

# SENEGAL

## Widespread use of torture persists with impunity, while human rights abuses also continue in Casamance

In its second periodic report submitted to the United Nations (UN) Committee against Torture [hereafter called the Committee against Torture] in July 1995, the Senegalese Government stressed that "the promotion and protection of human rights applies to the everyday lives of the people of Senegal and those who govern them". Unfortunately, this claim is contradicted by many reports from various reliable sources of serious human rights violations committed with complete impunity by the Senegalese security forces.

In spite of official denials, it appears that torture is still widespread in Senegal and is officially tolerated, at least at a certain level within the hierarchy. Furthermore, in the context of the conflict in Casamance, a region in the south of Senegal, where the Senegalese security forces are fighting armed separatists, members of the *Mouvement des forces démocratiques de Casamance* (MFDC), Movement of Casamance's Democratic Forces, Amnesty International has received information about many cases of civilians suspected of being MFDC supporters being held without trial, as well as serious allegations of torture, extrajudicial executions and "disappearances" carried out by the Senegalese security forces.

This report deals with both the widespread use of torture and large-scale violations of human rights in Casamance. In every case, the authorities have been extremely reluctant to initiate impartial investigations of such allegations, with the result that those responsible have not been brought to justice.

It is clear that, in spite of the fact that Senegal has ratified almost every international instrument relating to the defence of human rights, these rights are very often violated with impunity. There are of course courageous human rights organizations, journalists, newspapers and lawyers in Senegal who publicly denounce abuses by the security forces, but the competent authorities continue to show a great reluctance to initiate impartial investigations and to bring those responsible for such acts to justice. The very high number of allegations of torture, in particular, reveals that there is no systematic supervision by the judicial authorities of methods of interrogation or of regulations concerning the detention and treatment of prisoners.

Amnesty International deeply regrets that it was not possible to examine these serious allegations at the fifteenth session of the Committee against Torture held in Geneva in November 1995, when Senegal's second periodic report was due to be considered. This Committee of ten independent experts is responsible for overseeing the application of the UN Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or

Punishment [hereafter called the Convention against Torture], which Senegal ratified in August 1986. Unfortunately, the day before it was due to be heard, the Senegalese Government announced that it was not able to send a delegation to Geneva. Amnesty International deeply regrets this absence which prevented a public examination of Senegal's report by this United Nations monitoring body, and considers it particularly important that the Senegalese delegation be present at the next session of the Committee against Torture to be held in April 1996.

With regard to the Casamance conflict, where violence flared up once again in January 1995, hundreds of suspected MFDC sympathizers have been arrested by the Senegalese army and many appear to have been tortured during the early days of their detention. More than 150 people, most of whom are charged with threatening the security of the state, are still being held without trial in Dakar and Ziguinchor, the Casamance regional capital. Some of those being held appear to be prisoners of conscience arrested during large-scale raids carried out by the army and with no evidence of their individual participation in acts of violence.

The Senegalese army is also believed to be responsible for the "disappearance" and extrajudicial executions of unarmed villagers, who have not been seen since they were arrested in their homes or during roadside security checks in Casamance.

Amnesty International has also been informed of very serious abuses by the MFDC against unarmed civilians, both traditional leaders and people who have recently settled in Casamance from other regions of Senegal, who were suspected of collaborating with the Senegalese authorities. Villagers who have refused to pay a ransom to the rebels have been beaten, and some have been killed.

## **WIDESPREAD USE OF TORTURE WITH IMPUNITY**

On many occasions Amnesty International has publicly expressed its concerns about the serious allegations of torture in Senegal, without, however, receiving a satisfactory response from the authorities concerning the initiation of impartial investigations or the results of such investigations.

These allegations of torture and ill-treatment concern cases where members of the security forces have deliberately used physical violence in the hours or days following arrest. Such brutality appears to be designed principally to extract confessions from detainees and is used equally against those accused of criminal offences and political detainees, in particular those accused of threatening the security of the state in the context of the Casamance conflict.

Although a number of police officers and gendarmes were arrested in Dakar in 1995 following complaints about torture and ill-treatment, in the vast majority of cases the Senegalese authorities seem reluctant to order an investigation, thus providing complete impunity for those responsible.

In recent years, for example, a number of serious allegations of torture have not been properly investigated. This is particularly true in the case of an opposition member of parliament, Mody Sy, arrested in May 1993, who was reported to have received electric shocks to his fingers and genitals at the gendarmerie headquarters in the rue de Thiong in Dakar; in the case of Ramata Guèye, a 20-year-old female mango-seller, who was tortured in July 1993 in the gendarmerie headquarters at Thiès; and in the case of Lamine Samb, a teacher of Arabic who died in February 1994 apparently as a result of torture during his detention in police custody at the *Direction des investigations criminelles* (DIC), Criminal Investigation Department, in Dakar.

