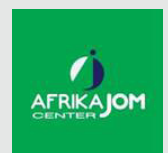




DENYING JUSTICE:

SENEGAL'S AMNESTY LAW

Stanford
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Executive Summary and Recommendations

In March 2024, Senegal's Parliament enacted a law granting amnesty for criminal acts relating to political protests or having political motivations that were committed between February 1, 2021, and February 25, 2024.¹ The law granted amnesty to protestors and opposition political leaders who had been detained, as well as to government and security officials who engaged in grave human rights violations during that period. International human rights organizations estimate that at least 40 protestors were killed.² Local civil society organizations and political parties reported that state agents arrested almost a thousand people, many of whom were arbitrarily detained, deprived of due process, tortured, and/or abused.³ The amnesty law does not provide any remedies for victims of human rights violations. Nor is there any other legislation that provides such remedies.

This report provides a comprehensive legal analysis of the amnesty law in light of Senegal's international legal obligations. Senegal has ratified the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), the African Charter on Human and Peoples' Rights (ACHPR), and the Treaty of the Economic Community of West African States (ECOWAS). The amnesty law cannot exempt Senegal from its obligations under these treaties.⁴

The report concludes that the amnesty law violates Senegal's international legal obligations for four reasons. First, the law fails to provide effective remedies for victims of human rights violations, including reparations and

a mechanism for victims to have their cause heard. Second, the law fails to protect victims' and societies' right to truth about human rights violations. Third, the law violates Senegal's obligation to hold the perpetrators of gross human rights violations criminally accountable. Finally, Senegal's amnesty is a "blanket" or "unconditional" amnesty, which exempts broad categories of serious human rights offenders from prosecution without the beneficiaries' having to satisfy preconditions, including those aimed at ensuring full disclosure of what they know about crimes covered by the amnesty, on an individual basis. Such amnesties are unlawful under international law.

Accordingly, to comply with its international legal obligations, the Republic of Senegal should:

1. Guarantee the right to effective remedies of victims of human rights violations relating to political protests held in Senegal between February 1, 2021, and February 25, 2024. This includes the right of victims to have access to an effective judicial remedy as well as to reparations.
2. Guarantee victims' and societies' right to know the truth about human rights violations relating to political protests held in Senegal between February 1, 2021, and February 25, 2024.
3. Guarantee effective criminal proceedings against perpetrators of gross human rights violations, including in particular, killings, torture, cruel, inhuman or degrading treatment, and arbitrary detentions.

I. Introduction

Senegal has long been considered a beacon of democratic stability in Africa. However, from early 2021 until the March 2024 presidential elections, the country experienced significant political unrest, marked by mass protests and violence. Government and security force officials engaged in serious human rights violations – including torture and killings – with impunity. International human rights organizations estimate that over this period, at least 40 protestors were killed.⁵ In addition, they report, based on local civil society organizations’ and political parties’ evaluations, that state agents arrested almost a thousand people, many of whom were arbitrarily detained, deprived of due process, tortured, and/or abused.⁶

On February 3, 2024, then-President Macky Sall announced that the presidential election planned for February 25 would be indefinitely postponed, triggering further political unrest.⁷ Two prominent opposition leaders from the PASTEF (African Patriots of Senegal for Work, Ethics and Fraternity) party – Ousmane Sonko and Bassirou Diomaye Faye – were detained at the time, and were therefore ineligible for standing for election. Ousmane Sonko had been convicted in June 2023 for “corrupting youth.”⁸ Bassirou Diomaye Faye had been in pre-trial detention since April 2023, and was being prosecuted for contempt of court and defaming the judiciary.⁹ Opposition parties and demonstrators saw these convictions as political manipulations designed to bar the leaders from running in the presidential elections.¹⁰

At the end of February 2024, citing the spirit of reconciliation, Macky Sall announced an amnesty bill for acts relating to political protests since 2021.¹¹ In March 2024, Senegal’s Parliament enacted a law granting amnesty for criminal acts relating to political protests or having political motivations that were committed between February 1, 2021, and February 25, 2024.¹² The law granted amnesty to politicians who had been detained, to protestors, and to state agents who had engaged in human rights violations.¹³

Faye and Sonko both benefited from the amnesty, and were released on March 14, 2024.¹⁴ Faye was able to participate in the elections held on March 24, 2024, and won the elections with 54.28% of the votes.¹⁵ On April 2, 2024, he was sworn in as President of Senegal: on the same day, he appointed Ousmane Sonko as Prime Minister.¹⁶

Between May 28 and June 4, 2024, a national dialogue¹⁷ took place to discuss the reform and modernization of Senegal’s justice system, but none of its final recommendation related to the implementation of the amnesty law.¹⁸

