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Appeal Cases
CHAD: Voices of Habré's victims

“We don't want to die before Hissène Habré is brought to trial”



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Amnesty International, August 2006

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1. SUMMARY

On 2 July 2006, during its Seventh Ordinary Session in Banjul, The Gambia, The Assembly of the African Union urged the Republic of Senegal to prosecute the former Chadian president Hissène Habré, before a competent Senegalese court and to guarantee a fair trial. The African leaders took this decision - Assembly/AU/Dec.127 (VII) DOC. Assembly/AU/2 (VII) - after considering the secret report presented by a panel of expert jurists set up by the Assembly in January 2006 in Khartoum (Sudan). The panel, whose membership is still secret, was requested “to consider all aspects and implications of the Hissène Habré case as well as the options available for his trial”.

Following the July 2006 AU Assembly decision, Senegalese President Abdoulaye Wade has reportedly accepted the decision of the AU Assembly and expressed the intention of Senegal to try Hissène Habré. However, Amnesty International is not aware of any concrete step taken by the government to request any official to draft the necessary legislation defining torture as a crime over which Senegalese courts may exercise universal jurisdiction or to appoint a task force with civil society members to draft such legislation. Also current Chadian president Idriss Deby Itno said that the decision was important for the victims who have been waiting for 15 years for this to happen and promised to fully support the decision in terms of financial and material contributions. He added in an interview on 4 July 2006 that Chad would be responsible for all transport costs of the victims in order to enable them to attend the trial and provide any other assistance requested by the Senegalese Government.

This appeal document aims to provide a voice to some of the African victims who have filed complaints against Hissène Habré, enable them to appeal directly to Senegal, where Habré is living and which has received a formal request from the AU to try Hissène Habré, and to remind Senegal, Chad and all other states of their obligation to investigate and, where there is sufficient admissible evidence, to prosecute all those responsible for crimes under international law that have been committed in Chad, regardless when they occurred or who committed them.

All the victims Amnesty International met spoke of their desire for justice and their long struggle to ensure that Hissène Habré is tried by a competent and impartial court in proceedings that meet international standards of fair trial for the crimes he has been accused.

This document briefly describes the cases of some of the victims of Hissène Habré's administration who have filed complaints in Chad, Senegal and Belgium and relates their hope that Hissène Habré will face justice without further delay. These accounts and testimonies were obtained by Amnesty International from the victims in March 2006 and were presented to the chairperson of the African Union Assembly in advance of the 7th African Union summit. These testimonies remain relevant even after the AU decision. They were published in an Amnesty International's report in

May 2006 entitled: “CHAD. We don’t want to die before Hissène Habré is brought to trial” (AFR 20/002/2006).

It should be noted that all those whom Amnesty International met emphasized the need for justice, not vengeance. All spoke of the necessity to bring Hissène Habré before a court with full guarantee of impartiality and independence and none called for the former Chadian president to be sentenced to death for his crimes. Several expressed their distress at the possibility of not seeing Hissène Habré held accountable for his actions before a court in their lifetime.

2. OBJECTIVES

- Hissène Habré is prosecuted, wherever there is sufficient admissible evidence, in Senegal for the crimes he is alleged to have committed within a reasonable time and in accordance with the fundamental principles of fair trial.
- Hissène Habré’s victims are permitted to participate at all stages of the proceedings and are guaranteed the right to reparations.
- Senegal amends its laws to define genocide, war crimes, and crimes against humanity, torture, enforced disappearances and extrajudicial executions as crimes under national law and includes principles of criminal responsibility and defences in full compliance with the strictest requirements of international law.

3. TIMING

This is the time to put pressure on Senegal, Chad, Belgium and African Union to ensure that the allegations against Hissène Habré and all other persons suspected of crimes under international law in Chad are investigated and, where there is sufficient admissible evidence, prosecuted. Amnesty International continues to remind the international community that thousands of Chad government officials, including members of the armed forces and security forces, have committed such crimes and they must not continue to enjoy immunity. This Appeal runs from now to the end of 2006, and will be updated if the situation changes.

4. BACKGROUND

During Hissène Habré’s Presidency (1982-1990), suspected opponents and their families were victims of serious violations of their rights, including crimes under international law. The report of the commission set up in 1992 by the current Chadian government and charged with investigating the alleged crimes and embezzlement committed by the ex-President Habré and others during his presidency, determined that the government of Hissène Habré was responsible for the “disappearance,” torture, and execution of thousands of individuals in Chad. Victims, their families and civil society organizations have campaigned for more than fifteen years against the impunity of those responsible for the massive human rights violations committed under the government of Hissène Habré.