In the case of the member of parliament, Mody Sy, the authorities waited almost a month before agreeing to his lawyers' request for a medical examination. The results of the examination were not made public, nor were they communicated to the lawyers. More than five months after his arrest, an internal inquiry by the gendarmerie was initiated, but the investigation was limited to noting the conflicting statements of the complainant and the gendarmes concerned, before concluding that there were no grounds for commencing judicial procedures. The conduct of this investigation, held months after the event and carried out by gendarmes investigating the actions of other gendarmes, totally failed to meet the conditions of promptness and impartiality prescribed by Article 12 of the Convention against Torture.

In the case of Ramata Guèye, it appears that the officers involved were transferred, but the results of the inquiry held shortly after the event by a special gendarmerie investigatory committee were not communicated to the lawyers and no legal action has been taken. In this case, too, it appears that the conditions for an independent inquiry were not met.

In respect of the death of Lamine Samb, a post mortem report appears to have been made. According to extracts from this report, quoted by the Minister of Justice, forensic experts concluded that death was due to a heart attack and multiple contusions, although the origin of these contusions was never queried. The Minister of Justice stated that Lamine Samb had been seriously injured during a demonstration, before he was detained. However, police officers who held him for two days did not appear to have been concerned to provide any care until one hour before his death. The post mortem report has never

been made public in its entirety, despite the repeated requests of several human rights organizations, including Amnesty International.

Amnesty International was informed of the death of another prisoner, in February 1994; Famara Diédhiou, a young Casamance farmer, probably died after being tortured in the gendarmerie headquarters at Bignona in Casamance. No inquiry has been held and no post mortem carried out, even though a doctor noted that death was due to a "craniocerebral traumatism probably caused by a blunt instrument".

In other cases, not only have allegations of torture not been investigated, but, in violation of Article 15 of the Convention against Torture, confessions reported to have been obtained under torture have been used to secure convictions.

For example, following a violent demonstration in Dakar in February 1994 during which eight people including six police officers died, about 20 suspected members of the Islamic group *Moustarchidina wal Moustarchidati* (Men and Women of the Truth) were convicted in September 1994 on the basis of confessions apparently extracted under torture. During the Assize Court hearing, defence lawyers offered to show the court marks of torture on one of the defendants, a young woman aged 21 called Coumba Ba, but the court refused.

In this same case, Amnesty International learned of many allegations of torture which apparently caused serious injuries such as lacerations to the mouth and ears. Furthermore, in a communique published on 27 February 1994, a Senegalese non-governmental organization, *La rencontre africaine pour la défense des droits de l'homme* (RADDHO), African Conference for the Defence of Human Rights, denounced "the systematic use of torture to extract confessions". Not one of these allegations of torture has been investigated.

The widespread use of torture in Senegal is facilitated in particular by the detention procedure which permits suspects to be held incommunicado in police custody for a maximum of four days. However, when a suspected threat to the security of the state is involved, as in the case of the Casamance prisoners, the Code of Criminal Procedure permits the initial incommunicado detention to be extended to up to eight days before detainees are brought before the public prosecutor. In the case of some Casamance detainees this prolonged detention in police custody has at times even been extended illegally. It is during this period of incommunicado detention, when suspects have no access to either a lawyer or, in some cases, a doctor, that most of the cases of torture of which Amnesty International is aware have taken place.

In spite of the large number of allegations made, very few judicial inquiries have been initiated by the competent authorities in Senegal. Under the terms of Article 32 of the Senegalese Code of Criminal Procedure, "the Public Prosecutor receives allegations and decides on the course of action to be taken. Where he decides not to proceed with a case, he must inform the complainant of his decision, which is purely administrative, and inform him that it is the complainant's responsibility to initiate a public prosecution, by applying, at his own risk, to the examining magistrate to take legal action for damages". The Senegalese authorities use this absence of complaints lodged together with applications for damages to explain why so few allegations of torture result in a judicial inquiry and in those responsible being brought to justice.

The position of the Senegalese Government, which make legal proceedings dependent on a complaint being lodged, contravenes the provisions of Article 12 of the Convention against Torture which specify that an impartial investigation should be initiated whenever there are reasonable grounds for believing that an act of torture has been committed, regardless of whether or not the victim has lodged a complaint. What actually happens is that torture victims do not dare initiate proceedings either through fear or as a result of external pressure.

