

# £CHAD

## @Chadian National Conference adopts resolutions to prevent human rights violations

### 1. Introduction

#### *1.1 An attempt to break with the past*

Since political reforms were agreed at a "National Conference" in Benin, in West Africa, in February 1990, soon after the wave of political changes in Eastern Europe which occurred in 1989, it has been fashionable in French-speaking African countries to hold National Conferences as a means for effecting political change and deciding how citizens should be governed. These conferences have given opponents of the governments in power the opportunity to publicly criticise the incumbent administrations for political, social and economic mismanagement, and usually their appalling human rights records. The conferences have been convened amidst stiff resistance from governments and intense pressure from the opposition and, in many cases, western aid donor countries. Opponents of the government have almost without exception insisted that the conferences be "sovereign" in order to ensure that decisions they make are binding on all, including the government. In virtually all cases the *Conférence nationale souveraine* (CNS), Sovereign National Conference, has set up a transitional government and a legislative body to oversee the implementation of the National Conference's decisions during the subsequent transition to multi-party presidential and legislative elections. Chad is the most recent country to launch into this process.

When President Idriss Déby came to power in December 1990 he promised to re-establish democracy after many years of dictatorship and massive violations of human rights by Chad's past governments. After much hesitation in October 1991 President Déby's government published official guidelines which authorized formation of new political parties. The guidelines required the parties to have representatives in each of the country's 10 regions and to have a balanced membership by sex, religion and profession and not to have armed groups. However, President Déby's ruling *Mouvement patriotique du salut* (MPS), Patriotic Movement for Salvation, was exempted from these guidelines. The MPS clearly intended to manage the transition to multi-party elections itself.

During 1991 and 1992 opposition political parties and other groups continued to press the government to accept the holding of a National Conference. They even appealed to donor countries, especially the former colonial power, France, to pressure President Déby

into accepting the National Conference. President Déby eventually announced in October 1992 that a National Conference would be held in January 1993. He later conceded that it would also be sovereign. It began as scheduled on 15 January 1993 but concluded nearly two months later than had been planned, at the beginning of April 1993. The French Government financed most of the National Conference, but some other western governments also contributed. It was attended by more than 800 delegates representing political parties, administrative regions, human rights groups and other non-governmental organizations collectively known as the *Société civile*, civil society, and some armed groups. The delegates included two former Chadian heads of state, Goukouni Ouedei and Lol Mahamat Choua. The former returned to Chad shortly before the National Conference from exile where he had been living since he was overthrown in 1982 by former President Hissein Habré.

### *1.2 Amnesty International and the National Conference*

Following a visit to Chad in September 1992 by Amnesty International representatives the organization decided to launch a concerted action to campaign against a resurgence of massive human rights violations, especially extrajudicial executions and incommunicado detention without charge or trial during which "disappearances" and torture were occurring. The announcement of a National Conference by President Déby seemed to be a unique opportunity to influence public opinion, especially in Chad, on the importance of taking steps to protect and promote human rights. Amnesty International then prepared a report, in the form of a public appeal to the conference, entitled, *Chad: Appeal to Chad's National Conference and political leaders for action to protect human rights* (AI Index: AFR 20/01/93). It was published and sent to many National Conference delegates, particularly political leaders and representatives of the civil society, at the end of January 1993.

The report summarized some of the characteristics of recent human rights violations and proposed specific practical measures which Chadians should incorporate in their Constitution and other regulations or legal texts to ensure that human rights are protected and that those who violate human rights are punished in accordance with both international and national law. Soon after the National Conference plenary sessions began in February 1993 the appeal was read live on national television and radio to National Conference delegates and published by Chad's leading national newspaper, *NDjaména-Hebdo*.

In February 1993 there was further evidence that the report had an impact on the delegates. The delegates demanded that a commission of inquiry be sent to southern Chad to investigate reports that members of the security forces had killed several dozen unarmed civilians in Logone Oriental prefecture's Goré town. The government sent its representatives to the area to investigate, who claimed the army was not responsible. The National Conference Chairman demanded that a new delegation, composed jointly of government

officials and National Conference representatives, be sent but his request was rejected by the government without explanation. Although the National Conference was this time unable to impose its will, when further killings occurred in Logone Oriental in April 1993 the new transitional government sent a joint commission of inquiry to investigate. Pressure by local and foreign human rights groups and aid donor countries seems to have had a positive effect. The commission worked rapidly: its findings at the beginning of May 1993 are summarized in an AI report entitled, *Chad: Inquiry reveals widespread army atrocities in early 1993 in southern Chad's Logone Oriental prefecture* (AI Index: AFR 20/20/93).

