



COSEDDH

Republic of Senegal

Joint Submission to the UN Universal Periodic Review

31st Session of the UPR Working Group

Submitted 29 March 2018

Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
General Consultative Status with ECOSOC

And

Coalition Sénégalaise des Défenseurs des Droits Humains (COSEDDH)

**CIVICUS: World Alliance for Citizen
Participation**

Ms Ine Van Severen, Email:
ine.vanseveren@civicus.org
Mrs Susan Wilding, Email:
susan.wilding@civicus.org

Tel: +41 22 733 3435
Web: www.civicus.org

**COSEDDH (Coalition sénégalaise des
Défenseurs des Droits de l'Homme)**

M. Seydi GASSAMA
Email: seydi.gassama@amnesty.sn
M. Oumar DIALLO
Email: coseddh.senegal@gmail.com

1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, CIVICUS has members in more than 170 countries throughout the world.
- 1.2 COSEDDH (Coalition Sénégalaise des Défenseurs des Droits Humains - Senegalese Coalition of Human Rights Defenders) is a platform with the aim to promote the work and protection of defenders and whistle-blowers. COSEDDH was created in 2001 in Dakar (Senegal) pursuant the United Nations General Assembly Resolution 53/144 of 9 December 1998 on human rights defenders. COSEDDH brings together about 20 organisations¹ working in the field of human rights and peace.
- 1.3 In this document, CIVICUS and COSEDDH examine the Government of Senegal's compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Senegal's fulfilment of the rights to the freedoms of association, peaceful assembly and expression and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in October 2013. To this end, we assess Senegal's implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.4 During the 2nd UPR cycle, the Government of Senegal received ten recommendations relating to civil society space. Of these recommendations, nine were accepted and one was noted. However, an evaluation of a range of legal sources and human rights documentation addressed in subsequent sections of this submission demonstrates that the Government of Senegal has taken no concrete steps to implement these recommendations. Since its last UPR examination, particular implementation gaps were found with regard to the rights to the freedom of expression and issues relating to the freedom of peaceful assembly.
- 1.5 In particular, CIVICUS and COSEDDH are concerned by the violations of the freedom of expression and media freedom, in particular the continued criminalisation of press offences in the new Press Code, including criminal defamation, among other restrictive provisions.

¹ Amnesty International /Senegal, RADDHO, ONDH, AGED, ANAFA, RADI, GRA REDDHEP, LSDH, SIDH Senegal, le CAEDHU, l'OFADDEC,3D, le RECIDDHUP/CONGAD, l'ANAFA, AFDEAA.

1.6 As a result of these challenges, the space for civil society in Senegal is currently rated as ‘narrowed’ by the CIVICUS Monitor, indicating limitations in fundamental civil society freedoms.²

- Section 2 of this submission examines Senegal’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of civil society activists, HRDs and journalists.
- Section 3 examines Senegal’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, independence of the media and access to information.
- Section 4 examines Senegal’s implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 5 makes a number of recommendations to address the concerns listed.
- An annex covering the implementation of the 2nd cycle UPR recommendations related to civic space can be found at the end of this submission.

2. Harassment, intimidation and attacks against civil society activists, human rights defenders and journalists

2.1. Under Senegal’s previous UPR examination, the government received one recommendation on the protection of civil society representatives, HRDs and journalists. The government committed to “Undertake the necessary measures to protect the rights of human rights defenders as well as journalists.” However, the government has not implemented the recommendations.

2.2. Article 12 of the UN Declaration on Human Rights Defenders mandates states to take the necessary measures to ensure protection to HRDs. The International Covenant on Civil and Political Rights (ICCPR) further guarantees the freedoms of association, peaceful assembly and expression. Despite these provisions, the authorities have penalised foreign national activists with deportation on grounds of ‘public order’. Additionally, there have been instances of public vilification and intimidation of HRDs from state and non-state actors.³

2.3. On 6 November 2017, Kémi Séba, a French-Beninese activist who resides in Senegal and is leader of the CSO Urgences Panafricanistes, was deported from Senegal to France on the grounds of posing a “grave danger to the public order,” through an order

² CIVICUS Monitor: [Senegal](#). Accessed on 9 March 2018.