On December 14, 2024, the Minister of Justice announced to the Members of the National Assembly who were elected a month before that “light will be shed on the deaths” that occurred during the episodes of political violence, that responsibilities will be established, and that perpetrators will have to “answer for their actions.”¹⁹

During his general policy statement on December 27, 2024, Prime Minister Ousmane Sonko also announced that a bill to withdraw the amnesty law will be submitted to the National Assembly, so that “all light can be shed and responsibilities established on all sides.” He also indicated that the new finance bill will include reparations for victims of the pre-electoral period.²⁰

This report provides a comprehensive legal analysis of the amnesty law in light of Senegal’s international legal obligations. It concludes that the amnesty law is unlawful and recommends that Senegal undertakes specific measures to comply with these obligations.

II. Senegal's Amnesty Law

An amnesty is defined as a legal measure that has the effect of:

- (a) Prospectively barring criminal prosecution and, in some cases, civil actions against certain individuals or categories of individuals in respect of specified criminal conduct committed before the amnesty's adoption; or
- (b) Retroactively nullifying legal liability previously established.²¹

A “blanket” or “unconditional” amnesty is an amnesty which “exempt[s] broad categories of serious human rights offenders from prosecution and/or civil liability without the beneficiaries’ having to satisfy preconditions, including those aimed at ensuring full disclosure of what they know about crimes covered by the amnesty, on an individual basis.”²²

On March 6, 2024, the Senegalese Parliament passed a blanket amnesty law, which was promulgated on March 13, 2024 by the President of the Republic:

“Article 1. Amnesty is granted ipso jure for all acts likely to be classified as criminal or correctional offences, committed between February 1, 2021 and February 25, 2024, both in Senegal and abroad, relating to demonstrations or having political motivations, including those made through all communication media, whether or not the perpetrators have been tried.

Article 2. Amnesty entails, without ever giving rise to restitution, the total

remission of all principal, accessory and complementary penalties, as well as the disappearance of all disqualifications, exclusions, incapacities and deprivations of rights attached to the penalty.

Article 3. The amnesty is without prejudice to the rights of third parties.

Imprisonment for debt may not be exercised against convicts who have benefited from amnesty, except at the request of the victims of the offence or their beneficiaries.

Article 4. Disputes relating to the application of the present amnesty law are judged by the Indictment Division of the Dakar Court of Appeal, under the conditions set out in article 735 of the Code of Criminal Procedure.

Article 5. It is forbidden for any magistrate or civil servant to recall or allow to remain in any form whatsoever in a judicial or police file or in any official document, the convictions, disqualifications, exclusions, incapacities and deprivations of rights attached to the sentence erased by the amnesty, except as provided for in article 3 of the present law.

However, minutes of judgments or rulings as well as decrees, orders and decisions made in the context of the civil service or national orders are exempt from this prohibition when they have been deposited in the registries or National Archives.”²³

III. Human Rights Violations Subject to Senegal's Amnesty Law

According to Amnesty International, more than 60 people were killed during protests between March 2021 and February 2024.²⁴ Among other incidents, Amnesty International reported that on February 9 and 10, 2024, as citizens protested then-President Macky Sall's postponement of the elections, Senegalese security forces killed three people, including a 16-year-old boy, and arrested hundreds of people in a violent crackdown on protesters in Saint-Louis, Dakar and Ziguinchor.²⁵ During violent demonstrations on June 1 and 2, 2023, that involved security forces and armed civilian personnel, at least 23 people, including three children, died, and a further 390 were reportedly injured in Dakar and Ziguinchor, several of whom were shot.²⁶ On June 1 and 2, 2023, the police shot and killed Ousmane Badio (aged 17) and Souleymane Sano (aged 25) in Ziguinchor during demonstrations; on June 2, 2023, Bassirou Sarr, 31, a tailor and resident of Pikine Guinaw-Rails (a Dakar suburb) was shot and killed; on June 3, 2023, police beat, shot, and killed rapper-producer Abdoulaye Camara, known as "Baba Kana"; on June 2, 2023 Fallou Sall, a 17-year-old scrap metal worker from Thiaroye-sur-Mer, was shot and killed on his way home from work.²⁷

Similarly, Human Rights Watch has documented "Senegalese security forces' excessive use of force, including live ammunition and improper use of tear gas, to disperse protesters in March 2021, June 2023, and February 2024."²⁸ According to Human Rights Watch, as of March 5, 2024, "at least 40 people had been killed during violent clashes since March 2021, with

no accountability."²⁹ Between March 2021 and January 2023, up to 1,000 opposition members were reportedly arrested across the country.³⁰ Human Rights Watch has also documented the torture, ill-treatment, prolonged pre-trial detention and due process violations inflicted on people arrested in connection with opposition-led demonstrations since 2021.³¹

