



SENEGAL AN AGENDA FOR HUMAN RIGHTS

**AN OPPORTUNITY NOT TO BE
MISSED BY THE AUTHORITIES
ELECTED IN THE MARCH 2012
PRESIDENTIAL ELECTION**

**AMNESTY
INTERNATIONAL**



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Cover photo: Mamadou Diop calling for prayer, at the *Place de l'Obélisque*. © Le Quotidien

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CONTENTS

1. INTRODUCTION	5
2. END TORTURE AND OTHER ILL-TREATMENT	7
3. STOP AND SANCTION THE EXCESSIVE USE OF FORCE	13
4. END ATTACKS ON FREEDOM OF EXPRESSION	16
5. ENSURE JUSTICE AND COMPENSATION FOR THE VICTIMS OF THE CONFLICT IN CASAMANCE.....	19
6. BRING HISSÈNE HABRÉ TO JUSTICE.....	23
7. DISCRIMINATION ON THE BASIS OF PRESUMED SEXUAL ORIENTATION	25
8. CONCLUSION AND RECOMMENDATIONS	26
RECOMMENDATIONS.....	27
ENDNOTES.....	29
ANNEXE 1: DECEASED VICTIMS FOLLOWING PRE-ELECTION VIOLENCE (JANUARY – FEBRUARY 2012).....	33
ANNEXE 2: CASES OF TORTURE AND ILL-TREATMENT (2011-2012)	35
ANNEXE 3: EIGHT CASES OF DEATH IN DETENTION FOLLOWING TORTURE AND OTHER ILL -TREATMENT (2007-2011)	37

1. INTRODUCTION

Following the Presidential election of February-March 2012, which saw the victory of Macky Sall, Senegal has 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, death in detention, excessive use of force leading to the death of several protestors, attacks on freedom of expression and the imprisonment of prisoners of conscience. These human rights violations reflect practices rooted in a culture of impunity that has long prevailed in the country.

The new Senegalese authorities must, as a matter of urgency, address the impunity, which continues to undermine the credibility of the judicial system and the rule of law in general. In this respect, Amnesty International welcomes the declaration made by the new Minister of Justice, Aminata Touré, at the beginning of April 2012: “We will not protect anyone. We will strictly enforce the law because Senegalese people have high expectations of their justice system.”¹

In fact, for decades, certain elements of the police force and of the gendarmerie (paramilitary police forces) seem to be assured of violating human rights without being held to account. It is particularly worrying that the use of torture and other ill-treatment appears to be a favoured investigative technique for certain members of the police force and gendarmerie, allowing them to extort “confessions” quickly. There was significant use of these methods during the pre-election period where protestors were arrested and tortured: physical assault, simulated drowning, genital mutilations, electric shocks or burns. Some of those guilty of these acts appear to benefit from the protection of their superiors against the background of a code of silence, which constitutes, in many cases, a tacit authorization of torture.

Moreover, for several years now, there have been repeated attacks on freedom of expression and peaceful assembly. Political activists and human rights defenders were physically assaulted and imprisoned for peacefully expressing their opposition to President Abdoulaye Wade’s candidacy for a third term in office. In January 2012, one month before the first round of the presidential election the authorities decided to prohibit all public gatherings for several days even though there was no apparent justification for such a ban, which undermined the freedom to demonstrate peacefully as enshrined in article 8 of the Senegalese Constitution.² These attacks on freedom of expression took a particularly dramatic turn when the security forces fired real bullets at protestors, killing a number of them, in Dakar and in other cities.

Senegal was able to successfully hold the election in spite of this violence; a new President, Macky Sall, was elected and the electoral results were not challenged.

This document is based on two research missions in Senegal, which took place in February and March 2012. This text was sent as a confidential memo to the new Head of State in mid-April 2012 in an attempt to solicit a response from authorities. At the time of finalizing this document, Amnesty International has received no written response from the authorities.

The new authorities must address the need for truth and justice for victims whose human rights are attacked or violated, whether it be those subject to police violence or those civilians caught up in the Casamance conflict. This conflict, which has lasted thirty years, has destroyed entire families. They can only hope to put their lives back together if the Senegalese state has the courage to recognize the extent of human rights abuses committed by both parties and to ensure justice, truth and compensation for the victims and their families.

The new Senegalese authorities also have the opportunity to fulfill the expectations of the international community, in particular the African Union, which has directed this country to try the former Chadian President, Hissène Habré, accused of having committed serious human rights violations in his country. After over a decade of procrastination, the President Abdoulaye Wade publicly made known, in 2011, his refusal to try Hissène Habré. In the event that this position is confirmed by his successor, it is the responsibility of the new authorities to extradite Hissène Habré to a country willing and able to try him in accordance with international fair trial standards and without recourse to the death penalty.

The new authorities need to win back the Senegalese public's trust in the justice system and send a clear signal that human rights violations will no longer be tolerated. This task has three main requirements: prevent human rights violations, conduct investigations and bring to justice the alleged perpetrators of these acts; and grant compensation for the victims of human rights violations.

It is against these challenges that we should measure the willingness shown by the new authorities to fight impunity and to transform Senegal into a country wherein human rights are truly respected.

2. END TORTURE AND OTHER ILL-TREATMENT

Despite the commitments undertaken by the Senegalese authorities for many years, security forces regularly use, in almost total impunity, torture and other ill-treatment. This practice has been publicly denounced by national and international human rights organisations, including Amnesty International, as well as by several United Nations bodies. Yet, the authorities have never really demonstrated their willingness to put an end to impunity.

Torture and ill-treatment are undoubtedly criminal offenses. 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, this article appears to go unheeded, most often, when it comes to prosecuting state officials suspected of torture or other serious violations of human rights.

The recent pre-election unrest led to a repeated use of torture on protestors opposed to President Wade’s candidacy for a third term (See Annexe no. 2 for a non-exhaustive list of torture victims between June 2011 and February 2012).³

Security forces have attacked protestors, or assimilated persons, with brutality. During the protest on 17 February 2012, a young computer specialist, Sékou Badji, was singled out by members of the police’s Mobile Intervention Unit (*Groupement mobile d’intervention (GMI)*) upon leaving his office. He told Amnesty International:



Sékou A. Badji, victim of violence by security forces, during a demonstration © Amnesty International

“Outside, people were protesting. Tyres were on fire, there was smoke. I saw people running. I had no choice but to do the same. I tripped, got up again, and a little further on I was caught by

members of the GMI. They lifted me by both arms. One police officer hit me with his baton, and another took a run at me also hitting me with his baton. Another one punched me in the face and opened my cheek, the blood came gushing out. They threw me in the back of a truck where another police officer also beat me.”

A photographer who was on his terrace witnessed the follow-up of this assault. He told Amnesty International:

“A police truck stopped downstairs from my house. I saw police officers pulling a man out from inside the vehicle. I saw that his face was bleeding, the officers were hitting him and some called for him to be stripped naked. Another one said it wasn't necessary. He was tossed about between all these police officers. Four of them took him by his hands and feet and held him in the air while the other police officers, they were more than ten, hit him with their batons. Each one of them hit him at least 10 times. The man cried out in pain. The police officers finally let him go because protestors were throwing stones at them.”

This photographer filmed the scene and Amnesty International is in possession of this video.