³ Senepius.com (4 October 2017). “ « La situation des Défenseurs des droits de l’homme n’est pas ce qu’elle devrait être » ». Accessed on 27 March 2018 via : <http://www.seneplus.com/societe/la-situation-des-defenseurs-des-droits-de-lhomme-nest-pas-ce>

issued by the Minister of the Interior on 5 November 2017.⁴ Kémi Séba was earlier arrested on 25 August 2017 in Dakar, after a complaint by the Central Bank of West African States (BCEAO), for burning a 5,000 CFA francs note during a protest on 19 August 2017.⁵ The protest was organised against what the organisers describe as 'Françafrique', with protesters demanding the withdrawal of the CFA franc, currency used in 14 countries in West and Central Africa, and denouncing relations between France and its former colonies in Africa. Although Kémi Séba was later acquitted by a court in Dakar,⁶ the Public Prosecutor appealed against the decision of the judge.⁷

2.4. There have been instances of public vilification and intimidation of HRDs and human rights organisations by state and non-state actors.⁸ Recently in February 2018, in response to Amnesty International Senegal's annual report, Prime Minister Mahammad Boune Abdallah Dionne publicly maligned civil society during a visit in Gossas, and denounced Amnesty International Senegal for "defend[ing] the rights of homosexuals and lesbians." He further stated that "we have a hooded civil society. People in the shadows who try, by all means, to defend incredible things in this country. No NGO can impose homosexuality. We will not accept it. There are politicians hiding behind NGOs."⁹ Senegal has not accepted the recommendations concerning the decriminalisation of homosexuality, which were rejected in 2009 and 2013 during the UPR examination of Senegal. Article 319.3 of the Criminal Code punishes unnatural acts (sexual relations between persons of the same sex) with a prison sentence of between one and five years and a fine of between 100,000 and 1,500,000 CFA francs (approximately US\$188 to US\$2,830).

⁴ Le Matinal (6 September 2017). *Sénégal : Kémi Seba de nouveau arrêté pour être expulsé vers la France*. Accessed on 27 March 2018 via <http://quotidien-lematinal.info/senegal-kemi-seba-de-nouveau-arrete-pour-etre-expulse-vers-la-france/>

⁵ Senenews.com (25 August 2017). *Kémi Séba arrêté à son domicile de Dakar suite à la plainte de la BCEAO*. Accessed on 27 March 2018 via: https://www.senenews.com/actualites/kemi-seba-arrete-a-son-domicile-de-dakar_203048.html

⁶ Dakaractu.com (29 August 2017). *Dernière minute: Kémi Séba relaxé purement et simplement*. Accessed on 27 March 2018 via: https://www.dakaractu.com/Derniere-minute-Kemi-Seba-relaxe-purement-et-simplement_a137753.html ; Africanews (30 August 2017). *Sénégal: le polémiste Kémi Séba acquitté après avoir brûlé un billet en CFA*. Accessed on 27 March 2018 via : <http://fr.africanews.com/2017/08/30/senegal-le-polemiste-kemi-seba-acquitte-apres-avoir-brule-un-billet-en-cfa/>

⁷ Kéwoulo (5 September 2017). *Relaxe de Kémi Séba : Le Procureur de la République fait appel de cette décision*. Accessed on 27 March 2018 via: <https://kewoulo.info/relaxe-de-kemi-seba-procureur-de-republique-appel-de-cette-decision/>

⁸ Senepius.com (4 October 2017). « « La situation des Défenseurs des droits de l'homme n'est pas ce qu'elle devrait être » ». Accessed on 27 March 2018 via : <http://www.senepius.com/societe/la-situation-des-defenseurs-des-droits-de-lhomme-nest-pas-ce>

⁹ Seneweb.com (26 February 2018). « « Amnesty défend le droit des lesbiennes et homos » ». Accessed on 27 March 2018 via: http://www.seneweb.com/news/Politique/laquo-amnesty-defend-le-droit-des-lesbie_n_239275.html

- 2.5. On 3 January 2018, police officers assaulted Selle Mbaye, camera person for the news website Dakaractu.com, while he was filming a court case involving opposition leader and former mayor of Dakar, Khalifa Sall. Selle was briefly detained before being released.¹⁰
- 2.6. The Coordination des Associations de Presse (Coordination of Press Organisations, CAP) noted several incidents of violence towards journalists in the run-up to legislative elections, which took place on 30 July 2017. For instance, on 15 July 2017, the rear window of a bus carrying journalists was broken after stones were thrown. The journalists were covering the tour of the president's ruling coalition, Bennoo Bokk Yakaar, in the Grand Yoff district of Dakar, where clashes broke out between supporters of the ruling coalition and opposition. On 18 July 2017, a journalist's equipment was damaged in the city of Rufisque, where the election campaign also turned violent.¹¹

3. Freedom of expression, independence of the media and access to information

- 3.1 Under the 2nd UPR cycle, the government received five recommendations relating to the freedom of expression and access to information. For example, the government pledged to "protect the freedom of assembly and of expression." Of the five recommendations received, four were accepted and one was noted. However, as discussed below, the government did not take effective measures to implement these recommendations.
- 3.2 Article 19 of the ICCPR guarantees the right to the freedoms of expression and opinion. Articles 8 and 10 of the Constitution of the Republic of Senegal also guarantee the right to the freedom of expression, albeit with restrictions on grounds of public order and honour, by stating that: "Each one has the right of expression and to disseminate their opinion freely by word, pen, image, [and] peaceful march, provided that the exercise of these rights does not infringe the honor and the consideration of others, or the public order." However, in policy and practice, the freedom of expression is restricted through provisions in the 2017 Press Code and the Criminal Code.
- 3.3 On 20 June 2017, the National Assembly approved the Press Code¹² replacing the 1996 Law on the Organs of Social Communication and the Profession of Journalist and