Hissène Habré was indicted on the 3 February 2000 in Senegal by the Dakar Regional Court for “crimes against humanity, acts of torture and barbarity,” but the Court of Appeal in Dakar ruled that they did not have jurisdiction to try acts of torture committed by a foreigner outside of its territory.

In March 2001, Senegal’s Cassation Court ruled that Hissène Habré could not stand trial in Senegal for torture allegedly committed elsewhere. Senegal had failed to define torture when committed outside its territory as a crime under its national law, in violation of its obligations under Articles 4 and 5 of the Convention against Torture.

Following the Cassation Court’s ruling in March 2001 and the inability of African victims to obtain justice or reparations in Senegal or in any other African country, some of the victims filed a criminal complaint in Belgium and constituted themselves as *parties civiles*. On 19 September 2005, after a four-year investigation by a Belgian judge, involving an on-site investigation in Chad, with an effective victim and witness protection and support program, an international arrest warrant was issued for Hissène Habré charging him with crimes against humanity, war crimes and torture. Belgium requested Senegal to extradite him, on the basis, *inter alia*, of Article 8 (2) of the Convention against Torture.

The Senegalese authorities arrested Hissène Habré on 15 November 2005. However, on 25 November 2005, the Court of Appeal in Dakar ruled that it had no jurisdiction to rule on the extradition request on the grounds that Hissène Habré enjoyed immunity as a former head of state from prosecution in a foreign court for crimes under international law such as torture and crimes against humanity. However, the United Kingdom’s House of Lords had recognized when it authorized the extradition of former Chilean President Augusto Pinochet in 1999, that former heads of state do not enjoy official immunity from prosecution on charges of murder, torture and genocide’. In addition the Chadian authorities have publicly stated that Hissène Habré cannot claim to enjoy any form of immunity from the Chadian authorities.

After the refusal of the Senegalese Court to rule on the extradition request, Senegal announced that it had asked the January 2006 Summit of the African Union Assembly to recommend “competent jurisdiction” for the trial of Habré. That summit set up a Committee of Eminent African Jurists (CEAJ) to consider the options for the trial of Hissène Habré and report back to the African Union Summit in July in Banjul.

In May 2006, the United Nations Committee Against torture (CAT) condemned Senegal for failing to try Hissène Habré and requested that Senegal ensure Habre’s trial or extradition (CAT/C/36/D/181/2001, 18 May 2006). The 1984 UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, obliges State to investigate, and, if there is sufficient admissible evidence, to either prosecute or extradite alleged torturers who enter in its territory. Senegal ratified this Convention in 1986.

5. HABRE’S VICTIMS TESTIMONIES

Amnesty International believes that it is essential for the judicial procedure in Senegal to listen to the victims in order to appreciate fully the suffering that they have endured and their need for justice.

a. Victim of Torture and “Disappearances”

- Bechir Bechara Dagachène, a member of the armed opposition group, the Democratic Revolutionary Council (CDR), was among a group of combatants detained by government authorities. He was arrested on 30 July 1983 in the town of Faya-Largeau during fighting between government troops of Hissène Habré and combatants of the armed opposition. Transferred to the prison in N’Djamena, he witnessed dozens of prisoners being taken from the prison to be extra judicially executed. *“Three days after my arrest, members of the DDS [Direction de la Documentation et de la Sécurité] came between 5pm and 6pm. They made us go out into the courtyard and they picked out some 150 prisoners on the basis of their ethnic origin; most of them were Arabs and were accused of being pro-Libyan. I later learned that all but one had been massacred at Ambing, a village to the north of N’Djaména. Only one person [Bichara Djibrine Ahmat] managed to survive – by pretending to be dead – and he filed a complaint at the same time as me in Belgium.”*

Bechir Bechara Dagachène was released in December 1988 following a peace agreement between the various Chadian parties to the conflict (the Baghdad Agreement).