Acts of torture and other ill-treatment were also committed continued in detention. Ibrahima Fall was arrested on 17 February 2012 not far from the Tivavouane gendarmerie (around 90 km northeast of Dakar) while returning from a demonstration against President Wade's candidacy. He told Amnesty International:

“I was stopped in front of the Total petrol station. Three gendarmes [paramilitary police] officers handcuffed me and took me to the gendarme station. They told me to take off my clothes and I was left in my boxer shorts. They got me to lay face down and hit me with batons, water hoses and electric cables. They asked me to squat down and put my hands on my shins. They then put a stick between my hands and legs and tilted the stick so that I was slightly at an angle. One of them held the stick and another hit me on the body and head. One of their leaders, who was better-dressed than the others, took photos with his Smartphone and asked one of the gendarmes to hit me. The latter carried out his orders and

went at me for 10 to 15 minutes with a baton.”

The gendarmes also threatened him and his mother, with worse abuse:

“Another threatened to kill me with the handle of an iron baton. He also threatened my mother: “I am going to rape your mother and then kill her.” He added, “Here, we hit you, we kill you and this will go nowhere and we won’t be judged.” He finished his sentence kicking me and hitting my handcuffs. I was shaking and I fainted.”

Ibrahima Fall was transferred, a short time after, to the Thies gendarme station (70 km east of Dakar) where he was forced to sign a statement that he was not allowed to read. He was charged with destroying the Tivouane gendarme station and hitting an officer. He testified to having being tortured in court but the judges did not react to this statement. He was ordered to pay a fine of 50 000 FCFA (75 euros) and was released.

The Amnesty International delegates also met, in February 2012, five prisoners at the Rebeuss Prison, in Dakar, who all confirmed being tortured. All of these persons were accused of being involved in the death of a young auxiliary police officer, Fodé Ndiaye, who was killed on 27 January 2012 during a demonstration against President Wade’s candidacy, in the Colobane neighbourhood in Dakar. 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.”

As of beginning of June 2012, these five persons remained detained without trial at the Rebeuss Prison in Dakar.

Minors were also tortured in detention. The Amnesty International delegation met a teenager of seventeen years at the Fort B Prison for minors in Dakar. This young man was arrested on 29 January 2012 in Colobane in connection with the investigation concerning the death of auxiliary police officer, Fodé Ndiaye. He told Amnesty International:

“At the time of my arrest, and my arrival at the DIC, I was beaten by police officers. They punched me and hit me with batons to the head and to the face. They then took me into a room. They undressed me; I only had boxer shorts on. They got me to sit on the ground spreading out my legs, one of them pushed my head forward while the others hit me with *lifs* and electric cables. These blows left cuts on my body, the police officers then put an irritant product on these wounds. They asked me to confess and give them names. At one point, one

of them connected an electric cable to my chest for two minutes; I felt pain in every part of my body. After this electricity torture, they continued beating me until 7 in the morning.”

As of beginning of June 2012, this teenager was still held without trial at the Fort B Prison.

Another young man, Ousseynou Seck, who was not part of any demonstration, was arrested by police officers, on 20 February 2012, in the Patte d’Oie neighbourhood in Dakar. A witness of the arrest told Amnesty International:

“Ousseynou Seck was talking on his mobile. I heard that he was saying to the other person that he had made tea for his mother. One of the two police officers pointed to him and immediately after, his colleague took him from behind in such a way that his hands were on the back of his neck. Ousseynou shouted. He said they were killing him. The police officers insulted him and the one holding him tripped him and he fell. The police officers punched and kicked him for about 15 minutes. They then asked him to get up. He couldn’t. A third police officer in a truck came and helped his colleagues to pick him up and throw him in the back of the truck.”

Ousseynou Seck’s mother was able to speak briefly with her son as he was being taken to the police station by security forces. She told Amnesty International:

“Ousseynou told me that he was going to file a complaint about the police officers that had ill-treated him. The police officers said that he was delirious and asked me to go to the police station to pick him up. When I arrived there, I found my son lying on the ground. He was in a lot of pain. The police officers told me I could take him. I called a taxi. My son couldn’t walk, we had to support him. When we got home, he was shaking, he asked us to tie his hands as they were shaking. He asked for porridge and went up to his room, he was unable to sleep. He was suffering. He told me he was going to file a complaint against the police officers who had beaten him. We took him to the Grand Yoff hospital where he died around midnight.”

An autopsy was carried out and the family is still awaiting the results of this exam. The reasons for Ousseynou Seck’s arrest remain unclear.

These recent examples are not unique cases of torture and ill-treatment committed by Senegalese security forces. Since 2007, Amnesty International has recorded eight cases of death in detention as a result of torture (see Annexe no. 3).⁴ To the knowledge of the organization, only one case has led to a legal trial, but the court did not recognize these acts of torture and other ill-treatment and the security forces accused of these acts were only sentenced to very short, or even suspended, sentences. In the seven other cases, the investigation is still officially ongoing and no compensation has been awarded to the victims.

The impunity enjoyed by the police forces and gendarmes responsible of torture is supported by several elements:

1) Inexistent or unsuccessful investigations

The climate of impunity which currently reigns in Senegal is particularly evident when we examine the way in which the courts have dealt with several torture allegations. In several

cases, investigations have been opened following complaints made by the families, or after these deaths have been announced by human rights organizations. However, to the victim's parents and Amnesty International's knowledge, hardly any of these investigations have brought those accused of these acts to justice or set sentences proportional to the gravity of their acts, thus depriving the families of access to justice and redress. The police force and gendarmerie have claimed that some deaths in custody were "suicides" despite overwhelming evidence of torture and other ill-treatment.

Moreover, public prosecutors refuse more often than not to investigate allegations, made by victims or their lawyers, of torture in police custody or provisional detention. This is contrary to article 12 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture below), ratified by Senegal in 1986, which provides that:

"Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

2) The security forces implicated in acts of torture are not relieved of their duties during the investigation:

In the few cases where security force members are suspected of torture, these officers are, most often, not suspended from their duties for the duration of the investigation but merely reassigned elsewhere. This is contrary to the recommendations made many times by the United Nations Committee against Torture (CAT).

3) Obstructions of justice by the Ministries of the Interior and of Defence

Even when judges summon members of the security forces to account for human rights violations, they encounter a major obstacle. They must first obtain a prosecution order (*ordre de poursuites*) from the Ministry responsible for the state officials in question (the Ministry of the Interior in the case of police officers and the Ministry of Defense in the case of gendarmes and military personnel). This procedure, set out in article 60 of the Code of Military Justice, grants a de facto power of veto to the executive with regard to any judicial proceedings against members of the security forces. In practice, the issue of prosecution orders is often refused or delayed by officials higher up the chain of command who are responsible of the security force officers implicated in human rights violations, which leaves the judiciary helpless and deprives the victims and their families of any hope of redress.

4) "Confessions" under torture retained as evidence

The use of confessions extracted under torture to convict those accused is common practice in Senegal. It is justified in a way by the attitude of Senegalese judges who regularly rely on this type of "confession" to sentence the accused to prison terms.

This practice is a violation of one of the key provisions of the Convention Against Torture. This text stipulates in article 15:

“Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.”

5) Delays in the implementation of a National Observer of Places of Deprivation of Liberty

The prevention and monitoring of detention centres is an essential part of the fight against torture and ill-treatment. That is why an Optional Protocol related to the Convention Against Torture was adopted in 2002. This instrument provides for the creation of national preventative mechanisms against torture, responsible for monitoring and inspecting all places of deprivation of liberty and acting upon the results of this systematic monitoring.