## **2. The National Conference sets human rights targets for the new government**

The National Conference concluded its deliberations on 6 April 1993 after it had appointed a Prime Minister and a transitional legislative body, the *Conseil supérieur de la transition* (CST), Higher Transitional Council, composed of 57 members. The Prime Minister heads a transitional government while the CST is to oversee the government's implementation of the decisions and political program drawn up by the National Conference. The Prime Minister, Fidel Moungar, a medical doctor formerly resident in France, was Minister of Education prior to and during the Conference. The CST President, Lol Mahamat Choua, is leader of the *Rassemblement pour la démocratie et le progrès* (RDP), Rally for Democracy and Progress, an opposition political party formed in 1991.

In the course of its debates, the National Conference deplored the grim human rights situation and political, social and economic mismanagement by successive Chadian governments since the country's independence in 1960. The National Conference then set up working groups, known as commissions, including one on human rights, freedoms and communication. Reports of the various working groups formed a basis for a transitional constitution known as the *Charte de la transition*, Charter for the Transition, and a *Cahiers des charges*, which contains a program to be implemented by the transitional government. The human rights working group made a series of recommendations for the promotion and protection of human rights. The transitional period leading up to the formation of a new government after presidential and legislative elections is expected to last one year.

The Charter for the Transition contains some general principles for the protection of human rights which are contained in the *Universal Declaration of Human Rights*. The following are some of the responsibilities of the three main transitional institutions with a direct impact on the promotion and protection of human rights:

### ***2.1 The President***

- is head of State and supreme commander of the armed forces
- exercises the prerogative of mercy (*droit de grace*)

- orders troop movements with the agreement of the Prime Minister and CST

### ***2.2 The Prime Minister is***

- head of government action
- responsible for the administration and management of the armed and security forces

### ***2.3 The CST is required to***

- supervise the carrying out by the government of the decisions and policies (*orientations*) of the National Conference
- exercise legislative functions
- ensure fair access to government media by all political parties
- ensure defence and promotion of human rights and freedoms
- examine the draft constitution and adopt an electoral code
- supervise the organization of a constitutional referendum and other elections

## **3. The human rights agenda**

In its introduction the report by the human rights working group summarizes the Chadian human rights situation in these terms:

"It is certain that one of the major concerns of Chadians, today, unquestionably remains the respect for human rights and fundamental freedoms".

"Torture, murder, abductions and arbitrary arrests, deportations, humiliations, deprivation of freedoms are a daily occurrence".

"Frustrations caused by human rights violations in Chad and the will to bring them to an end with a view to re-establishing peace made it an absolute necessity to hold the National Conference".

The *Cahiers des charges* gives specific tasks and targets to be accomplished by the transitional government for the protection and promotion of human rights, as summarized below.

### ***3.1 Protection of human rights***

- Free immediately all prisoners of conscience and prisoners of war (i.e. those detained in the course of armed conflict), with the assistance of national and international human rights organizations.
- Prohibit officially unlawful detentions and arbitrary arrests and extrajudicial executions, and punish all those found responsible and their accomplices.
- Apply immediately the recommendations of the *Commission nationale d'enquête sur les crimes et détournements de biens commis par le régime de Hisssein Habré, ses coauteurs et/ou complices*, Commission of inquiry into human rights violations and embezzlement under Hisssein Habré.<sup>1</sup>
- Extend the jurisdiction of the *Cour criminelle spéciale de justice (CCSJ)*, Special Criminal Court of Justice, (set up in February 1993 to try individuals accused of human rights violations, corruption and other crimes under former President Habré) to cover crimes committed since 1960 (when Chad gained independence from France), and accordingly revise the Ordinance law so that it becomes a regular jurisdiction with all guarantees of procedure, particularly the right to obtain defence counsel and to appeal.
- Remove from positions of responsibility all those responsible for embezzlement, torture and political crimes, particularly former members of former President Habré's security police, the *Direction de la documentation et de la sécurité (DDS)* employed by its successor, the *Centre de recherche et de coordination de renseignements (CRCR)*, Centre for Investigation and Coordination of Intelligence, or by other government departments.
- Bring to justice all members of the security forces responsible for human rights violations, including those who acted in situations of insurgency.
- Pay compensation to victims of political crimes and repression.
- Establish a national commission of inquiry to investigate human rights violations and establish responsibility for abductions, "disappearances" and embezzlement since 1960.
- Dissolve the CRCR.

