

The Case Against Hissène Habré, an “African Pinochet”

A Belgian judge is continuing his probe after an historic mission to Chad to investigate atrocity charges against Chad's exiled former president, Hissène Habré. Habré lives in exile in Senegal, where he was indicted two years ago on charges of torture and crimes against humanity before the Senegalese courts ruled that he could not be tried there. Habré's victims are now seeking his extradition to stand trial in Belgium, and Senegal has agreed to hold him pending an extradition request. In the meantime, the case has opened new possibilities for bringing Habré's accomplices to justice in Chad itself.

Background

Hissène Habré ruled the former French colony of Chad from 1982 until he was deposed in 1990 by current president Idriss Déby and fled to Senegal. His one-party regime was marked by widespread atrocities. Habré launched campaigns against ethnic groups in the south (1984), and against the Hadjerai (1987) and the Zaghawa (1989), killing and arresting leaders and extended families and even destroying whole communities when he perceived that the groups were hostile to his regime. The exact number of Habré's victims is not known. A 1992 Truth Commission accused Habré's government of tens of thousands of political murders and systematic torture. Most predations were carried out by Habré's dreaded political police, the Documentation and Security Directorate (DDS) which reported directly to Habré.

The United States and France supported Habré as a bulwark against Moemmar Khadaffi of Libya, Chad's northern neighbor. Under President Ronald Reagan, the United States gave covert CIA paramilitary support to help Habré take power and later provided Habré with massive military aid and gave training and support to the DDS, even as it engaged in atrocities. The United States also used a clandestine base in Chad to train captured Libyan soldiers whom it was organizing into an anti-Khaddafi force.

Since Habré's fall, Chadians have sought to bring him to justice. The Chadian Association of Victims of Political Repression and Crime (AVCRP) compiled information on 792 victims of Habré's brutality, hoping to use the cases in a prosecution of Habré. The Truth Commission called for the “immediate prosecution” of those responsible for atrocities. With many ranking officials of the Déby government involved in Habré's crimes, however, the new government did not indict Habré or pursue his extradition from Senegal.

Habre is Indicted in Senegal

In 1999, with the Pinochet precedent in mind, the Chadian Association for the Promotion and Defense of Human Rights (ATPDH) requested Human Rights Watch's (HRW) assistance in bringing Habré to justice in his Senegalese exile. Researchers secretly visited Chad twice, where they benefited from the documentation prepared in 1991 by the AVCRP. Meanwhile, a coalition of NGOs was formed to support the victims. They include all the leading Chadian groups, the International Federation of Human Rights Leagues (FIDH), the Dakar-based African Assembly for the Defense of Human Rights (RADDHO), and Agir Ensemble pour les Droits de l'Homme. Seven individual Chadians acted as private plaintiffs, as did the AVCRP.

In a criminal complaint filed in Dakar, the plaintiffs - several of whom came to Senegal for the event - presented Investigating Judge Demba Kandji details of 97 political killings, 142 cases of torture, 100 "disappearances," and 736 arbitrary arrests, as well as the Chadian Truth Commission report and a 1992 report by a French medical team which had treated 581 torture victims.

The case moved quickly. Within four days, seven victims gave their closed-door testimony before judge Kandji - something they had waited 9 years to do! Two former prisoners described being ordered by the DDS to dig mass graves to bury Habré's alleged opponents. Two others told of being subjected to a widespread torture method, the "Arbatachar," in which a prisoner's four limbs were tied together behind his back, leading to loss of circulation and paralysis. Judge Kandji then called in Habré on February 3, 2000 and indicted him as an accomplice to torture and crimes against humanity and placed him under house arrest.

Unfortunately, politics then entered the picture. The newly elected president of Senegal declared that Habré would not be tried in Senegal. When Habré's lawyers moved to dismiss the case, asserting that Senegalese courts had no competence over crimes committed in Chad, the prosecutor's office, in a reversal, joined his motion. A state panel transferred judge Kandji off the case.