Senegal ratified the Optional Protocol from the United Nations Convention Against Torture 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 after this law came into force to finally name, in January 2012, National Observer of Places of Deprivation of Liberty, Boubou Diouf Tall. This magistrate was formerly a technical advisor to the central administration of the Ministry of Justice. It is for the new authorities to ensure that the National Observer of Places of Deprivation of Liberty is given the human and financial resources necessary to make this vital organ of torture prevention fully operational.

3. STOP AND SANCTION THE EXCESSIVE USE OF FORCE

In January and February 2012, those opposed to the candidacy of the outgoing President organized several demonstrations, which were violently repressed by security forces. This growing unrest resulted in several casualties, including a police auxiliary Fodé Ndiaye who died on 27 January 2012 in the Colobane neighbourhood in Dakar. This police officer died as a result of injuries received after demonstrators threw stones at him.

In the course of its two research missions, Amnesty International was able to investigate the circumstances of death of six people killed by security forces: four shot dead; one as a result of head injuries caused by a tear gas grenade and one who was run over by a police vehicle (See Annexe no.1).

Most of these demonstrations began peacefully until security forces intervened. Thus, on 30 January 2012, in Podor (approximately 500 km north of Dakar) gendarmes shot real bullets at a procession of peaceful demonstrators, killing two people: Mamadou Sy, a young man of around twenty years and an elderly woman of around sixty years, Bana Ndiaye, who was not part of the protest.



Police in Dakar respond to pre-election protests, 18 February 2012. © Sylvain Cherkou/Demotix

Two weeks later, on 17 February 2012, an apprentice tailor, Mara Diagne, who was part of the demonstration in Kaolack (190 km southeast of Dakar) was hit in the head by a tear-gas grenade and died from his injuries. Two days later, on 19 February, two other protestors, Mamadou Ndiaye and El Hadj Thiam, were shot dead in Rufisque (25 km southeast of Dakar). Another demonstrator who was there told Amnesty International:

“We were walking peacefully on the edge of the No. 1 Highway when all of sudden we heard shots. Some were saying that the Rufisque police were coming towards us. We ran. My cousin fell. I kept running; I called him on my mobile but he didn't pick up so I turned back. I saw Mamadou on the ground. He was on his back and couldn't get up. People helped me and we took him to the hospital in Rufisque where he died.”

Amnesty International also investigated the circumstances in which a student of thirty-two years, Mamadou Diop, was run over by a police vehicle, which rammed into him during a peaceful demonstration at the Place de l'Obélisque, in Dakar, 31 January 2012. An eyewitness who was five metres from him told Amnesty International:

“Mamadou Diop was trying to dissuade a group of protestors from walking on the Presidency. He told them that security forces had surrounded the area. Shortly after, one of the “dragons” [police vehicle which sprays hot water to disperse protestors], coming from Boulevard du Centenaire, left the road to mount the sidewalk and get back to the sandy ground. It ploughed into the people facing the Obelisk. I was five metres away from Mamadou Diop who had his back to the vehicle and didn't see it arrive. The “dragon” charged straight into him, got him in the back and threw him ten metres. He fell on his front. The vehicle then stopped and reversed in order to get away. Mamadou tried to get up, he fell back again. People came to his aid. I cried for help. Meanwhile, the police threw tear-gas grenades on the people who had gathered around Mamadou.”

Regarding this case, Amnesty International welcomes the recent decision of the Minister of the Interior, Mbaye Ndiaye, to sign in early June 2012, prosecution orders against the two occupants of the police vehicle that ran over Mamadou Diop. Several weeks ago, the Chief Investigating Judge, through the prosecution, requested these prosecution orders so that he could charge both police officers with manslaughter. In signing these orders of prosecution, the Minister of the Interior has released instruction on this issue and opened the way for these two accused officers to be called to trial.

In addition, officials from the Department of Justice said during a meeting with the Amnesty International delegation, on 5 March 2012, that investigations had been opened on all cases of alleged human rights violations committed during the election period.

Amnesty International hopes that these positive signs are acted upon and that they will really put an end to decades of impunity. Indeed, in the past, many similar investigations have not resulted in the alleged perpetrators being brought to justice nor in the compensation victims and / or their relatives.

INVESTIGATIONS THAT MOST OFTEN LEAD NOWHERE

During the last three decades, the Senegalese authorities have only very rarely investigated cases of Human rights violations committed by security forces, particularly cases of those who died in custody, reportedly as a result of torture or other ill-treatment. Moreover, when investigations have been made, they have very rarely been conducted in a prompt, independent and impartial manner, in contradiction of international standards on investigations into this type of crime.

Investigations recently opened concerning allegations of excessive force present the new authorities with an opportunity to demonstrate their willingness to let the courts carry out their work and to end the impunity currently enjoyed by security forces.

The first investigation concerns the conditions in which Sangoné Mbaye, a fish wholesaler, was killed in Joal (around 90km from Dakar) on 12 May 2009, by a gendarme. The trial was due to be held during the session of the Assize court at the end of May 2012 but it has been delayed due to a procedural defect. Reports indicate that Sangoné Mbaye was shot dead during a clash with this gendarme who reportedly asked him for 1 000 FCFA (1.5 euro). The gendarme maintains he fired accidentally after he took out his gun to scare the victim. He is detained at the Rebeuss Prison in Dakar pending judgment.

The second investigation concerns a fisherman, Moustapha Sarr, killed on 5 July 2010 by a member of the waters and forests service around the Madeleine islands, several km from Dakar. Moustapha Sarr was shot dead after he had been stopped alongside others by the coastguards who wanted to confiscate their fishing equipment on the grounds that they were fishing in a prohibited area. The same day, his friends went into the streets and blocked the Soumbédioune tunnel, near the fish market, in protest. A warrant officer was arrested in the following days and the investigation led by the provost brigade considers the offense of manslaughter. The case is ongoing.

An investigation was also opened after Malick Bâ was shot dead in May 2011. The gendarmes fired live bullets on demonstrators protesting against new local officials taking office after a new administrative system was put in place in the Sangalkam locality, near Dakar. To this day, those responsible for these acts have not, to date, been brought to justice.

Another investigation concerns the conditions in which a Bissau-Guinean student, Jean Michel Cabral, was killed on 16 January 2012 by a military guard in front of the house of the Commandant of the southern area of Ziguinchor during a student demonstration. The soldier was arrested by the joint-brigade (*brigade-mixte*) of the Ziguinchor gendarmerie and was taken into custody. The investigation is ongoing.

These investigations must be conducted in accordance with international standards, including in particular, sections 12 and 13 of the Convention against Torture, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment⁵, and the Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions.⁶ Among the strict requirements contained in these international instruments, which are very rarely observed by the Senegalese authorities, include, in particular, the obligation to keep the family informed of the details of the investigation and to remove those potentially implicated in these acts, “from any position of control or power, whether direct or indirect, over complainants, witnesses and their families, as well as over those conducting investigations.”⁷

4. END ATTACKS ON FREEDOM OF EXPRESSION

Over the last three years a number of journalists and political opponents have been subject to legal proceedings - several of whom have been convicted - for their political opinions. The harassment of, and threats made against, persons expressing a political opinion different to that of the ruling group constitutes a violation of their right to freedom of expression protected by article 10 of the Senegalese Constitution. This provision provides that: "Everyone has the right to express and disseminate their opinions, by speech, writing, image, peaceful march, provided that the exercise of these rights does not affect the honour and consideration of others nor public order."

