

# SENEGAL 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Senegal is a moderately decentralized republic dominated by a strong executive branch. On March 25, voters elected Macky Sall president for a seven-year term in an election viewed as largely free and fair. On July 1, Sall's Benno Bokk Yakaar coalition won the majority of seats in National Assembly elections. Security forces reported to civilian authorities.

In the run-up to the two rounds of the presidential election in February and March, the country experienced significant unrest, including clashes between police and protesters who questioned the constitutionality of incumbent president Abdoulaye Wade's decision to run for a third term. Authorities arrested protesters and opposition political activists, and at least nine civilians were killed in the preelectoral violence.

The most significant human rights problems included reports of physical abuse and torture; limits on freedoms of speech, press, and assembly; and corruption.

Other major human rights problems included: inhuman and degrading treatment of detainees and prisoners, including overcrowded prisons; questionable investigative detention and long pretrial detention; lack of an independent judiciary; rape, domestic violence, sexual harassment of and discrimination against women; female genital mutilation/cutting (FGM/C); child abuse; child marriage; infanticide; violence and discrimination against lesbian, gay, bisexual, and transgender (LGBT) persons; discrimination against persons with HIV/AIDS; trafficking in persons; and child labor.

The Sall government took preliminary steps to investigate and punish former Wade administration officials accused of corruption. Impunity for crimes and abuses committed by government and security officials remained a problem.

Rebels associated with the Movement of Democratic Forces of the Casamance (MFDC) killed civilians and military personnel, committed robberies, fought with the army, and harassed local populations while fighting each other.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary or Unlawful Deprivation of Life**

There were some reports that the government or its agents committed arbitrary or unlawful killings. At least nine individuals died in clashes with security forces in the months leading up to the presidential election in February and March. For example, during widespread protests against the candidacy of incumbent President Wade on January 31, protester Mamadou Diop was killed after being hit in Dakar by a water-cannon truck attached to the National Police Force's Antiriot Unit (GMI). An investigation later classified Diop's death as a murder. Charges had not been filed by year's end.

Also on January 31, paramilitary police (gendarmerie) officers in the northern town of Podor killed Mamadou Sy, a young student, during an operation to disperse a peaceful demonstration against President Wade's candidacy. In July Madior Cisse and three other paramilitary officers were formally charged with homicide and remanded into custody in Dakar.

On January 29, police forcibly dispersed an opposition demonstration protesting the Constitutional Court's decision to validate President Wade's controversial candidacy in the February presidential election. During the clash, demonstrators hit Fode Ndiaye, a police officer, on the head with a cinderblock, killing him. Five demonstrators (Cheikh Sidaty Mane, Makhtar Diaw, Cheikh Cisse, Mamadou Galadio Keita, and Boubacar Diallo) were arrested and charged with Ndiaye's murder.

There were arbitrary and unlawful killings related to the Casamance internal conflict (see section 1.g.).

### **b. Disappearance**

There were no reports of politically motivated disappearances.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The constitution and law prohibit such practices; however, there were occasional reports that government officials employed them.

Amnesty International noted examples of physical abuse committed by security forces, including cruel and degrading treatment in prisons and detention facilities. In particular, it criticized strip search and other interrogation methods. Police

reportedly forced detainees to sleep on bare floors, directed bright lights at them, beat them with batons, and kept them in cells with minimal access to fresh air. Authorities took no action against police involved in these abuses.

Human rights organizations highlighted the lack of supervision and impunity with which security forces treated persons in police custody. While abuses occurred, the government claimed these practices were not widespread and that it usually conducted formal investigations into cases of abuse. However, the investigations were often lengthy and rarely resulted in charges or indictments of suspects.

On August 13, Kekouta Sidibe, a deaf-mute person in his thirties, died in military police custody in the southeastern town of Kedougou. Police arrested Sidibe the day before on accusations of drug possession. The government announced the opening of an investigation but made no arrests by year's end.

According to the Association of the Victims and Family of Victims of Political Violence (created following the presidential elections), police tortured Cheikh Sidaty Mane, Makhtar Diaw, Cheikh Cisse, Mamadou Galadio Keita, and Boubacar Diallo, who were arrested in connection with the death of paramilitary officer Fode Ndiaye during violent clashes between police and opposition supporters in January. Authorities opened an investigation into the allegations of torture but filed no formal charges by year's end. According to the same organization, police arrested and tortured Sekou Gassama, a youth who participated in the January clashes; no investigation followed these allegations.

### **Prison and Detention Center Conditions**

Prison and detention center conditions were harsh and sometimes life threatening. The National Organization for Human Rights, a nongovernmental organization (NGO), identified overcrowding and lack of adequate sanitation as major problems. Poor quality food, stifling heat, and insect infestation were also problems.

A UN study group on pretrial detention visited the country in 2009 and found that Dakar's main prison facility, Rebeuss, held 1,592 inmates while its designed capacity was 800. The group criticized long pretrial detention, prolonged police custody beyond the legal time limit, and detainees' lack of access to attorneys for 48 hours after arrest.

Physical Conditions: There were 37 prisons organized into six penal districts. According to the Office of the Director of the Prison Administration, there were 7,611 people in prison at the end of 2011, including 211 juveniles and 606 women. Men and women were held in separate facilities. The conditions in which women prisoners were held were generally thought to be better than those of the men's facilities. Boys were held separately from men, while girls were held together with women. At the end of 2011, 3,352 individuals were in pretrial detention and often kept separate from convicted prisoners.

According to government statistics, 52 prisoners died in custody in 2011. The National Prison Administration reported medical care was provided 5,548 times in 2011. Prisons experienced drainage problems and stifling heat, insect infestations, and food was of low quality. Prisons usually were connected to the local water supply, and prisoners had access to potable water.

