



American Model United Nations
International Court of Justice

1 **THE KINGDOM OF BELGIUM,**

2 **APPLICANT**

3 **V.**

4 **THE REPUBLIC OF SENEGAL,**

5 **RESPONDENT**

6 **MEMORIAL OF THE KINGDOM OF BELGIUM**

7 **STATEMENT OF JURISDICTION**

8 The Kingdom of Belgium has come before the International Court of Justice with an issue in need
9 of settlement. The Kingdom of Belgium recognises the jurisdiction of this court to settle an ongoing issue
10 involving the Republic of Senegal. Mr. Hissne Habr, the former President of the Republic of Chad, has
11 allegedly committed acts of torture and crimes against humanity during his presidency and has been
12 a resident of Senegal since being granted political asylum by the Senegalese Government in 1990.

13 1. The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Pun-
14 ishment signed by the Kingdom of Belgium and the Republic of Senegal in 1985 and ratified by the
15 Kingdom of Belgium in 1999 and by the Republic of Senegal in 1986 states:

16 ARTICLE VI:

17 "...any State Party in whose territory a person alleged to have committed any offence referred
18 to in article 4 (acts of torture) is present shall take him into custody or take other legal measures to
19 ensure his presence."

20 "Such State shall immediately make a preliminary inquiry into the facts."

21 ARTICLE VII:

22 The State Party in the territory under whose jurisdiction a person alleged to have committed
23 any offense referred to in article 4 is found shall in the cases contemplated in article 5, if it does not
24 extradite him, submit the case to its competent authorities for the purpose of prosecution."

25 2. Under Article 36 of the United Nations Charter, both nations have come to the courts in need
26 of help settling a dispute. Below listed are the exact statutes mentioned before.

27 "2. The states parties to the present Statute may at any time declare that they recognize as
28 compulsory ipso facto and without special agreement, in relation to any other state accepting the
29 same obligation, the jurisdiction of the Court in all legal disputes concerning:

30 the interpretation of a treaty

31 any question of international law;

32 the existence of any fact which, if established, would constitute a breach of an international
33 obligation;

34 the nature or extent of the reparation to be made for the breach of an international obligation"

35 "6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled
36 by the decision of the Court."

37 3. The Republic of Senegal signed a declaration recognizing the jurisdiction of the Court on 22
38 October 1985. It has no qualms therefore about its case going before the principal judicial organ of the
39 United Nations.

40 STATEMENT OF LAW

41 Paragraph 1 of Article 30 of the Convention Against Torture and other Cruel, Inhuman or Degrading
42 ing Treatment or Punishment states that, if any disputes between State Parties are not addressed by
43 negotiation within six months, then "... any one of those Parties may refer the dispute to the International
44 Court of Justice by request in conformity with the Statute of the Court."

45 Article 4 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment
46 or Punishment states:

47 "Each State Party shall ensure that all acts of torture are offences under its criminal law. The
48 same shall apply to an attempt to commit torture and to an act by any person which constitutes com-
49 plicity or participation in torture."

50 "Each State Party shall make these offenses punishable by appropriate penalties which take
51 into account their grave nature."

52 Article 5, paragraph 2 of the Convention Against Torture and Other Cruel, Inhuman or Degrading
53 ing Treatment or Punishment states: "Each State Party shall likewise take such measures as may be
54 necessary to establish its jurisdiction over such offenses in cases where the alleged offender is present
55 in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the
56 States mentioned in paragraph 1 of this article."

57 STATEMENT OF FACTS

58 Mr. Hassne Habr served as the fifth president of Chad from 1982 to 1990. While in office, Habr was
59 responsible for the deaths of 40,000 people, many of whom were Belgian citizens, and other human-
60 rights abuses, such as rape and sexual slavery. In 1990, Habr fled to Senegal, where he was granted
61 political asylum.

62 On January 25, 2000, seven Chadians filed an official complaint against Mr. Habr at the Dakar
63 Tribunal. The senior judge indicted Mr. Habr for crimes against humanity and acts of torture. It was only
64 weeks later when prosecuting authorities previously in favor of Mr. Habr's prosecution reversed their
65 decision and began supporting Mr. Habr's application to annul proceedings. The judge was removed
66 from the case, and on July 4, 2000, the Chambre d'accusation annulled the proceedings.

67 On November 30, 2000, a Belgian of Chadian descent submitted a complaint against Mr. Habr
68 in a Belgian court. Two more Belgians also submitted similar complaints on April 12 and May 3 of 2001.
69 The investigative judge concluded that Mr. Habr's acts were considered "crimes against humanity."

70 On September 19, 2005, the investigative judge sent the Senegalese authorities an arrest war-
71 rant in absentia for Mr. Habr thus followed a series of Note Verbales in which Senegal refused to either
72 extradite Mr. Habr or prosecute him.

73 The African Union and several other international organizations urged the Republic of Senegal
74 to prosecute or extradite Mr. Habre to a state where prosecution would take place.

75 ARGUMENTS

76 Considering the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment
77 or Punishment, Article 5, paragraph 1 "Each State Party shall take such measures as may be necessary
78 to establish its jurisdiction over the offenses referred to in article 4 in the following cases:", subsection
79 c) "When the victim is a national of that State if that State considers it appropriate", Belgium is entitled
80 to act within the powers laid down by such Convention, including the right to prosecute and extradite,
81 against Mr. Habre given the considerable amount of Belgian citizens victims of the acts perpetrated
82 by Mr. Habre.

83 The Republic of Senegal has failed and keeps failing to act in regards to this situation. They
84 refuse to prosecute Mr. Habre for an alleged "lack of jurisdiction over a foreign national", but, at the
85 same time, they de facto maintain jurisdiction over Mr. Habre by granting him political asylum and
86 therefore denying his extradition to another state. These acts are not only logically in contrast to each
87 other, but breach the legal basis granted by the Convention Against Torture and Other Cruel, Inhuman
88 or Degrading Treatment or Punishment.

89 SUMMARY AND REQUESTS

90 Given the jurisdiction of this Court in this matter, the international laws involved, and the exposed
91 facts and arguments, the Kingdom of Belgium formally requests this Court to accept its claim that the
92 Republic of Senegal must prosecute Mr. Habre for his crimes against humanity, or allow his extradition
93 to Belgium for such prosecution to take place. Given the lack of action from the Republic of Senegal
94 since as early as the year 1990, we advise and suggest that this Court consider the extradition of Mr
95 Habre to the Kingdom of Belgium as the most suitable option. We advise the Court to consider our
96 arguments for jurisdiction as precedent for addressing similar extradition cases in the future.