¹⁰ Media Foundation for West Africa (8 January 2018). *Police Assault Journalist Covering Court Proceedings*. Accessed on 27 March 2018 via: <http://www.mfwa.org/country-highlights/police-assault-journalist-covering-court-proceedings/>

¹¹ Association des Editeurs et Professionnels de la Presse en Ligne (19 July 2017). *Violence dans la campagne : La CAP rappelle aux politiques l'obligation de veiller à la sécurité des professionnels des médias*. Press statement. Accessed on 27 March 2018 via: https://www.appel.sn/Violence-dans-la-campagne-La-CAP-rappelle-aux-politiques-l-obligation-de-veiller-a-la-securite-des-professionnels-des_a118.html

¹² Loi N°14/2017 portant Code de la Presse

Technician.¹³ While the initial objective of developing a new and comprehensive media law was laudatory, restrictive provisions still remain in the final version of the law, despite a long process of consultation with media and civil society stakeholders.

- 3.4** The 2017 Press Code continues to criminalise press offences, and even raises the maximum prison sentences and fines for these offences, despite several public statements of President Macky Sall regarding the decriminalisation of press offences, including the statement made in the National Assembly in November 2014 that “there will be no journalists in prison, at least not as long as I am president of the Republic”.¹⁴ Articles 224 and 225 of the Press Code foresee long prison sentences, from three to five years, and high fines, from 5 to 30 million CFA francs (approximately US\$ 9,400 to US\$56,800), for press offences.
- 3.5** According to article 192 of the Press Code, administrative authorities can, without a prior judicial decision, shut down or suspend media outlets or programmes on the grounds of “threats to national security,” a broad term that is open to interpretation. Additionally, article 5 of the Press Code states that journalists have free and unhindered access to all information, but this is subject to the need to respect defence secrecy¹⁵, secrecy of investigation and regulations applicable to access to some sites or structures. Further, the distribution and sale of foreign newspapers and publications can be banned through a jointly motivated decision of the Minister of the Interior and the Minister of Communication, as stipulated in article 78.
- 3.6** Law 22/2016 revising the Criminal Code¹⁶ contains provisions that could restrict/freedom of expression, particularly online, which could be used to target lesbian, gay, bisexual, transgender and intersex (LGBTI) persons, journalists, whistle-blowers and human rights defenders. (See also 3.14)
- 3.7** Additionally, article 254 of the Criminal Code stipulates punishments for the offence of insulting the president, of prison sentences of between six months and two years, and a fine of between 100,000 to 1,500,000 CFA francs (approximately US\$188 to US\$2,830). Article 255 punishes the publication, dissemination, disclosure or reproduction of false information or falsified pieces with a jail sentence of between one and three years and a fine of between 100,000 and 1,500,000 CFA francs (approximately US\$188 to US\$2,830), when this is deemed to result in disobedience of the laws of the country, damages public morals or discredits public institutions or their operation.

¹³ Loi de 1996 relative aux organes de communication sociale et à la profession de journaliste et de technicien

¹⁴ « il n’y aura pas de journalistes en prison, en tout cas pas tant que je suis président de la République » Senenews.com (23 November 2014). *Un code de la presse qui peine à se mettre en place*. Accessed on 27 March 2018 via: https://www.senenews.com/actualites/un-code-de-la-presse-qui-peine-a-se-mettre-en-place_96371.html

¹⁵ « Secret-défense »

¹⁶ Law 22/2016 amending Law No. 65-60 of 21 July 1965 on the Criminal Code

- 3.8** Defamation is a criminal offence according to articles 259 to 263 of the Criminal Code, with punishments of a prison sentence of between four months and two years and a fine of between 200,000 and 1,500,000 CFA francs (approximately US\$376 to US\$2,830) when the defamation is targeted against courts, the army, the public administration, members of the government and National Assembly and officials, among others. Article 262 states that insulting such institutions or persons can lead to prison sentences of between one and three months and a fine of between 20,000 to 100,000 CFA francs (approximately US\$38 to US\$188).
- 3.9** Singer Ami Collé Dieng was arrested on 8 August 2017 for "offence of the Head of State" and "spreading false news", following the release of a video in which she criticised the president, stating that "the head of state is a cold bandit, a manipulator who imprisons innocent people and is ready to do anything to stay in power." She also called on "all Senegalese to rise up against the tyranny of President Macky Sall."¹⁷ Ami Collé Dieng was provisionally released on 14 August 2017 after a hearing in front of a court judge.¹⁸
- 3.10** On 31 May 2017, journalist Ouleye Mané and three other members of a Whatsapp group were arrested on charges of "criminal conspiracy and dissemination of images contrary to good morals". The charges referred to Ouleye Mané sharing a caricature of President Sall on WhatsApp. The cartoon depicted a naked body juxtaposed revealing intimate parts, with the head of President Sall. Three other people were detained between 26 and 29 May 2017 for sharing the cartoon on Whatsapp.¹⁹ Ouleye was provisionally released on 11 August 2017 after six weeks in detention.²⁰
- 3.11** In a press statement issued on 4 August 2017, the Public Prosecutor warned social network users against posting offensive comments or images on the internet, stating that attacks on the honour of public officials are considered crimes and are punishable

