

SENEGAL: FAILING TO LIVE UP TO ITS PROMISES

**RECOMMENDATIONS ON
THE EVE OF THE AFRICAN
COMMISSION ON
HUMAN AND PEOPLES'
RIGHTS' REVIEW OF
SENEGAL**

**56TH SESSION, APRIL-
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CONTENTS

Introduction	4
Follow-up to the 2003 Review.....	6
Torture and other ill-treatment.....	6
Discrimination on the basis of real or imputed sexual orientation	9
Death penalty.....	11
Freedom of expression	11
Current human rights situation.....	12
Fair trials.....	12
Excessive use of force to repress freedom of assembly	13
Casamance conflict: impunity and denial.....	15

INTRODUCTION

This report aims to support the review of Senegal's state party report at the 56th session of the African Commission on Human and Peoples' Rights (ACHPR, African Commission) which is to be held in Banjul, Gambia, from 21 April to 7 May 2015.

This document outlines a number of issues of concern relating to Senegal's implementation of the Concluding Observations made by the African Commission during its 2003 Review and its implementation of the African Charter on Human and Peoples' Rights (African Charter).

The following report is not exhaustive¹ but instead focuses on Amnesty International's ongoing key concerns, including: torture and other ill-treatment, discrimination on the basis of real or imputed sexual orientation, death penalty, freedom of expression, excessive use of force when policing demonstrations and impunity for human rights violations committed during the Casamance conflict. When relevant, it refers to the Periodic Report presented by Senegal to the Commission in April 2013 and the responses from the Senegalese authorities to the recommendations raised during the Universal Periodic Review (UPR) in 2013 to provide additional information and analysis.²

Following the Presidential election of February-March 2012, which saw the victory of Macky Sall, Senegal has had the opportunity to reinforce the respect, protection and promotion of human rights. The unrest which tainted the pre-election period also resulted in serious human rights violations: the use of torture and other ill-treatment, excessive use of force leading to the death of several protestors and attacks on freedom of expression. These human rights violations reflect practices rooted in a culture of impunity that has long prevailed in the country.

The Senegalese authorities must, as a matter of urgency, address the impunity that continues to undermine the credibility of the judicial system and the rule of law in general.

¹ This report does not cover some of the Concluding Observations made by the African Commission in 2003, including the questions of street children and conditions of detention.

² *Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, April 2013, available at: <http://www.achpr.org/files/sessions/53rd/state-reports/3rd-2004-2013/periodic_report_2004_2013_fr.pdf>, (last consulted in April 2015):

The UN Human Rights Council adopted the outcome of the Universal Periodic Review (UPR) of Senegal on 19 March 2014 during its 25th session.

The report of the Working Group on the Universal Periodic Review is available at:

<<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx>>, (last consulted in April 2015).

The responses of the Senegalese authorities to some of the recommendations raised during the Universal Periodic Review are available at: <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/SNSession17.aspx>>, (last consulted in April 2015).

Amnesty International had earlier submitted information on the situation of human rights in Senegal: *Amnesty International assessment of states' implementation of recommendations from the previous UPR: 17th Session of the UPR Working Group* (IOR 41/011/2013), available at:

<<https://www.amnesty.org/en/documents/ior41/011/2013/en/>>, (last consulted in April 2015).

FOLLOW-UP TO THE 2003 REVIEW

In 2003, the African Commission raised a number of concerns about the human rights situation in Senegal and made several recommendations. The following sub-sections review the implementation of some of these recommendations.

TORTURE AND OTHER ILL-TREATMENT

In its Concluding Observations, the African Commission recommended that Senegal “continue with the efforts of giving effect to the provisions of the African Charter in its legal system and put this in practice in the daily lives of people.”

The recommendation points to one of the key human rights issues in Senegal: while the Senegalese authorities have made some efforts to bring certain aspects of their legal system in line with their obligations under the African Charter and other international human rights instruments, these efforts too rarely lead to changes in practice and in people’s lives. This overall analysis would hold true for most of the human rights concerns highlighted in the present submission and it is particularly relevant to the issue of torture and other ill-treatment.