In March 2009, three Dakar radio stations, Oxy Jeunes, Afia FM and Djoloff FM who had commented on the local elections were suspended for two months. The suspension was finally cancelled after four days, on the condition that the radio stations would refrain from commenting on current political events during electoral campaigns.

In August 2009, three journalists from the newspaper Le Quotidien were summoned by police regarding the publication of an article criticising President Wade and the ministers of his government. The hearing continued over two days before the journalists were released without charge.



Senegalese opposed to the candidature of Abdoulaye Wade for highly disputed third term in office demonstrate on January 27, 2012 in Dakar
© SEYLLLOU/AFP/Getty Images

Attacks on freedom of expression continued to multiply as the challenge to President Wade's candidacy for a third presidential term intensified. In fact, over the course of 2011, the country was shaken by major legal and political debates concerning President Abdoulaye Wade's candidacy.⁸

On 23 June 2011, Alioune Tine, President of the African Assembly for the Defence of Human Rights (*Rencontre africaine pour la défense des droits de l'homme (RADDHO)*), was attacked by men carrying stones and batons during a demonstration against the constitutional reform allowing for the possibility of a candidate winning the first round of the Presidential election with only 25% of the votes. Alioune Tine was badly hurt and spent three days in hospital. Another RADDHO member, Oumar Diallo, was also injured.

In July 2011, RADDHO's lawyers lodged a complaint with the Public Prosecutor providing testimonies and images recorded during the attacks on Alioune Tine and Oumar Diallo. These images reportedly show the faces of the attackers, some of whom were wearing T-shirts of a young leader of the Senegalese Democratic Party (*Parti Démocratique Sénégalais (PDS)*), the ruling political party. At the time of writing this document, no progress had been made in this investigation.

In October 2011, Malick Noël Seck, Secretary General of a movement affiliated with the Socialist Party was sentenced on 20 October 2011 to two years in prison for "death threats" and "contempt of court" after he deposited a letter addressed to the Constitutional Council asking members of this body not to accept the candidacy of President Wade for a third term. His sentence was reduced after a court appeal to four months in prison and he was pardoned by President Wade shortly after.

Amnesty International publicly asked for the release of Malick Noël Seck, condemned for expressing his political opinions.⁹ The organization considered that neither the act of delivering this letter nor its content justifies being prosecuted for such offences. The letter given to the Constitutional Council does not contain death threats against the members of this body. Moreover, this letter does not constitute an act in "contempt of court" as, under Senegalese law, the members of this Council are not magistrates of the Senegalese legal or administrative system.

The right to demonstrate peacefully was further undermined on 23 January 2012 when the Minister of the Interior passed an "order temporarily prohibiting public demonstrations". In a press release published the following day, the Ministry of the Interior justified this ban by the fact that, "the objective of such a decision is to avoid any pressure, in one direction or another, upon this High Institution [the Constitutional Council] and to allow this body to fulfil its duties in peace and calm". Whilst acknowledging that it is the responsibility of the security forces to keep control should there be any disturbances to public order, Amnesty International is worried that this ban undermines a fundamental freedom protected by the Constitution.

After the Constitutional Council decided, on 27 January 2012, to allow President Wade to run for re-election, security forces infringed rights to freedom of expression and assembly in an attempt to silence any opposition to the outgoing President. On the same day, three journalists were beaten by the police. One was a correspondent for the French news agency, Agence France Presse, and the others were female journalists working for the Senegalese daily *Le Populaire*. One of the *Le Populaire* journalists, Aminatou Ahane, told Amnesty International:

“A police officer got out of his car and ran towards us. We shouted to him that we were journalists. He grabbed my colleague's hair and slapped her in the face, then threw her to the ground. He also kicked me and threw me to the ground whilst insulting me. A police officer then came to our aid.”

Some hours after the demonstration, the morning of 28 January, another opponent to President Wade's candidacy, singer Daddy Bibson, was abducted by unknown, plain clothed persons. He was beaten and threatened. Daddy Bibson, who was released ten hours later, told Amnesty International that his abductors had said to him that rap singers would not decide the future of the country.

The same day, Alioune Tine, who was made national coordinator of the Movement of June 23 (*Mouvement du 23 Juin (M23)*)¹⁰, campaigning against President Wade's third term, was arrested, and detained for several days, without charge or trial.

Two weeks later, on 16 February 2012, security forces used force to prevent members of the “*Y'en a marre*”¹¹ movement from organizing a sit-in at the Place de l'Obélisque in Dakar.

The security forces blocked access to the Place de l'Obélisque and stood against the young protestors who, hands in the air or behind their heads, shouted that they were unarmed and simply wanted to sit in peaceful protest at the Place de l'Obélisque.

Seeing that the protestors had firm intentions to get to the Place de l'Obélisque, the security forces threw tear-gas grenades and then charged towards them. Several leaders of this movement were arrested including three rappers, Simon Kouka, Kiliseu Seck and Gueye alongside another young man, Iba Mar Faye, and a radio broadcaster known as Keman.

After these arrests, youths set tyres alight and threw stones at the police in other neighbourhoods around the city.

Attacks on freedom of expression continued until the first round of the Presidential election, on 26 February 2012, which took place without major incident. The same was true for the rest of the electoral campaign.

5. ENSURE JUSTICE AND COMPENSATION FOR THE VICTIMS OF THE CONFLICT IN CASAMANCE

In his first address to the nation as Head of State, on 3 April 2012, President Macky Sall confirmed that “The definitive return of peace to the natural Casamance region is, for me, one of the first national priorities.” The new President confirmed that, “All goodwill and national expertise will be put into action for the peaceful settlement of this conflict which has lasted too long” and he extended “a fraternal hand to the leaders and combatants of the MFDC”, the Movement of the Democratic Forces of Casamance (*Mouvement des Forces Démocratiques de Casamance (MFDC)*), an armed opposition group that wants independence for their region in southern Senegal.

MFDC representatives answered the following day in stating that they wanted to “remind the Casamance population that the MFDC has not renounced independence for the Casamance territory even if it has chosen, for strategic purposes, to discuss the issue of independence peacefully. Our movement has the military means to take independence by force. Although for safety of our people, this option has been put on standby.”¹²



Khady Bassène, spouse of a victim of enforced disappearance in Casamance. © Amnesty International

Thirty years of conflict

The Casamance conflict, which began exactly 30 years ago¹³ has witnessed lulls as well as moments of very high tension. The two belligerent parties, namely the MFDC and the Senegalese security forces, have committed serious human rights violations.

In March 2001, both parties signed two peace agreements providing for the release of all prisoners, the return of refugees living in neighbouring countries, the demining of the region, the disarming of armed MFDC groups and the

return of Senegalese soldiers to their barracks. Though these peace agreements significantly reduced tensions, it was not possible to fully implement them, notably because of the rivalries between different factions in the MFDC.

Throughout the last decade, sporadic fighting between the Senegalese army and armed elements of the MFDC has caused the local population to flee to neighbouring countries: Guinea-Bissau and Gambia. Civilians were also subject to serious human rights violations committed by both sides.

The Senegalese army has conducted dozens of extrajudicial executions, enforced disappearances, arrests and arbitrary detentions and has widely used torture. Similarly, armed members of the MFDC have been responsible for abductions and the deliberate and arbitrary killings of those civilians suspected of collaborating with the Senegalese authorities. They also committed acts of torture and rape in order to force communities off land considered by the armed opposition movement to be its private property.