¹⁷ Jeune Afrique (4 August 2017). *Sénégal : la chanteuse Amy Collé Dieng arrêtée pour offense au chef de l'état*. Accessed on 27 March 2018 via : <http://www.jeuneafrique.com/463733/societe/senegal-la-chanteuse-amy-colle-dieng-arretee-pour-offense-au-chef-de-letat/>

¹⁸ AfricTelegraph (16 August 2017). *Sénégal. Après avoir offensé Macky Sall, Amy Collé Dieng a été libérée*. Accessed on 27 March 2018 via : <https://africtelegraph.com/senegal-apres-offense-macky-sall-amy-colle-dieng-a-ete-liberee/>

¹⁹ Senego.com (31 May 2017). *Oulèye Mané et trois autres personnes, arrêtées pour outrage au Chef de l'Etat risquent 1 à 3 ans de prison*. Accessed on 27 March 2018 via: https://senego.com/ouleye-mane-et-trois-autres-personnes-arretees-pour-outrage-au-chef-de-letat-risquent-1-a-3-ans-de-prison_486190.html ; Jeune Afrique (31 May 2017). *Sénégal : quatre personnes arrêtées pour outrage au président Macky Sall*. Accessed on 27 March 2018 via : <http://www.jeuneafrique.com/444026/politique/senegal-quatre-personnes-arretees-outrage-president-macky-sall/>

²⁰ Senenews.com (15 August 2017). *Les précisions du gouvernement sur la libération d'Oulèye Mané, Amy collé Dieng et Penda Ba*. Accessed on 27 March 2018 via : https://www.senenews.com/actualites/les-precisions-du-gouvernement-sur-la-liberation-douleye-mane-amy-colle-dieng-et-penda-ba_201918.html

with up to 10 years in prison under provisions in the Criminal Code related to cybercrime (see paragraph 3.14, 3.6).²¹

3.12 On 26 February 2016, officers of the Criminal Investigation Division visited the offices of Radio Walfdjiri, a private radio station, to demand the recordings of the 'Dine ak Diamono' programme, broadcast on the Walfdjiri platform TV the evening before.²² The topic of the programme was the upcoming referendum on the change of the Constitution, which took place on 20 March 2016.

3.13 Police detained Alioune Badara Fall and journalist Mamadou Seck, on 14 July 2015. The two were interrogated on charges of "disclosure of defense secrets" for an article they wrote on 8 May 2015 about the alleged deployment of 2,100 Senegalese soldiers to Yemen in support of Saudi Arabia. Both were later released and placed under judicial control. On the same day, police summoned director of publication *Le Quotidien* Mouhamed Gueye for having published the integral text of the procès-verbal of the preliminary investigation of the case Thione Seck, and was later released.

23

3.14 Law 22-2016,²⁴ adopted by the National Assembly on 28 October 2016, amended the Criminal Code on the grounds of the fight against terrorism and cybercrime and includes several articles that can stifle the freedom of expression. Among other restrictive provisions,²⁵ article 431.60 criminalises the online production and dissemination of documents or images contrary to 'good morals', with punishments comprising a prison sentence of between 5 and 10 years and a fine of between 500,000 and 10,000,000 CFA francs (approximately US\$940 to US\$18,800). Article 256 of the Criminal Code already criminalised the production and dissemination of 'immoral' documents and images, with a prison sentence of between a month and two

²¹ This refers to Law 22/2016 amending Law No. 65-60 of 21 July 1965 on the Criminal Code.

AfricaHotNews.com (6 August 2017). *Sénégal Mise en demeure du Procureur de la République face aux dérives sur les réseaux sociaux*. Accessed on 27 March 2018 via:

<http://news.africahotnews.com/?idnews=812746&t=Mise-en-demeure-du-Procureur-de-la-Republique-face-aux-derives-sur-les-reseaux-sociaux>

²² Senego.com (26 February 2016). *La DIC investit Walfadjri et exige les bandes sonores de « Diiné Ak Diamono »*. Accessed on 27 March 2018 via : https://senego.com/la-dic-investit-walfadjri-et-exige-les-bandes-sonores-de-diine-ak-diamono_302899.html

