



Former dictator of Chad Hissène Habré v. (SEYLOU)

CASE STUDY

February 2025



**The Habré trial: lessons,
replicability and
limitations**

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President Habré (White House Photographic Collection)

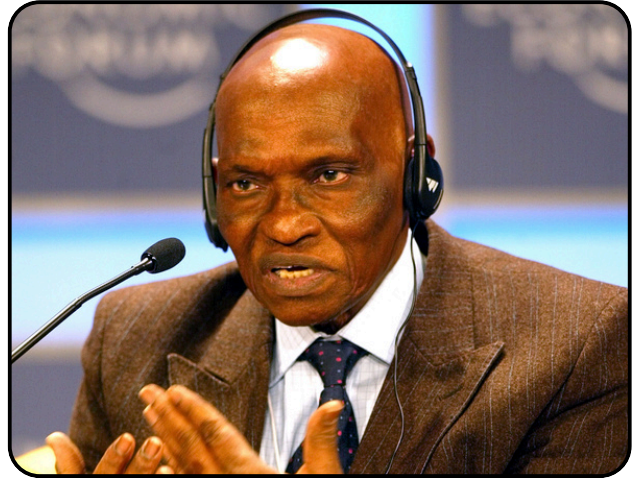
After a legal battle spanning more than twenty years, former dictator Hissène Habré was sentenced on 30 May 2016 to life imprisonment for crimes against humanity and torture, rape and sexual slavery, as well as war crimes, by the Extraordinary African Chambers. The verdict was confirmed on 27 April 2017 by an Appeals Chamber, which also ordered him to pay nearly €123 million in compensation to the victims. Although this is an individual case, it is an example of both national and international mobilisation, a strategic dispute conducted with method and endurance, and from which lessons can be learned.

LESSONS FROM A STRATEGIC DISPUTE

A NEW LEGAL FRAMEWORK

The International Criminal Court (ICC) was unable to try Habré because its mandate was limited to crimes committed after it came into force in 2002. However, the crimes of the Habré regime were committed between 1982 and 1990, a period during which the ICC had no jurisdiction. This situation highlighted the need for African mechanisms of universal justice.

The trial of Hissène Habré, held in Dakar under the aegis of the Extraordinary African Chambers [1], was a milestone for international justice in Africa. After being overthrown in 1990, Hissène Habré lived in exile in Senegal, where he was free for decades: the Senegalese authorities initially did not prosecute him, despite a complaint lodged in January 2000 by Chadian victims against him for torture. Senegalese President Abdoulaye Wade, who had ambiguous ties with Habré, particularly under pressure from the Mourides, an influential brotherhood that had protected him, ignored these requests. In 2006, the African Union (AU) officially asked Senegal to prosecute Hissène Habré *'in the name of Africa'*, following years of pressure from the international community and human rights organisations. While Belgium had issued an arrest warrant for Habré for crimes against humanity, Senegal refused to extradite him, citing for years its commitment to organise a trial. In African soil, at a time when a number of African states were increasingly opposed to the International Criminal Court [2].



Abdoulaye Wade (Photo by Marcel Bieri)

At the January 2006 African Union Summit in Khartoum, the AU also took the decision to set up a Committee of Eminent African Jurists appointed by the current Chairperson of the African Union, in consultation with the Chairperson of the African Union Commission. As stated in the Committee's first report, it was mandated *'to consider all aspects and implications of the Hissène Habré case and the options available for his trial, taking into account the following elements: adherence to the principles of total rejection of impunity; respect for international standards of fair trial, in particular the independence of the judiciary and the impartiality of proceedings; competent jurisdiction for the alleged crimes for which Mr. Habré should be tried; effectiveness in ensuring the independence of the judiciary and the impartiality of proceedings. Habré should be tried, efficiency in terms of costs and trial time; access to the trial for the alleged victims and witnesses; giving priority to an African mechanism'* [3].

The committee, a new body made up of seven jurists from different countries on the continent, has provided a legal solution to the Habré case.

Senegal amended its legislation to allow prosecution, while requesting international funding to cover the costs of the trial. After three years of negotiations, a budget of €8.6 million was agreed in 2010 between Senegal and donor countries. During the same period, ECOWAS recommended that Habré be tried by a special ad hoc international tribunal, a recommendation rejected in 2011 by Senegal, which withdrew from negotiations with the African Union on the creation of this tribunal.



