

The Public Prosecution versus Hisséne Habré

Summary of the fifth hearing held on 9 September 2015

I/ Synopsis

At the start of proceedings at 9:15 am, the presiding judge performed the customary check verifying that all parties concerned were present. Having noted no changes, he was prepared to continue with the proceedings when one of the lawyers for the defence requested to speak in order to highlight an issue regarding the defendant's access to the floor. The judge asked the defence to make a formal request in this regard, whereupon the civil party also requested the floor in order to reiterate the reservations they had made at the previous day's hearing and had registered with the clerk. The presiding judge asked the defendant to disclose his identity, to which the defendant remained silent and indifferent. Taking due note, the judge inferred a refusal on the part of the defendant for legal representation. In the light of the absence of the two expert witnesses called by the prosecution the presiding judge instructed the Public Prosecutor to take all steps necessary to ensure that, in future, witnesses are present in the courtroom when they have been summoned. Further, the presiding judge approved the prosecution's request to play a radiophonic broadcast (African archives) on the personality and career of the defendant. At the end of this broadcast, the presiding judge called expert witness Arnaud Dingammadji to the stand.

II/ Hearing of witness no. D1235

Last Name: Dingammadji

First Name: Arnaud

Date and place of birth: 1976, Southern Chad

Occupation: Historian

Nationality: Chadian

Place of residence: Ndjamená

Having taken the oath, the expert witness began the first of his three-part testimony:

A- Preliminary remarks

The expert gave a brief summary of his career, work and methods which draw on written, oral and iconographic research. He is a PhD student, lecturer, journalist and historian specialising in contemporary political history, particularly on Heads of State and major political leaders. He underscored the importance of historians in both national and international court proceedings.

B- Chad's tumultuous history from June 1982 to December 1990

After giving a brief summary of the defendant's career, from his youth, political activism, to his attempt to seize power, the witness divided his exposé into four sections:

- The different phases of the armed conflicts and the warring factions: in this case, the two wars in the Northern part of Chad between the FANT (Chadian National Armed Forces) and the GUNT (Transitional Government of National Unity), and between Chad and Libya. In his conclusion, he described how these wars were characterised by alternating periods of hostilities and negotiations. He believes that President Habré exploited the possible threat from Libya to justify his own repressive policies. He benefited from internal support from the Hadjaraye, Zaghawa and Arab ethnic groups as well as international support from France, USA, Egypt, Sudan under Nimeyri and Zaire under Mobutu. This allowed him to slow the advance of Libyan hegemony and to cultivate a certain political aura on both international and domestic stages.

- Policies pursued by the authorities concerning ethnic Arabs, Zaghawas and Hadjarayes: The witness stated that President Habré had taken a double-edged approach with the Arabs, perpetrating repressive acts while pursuing dialogue with their leaders. The expert pointed out the absence of categorical information on any widespread repression on Arabs. Regarding the Hadjarayes, they had always been loyal comrades-in-arms of President Habré from the time of the rebellion to the offensive that brought him to power. However, their relations began to deteriorate following the death of their leader Miskin who was a minister in Habré's government at the time. This was accelerated by the murder of Miskin's uncle by two Goran officers (ethnic group of President Habré). And that was indeed the beginning of the repression against Hadjaraye civilian populations, some of whom were burned alive to serve as an example to others. Concerning the Zaghawas, their officers were the cornerstones of the Habré regime's security. Relations began to deteriorate after the departure of their prominent leaders Idriss Debi, Hassane Djamouss and Ibrahim Makhmat Itno on the night of 1 April 1989. The latter formed a rebel movement based in Sudan and led regular attacks against the FANT. The ensuing bloody repression continued until Habré himself fled the country.

- Rebellion in Southern Chad (organization, strategy and duration): preferential treatment of government officials observed in the North gave rise to a rebel group called the Kodos in the South. Evidence of the presence of the various mobile Kodos units would include economic warfare, ambushes and kidnappings. Despite the Habré regime negotiating with them and proposing to join forces, repressive acts were nonetheless perpetrated against them; as illustrated by the mass graves discovered after Black September.

- Nature of relations between the authorities and unarmed political opponents: Consisting mainly of the Paris and Brazzaville groups, they were invited to return to the country in the interests of national reconciliation. They were given many key positions but Habré's determination for a one-party system proved to be a major obstacle in implementing the democracy-driven 1986 Brazzaville agreements. This resulted in repression in the form of incarcerations, disappearances and assassinations. Remaining opponents were forced to join the single party, the UNIR.

C- Questioning of the witness by the parties

- Lawyers of victims

On questions relating to Habré's support, the witness responded that Habré benefitted from the national war effort, and also received foreign support to become Prime Minister (France under Giscard d'Estaing). According to the witness, these different sources aided him to seize power but he was keen to keep his independence from them. Regarding Habré's personal liability for crimes committed, he stated that was not part of his remit. The issue of the fate of prisoners was also raised. Based on the observations of the witness, these were primarily GUNT and Libyan soldiers, some of whom were executed at random. Also, the witness explained Habré's flight from Chad by maintaining that his close collaborators and his traditional French and American allies turned their backs on him. Lastly, the lawyers of victims asked if any elections were organized during that era. He answered in the negative, insisting that the 1989 referendum and the 1990 legislative elections were the only genuine elections in Chad between 1982 and 1990.

- The prosecution

After acknowledging the discretionary powers of the presiding judge, the Public Prosecutor commended the witness for his scientific research. However he reminded him of some of Habré's observations on the report, essentially pointing out that the expert was a well-known opponent of the regime and therefore his report lacked objectivity. To this the expert replied that he was not an opponent of Habré. Besides, he was only 14 years old when Habré left power.

The witness addressed the Deputy Prosecutor's questions regarding Habré's domestic and international support by referring to the conclusions in his report, which are mentioned above.

In response to other questions posed by the prosecution, the expert talked about:

- the place of the judiciary in the 1989 constitution;
- agreements leading to the release of prisoners and political exiles;
- types of weapons used by the Kodos, who according to him did not have heavy weaponry which enabled them to move around easily. They were hence located more often in the bush, never seizing permanent control of a town.

- He concluded by establishing that authoritarian regimes were in place between 1962 and 1990. It was only after the '90s that human rights institutions began to emerge in Chad.
- The defence

Most of the questions raised by the defence lawyers revolved around predictions about the future. The expert replied that as a historian it was out of bounds for him to make projections and furthermore he wasn't an ethnologist. Besides, the defence put some questions to the witness that the presiding judge thought belonged to the realms of science fiction.

III/ Time management

The hearing commenced at 9:15 am and ended at 6 pm. Only one witness was heard. In the interest of equity, the court ensured that each party complied with the speaking time they were allocated. The first morning session lasted 1 hour and 47 minutes and the second 1 hour. In the afternoon there was a first session of 1 hour and 50 minutes and a second of 1 hour and 36 minutes. The total duration of the day's proceeding was 6 hours and 13 minutes.

NB: A certain journalist by the name of Mr Mendy informed us that the 14 Habré supporters who were detained during the hearing on 7 September 2015 had been released today (9 September 2015) and pardoned by the presiding judge. However, if they repeat their offence, they will be liable to prosecution.

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