Despite the commitments undertaken by the Senegalese authorities for many years and reiterated in the State report³, security forces regularly use, in almost total impunity, torture and other ill-treatment. Since 2007, Amnesty International has recorded at least 27 cases of torture and other ill-treatment, 15 of which led to people dying in detention or soon after their release.⁴ Some of the methods of torture and other ill-treatment recorded include: physical assault, simulated drowning, electric shocks and burns. The use of torture and other ill-treatment appears to be an investigative technique favoured by certain members of the police force and gendarmerie to extort

³ *Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, April 2013, pp. 42-47.

In response to recommendations made on impunity during the Universal Periodic Review process, the Senegalese authorities stated: “As the foregoing reveals, human rights violations are subject to prosecution in Senegal. Perpetrators of acts of torture and other cruel, inhuman or degrading treatment are systematically brought to justice. The political will of the State thus remains firm regarding breaches of human rights in conflict situations, just as in any other period. (...) Legal action is systematically taken, even where disciplinary and professional penalties have been imposed, against the police, gendarmes, military personnel and other State agents implicated in allegations of torture. Accordingly, this recommendation is rejected.”

See: *Report of the Working Group on the Universal Periodic Review - Senegal: Addendum: Views on conclusions and/or recommendations, commitments and replies by the State party under review* (A/HRC/25/4/Add.1), 4 March 2014, p. 3, available at: <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/SNSession17.aspx>>, (last consulted April 2015).

⁴ For a list of these cases up to 2012, see the Annexes 2 and 3 of the Amnesty International report *Senegal: An agenda for human rights. An opportunity not to be missed by the authorities elected in the March 2012 elections* (AFR 49/004/2012), available at: <<https://www.amnesty.org/en/documents/afr49/004/2012/en/>>, (last consulted April 2015).

Cases from 2013 onwards are available upon request.

"confessions", which are then used to convict people in unfair trials.

For instance, on 7 February 2015, the Dakar Assize Court sentenced two men to twenty years of forced labour in relation to the death of a young auxiliary police officer, Fodé Ndiaye, despite their statements being obtained under torture. Amnesty International met with the two men at the Rebeuss Prison, in Dakar in 2012. One of the prisoners told Amnesty International:

"The police officers of the Criminal Investigation Department (Division des investigations criminelles (DIC)) accused me of being involved in the murder of a police officer. I was completely naked. They handcuffed my hands and feet and hit me with their hands, feet and batons (lifs). Then they plunged my head in a bucket of water. They hung me from the ceiling by my feet. Meanwhile, the blows and insults continued. At some point, I was taken down from the ceiling. One of them cut my penis three times with a knife, it bled, then they put an irritant product on the cuts. Every time, they asked me to confess that I had been involved in the police officer's murder. Faced with my refusal to confess this, they continued to kick and punch me. One of the police officers then connected an electric wire, he put it on my body, it was really painful. I screamed with all my strength. I fainted four times. I was taken to the prosecutor who said that it wasn't right to torture people. When I was taken to prison, the guards beat me on the day of my arrival."

The use of torture and other ill-treatment has been publicly condemned by national and international human rights organisations, including Amnesty International and the United Nations (UN) Committee against Torture.⁵ Yet, the authorities have never really demonstrated their willingness to put an end to impunity.

Torture and other ill-treatment are criminal offenses in Senegal. Article 295-1 of the Penal Code states that: "That which constitutes torture is, injury, assault, physical or mental abuse or other assaults voluntarily exercised by public officials or any other person acting in an official capacity or at the instigation of, or with implied or express consent, either for the purpose of obtaining information or a confession, to retaliate, or carry out acts of intimidation, or for the purpose of any discrimination." This same article provides that all persons guilty of torture will be punished by a prison sentence ranging between five and ten years. However, as noted by the Committee against Torture, this definition "does not include certain key elements of Article 1, notably the reference to "a third person" other than the victim."⁶

Furthermore, the recommendation to criminalise torture appears to go unheeded, most often, when it comes to prosecuting state officials suspected of torture or other serious human rights violations. Though the Senegalese authorities have claimed that they are investigating instances of torture and other ill-treatment,⁷ few investigations have been completed and few of the alleged

⁵ *Concluding observations on the third periodic report of Senegal, adopted by the Committee at its forty-ninth session (29 October–23 November 2012) (CAT/C/SEN/CO/3)*, 17 January 2013, available at: http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/SEN/CO/3&Lang=En, (last consulted April 2015).