The victims asserted that the UN Convention against Torture obliged Senegal to either prosecute or extradite alleged torturers who enter its territory and that under the Senegalese constitution, such international treaties apply automatically. An appeals court nevertheless ruled that Senegalese courts had no competence to pursue crimes that were not committed in Senegal and Senegal's court of final appeals upheld the dismissal ruling on March 20, 2001.

The Case Moves to Belgium With United Nations Support

Even before the Senegalese dismissal, another group of victims, supported by the same coalition, had silently filed a case against Habré in Belgium, to create the possibility of extradition to stand trial there. Twenty-one victims, including three Belgian citizens, are plaintiffs before Investigating Judge Daniel Fransen of the Brussels district court. The case is based on Belgium's long-arm "universal jurisdiction" law, which allows Belgium's courts to prosecute the worst international crimes no matter where they were committed. (That law is now at the center of an ongoing political and judicial debate in Belgium.)

In April 2001, just after the Senegalese courts dismissed the case, Senegal's President Abdoulaye Wade declared publicly that he had given Habré one month to leave Senegal. This abrupt decision was a tribute to the victims' efforts, but raised the possibility that Habré would go to a country out of justice's reach. The victims appealed to the UN Committee against Torture (CAT), which called on Senegal to "take all necessary measures to prevent Mr. Hissène Habré from leaving the territory of Senegal except pursuant to an extradition demand." Following an appeal by Kofi Annan, President Wade stated in September 2001 that he had agreed to hold Habré in Senegal pending an extradition request from a country such as Belgium capable of organizing a fair trial. President Wade reaffirmed this pledge in a meeting with Human Rights Watch in May 2002.

In 2001, during a visit by Human Rights Watch, the Chadian authorities granted unprecedented access to the files of Habré's dreaded DDS to the victims and their supporters. The AVCRP then spent months sorting the files which were submitted to Judge Fransen and which detail how Habré placed the DDS under his direct control. The documents include daily lists of prisoners and deaths in detention, interrogation reports, internal memos and reports on the campaigns against ethnic groups. Human Rights

Watch is now working with the American Association for the Advancement of Science on a statistical analysis of the documents. Preliminary work suggests that the life expectancy of a DDS prisoner was only 100 days.

From February 26 to March 7, 2002, Judge Fransen and a police team visited Chad with the cooperation of the Chadian government. The visit was front-page news in Chad and transformed the abstract case against Habré in far-off courts into a concrete reality, touching off a minor revolution in a country where Habré's most brutal henchmen still occupy most of the key security posts. The team visited the five N'Djamena jails where the DDS kept prisoners, as former inmates demonstrated how they were held and tortured. Ex-prisoners led the judge to the sites where they were forced to dig mass graves for those who died in detention. The judge also took the testimony of a number of Habré's DDS directors, and even allowed former victims to confront their torturers. The victims now hope that, when the debate over the validity of Belgium's long-arm anti-atrocity law is resolved, Judge Fransen will indict Hissène Habré and seek his extradition from Senegal.

The Effect of the Case in Chad

Just as Pinochet's arrest in Britain broke the spell of Pinochet's impunity in Chile, the Habré indictment in Senegal had an immediate impact back in Chad, an impact renewed and magnified by the judge's visit. After Habré's Dakar arrest, President Idriss Déby met with the Association of Victims' leadership to tell them that "the time for justice has come." On October 26, 2000, seventeen victims lodged criminal complaints in Chadian courts for torture, murder, and "disappearance" against named members of the DDS. The case was initially thrown out, but was reinstated after the victims appealed to the Constitutional Court. In May 2001, a Chadian investigating judge began to hear witnesses, and in September 2002, he started calling in the defendants to testify.

The victims' actions are a direct challenge to the continuing power of Habré's accomplices, who have begun to respond violently: The victims' Chadian lawyer, Jacqueline Moudeina, was severely injured in July 2001 by shrapnel from a grenade thrown at her by security forces commanded by one of the ex-DDS defendants. Her office was later ransacked. Souleymane Guengueng, AVCRP Vice-President, was suspended from his civil service job just after the judge's visit and has been tailed by uniformed men.

Documents on the Habré case can be found at <http://www.hrw.org/justice/habre/>