In 2000, Hissène Habré was indicted by a Senegalese judge, on charges of torture and crimes against humanity, following a complaint filed by victims in Senegal. However, at this point, despite extensive campaigning by Amnesty International and other organizations and individuals, the Senegalese authorities blocked any process that could have led to his trial<sup>29</sup>.

On 2 July 2013, Hissène Habré was formally charged with crimes against humanity, war crimes and torture, by the Extraordinary African Chambers, based Dakar<sup>30</sup>. He was remanded in custody awaiting trial. His indictment followed more than 20 years of legal battle by victims of his repression together with Chadian and international human rights organizations<sup>31</sup>. The same month, Mbacke Fall, the General Prosecutor of the Extraordinary African Chambers indicted a number of officials who served under Hissène Habré including Saleh Younous, former head of the DDS, Abakar Torbo, Guihini Korei, Zakaria Berdei and Mahamat Djibrine. Previously in May 2013, arrest warrants had been sent out by the N'Djamena General Prosecutor against a number of suspected Habré's accomplices including Bandoum Bandjim, Bichara Idriss Haggag, Abakar Torbo and Mahamat Nouri.

In August 2013, investigating magistrates of the Extraordinary African Chambers conducted a two-week investigation mission to Chad. During the mission they interviewed victims, witnesses and visited sites where some of the victims of Hissène Habré were allegedly buried.

## B. WAVES OF ARRESTS AND DETENTIONS UNDER PRESIDENT DEBY'S RULE

### 1. CONTEXT

Soon after seizing power in December 1990 in a military coup, President Idriss Déby Itno promised change and an end to the human rights violations and other abuses that were common during the Habré regime. For instance, he accepted to set up Commission of Inquiry which investigated and reported on human rights violations committed during the reign of Hissène Habré. However, serious human rights violations soon resumed in Chad, including mass arrests, unlawful detention, extrajudicial killings, enforced disappearances, torture and restrictions to freedom of expression. Most of arbitrary arrests and unlawful detention taking place are conducted by the police and by members of the National Security Agency (Agence Nationale de Sécurité, ANS). The human rights situation has continued to deteriorate, and the perpetrators -even when known- continue to enjoy almost total impunity.

Amnesty International's research and analysis of the situation in Chad during this period suggest that most cases of arbitrary or unlawful arrests and detention have taken place at a time of political crisis or when information or rumours were circulating related to an

imminent attack by armed opposition groups<sup>32</sup>. People suspected of being against the government or those who criticised the actions of the authorities have been severely punished by being arrested and detained in harsh conditions. Some of the arrested died in custody while others were victims of enforced disappearance.

Although arrests were common during this period, mass arrests began in April 2006, in the aftermath of an attack by a coalition of opposition armed groups on N'Djamena. A second wave occurred in November 2007 during which people from the Tama ethnic group -some suspected of being members of the United Front for Democratic Change (Front Uni pour le Changement Démocratique, FUC), a coalition of opposition armed groups- were arrested and detained in secret for years. A third wave took place at the beginning of February 2008 in the aftermath of an attack by another coalition of opposition armed groups on N'Djamena. A fourth vast wave of arrests and detention occurred in May 2013 following reports that an alleged coup had been prevented by Chadian security officers on 1 May.

Some of the arrests and detention conducted during these periods of insecurity led to enforced disappearances of dozens of people. In a few cases, individuals who had been held in secret for long periods of time and were feared dead were released without explanation by the authorities. This was the case of seven members of the Tama ethnic group who were released three years after their arrest in November 2007. This was also the case for Lol Mahamat Choua, former Chadian interim President, who was released on 28 February 2008 following his arrest on 3 February 2008 at his home in N'Djamena and following his detention at a secret location by members of the Chadian security forces<sup>33</sup>. But the whereabouts of most of those arrested and detained in secret were not often communicated to their families, for some more than seven years after their arrest. This is for example the case for a group of army officers and civilians who were arrested in N'Djamena in April 2006 whose whereabouts remained unknown at the end of September 2013 despite requests from human rights organizations and their family members.

Amnesty International has repeatedly asked the Chadian authorities to reveal what happened to all individuals who have been victims of enforced disappearances. The organization has also called for the unconditional release of individuals detained incommunicado or at least to charge them with a recognisable criminal offense and to organize trials that comply with international fair trial standards with no recourse to death penalty. The organization also requested prompt and impartial investigations be held into cases of death in detention and that the impunity that surrounds cases of enforced disappearances in Chad be ended.

The United Nations Working Group on Enforced or Involuntary Disappearances -the UN body of experts that examines questions relevant to enforced or involuntary disappearances of persons in the world- has on many occasions asked for information about the fate of people who have disappeared in Chad after their arrest by Chadian officials. The working group mentioned that since its establishment, it has transmitted 34 cases to the Chadian Government; of those, eight cases have been clarified on the basis of information provided by the Government, and 23 remain outstanding<sup>34</sup>. The Group regretted that no response was given by the Chadian government to all outstanding cases that were transmitted<sup>35</sup>.

## 2. THE APRIL 2006 WAVE OF ARRESTS AND DETENTIONS

Scores of people were victim of arbitrary arrests and unlawful detentions following an attack on N'Djamena by a coalition of armed opposition groups on 13 and 14 April 2006<sup>36</sup>. Among these arrested and later detained in secret were at least 12 civilians and 14 army officers<sup>37</sup>. Some of these people have not been seen since. Amnesty International believes that they are victims of enforced disappearance. According to information received by Amnesty International from various sources, a dozen people were killed and more than 200 others wounded during this attack.

Among these men who were arrested and whose detention has not been acknowledged by the Chadian authorities and whose fate and whereabouts remain unknown at the end of September 2013, are:

Colonel Abakar Gawi, former Commandant of the Gendarmerie, legion of Batha, arrested on 14 April 2006;

Colonel Khamis Doukoune, 3rd Deputy Army Chief of Staff, Battalion Commander;

Adil Ousman, Deputy Director of the Chadian army administration and Finances, arrested on 18 April 2006;

Colonel Ahmat Haroun, responsible for the B2 Office of the Chief of Staff, arrested on 11 April 2006;

Colonel Abdoulaye, Director of Communication of the Gendarmerie, arrested on 13 April 2006;

Youssouf Seid, Chief of Staff of the Gendarmerie;

Ramat Ahoula,

Michelim Ahmad Oumar,

Ahmat Mahamat,

Ali Ousman,

Guy Békam and

Mahamat Saleh Idriss.