Things worsened considerably in November 2011 when armed MFDC elements carried out several attacks on Senegalese army positions. The army then launched search operations. This fighting resulted in some twenty deaths on both sides. Moreover, in December 2011 and at the beginning of January 2012, the MFDC has, for the first time in a long time, captured one gendarme, six soldiers and one other person. The International Committee of the Red Cross (ICRC) was able to visit these persons in December 2011 and January 2012.¹⁴

This renewed tension was accompanied by serious human rights violations. On 21 November 2011, suspected MFDC elements killed 10 youths who had gone to find teak wood in the Bissine forest (around 30 km from Ziguinchor, the main town in Casamance). The MFDC combatants have forbidden, for some years now, people using resources from this forest, which they consider to be their own private reserve. In May 2008, 16 villagers gathering cashew nuts in Tampe, 15 km east of Ziguinchor, were attacked by individuals claiming to be MFDC members who, after having bound their hands, cut off their left ears.

In response to these attacks led by the MFDC, the Senegalese soldiers have, for their part, arrested civilians suspected of supplying information to the MFDC. As a result, on 2 January 2012 eight people were arrested in the village of Affiniam (around 30 km north of Ziguinchor). Amongst those arrested there were teachers, one school boy, one student, a fisherman, and a shepherd arrested by security forces as his flock grazed in the bushes. These persons were charged with undermining state security and were detained in the Ziguinchor prison. Amnesty International fears that these arrests may have been carried out as part of reprisals launched a few hours after a Senegalese gendarme along with three others were injured in this same village.

In February and March 2012, armed persons suspected to be members of the MFDC assaulted and robbed civilians to dissuade them from voting in the Presidential election. In particular, ballot boxes were burned in Mouhamada Diola, in the Kataba neighbourhood, on 25 March, day of the second round of the election.

An amnesty law that denies the suffering and the rights of the victims of this conflict

Any lasting solution to the Casamance conflict must entail the formal recognition, by both parties, of the very serious abuses and violations of human rights they have committed, and must also ensure that fair compensation be awarded to the hundreds of victims of this conflict.

And yet, the various attempts to settle this conflict that have taken place over the last ten years have all sought to ignore the real responsibility of the Senegalese armed forces and of the MFDC.

The two agreements signed between the Senegalese government and the MFDC were accompanied by a law of amnesty promulgated by the Senegalese President Abdoulaye Wade in July 2004. This law provided an amnesty for all offences committed during the internal conflict in Casamance since 1991, "whether the perpetrators have been definitively judged or not."

In declaring an amnesty before taking any legal action against the soldiers of government forces and armed members of the MFDC responsible for serious human rights violations and abuses, President Abdoulaye Wade deprived hundreds of the victims of this terrible conflict and their families from their right to justice and redress, in violation of international standards.

International law in fact prohibits granting amnesties, pardons and similar national measures of impunity in cases of war crimes, crimes against humanity, genocide, torture, extrajudicial executions and enforced disappearances. All amnesty laws must strictly comply with international law. In compliance with these same rules and principles, this law cannot cover the serious violations of human rights and fundamental freedoms protected by the regional and international instruments to which Senegal is bound, nor can it exonerate the perpetrators.

ENFORCED DISAPPEARANCE: SUFFERING WHICH CONTINUES UNANSWERED

The impunity that marked the countless atrocities committed by both parties to the conflict denied the suffering of the victims and their families and left them in a state of total abandonment.

This suffering continues to haunt the families of the dozens of disappeared Casamance people arrested by government forces during the conflict. Although the uncertainty concerning the fate of the disappeared has given way to resignation as time has passed, many are still unable to mourn their loved ones as the bodies of the deceased has not been returned.

The amnesty promulgated by the Senegalese Head of State also deprived of any hope of justice and redress the many victims of human rights abuses committed by the MFDC.

Causing such suffering to the families of disappeared people (an inevitable and sometimes deliberate result

of enforced disappearances) also constitutes a violation of human rights. On several occasions, international human rights bodies, including the United Nations Human Rights Committee, have stated that the refusal of the authorities to let months and even years go by without granting the families of the disappeared the right to know what happened to their families is a form of torture.

The continuing silence regarding the fate of the disappeared continues to have serious economic and psychological consequences for their families. The wives of the disappeared are faced with economic difficulties that many of them have never really been able to overcome and children have grown up without knowing why their father was not at home. To Amnesty International's knowledge, no family, or almost no family of the disappeared has received either compensation or material or psychological support.

It is therefore for the new Senegalese Head of State to learn from the past and to realize that any peaceful or lasting solution to the Casamance conflict entails striving for truth and justice and also for fair and equitable compensation for the victims, whatever their ethnicity or alleged political affiliation.

6. BRING HISSÈNE HABRÉ TO JUSTICE

For more than 12 years, Hissène Habré's victims have hoped that the Senegalese authorities would try the former Chadian president who took refuge in Senegal after being forced from power in 1990. However, the Senegalese authorities have multiplied delay tactics to avoid taking Hissène Habré to trial, in spite of the repeated requests of the Committee against Torture, the decision made in 2006 by the African Union ordering Senegal to try Hissène Habré, and President Abdoulaye Wade's formal commitments to try this former African Head of State accused of serious and large-scale human rights violations "on African soil".

In this respect, President Abdoulaye Wade continually backtracked on his commitments. In February 2011, he publicly rejected the decision taken one month earlier, by the Heads of State of the African Union during a conference, to try Hissène Habré in Senegal on behalf of Africa, for war crimes, crimes against humanity and torture. He also expressed his refusal to extradite the former Chadian President to Belgium, a country willing and able to give him a fair trial, which would exclude capital punishment. Then in July 2011, the Senegalese authorities threatened to extradite Hissène Habré to Chad where he had been sentenced to death in absentia in August 2008. This decision sparked a wave of protests¹⁵ and was not taken any further.

At the beginning of 2012, President Wade changed his mind again by promising to extradite Hissène Habré to Belgium if the Dakar Court of Appeal agreed. On 12 January 2012, this court refused once more the extradition request on the grounds that the warrant issued against him by Belgium, in its opinion, contained formal defects.

Though Senegal persists in its decision not to prosecute Hissène Habré, it is bound under the UN Convention against Torture, to respect its obligation under international law "*aut dedere, aut judicare*" (extradite or prosecute) and therefore, to extradite the former Chadian President to a country willing and able to judge him according to international fair trial standards.

In this respect, Belgium presented in January 2012 a fourth request for the extradition of former Chadian President. The Senegalese authorities have not as yet replied to this request.

In addition, Senegal has solemnly pledged to the International Court of Justice (ICJ) not to let the former Chadian President leave its territory before the Court has given its final decision regarding this disagreement with Belgium.¹⁶

Senegal who has ratified, often being amongst the first to do so, the international instruments relating to human rights, must comply with its obligations under international law.

In this regard, the recent establishment of a working group "to monitor the case of former Chadian President Habré" suggests that the new Senegalese authorities recognize their

international obligations in this area. In a statement released on 4 June 2012, the Senegalese Ministry of Justice stated, "the mission of this group is to reflect upon the practical preparation and organization of the trial of President Habré, in accordance with Senegal's international commitments and with the support of the African Union."¹⁷

Hopefully, this decision is not just for media impact, Habré's victims have for too long been soothed by empty promises made by the Senegalese authorities. The need for justice is all the more urgent as several of, former Chadian President's African victims who had filed complaints in Dakar 12 years ago have already passed away. Over and above its legal obligation to try or extradite Hissène Habré, the new Senegalese authorities have a moral responsibility towards these victims who have believed in Senegal's promises and commitments.