Administration: The administration kept some records on prisoners, but computerizing record keeping was impaired by the irregular power supply at many government facilities and inadequate training of government personnel on computerized systems. Authorities did not use alternatives for sentencing nonviolent offenders. Ombudsmen were available to respond to complaints. Prisoners generally had reasonable access to visitors and some access to lawyers; they could observe religious practices. Authorities did not permit prisoners and detainees to submit complaints to judicial authorities without censorship or request investigation of credible allegations of inhumane conditions.

Monitoring: During the year the government permitted prison visits by local human rights groups and international observers. Members of the International Committee of the Red Cross visited prisons in Dakar and Casamance, where approximately 20 MFDC members were held on various criminal charges.

Improvements: Although a lack of funding precluded significant modernization or improvement of prison facilities, partnership with NGOs facilitated an expansion of educational programming for prisoners. Several prisons offered classes in literacy, career training, health and sanitation, and religion.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention. The government generally observed these prohibitions, although Amnesty International reported

that security forces used arbitrary arrests to repress protesters in the preelection period.

### **Role of the Police and Security Apparatus**

Police and gendarmes are responsible for maintaining law and order. The army shares that responsibility in exceptional cases, such as during a state of emergency. The National Police are part of the Interior Ministry and operate in major cities. The gendarmerie is under the aegis of the Ministry of Defense and is employed primarily in rural areas where there is no police presence.

Impunity and corruption were pervasive. An amnesty law covers police and other security personnel involved in “political crimes” committed between 1983 and 2004, except those who committed assassinations in “cold blood.”

The Criminal Investigation Department (DIC) is in charge of investigating police abuses. The DIC formally closed four investigations into police abuse during the political unrest that occurred in 2011 and 2012 but was not effective in addressing impunity or corruption among police.

The Regional Court of Dakar includes a military tribunal, which has jurisdiction over crimes committed by military personnel. The tribunal is composed of a civilian judge, a civilian prosecutor, and two military assistants to advise the judge, one of whom must be of equal rank to the defendant. The tribunal may try civilians only if they were involved with military personnel who violated military law. The military tribunal provides the same rights as a civilian criminal court.

### **Arrest Procedures and Treatment While in Detention**

Although the law requires warrants issued by judges for the police to make an arrest, in practice, police often lacked warrants when detaining individuals. The law grants police broad powers to detain prisoners for long periods before filing formal charges. The DIC may hold persons up to 24 hours before releasing them. Authorities did not promptly inform many detainees of the charges against them. Police officers, including DIC officials, may double the detention period from 24 to 48 hours without charges with authorization from the prosecutor. Investigators can request that a prosecutor double this period to 96 hours. For cases involving claimed threats to state security, the detention period can be further doubled. The detention period does not formally begin until authorities officially declare that an individual is being detained, a practice Amnesty International criticized for

resulting in unjustly long detention periods. Bail was rarely available. In the first 48 hours of detention, the accused has no access to an attorney but has the right to a medical examination. Family access was generally not allowed. The accused has the right to an attorney, and an attorney is provided at public expense in felony cases to all criminal defendants who cannot afford one after the initial period of detention. Indigent defendants do not always receive attorneys in misdemeanor cases. A number of NGOs also provided legal assistance or counseling to those charged with crimes.

Arbitrary Arrest: The government used security forces, especially the DIC, to harass journalists and arrest political opponents and civil society leaders (see sections 2.a. and 2.b.).

Pretrial Detention: At the end of 2011, 3,352 persons (44 percent of the total prison population) were in pretrial detention. The average time between the filing of charges and trial was two years. Trial delays were caused by judicial backlogs and absenteeism of judges. The law states that an accused person may not be held in pretrial detention for more than six months for minor crimes; however, authorities routinely held persons in custody until a court demanded their release. In cases involving allegations of murder, threats to state security, and embezzlement of public funds, there are no limits on the length of pretrial detention. In most cases, the length of pretrial detention was less than the length of sentence received. Criminals sentenced to prison terms received credit for time served in pretrial detention.

Amnesty: In January then-President Wade pardoned all women prisoners serving sentences for minor offenses.

#### **e. Denial of Fair Public Trial**

Although the constitution and law provide for an independent judiciary, the judiciary was subject to corruption and government influence. Magistrates noted overwhelming caseloads, lack of adequate space and office equipment, and inadequate transportation, and openly questioned the government's commitment to judicial independence.

#### **Trial Procedures**

The law provides that defendants enjoy the presumption of innocence and cannot be forced to testify against themselves or confess guilt. All defendants have the

right to a public trial, to be present in court during their trial, to confront and present witnesses, present evidence, and have an attorney (at public expense if needed) in felony cases. Defendants have the right to be informed of the charges against them promptly and in detail. They have the right to sufficient time to prepare their defense.

Evidentiary hearings may be closed to the public and press. Although a defendant and counsel may introduce evidence before an investigating judge who decides whether to refer a case for trial, police or prosecutors may limit their access to evidence against the defendant prior to trial. A panel of judges presides over ordinary courts in civil and criminal cases since a law passed in July eliminated trials by jury. The right of appeal exists in all courts, except for the High Court of Justice. These rights extend to all citizens.

### **Political Prisoners and Detainees**

There were some reports of political prisoners or detainees, most of whom were arrested in the context of the Casamance conflict (see section 1.g.). The government permitted access to political prisoners by international humanitarian organizations.