Amnesty International has repeatedly requested that the Chadian Government releases information regarding the fate of these people<sup>38</sup>. In a letter sent to the Chadian Minister of Justice at the start of July 2013, Amnesty international requested updated information on the fate and whereabouts of these individuals. The response received from the Chadian authorities stated that "during the last decades Chad has been confronted by several periods of war and that it was not possible for the State to ensure its citizens were protected"<sup>39</sup>. The vague formulation contained in this letter is another example of the Chadian authorities' refusal to disclose what happened to them.

## OTHER CASES OF ARBITRARY ARRESTS AND UNLAWFUL DETENTIONS FROM 2006

### Mounodji Fidel

A human rights defender and member of the Chadian Human Rights League (Ligue Tchadienne des Droits de l'Homme, LTDH), Mounodji Fidel was arrested on 25 April 2006 and detained in a secret location. He was found ten days later by colleagues who had been searching for him since his arrest. Fidel was arrested while assisting a group of international journalists who came to investigate human rights violations that had taken place during the April 2006 attack on N'Djamena. Amnesty International believes that he was a prisoner of conscience detained solely because of his human rights work. Mounodji Fidel no longer works with the LTDH but was still living in Chad in September 2013<sup>40</sup>

### Abdel Hamit

Imam (Muslim cleric) Hamit was at an N'Djamena mosque when he was arrested on 16 April 2006 by members of the Chadian security services. He was accused of having hosted members of the United Front for Change (Front Uni pour le Changement, FUC) who had attacked the city. He was presented on national television as an accomplice of the attackers. Although the place of his detention was unknown at that time, he was believed to be detained at the presidential palace in N'Djamena. He was later released following international pressure on the Chadian authorities. Imam Hamit had been critical of the regime of President Idriss Deby Itno during that period.

### Noueuse Fadoul

A high school student aged between 14 and 15, Fadoul was arrested at his home in N'Djamena on 25 April at around 10:00pm by members of the National Security Agency (Agence Nationale de Sécurité, ANS). According to information received by Amnesty International, members of the ANS came to arrest his brother, but they did not find him at home and arrested Fadoul instead. He was detained at an unknown location until at least 28 April 2006.

## 3. THE NOVEMBER 2007 ARRESTS IN THE DAR TAMA, EASTERN CHAD

On 30 November 2007, seven men belonging to the Tama ethnic group were arrested by members of the Chadian security forces in the town of Guéréda, Dar Tama region, eastern Chad. The men were later subject to enforced disappearance from 8 December 2007 until their release on 31 March 2011. These men had not been charged with any criminal offense nor were they had been brought before a judge. They were allegedly tortured during their lengthy detention. In 2010, Amnesty International and other organizations started to receive information suggesting that these men were detained in secret in Koro-Toro, a maximum security prison, from where they were later released<sup>41</sup>.

These men are:

Abdelkerim Mahamat Ahmat Taowraye;

Abdelazizi Moussa Souleyman;

Yacoub Oumar Adam;

Youssouf Abdelkerim Abdoulaye;

Ibrahim Idriss Ibrahim;

Ali Abdelkerim Mahamat, also known by the name of Kauiguit;

Daoud Ibrahim Abdoulaye.

Some of the men were suspected by the Chadian authorities of being members of the FUC, an opposition armed group that was active in the region during that period and mainly comprising Tama people. The group was led by Mahamat Nour, a Tama leader who was later appointed Minister of Defence by President Déby following a peace agreement signed between the government and the FUC. The men were arrested together with Haroun Mahamat Abdoulaye, Sultan of the Dar Tama who was released in May 2008. No charge was brought against him but Sultan Haroun was dismissed from his traditional functions as the Dar Tama Sultan by the Chadian authorities.

#### **4. THE FEBRUARY 2008 ARRESTS**

A wave of arbitrary and unlawful arrests and detention took place in N'Djamena after an attack by a coalition of armed opposition groups failed. Prominent members of the opposition were targeted by the authorities who suspected them of being accomplices of the attackers who threatened President Déby's rule<sup>42</sup>. Other people were also victims of serious human rights violations including extrajudicial killings, rape, arbitrary arrests and illegal detentions.

Following pressure from human rights organizations and members of the international community, a National Commission of Inquiry was established by the Chadian authorities to investigate the human rights violations and abuses committed by government and opposition forces between 28 January and 8 February 2008<sup>43</sup>. The Commission -that received technical and financial assistance from members of the international community- documented 977 deaths (most of them (730) took place in N'Djamena, 380 cases of rapes, 1758 cases of individuals injured and 380 cases of detention. The report found the Chadian government responsible for arbitrary arrests, unlawful detention and enforced disappearance of a number of people, including opposition leader Ibni Oumar Mahamat Saleh. The Commission's report concluded that both members of the Chadian security forces and of the opposition armed groups had committed human rights violations and abuses during that period and called for further investigations and a judiciary inquiry.

The Chadian authorities first criticized the work of the Commission before accepting to implement its recommendations including ensuring that criminal proceedings against the

perpetrators start as soon as possible. Amnesty International is concerned that more than 5 years after the release of the Commission's report, those suspected of committing serious human rights violations during and in the aftermath of the February 2008 attack on N'Djamena, continue to enjoy impunity, and has repeatedly requested that Chadian authorities address this situation as a matter of urgency.

#### The case of Ibni Oumar Mahamat Saleh

Among those arrested in the aftermath of the February 2008 attack on N'Djamena was Ibni Oumar Mahamat Saleh, chairman of a coalition of Chadian opposition political parties and leader of the Party for Freedom and Development. On 3 February 2008, he was arrested from his home in N'Djamena by members of the Chadian security services and has not been seen since. The Commission of Inquiry report confirmed that Ibni Oumar Mahamat Saleh was arrested from his home on 3 February at around 07:30pm by eight members of the Chadian security forces and taken to an unknown location. The Commission asked the government to disclose his fate and whereabouts.

The Chadian authorities have refused to say what happened to him more than 5 years after his arrest despite requests from his family members and human rights organizations. The Chadian authorities have also failed to bring to justice those responsible for his enforced disappearance. Instead, in July 2013, the Chadian authorities announced that they have dropped the case and ceased any further investigation into this case due to lack of information on the identity of the members of security services who arrested Ibni Oumar Mahamat Saleh at his home. This decision is unfortunate and tends to perpetuate impunity in this emblematic case. The Chadian authorities should review their decision and ensure that justice prevails in this case by reopening investigation and proceed with the case.

Two other opposition leaders, namely Lol Mahamat Choua, former transitional President, and Ngarlejy Yorongar, former presidential candidate, were arrested the same day as Ibni Oumar Mahamat Saleh and also detained in secret. Yorongar resurfaced in Cameroun on 21 February 2008. Lol Mahamat Choua was released by the Chadian authorities on 28 February 2008. No charges were known to have been brought against them. Ngarlejy Yorongar is currently a member of the opposition in the Chadian parliament and continues to be regularly targeted by the Chadian authorities for his political activism. He was among the members of Chadian Parliament who were summoned by the police in May 2013 following the alleged failed attempt coup.

