

AMNESTY INTERNATIONAL PUBLIC STATEMENT

AI Index: AFR 49/001/2009
9 January 2009

Senegal: Call for immediate release of nine men sentenced on the basis of their alleged sexual conduct

Amnesty international today called for the immediate and unconditional release of nine men sentenced on 7 January 2009 to eight year's imprisonment for "indecent conduct and unnatural acts and conspiracy (*association de malfaiteurs*)". Amnesty International considers them prisoners of conscience, sentenced solely on the basis of alleged sexual conduct.

The nine men were arrested in Dakar on 19 December 2008 after being the subject of anonymous accusations concerning sexual behaviour. Police officers raided the house of Diadji Diouf, Secretary General of AIDES Senegal, an organization providing HIV prevention services to men who have sex with men. The court considered this organization a cover for "recruiting" or gathering together individuals for sexual activity under the guise of carrying out awareness raising programs on HIV/AIDS prevention.

The judge handed down the heavy sentences - harsher than those requested by the prosecutor -- only a few minutes after the end of the debates, suggesting that the evidence brought by the defence was not adequately examined. The lawyers lodged an appeal on 9 January 2009.

According to the Senegalese criminal law, "whoever will have committed an improper or unnatural act with a person of the same sex will be punished by imprisonment of between one and five years and by a fine of 100,000 to 1,500,000 francs. If the act was committed with a person below the age of 21, the maximum penalty will always be applied". In August 2008, two men were sentenced to two year's imprisonment by a court in Dakar on such charges. These charges criminalize people on the basis of presumed engagement in consensual, private, sexual conduct, in violation of Senegal's obligations under international human rights law. The charge of conspiracy (*association de malfaiteurs*) is regularly being added to other criminal charges in order to increase the sentence.

These arrests and sentences are occurring against a background of increased hostility towards lesbian, gay, bisexual and transgender (LGBT) people in Senegal, taking the form of arbitrary arrests, harassment and discrimination.

In December 2008, a few days before the arrest of the nine men, attacks were launched in the media against the LGBT community on the occasion of the 15th International Conference on AIDS and Sexually Transmitted Infections in Africa (ICASA).

In February 2008, nine men and one woman were arrested, and others were at risk of arrest, following the condemnation in the press of a "gay wedding" at which some of them were photographed. The newspaper article appealed to "Senegalese values" as being opposed to homosexuality. Commentaries, subsequently posted on local websites, called for the men to be killed. As a consequence, several individuals felt compelled to flee the country.

Amnesty International urges the Senegalese authorities to repeal the law criminalizing consensual sexual conduct between people of the same sex. Senegalese authorities should also end the

incitement to discrimination, hostility or violence against individuals on the basis of their real or perceived engagement in consensual same-sex sexual acts or practices and/or their gender identity, in accordance with international standards prohibiting discrimination and the advocacy of hatred.

Background information

At the December 2008 ICASA conference held in Dakar, the HIV/AIDS epidemic amongst men who have sex with men (MSM) in sub-Saharan Africa was discussed as an important issue that needed addressing. The sessions focusing on MSM at the Dakar conference had been hailed as a landmark, as it was the first time the issue had been discussed at an ICASA conference – the continent's largest gathering of HIV/AIDS activists and researchers. As such, the inclusive discussions on same-sex sexual conduct at the ICASA conference appeared to mark a positive shift in attitudes.

A conference session on this theme highlighted the difficulty of researching and addressing the epidemic in Africa. One researcher from the University of Lagos, Nigeria, said that a significant hurdle in reaching out to MSM in Africa, and in particular in West Africa, is the criminalization of homosexuality; few MSM come forward for fear of stigma, discrimination, and legal repercussions. This repressive policy may also dissuade heterosexual men and women from seeking sexual health information and services for fear of similar stigmatisation. The recent arrests and severe punishment of MSM activists by the Senegalese authorities can only increase this climate of fear.

END/