In the preelection period, there were several arrests of protesters and members of the opposition party. Approximately 50 remained in prison on charges such as arson and destruction of private property, while party leaders charged with serious offenses were released. For example, Socialist Party youth-wing leader Barthelemy Dias was provisionally released after five months of imprisonment on charges of murder. The charges stemmed from the December 2011 shooting death of a supporter of former President Wade who had come to Dias' office, allegedly for the purpose of beating or killing him. While in prison, Dias was nominated by President Sall's Benno Bokk Yakaar coalition as a candidate for a seat in the National Assembly, which he later won. Supporters of former President Wade criticized Dias' release from prison as evidence of political interference in the case. At the end of the year, Dias remained on provisional release pending a trial or the dismissal of his case.

In October 2011 a court sentenced opposition figure Malick Noel Seck to two years' imprisonment for contempt of court and issuing a death threat in an open letter he wrote to the Constitutional Council protesting President Wade's running for a third term. Numerous human rights groups considered Seck's conviction

politically motivated and disputed the charges. In February Seck received a pardon from then President Wade.

### **Civil Judicial Procedures and Remedies**

Citizens may seek cessation of and reparation for human rights violations in regular administrative or judicial courts. Citizens can also seek administrative remedies by filing a complaint with the High Commission for Peace and Human Rights in the Office of the President. Corruption and lack of independence hampered judicial and administrative handling of these cases. At times, prosecutors refused to prosecute security officials, and violators often went unpunished. There were also problems in enforcing court orders, since the government can ignore court orders without legal consequences.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution and law prohibit such actions, and the government generally respected these prohibitions in practice.

#### **g. Use of Excessive Force and Other Abuses in Internal Conflicts**

Killings: At least 10 individuals were killed as a result of violence during the year in the Casamance Region: seven Senegalese soldiers, three civilians, and an undetermined number of MFDC rebels. There were numerous instances of combat between MFDC rebels and army soldiers, including an offensive in the spring by the Senegalese military to push MFDC rebels from their operating bases in areas northeast of Ziguinchor. During the offensive, the army conducted several sweeps in the areas of Sindian and Oulampane in northern Casamance, close to the Gambian border, and around the regional capital, Ziguinchor.

The overall level of violence in the Casamance dropped appreciably in the second half of the year after a peace initiative launched in April by newly elected President Sall. As part of the initiative, the government acknowledged that a military solution to the Casamance conflict was not achievable. Both the government and the MFDC rebels accepted mediation by Sant'Egidio, a Catholic lay organization with extensive experience in conflict mediation. After an October meeting between government and MFDC representatives in Rome, the MFDC released eight Senegalese military prisoners. The armed forces did not conduct offensive operations in the latter half of the year, focusing instead on civic action



projects and providing security for development projects. However, incidents of banditry, armed robbery, and mine placement continued.

Abductions: The MFDC took civilians hostages during the year and in December released eight Senegalese soldiers captured in late 2011.

Physical Abuse, Punishment, and Torture: The government and the MFDC generally treated prisoners well. The International Committee of the Red Cross noted that the eight Senegalese soldiers released in December (after a year in MFDC captivity) looked well fed and cared for.

Some observers noted increased use of land mines by the MFDC, and there were several landmine accidents during the year, including one that killed four soldiers. Only three civilian landmine-related deaths occurred during the year, indicating that awareness campaigns about land mines were somewhat effective. Handicap International continued work on an antimine campaign under the supervision of and in coordination with the National Mine Action Center, a governmental organization. Two additional humanitarian demining companies, Mecham and Norwegian People's Aid, began operations in the Casamance.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Speech and Press**

The constitution and law provide for freedom of speech and press; however, the government limited these rights in practice, and security forces and politicians intimidated or harassed journalists during the year.

Freedom of Speech: Individuals could generally criticize the government publicly or privately without reprisal.

Freedom of Press: There were three government-affiliated newspapers and several independent newspapers which suffered restrictions during the period leading up to the presidential election.

Radio was the most important medium of mass information and source of news due to the high illiteracy rate. There were approximately 80 community, public, and private commercial radio stations. Although an administrative law regulates radio frequency assignments, community radio operators claimed there was a lack of transparency in the allocation of frequencies.

Although the government continued to maintain a firm grip on locally televised information and opinion through Radio Television Senegal (RTS), five privately owned television channels broadcast during the year. By law, the government holds a majority interest in RTS, and the president directly or indirectly controls selection of all members of the 12-person RTS executive staff.

Violence and Harassment: The government continued to perceive some media organizations as a threat, and the DIC detained journalists. The police often pressured journalists who reported government scandals, waste, or fraud to reveal their sources.

The Committee to Protect Journalists documented at least 12 cases of threats and physical assault against journalists during the campaign period leading up to the presidential election rounds in February and March. For example, police allegedly assaulted Malick Rokhy Ba, a correspondent with Agence France-Presse, during a dispersal of protesters on January 27.

Censorship or Content Restrictions: Occasional incidents of self-censorship by journalists occurred, particularly in government-controlled media, and selective government media assistance appeared to favor those government and independent outlets more friendly to the administration. The government frequently used subsidies, and in a few cases threats and intimidation, to pressure the media not to publicize certain issues.

Libel Laws/National Security: The law criminalizes libel, and libel laws were used to block or punish critical reporting and commentary.

## **Internet Freedom**

There were no government restrictions on access to the Internet, or reports that the government monitored e-mail or Internet chat rooms without appropriate legal authority. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the International Telecommunication Union, 17.5 percent of individuals used the Internet in 2011.

## **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

## **b. Freedom of Peaceful Assembly and Association**

### **Freedom of Assembly**

Although the constitution and law provide for freedom of assembly, the government restricted this right in practice. During the run-up to the presidential election in early 2012, police used tear gas, batons, and water cannons to break up protests, including using tear gas on a historic mosque where protesters were seeking shelter. Many protesters were injured or arrested, and at least nine protesters were killed (see section 1.a.). During this period the government repeatedly denied public permits for civil society and political opposition demonstrations in downtown Dakar, granting the permits only when the demonstrations were moved away from the Presidential Palace and other government offices. Opposition groups complained of undue delays when waiting for a government response to authorization requests.