#### 5. ARRESTS AND DETENTIONS BETWEEN MARCH 2008 AND APRIL 2013

This period was characterized by a level of political stability in the country and the government enjoyed significant income from the oil fields situated in the south of the country. But this did not stop the Chadian authorities from arbitrarily arresting and illegally detaining individuals and smaller groups of people in many parts of the country and especially in N'Djamena. Some people including students, human rights defenders, trade-unionists and journalists were arrested and detained for exercising their freedom of expression. As for the previous periods, most of the arrests and detention were conducted by members of the police and the security forces who continued to enjoy impunity.

In May 2011, two students, **Beblika Passoua Alexis** and **Dedoumbayel Nekaou**, were arrested by members of the ANS at an N'Djamena bus station for allegedly carrying documents calling for students to organize peaceful demonstrations in the country inspired by the "Arab spring"

in Tunisia and Egypt. They were detained in secret for several days before being transferred to the N'Djamena central prison. They were charged with “provocation directly linked to an unarmed demonstration”. The two students were later released after being held for several weeks.

On 19 December 2011, **Daniel Deouzoumbé Passalet**, president of a Chadian human rights organization, Human Rights without Borders (Droits de l'homme sans Frontières, DHSF), was arrested in N'Djamena by members of the Chadian security services after he responded to a summons by the police. He told Amnesty International that his arrest was linked to an interview he gave the day before to the Paris-based Radio France Internationale (RFI) about the impunity that surrounded the death of 10 men in custody of the Chadian National Gendarmerie in the town of Léré in September 2011. He was released without charges on 30 December 2011 by an N'Djamena High Court that sat at Moussoro prison where he had been held.

On 3 September 2012, **Michel Barka, Younous Mahadjir and François Ndjondang**, all prominent members of the Union of Chadian Trade Unions (Union des Syndicats du Tchad, UST) were summoned to the police in relation to a petition they had signed and published two days earlier. The petition denounced what they characterized as the mismanagement of public funds and corruption in the country. The three men were later charged with “inciting racial hatred”. In addition to this offense, François Ndjondang and Jean-Claude Nékim -a journalist and director of the bi-weekly newspaper N'Djamena Bi-Hebdo that published an extract of the petition- were charged with “defamation”. On 18 September 2012, the N'Djamena tribunal sentenced Michel Barka, Younous Mahadjir and Francois Ndjondang to an 18-month suspended prison sentence and a fine of CFA 1 million (around US\$ 2,000). They appealed against this decision and on 4 June 2013, the N'Djamena Court of Appeal declared the three trade unionists not guilty. Amnesty International reviewed the petition but was not able to identify any racial incitement or defamatory statements contained in it. Instead, the petition denounced poverty and corruption in Chad and called for the reform of public services and an improvement in the management of the country's public resources.

Journalist **Jean-Claude Nékim** was given a 12-month suspended sentence and fined CFA 1 million (around US\$ 2,000) and his newspaper was suspended for 3 months because it had published extracts of the UST's petition that was also widely published by other newspapers across N'Djamena. He appealed against this decision. On 4 June 2013 the N'Djamena Court of Appeal confirmed the first level ruling. On 6 June 2013, Jean-Claude Nékim appealed further to the Cassation court. He was still waiting for the outcome of this new procedure at the end of September 2013. Jean-Claude Nékim had previously been sued by President Déby's brother for “defamation”, “inciting racial hatred” and “non-respect of the rights and reputations” because, in an article published on 6 September 2012<sup>44</sup>, his paper criticised what it characterized as the quasi-monopoly and the lack of respect for state procurement procedures by Chadian authorities when awarding contracts to a company belonging to a brother of President Déby. The hearing that was supposed to take place on 26 June 2013 was first postponed to 11 September 2013 then to 2 October 2013<sup>45</sup>.

**Mbaïlaou Bétar Gustave**, a worker at the Ministry of Agriculture and member of the UST, died in prison on 9 December 2012 because he was denied timely access to a medical doctor when he fell sick in prison a few days earlier, despite several requests for urgent medical

attention made by his lawyers and family members. Bétar Gustave had been arrested in an N'Djamena court room and sentenced to three months in prison and fined CFA 1 million (around US\$ 2,000) for contempt of court (*outrage à magistrat*) after he laughed when the trade unionists' sentence was being handed down on 3 September 2012.

# V. THE MAY 2013 WAVE OF ARRESTS AND DETENTIONS

## CONTEXT

Between 1 and 8 May 2013, scores of people including members of the Chadian National Assembly (parliament), journalists, a university professor<sup>46</sup>, army officers<sup>47</sup> and a group of young men were arrested by members of the Chadian security services. These waves of arrests and detention were linked to an alleged coup attempt that is reported to have taken place on 1 May 2013<sup>48</sup>. Those arrested were accused by the authorities of being part of a group intending to destabilise national institutions.

Some of the men including at least two members of parliament were detained in secret in N'Djamena for many days. It was later revealed that the names of those arrested had appeared on a list that was allegedly found on Moussa Mahamat Tao, a former armed opposition leader seen by the Chadian authorities as the ring leader of the alleged coup attempt. Amnesty International was able to obtain a copy of that list which is not signed but contains 20 names, including names of people who were arrested or/and detained in the aftermath of the reported coup attempt. Analysis of this list shows that not all individuals whose names appeared on it were arrested. This led some people to doubt the authenticity of this list and to say that this was used as an excuse to arrest and detain some already targeted people<sup>49</sup>.

According to various sources including some Chadian officials, between 3 and 8 people were killed<sup>50</sup> and several others wounded on 1 May 2013 when members of the Chadian security forces indiscriminately opened fire on a group of people in a compound in the N'Djamena neighbourhood of Dal Bagar. Those who were wounded during the attack were later arrested and detained in secret along with Moussa Mahamat Tao and did not receive appropriate medical attention despite the fact that some of them were in critical condition. Passers-by and onlookers who were attracted by the shootings were among those arrested but some were released later. A Chadian government spokesman acknowledged the fact that these men were not armed when arrested. In a speech broadcast on 8 May President Deby stated that what happened on 1 May was a plot by some politicians to overthrow his government.

In a letter sent to Amnesty International in July 2013, the Chadian authorities stated a total of 21 people had been arrested and detained following the 1 May 2013 incident. It added that at the end of July 2013, 15 of the detainees, including MP Saleh Makki, were still held and six had been provisionally released. The letter clarified that all those arrested were charged with the same offenses: "conspiracy, endangering the constitutional order and complicity in assassination"<sup>51</sup>.