⁶ *Concluding observations on the third periodic report of Senegal, adopted by the Committee at its forty-ninth session (29 October–23 November 2012) (CAT/C/SEN/CO/3)*, 17 January 2013, p. 3.

⁷ *Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, April 2013, p.42.

perpetrators have been tried.⁸ Out of the 27 cases of torture documented by Amnesty International since 2007, only six led to successful prosecutions, with light sentences being handed down each time.⁹

The prevention and monitoring of detention centres is an essential part of the fight against torture and ill-treatment. Senegal ratified the Optional Protocol from the UN Convention Against Torture (CAT) in 2006 and adopted, in March 2009, a law creating the Senegalese national preventative mechanisms: the National Observer of Places of Deprivation of Liberty. It took the government three years to appoint this National Observer. It is for the new authorities to ensure that this National Observer is given the human and financial resources necessary to make this vital organ of torture prevention fully operational.

Despite ACHPR resolution 105, Senegal's state party report fails to provide information on the concrete measures taken to implement and operationalise the Robben Island Guidelines and Measures for the prohibition and prevention of torture and other ill-treatment.

Recommendations to the Senegalese authorities:

- Revise the Criminal Code, particularly article 295-1 on the definition of torture, to bring it fully into line with article 1 of the CAT.¹⁰ In particular, it should include in the definition of acts aimed at obtaining information from, punishing, intimidating or coercing a third person;¹¹
- Give clear instructions to the police and the gendarmerie (military police) to ensure that they always act in respect of national, regional and international human rights laws, and remind judges that any statement, which is established to be obtained under torture cannot be invoked as evidence in proceedings;¹²
- Ensure that trials in which it has been established that statements have been extracted under torture, are reviewed in order that those convicted can be retried in accordance with the international standards of fair trial;
- Ensure that the National Observer of Places of Deprivation of Liberty has the human and

⁸ *Senegal: An agenda for human rights. An opportunity not to be missed by the authorities elected in the March 2012 elections* (AFR 49/004/2012), pp. 10-12, available at: <<https://www.amnesty.org/en/documents/afr49/004/2012/en/>>, (last consulted April 2015).

⁹ For a list of these cases up to 2012, see the Annexes 2 and 3 of the Amnesty International report *Senegal: An agenda for human rights. An opportunity not to be missed by the authorities elected in the March 2012 elections* (AFR 49/004/2012), available at: <<https://www.amnesty.org/en/documents/afr49/004/2012/en/>>, (last consulted April 2015). Cases from 2013 onwards are available upon request.

¹⁰ Convention Against Torture, available at: <<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx>>, (last consulted in April 2015).

¹¹ Senegal accepted a similar recommendation during its last UPR, including Recommendation 124.33 (Maldives).

¹² Senegal accepted similar recommendations during its last UPR, including recommendations 124.29 (Uruguay); 124.30 (Uruguay); 124.32 (Ireland) and 124.33 (Maldives).

material resources necessary to accomplish its mission independently;¹³

- Carry out investigations into all cases of alleged torture and other ill-treatment during detention and immediately take legal action, whenever there is sufficient admissible evidence, against all persons suspected of committing torture and other ill-treatment;
- Remove all obstacles to the proper administration of justice in cases where security forces are implicated in human rights violations;
- Implement the Robben Island Guidelines and Measures and inform the African Commission of the concrete measures taken towards its implementation and operationalization in its Periodic Reports.