### **Freedom of Association**

The constitution and law provide for freedom of association, and the government generally respected this right in practice.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

## **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and law provide for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

The government generally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, and stateless persons. As of January there were 20,644 refugees in the country, 19,917 of them Mauritanian, according to the UNHCR.

Foreign Travel: The law requires some public employees, including teachers, to obtain government approval before departing the country. Only the military and judiciary actively enforced this law and required authorization for overseas travel by military personnel and magistrates.

In December the government announced a ban on foreign travel by senior officials of the previous government who were under investigation for corruption. On December 12, Karim Wade, son of the former president and a former minister in the Wade government, and several other senior former government officials were stopped from leaving the country. Wade and others alleged that the travel restrictions were illegal but had not challenged them in court by year's end.

### **Internally Displaced Persons (IDPs)**

During the 30-year Casamance conflict, tens of thousands of persons left villages in the region due to fighting, forced removal, and land mines, creating many newly displaced persons during the early part of the year. The government estimated that 10,000 IDPs remained in the Casamance, although this number tended to fluctuate with the ebb and flow of the conflict. Some international humanitarian assistance agencies estimated the IDP number to be as high as 40,000. Some IDPs who attempted to return to their villages in rural communities south of Ziguinchor met with hostility from MFDC combatants.

During the year the government supplied food to and enrolled children of IDPs in local schools in Ziguinchor.

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Since the president must approve each case, delays of one to two years in granting refugee status remained a problem. The government generally granted refugee status or asylum and provided refugees with food and nonfood assistance in coordination with the UNHCR and NGOs.

The government did not offer some asylum seekers due process or security, since appeals filed by denied asylum seekers were examined by the same committee that examined their original case, and a denied asylum seeker can be arrested for staying illegally in the country; those arrested sometimes remained in "administrative detention" for up to three months before being deported.

According to the UNHCR, as of January there were 2,263 asylum seekers in the country.

Refoulement: In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Durable Solutions: Since 1989 the country has offered temporary protection to Mauritanian refugees, who generally lived in dispersed locations in the Senegal River valley along the Mauritanian border and enjoyed free movement within the country. Most refugees could not obtain refugee documents from authorities and sometimes encountered administrative difficulties when using their expired refugee application receipts. Following discussion with the UNHCR, the government agreed to provide digitized and biometric identification cards to refugees. The Senegalese government, in partnership with the UNHCR, issued refugee cards to some 19,000 refugees, including 14,000 Mauritians.

In 2008 the UNHCR began a repatriation program of Afro-Mauritians to Mauritania. This program drew to close in March with the successful repatriation of more than 24,000 Mauritanian refugees.

The government continued to permit generally unsupervised and largely informal repatriation of Casamance refugees returning to Senegal from the Gambia and Guinea-Bissau. An estimated 20,000 to 40,000 Senegalese refugees remained in the Gambia and Guinea-Bissau.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution and law provide citizens with the right to change their government peacefully, and citizens generally exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

#### **Elections and Political Participation**

Recent Elections: On March 25, voters elected Macky Sall president for a seven-year term in an election described by domestic and international observers as largely free and fair. There were isolated reports of minor irregularities, such as insufficient equipment or late openings at some polling stations. On July 1, Sall's

Benno Bokk Yakaar coalition won the majority of seats in National Assembly elections. These legislative elections were also considered as free and fair. On August 28, President Sall announced the abolition of the Senate as a cost-saving measure. The decision was widely welcomed by civil society, as the Senate, reestablished by President Wade in 2007, had no functional role in the Senegalese legislative process and consisted largely of presidential appointees.

Political Parties: The 150 registered political parties generally operated without restriction or outside interference; however, on January 27, the Constitutional Council disallowed three candidates from running in the presidential election for not collecting the 10,000 signatures required. Each of the rejected candidates, including musician Youssou Ndour, appealed the ruling. Seven approved candidates also filed complaints against the validation of former President Wade's candidacy to run for a constitutionally questionable third term.

Participation of Women and Minorities: In 2010 the National Assembly passed a law on gender parity that provides women equal access to all elected assemblies. The law came into effect for the first time for the National Assembly election in July. Following the July election, there were 65 women in the 150-seat National Assembly and six women in the 25-member cabinet.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, but often these penalties were not implemented effectively. Officials often engaged in corrupt practices with impunity. When former President Wade left office in April, the press reported on massive embezzlement and misuse of public funds by Wade and his associates.

The new government took steps toward reducing corruption. In May prosecutor Ousmane Diagne ordered the resumption of financial asset investigations that were suspended in 2011, as well as new investigations into allegations of corruption and misappropriation of government funds by Wade administration officials. On June 7, the government announced it had requested assistance from the World Bank, the UN Office on Drugs and Crime, and some foreign governments. Numerous former officials were interviewed and several were arrested, including Ndongo Diaw (former head of Senegal's telecommunications regulator), Amadou Kane Diallo (former director general of the Senegalese Council of Shippers), and Balla Wane (former director of the Senegalese National Lottery). Karim Wade (a

former minister and son of former President Wade) was questioned repeatedly and ordered not to leave the country. The investigations continued at year's end.

Public officials were subject to financial disclosure laws only in cases of investigations. The president is the only official required by law to disclose assets at the beginning of his term. Upon taking office, President Sall disclosed his assets and announced that all cabinet-level officials would disclose their assets, although only the minister of justice did so. Although the Ministry of Good Governance monitors disclosures, it does not have the capacity to verify their accuracy. There are no criminal or administrative sanctions for noncompliance.