Macky Sall, President of Senegal. MONUSCO Photos

Relations between Senegal and the AU then deteriorated, and Senegal eventually also ruled out the option of trying Habré in the country, supporting his extradition to Belgium. In 2012, the International Court of Justice (ICJ) ruled that Senegal had failed to fulfil its obligations under the Convention against Torture, and ordered it to prosecute Habré or extradite him without delay. It was only with the election of Macky Sall in March 2012 that the political will to bring Habré to trial took shape: unlike his predecessor, Macky Sall has adopted a stance in favour of a national trial, rather than extradition to Belgium. After discussions with the African Union, an agreement was reached to create the Extraordinary African Chambers within the Senegalese judicial system. On 17 December 2012, the Senegalese National Assembly passed a law establishing these Special Chambers, and they were officially inaugurated in Dakar on 8 February 2013.

The exclusive mission of these Chambers was to try Hissène Habré for the serious crimes committed during his regime.

One of the challenges inherent in any universal jurisdiction case had been met: creating the necessary political will in the State in which the proceedings were to be held. Previous cases of this kind, Pinochet being the exception, have ended in failure (Iraq or Ethiopia, for example). And the fact that the trial took place in Africa and not in a distant international court finally strengthened its legitimacy in the eyes of the African people.

VICTIMS AT THE CENTRE

In his book *La traque de Hissène Habré* [4], lawyer Reed Brody recounts and analyses this legal battle. In it, he highlights the symbolic force of the proceedings, which shed light on the victims, giving particular importance to the numerous testimonies and giving them international media coverage. The judgment put an end to decades of impunity, bringing justice to the thousands of people tortured, executed or reported missing under the Habré regime. The strategy of focusing on the testimony of the victims bore fruit, and brought to the fore figures who made a lasting impression on public opinion. The people concerned and involved took personal steps that were more likely to convince politicians to continue the legal battle despite the obstacles.

The perseverance of Chadian victims' associations, who have fought tirelessly despite political and legal obstacles, has proved decisive. Among these associations, the Association of Victims of Crimes of the Hissène Habré Regime (AVCRHH) has played a central role. Headed by Clément Abaïfouta, a former political prisoner of Habré, the association documented the abuses and brought the voice of the survivors to the international stage [5]. Figures such as Jacqueline Moudeïna, the victims' lawyer, have also played a decisive role. This human rights activist survived an assassination attempt in 2001 and has continued her work on behalf of the victims. Her commitment until Habré's conviction. His work has been recognised by numerous inter-national awards.

FORMING A TRANSNATIONAL COALITION

The final characteristic of this historic trial lies in the transnational and multidimensional coalition that was formed to develop the case and make the trial possible: the involvement of international organisations such as Human Rights Watch proved essential, for example, in documenting the human rights violations, raising the funds needed for a campaign and then a lengthy trial, training the victims, as well as publicising the legal battle and the testimonies.

When the fight ran out of steam, it was necessary, on several occasions, to launch diplomatic campaigns to mobilise the international community, in parallel with the essential legal action. The United Nations Committee against Torture, the African Union, the European Union, the European Parliament and the Office of the United Nations High Commissioner for Human Rights all spoke out on behalf of this extraordinary trial.

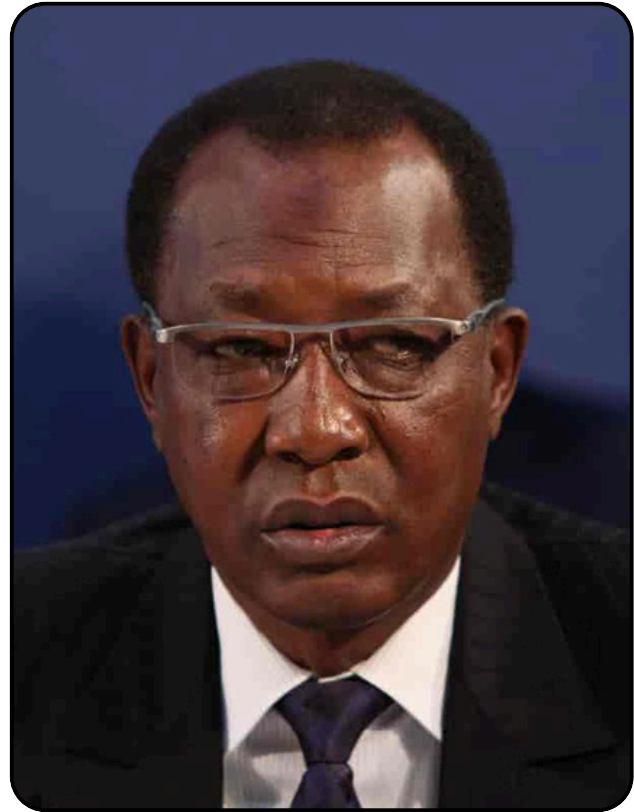


A demonstration by the victims of former Chadian president Hissène Habré (André Kodmadjingar)