DISCRIMINATION ON THE BASIS OF REAL OR IMPUTED SEXUAL ORIENTATION

In its Concluding Observations, the African Commission recommended that Senegal "continue to guarantee the rights and freedom of every individual within Senegal." In its Resolution 275, the African Commission recalled that the right to protection against discrimination (African Charter, Article 2) and the right to equal protection of the law (African Charter, Article 3) are entitled to every individual, irrespective of their real or imputed sexual orientation or gender identity.

However, despite anti-discrimination provisions upheld in the Senegalese Constitution¹⁴ people continue to face discrimination on the basis of their presumed or real sexual orientation in law and in practice.

The Senegalese authorities have previously argued that homosexuality is not criminalised under Senegalese law.¹⁵ However, sexual relations between consenting adults of the same sex continues to be a crime in Senegal. The Penal code states (Article 319) that: "anyone who commits an indecent act against nature with a person of the same sex will be punished by a prison term of one to five years and a fine of between 100,000 and 1,500,000 francs. If the act has been committed with a minor under twenty-one years, the maximum penalty will always be delivered." While the Penal code may not explicitly define what an "indecent act against nature" is, Article 319 is used to

¹³ Senegal accepted similar recommendations during its last UPR, including recommendation 123.14 (Tunisia).

¹⁴ Senegalese Constitution, Article 4 : « Tout acte de discrimination raciale, ethnique ou religieuse de même que toute propagande régionaliste pouvant porter atteinte à la sécurité intérieure de l'Etat ou à l'intégrité du territoire de la République, sont punis par la loi. »

Senegalese Constitution, Article 7 : « Tous les êtres humains sont égaux devant la loi. ».

¹⁵ "In Senegal, homosexuality was not an offence as such; article 319 of the Criminal Code referred to unnatural acts. Being homosexual was not an offence in Senegal and no legal proceedings had been brought against persons based solely on their homosexuality."

Report of the Working Group on the Universal Periodic Review (A/HRC/25/4), 11 December 2013, p. 8, available at: <http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx>, (last consulted in April 2015).

target people on the basis of their sexual orientation.

Men and women face harassment, arbitrary arrest, torture and unfair trial because of their suspected engagement in consensual same-sex sexual relationships. For instance, in January 2009, nine men were sentenced to eight years' imprisonment for "indecent conduct and acts against nature and conspiracy" on the basis of confessions extracted by security forces under torture. The men had been arrested following anonymous accusations about their sexual behaviour. They were all released in April 2009 after the Dakar Appeal Court overturned the convictions. Following their release, certain newspapers published homophobic statements describing the nine men as "lecherous" or "perverts" spreading AIDS. Radio messages were also transmitted calling on the population to go after anyone suspected of "being gay", in particular by stoning them. Several LGBTI organisations based in Senegal continue to report people being arrested and detained on the basis of their sexual orientation.¹⁶

The homophobic environment tolerated by the Senegalese authorities and exacerbated by certain media outlets and religious groups in Senegal creates a climate of fear among lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, including fear of reprisals and prosecution of human rights defenders and activists working on these issues.

Recommendations to the Senegalese authorities:¹⁷

- Reiterate their commitment to respect, protect, and fulfil the human rights of all persons, without discrimination of any kind;
- Review national legislation that may lead to discrimination, prosecution or punishment of persons solely on the basis of their sexual orientation or gender identity. This should include reviewing the law explicitly criminalizing consensual sexual conduct between people of the same sex (Article 319 of the Penal Code);
- Cease arrests of individuals under Article 319 and release any person detained on the grounds of their real or perceived sexual orientation immediately and unconditionally;
- Condemn homophobic and transphobic discrimination, harassment and violence, when they occur and make clear that crimes targeting people for discriminatory reasons will not be tolerated;
- Ensure that crimes motivated by any form of discrimination, including on the basis of

¹⁶ Several LGBTI organisations based in Senegal continue to report people being arrested and detained on the basis of their presumed sexual orientation. See: *Contribution conjointe des organisations identitaires des HSH (ADAMA, AIDES Sénégal, Espoir et Prudence) à l'examen périodique universel du Sénégal, Session d'octobre 2013 du Conseil des Droits de l'Homme*, 2013, available at: <http://www.justice.gov/eoir/vll/country/canada_coi/senegal/SEN104382.E.pdf>, (last consulted April 2015).