The government created new agencies charged with combating corruption. The Ministry for the Promotion of Good Governance oversaw all ministries' implementation of good governance measures and was supposed to inform President Sall of any suspected wrongdoing. The National Anticorruption Office is responsible for promoting integrity and transparency in public governance. The National Commission on Restitution and Recovery of Ill-gotten Assets was charged with recovering stolen and hidden assets, with proceeds to be deposited in the state treasury. The government also reactivated the Court of Repression of Economic and Financial Crime, which aims to fight economic crimes committed by officials, including money laundering, illegal foreign transfers, and theft. These agencies raised public awareness about the problem of corruption and government efforts to combat it, although they lacked resources as the result of having been created after the annual national budget was finalized.

The constitution and law provide citizens the right to access government information freely. However, authorities did not follow consistent practices with respect to determining the grounds for nondisclosure, establishing deadlines for responding to requests for information, or charging processing fees. The government did not have an appeals mechanism to review disclosure denials or public outreach activities or training for public officials on the release of government information.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative but rarely took action to address their concerns.

Government Human Rights Bodies: The government's National Committee on Human Rights (NCHR) included government representatives, civil society groups, and independent human rights organizations. The NCHR had authority to investigate abuses but lacked credibility, had limited funding, did not meet regularly, did not conduct investigations, and last released an annual report in 2001.

In July the government reached an agreement with the African Union (AU) to establish "Extraordinary African Chambers" within the Senegalese legal system to try former Chadian dictator Hissene Habre. A month earlier, the International Court of Justice (ICJ) had held that Senegal was in breach of its obligation to extradite or prosecute under the UN Convention against Torture. The ICJ ruled that the government should submit Habre's case for prosecution without further delay if it did not extradite him to Belgium. In December the government, working with the AU, finalized the budget for the Habre trial and terms of reference for donors. The National Assembly adopted a law on December 9 authorizing creation of the chamber. Habre has lived in exile in Senegal with impunity since 1990.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution provides that men and women are equal under the law and prohibits discrimination based on race, gender, disability, language, or social status. However, discrimination was widespread in practice, and antidiscrimination laws, in particular laws against violence against women and children, generally were not enforced. There were no laws to prevent discrimination based on sexual orientation.

### **Women**

Rape and Domestic Violence: Rape was widespread. Spousal rape remained difficult to quantify since it was a taboo subject and seldom reported. The law prohibits rape but not spousal rape, and the government rarely enforced this law. Penalties for rape range from five to 10 years' imprisonment.

Violence against women is also against the law, but the law was not enforced, particularly when the violence occurred within the family. Police usually did not intervene in domestic disputes, and most victims were reluctant to go outside the family for redress. The law criminalizes assaults and provides for a punishment of



one to five years in prison and a fine. If the victim is a woman, the prison term and fine are both increased. Domestic violence that causes lasting injuries is punishable with a prison sentence of 10 to 20 years; if an act of domestic violence causes death, the law prescribes life imprisonment.

NGOs, including the Committee to Combat Violence against Women and Children (CLVF), criticized the failure of some judges to apply the domestic violence laws, citing cases where judges claimed lack of adequate evidence as a reason to issue lenient sentences. NGOs also criticized the government's failure to permit associations to bring suits on behalf of victims and the lack of shield laws for rape. The law allows the common practice of using a woman's sexual history to defend men accused of rape.

Several women's groups and the CLVF reported a rise in violence against women. Although no nationwide statistics were available, the CLVF reported that domestic violence cases accounted for more than 90 percent of all reported cases of violence against women in Dakar in 2011. The Ministry of Justice estimated in 2009 that 47 percent of accused rapists went unpunished and were released without trial, but was unable to provide a more recent estimate.

The Ministry of Women, Family, Social Development, and Women's Entrepreneurship was responsible for ensuring the rights of women. The Ministry of Justice was responsible for combating domestic violence. The government-run Ginddi Center provided shelter to women and girls who were victims of rape or early marriage, and to street children.

Female Genital Mutilation/Cutting (FGM/C): FGM/C is a criminal offense. It was not commonly inflicted on women but was widely perpetrated on girls (see section 6, Children).

Sexual Harassment: The law mandates prison terms of five months to three years and fines of 50,000 to 500,000 CFA francs (\$100 to \$1,000) for sexual harassment; however, the practice was common. The government did not effectively enforce the law, and women's rights groups claimed victims of sexual harassment found it difficult, if not impossible, to present proof that was sufficient to secure prosecutions.

Reproductive Rights: The law provides for the right of all individuals to be informed about and to choose methods for spacing births. It also provides for the right to medical services for all women during pregnancy and to a safe delivery.

The law considers the right to reproductive health to be a “fundamental and universal right guaranteed to all individuals without discrimination.” The law further provides that “all couples and individuals have the right to freely decide to have children, to determine the number of children they wish, and the spacing of these children.”

In practice, poor medical facilities constrained these rights, particularly in rural areas and in some urban areas where lack of funds led to closing maternity wards and operating rooms. According to Demographic Health Surveys, skilled personnel attended approximately 65 percent of births and provided prenatal care in 93 percent of cases. According to the Senegalese Ministry of Health, the maternal mortality ratio was 392 deaths per 100,000 live births in 2010. The Ministry of Health estimated that most maternal deaths in childbirth could be prevented through the assistance of skilled health personnel and the availability of emergency obstetrical services. Social and cultural pressures to have large families reportedly led some husbands to ask health workers to terminate the use of contraceptives by their spouses. This reportedly led women to be discreet in the use of contraception. The UN Population Fund estimated that 12 percent of all girls and women between the ages of 15 and 45 used a modern method of contraception.