It was not possible for Amnesty International to independently verify the information received from the Chadian authorities about the exact number of those who were released and those who remained in detention. But information collected by Amnesty International suggests that around 30 men who had arrested together with Moussa Mahamat Tao were still detained. The

men, mostly coming from the villages in the areas around the towns of Sahr, Korbol and Kono in the south of Chad, had allegedly been invited by Moussa Mahamat Tao to come to N'Djamena to receive money that was reportedly promised by the Chadian government to former rebels who surrendered to the government forces a few years ago. As soon as they arrived in the compound, the men were surrounded by armed members of the Chadian security forces who randomly shot at them. The whereabouts of these men as well as that of Moussa Mamat Tao were unknown until they appeared before an investigating judge in N'Djamena on 9 May 2013. They were still detained in a secret location at the end of September 2013.

## A. ARBITRARY ARRESTS AND UNLAWFUL DETENTIONS OF MEMBERS OF PARLIAMENT

On 1 May 2013, MP Mahamat Saleh Makki, president of the Unity and the Reconstruction Party (Parti pour l'Unité et la Reconstruction, PURE), and Malloum Kadré of the ruling party, the Patriotic Salvation Movement (Mouvement Patriotique du Salut, MPS) were arrested at night<sup>52</sup> from their respective homes and later detained at the *Renseignements Généraux*. Malloum Kadré was released on bail in July 2013 while Mahamat Saleh Makki was still held in September 2013. Four opposition MPs, namely Saleh Kebzabo (opposition leader in the Parliament), Gali Ngothé Gatta, Ngarlejy Yorongar and Routouang Yoma Golong, were also summoned by the police. Gali Ngothé Gatta and Routouang Yoma Golong were arrested on 8 May and detained but were released after a few days. Ngarlejy Yorongar was released the day of his arrest after being questioned by the police. Saleh Kebzabo was not present in Chad as he was attending a meeting outside the country and was not arrested when he returned to Chad on 28 May 2013<sup>53</sup>.

### Case of Gali Ngothé Gatta

On 8 May 2013, opposition MP Gali Ngothé Gatta of the United Democratic Forces (Union des Forces Démocratiques, UFD) was summoned by the police and later arrested and detained after being questioned for several hours. Like other people who were arrested in the aftermath of the 1 May incident, he was later charged with "conspiracy, endangering the constitutional order and complicity in assassination". Ngothé Gatta was released on bail in June 2013 after being held for several days at the *Renseignements Généraux* cells in N'Djamena. He was still waiting for the date of his trial at the end of September 2013.

Previously, in March 2012, Gali Ngothé Gatta had been arrested and sentenced to one year's imprisonment by a local court in Sahr in southern Chad for attempted corruption and poaching. He was tried and sentenced within three days of his arrest, despite the fact his parliamentary immunity had not been lifted. He was first held in Sahr prison and later transferred to Moundou prison following the appeal he lodged with the Moundou Court of Appeal. On 24 April 2012, the Moundou Court of Appeal annulled the proceedings due to "grave flaws" and ordered his immediate release. The Court of Appeal ruling was later confirmed by the Supreme Court in N'Djamena that ruled on the matter following a request from the office of the prosecutor that was not satisfied by the Moundou Court of Appeal's decision. According to his lawyers, these proceedings were baseless and politically motivated. Gali Ngothé Gatta is popular in the southern part of Chad and defeated the ruling party candidate during the 2011 legislative elections. He is openly critical of the government's policies and practices.

### Case of MP Mahamat Saleh Makki

Mahamat Saleh Makki was arrested on 1 May 2013 when he came back home at around 10:30pm. A group of people including a police officer, a deputy public prosecutor and around 10 policemen onboard two vehicles were waiting for him outside his compound in an N'Djamena suburb. When his watchman opened the gate, the visitors followed him inside the house. They later asked him to follow them before forcing him into their car, a police pick-up, and drove off to an undisclosed destination.

At 3:40am the following day, he called his family telling them that he had been arrested and was detained at a police station and asking for a mat, bed sheets and the medicine he requires for an ongoing medical problem. Members of his family went to the police station with the requested items but were not allowed to see him. They were told to come back the following day. They were able to see him only 3 days after his arrest but he was denied access to a lawyer. He stayed 10 days at the police station, before being transferred to the *Renseignements Généraux* cells where he remained detained in September 2013. He was later charged with "conspiracy, endangering the constitutional order and complicity in assassination". His name had appeared on Moussa Mahamat Tao's list. Saleh Makki founded the PURE party in 1993. Before creating his political party, he had worked within the government in various capacities including as a Minister and an advisor to the president.

## B. REACTIONS OF THE CHADIAN PARLIAMENT

On 6 May 2013, the Chadian Minister of Justice sent a letter to the National Assembly informing its Bureau of the arrest and detention of some MPs. The letter stated the MPs had been "caught in the act" of complicity with activities aimed at "destabilising republican institutions". The same day, the President of the National Assembly replied to the Minister asking for more information and insisting that the ministry respect and protect the rights of all MPs, including those who were already detained<sup>54</sup>. On 7 May, the Minister of Justice sent another letter to the National Assembly requesting authorization to question the MPs and that their parliamentary immunity be lifted. In his reply the President of the National Assembly granted authorization to question the MPs but refused to lift their immunity<sup>55</sup>.

On 8 May 2013, the Minister of Justice sent a so-called clarification letter to the President of the National Assembly informing him that he had opened a *flagrant délit*<sup>56</sup> procedure against the following MPs: Gali Ngothé Gatta, Routang Yoma Golom, Yorongar Ngarleji and Saleh Kebzabo<sup>57</sup>. On 16 May 2013, the President of the National Assembly sent another letter to the Minister of Justice expressing serious concerns over the arrests of the MPs and stated that the *flagrant délit* process was not applicable<sup>58</sup>. Referring to specific articles of the constitution and code of penal procedure relating to the *flagrant délit* process, he pointed out that these had not been respected.

On 17 May, all six Parliamentary Groups of the Chadian National Assembly, including one representing the ruling party (the MPS), signed a joint letter denouncing the arrest and detention of the MPs and asking for their immediate release. On 24 May, MP Lawane Gilbert initiated an oral question to the government requesting that the procedures for the arrest and detention of MPs be respected. It also raised concerns about the violation of parliamentary immunity and stated that the arrests were politically motivated. The oral question was

endorsed by the signature of 29 other MPs.