²³ Dakaractu.com (17 July 2015). *Les journalistes Alioune Badara Fall, Mamadou Seck et Mouhamed Guèye libérés*. Accessed on 27 March 2018 via : https://www.dakaractu.com/Les-journalistes-Alioune-Badara-Fall-Mamadou-Seck-et-Mouhamed-Gueye-liberes_a93595.html ; Seneweb.com (17 July 2015). *Alioune Badara Fall, Mamadou Seck et Mouhamed Guèye inculpés et placés sous contrôle judiciaire*. Accessed on 27 March 2018 via : http://www.seneweb.com/news/Justice/alioune-badara-fall-mamadou-seck-et-mouh_n_159722.html ;

²⁴ Loi n°22-2016 modifiant la loi n° 65-60 du 21 juillet 1965 portant Code pénal

²⁵ For example, a terrorist act is vaguely defined, to include the 'non-denunciation of terrorist acts'. For a full analysis of the anti-cybercrime and anti-terrorism provisions in the amendments to the Criminal Code and the Criminal Procedure Code, see the analysis of Amnesty International and la Ligue sénégalaise des droits humains: <https://www.amnesty.org/fr/latest/news/2016/12/senegal-la-lutte-contre-le-terrorisme-ne-doit-pas-aboutir-un-affaiblissement-des-libertes/>

years and a fine of between 25,000 and 300,000 CFA francs (approximately US\$48 and US\$568).

3.15 After a complaint of made by the Comité pour la défense des valeurs morales au Sénégal (CDVM), a committee of religious associations and organisations with the aim of ensuring moral values,” police officers arrested singer Ramatoulaye Diallo, known as Déesse Major, on 19 June 2016. Ramatoulaye was held in custody for three days on charges of “indecent and violation of good morals” following the release of a widely shared music video on Snapchat in which she wore a revealing outfit.²⁶ Following protests against her arrest by civil society and arts and culture personnel, Ramatoulaye was released without charges on 21 June 2016 after CDVM withdrew their complaint.²⁷

3.16 Currently, Senegal does not have a law that guarantees the freedom of information. Civil society has been advocating for such a law.

4. Freedom of peaceful assembly

4.1. During Senegal’s examination under the 2nd UPR cycle, the government received two recommendations on the right to the freedom of peaceful assembly. The government committed to “Protect the right to freedom of assembly and of expression,” and to “Respect the rights of freedom of expression, association and assembly in accordance with its national and international framework and ensure that its security forces maintain public order without resorting to the excessive use of force.” Both recommendations were accepted by the Government of Senegal, but as evidenced below, no concrete steps were taken to implement these recommendations, and the prohibition of protests remains a common practice within the administration.

4.2. Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, articles 8 and 10 of the 2001 Constitution of the Republic of Senegal also guarantee the right to the freedom of assembly. The freedom of assembly is further protected in article 9 of the Constitution, which states that “all infringement on freedoms and all voluntary interference with the exercise of a freedom are punished by the law.” However in policy and practice, the grounds of “preserving public order” are often invoked by local administrations to ban peaceful assemblies.

²⁶ Seneweb.com (18 June 2016). *L’arrestation de la chanteuse Déesse Major pour attentat à la pudeur condamnée sur les réseaux sociaux*. Accessed on 27 March 2018 via : http://www.seneweb.com/news/Faits-Divers/l-arrestation-de-la-chanteuse-dees_n_185407.html

²⁷ aDakar.com (21 June 2016). *L’artiste Ramatoulaye Diallo alias Déesse Major a été libérée et son dossier classé sans suite*. Accessed on 27 March 2018 via : <http://afrique.le360.ma/senegal/people/2016/06/21/3297-senegal-la-rappeuse-deesse-major-est-libre-3297> ;

- 4.3. The freedom of peaceful assembly is regulated through a 'declaration' or 'notification' regime, with only advance notification of at least 72 hours required to the administrative authorities where the protest is supposed to take place.²⁸ However, local authorities have broad powers to ban protests through a notification, and often invoke the grounds of 'preserving public order' to ban protests by CSOs and opposition parties. Those participating in a banned or unnotified assembly can be penalised with a prison sentence of between one and three years and a fine of between 100,000 and 500,000 CFA francs (approximately US\$188 to US\$940), which can be increased to a prison sentence of between two and five years and higher fines if the accused is an organiser of the protest.²⁹
- 4.4. Local and national authorities also sometimes impose restrictions on the time, place and manner of assemblies. For example, Order 7580 of 20 July 2011 issued by the Minister of the Interior forbids protests in the city centre of Dakar.
- 4.5. The prefect of Dakar banned the planned 'France dégage' protest on 1 February 2018 on grounds that included "risks of disturbance of public order" and the "risk of infiltration by ill-intentioned individuals". The protest was planned to take place in front of the French embassy by Senegalese youth groups in collaboration with Urgences Panafricanistes against the arrival in Senegal of French President Emmanuel Macron.³⁰
- 4.6. The prefect of Dakar banned a protest, planned for 27 February 2016, of the Jubanti Sénégal coalition", close to the opposition party Parti démocratique sénégalais (PDS), on grounds of "risks of disturbance of public order" and "risk of infiltration by ill-intentioned individuals," among other reasons. Jubanti Sénégal sought to protest against President Sall's plan to organise a referendum on constitutional change.³¹
- 4.7. There have been several instances when security officers have used excessive force against peaceful protesters. A student protest held at the University of Cheikh Anta Diop on 14 August 2014 against the delay in the payment of scholarships saw clashes break out between the students and the security forces, resulting in the death of