7. DISCRIMINATION ON THE BASIS OF PRESUMED SEXUAL ORIENTATION

In the last few years, men faced harassment, arbitrary arrest, torture and unfair trial because of their suspected engagement in consensual same-sex sexual relationships. The arrests, convictions, harassment and homophobic discriminations reflect the growing hostility toward homosexuals in Senegal.

Societal homophobia is exacerbated by the fact that sexual relations between consenting adults of the same sex is a crime in Senegal. The Penal code states 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.”

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 and an Islamic organization released 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.

In June 2009, three men and a teenage boy were arrested in the city of Darou Mousty, Louga region, after being anonymously denounced for alleged sexual acts “against nature”. The teenager was released and the three adults were sentenced in August 2009 to prison terms ranging from two to five years’ imprisonment. These persons have since been released.

Such discrimination was a point of concern for some states during the Universal Periodic Review (UPR) of Senegal in February 2009.¹⁸ A State member of the UPR working group expressed concern about “the criminalization of homosexuality, as well as the harassment and discrimination of which homosexuals are victim.”¹⁹ Another member state called also for the revision of Senegalese legislation “which results in the discrimination, prosecution and punishment of people solely for their sexual orientation or gender identity” and called for the repeal of the article of the Penal Code which criminalizes sexual relations between consenting adults of the same sex. Senegal has replied to these recommendations, but has not indicated its intention to implement them.²⁰

8. CONCLUSION AND RECOMMENDATIONS

In September 2010, Amnesty International published a document called "Senegal: Land of impunity". The same day, the Senegalese government responded publicly stating that, "Senegal is a state governed by the rule of law, concerned with the preservation and defence of individual liberties and rights for all."²¹ With regards to the practice of torture, the authorities clarified that:

"Without overlooking the existence of this practice, albeit small, Senegal hereby renews its commitment to spare no effort to achieve, under its jurisdiction, a society of justice consistent with the highest aspiration of the rule of law, and to participate in the international and communal effort for the eradication of torture in all its forms."

Eighteen months later, facts clearly show that these promises have not been kept. Torture is still a practice, which is openly tolerated in police and gendarmerie stations. In the vast majority of cases, those responsible do not have to face up to their actions in court, and the victims do not receive compensation.

The recent pre-electoral violence has, once again, shown that security forces believe themselves to be above the law and can shoot real bullets at unarmed demonstrators, torture prisoners to extract "confessions" or arrest opponents exercising their right to express their views peacefully.

The new Head of State and his government have an opportunity to turn away from practices, which negate all of the human rights commitments undertaken by Senegal.

In this regard, we must welcome the two recent statements made by the new Senegalese Minister of Justice who declared, on 12 April 2012, "It will be for us to shed light upon all of these cases²² by locating responsibilities without bias. We will let investigations take their course and judges will work independently without political pressure to enforce the law."

A month later, on 25 May 2012, at the annual conference of Chief Prosecutors focusing on the subject of "Justice and impunity," the Minister said: "Electoral victims should exercise their rights and prosecute those responsible of the violence that led to casualties. This is evident. I met with the Victims association and I assured them of the will of the Ministry of Justice to follow up on the cases and pursue them to the end."²³

The authorities must now live up to their commitments. The population has great expectations regarding justice. They must, without delay, put an end to the culture of impunity that serves as both weapon and shield for security forces. This is the sole condition that will allow Senegal to truly become a state governed by the rule of law, not only in legal texts but in the daily life of all its people.

RECOMMENDATIONS

Amnesty International urges the new Senegalese authorities to follow the recommendations below:

Impunity

Carry out investigations on all cases where people have died in custody and all cases of torture allegations or other ill-treatment during detention in accordance with the Convention Against Torture.

Remove from office any person who may be suspected of having committed, or participated in, serious human rights violations, until the allegations against them are subject to a prompt, in-depth, independent and impartial investigation, in accordance with international treaties, particularly, with regards to the Principles of effective investigation of torture and other cruel, inhuman or degrading treatment or punishment to establish the true facts, and with regards to the Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions and to the means needed to investigate these executions.

Immediately take legal action, whenever there is sufficient admissible evidence, against all persons suspected of committing serious human rights violations, particularly torture and other ill-treatment of persons held in police custody or in preventive detention, as well as in cases where excessive use of force during demonstrations is suspected.

Immediately take appropriate action against any persons suspected of being responsible for deaths in custody from torture in police or gendarmerie stations, especially in the cases cited in this report.

Prosecute Hissène Habré, in accordance with the decision of the African Union entrusting Senegal with the mandate to try the former Chadian President on behalf of Africa. Assuming that the Senegalese authorities refuse to prosecute Hissène Habré; accept his extradition to any country that is willing and able to conduct his legal prosecution consistent with international fair trial standards, and that would exclude capital punishment.

Compensation for victims of human rights violations

Ensure that all victims of human rights violations can benefit from all forms of redress, including measures of restitution, compensation, rehabilitation, satisfaction and guarantees that these violations will not be repeated. This redress should include an explanation of the events so that families can know what happened to their family member.

Conduct investigations so that the families of those who disappeared in the Casamance conflict may be informed of the fate of their relatives, in order to mourn that disappeared person, and provide them with psychological, medical and financial support that they need, according to the International Convention for the Protection of All Persons against Enforced Disappearances, ratified by Senegal in 2008.

Ensure that families of disappeared persons and those who died in detention receive the social benefits they are entitled to following the death of a family member, particularly

retirement benefits.

Torture and other ill-treatment

Give clear instructions to police forces and the gendarmerie to ensure that they always act in respect of international human rights laws; they must, in particular, respect the right to life and the absolute prohibition of torture and other ill-treatment, in accordance with international treaties.

Give clear instructions to judges reminding them of their obligations pursuant to the Convention against Torture, which provides that any statement which is established to be obtained by torture cannot be invoked as evidence in proceedings, except against those accused of committing acts of torture. This means that judges have the duty to determine whether a statement was obtained under torture and to open a prompt, thorough, independent and impartial investigation if there are reasonable grounds to suggest that the statement was obtained through torture. The onus of proof rests on the Prosecutor who must prove beyond reasonable doubt that the declaration is not a result of torture.

Ensure that trials, in which it has been established that the statements have been extracted under torture, are reviewed in order that those convicted can enjoy their right to a fair trial according to the provisions of international law.

Ensure that the National Observer of Places of Deprivation of Liberty has the human and material resources needed to accomplish its mission independently.

Arbitrary detentions and prisoners of conscience

Put an end to arbitrary detention, and release, unconditionally and immediately all prisoners of conscience detained solely for peacefully exercise of their right to freedom of expression, protest or assembly.

Charge those detained with recognized criminal offenses or release them. All prisoners should have access to a lawyer and to the doctor of their choice and also be able to contact their relatives. They must also be promptly brought before an independent judiciary capable of ruling upon the legality of their detention.

Discrimination on the grounds of sexual orientation

Repeal the law criminalizing sexual relations between consenting adults of the same sex.

Interdict any incitement to discrimination, hostility or homophobic violence against persons because of their sexual identity or because they have engaged in, or are suspected of engaging in, sexual relations with consenting adults of the same sex.