Among other grave human rights violations, Human Rights Watch documented how the police tortured a 28-year-old PASTEF political party member who was arrested on June 1, 2023, in Mbour, Thiès region, during a pro-opposition protest, and Pape Abdoulaye Touré, a young political activist on June 2, 2023 in Dakar.³²

In some instances, demonstrators have also been accused of violence, including attacking security forces with stones or other weapons, and ransacking public buildings.³³ Individuals suspected of having set a bus on fire – which caused the death of two people – or of having set fire to the library of Cheikh Anta Diop University, benefited from the amnesty law.³⁴

IV. Analysis of Senegal's Amnesty Law Under International Law

Senegal is bound by international law. Article 98 of Senegal's Constitution states that treaties ratified and published by Senegal take precedence over domestic laws.³⁵ Senegal has ratified the International Covenant on Civil and Political Rights (ICCPR), the Convention Against Torture (CAT), the African Charter on Human and Peoples' Rights (ACHPR), and the Treaty of the Economic Community of West African States (ECOWAS).

The African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights are charged with interpreting and upholding ACHPR provisions.³⁶ The African Court's judgements against a particular state are binding and enforceable against that state,³⁷ and all member states are expected to follow the Court's case law on the interpretation of ACHPR provisions. The African Commission's recommendations are not legally binding on state parties.³⁸ However, by ratifying the African Charter, member states accept the competence of the African Commission to interpret and promote ACHPR provisions, and should implement the African Charter in good faith by taking into consideration the Commission's case law.

Senegal is also bound to respect the decisions of the ECOWAS Court of Justice,³⁹ which can also interpret and apply ACHPR provisions.⁴⁰

It is well-established that domestic amnesty laws cannot exempt a state from its international legal obligations. The African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights have both

recognized that "[a]mnesty laws cannot exempt the State which adopts them from its international obligations (. . .) [T]he prohibition of the prosecution of perpetrators of serious human rights violations through amnesties would lead States not only to promote impunity, but remove any possibility of investigating these abuses and deprive victims of these crimes of an effective remedy for the purpose of obtaining reparations."⁴¹ The ECOWAS Court of Justice has also affirmed the "principle solidly established in international law, according to which a State may not invoke its domestic law – its amnesty law, in this instance – as a means to renege on its international obligations, as may be stipulated in treaties and conventions."⁴²

As the United Nations Office of the High Commissioner for Human Rights has noted, amnesties are unlawful under international law if they:

- (i) Interfere with victims' right to an effective remedy, including reparation;
- (ii) Restrict victims' and societies' right to know the truth about violations of human rights and humanitarian law; or
- (iii) Prevent prosecution of individuals who may be criminally responsible for war crimes, genocide, crimes against humanity or *gross violations of human rights*, including gender-specific violations.⁴³

As explained below, Senegal's amnesty law violates international law on all three of these grounds, and because it is a "blanket" or "unconditional" amnesty.

1. The Amnesty Law Violates Victims' Rights to Effective Remedies for Human Rights Violations

Senegal has ratified the ICCPR, ACHPR and CAT. The ICCPR and ACHPR protect the right to life,⁴⁴ the right against arbitrary arrest and detention,⁴⁵ the right against torture and cruel, inhuman or degrading treatment,⁴⁶ and the right to an effective remedy for violations of these rights.⁴⁷ The CAT protects the rights against torture and cruel, inhuman, or degrading treatment, the right of victims to redress and fair and adequate compensation, including the means for as full a rehabilitation as possible.⁴⁸

The African Court on Human and Peoples' Rights has found amnesties that deny victims effective remedies to be incompatible with article 7(1) of the ACHPR, which protects the right to have one's cause heard.⁴⁹ In *Ajavan v. Benin*, the Court addressed Benin's law which granted amnesty for crimes, misdemeanors, and felonies committed in the context of the legislative elections of April 2019.⁵⁰ The law applied to post-election violence, and shielded security forces from being held accountable for human rights violations, including the killing of protesters.⁵¹

The African Court observed that under article 7(1), "the right to have one's case heard corresponds to the right to an effective remedy. It is the prerogative of anyone who claims to be a victim of violation of their basic rights to go to court."⁵² It added that "an amnesty law is compatible with human rights only if it is accompanied by restorative measures for the benefit of the victims."⁵³ Noting that Benin's amnesty law had no such restorative measures,

the Court concluded that Benin had violated the right to be heard of each of the victims of the April 2019 election violence.⁵⁴