STRUCTURAL LIMITS

THE CURRENT REGIME

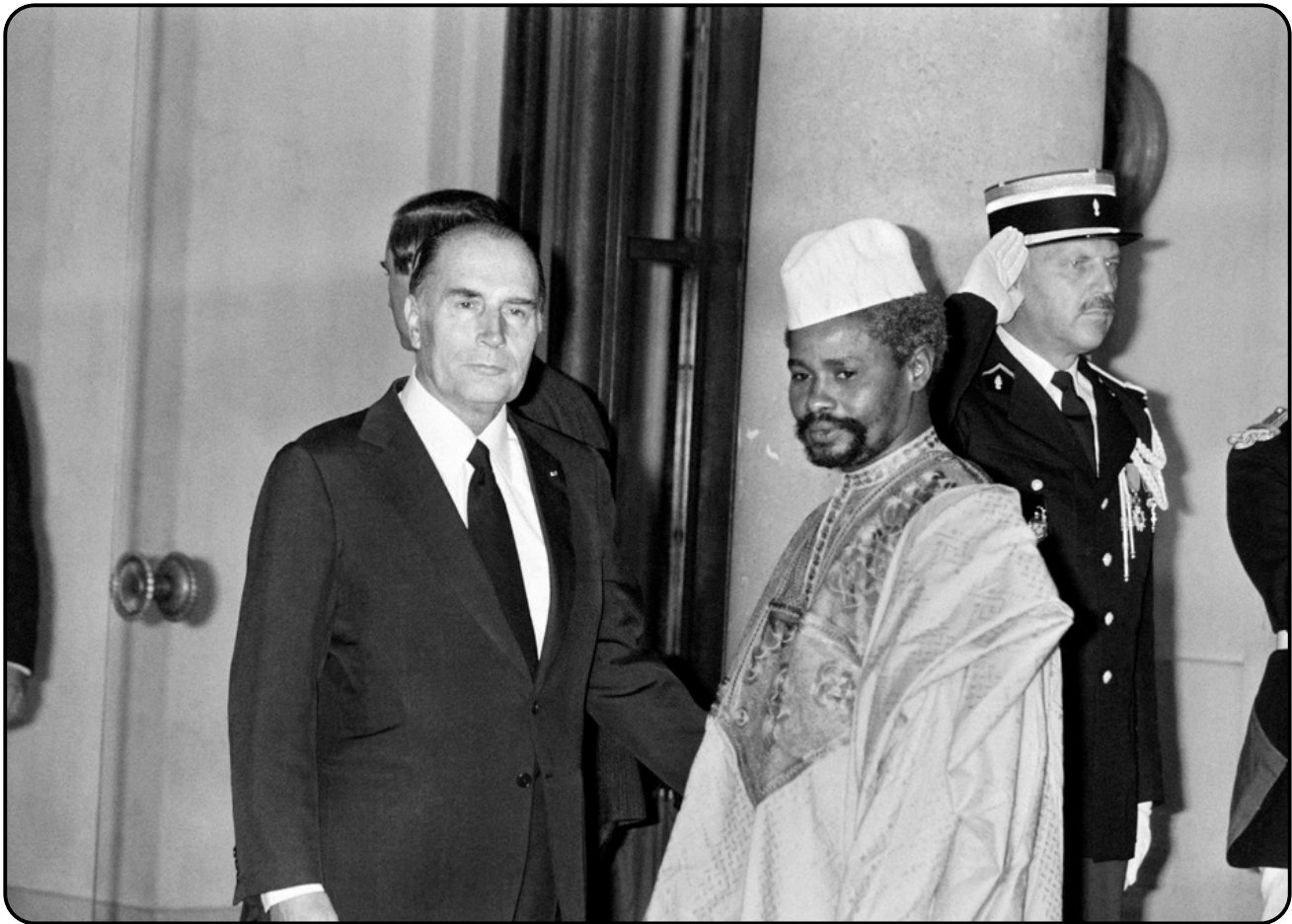
However, the Habré trial also highlighted the difficulties of international justice: while the investigative work put the victims at the heart of the story, the trial also led to sharp tensions with and within the government in power. The attitude of the Chadian authorities has oscillated between inertia and active obstruction. While the Chadian government officially supported the trial, in particular by partially funding the Extraordinary African Chambers, it never initiated any internal proceedings against the former officials of Habré's regime who were still in office. It is in fact difficult to try the predecessor while the leading members of his government are still in power. This partly explains the length of the trial and the difficulty for Chad to draw conclusions from it: although Habré has been tried, many officials from his regime remain unpunished and are still in positions of power. Former President Idriss Déby Itno, for example, served under Habré as Commander-in-Chief of the armed forces during the period known as 'Black September', marked by a murderous crackdown aimed at bringing the south under the authority of the central government. However, Article 10 of the Statute of the Chambers states that 'the official capacity of an accused, whether a Head of State or Government, or a senior civil servant, shall in no case exonerate him or her from criminal responsibility [...]'.⁶