He decided to file a complaint on behalf of his companions who had died in detention. He confided to Amnesty International in March 2006: *“I have seen a lot of crimes; I am a survivor. When I was arrested, we numbered between 800 and 1,000 prisoners and when we were released, we were no more than 312. The trial of Hissène Habré must become an example so that this never happens again either in Africa or anywhere else in the world.”*

b. Victims of Repression of Real or Alleged Political Opponents

- Clément Abaifouta was arrested in July 1985 by agents of the DDS just after he had passed his baccalaureate and enrolled at the Faculty of Arts in N’Djamena. In December 2005 Clément Abaifouta described his conditions of detention to Amnesty International: *“When I arrived at the headquarters of the political police [the DDS], I was accused of being involved with the opposition; they hit me and took me to a small cell where other people were being held.”* After two weeks, he was transferred to the “locaux”, a DDS prison where his task was to bury those who had died in detention. *“Twice a day, I went to bury between seven and 10 detainees who had just died in a mass grave outside N’Djaména.”* Clément Abaifouta was detained without trial for four years. *“That was four years deprived of food, four years of being regularly beaten. To clothe myself, I was forced to take the clothes of those who had died. I lost my hair, my teeth and I was unable to walk for six months.”*

Clément Abaifouta filed complaints in Chad, in Senegal and subsequently in Belgium. He told Amnesty International in December 2005: *“Since filing a complaint against Hissène Habré, I feel liberated and filled with renewed hope, hope of seeing my suffering finally acknowledged and of seeing the perpetrator of these atrocities held accountable for his actions before the law.”*

- Souleymane Guengueng was arrested at his office in N’Djaména in 1988 by Hissène Habré’s political police from the DDS. He was held at the Camp des Martyrs, not far from the “*piscine*”, a swimming pool that had been covered over with concrete and divided into several cells below ground level. At the “*piscine*”, detainees were subjected to torture. They suffered electric shocks, their nails were torn out and they were subjected to the “*arbatachar*”, a form of torture that consists of choking the prisoner by tying his wrists to his ankles from behind. *“From the depths of my cell, from the depths of this madness, I swore before God to fight for truth and justice if I came out alive. I was convinced that if God had protected my life it was to accomplish this mission and obtain justice as a tribute to those who had died or disappeared.”* Souleymane Guengueng was released in December 1990 shortly after Hissène Habré’s fall from power. Fifteen years later, his body still bears the scars of the torture he suffered and he continues to suffer serious problems with his eyesight despite several operations on both eyes.

After his release Souleymane Guengueng devoted himself to combating impunity by collecting the testimonies of those who had survived Hissène Habré’s prisons. “We have compiled more than 1,000 dossiers of victims in order to encourage them to file a complaint. Some have filed complaints in Chad, Senegal and in Belgium. I have pursued this fight in memory of my companions who ‘disappeared’ or who died in my arms.

- Ginette Ngarbaye (f), a young woman of 23, was pregnant when she was summoned to the DDS headquarters in N’Djaména on 16 January 1985. Accused of being in contact with political opponents, she was beaten and subjected to electric shocks. *“I repeatedly lost consciousness when they beat me; I no longer knew what they were doing to me when I fainted. Other people were screaming while they were being tortured; several of them died in the DDS and women were raped.”* After being held for several months at the DDS, she was transferred to the central prison where she gave birth in July 1985. She was released without charge or trial with her daughter two years later in February 1987. Ginette Ngarbaye is among the group of victims who have filed complaints against Hissène Habré in Chad, Senegal and subsequently in Belgium.

As she explained to Amnesty international *“I told them that I was four months pregnant but despite that they tortured me for four days,”*

TAKE ACTION NOW!

Please send polite letters or other materials to relevant authorities in Senegal, in Chad and in the AU listed below

Call on the Government of Senegal to:

- Ensure that Hissène Habré is tried in Senegal within a reasonable time, and in accordance with the fundamental principles of fair trial and international justice standards. These standards include domestic courts must have jurisdiction to try Hissène Habré for the alleged crimes committed in Chad; the court has demonstrated ability to conduct criminal proceedings promptly and in a manner respecting fair trial guarantees, including the presumption of innocence.
- Include crimes against humanity, war crimes, genocide, extrajudicial executions, enforced disappearances and torture, as well as principles of criminal responsibilities and defences, in national law in a manner consistent with requirements of international law.
- Ensure that the Senegalese courts that will prosecute Hissène Habré can use the results of the investigations that have been completed by the Belgian judge and then must start work immediately.
- Ensure protection and support to victims, their family members, lawyers witnesses and the participation of the latter at all stages of the trial.
- Ensure that victims have the right to reparations and effective procedures guaranteed.

Call on the African Union to:

- Ensure that the Senegalese has sufficient resources to support the cost of the trial of Hissène Habré in the country. If this is not the case, provide assistance to the Senegalese judicial system in order to facilitate a rapid process of the case and allow victims to receive a judgment on the Habré case within a reasonable time in conformity with its July 2006 decision on the matter.
- To facilitate access to the Senegalese Justice system for the alleged victims of Hissène Habré, witnesses and lawyers and organizations representing the victims.