Discrimination: Women faced pervasive discrimination, especially in rural areas where traditional customs, including polygyny and discriminatory rules of inheritance, were strongest. The law requires a woman’s approval of a polygynous union, but, once in such a union, a woman neither needed to be notified nor to give prior consent if the man took another wife. Approximately 50 percent of marriages were polygamous. Although protected under the law, marriage rights were not enforced due to socio-cultural pressures and judicial reluctance to enforce the law.

The family code’s definition of paternal rights remained an obstacle to equality between men and women, as men are considered the head of household and women cannot take legal responsibility for their children. Women can become the legal head of household only when the father formally renounces his authority before the authorities. It is also possible for women to take charge of their children and husband if he was unable to act as head of household. Traditional practices also made it difficult for women to purchase property in rural areas.

Men and women have equal rights to apply for a job. Women represented 52 percent of the population, but they performed 90 percent of domestic work and 85 percent of agricultural work.

## Children

Birth Registration: Citizenship is acquired by birth or naturalization. Only the father can automatically transmit nationality to legitimate children; a woman can do so if her husband is stateless. Legitimate children born to Senegalese women with foreign husbands have the option to acquire citizenship between the ages of 18 and 25. Illegitimate children acquire the citizenship of the first known parent at birth. Senegalese law does not make birth declaration mandatory, but birth certificates are required for enrolling children in school and obtaining other civil documents. UNICEF estimated that, in rural areas, parents registered only 44 percent of births between 2000 and 2010. Registering births required travel to a registration center and payment of a small fee, although a program initiated by Swiss NGO Aid and Action allowed village chiefs in some areas to register births by text messaging.

Education: The law provides for tuition-free, compulsory education for children between the ages of six and 16; however, many children did not attend school due to lack of resources or available facilities. Students often had to pay for their own books, uniforms, and other school supplies. The historical gap favoring boys over girls in elementary education enrollment levels has closed, and during the year more girls than boys were enrolled in elementary school.

Girls encountered greater difficulties in continuing in school beyond the elementary level. When families could not afford for all their children to attend school, parents tended to remove daughters rather than sons from school. Sexual harassment by school staff and early pregnancy also caused the departure of girls from school. UNICEF reported that 28 percent of boys were enrolled in secondary education compared with 22 percent of girls.

Child Abuse: Child abuse was common, particularly among children sent by their parents to study the Quran with an unscrupulous Quranic teacher. These children were exploited, suffered physical abuse, and were forced to beg on street corners. Since they begged full time, they devoted almost no time to Quranic studies. A report issued by Human Rights Watch (HRW) in 2010 estimated there were at least 50,000 child beggars in the country who were forced to beg long hours, seven days a week. Most were approximately 10 years old, although some as young as two were reported.

Child Marriage: Under national law, women have the right to choose when and whom they marry, but traditional practices restricted a woman's choice. The law prohibits the marriage of girls younger than 16, but this law was generally not enforced in most communities where marriages were arranged. Under certain conditions a judge may grant a special dispensation for marriage to a person below the age of consent. According to UN Population Fund (UNFPA) data, 33 percent of women between the ages of 20 and 24 were married before the age of 18, based on surveys completed between 2000 and 2011.

Officials from the Ministry of Women, Family, Social Development, and Women's Entrepreneurship and women's rights groups stated that child marriage was a significant problem in parts of the country, particularly in rural areas, and they undertook educational campaigns to address it.

Harmful Traditional Practices: Almost all girls in the northern Fouta Region were female genital mutilation/cutting (FGM/C) victims, as were 60 to 70 percent of girls in the South and Southeast. Sealing, one of the most extreme and dangerous forms of FGM/C, was sometimes practiced by the Toucouleur, Mandinka, Soninke, Peul, and Bambara ethnic groups, particularly in rural and some urban areas. According to the NGO German Society for International Cooperation, excision, type II, was the form of FGM/C most frequently practiced. According to a survey on health and demographics by the National Institute for Statistics, the percentage of girls who were victims of FGM/C decreased slightly from 28 percent in 2005 to slightly less than 26 percent in 2011.

The government collaborated with the NGO Tostan and other groups to educate persons about FGM/C's inherent dangers. According to a 2011 UNFPA report on FGM/C, a course on FGM/C was being integrated into the curriculum of high schools and colleges.

Sexual Exploitation of Children: The law provides that convicted sexual abusers of children receive five to 10 years' imprisonment. If the offender is a family member, the maximum is applied. Any offense against the decency of a child is punishable by imprisonment for two to five years and in certain aggravated cases up to 10 years. Procuring a minor for prostitution is punishable by imprisonment for two to five years and a fine of 300,000 to four million CFA francs (\$600 to \$8,000). If the crime involves a victim younger than 13, the maximum penalty is applied. However, the law was not effectively enforced.

The minimum age of consensual sex is 18. Due to social pressures and fear of embarrassment, incest remained taboo and often went unreported and unpunished. Pornography is prohibited. Pornography involving children under the age of 16 is considered pedophilia and is punishable by up to two years imprisonment and fines of up to 300,000 CFA francs (\$600). Although prostitution is legal, there were no reports of child sex tourism.

Infanticide or Infanticide of Children with Disabilities: Women's rights groups highlighted infanticide, usually due to poverty or embarrassment, as a continuing problem. Domestic workers or women from villages working in cities who became pregnant sometimes killed their babies since they could not care for them. Others, who were married to men working outside the country, killed their infants out of shame. According to the African Assembly for the Defense of Human Rights (RADDHO), infanticides often occurred when a woman became pregnant with the child of a man from a prohibited occupational caste. In some cases, the families of the women shamed them into killing their own babies. If the identity of the mother was discovered, police arrested and prosecuted her.

