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Senegal's decision to try Hissène Habré is a positive development

Amnesty International welcomes Senegal's decision, in response to the request of the African Union Assembly, to try Hissène Habré. Throughout Hissène Habré's rule from 1982 to 1990, the Chadian security forces and intelligence services were allegedly responsible for crimes against humanity, extrajudicial executions, enforced disappearances, arbitrary detention and torture or ill-treatment, which were perpetrated with absolute impunity.

For 15 years, Senegal has denied justice to African victims of Hissène Habré by failing either to investigate and, if there is sufficient admissible evidence, to prosecute Hissène Habré for these alleged crimes or to extradite him to Belgium, which requested his extradition in September 2005. On 18 May 2006, the UN Committee against Torture, ruling on a communication filed by some victims of Hissène Habré, found Senegal in breach of the Convention against Torture for having failed to prosecute or extradite Hissène Habré.

Amnesty International has repeatedly urged Senegal to comply with its obligations under international law. As soon as Hissène Habré arrived in Senegal, the Senegalese government was under the obligation, under the provisions of the Convention against Torture, to investigate the allegations of human rights violations, including torture, and if there was sufficient admissible evidence, to prosecute him, if it decides not to extradite him. However the Senegalese courts, in contravention of Article 5 (2) and 7 (1) of the Convention against Torture, have on several occasions rejected the competence to try Hissène Habré on the grounds that the courts did not exercise jurisdiction over a foreign national who had committed crimes of torture in another country. The Senegalese courts based their decision on the fact that Senegal, although it had ratified the Convention against Torture in 1986, had not adopted the necessary implementing legislation.

Senegal's decision therefore represents an important step in the fight against impunity in Africa and sends a message that those suspected of human rights violations will be brought to justice regardless of their position or status. Senegal must now urgently act to reform its laws to allow the trial of Hissène Habré in accordance with fundamental international principles of fair trial and justice including by ensuring that:

domestic courts have jurisdiction to try Hissène Habré for the alleged crimes committed in Chad;

the Senegalese national laws define genocide, war crimes, crimes against humanity, torture, enforced disappearances, extrajudicial executions and principles of criminal responsibility and defences, in full compliance with international law;

the court has demonstrated ability to conduct criminal proceedings promptly and in a manner respecting fair trial guarantees, including the presumption of innocence;

effective victim and witness support and protection programmes are available;

victims are permitted to participate at all stages of the proceedings;

victims have the right to reparations and effective procedures guaranteed.

Senegal must also ensure that its courts can make use of the documentation collected in the investigations that have already been conducted on the allegations of human rights violations committed during Hissène Habré's presidency.

Background

After the Senegalese court ruled that it has not jurisdiction to try Hissène Habré, some victims filed a complaint in Belgium. The following four-year investigation by a Belgian judge, resulted in an international arrest warrant against Hissène Habré issued on 19 September 2005, charging him with crimes against humanity, war crimes and crimes of torture. Belgium requested Senegal to extradite Hissène Habré, citing in particular Article 8(2) of the Convention against Torture.

However, on 25 November 2005 the Dakar Court of Appeals decided that it had no jurisdiction to rule on the extradition request of Belgium and the president of Senegal, Abdoulaye Wade asked the AU to intervene. The AU Assembly considered the case of Hissène Habré at its 6th Ordinary session in Khartoum (Sudan) in January 2006 and decided to establish a Committee of Eminent African Jurists "to consider all aspects and implications of the Hissène Habré case as well as the options available for his trial". The committee reported to the Assembly at the 7th Ordinary Session in Banjul (the Gambia), in July 2006.