¹⁷ Amnesty International is concerned by Senegal's outright rejection of all recommendations raised during its last UPR to amend national legislation, which currently permits discrimination against minorities and to ensure the respect for the human rights of lesbian, gay, bisexual, transgender and intersex persons (LGBTI), including recommendations 126.1 -126.14 (Uruguay, Argentina, Australia, Austria, Belgium, Brazil, Greece, Paraguay, Thailand, Germany, Ireland, Netherlands, Switzerland, Mexico).

presumed sexual orientation, are fully and effectively investigated and that those against whom sufficient admissible evidence of criminal wrongdoing exists, are brought to justice.

DEATH PENALTY

In its 2003 Concluding Observations, the African Commission identified the existence of the death penalty in Senegal's legal system as an obstacle to the human rights enshrined in the African Charter. Amnesty International welcomed the abolition of the death penalty in Senegal in 2004.

However, Amnesty International is concerned at Senegal's delay in ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR), aiming at the abolition of the death penalty; and its decision to reject related recommendations that were made during the 2013 UPR, including by Rwanda and Gabon.¹⁸

The African Commission has on several occasions called upon states to ratify the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.¹⁹ During a meeting in December 2013 with an Amnesty International delegation, Senegalese authorities committed to ratifying the Second Optional Protocol.

Recommendations to the Senegalese authorities:

- Ratify without reservations the Second Optional Protocol to the ICCPR, aiming at the abolition of the death penalty.

FREEDOM OF EXPRESSION

In 2003, the African Commission recommended that Senegal "establish a favourable framework for pluralist expression of the media in Senegal and ensure that article 9 of the Charter is fully adhered to (the freedom of the press is applied in compliance with the fundamental freedoms)."

Amnesty International is concerned by reports of restrictions on the rights to freedom of expression in an attempt by the authorities to stifle critical voices in law and in practice.

Senegalese law contains provisions criminalising the act of insulting the President,²⁰ defamation²¹ and publishing false news²². Several other charges referring to acts undermining public security or

¹⁸ Recommendations 124.2 (Australia, Montenegro), 124.3 (Benin), 124.4 (France), 124.5 (Switzerland), 124.2 (Gabon), 124.7 (Rwanda), Report of the Working Group on the Universal Periodic Review (A/HRC/25/4), 11 December 2013, available at:

<<http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Pages/ListReports.aspx>>, (last consulted in April 2015).

¹⁹ Resolution 136 (2008) and Declaration of the Continental Conference on the Abolition of the Death Penalty in Africa (the Cotonou Declaration).

²⁰ Penal Code, Article 254.

²¹ Penal Code, Articles 258, 259, 260, 261 & 263.

²² Penal Code, Article 255.

causing political turmoil,²³ revealing information which should be kept secret in the interest of national defence²⁴ and acts contrary to morality²⁵ are vaguely worded and have been used to target people who express dissent, including journalists, political activists and human rights defenders. The Senegalese authorities have admitted that this legal framework is outdated and have indicated that a draft Press Code is under review at the National Assembly to resolve some of these issues.²⁶ The draft Press Code, which has been under review for more than five years, contains several shortcomings. While it considers decriminalising some press offences, including defamation, it is unclear if it would apply to people who are not journalists, such as human rights defenders, bloggers and political activists.

Rapper Malal Talla, a leader of the *Y'en a marre* (We have had enough) movement, was arrested and detained for four days in June 2014 for denouncing police racketeering at a public gathering. He was charged with insulting the police, before being released after a judge determined that the charges were unfounded.²⁷

Recommendations to the Senegalese authorities:

- Amend legislation restricting freedom of expression that does not comply with international and regional human rights law, including in the Criminal Code and the Law on Cybercriminality;²⁸
- Ensure that journalists, opposition leaders, real or perceived government opponents and human rights defenders are able to freely exercise their right to expression, association, and peaceful assembly without fear of reprisals, arrest, detention, intimidation or harassment.