Displaced Children: Many children displaced by the Casamance conflict often lived with extended family members, neighbors, in children's homes, or on the streets. According to NGOs in Casamance, displaced children suffered from the psychological effects of conflict, malnutrition, and poor health.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **Anti-Semitism**

There were approximately 100 Jews resident in the country; there were no reports of anti-Semitic acts.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

Although the constitution does not explicitly prohibit discrimination against persons with disabilities, the law prohibits discrimination against persons with

disabilities in employment, education, air travel and other transportation, access to health care, and the provision of other state services. The government did not enforce these provisions adequately. The law also mandates accessibility for persons with disabilities, but there remained a lack of infrastructure to assist them.

The government provided grants for persons with disabilities to receive vocational training, managed regional centers for persons with disabilities to receive training, and funding for establishing businesses. Due to a lack of special education training for teachers and facilities accessible to children with disabilities, only 40 percent of such children were enrolled in primary school. Mental health treatment was not generally available, and incidents of abuse of the mentally disabled were common.

Persons with disabilities struggled to access voting sites. A 2010 law reserves 15 percent of new civil service positions for persons with disabilities, but the Senegalese National Association of People with Physical Disabilities reported the government failed to issue the executive decree required to make the law operational.

The Ministry for Health and Social Action is responsible for protecting the rights of persons with disabilities.

### **National/Racial/Ethnic Minorities**

Senegal's ethnic groups coexist relatively peacefully. In the Casamance region, a perceived lack of respect for the region's largest ethnic group, the Diolla, by the mostly Wolof Senegalese in the North was one of several contributing causes to the long-running Casamance conflict.

The UN Committee on Racial Discrimination noted with concern in 2002 the continued legacy of aspects of an occupational caste-based system, despite its having been banned by law. RADDHO and the International Dalit Solidarity Network released a report in August outlining forms of caste discrimination denied or condoned by the government in marriage, employment, social activities, religion, and politics. Most Senegalese considered the subject of caste discrimination to be taboo, and intellectuals or businesspeople who were from lower castes often tried to conceal their caste identity.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

Consensual same-sex activity, referred to in the law as an “act against nature,” is a criminal offense. LGBT persons often faced arrest, widespread discrimination, social intolerance, and acts of violence. Senegalese NGOs worked actively on LGBT rights issues, but because of laws against homosexuality and social stigma, they maintained an exceedingly low profile.

The media rarely reported acts of hatred or violence against LGBT persons. In 2010 HRW released a report, *Fear of Life: Violence against Gay Men and Men Perceived as Gay in Senegal*. The report discussed cases of violence against gay men and the legal and cultural milieu that fostered such violence. While high-profile cases such as those cited in the report were from 2009 and earlier, local human rights groups reported that LGBT persons still faced frequent harassment by police, including arrest based only on second-hand reports and poor treatment in detention due to their sexual orientation.

In January two women were arrested following the circulation of a cell phone video that showed them kissing. The incident was widely covered in local print and online media. The women were held in detention and released on bail several days later but were never formally charged with a crime.

In October a court in Dakar sentenced Tasmir Jupiter Ndiaye to four years in prison and fined him 200,000 CFA francs (\$400) for violating laws prohibiting “acts against nature” in addition to charges of illegal possession of arms and battery, after he purportedly refused to pay another man, Matar Diop, for sexual services. Diop was sentenced to three years in prison.

### **Other Societal Violence or Discrimination**

Government and NGO HIV/AIDS awareness campaigns increased social acceptance for persons with HIV or AIDS. Human rights activists reported that HIV-positive individuals or those living with AIDS still experienced discrimination due to the widespread belief that such status indicated homosexuality. HIV-positive men were said to sometimes refrain from taking antiretroviral drugs for fear of their sexual orientation being discovered by their families.

The law prohibits all forms of discrimination against persons with HIV/AIDS. The law also allows medical doctors to inform spouses of persons with HIV/AIDS of their partners’ status if the latter fail to do so after a reasonable time.

## Section 7. Worker Rights

### a. Freedom of Association and the Right to Collective Bargaining

The law permits all workers except security forces, including police and gendarmes, customs officers, and judges, to form and join unions. The labor code requires the Ministry of Interior to give prior authorization before a trade union can exist legally. The state prosecutor can dissolve and disband trade unions by administrative order if union administrators are not following union regulations for what a union is supposed to be doing on behalf of its members. The law prohibits antiunion discrimination.

The law allows the right to strike; however, certain regulations restrict this right in practice. The constitution seriously undermines the right to strike by stipulating that a strike must not infringe on the freedom to work or jeopardize an enterprise. The law states that workplaces may not be occupied during a strike. Unions representing members of the civil service must notify the government of their intent to strike at least one month in advance; private sector unions must notify the government three days in advance. The right to strike is further restricted by the power of authorities to requisition workers to replace those on strike. The labor code does not apply to the informal sector, and thus excludes the majority of the workforce, including subsistence farmers and those employed in many family businesses.

The law allows unions to conduct their activities without interference and provides for the right to bargain collectively. However, collective bargaining agreements only apply to an estimated 44 percent of union workers.