## C. ATTACKS AGAINST JOURNALISTS

Two journalists, Eric Topona and Moussaye Avenir De La Tchiré, were arrested and detained in the aftermath of the 1 May 2013 incident. They were later charged with security related offenses. Amnesty International and other human rights organizations have denounced this situation and campaigned for their release. On 19 August 2013, Eric Topona was released but given a three-year suspended prison sentence by the N'Djamena High Court. He appealed against the decision on the same day. On 29 August 2013, Moussaye Avenir De La Tchiré was also released after being sentenced to two-year suspended prison term and a fine of CFA Francs 1 million (around US\$ 2,000). These court decisions followed a public statement by the N'Djamena prosecutor on 1 August 2013 that serious charges against journalists Topona and De la Tchiré had been dropped but they still faced minor charges.

Similarly, Jean Laoukoulé, a writer and humanitarian worker referred to in the prosecutor's statement, was released on 19 August after being given a three-year suspended prison sentence by the N'Djamena High Court. He also appealed against this decision. He had been held since 22 March 2013.

Suspended prison sentences have grave consequences in Chad. The Chadian penal code<sup>59</sup>, allows for the close surveillance of individuals facing suspended prison sentences and if they commit even a minor offense within a period of five years, they will have to serve the suspended sentence in addition to any new sentence. They can also be summoned at any time by law enforcement officers, and can be prevented from visiting some places or talking to some people. They can be barred from exercising some activities during the five-year period of the sentence. Although they avoid a custodial sentence, suspended prison sentences have substantial disadvantages. They can create a pervasive climate of fear and can be seen as a tool of oppression as those subjected to them will be living under constant state scrutiny and monitoring, threats and fear. Individual sentenced to suspended sentences can refrain from speaking out for fear of being rearrested or/and detained. This situation can make it impossible for some, such as journalists or human rights defenders, to carry out their work. It encourages self-censorship and further restricts freedom of expression in the country. In fact the threat of further detention remains until the period of the suspended sentence expires.

### Eric Topona

Eric Topona is Secretary-general of the Union of Chadian Journalists (Union des Journalistes Tchadiens, UJT) and a journalist with state radio and television (Office National de Radiodiffusion et Télévision du Tchad, ONRTV). He was arrested on 6 May 2013, when he responded to a summons from an investigating judge. The summons did not provide details, but he was immediately arrested, charged with 'threatening constitutional order' and transferred to Am Sinene prison in the suburbs of N'Djamena where detention conditions are dire.

According to family members<sup>60</sup> and his lawyers, Eric Topona's charge related to allegations that he had been in contact with Makaila Nguebla, a Chadian Blogger who had been expelled from Senegal where he had been living since 2005 to Guinea. Eric Topona was also accused, together with Jean Laoukoulé, of posting information on Makaila's blog<sup>61</sup>. He denied the charges.

Eric Topona had been a victim of intimidation, threats and harassment by Chadian officials for months prior to his arrest. For instance, he officially complained to the police about the fact his email account had been tapped a few weeks before his arrest, but received no response. Previously, in July 2012, his employer the ORTNV decided to transfer his position to Fada in the far north of the country knowing well that Eric Topona was a union leader and that he could not assume his role as a trade-union representative from there. He refused to relocate to Fada and appealed against this administrative decision. Prior to this, there were a series of suspicious incidents. On 24 June 2012, he was knocked over by an unidentified motorcycle in N'Djamena. No investigation was conducted on this incident despite the fact that he lodged a formal complaint with the police. Some days before, he had noticed a car with a Cameroonian number plate following him around N'Djamena for no apparent reason.

#### **Moussaye Avenir De La Tchiré**

On 7 May 2013, Moussaye Avenir De La Tchiré, editor-in-chief of *Abba Garde* newspaper and treasurer of the UJT, was arrested by a group of men in plain clothes while he was in his car in the Dembé suburb of N'Djamena. He was found by his colleagues the following day at a detention facility that belonged to the Chadian security services. He was later charged with “inciting hatred and public unrest” for publishing an article denouncing serious human rights violations taking place in Chad. A week before his arrest, his newspaper had published an article entitled “enough is enough” in which he highlighted a series of killings and other human rights violations that were taking place in the country. The article mentioned the killing on 24 April 2013 of Nomaye Madana, a university professor and senior staff member at the Ministry of education. Professor Madana was shot dead by unknown men at around 07:00pm in Chagoua, an N'Djamena suburb<sup>62</sup>.

#### **The case of blogger Makaila Nguebla**

Makaila Nguebla, a Chadian blogger and journalist whose work is widely read, was arrested on 7 May 2013 by Senegalese intelligence officials. He had been living in Dakar, since 2005. He was rapidly expelled to Guinea and arrived in Conakry in the morning of 8 May. He told Amnesty International that he had been accused by the Senegalese authorities of “inciting the population against the Chadian Government through social media and email communication with the Chadian diaspora and people in Chad, including journalist Eric Topona and writer Jean Laoukolé”.

A number of human rights organisations including Amnesty International expressed fears for Makaila’s security in Guinea where he had been transferred against his will, and urged that his rights be respected. In July 2013, he was issued a long stay visa by the French authorities and travelled to France on 14 July 2013.

Although he had been arrested earlier, in March 2013, the case of writer and humanitarian worker Jean Laoukolé is linked to the journalist cases highlighted above as well as to the arrest and expulsion from Dakar of Chadian blogger Makaila Nguebla. Jean Laoukolé was accused by the Chadian authorities of posting information and “false accusations” on Makaila’s blog and of being in contact with journalist Eric Topona.

**Jean Laoukolé, writer and humanitarian worker**

On 22 March 2013, Jean Laoukolé, a writer and humanitarian worker, was arrested by a group of men in civilian clothes while he was with family members in his car in the Atrone suburb of N'Djamena. He was forced to enter an unmarked vehicle and reached an unknown destination. He was found by his family members the following day held in a former military camp known as "Camp OCAM" where he was detained incommunicado until his transfer to Am Sinene prison on 1 April. He was finally released on 19 August 2013, after receiving a three-year suspended sentence from the N'Djamena High Court. He has appealed against this sentence.

On the day of his arrest, Jean Laoukolé had been called to a police station in connection with an article he allegedly wrote and posted on Makaila's blog. The police claimed the article contained "false accusations" against a group of people who allegedly lodged a complaint against the writer to the police<sup>63</sup>. He appeared before the police officer together with a group of people who said they were offended by the article posted. The police officer later advised both parties -who agreed- to settle their matter in a peaceful manner. They have allegedly agreed that Laoukolé should write an article on the same blog apologizing and that he should also send a letter of apology to the people he had reportedly named in his post. He was planning to do so on 23 March as agreed at the police station but was arrested instead. On 1 April 2013, Jean Laoukolé appeared before a magistrate who confirmed the charges of "false accusations".