Ratification of International Human rights instruments

Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

Ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, abolishing the death penalty.

ENDNOTES

¹ Netalli.Net, « Aminata Touré promet zéro impunité », 6 April 2012, <http://www.nettali.net/Aminata-Toure-promet-zero-impunite.html> (consulted the 12 April 2012).

² Article 8 of the Senegalese Constitution provides that, “The Republic of Senegal guaranties to all citizens the following fundamental individual freedoms and economic, social and collective rights: political rights: freedom of opinion, freedom of speech, freedom of association, freedom of assembly, freedom of movement, freedom of public demonstration (...)”.

³ An Amnesty International delegation met several of these people during investigative missions undertaken in February and March 2012.

⁴ These cases are set out in detail in the following reports published by Amnesty International, “Senegal: Land of Impunity”, 15 September 2010 (AFR 49/001/2010), “Senegal: The Human Rights Situation: Brief overview in the runup to the presidential election”, January 2012 (AFR 49/001/20120).

⁵ These principles are available at <http://www2.ohchr.org/english/law/investigation.htm> (consulted on 8 June 2012).

⁶ These principles are available at <http://www2.ohchr.org/english/law/executions.htm> (consulted on 8 June 2012).

⁷ Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, principle 15.

⁸ Article 26 of the Senegalese constitution, amended in 2001, stipulates that, “the length of the President of the Republic’s term of office is five years and renewable once.” Basing their arguments on article 104 of the Constitution, which states, “The President of the Republic in office shall continue his or her term until it expires. All other provisions of the present Constitution shall apply to him or her”, political opponents repeatedly declared that this text clearly prohibited President Wade from running for a third term, whereas, those supporting the Head of State asserted that this provision could only be applied after the end of his first term, which ended in 2007.

⁹ Amnesty International, “Senegal: The sentence of a political opponent must be quashed”, 24 October 2011, (AFR 49/002/2011).

¹⁰ The Movement of June 23 was created the day following demonstrations, which were held on the 23 June 2011, against a constitutional draft amendment intended to ensure that Senegalese voters could simultaneously elect both a president and vice-president on the basis of one “ticket”. The candidate could win in the first round if the “ticket” obtained 25% of the votes cast, whilst, under the current constitution, the presidential candidate must secure an absolute majority of the votes (50% plus one vote) to be elected in the first round. The M23 has brought together political parties, civil society organisations and independent figures opposed to President Wade’s candidacy for a third term.

¹¹ This movement was created, in January 2012, by rappers opposed to President Wade’s candidacy for a third presidential term.

¹² Statement made by the academic and intellectual circle of the MFDC, 4 April 2012.

¹³ On 26 December 1982, the Movement of the Democratic Forces of Casamance (MFDC) organised a

peaceful march in Ziguinchor in the direction of the Governor's office. The demonstrators brought down the Senegalese flag hoisted on this building and replaced it with their own flag. The Senegalese government, considering this act to be seditious, ordered security forces to intervene. The march was bloodily repressed and the security forces then made several arrests, including the leader of the MFDC, the Abbot Diamacoune Senghor.

¹⁴ The International Committee of the Red Cross, "Senegal: ICRC visits eight people held by MFDC in Casamance", Press Release 12/08, 17 January 2012.

¹⁵ "Senegal: Authorities must not return former Chadian President to Chad", 9 July 2011, (PRE01/343/2011).

¹⁶ Belgium filed a petition against Senegal to the ICJ in February 2009 following Senegal's refusal to judge Hissène Habré before its courts or to extradite him. In its petition, Belgium accused Senegal of violating the Convention Against Torture by not prosecuting or extraditing Habré, and failing in its duty to prosecute individuals accused of crimes against humanity. The ICJ will render its decision in the coming months.

¹⁷ AFP, "Le Sénégal se dote d'un groupe de travail en vue d'un procès d'Hissène Habré", 2 June 2012.

¹⁸ The UN's High Commissioner for Human Rights defines the Universal Periodic Review (UPR) as the mechanism that, "involves a review of the human rights records of all 192 UN Member States once every four years. The UPR is a State-driven process, under the auspices of the Human Rights Council, which provides the opportunity for each State to declare what actions they have taken to improve the human rights situations in their countries and to fulfill their human rights obligations." See, "Senegal: Amnesty International Submission to the UN Universal Periodic Review: Fourth session of the UPR Working Group of the Human Rights Council" (February 2009), available in English at <http://www.amnesty.org/fr/library/info/AFR49/004/2008/en> (consulted on 8 June 2012).

¹⁹ Human Rights Council, Universal Periodic Review, "Report of the Working Group on the Universal Periodic Review: Senegal", 5 October 2009, Doc. UN A/HRC/11/24, paragraph 37.

²⁰ In its reply to this recommendation, the Senegalese government stated that, "there is no law against homosexuality in Senegal. It is not an offence to be a homosexual in Senegal and no one can be prosecuted on those grounds, in accordance with the constitutional principle of the legality of offences. The Senegalese Criminal Code does, however, define unnatural acts on a person of the same sex as an offence (art. 319). No one is currently imprisoned in Senegal for homosexuality. The prison sentences imposed on a number of young Senegalese for unnatural acts have been appealed and the competent court has declared the proceedings null and void on the procedural grounds of violation of the rules governing house searches." See Human Rights Council, Universal Periodic Review, Report of the Working Group on the Universal Periodic Review: Senegal, Addendum, Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review, 8 June 2009, Doc. UN A/HRC/11/24/Add.1, paragraph 6.

²¹ Senegalese government, « Avis et observations sur le rapport d'Amnesty International 2010 portant sur la pratique de la torture et le respect des droits humains », 15 September 2010.

²² In this statement, the Minister of Justice referred in particular to the cases concerning the deaths of Malick Bâ and Mamadou Diop and promised that these cases will be resolved. Agence de presse sénégalaise, "Aminata Touré promet la restauration de l'État de droit au Sénégal, 12 avril 2012", http://www.aps.sn/aps.php?page=articles&id_article=94449 (consulted on 8 June 2012).

²³ Sud Quotidien, Les procureurs s'attaquent aux causes de l'impunité, 26 mai 2012, http://www.sudonline.sn/-les-procureurs-s-attaquent-aux-causes-de-l-impunite_a_8556.html (consulted on 8 June 2012).

ANNEXE 1: DECEASED VICTIMS FOLLOWING PRE-ELECTION VIOLENCE (JANUARY – FEBRUARY 2012)

Date	Identity	Civil status and profession	Circumstances	Investigation
27/01/2012	Fodé Ndiaye	Police officer	Died as a result of his injuries from stones thrown during a clash between demonstrators and police officers in Colobane.	Officials from the Ministry of Justice said in a meeting with the Amnesty International delegation, on 5 March 2012, that investigations had been opened regarding the cases in this table.
30/01/2012	Mamadou Sy	Young man of around twenty years	Killed by the gendarmerie which was firing real bullets. Taking part in the demonstration in Podor.	
30/01/2012	Bana Ndiaye	Women of around sixty years	A passer-by who was not involved in the demonstration in Podor. Killed by gendarmes firing real bullets.	
31/01/2012	Mamadou Diop	Student, thirty two years	Run over by a police vehicle, which charged into him. Taking part in the demonstration at the Place de l'Obélisque in Dakar.	
17/02/2012	Mara Diagne	Apprentice tailor	Died after receiving head injuries from a tear-gas grenade. Taking part in the demonstration in Kaolack.	
19/02/2012	Mamadou Ndiaye	Student, twenty six years	Died from his injuries, bullet-wounds following police fire in Rufisque. Mamadou Ndiaye was shot in Keur Mbaye Fall, though he was not taking part in the demonstrations.	