In practice workers exercised the right to form or join unions. However, antiunion sentiment within the government was strong. Trade unions organize on an industry-wide basis, very similar to the French system of union organization. Trade unionists were reportedly subjected to frequent harassment. The International Trade Union Confederation reported restrictions on freedom of association with respect to unions during the year, including violent dispersals of members at gatherings. These incidents occurred in the run-up to the presidential elections in February and March and at political rallies where nonunion participants were also abused. In addition, the International Labor Organization raised questions regarding the country's full adherence to worker rights, particularly, the right of association. Nevertheless, there were no confirmed reports of antiunion discrimination activities during the year. Transportation



workers, teachers, and university lecturers and railroad workers were specific groups who staged several strikes during the year. Political unrest surrounding the presidential elections in February and March caused many additional work stoppages.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, including by children; however, such practices occurred, particularly forced child labor (see section 7.c.). However, enforcement and awareness of antitrafficking and forced labor laws was poor across sectors.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Regulations on child labor set the minimum working age, working hours, and working conditions for children and prohibit children from performing particularly dangerous jobs. The law prohibits many forms of child labor exploitation. However, the law includes exceptions. For example, language directed at the agricultural sector allows children as young as 12 to work in a family environment when necessary. The law also allows boys under 16 to work in underground mines and quarries doing "light work." Given the nature of the dangers associated with mining, "light work" activities do not prevent their exposure to hazards.

The minimum age for employment is 15. Inspectors from the Ministry of Labor are charged with investigating and initiating lawsuits in child labor cases. The ministry's investigators can visit any institution during work hours to verify and investigate compliance with labor laws and can act on tips from trade unions or ordinary citizens.

Labor laws prohibiting child labor were largely unenforced. For example, the Ministry of Labor sent investigators to investigate formal work places. However, they were not trained to deal with child labor problems, and many of the child labor abuses took place in the informal economy, where there were no inspections. The country's mining sector included a large informal, unregulated artisanal mining sector where entire families were engaged in artisanal mining work. There were no reports of inspections in mines during the year. The Child Labor Division in the Ministry of Labor was eliminated in 2011. Inspectors did not initiate visits

to investigate child labor violations because they lacked adequate funding and expertise to handle child labor cases. There was no specific system in place to report child labor violations largely due to inadequate funding of the Child Labor Office and the Ministry of Labor. Instead, the ministry relied on unions to report violators.

The government employed seminars with local officials, NGOs, and civil society to raise awareness of the dangers of child labor and exploitive begging. The government was implementing its child labor plan, which focused on improving the management of child labor issues. While the training created more awareness of child labor issues in local communities, there were no further results.

Child labor was a problem, including in the gold-mining sector, and most instances occurred in the informal economy where labor regulations were not enforced. Economic pressures and inadequate educational opportunities often pushed rural families to emphasize work over education for their children. Child labor was especially common in the regions of Tambacounda, Louga, and Fatick. Child labor was prevalent in many informal and family-based sectors, such as agriculture (millet, corn, and peanuts), fishing, artisanal gold mining, garages, dumpsites, slaughterhouses, production of salt, and metal and woodworking shops. There were also reports of children working on family farms or herding cattle. Children also worked as domestics, in tailoring shops, in metal and woodworking shops, and in other areas of the informal economy, such as fruit and vegetable stands.

In August 2008 (the most recent year for which such data was available), a national child labor survey published by the National Agency of Demography and Statistics measured the economic activities of children during the prior 12 months. According to the survey, 1,378,724 of the country's 3,759,074 children (37 percent) between the ages of five and 17 worked.

One of the worst situations involving child labor was in mining and rock quarrying. Child gold washers, most between the ages of 10 and 14, worked approximately eight hours a day without training or protective equipment. Children also worked long hours in rock quarries, crushing rock and carrying heavy loads without protection. Both types of work resulted in serious accidents and long-term illness. The NGO La Lumiere reported an increase in children working in gold mines in the Kedougou area during the year due to an increase in the price of gold.

According to a 2007 government survey, 90 percent of children in Kaolack, Fatick, and Ziguinchor carried out tasks detrimental to their health and education. The study also found that 75 percent of girls were responsible for domestic chores, forcing many to leave school.

A predominant type of forced child labor was the forced begging by children sent to live and study the Quran under the supervision of unscrupulous teachers (see section 6, Children). To address this concern, the Ministry of Education provided funds to schools operated by religious institutions that met national education standards. These schools were bilingual, teaching in French and Arabic. This program removed thousands of children from street begging and exploitation. The Ministry of Education also worked on a secular curriculum for use in Quranic schools. Funding continued to be available for existing schools but was insufficient to allow the opening of additional schools.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft//tda.htm](http://www.dol.gov/ilab/programs/ocft//tda.htm).

#### **d. Acceptable Conditions of Work**

The national minimum hourly wage was 209 CFA francs (\$0.42) and 183 CFA francs (\$0.37) for agricultural workers. In campaign speeches, President Wade pegged the poverty income level at 100,000 CFA francs (\$200) per annum. The Ministry of Labor was responsible for enforcing the minimum wage. Labor unions also acted as watchdogs and contributed to effective implementation of the minimum wage in the formal sector. The minimum wage provisions apply to foreign and migrant workers as well.

For most occupations in the formal sector, the law mandates a standard workweek of 40 to 48 hours or 2,080 hours per year with at least one 24-hour rest period, one month per year of annual leave, enrollment in government social security and retirement plans, safety standards, and other measures. Night work is performed between 10:00 p.m. and 5:00 a.m. and should receive a supplementary rate. The law does not prohibit excessive or compulsory overtime in the formal sector.

Premium pay for overtime was required in the formal sector but not in the informal sector. Legal regulations on occupational safety and health (OSH) exist, and the government sets OSH standards. There was no explicit legal protection for workers who filed complaints about unsafe working conditions.

The Ministry of Labor, through the Labor Inspection Office, enforced labor standards in the formal sector. Labor inspectors had very poor working conditions and lacked transportation to conduct their mission effectively. The minimum wage covers the informal sector as well but was not respected in practice, especially for domestic workers. Enforcement of the workweek standard was irregular. Workers seldom exercised their nominal right to remove themselves from situations that endangered health or safety due to high unemployment and a slow legal system.