²⁸ Article 96 of the Criminal Code, Loi n° 2016-29 novembre modifiant la loi n° 65-60 du 21 juillet portant Code pénal

²⁹ Article 97 of the Criminal Code, Loi n° 2016-29 novembre modifiant la loi n° 65-60 du 21 juillet portant Code pénal

³⁰ Benin Web TV (31 January 2018). *Sénégal : Macky Sall interdit la manifestation « France dégage »*. Accessed on 27 March 2018 via : <https://beninwebtv.com/2018/01/senegal-macky-sall-interdit-manifestation-france-degage/>

³¹ RFI (28 February 2016). *Sénégal : interdiction d'un rassemblement des partisans du « non » au référendum*. Accessed on 27 March 2018 via : <http://www.rfi.fr/afrique/20160228-senegal-jubanti-rassemblement-interdit-referendum-constitution>

student Bassirou Faye and injuries to around 100 people. A forensic investigation found that Bassirou was killed through the use of live ammunition.³² An investigation was opened, and on 25 June 2016, the criminal court in Dakar sentenced police officer Sidy Mohamed Boughaleb to 20 years of forced labour and a fine of 50 million CFA francs (approximately US\$93,650).³³

4.8. On 16 January 2014, military officers opened fire on a student protest in Oulampane, in the region of Ziguinchor, Casamance, with two reported injured students.³⁴ The students were protesting against a shortage of teachers, electricity and internet connectivity.

4.9. On 9 September 2015, the regional court of Kolda sentenced 12 protesters to 21 days in prison for “participating in a non-authorised protest.” The protest, which took place on 27 August 2015 in the community of Diana Malary, aimed to condemn electricity shortages, and was previously banned by the under-prefect. Of the 14 people initially arrested on charges of “destruction of public property, criminal conspiracy and participation in a non-authorised assembly,” the court only retained the charges of “participation in a non-authorised protest” for 12 protesters.³⁵

4.10. Security officers used teargas and batons against a protest organised by the Coalition Gagnante Wattu Senegal, an opposition movement, headed by the former president of Senegal and opposition leader, Abdoulaye Wade, in Dakar on 25 July 2017. The prefect of Dakar previously banned the protest, on the grounds that the planned route went through the city centre of Dakar, where it is forbidden to hold peaceful assemblies since 2011 (see paragraph 4.4). The protesters had mobilised to denounce

³² aDakar.com (15 August 2014). *Les affrontements à l’UCAD on fait un mort (officiel)*. Accessed on 27 March 2018 via : <http://news.adakar.com/h/18104.html> ; Seneplus.com (14 August 2015). *Flash-back sur les événements dramatiques du 14 août à l’UCAD*. Accessed on 27 March 2018 via :

<http://www.seneplus.com/article/flash-back-sur-les-evenements-dramatiques-du-14-aout-l%E2%80%99ucad>

³³ PressAfrik (25 June 2016). *Affaire Bassirou Faye: Mohamed Sidy Boughaleb écroué pour 20 ans*. Accessed on 27 March 2018 via : https://www.pressafrik.com/Affaire-Bassirou-Faye-Mohamed-Sidy-Boughaleb-ecroue-pour-20-ans_a151183.html ; Africanews (26 June 2016). *Sénégal: un policier condamné à 20 ans de travaux forcés*. Accessed on 27 March 2018 via : <http://fr.africanews.com/2016/06/26/senegal-un-policier-condamne-a-20-ans-de-travaux-forces/>

³⁴ Seneweb.com (17 January 2014). *Des militaires tirent encore sur les élèves à Bignona : Quelle mouche a donc piqué nos forces armées ?* Accessed on 27 March 2018 via : http://seneweb.com/news/S%C3%A9curit%C3%A9/des-militaires-tirent-encore-sur-des-eleves-a-bignona-quelle-mouche-a-donc-pique-nos-forces-armees_n_115954.html

