



## Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal)

**ARGUED: 25 November 2024**

**DECIDED: 26 November 2024**

1 This Dissenting Opinion was written and signed by Justice Houston of Malta.

2 A Justice of the Court, I assert that while Senegal has breached its obligations under Article 7(1)  
3 in the Convention Against Torture (CAT) by failing to prosecute Habr in a timely and effective manner,  
4 I do not believe extraditing Habr to Belgium is the most appropriate course of action. Article 7(1) of the  
5 CAT states that if a person accused of torture is found in its territory, a State must submit the case to  
6 its competent authorities for prosecution. If prosecution is not pursued, the State must extradite the  
7 accused to another State willing and able to prosecute.

8 Senegal's delay of nearly two decades in addressing Habr's alleged crimes, despite repeated  
9 requests from Belgium, represents an unjustifiable failure to act. Further, procedural delays and diplo-  
10 matic consultations do not excuse a State from fulfilling such treaty obligations. While Belgium acted  
11 in good faith by invoking its jurisdiction under the principle of universal jurisdiction, extraditing Habr to  
12 Belgium raises concerns about fairness and impartiality.

13 Article 3(1) of the CAT states, "No State Party shall expel, return or extradite a person to another  
14 State where there are substantial grounds for believing that they would be in danger of being subjected  
15 to torture." This Article prohibits States from extraditing individuals to countries where there is a real  
16 risk of torture or inhumane treatment. This includes sending them to places with biased or inadequate  
17 legal systems, where they might not receive a fair trial or adequate protections.

18 In recognizing Belgium people need for justice, we refer to the custom of universal jurisdiction.  
19 Universal jurisdiction allows States to prosecute grave crimes regardless of where they occur. However,  
20 this principle must be exercised in a manner that avoids perceptions of political bias or selective justice.

21 It is crucial to establish a unified judicial mechanism that brings together all the states and  
22 entities with a legitimate interest in ensuring justice. Senegal, as the country of refuge; Belgium, as  
23 the state invoking universal jurisdiction; Chad, where the crimes were committed; and international  
24 bodies such as the African Union and the United Nations, all have a stake in this process. To achieve  
25 impartiality and fairness, a collective tribunal or hybrid court, modeled after examples like the Special  
26 Court of Sierra Leone, should be convened.

27 The Special Court of Sierra Leone was set up in 2002 by the United Nations and the government  
28 of Sierra Leone to prosecute those responsible for serious crimes during Sierra Leone's civil war. It is a  
29 hybrid court, meaning it combines both international and local judges to ensure fairness and balance.

30 This approach ensures the trial reflects the interests of all victims and stakeholders while avoid-  
31 ing the perception of bias or political motivations tied to any single country. By pooling resources, evi-  
32 dence, and legal expertise, such a mechanism would not only adhere to international legal standards  
33 but also strengthen global cooperation in combating impunity for crimes such as torture.

34 Justice doesn't belong to one nation or one Court it belongs to the world. Let the collective force  
35 of international law rise up, and let Habr's trial be the proof that no crime goes unpunished, no matter

36 where it's committed or who's involved.

Signed By

A handwritten signature in cursive script that reads "Aliyah Houston".

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Justice Aliyah Houston