The African Commission has similarly held that amnesties granted by Zimbabwe and Cote d'Ivoire violated articles 1 and 7(1) of the ACHPR because they denied victims effective remedies.⁵⁵ In *Zimbabwe Human Rights NGO Forum v. Zimbabwe*, the Commission observed that Zimbabwe's 2000 Clemency Order, which prevented the prosecution of perpetrators of "politically motivated crimes" including abductions, forced imprisonment, arson, destruction of property, kidnappings and other human rights violations occurring in the run-up to parliamentary elections, "prevented victims of crimes and alleged human rights violations from seeking effective remedy and compensation."⁵⁶

The Commission held that "by enacting Decree No. 1 of 2000 which foreclosed access to any remedy that might be available to the victims to vindicate their rights, and without putting in place alternative adequate legislative or institutional mechanisms to ensure that perpetrators of the alleged atrocities were punished, and victims of the violations duly compensated or given other avenues to seek effective remedy, the Respondent State did not only prevent the victims from seeking redress, but also encouraged impunity, and thus reneged on its obligation in violation of Articles 1 and 7 (1) of the African Charter."⁵⁷

Similarly, the African Commission held that the grant under Côte d'Ivoire's constitution of "total and complete immunity" to members of the Comité National de Salut Public (CNSP), which brought about the December 1999 coup d'état and formed a transitional government, violated the African Charter.⁵⁸ It observed that "adopting

laws that would grant immunity from prosecution of human rights violators and prevent victims from seeking compensation render the victims helpless and deprives them of justice.”⁵⁹

The ECOWAS Court has similarly held that Niger’s amnesty law on issues relating to the assassination of General Mainassara Baré denied his survivors their right to a hearing and access to justice under the African Charter.⁶⁰

In ruling on the legality of amnesties under the ACHPR, both the African Court and the African Commission have relied on the United Nations Human Rights Committee – the treaty body responsible for monitoring States parties’ implementation of the ICCPR.⁶¹ In *Ajavon v. Benin*, the Court cited to the Human Rights Committee’s holding that “[A]mnesties for gross violations of human rights [...] are incompatible with the obligations of the State party under the [ICCPR] . . . [t]o ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy”⁶² The African Commission has also relied on the UN Human Rights Committee’s General Comment No. 20 on Article 7 of the ICCPR (relating to the prohibition on torture and cruel, inhuman or degrading treatment), stating that “States may not deprive individuals of the right to an effective remedy, including compensation and such full rehabilitation as may be possible.”⁶³

Similarly, the Committee Against Torture, the treaty body charged with monitoring compliance with the CAT, has stated in its General Comment No. 3 that under article 14 of that treaty, “a State party shall ensure that victims of any act of torture or ill treatment under its jurisdiction obtain redress,” and that the term “redress” encompasses the concepts of “effective

remedy” and “reparation.”⁶⁴ The Committee noted that it “has consistently held that amnesties for the crime of torture are incompatible with the obligations of States parties under the Convention, including under article 14. . . . [A]mnesties for torture and ill-treatment pose impermissible obstacles to a victim in his or her efforts to obtain redress and contribute to a climate of impunity. The Committee therefore calls on States parties to *remove any amnesties for torture or ill-treatment*.”⁶⁵

Senegal’s amnesty law hampers the rights of victims of human rights violations to reparations, including compensation. Although victims of a criminal offence typically seek compensation from the perpetrator through proceedings before a criminal court, a victim can also obtain compensation by bringing an independent civil action for damages before the civil courts.⁶⁶ Article 3 of the amnesty law states that “[t]he amnesty is without prejudice to the rights of third parties,” which suggests, *prima facie*, that the law does not affect victims’ rights to compensation in civil actions before the civil courts. In practice, however, by barring the criminal investigation and prosecution of the perpetrators of human rights violations, the law deprives victims of their right to compensation through civil proceedings.

In civil proceedings, the burden of proof—including on the identity of the perpetrator—is on the plaintiff. Without a criminal investigation to gather evidence—including, for example, the names of state agents and witnesses present at the time and place of the violation, security camera footage, and internal police reports—a victim of human rights abuses perpetrated by Senegalese state agents would have little chance of providing sufficient evidence for those perpetrators to be held civilly liable for damages.

In a civil lawsuit, the plaintiff has the added burden of being required to pay for the cost of the proceedings, which in addition to the plaintiff's lawyer's fees, can also include the defendant's lawyer's fees if the plaintiff fails to prove liability. In contrast, in criminal proceedings, the costs of proving defendants' liability are borne by the state.