³⁵ EnQuête+ (10 September 2015). *21 jours de prison pour 12 jeunes*. Accessed on 27 March 2018 via : <http://www.enqueteplus.com/content/sedhiou-affaire-des-14-jeunes-de-diana-malary-21-jours-de-prison-pour-12-jeunes> ; KoldaNews (10 September 2015). *Procès des manifestants de Diana Malary : Douze jeunes condamnés à 21 jours d’emprisonnement ferme*. Accessed on 27 March 2018 via : <https://www.koldanews.com/2015/09/10/proces-des-manifestants-de-diana-malarydouze-jeunes-condamnes-a-21-jours-demprisonnement-ferme-a440150.html>

the government's delay in issuing voters' ID cards in the run-up to the legislative elections of July 2017.³⁶

4.11. The counterterrorism and anti-cybercrime laws, through the amendment of the Criminal Code in 2016, contain vague and broad definitions of terrorism-related offences, which risk the criminalisation of the lawful exercise of the freedom of peaceful assembly, expression and association.³⁷ Certain acts such as "destruction or degradations committed at rallies", when associated with unclear notions such as "disturbance of the normal functioning of national institutions", may lead to extremely heavy criminal penalties and deter people to participate in peaceful gatherings. Organizers and participants in lawful or unlawful gatherings where violence is committed, even if they have not played a role in this violence and even if such acts are sporadic within a largely peaceful assembly, may be subject to criminal punishment under Articles 279-1 and 98 of the Penal Code.³⁸

5. Recommendations to the Government of Senegal

CIVICUS and COSEDDH call on the Government of Senegal to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, peaceful assembly and expression, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding and the state's duty to protect. In light of this, the following specific recommendations are made:

³⁶ Jeune Afrique (25 July 2017). *L'actu du 25 juillet : manifestation de l'opposition dispersée à Dakar, attaque jihadiste au Burkina, fuite de pétrole au Nigeria...* Accessed on 27 March 2018 via <http://www.jeuneafrique.com/460330/politique/lactu-25-juillet-lopposition-rdc-plus-jamais-divisee-mohammed-vi-rif-attentat-egypte/>

³⁷ For example, article 279-1, which defines 'terrorist acts', increases the penalties for existing offenses such as "attacks and conspiracies", "violence or assault against persons and destruction or degrading assemblies", "theft and extortion" and "information and communication technology offenses" when they are committed intentionally in relation to an individual or collective enterprise aimed at intimidating a population "to seriously disturb public order or the normal functioning of national or international institutions, to compel a government or an international organization to perform or abstain from performing any act through terror". Loin°22/2016 modifiant la loi n°65-60 du 21 juillet 1965 portant Code pénal, article 279.

³⁸ Article 98 of the Criminal Code.

5.1. Regarding the protection of human rights defenders

- Provide civil society members, HRDs and journalists with a safe and secure environment in which to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them, and bring the perpetrators of such offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal and administrative harassment.
- Initiate a consolidated process of repeal or amendment of legislation and decrees that unwarrantedly restrict the legitimate work of HRDs, in line with the UN Declaration on Human Rights Defenders.
- Publicly condemn instances of harassment and intimidation of civil society activists and CSOs.
- Systematically apply legal provisions that promote and protect human rights and establish mechanisms to protect human rights activists by adopting a specific law on the protection of human rights activists, in accordance with Human Rights Council resolution 27.31.

5.2. Regarding the freedom of expression, independence of the media and access to information

- Ensure the freedom of expression and media freedom by bringing all national legislation into line with international standards.
- Review the 2017 Press Code in order to ensure that it is in line with best practice and international standards in the area of the freedom of expression, including by repealing restrictive provisions, such as articles 78 and 192, and decriminalising press offenses.
- Reform defamation legislation in conformity with article 19 of the ICCPR.
- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may find sensitive.
- Take adequate steps to lift restrictions on the freedom of expression and adopt a framework for the protection of journalists from persecution, intimidation and harassment.

- Develop an action plan ensuring that Internet laws comply with the government's commitment to guarantee freedom of expression and information, so as to ensure free access to electronic media, liberalize electronic media ownership rules and allow national bloggers, journalists, other Internet users to play a full and active role in promoting and protecting human rights.

Adopt a law on access to information in order to promote fully the exercise of the right to the freedoms of expression and opinion. Implement legislative measures regarding access to information and establish mechanisms to facilitate public access in line with best practices.

- Organise inclusive consultations with journalists and the media in order to resolve disputes that exist concerning the new media law.
- Refrain from adopting any laws providing for censorship or undue control over the content of the media.
- Refrain from censoring social and conventional media and ensure that the freedom of expression is safeguarded in all forms, including in the arts.

5.3. Regarding the freedom of peaceful assembly

- Repeal time, place and manner restrictions on the freedom of peaceful assembly, and refrain from banning protests on grounds such as 'preserving public order'.
- Unconditionally and immediately release all protesters, HRDs and journalists detained for exercising their right to the freedom of peaceful assembly and review their cases to prevent further harassment.
- Immediately and impartially investigate all instances excessive force committed by security forces while monitoring protests and demonstrations.
- Review and if necessary update existing human rights training for police and security forces, with the assistance of independent CSOs, to foster the more consistent application of international human rights standards, including the UN Basic Principles on the Use of Force and Firearms.
- Publicly condemn the use of excessive and brutal force by security forces in the dispersal of protests, launch formal investigations into such instances and bring the perpetrators to justice.