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<sup>1</sup> See Chapter 3 of an AI report entitled, *Chad: Never Again? Killings continue into the 1990s*, AI Index: AFR 20/04/93, published on 21 April 1993.

- Put in place means and ways to re-establish peace, return the displaced, investigate "disappearances" and recover property seized (since 1991) in Goré, Lake Chad and other regions.

#### **4. Promotion of human rights**

The National Conference demanded that the Chadian transitional government take specific steps to promote respect for human rights. The measures include setting up commissions to investigate abuses and facilitating the work of national and international human rights groups in this field.

- Chad must respect the rule of law (*Etat de droit*) where each citizen is held responsible for his own acts before a justice system which is the same for all.
- Individual punishment must be the norm and collective punishment for offences committed by members of one's family, clan or ethnic group must be prohibited.
- Identify and abolish torture centres and security police cells and transform underground detention centres into tourist sites, particularly those in Abéché, Fada and Ounianga.
- Apply the *Convention on the Rights of the Child*, adopted by the General Assembly of the United Nations on 20 November 1989.
- Prohibit and end the recruitment of minors into the army.
- Establish a permanent national commission for human rights responsible for advising the government on all questions of fundamental freedoms and human rights.
- Involve the State in the struggle for the defence of human rights through direct or indirect grants to non-governmental human rights organizations. In cases of disasters the government should authorise and facilitate action by national and international human rights organizations.
- Introduce human rights education in civilian and military schools and establish a human rights centre to promote such education. The centre should provide technical and institutional support to government and non-governmental organizations, and others in Chad. Seek assistance from international human rights organizations such as the UN Human Rights Centre to establish such a centre.
- Ratify international human rights treaties:

The National Conference instructed the government to ratify key human rights treaties and ensure that national laws are reviewed to conform to these treaties. The treaties are the:

- *International Convention on Civil and Political Rights* and its protocols
- *International Covenant on Economic, Social and Cultural Rights*
- *Convention on the Promotion and Punishment of the Crime of Apartheid*
- *Convention against torture and other forms of cruel, inhuman or degrading treatment or punishment*
- Additional protocols to the *Geneva Conventions*

## 5. Reforming the judiciary

The National Conference acknowledged that the Chadian judiciary is both weak and not seen to be independent. There have been reports of government officials putting pressure on judicial officials to make rulings in their favour or not to prosecute them or their acquaintances. The National Conference therefore demanded that measures be taken to ensure the independence, impartiality and competence of the judiciary. It instructed the transitional government to:

- Reorganize the judicial system and reinforce its authority.
- Abolish unofficial systems for punishing prisoners (*justices parallèles*) and all special jurisdictions.
- Establish a Higher Council of the Magistrature (*Haut conseil de la magistrature*) worthy of its name, composed of magistrates, truly independent of the executive so that an independent and respected judiciary is established.
- Establish higher jurisdictions (Courts of Appeal and Supreme Court) and specialized jurisdictions.
- Prohibit the interference of non-judicial authorities in judicial affairs.
- Train members of the judiciary in general and magistrates in particular.
- Rehabilitate the prison service by ensuring that its personnel is trained, and by improving prison conditions, particularly by separating minors from adult prisoners and females from males.

## 6. Defence and security

Members of the security forces have been responsible for most human rights violations. Many of the violations took place in the context of fighting between government troops and armed rebel groups. To bring an end to these violations, the National Conference demanded that the transitional government should:

- Negotiate with armed groups and implement agreements already reached with some.
- Organize the command structure of the army (*Etats généraux*) and paramilitary forces.
- Create a truly national army (the current army is divided into groups loyal to various warlords from different ethnic groups).
- Dismantle structures of the CRCC and replace it with an intelligence and counter-intelligence (*espionnage et contre-espionnage*) security service attached to the President's Office.
- Reduce the number of soldiers to 25,000 (the present army is estimated to be double this number and the government does not have the resources to maintain a large army).

## **7. Assessment of the decisions of the National Conference and their impact so far on human rights**

Since the end of the National Conference little has been publicized about the relationship between the various transitional state institutions. Both the President and the Prime Minister have responsibility for the security forces, but it is unclear how they share this power and what happens when their views differ. It is unclear what role the Prime Minister plays in the deployment and sanctioning of members of the security forces.