Idriss Déby (UK Foreign, CommonwealthOffice)

The investigating judges therefore had the necessary latitude to initiate proceedings against President Déby for international crimes alleged to have been committed between 1982 and 1990, but they did not do so. ^[6]

The bulk of the evidence of Habré's crimes was discovered not by the Chadian judiciary, but by Reed Brody during a visit to the former premises of the Documentation and Security Directorate (DDS) in N'Djamena ^[7]: there he found documents proving the arbitrary arrests, torture and executions under Habré, which had been left behind without ever being investigated by the local judiciary. This inaction on the part of the Chadian judiciary underlines the limits of any real desire for justice within the country.



Hissène Habré at a meeting with François Mitterrand in 1983 Dominique FAGET

The involvement of several Western countries that supported Habré's regime was not mentioned during the trial. However, as highlighted in two Human Rights Watch reports published in 2016, entitled *'Enabling a Dictator: The United States and Chad's Hissène Habré 1982-1990'* and *'France's Ally, Condemned by Africa - Relations between France and the Chadian Regime of Hissène Habré (1982-1990)'*, France and the United States provided decisive assistance to Habré in his seizure of power, despite their knowledge of the brutal methods he used.

'Both countries saw Habré as a bulwark against the expansionist aims of Muammar Gaddafi's Libya, whose forces were occupying northern Chad at the time'^[8] Mention of this support at the trial would have identified one of the structural factors behind the former president's long impunity.



Hissène Habré on 3 June 2015 in Dakar.

SENTENCING AND REPARATIONS

Although Habré has been convicted, the question of extended responsibility remains. None of the senior members of his regime has been prosecuted, despite the overwhelming evidence against several of them, including Idriss Déby, who was head of the army under Habré.

Even though a conviction has been handed down, the implementation of reparations for victims remains incomplete due to the lack of sufficient funds (above all because of a lack of political will) and the complexity of the mechanisms put in place: court decisions are not followed up.

of sufficiently binding control, only one-fifth of the reparations demanded have been paid. [9]

The African Union, which was asked by the Dakar Tribunal to create a trust fund to raise the necessary sums, has not done so to date. In any event, Chad could indefinitely refuse or delay enforcement of the decisions by invoking financial or political difficulties, or play on complex internal procedures to slow down implementation.

CONCLUSION

The Habré case opened the Pandora's box of impunity of the last decades in Chad, impunity that is still in force in the country. Reed Brody's treatment in Chad in October 2024 [10] is a symptom of the current Chadian authorities' discomfort with this issue: the Chadian army took the lawyer back to the airport as soon as he arrived in the country, refusing to allow him to travel on the basis of his latest book about the Habré trial. A number of serious shortcomings also limited the scope of the trial: responsibility for the mass murders stopped with Habré, with no prosecution against

The reparations demanded were neither mobilised nor distributed.

This example of international justice can be seen either as half a victory or half a failure, but in any case it illustrates the concrete results that can be achieved through the use of the law, if and only if the commitment and persistence of civil society go hand in hand with determined international support.



Trial of former Chadian president Hissène Habré begins

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