In its second periodic report to the Committee against Torture submitted in July 1995, the Senegalese Government itself acknowledges that the application of Article 12 "faces considerable obstacles in Senegal and this causes controversy between the authorities of this country, on the one hand, the human rights monitoring bodies of the United Nations, on the other hand, and certain non-governmental organizations".<sup>1</sup>

The Republic of Senegal has actually stated its intention to give preference to its own national law over its international obligations, even though Article 79 of the Senegalese Constitution specifies that any international treaty ratified by Senegal supersedes national law. In October 1992 the Committee on Human Rights refused to subscribe to this position of the Senegalese Government, stating that, on the contrary "all efforts should be made to bring those conditions [in the country] into conformity with internationally agreed human rights standards". (See CCPR/C/79/Add.10)

Challenged at the same session by the Committee on Human Rights about the apparent impunity enjoyed by those responsible for acts of torture, the representative of Senegal undertook to urge his government to pursue investigations initiated in the past and to order new inquiries, even where no complaint had been made officially. Despite such

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promises, the Senegalese authorities continue to make any investigation dependent on a complaint being lodged.

However, even when a complaint is lodged about actions by members of the security forces, the Senegalese authorities appear to be very reluctant to initiate a judicial inquiry and to bring those responsible for torture to justice.

This is demonstrated by the following two cases, which finally resulted in the arrest of a number of gendarmes and police officers:

In June 1993 Babacar Thior, a young man accused of theft, was doused from head to foot with an inflammable liquid at the gendarmerie headquarters at the Foire de Dakar. He was hospitalised for almost a year. A medical certificate recorded first- and second-degree burns to his buttocks, thighs and elbows. On his discharge from hospital in July 1994, Babacar Thior lodged a complaint, but it was not until July 1995, a year later, that two gendarmes were finally arrested. Several months later, however, both were provisionally released from detention.

In this case it appears that the Ministry for the Armed Forces, which has responsibility for the gendarmerie, put up stiff resistance to any investigation. This Ministry has considerable power in this area because, under the Code of Military Justice, it is the Armed Forces Minister who, on the recommendation of the Director of Military Justice, gives the "*ordre d'informer*" without which no action can be brought against military personnel.

Marème Ndiaye, arrested in September 1994 for handling stolen goods, was tortured in a police station in Dakar. She was released the same day, but returned the following day to make a complaint. She was then rearrested, taken to a beach and raped by several members of the security forces. The police officers then poured an inflammable liquid on her genital area. A complaint was lodged in September 1994 but the lawyers had to write several times to the Minister of Justice before an investigation was initiated. It was not until July 1995, almost a year after the complaint was made, that five people - a police superintendent and four police officers - were arrested. In this case, too, the superintendent was provisionally released.

At the time of writing, neither of these cases had yet been considered by a court. Despite the delays and internal resistance, Amnesty International welcomes these positive signs and hopes that they will contribute to putting an end to the impunity which those responsible for torture enjoy in Senegal. On this issue, Amnesty International published a report entitled *Senegal: Comments by Amnesty International on the Second Periodic Report Submitted to the United Nations Committee against Torture* (AI Index: AFR

49/01/95), in which the organization submitted a number of recommendations aimed at ending the use of torture and ill-treatment in Senegal.

## **HUMAN RIGHTS ABUSES IN CASAMANCE**

### **(a) Context: the resumption of fighting in January 1995**

Since 1982 the conflict in Casamance has given rise to serious human rights abuses by both the Senegalese security forces and the armed separatists of the MFDC. The army has arrested hundreds of people suspected of supporting the separatist cause. Many have been tortured or extrajudicially executed. The armed separatists of the MFDC have also been responsible for serious abuses, in particular the deliberate killing of civilians who have at times been targeted because they did not originate from Casamance. Amnesty International produced two reports on these events in 1990 and 1991 entitled *Senegal: Torture - the Casamance case* (AI Index: AFR 49/02/90) and *Senegal: An escalation in human rights violations in Casamance Region* (AI Index: AFR 49/01/91).

Cease-fire agreements have been signed twice, in May 1991 and July 1993, which resulted in the release by the Senegalese authorities of hundreds of detainees who had been held for months without trial. However, the government also used these amnesties as a pretext for not investigating the many allegations of torture, extrajudicial executions and "disappearances" carried out by the Senegalese security forces.

Under the terms of the July 1993 ceasefire, negotiations were to be opened at the earliest possible moment, although the subject of negotiation was not specified. However, a French expert, Jacques Charpy, was appointed by mutual agreement to ascertain whether Casamance had, in the colonial past, been an integral part of Senegal. In November 1993, he published a report which recognised the "*sénégalité*" of Casamance, but these conclusions were refuted by the Secretary General of the MFDC, Father Diamacoune Augustin Senghor, in a counter report published in early 1995. This controversy highlighted once again the fundamental disagreement which exists between the MFDC, which is demanding independence for Casamance, and the government in Dakar, which refuses to consider any compromise to the integrity of Senegalese territory.