Another reason for this harassment may be his links to opposition politicians. Jean Laoukolé is related to opposition leader Saleh Kebzabo. Jean Laoukolé's mother is Saleh Kebzabo's sister. In addition, Jean Laoukolé is son of Jean-Baptise Laoukolé, a veteran political opposition leader and vice-chairperson of a coalition of opposition political parties, which had Ibni Oumar Mahamat Saleh as its president. Ibni Oumar was arrested by members of the Chadian security services at his home in Ndjamena on 3 February 2008, following a failed attack on the city by armed opposition groups. He has not been seen since.

# VI. RECOMMENDATIONS

## A. TO THE CHADIAN GOVERNMENT

### ARBITRARY ARRESTS, UNLAWFUL DETENTIONS

- Bring an immediate end to the longstanding and widespread practice of arbitrary or unlawful arrests and detention in the country;
- Conduct prompt, thorough, independent and impartial investigations into all allegations of torture, and other ill-treatment of people detained in prisons, police and security service cells or irregular places of detention, and ensure that those found responsible are brought to justice in accordance with international obligations and fair trial standards without recourse to the death penalty;
- Immediately and unconditionally order the release of persons held solely for the peaceful exercise of their right to freedom of expression;
- Release all prisoners being detained without charge, or promptly charge them with a recognizable criminal offense, and ensure everyone has the right to be brought promptly before a judge to challenge the legality for their detention;
- Ensure that nobody is detained in conditions that violate human rights, such as overcrowded police cells, security service detention facilities and in Am Sinene prison;
- Ensure that anyone detained is held only in official detention facilities, that their detention is registered and that they are allowed contact with their lawyer, family and medical personnel;
- Ensure that a prison that respects international standards is built in N'Djamena as soon as possible in order to tackle prolonged and illegal detention in non-gazetted places and in police and security services detention facilities.

### ENFORCED DISAPPEARANCES

- Conduct investigations into all alleged cases of enforced disappearance, and where sufficient admissible evidence exists, such as in the case of opposition leader Ibni Oumar Mahamat Saleh or those who have disappeared since their arrest in April 2006, prosecute those responsible in fair trials without recourse to the death penalty;
- Ensure that victims –including affected parties other than the disappeared person– receive reparations, including compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition;
- Bring an end to enforced disappearances and secret or incommunicado detentions by disclosing the whereabouts of anyone detained and ensuring that all places of detention are made public and that the office of the prosecutor, lawyers, family members, human rights organizations and delegates of the International Committee of the Red Cross (ICRC) have

access to people in detention without fear of any form of obstruction;

- Ratify the International Convention for the Protection of all Persons from Enforced Disappearance;
- Accept the competence of the Committee of the International Convention for the Protection of All Persons from Enforced Disappearance to receive individual cases and inter-State complaints;
- Extend invitations to UN and AU human rights entities, including the UN Working group on Enforced or Involuntary Disappearances and the UN working group on Arbitrary Detention, to visit Chad.

### **FREEDOM OF EXPRESSION**

- Refrain from prosecuting, harassing and threatening people for exercising their right to freedom of expression;
- Ensure that MPs, journalists, human rights defenders and trade-unionists are able to work freely, and that action is taken to investigate all threats or attacks against them because of their work or the exercise of their human rights, and to bring to justice those responsible for such acts in trials that meet international fair trial standards;
- Ensure that everyone, including journalists, bloggers and writers can lawfully exercise their right to freedom of expression without fear of prosecution or attacks from the police, members of the government or security forces.

## **B. TO MEMBERS OF THE INTERNATIONAL COMMUNITY AND DONORS**

### **ARBITRARY ARRESTS, UNLAWFUL DETENTIONS**

- Provide assistance to the government in order to investigate cases of arbitrary arrests and unlawful detentions and ensure that law enforcement officers including the police and members of the security services involved in these violations are suspended from their duties pending the outcomes of the investigations;
- Financially and technically support justice and security sector reform in Chad especially with a view to ensuring that both the police and security services including members of the Agence Nationale de Sécurité (ANS) respect, protect and promote human rights when carrying out their duties;
- Assist the Chadian government in training law enforcement officers including the police and the gendarmerie as well as the members of the ANS on human rights, rule of law and respect of legal procedures in case of arrests and detention of individuals;
- Ensure that the United Nations Office of the High Commissioner for Human Rights

representation in Chad has a mandate that allows its staff to conduct monitoring of prisons and other detention facilities including police cells and security service detention facilities and to report on the matter;

- Ensure that the on-going joint European Union and Government of Chad 5-year Programme to Support Justice in Chad (PRAJUST) that started in 2009 is renewed in 2014 and its mandate extended to other issues such as the training and capacity building of the police, gendarmerie and members of the security services in connection to their involvement in the justice and rule of law sectors;
- Encourage and assist the Chadian government to ensure that a prison that respects international standards is built in N'Djamena to reduce incidents of illegal detention by the police and overcrowding in police detention facilities across the city.

#### **ENFORCED DISAPPEARANCES**

- Ensure the Chadian government launches independent investigations into cases of individuals who have died or disappeared while in custody of the police, gendarmerie or security forces, brings to justice those responsible in a fair trial with no recourse to the death penalty and provides reparation including fair compensation to the victims;
- Request that the Chadian authorities review their July 2013 decision and instead reopen investigations into the case of opposition leader Ibni Oumar Mahamat Saleh and disclose the whereabouts of all individuals who were victims of enforced disappearance in N'Djamena in April 2006 and February 2008;
- Urge the Chadian authorities to ratify the International Convention for the Protection of All Persons from Enforced Disappearance that it signed on 6 February 2007 and to accept the competence of its Committee to receive individual and inter-state complaints.

#### **FREEDOM OF EXPRESSION**

- Ensure that the Chadian government refrains from restricting freedom of expression by denouncing cases of intimidation and harassment of individuals or groups including journalists, political opponents, human rights defenders and members of trade-unions and ensuring that the issue is discussed through dialogue and in meetings with the authorities;
- Ask the authorities to take appropriate action to investigate any attack on journalists, political opponents, human rights defenders and trade-unionists and ensure that those responsible face trials that meet international standards of fairness with no recourse to the death penalty;
- Extend the current technical and financial support to journalists and media outlets and assist the government in the process of drafting of the media law ensuring that its provisions protect freedom of expression and freedom of the press;
- Ensure that donors and all foreign embassies in Chad publicly support the work of human rights defenders and journalists in Chad and those embassies of European Union countries do so in accordance with the European Union Guidelines on human rights defenders.

## C. TO CIVIL SOCIETY ORGANIZATIONS

- Monitor the detention facilities across the country and publicly report on cases of arbitrary arrests and unlawful detentions and denounce any case of restriction on freedom of expression by the authorities;
- Regularly submit alternative reports on human rights violations in Chad to the African Commission on Human and Peoples' Rights and the various UN human rights mechanisms and bodies and ensure the recommendations are implemented in-country.