CURRENT HUMAN RIGHTS SITUATION

In addition to the concerns raised by the African Commission in 2003 which have not been addressed, Amnesty International is also concerned about ongoing violations of the right to a fair trial, the right to freedom of peaceful assembly and the right to access to justice.

FAIR TRIALS

On 23 March 2015, the Court for the Repression of Illicit Acquisition of Wealth, an ad-hoc court established by Law 81-54 of July 1981, sentenced Karim Wade, a former minister and son of former

²³ Penal Code, Article 80.

²⁴ Law on Cybercriminality, Articles 431-60 and 431-61.

²⁵ Penal Code, Articles 256 and 257.

Law on Cybercriminality, Article 431-59.

²⁶ *Periodic Report on the Implementation of the African Charter for Human and Peoples' Rights*, April 2013, p. 17.

²⁷ *Amnesty International Report 2014/15: The State of the World's Human Rights – Senegal* (POL 10/0001/2015).

²⁸ Amnesty International is concerned by Senegal's rejection of all recommendations raised during its last UPR to decriminalize press offenses, including recommendations 115.16 (France), 125.17. (Democratic Republic of Congo) and 125.18 (Greece).

President Abdoulaye Wade, to six years imprisonment and a fine of CFA 138 239 086 396 (approximately EUR 210 744 000) for illicit acquisition of wealth. The Court found seven other co-defendants guilty of complicity of illicit acquisition of wealth and handed down sentences to ranging from five to ten years imprisonment and fines of CFA 69 119 543 198 to CFA 138 239 086 396 (approximately EUR 210 744 000 to EUR 105 372 000). The Court ordered Karim Wade and the seven co-defendants to pay severally CFA 10 000 000 000 (approximately EUR 15 244 900) in damages to the State.

Amnesty International is concerned that the Court for the Repression of Illicit Acquisition of Wealth does not meet international and regional fair trial standards, particularly as it does not allow for appeals after the verdict.

The African Commission considers the "entitlement to an appeal to a higher judicial body" as an "essential element of a fair trial."²⁹ It also found violations of the African Charter in cases against Mauritania, Nigeria, Sierra Leone and Sudan where people, including civilians, were convicted before special or military courts, from which there was no appeal.³⁰

Recommendations to the Senegalese authorities:

- Amend the law 81-54 of 10 July 1981 creating the Court for the Repression Illicit Acquisition of Wealth to bring it in line with international and regional fair trial standards, including by ensuring the Court allow for appeals after the verdict.

EXCESSIVE USE OF FORCE TO REPRESS FREEDOM OF ASSEMBLY

Amnesty International is concerned about Senegalese law enforcement agencies excessive use of force to repress peaceful assemblies and crackdown on dissent. The right to peaceful demonstration was undermined in the months leading up to the 2012 presidential elections when the Minister of the Interior passed an order "temporarily prohibiting public demonstrations". Despite this order, demonstrations continued, but were violently repressed by the security forces in January and February 2012. The unrest resulted in several casualties and took a particularly dramatic turn when the security forces fired live bullets at protestors in Dakar and in other cities, killing several of the protesters.³¹

For instance, Senegalese student Mamadou Diop, aged 32, was run over and killed by an armoured police van during a peaceful demonstration that took place in Dakar on 31 January 2012, ahead of

²⁹ *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, 2003.

³⁰ African Commission: *Malawi African Association and Others v Mauritania* (54/91, et al) 13th Annual Report (2000) §§93-94, *Centre for Free Speech v Nigeria* (206/97) 13th Annual Report (1999) §12, *International Pen, Constitutional Rights Project, Interrights on behalf of Ken Saro-Wiwa Jr. and Civil Liberties Organisation v Nigeria* (137/94, 139/94, 154/96 and 161/97) 12th Annual Report (1998) §§91-93, *Forum of Conscience v Sierra Leone* (223/98) 14th Annual Report (2000) §§15-17, *Law Office of Ghazi Suleiman v Sudan*.