The reasons for the resumption of fighting in January 1995, after an 18-month cease-fire, remain unclear. However, it appears that discontinuing food supplies to the *maquisards* (MFDC forces fighting in the bush), which until then had been carried out with the tacit agreement of the Senegalese authorities, played an important role. Deprived of provisions, the *maquisards* increased the number of attacks on villages, which provoked the intervention of the Senegalese military. The MFDC, for its part, placed responsibility

for the resumption of fighting with the army, accusing the Senegalese military of having set up new camps in violation of the cease-fire agreements. As a result of the fighting, scores of Senegalese soldiers were killed throughout 1995 together with an unknown number, although undoubtedly very high, of MFDC *maquisards*. It appears that few prisoners were taken by either party during this fighting, which implies that fighters falling into the hands of the enemy alive were immediately executed, in violation of common Article 3 of the four Geneva Conventions of 1949 (see attached text). Many civilians, trapped between army bombardments and MFDC looting raids, were forced to leave their villages to seek refuge around Ziguinchor.

In April 1995 the tension was heightened with the abduction of four French tourists, Claude and Catherine Cave and Jean-Paul and Martine Gagnaire. Despite an intensive search by the Senegalese army, no trace of these four people has ever been found and it has not been possible to ascertain what actually happened to them.

Officially sent to Casamance to find the four tourists, more than a thousand soldiers thoroughly combed the whole of the Basse-Casamance area with the objective of destroying the MFDC's military bases. This deployment of forces apparently enabled the Senegalese soldiers to capture MFDC military bases, including those at Efok and Youtou, close to the Guinea-Bissau border, without, however, bringing an end to rebel attacks, which have continued sporadically throughout the year.

The continuation of fighting has not prevented some attempts to resume dialogue and negotiations. In September 1995 a National Commission for Peace in Casamance, whose members include government ministers Robert Sagna and Landing Sané, presided over by former minister Assane Seck, travelled to Casamance for the first time. This national commission, whose members were appointed by the Prime Minister of Senegal, Habib Thiam, and which includes no MFDC representatives, was given the task of leading a mission of mediation in the field in order to re-establish a dialogue between the two parties. For his part, in December 1995 the Secretary General of the MFDC made an appeal for peace and proposed a timetable for negotiations with the government. The efforts made by both parties led to the opening of peace talks in Ziguinchor in January 1996.

#### **b) Detention without trial and torture by the Senegalese security forces**

As during the previous highly tense periods in Casamance from 1992 to 1993, hundreds of unarmed villagers suspected of supporting the activities of those fighting for independence were arrested and more than 150 people are still being held without trial in Dakar and in Ziguinchor.



The majority of these people were arrested after 27 April 1995 in their homes in Ziguinchor and in other towns and villages in Casamance during a joint operation by the military, the gendarmerie and members of the *Brigade mobile de sécurité* (BMS), Mobile Security Brigade, a plain clothes security force. The majority of these people appear to have been tortured during the first days of their detention.

The Senegalese authorities began by arresting the political leaders of the MFDC, who were at Ziguinchor, including the MFDC Secretary General, Father Diamacoune, who was placed under house arrest at the *Centre des oeuvres sociales catholiques* in Ziguinchor on 21 April 1995. This house arrest came into effect the day after Father Diamacoune accused the Senegalese and French Governments in a communique of having hidden the four tourists in a Casamance village. In the same communique, Father Diamacoune criticized Guinea-Bissau for cooperating with the Senegalese security forces by turning back separatists attempting to cross the border. The Secretary General of the MFDC also stated that a French military aircraft which had taken part in the search for the four tourists had handed over aerial photographs of MFDC *maquisard* bases to the Senegalese army. These accusations were immediately denied by the three countries concerned. Father Diamacoune remained under house arrest for nine months until December 1995, when he was released as a result of the mission of mediation by the national peace commission.

Father Diamacoune was placed under house arrest under an administrative measure, without any legal basis. He has never been brought before a court, nor has he been charged with any offence. This administrative detention is contrary to Article 9 of the International Covenant on Civil and Political Rights which specifies that anyone who is detained must be informed of the charges against him and either brought before a court as soon as possible or otherwise released.

The day after Father Diamacoune was placed under house arrest, the four members of the MFDC national bureau, Edmond Bora, Sanoune Bodian, Mamadou Diémé and Sarani Badiane, were arrested. These four, who served as a link in Ziguinchor between Father Diamacoune and the MFDC *maquisard* forces, were the interlocutors of the Senegalese authorities throughout the cease-fire period.

At the beginning of May 1995, these four political leaders of the MFDC were brought before the public prosecutor in Ziguinchor and charged with threatening the security of the state, together with more than 150 others, including 13 women, all of whom had been arrested during raids. Some of these people had previously been arrested in 1992 and 1993 and held without trial for months before being released following an amnesty in July 1993.