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# ENDNOTES

1 Other bodies such as the National gendarmerie and in some instance local authorities arrest and detain people especially in rural areas.

2 Another man, Bouba Hamane, died after being transferred to N'Djamena hospital.

3 Attacks by opposition armed groups and real and perceived attempted coups have been common in Chad since independence in 1960.

4 See Amnesty International, Double Misfortune, Deepening Human Rights Crisis in Chad, AI Index: AFR20/007/2008, December 2008

5 Ibni Oumar Mahamat Saleh, chairperson of opposition political parties was arrested at his home on 2 February 2008 by members of the Chadian security forces and has not been seen since.

6 Amnesty International, Chad: "We are all dying here" Human rights violations in prisons, AI Index: AFR/20/007/2012, September 2012.

7 One of the components of the Chadian security services.

8 Amnesty International delegates have previously visited several prisons in Chad including the Am Sinene prison, particularly in 2011 and 2012 during the research on prisons conditions in Chad and after the release of the report on this topic on 10 September 2012.

9 According to article 6 of the Rules of the Chadian National Assembly ( Réglement d'ordre intérieur de l'Asemblée Nationale , mai 2013), the Bureau is composed of a president (who is also the president of the National Assembly), six-vice presidents, two other MPs in charge of finances ( questeurs), and 8 MP secretaries of the sessions ( secrétaires de séances).

10 Amnesty International, Demande de mise à jour sur les arrestations et les mises en détention au Tchad, TG AFR 20/2013.006, 10 juillet 2013

11 Chad acceded to the ICCPR on 9 June 1995

12 Ratified by Chad on 9 October 1986

13 Signed by Chad on 7 February 2007

14 Although this is not a legally binding instrument, many of its provisions reflect binding rules of customary international law and its principles are reflected in many domestic constitutions including in the Chadian Constitution.

15 Human Rights Committee, General Comment 34 on Article 19 of the ICCPR, para. 22.

16 Id., at para. 25.

17 Global Principles on National Security and the Right to Information ("The Tshwane Principles"); see also, The Johannesburg Principles on National Security, Freedom of Expression and Access to Information, Principle 1(d), Principle 2 and Principle 6.

18 WGAD Fact Sheet No. 26, Section IV (B).

19 UN General Assembly Resolution 65/205, UN Doc A/RES/65/205 (2011) §21. See also Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines), African Commission on Human and Peoples' Rights, 32nd session, Banjul, The Gambia, October 2002, paragraph 24.

20 International Convention for the Protection of all Persons from Enforced Disappearance, Article 17 (Chad is a signatory to the Convention, but has not yet ratified it).

21 International Convention for the Protection of all Persons from Enforced Disappearance, Article 2.

22 Rome Statute of the International Criminal Court, Article 7 (Chad ratified the Rome Statute on 1 November 2006).

23 Under Articles 31 and 32 of the International Convention for the Protection of All Persons from enforced disappearance. The Convention is available at: <http://www.ohchr.org/EN/HRBodies/CED/Pages/ConventionCED.aspx> (accessed on 31 July 2013).

24 Hissène Habré was President of Chad from 1982 to 1 December 1990 before he was overthrown by Idriss Deby Itno who remains to date the President of Chad.

25 Habré's security services.

26 See for instance, Amnesty International, The Habré Legacy, AI Index: AFR 20/004/2001.

27 Id.

28 For instance, hundreds of members of the Hadjeraï ethnic group were arrested, detained and killed in detention.

30 These constitute a special Court agreed on by Senegal and the African Union (AU) to conduct the trial for human rights violations committed in Chad between 1982 and 1990 within the Senegalese judicial system. The Chambers were inaugurated on 8 February 2013 and are based in Dakar.

31 Amnesty International, ICJ: Ex-Chad leader Habré's victims' long wait for justice, 20 July 2012; Amnesty International, Senegal: Authorities must not return former Chadian president to Chad, 9 July 2011; Amnesty International, Senegal: Land of Impunity, AI Index: AFR 49/001/2010, September 2010.

32 The security situation has been volatile in Chad since its independence from France in 1960. In addition to its internal political challenges, since 2003 Chad has been involved in the political crisis in Sudan, which has created insecurity in eastern Chad where inter ethnic attacks were common. Sudanese armed groups including the Justice and Equality Movement (JEM) received support and equipment from the Chadian Government. Sudan has also assisted and hosted several Chadian armed groups. This support of each other's opponents has diminished since the normalization of relations between the two countries in 2010 but the internal socio-political situation in Chad remains tense.

33 Amnesty International, Double Misfortune, Deepening Human Rights Crisis in Chad, AI Index: AFR20/007/2008, December 2008, p20.

34 The Groups' report lacks information on the three remaining cases.

35 Report of the Working Group on Enforced or Involuntary Disappearances, 28 January 2013, A/HRC/22/45, p35.

36 The attack was conducted by the United Front for Change (Front Uni pour le Changement, FUC), a coalition of opposition armed groups.

37 See Urgent Action, Disappearance / Fear of torture, AI Index: AFR 20/003/2006, 28 April 2006

38 See for instance Amnesty International, Appeal case, Chad More than 14 army officers and civilians arrested in April 2006 still held incommunicado, AI Index AFR/20/007/2007, June 2007; Amnesty international, Chad: Seven victims of enforced disappearance released but dozens remain unaccounted for, AI Index AFR20/006/2011, 23 June 2011.

39 Letter No. 159/PR/PM/MI/SI/SGA/DGA PRS/13 of 23 July 2013, p2.

40 Phone interview with LTDH representatives, July 2013.

41 Koro-Toro is situated in the desert in the northern part of Chad. Amnesty International, Chad: Seven victims of enforced disappearance released but dozens remain unaccounted for, AI Index: AFR/20/006/2011, 23 June 2011.

42 Fighting took place around the presidential palace in N'Djamena. According to various sources, only the French intervention in providing intelligence to Chadian troops saved President Deby's regime.

43 Report of the Commission of Inquiry into the events that took place in the Republic of Chad between 28 January and 8 February 2008 and their consequences (Rapport de la Commission d'Enquête sur les événements survenus en République du Tchad du 28 janvier au 08 février 2008 et leurs conséquences), July 2008.

44 N'Djamena Bi-Hebdo, No. 1478, 6-9 September 2012. Amnesty international has a copy in its files.

45 This report was finalised at the end of September 2013.

46 Professor Khalil Alio, former rector of N'Djamena University, was arrested at his office at the University on 2 May 2013 and later detained at the N'Djamena central police station. He was accused of being involved in the alleged coup attempt because his name appeared on Moussa Mahamat Tao's list. He was released on bail on 8 May2013.