19/02/2012	El Hadj Thiam	Talibé (student learning the Koran), thirteen years	Shot dead by police. Taking part in the demonstration in Rufisque.	
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ANNEXE 2: CASES OF TORTURE AND ILL-TREATMENT (2011-2012)

Date	Identity	Civil status and profession	Circumstances	Investigation
23/06/2011	Omar Cyrille Touré, known as "Thiat"	Member of "Y en a marre" movement	Arrested during a demonstration at the Place de l'Indépendance and beaten at the central police station.	No information on the status of a possible investigation
23/06/2011	Simon Kouka	Artist	Held in custody for two hours at the central police station and was beaten.	No information on the status of a possible investigation
September 2011	Mor Talla Sow		Mor Talla Sow and two others were severely ill-treated and injured by gendarmes in the Thiaroye region in Dakar. There were arrested following a neighbour's complaint.	An investigation was opened and two gendarmes and were placed under close arrest. A complaint was filed by the victim.
17/02/2012	Sékou Badji	IT consultant	Sékou Badji was singled out by members of the police's Mobile Intervention Unit when leaving his office. He was severely beaten in the middle of the street and suffered facial injuries. He managed to free himself from the grip of the security forces, who were then targets of rocks thrown by protestors who had witnessed the scene.	No information on the status of a possible investigation
20/02/2012	Ousseynou Seck	Unemployed, thirty nine years old	Ousseynou Seck died following ill-treatment to which he was subject following his arrest, for reasons unknown. Arrested by the police in the Patte d'Oie neighbourhood.	No information on the status of a possible investigation

End of February 2012	Two cases of torture and other ill-treatment: Fallou Diouf and Ibrahima Fall		Detained at the Tivaoune gendarmerie in underwear, ill-treatment for several hours (hit with electric cables, water hoses and batons, kept in uncomfortable positions and beaten, hosed with cold water, death threats, threats made against family, humiliation) Signed statements without being able to read them, accusing them of having participated in the destruction of a gendarmerie.	Trial on 19/02/2012. The defendants attested to torture, but the court gave no follow-up.
16/02/2012	One case of ill-treatment: Iba Mar Faye (one of the leaders of "Y en a marre" movement)		Iba Mar Faye was subjected to ill-treatment (beaten, strangling) at the central police station in Dakar.	No information on the status of a possible investigation
January-February 2012	Five cases of torture and other ill-treatment: Their names are not included for safety reasons.	Young men of around thirty years old	Rebeuss Prison, beaten, simulated drowning, insults, genital mutilation, electric shocks, hosed with water, sleep prevention, burns.	No information on the status of a possible investigation

ANNEXE 3: EIGHT CASES OF DEATH IN DETENTION FOLLOWING TORTURE AND OTHER ILL -TREATMENT (2007-2011)

Date	Identity	Circumstances	Investigation
Night of 20 to 21 April 2007	Dominique Lopy	Arrested following a complaint from the President of the Regional Council of Kolda for stealing a television. Died in custody at the central police station in Kolda.	Complaint filed by the family. In September 2010, the authorities told Amnesty International that an investigation was ongoing. In December 2011, Dominique Lopy's family was summoned by a judge. To date, no conviction of the accused nor compensation received by the family.
December 2007	Alioune Badara Diop	Died at the police station in Kaolack Ndong after being arrested at his home, following a complaint related to the purchase of a moped.	The police officer accused of abusing Alioune Badara Diop was given a suspended sentence for reasons other than acts of torture: retired, he was not allowed to make an arrest. In September 2010, the authorities stated that legal damages and interests had been paid to the claimants in repair of the prejudice suffered. The information collected by Amnesty International shows that all those accused were given, a range of different, yet all suspended, sentences and that the compensation due to be paid by a retired police officer (500 000 FCFA) has still not been received (16 April 2012).
November	Ndeye Oury	Arrested as suspected of murder, she died at the	Ndeye Oury Camara's family called for a second autopsy, casting doubt upon

2008	“Adja” Camara	central police station in Dakar.	<p>the results of the first one.</p> <p>In September 2010, the authorities affirmed that an investigation had been opened in order to clarify the victim’s cause of death.</p> <p>To date, no conviction of the accused nor compensation received by the family.</p>
January 2009	Modou Bakhoum	Died at the Karang gendarmerie following his arrest for smuggling Indian hemp.	<p>An investigation was opened concerning the cause of death.</p> <p>In September 2010, the authorities confirm that investigations aiming to shed light upon Modou Bakhoum’s causes of death are still ongoing.</p> <p>To date, no conviction of the accused nor compensation received by the family.</p>
November 2009	Aboubacry Dia	Died at the Matam police station.	<p>Aboubacry Dia’s family refutes the findings of the police stating that the suspect committed suicide by hanging himself.</p> <p>In September 2010, the authorities declared that the investigation is ongoing.</p> <p>A hearing was held, 7 July 2011 at the Matam court: the three police officers accused of Dia Aboubacry’s death were sentenced to three months imprisonment and a fine of 50,000 francs FCA for failing to provide proper protection of the detainee and for therefore having given him the opportunity to commit suicide.</p> <p>However, the court has not ruled out the possibility of suicide, the family appealed so that the case be reassessed. The next hearing was scheduled for 9 May, 2012 and has been postponed until 11 July on the grounds of procedural errors.</p>

14 July 2010	Abdoulaye Wade Yinghou	Died in detention in Dakar. This young man appears to have stumbled into clashes between demonstrators and police in the Yeumbeul Bène Baraque neighbourhood in Dakar. According to some reports, Abdoulaye Wade Yinghou was severely beaten with batons and rifle butts by police officers during his arrest and at the police station where he was taken. He died, the same night, seemingly as the result of his injuries.	<p>The police confirmed that he had died after he fainted whilst the autopsy performed at the Dantec hospital in Dakar concluded that it was “death as a result of the failure of the cardio and pulmonary system exacerbated by assault and battery with one or more hard and sharp object[s]”.</p> <p>The family filed a complaint. A witness was heard in July or August 2011 by a Judge.</p> <p>To date, no conviction of the accused nor compensation received by the family.</p>
24 December 2010	Fally Keita	Arrested for stealing a radio cassette and placed in custody, he was found hanging in a cell of the gendarmerie of the Mole 8, Dakar	<p>An investigation was opened by the intelligence section of the gendarmerie.</p> <p>To date, no conviction of the accused nor compensation received by the family.</p>
29 March 2011	Aladji Konaté	His naked body was found on the banks of the Senegal River in Bakel. The corpse was handcuffed and showed signs of torture. This young man appears to have been arrested by gendarmes for drug trafficking and security forces confirmed he had jumped in the river in an attempt to escape. The body was reportedly buried without an autopsy to identify the exact circumstances of death.	<p>Two weeks later, three human rights organisations, Amnesty International Senegal, the Senegalese Human Rights League (<i>Ligue sénégalaise des droits humains (LSDH)</i>) and RADDHO called for an investigation to be opened.</p> <p>The family filed a complaint.</p> <p>To date, no conviction of the accused nor compensation received by the family.</p>

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