Other arrests took place in the following months, some on the basis of denouncements which might have stemmed from a settling of private grievances. At the end of May 1995, for example, the mayor of the village of Goudoump, Demba Ndiaye, was arrested and accused of having donated a considerable sum of money to MFDC separatists. It appeared that the mayor had been denounced by one of his employees, a local authority representative, who, after having been dismissed, wanted to seek revenge by accusing the mayor of collaborating with the MFDC. Following this denouncement, Demba Ndiaye was charged with threatening the security of the state although apparently no evidence was presented to support the allegations against him.

During the night of 8/9 June 1995, more than 170 people, including the four members of the MFDC national bureau, the mayor of Goudoump and 13 women, one accompanied by a two-year-old child, were transferred by boat to Dakar where they were taken to the Rebeuss Central Prison. This transfer apparently took place following a decision of the Court of Criminal Appeal in Dakar which was designed to remove this case from jurisdiction of the examining magistrate of the Ziguinchor Regional Court and transfer it to the Dakar *hors classe* Regional Court. About forty other people, most of whom were arrested after this transfer took place, are still being held in Ziguinchor.

Some, if not most, of those arrested in Casamance following the widespread raids of April 1995 appear to have been tortured in the early days of their detention. The majority were taken to the central gendarmerie headquarters in Ziguinchor in the Nema district, where they were beaten and tortured to obtain confessions or information about their suspected links with the MFDC. At the Nema gendarmerie headquarters, witnesses saw prisoners bleeding or unable to move without great difficulty. The mayor of Goudoump, Demba Ndiaye, also complained of having been tortured, including being dealt blows to his nose and ears; no investigation was made into his allegations.

After the first few days in detention, it appears that Casamance detainees are no longer subjected to ill-treatment. However, although not held incommunicado, almost none of these people receives the assistance of a lawyer and those detainees who are transferred to the central prison in Dakar are unable to receive material support from their families because of the distance which then separates them.

Although it is very difficult to distinguish between those people who are materially or financially supporting the armed operations of the MFDC *maquisards* and civilians who are not involved in violent activities, information received by Amnesty International appears to indicate that some of those who are held without trial in Dakar and Ziguinchor could be prisoners of conscience. In general, it appears that most of those who are charged and held without trial are not in possession of arms when arrested. According to some sources, the judicial authorities do not accuse them of any specific violent act other than, in

some cases, carrying a MFDC membership card. However, this card is often forced on farmers by the separatist *maquisards* and, furthermore, throughout the entire cease-fire period it was not illegal to sympathize with the separatist cause or even to attend public meetings organised by the MFDC.

Amnesty International fears that, as in 1992-1993, these people may be held indefinitely without trial until a new agreement with the MFDC allows their release following an amnesty. An Amnesty International mission to Senegal in June 1993 was able to note just how far legal procedures had been disregarded at the time in the case of the Casamance detainees.

This fear of seeing a return of the practice of detention without trial is justified by the fact that the Senegalese judicial authorities do not appear to have any will to bring Casamance detainees to trial. According to a number of concurring sources, it appears that not even a preliminary investigation leading to a possible trial has actually been initiated, even though most of these people have been held since April 1995, and Article 9 of the International Covenant on Civil and Political Rights clearly states that anyone arrested must be either brought before a court within a reasonable time or released.

Despite this legal obstruction, about 50 Casamance detainees in Dakar were conditionally released during the last three months of 1995 following the mission of mediation of the National Commission for Peace in Casamance. In October 1995 the four members of the national bureau of the MFDC were returned to Ziguinchor and once again placed under house arrest together with Father Diamacoune. In December 1995 all restrictions of movement were lifted for the four men as well as Secretary General of the MFDC. Similarly, in November 1995, the 13 women being held at the *prison civile* in Dakar were provisionally released. Two children were released with these women, a two-year-old, who had been transferred with his mother to the prison in Dakar in June 1995, and a month-old baby girl, born in the special wing of Le Dantec hospital in Dakar while her mother was still in custody. Twenty-six other Casamance detainees held in Dakar including the mayor of Goudoump, Demba Ndiaye, were released in December 1995. These releases, benefiting mainly women, those in ill-health, minors and the elderly, were linked to the resumption of a dialogue between the government and the MFDC initiated by the National Commission for Peace in Casamance.

Apart from those who have been held since April 1995, Amnesty International has also received information concerning the detention without trial of several members of the MFDC, including Marcel Diatta, Cobore Diatta and Hubert Bassène, who were extradited from Guinea-Bissau in April 1994 and held in prison apparently without any legal basis. A fourth detainee, Robert Ampa Kint Diatta, died in Le Dantec hospital in Dakar in June 1995; there has been no investigation into the cause of his death in detention.

In all these cases, prolonged detention without trial, which has already been used on a number of occasions in the past against Casamance detainees, particularly in 1992-1993, is contrary to the principles set out in Article 9 of the International Covenant on Civil and Political Rights which Senegal ratified in 1978 and Article 7 of the African Charter on Human and Peoples' Rights, ratified in 1982.