- Provide recourse for judicial review and effective remedy, including compensation, in cases of violations of the right to the freedom of peaceful assembly by state authorities.

5.4. Regarding access to UN Special Procedures mandate holders

- Extend a standing invitation to all UN Special Procedure mandate holders.

5.5. Regarding state engagement with civil society

- Implement transparent and inclusive mechanisms of public consultation with CSOs on all issues mentioned above and enable the more effective involvement of civil society in the preparation of law and policy.
- Include CSOs in the UPR process before finalising and submitting the national report.
- Systematically consult with civil society on the implementation of the UPR including by holding periodical comprehensive consultations with a diverse range of civil society sectors.
- Incorporate the results of this UPR into action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

Annex 1. UPR of Senegal (2nd Cycle – 17th session) - Thematic list of recommendations pertaining to civic space

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
Theme: D34 Freedom of opinion and expression/ Theme D44 Right to freedom of assembly			
124.83: Protect the right to freedom of assembly and of expression (<i>Slovenia</i>) <u>Source:</u> A/HRC/25/4	Accepted	Freedom of expression Freedom of assembly	Not implemented <u>Expression:</u> -Restrictions 2017 Press Code: see 3.3-3.5 -Criminal Code (including criminal defamation): see 3.7-3.8 -restrictive provisions anti-terrorism and anti-cybercrime: see 3.6; 3.14 <u>Assembly:</u> -time, place, manner restrictions: see 4.4 -Ban of protests: see 4.3; 4.5-4.6 -Excessive violence security forces: see 4.7, 4.8 and 4.10 - Counterterrorism and anti-cybercrime legislation: see 4.11

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
124.84: Respect the rights of freedom of expression, association and assembly in accordance with its national and international framework and ensure that its security forces maintain public order without resorting to the excessive use of force (Spain) <u>Source:</u> A/HRC/25/4	Accepted	Freedom of expression Freedom of association Freedom of assembly	Not implemented <u>Expression:</u> -Restrictions 2017 Press Code: see 3.3-3.5 -Criminal Code (including criminal defamation): see 3.7-3.8 -restrictive provisions anti-terrorism and anti-cybercrime: see 3.6; 3.14 <u>Assembly:</u> -time, place, manner restrictions: see 4.4 -Ban of protests: see 4.3; 4.5-4.6 -Excessive violence security forces: see 4.7, 4.8 and 4.10 - Counterterrorism and anti-cybercrime legislation: see 4.11
124.85: Undertake the necessary measures to protect the rights of human rights defenders as well as journalists (Slovenia) <u>Source:</u> A/HRC/25/4	Accepted	Human rights defenders and journalists	Not implemented Vilification (see 2.4), deportation of foreign activist (see 2.3), assault journalist (see 2.5-2.6)
125.16: Continue and finalize the procedure for the decriminalization of press offenses (Democratic Republic of the Congo) <u>Source:</u> A/HRC/25/4 and A/HRC/25/4 Add 1	Accepted	Freedom of expression	Not implemented: see 3.4
125.17: Decriminalise press offenses (France) <u>Source:</u> A/HRC/25/4 and A/HRC/25/4 Add 1	Accepted	Freedom of expression	Not implemented: see 3.4

Recommendation	Position	Full list of themes	Assessment/comments on level of implementation
125.18: Repeal section 80 of its Penal Code and, generally, ensure the independence and freedom of the press (Greece) <u>Source:</u> A/HRC/25/4 and A/HRC/25/4 Add 1	Noted	Freedom of expression	
125.9 - Ensure, in the context of the reform of the Penal Code and the Code of Criminal Procedure, to harmonise the Senegalese legislation with international law (Switzerland) <u>Source:</u> A/HRC/25/4 and A/HRC/25/4 Add 1	Accepted	Freedom of expression	Not implemented: see 3.6; 4.11
125. 10 Extend a standing invitation to all special procedures of the Human Rights Council to promote and strengthen legislation and public policies on human rights (Uruguay) <u>Source:</u> A/HRC/25/4 and A/HRC/25/4 Add 1	Accepted	Special Procedures and Special rapporteurs	Partially implemented
125.11 Extend a standing invitation to all UN Human Rights special procedures (Montenegro) <u>Source:</u> A/HRC/25/4 and A/HRC/25/4 Add 1	Accepted	Special Procedures and Special Rapporteurs	Partially implemented
124.2 Continue its on-going review of national laws to ensure that they are in line with its international human rights violations (Turkmenistan) <u>Source:</u> : A/HRC/25/4 and A/HRC/25/4 Add 1	Accepted	International law	Not implemented