³¹ *Senegal: An agenda for human rights. An opportunity not to be missed by the authorities elected in the March 2012 elections* (AFR 49/004/2012), pp. 16-18, <<https://www.amnesty.org/en/documents/afr49/004/2012/en/>>, (last consulted April 2015).

the Senegalese presidential elections. A van rammed into his back at speed and then drove off. According to a witness, Mamadou Diop was participating in a demonstration at Place de l'Obélisque in Dakar when a "dragon" – a police van that sprays hot water on protesters to disperse them – mounted the pavement and drove straight into a group of people. Mamadou Diop had his back to the police van and didn't see it coming. The police van rammed into his back and Mamadou was thrown forward ten metres and fell on to his front. The van stopped and the driver reversed to leave the scene. Mamadou tried to get up and fell back down again. Fellow protesters ran to help him but the police threw tear-gas grenades at the group that had gathered around him. Mamadou Diop died the same day, around 8pm. An investigation is open into his death and a trial is ongoing.

³²

Under Macky Sall's presidency, the Senegalese authorities have continued to prosecute demonstrators who participated in or spoke out during demonstrations organized by political parties and NGOs. They have also used, excessive, even arbitrary in some instances, force to control police demonstrations.

In January 2014, in Oulampane, Casamance, high school students demonstrated to call for more teachers. Military forces intervened using live ammunition, injuring four students. The Army Command condemned these actions by military forces and announced that there would be accountability, although no concrete steps were taken and no investigation was opened during the year.³³

Throughout August 2014, students protested against delays in paying scholarships at Cheikh-Anta-Diop University in Dakar and there were repeated confrontations with security forces. Student Bassirou Faye died after being shot in the head by police during a demonstration. A police officer was arrested in October and charged with his murder.³⁴

Since 2011, Amnesty International has documented at least seven cases of people killed by law enforcement agencies during demonstrations. While investigations and trials have been ongoing, none of the perpetrators have yet been successfully prosecuted.

Recommendations to the Senegalese authorities:

- Ensure that law enforcement officials are fully trained and equipped to maintain public order without resorting to unnecessary or excessive force in accordance to the UN Best Principles on the Use of Force and Firearms by Law Enforcement Officials;
- Carry out independent and impartial investigations into all cases where security forces have injured or caused death by the use of force and immediately take legal action against all suspected persons, whenever there is sufficient admissible evidence;

³² *Senegal: An agenda for human rights. An opportunity not to be missed by the authorities elected in the March 2012 elections* (AFR 49/004/2012), pp. 16-18, pp. 16-18,

<<https://www.amnesty.org/en/documents/afr49/004/2012/en/>> (last consulted April 2015).

³³ *Amnesty International Report 2014/15: The State of the World's Human Rights – Senegal* (POL 10/0001/2015).

³⁴ *Amnesty International Report 2014/15: The State of the World's Human Rights – Senegal* (POL 10/0001/2015).

- Ensure that arbitrary or abusive use of force by law enforcement officials is punished as a criminal offence under national law. Superior officers must be held responsible if they know, or should have known, that those under their command are resorting, or have resorted, to the unlawful use of force and they did not take all measures in their power to prevent, suppress or report it.

CASAMANCE CONFLICT: IMPUNITY AND DENIAL

The Casamance conflict is between the Senegalese government and the Democratic Forces of Casamance Movement (*Mouvement des Forces Démocratiques de Casamance*, MFDC) an armed opposition group seeking independence for their region in southern Senegal since 1982. Despite several peace agreements, there continues to be moments of high tension in the conflict marked by serious human rights violations committed by both parties. The impunity that marks these atrocities continues to deny justice for the victims and their families and has left them in a state of abandonment.