### **c) Extrajudicial executions and "disappearances" attributed to the army**

The Senegalese army has also been responsible for the "disappearance" or extrajudicial execution of many suspected MFDC members, or unarmed villagers suspected of supporting the Casamance separatist movement.

On 24 January 1995, Youba Badji, reported to be a local political leader of the MFDC, was arrested in his village of Aniack (in the district of Niaguis) by Senegalese soldiers. According to a number of sources, Youba Badji was tortured to extract a confession. Molten plastic was reported to have been poured over his body, after which he was hanged and then buried by the soldiers.

Amnesty International has received information concerning several cases of "disappearances". During the night of 17/18 February 1995, soldiers made a number of arrests in the village of Aniack. Several people were reported to have been tortured, including Traoré Sally Sonko, a woman literacy instructor. After being beaten, all these people were released with the exception of two men, Malang Sané and Amadou Sané, who have not been seen since. On 19 February 1995 the Senegalese security forces arrested two people, Oumar Diémé, from Marsasoum, and Souleymane Manga, from Bissine. They have not been seen since and their fate is unknown.

Several unarmed civilians are also reported to have died as a result of torture inflicted by soldiers at the time of their arrest, or in the ensuing hours. On 19 February 1995 at Bouloum, near Niaguis, Bakary Diédhiou was arrested by soldiers who are reported to have poured molten plastic over his body. Suffering from second- and third-degree burns, he appeared to have died as a result of this torture. During the night of 4/5 April 1995 Anice Sambou, a former employee at a Ziguinchor hotel, was arrested in Niaguis. It appeared that during an attack by armed independence fighters in the area, Anice Sambou's house was spared; this was interpreted by the authorities as evidence of his complicity with the *maquisards*. Anice Sambou, who was beaten with a rifle butt, appears to have died before reaching prison. Another source states that he had his throat cut in the military camp in Niaguis. During the week of 4 to 10 April 1995, some 20 people were arrested by soldiers in the village of Mangacounda. All were reported to have been tortured and three, including the village chief, were reported to have died from their

injuries. As far as Amnesty International is aware, none of these allegations has been investigated.

Several sources also refer to cases of "disappearance" following arrests by Senegalese soldiers at a checkpoint at the Niambalang bridge, between Oussouye and Ziguinchor. On 6 August 1995 Dominique Manga, a plumber from Djiwant working at Cap Skirring, was arrested at the checkpoint by soldiers on guard duty and has not been seen since. His belongings are reported to have been returned to his father and, according to some reports, he was tortured before having his throat cut.

Several groups of people have also been reported missing. On 2 August 1995 five people were arrested by soldiers in the village of Essaoute, south-west of Ziguinchor: Anomène Diatta, Nicolas Sambou, Awantaï Diatta, Jules Diatta and the village chief, Louis Diédhiou. Nothing has been heard of them since. Another case has received some publicity because it concerned the entourage of a traditional representative of the Casamance spiritual power, Queen Anna Sambou of Djiwante in the Department of Oussouye. The queen, who had completed a tour of the region, was escorted home by six men, Adama Sambou, Aliou Sambou, Alassane Amany Sambou, Fodé Sambou, Sidate Sambou and Malang Diatta, all from the village of Mlomp, who were then arrested by the soldiers on 17 July 1995 at Edjoungo, south-west of Ziguinchor. The families informed the gendarmerie headquarters at Oussouye and the local administrative offices at Ziguinchor, but no trace has been found of the "disappeared" people. The families, who have apparently been told by the military that their relatives were executed at the Niambalang bridge, were reported to be too afraid even to organize a funeral for their relatives.

There have been persistent reports about the existence of mass graves in Niaguis and at the Niambalang bridge, where an unknown number of victims of extrajudicial executions are reported to have been secretly buried. The RADDHO, which in particular has exposed these reports, has publicly called for an independent investigation, but so far the Senegalese Government has taken no action to throw light on these serious allegations.

Amnesty International has frequently in the past publicly expressed its concern about the lack of in-depth and impartial investigations into allegations of extrajudicial executions and "disappearances" committed by the Senegalese army, as prescribed by Article 9 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. In a memorandum dated November 1993 to the Minister of Justice, Jacques Baudin, Amnesty International cited the names of 24 people arrested in Casamance in 1992 and 1993, of whom nothing has been heard since (*Senegal: Mass arrests and torture* AI Index: AFR 49/03/94).