47 On 2 May 2013, three army officers, General David Ngomine Beadmadij (Director of Military Justice), General Weidng Assing-Assoué and Colonel Ngaro Ahidjo (former Governor of the Salamat region), were arrested in N'Djamena and detained incommunicado. They were later released on bail.

48 In a communiqué read on national television on 1 May 2013 at 09:00pm, the Chadian Minister of Communication informed the public that the arrest of some personalities in N'Djamena was linked to an attempt to "destabilize institutions orchestrated by a group of individuals". This was confirmed on 2 May by the N'Djamena prosecutor during a press conference.

49 This assumption often came during the interviews conducted with various people in Chad in June 2013.

50 According to some sources, six of them were killed on the spot while two later died at the hospital.

51 Letter No. 159/PR/PM/SGA/DGA PRS/13 OF 23 July 2013.

52 It is forbidden by law in Chad to arrest individuals after 07:00pm and before 5:00 am.

53. Amnesty International has received reliable information that he remains under considerable pressure following an interview he gave to regional media in July 2013 and that parliament – where the ruling party has the majority- was planning to vote for his immunity to be lifted, as requested by the government on 25 July 2013, so he can easily be prosecuted.

54 Dr Haroun Kabadi, President of the National Assembly, Letter No. 262/PAN/CAB/13, 6 May 2013.

55 Letter No. 266/PAN/CAB/013, 7 May 2013. In Chad, an MP cannot be arrested or detained for criminal offenses unless there is a case of "flagrant délit". In all other circumstances immunity must be lifted by the parliament before the start of any criminal proceedings.

56 In Chad, a member of the National Assembly can not be prosecuted until his parliamentary immunity is lifted by the National Assembly. The only exception to this rule is the case of flagrant délit. From latin *flagrante delicto*, this legal concept means that the person has been caught in the act of committing an offense or a crime.

57 Letter No. 112/PR/PM/MJ/CAB/13, 8 May 2013.

58 Letter No. 287/PAN/CAB/13, 16 May 2013. The letter stated that the government itself said that the activities of the group that was allegedly involved in the 1 May 2013 coup attempt had been monitored for more than 4 months prior to their arrest and that this was not a surprise to them.

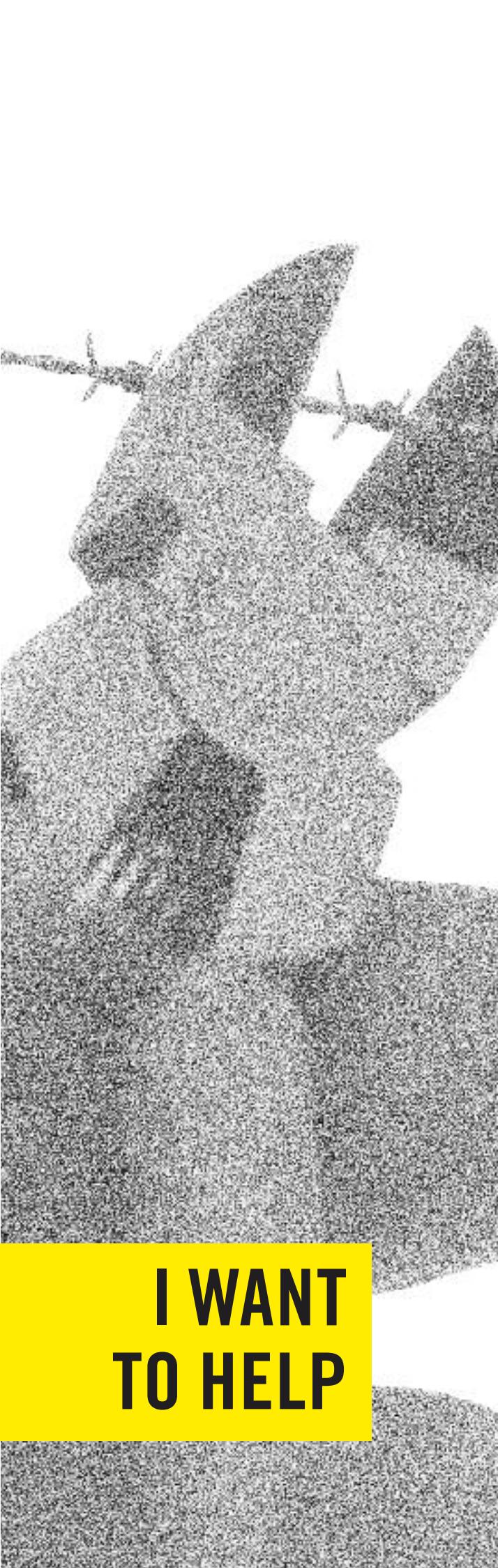
59 Articles 59 to 61.

60 Amnesty International delegates interviewed Celestin Topona, Eric's father, during the June 2013 mission to Chad.

61 Makaila's blog is available at <http://makaila.over-blog.com/>

62 Assassinats sous Déby. C'en est trop, Abba Garde, Trimestriel d'informations générales No. 034 du 30 avril au 10 mai 2013. Amnesty International has a copy.

63 According to various sources, Jean Laoukolé was accused by the authorities of posting information on Makaila's blog under pseudonyms. On this particular occasion, he was accused of publishing "false information" in an article dated 16 March 2013 in which he cited the names of some Chadians he said were spies working on behalf of the national authorities.



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## **IN THE NAME OF SECURITY? ARRESTS, DETENTIONS AND RESTRICTIONS ON FREEDOM OF EXPRESSION IN CHAD**

Freedom of expression has been severely restricted in Chad for many years. Successive governments have used arbitrary arrests and detention without charge or trial to silence government critics. Scores of people have been arrested solely for expressing their opinion, while others have been victims of arbitrary arrests and unlawful detention, often in connection with alleged coup attempts. Recent research reveals that the situation is unchanged – and in fact is worsening.

Security reasons are often cited by the authorities to justify the regular waves of arrests and detentions of those who have peacefully exercised their right to freedom of expression, or who are from an ethnic group associated with unrest. They include suspected or real political opponents, journalists, human rights defenders, trade unionists and students. Charges such as “incitement of racial hatred”, “defamation”, “endangering national security” and “provocation directly linked to an unarmed demonstration” have been routinely used by the police and the judiciary to provide a legal justification for the arrests and detentions.

This report highlights long-standing and widespread use of arbitrary arrests and unlawful detention by the authorities to silence dissenting voices. It urges the government to end these practices and to stop using the judiciary to restrict freedom of expression in order to stifle its critics.

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