There is little information about what the CST has been doing since early April 1993. It has made few public statements either about its own deliberations or commenting on how the government is functioning. The statements it made in May and June 1993 concerned its opposition to the ratification by the government of a friendship treaty agreed between President Déby and Libyan President Mu'ammar Gaddafi in late 1992 and the increase in government ministerial posts. The CST said it would not approve the ratification of the treaty because the International Court of Justice had not ruled on the territorial dispute over the Aouzou strip between Chad and Libya. The dispute resulted in two wars between the two countries, most recently between 1987 and 1988. Hearing of the case began in late June 1993. The National Conference had decided that cabinet posts should be limited to 16, but the Prime Minister increased them to 31, apparently under pressure by the President's Office. During a reshuffle towards the end of June 1993 the cabinet posts were reduced back to 16.



The CST is supposed to have set up a commission to draft a new Constitution but this is not known to have occurred. Two months of the transitional period are already over.

The government does not appear to have taken steps to implement a series of tasks given to it by the National Conference to protect and promote human rights. It was supposed to free immediately all prisoners of conscience and war. However, no such prisoners are known to have been freed since April 1993. They include a number of soldiers, including Captain Amine Youssouf Oumar, arrested in June 1992, and Moussa Ben Moussa who was being held at the Presidency in March 1993.

In February 1993 President Idriss Déby signed an Ordinance law setting up the *Cour criminelle spéciale de justice* (CCSJ) to try all people accused of political and economic crimes and human rights violations during Habré's regime (see 3.1.4 above). The National Conference called for an amendment of the law but it remains unclear whether any steps are being taken to amend the law and prosecute those implicated in committing human rights violations.

Amnesty International received reports in early June 1993 that the government intended to abolish the *Cour spéciale de Justice* (CSJ), Special Court of Justice, and the *Cour martiale*, Court-Martial. It was unclear when this decision would be implemented. The Special Court of Justice was set up by former President Habré's government in February 1985 to try defendants accused of embezzlement and other economic crimes. The Court-Martial was set up by President Déby's government in April 1991 to try soldiers accused of violent crimes. Three soldiers and a civilian condemned by this court were executed in October 1991. Both courts are special jurisdictions which do not conform to internationally recognized standards for fair trial, such as the right to call or cross-examine witnesses and appeal to a higher independent court. The National Conference had demanded the abolition of these courts and their replacement with regular ones (see Chapter 5 above).

In May 1993 the government abolished the CRCR and apparently replaced it with another security service. It is unclear how the new intelligence and counter-intelligence will be different from the CRCR. In September 1992 Chadian authorities informed Amnesty International representatives that the CRCR was not an armed force and that it had no powers to arrest and detain suspects. The reality has been that it exercised all these powers, even if it has no legal right to do so. It is unclear what guarantees there are that the new security service will be different in personnel and activities. It is also unclear whether clandestine detention centres have indeed been abolished, including those at the Presidency; detainees are known to have been detained, tortured and even executed extrajudicially there as recently as 1992.

It is not clear what steps have been taken to strengthen the judiciary. For instance, it is unclear whether soldiers and members of the CRCR who were recently arrested in connection with human rights violations in southern Chad have been referred to the judiciary. There are reports that military commanders removed from the region have been transferred to eastern Chad, the home region of many of the commanders who are members of the Zaghawa ethnic group, to prevent their prosecution. Independent observers in Chad have accused President Déby of involvement in an attempt to obstruct the course of justice by protecting military officers from prosecution. President Déby reportedly said in early June 1993 that some soldiers arrested in connection with human rights violations had escaped from custody.

Amnesty International urges the Chadian transitional government and national assembly to ensure the implementation and adherence to the *Cahiers des charges*. It is Amnesty International's hope that the Chadian Government and the CST, particularly its constitutional committee, charged with the responsibility of drafting and approving the country's new legislation, will ensure that strong human rights safeguards are incorporated. Amnesty International has submitted to the Chadian authorities a number of such safeguards in two documents entitled, *Chad: Appeal to Chad's National Conference and political leaders for action to protect human rights*, AI Index: AFR 20/01/93, and *Chad: Never again? Killings continue into the 1990s*, AI Index: AFR 20/04/93, (chapter 4).

## **8. Conclusion**

The recommendations adopted at the end of Chad's National Conference will evidently allow both human rights groups and others to measure the government's rate of progress over the coming year in meeting the objectives which have been set. The importance of ensuring respect for human rights in order to ensure a peaceful future for Chad was evidently recognized by delegates at the conference, but it remains to be seen whether those in power will implement the recommendations.