On many occasions the Republic of Senegal has justified the suspension of inquiries by the fact that an amnesty law prohibits the pursuit of judicial investigation of events in Casamance. In its second periodic report to the Committee against Torture in July 1995, the Senegalese Government maintained that such investigations would be "likely to threaten the newly-restored peace, national cohesion and the stability of public institutions".<sup>2</sup>

Amnesty International is strongly critical of the Senegalese authorities' interpretation of these amnesty laws because, in effect, this results in granting immunity to those responsible for human rights violations. The Committee on Human Rights made this same comment in October 1992, when it said that the "amnesty should not be used as a means to ensure the impunity of State officials responsible for violations of human rights...". (See CCPR/C/79/Add.10)

Any amnesty law which has the effect of concealing the truth and preventing those guilty of offences from being made accountable for their acts in the courts is unacceptable and also incompatible with the principles of international law to which the Government of Senegal has subscribed. Not taking into account past human rights violations cannot contribute to restoring peace. On the contrary, it could lead, as is currently the case in Casamance, to a continuation of human rights violations because those responsible for previous abuses have not been brought to justice and because no safeguards have been put in place to prevent a new cycle of human rights abuses.

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**d) Abuses by the MFDC**

The MFDC, for its part, has also committed serious abuses by killing villagers who refused to provide food or money and by killing some civilians, including traditional chiefs and people recently settled in Casamance from other regions of Senegal, suspected of collaborating with the Senegalese authorities.

This independence movement, which has been active since 1982, has both a political and military structure whose respective responsibilities are not easy to identify. After the cease-fire agreement of 1991 there was a split in the movement when a section known as the *Front Nord*, headed by the former MFDC Chief of Staff, Sidy Badji, renounced armed conflict. This position was denounced by the more radical wing of the movement, the *Front Sud*, as a ploy by the Senegalese Government to weaken the MFDC politically. The present *Front Sud*, which signed the cease-fire agreement of July 1993, is formally led by Father Diamacoune, although it is not possible to establish with any certainty the extent to which the MFDC Secretary General wields influence over the armed *maquisards* ensconced in their bases on the border with Guinea-Bissau.

Since January 1995 the armed separatists have increased the number of attacks on Casamance villages in order to obtain food and to extort money from the population. Concurring reports from civilians having fled MFDC abuses, particularly in the region of Efoke and Youtou (close to the border with Guinea-Bissau), tell of villages set on fire and civilians beaten and even killed for refusing to give money in support of the MFDC's military efforts. For example, in March 1995 Akagna Diédhiou, aged 60, was reported to have been killed by armed separatists in his village of Youtou.

The armed independence fighters have also forced the inhabitants of several villages to leave their homes in order to acquire fuel, provisions and cattle for themselves. Those refusing to leave their homes were beaten or even killed. On 22 March 1995 a villager, Bernard Mendy, and his wife, who had been forced to leave Boutoupa (25 kilometres southeast of Ziguinchor), were killed when they attempted to return to their village to retrieve their belongings.

Both traditional chiefs and political leaders have also been targeted by armed separatists because they are accused of supporting the Senegalese authorities. During the night of 17/18 March 1995, *maquisards* went to the village of Boutoupa to look for the village chief, who was accused of being a close associate of the Senegalese authorities. Unable to find him, the armed men killed three of his colleagues. On 1 April 1995, in the village of Boulom, 15 kilometres east of Ziguinchor, armed men apparently claiming to belong to the MFDC killed Elhadji Kéba Sagna, president of the dignitaries in the

Department of Ziguinchor, in his home and seriously wounded his two wives. During the night of 14/15 August 1995, Etienne and Jean-Pierre Diatta, two local leaders of the Socialist Party, which is the majority party in power in Senegal, were killed in the village of Karouate, 45 kilometres south-west of Ziguinchor, by armed men who apparently accused them of collaborating with the Senegalese authorities.

The MFDC has also killed civilians originally from northern Senegal who were suspected of being government collaborators. On 15 February 1995 two Toucouleur fishermen, Boubacar Bal and Mamadou Sy, were tortured and shot dead by armed men claiming to be members of the MFDC in the village of Kaléane, 20 kilometres southeast of Ziguinchor. These two deliberate and arbitrary killings were implicitly acknowledged by the MFDC in a communiqué dated 28 February 1995 which explained that the two men were allegedly killed because they were suspected "agents in the service of Senegal".

Armed opposition movements such as the MFDC must respect the fundamental rules of humanitarian law. Based on the principle of protection of the individual contained in common Article 3 of the four Geneva Conventions, Amnesty International opposes the deliberate and arbitrary killing by armed opposition groups of people taking no active part in hostilities and calls on the Casamance independence movement to fulfil its responsibilities and investigate the human rights abuses committed by its armed members and to take urgent measures to ensure that they are not repeated.

## **AMNESTY INTERNATIONAL'S RECOMMENDATIONS**

The human rights situation in Senegal, both in relation to the widespread use of torture and the armed conflict in Casamance, calls for urgent measures to put a stop to these serious abuses of human rights. As long as such abuses continue to be carried out with impunity and no action is taken to prevent further abuses, there are no grounds for expecting an improvement in the human rights situation.