Despite ratifying the International Convention for the Protection of All Persons from Enforced Disappearance in December 2008, the Senegalese Government continues to deny the enforced disappearance of dozen of Casamance people and to deprive their families of access to truth, justice and reparations. On 30 March 2015, the Director of Human Rights at the Ministry of Justice declared that "no cases of enforced disappearance have been registered in Senegal."³⁵ The authorities made a similar declaration when rejecting recommendations on enforced disappearances raised during the Universal Periodic Review of Senegal in 2013: "The Senegalese Government is unaware of any cases of enforced disappearance carried out at the initiative of the State or public authorities."³⁶ However, Amnesty International and the Human Rights Committee have been expressing concerns about enforced disappearances in Senegal for over two decades.³⁷

Jean Diandy was arrested by soldiers at his home on 4 August 1999, because he was suspected of belonging to the MFDC. Witnesses present at the time of his arrest told his wife Khady Bassène that "a group of soldiers found him at home, stripped to the waist, and took him away." Another man was also arrested at the same time as her husband and told her that they were eating mangos at Jean Diandy's home when soldiers arrested them at around 17.00 hours without any explanation.

³⁵ *Il n'existe pas de cas de disparition forcée au Sénégal*, 30 March 2015, available at :

<www.aps.sn/articles.php?id_article=140520>, (last consulted in April 2015).

³⁶ *Report of the Working Group on the Universal Periodic Review - Senegal: Addendum: Views on conclusions and/or recommendations, commitments and replies by the State party under review* (A/HRC/25/4/Add.1), 4 March 2014, p. 3, available at: <<http://www.ohchr.org/EN/HRBodies/UPR/Pages/SNSession17.aspx>>, (last consulted in April 2015).

³⁷ See:

Senegal: An agenda for human rights. An opportunity not to be missed by the authorities elected in the March 2012 elections (AFR 49/004/2012), available at: <<https://www.amnesty.org/en/documents/afr49/004/2012/en/>>, (last consulted April 2015).

Senegal: Climate of Terror in Casamance (AFR 49/001/1998), available at:

<<https://www.amnesty.org/en/documes/AFR49/001/1998/en/>>, (last consulted in April 2015).

Concluding observations of the Human Rights Committee (CCPR/C/79/Add.82), 19 November 1997, available at: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/79/Add.82&Lang=En>, (last consulted in April 2015).

They were taken by military vehicle to a detention centre in Boutoute (around 3 km south-east of Ziguinchor, Casamance's main city). Shortly after, the man was released without any explanation but Jean Diandy remained in detention. Khady Bassène has tried, through the Senegalese justice system, to find out the truth about what happened to him and to seek compensation, but has been given no explanation or financial reparation. The whereabouts of Jean Diandy still remain unknown.³⁸

Amnesty International is also concerned that the 2004 amnesty law,³⁹ promulgated by then President Abdoulaye Wade, grants amnesty for offences committed during the internal conflict in Casamance and has deprived the victims and their families of their right to justice and redress, in violation of international standards.

Recommendations to the Senegalese authorities:

- Make enforced disappearance a crime under national law and ensure the definition of enforced disappearance is in line with Article 2 of the International Convention for the Protection of All Persons from Enforced Disappearance;
- Ensure that amnesties, pardons and similar measures of impunity do not bar investigations and prosecutions of crimes under international law, or take steps to ascertain the truth about these crimes, or to obtain full reparation for them. Amend the 2004 amnesty law to that effect;
- Conduct investigations so that the families of those who disappeared in the Casamance conflict may be informed of the fate and whereabouts of their relatives and provide them with psychological, medical and financial support, in accordance with international human rights standards. Take immediate legal action, whenever there is sufficient admissible evidence, against all persons suspected of being involved in enforced disappearance, including superior officers who knew, or should have known, about the crime;
- Ensure that all victims of human rights violations can benefit from redress, including measures of restitution, compensation, rehabilitation, satisfaction and guarantees that such violations will not be repeated. The redress should include an explanation of the events so that families can know what happened to their family.

³⁸ *Senegal: Land of Impunity* (AFR 49/001/2010), available at:

<<https://www.amnesty.org/en/documents/afr49/001/2010/en/>>, (last consulted in April 2015)

³⁹ Law 2004-20 of 21 July 2004 providing an amnesty for all offences committed during the internal conflict in Casamance since 1991.

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