Call on the Government of Chad to:

- Practically support the expenses of the victims, their family members and witnesses in order to facilitate their access to the proceedings at every stage and ensure their protection.
- Give every form of assistance to the Senegalese Government in this trial if requested, subject to effective safeguards for the protection of victims, witnesses and evidence.

Call upon the Government of Belgium to:

- Practically support the expenses of the victims, their family members and witnesses in order to facilitate their access to the proceedings at every stage and ensure their protection, subject to effective safeguards for the protection of victims, witnesses and evidence.

- Give every form of assistance to the Senegalese Government in this trial, if requested, including providing the results of the Belgian investigation, subject to effective safeguards for the protection of victims, witnesses and evidence.

Please send your appeals to:

Republic of Senegal

President of Senegal

H.E Abdoulaye Wade

Présidence de la République

Avenue Léopold Sedar Senghor

Telephone: (221) 880 80 80

(221) 823 84 44

(221) 823 10 88

Fax: (221) 823 17 02

PO Box : 4026

Dakar

Senegal

Salutation: Dear President /Monsieur le Président

Minister of Justice and Keeper of the Seals

H.E Cheikh Tidiane Sy

Telephone: (00221) 849 72 16

(00221) 849 70 94

Fax: (00221) 823 27 27

(00221) 821 96 70

Email: Marcel_mendy@hotmail.com

Salutation: Dear Minister/Monsieur le ministre

Minister Commissioner for Human Rights and Peace promotion

Mame Bassine NIANG

Téléphone : (00221) 880 82 05

(00221) 849 72 52

Fax : (00221) 821 50 11

(00221) 821 86 60

BP : 4026

Dakar

Email : mameniangu@sentoosn

Salutation: Dear Minister/Madame la ministre

Republic of Chad

President of Chad

H.E Idriss Deby Itno

Présidence de la République

N'djamena

Tel: +235 52 32 73 or 75/76/79/81

Emails: cprint@intnet.td, sgpr.tchad@intnet.td, presicom.pr@intnet.td.

Salutation: Dear President/Monsieur le Président

Minister of Justice and Keeper of the Seals

Edouard Ngarta Mbaihoroum

Adresse : 426 N'Djaména

Tel. : (235) 52.21.72/522139

Fax :(235) 522484, Email : justice@intnet.td

Salutation : Dear Minister/Monsieur le Ministre

Minister delegated to the Prime minister's office in Charge of Human Rights and relations with the Parliament

Abdramane Djasnabaille

Adress : BP 463 N'Djaména

Telephone : (235) 527030

Salutation : Dear Minister/ Monsieur le ministre

The African Union

Chairperson of the African Union Assembly

H.E. Denis Sassou Nguesso

President of the Republic of Congo

& Current Chairperson of the African Union Assembly

African Union Headquarters

P.O. Box 3243

Addis Ababa

Ethiopia

Tel: (251) 11 551 77 00

Fax :(+251-11-) 552 5840 / 551 0430

Salutation: His Excellence

Chairperson of the Commission of the African Union

H.E Alpha Oumar Konaré

Tel: (251) 11 5514554 / (251) 11 551 77 00

ext 120

Fax :(251) 11 5513036

Salutation: His Excellency

Belgium

Prime Minister

Guy Verhofstadt

Telephone : +32 (0)2-501.02.11

Fax : +32 (0)2-512.69.53 - 511.50.21

Rue de la Loi 16

B-1000 Bruxelles

Salutation : Dear Prime Minister/Monsieur le premier Ministre

Deputy Prime Minister and minister of Justice

Laurette Onkelinx

info@laurette-onkelinx.be

Telephone : +32 (0)2-233.51.11

Fax : +32 (0)2-230.10.67

Rue du Commerce 78-80

B-1040 Bruxelles

Salutation : Dear Deputy Prime Minister/ Madame la Vice-Première Ministre et
Ministre de la Justice

Minister of Foreign Affairs

Karel De Gucht

Rue de la Loi 16

B - 1000 Bruxelles

Belgique

Telephone : +32(0)2 - 501 02 11

Fax : +32(0)2 - 513 99 80

Formule d'appel : Dear Minister/Monsieur le Ministre

6. Contacts

Please send copies of any responses you receive to the Central Africa team at the International Secretariat. We would also be very interested to receive any feedback, questions and comments you may have. We shall keep you informed of any developments in this case.

Feedback and contact: **Christian MUKOSA, Central Africa Campaigner,**
Cmukosa@amnesty.org

**More information on the Hissène Habré case can be obtained on Amnesty
International's website**

<http://www.amnesty.org/chad/Senegal>

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EXTERNAL