### **A.        ENDING THE WIDESPREAD USE OF TORTURE**

Amnesty International urges the Senegalese authorities to comply with the obligations entered into by ratification of the Convention against Torture and to take all necessary steps to ensure that:

- all acts of torture constitute an offence under Senegalese law;



- the Senegalese Parliament amends Senegalese law without delay so that, from the moment of their arrest, prisoners can be genuinely assured of their right to defence, particularly during the period spent in police custody;
- the public prosecutor ensures that all allegations of torture are the subject of an immediate, full and impartial investigation;
- the results of such investigations are made public and all those responsible for acts of torture are brought to trial;
- officers of the criminal investigation department, under the effective supervision of the public prosecutor, systematically monitor the rules and methods of interrogation and the treatment of detainees with a view to preventing any cases of torture;
- at the time of interrogation, prisoners are promptly informed of the charges against them and allowed prompt access to their families, and to a lawyer and doctor of their choice;
- victims of torture are entitled to make a complaint and measures are taken to guarantee the protection of the complainant and any witnesses from intimidation or ill-treatment;
- confessions and other evidence obtained under torture can never be presented in a trial except against the person accused of torture to establish that a confession has been made;
- victims of torture and their dependents are entitled to obtain redress and adequate compensation;
- education and information about the prohibition of torture and other cruel, inhuman or degrading treatment is effectively introduced into all training programs for the Senegalese security forces; they should receive clear instructions that torture is prohibited and that such crimes constitute a punishable offence. These training programs must be effective and must be prepared in cooperation with international and non-governmental organizations with experience in this field.

## **B. ENDING HUMAN RIGHTS ABUSES IN CASAMANCE**

### **To the Senegalese Government:**

- With regard to those arrested in the context of the conflict in Casamance and held without trial since April 1995, the organization calls on the competent judicial authorities of Senegal to exercise judicial supervision over these detentions and to initiate preliminary investigations into these cases as soon as possible. Where no evidence has been provided to show that a person has directly participated in, or incited others to commit, a recognised criminal offence, they must be released immediately and unconditionally. Anyone against whom specific criminal charges are to be brought must be brought to trial as soon as possible.
- The Senegalese army must respect the fundamental principles of humane behaviour as set out in common Article 3 of the four Geneva Conventions of 1949, including treating civilians and captured combatants humanely and preventing any illegal executions or torture. (See annex.)
- Amnesty International also calls on the Senegalese judicial authorities and the army Chief of Staff to initiate immediately prompt and impartial investigations of all recent allegations of extrajudicial executions and "disappearances" attributed to the Senegalese army in the context of the Casamance conflict and of all cases of torture reported in Senegal.
- Amnesty International calls on the Senegalese authorities to put in place safeguards designed to prevent human rights violations in the future and requests that details of such measures be specified in the next periodic report which Senegal submits to the Committee on Human Rights in accordance with Article 40 of the International Covenant on Civil and Political Rights.

**To the *Mouvement des forces démocratiques de Casamance*:**

- Amnesty International calls on the MFDC to take immediate steps to end torture and deliberate and arbitrary killings and to prevent such acts.
- Amnesty International calls upon the Casamance independence movement to respect the fundamental principles of humane behaviour as set out in common Article 3 of the four Geneva Conventions of 1949, including treating civilians and anyone taking no active part in the hostilities humanely and preventing any illegal executions or torture.
- The leaders of the MFDC must make it clear to those under their command that they are totally opposed to the torture and murder of prisoners and non-combatants. Amnesty International urges these leaders to exercise strict chain of command control over their forces and to hold responsible for their actions any member who

has committed human rights abuses, or allowed them to be committed. Furthermore, the leaders of the MFDC must ensure that any person suspected of such actions is removed from any position of authority or duties which would provide them with the opportunity of repeating human rights abuses.

**ANNEX**Common Article 3 of the Geneva Conventions of 1949

In the case of armed conflict not of an international character occurring in the territory of one of the High Contracting Parties, each Party to the conflict shall be bound to apply, as a minimum, the following provisions:

(1) Persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed ' hors de combat ' by sickness, wounds, detention, or any other cause, shall in all circumstances be treated humanely, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or any other similar criteria.

To this end, the following acts are and shall remain prohibited at any time and in any place whatsoever with respect to the above-mentioned persons:

- (a) violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
- (b) taking of hostages;
- (c) outrages upon personal dignity, in particular, humiliating and degrading treatment;
- (d) the passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.

(2) The wounded, sick and shipwrecked shall be collected and cared for.

An impartial humanitarian body, such as the International Committee of the Red Cross, may offer its services to the Parties to the conflict.

The Parties to the conflict should further endeavour to bring into force, by means of special agreements, all or part of the other provisions of the present Convention.

The application of the preceding provisions shall not affect the legal status of the Parties to the conflict.