By failing to provide victims their right to have their cause heard as well as their right to reparations, including compensation, Senegal's amnesty law violates victims' rights to effective remedies under the ICCPR, ACHPR, and CAT. As noted above, international human rights organizations have documented violations of the right to life, the right against arbitrary arrest and detention, the right against torture and cruel, inhuman, and degrading treatment relating to political protests held between February 1, 2021, and February 25, 2024. By granting perpetrators of these human rights violations amnesty, the amnesty law violates Senegal's international legal obligations.

Senegal's former Minister of Justice, Aïssata Tall Sall, had promised a mechanism for compensating victims by means of a commission which would address compensation on a case-by-case basis.⁶⁷ However, the amnesty law passed by Senegal's parliament does not provide for such a mechanism, and no other law creates such a mechanism.

2. The Amnesty Law Violates Victims' and Society's Right to Know the Truth About Human Rights Violations

It is well-established that the right of victims to effective remedies for human rights violations includes the right to truth.⁶⁸ The right to truth

has both a collective and individual dimension, both of which are inalienable.⁶⁹ Principle 2 of the U.N. Updated Set of Principles on Impunity states that, "Every people has the inalienable right to know the truth about past events concerning the perpetration of heinous crimes and about the circumstances and reasons that led, through massive or systemic violations, to the perpetration of those crimes...."⁷⁰ Principle 4 states that, "Irrespective of any legal proceedings, victims and their families have the imprescriptible right to know the truth about the circumstances in which violations took place and, in the event of death or disappearance, the victims' fate."⁷¹

The ECOWAS Court has recognized "the inefficacy of [an] amnesty law in situations of serious and widespread violation of fundamental human rights."⁷² It noted that, "Amnesty laws cannot constitute an unreasonable cover-up for the past, an estoppel which may automatically be invoked against every legitimately inquiring mind attempting to know the truth. An amnesty law shall leave intact a victim's right to know the truth"⁷³ Here, the case was initiated by the survivors of the former President of Niger who was killed during a coup. The survivors had filed complaints before the local courts which were rejected on the basis of amnesty laws.

Senegal's amnesty law violates victims' and societies' right to truth. As noted above, international human rights organizations have documented violations of the right to life, the right against arbitrary arrest and detention, and torture and cruel, inhuman, and degrading treatment relating to political protests held between February 1, 2021, and February 25, 2024. By granting perpetrators of these human rights violations amnesty and providing no

mechanism for the truth about these violations to be known, the amnesty law violates Senegal's international legal obligations.

3. The Amnesty Law Violates Senegal's Obligations to Investigate and Prosecute Individuals Who May be Criminally Responsible for Gross Violations of Human Rights

Senegal has an obligation under international law to investigate and prosecute individuals who may be criminally responsible for gross human rights violations. While there is no universal definition of the term "gross human rights violations," international bodies use the terms "gross," "serious," and "grave" interchangeably to refer to human rights violations of particular cruelty.⁷⁴ The violations perpetrated by Senegalese state security agents in relation to political protests held between February 1, 2021 and February 25, 2024 include killings, torture, ill-treatment, arbitrary detention, and the excessive use of force.⁷⁵ The Human Rights Committee has recognized such kinds of violations as "serious" human rights violations.⁷⁶

In *Ajavon v. Benin*, the African Court observed that under article 7(1) of the ACHPR, "the right to an effective remedy entails the . . . obligation for the State to investigate and punish violations of human rights"⁷⁷ The Court also cited the Human Rights Committee's holding that "[A]mnesties for gross violations of human rights [...] are incompatible with the obligations of the State party under the [ICCPR] . . . [t]o ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy" ⁷⁸

The ICCPR and ACHPR protect the right to an effective remedy for violations of the right to life, the right to freedom from arbitrary arrest and detention, and the rights against torture and cruel, inhuman, or degrading treatment.⁷⁹ The CAT protects the right of victims to redress for torture and cruel inhuman or degrading treatment, and requires states' competent authorities to conduct prompt and impartial investigations into such acts.⁸⁰ These treaties require states parties to conduct effective criminal investigations and prosecute perpetrators of gross human rights violations.

With respect to the excessive use of lethal force and violations of the right to life, for example, the Human Rights Committee's General Comment No. 36 states:

An important element of the protection afforded to the right to life by the [ICCPR] is the obligation to investigate and prosecute allegations of deprivation of life by State authorities or by private individuals and entities, including allegations of excessive use of lethal force. . . . Given the importance of the right to life, States parties must generally refrain from addressing violations of article 6 merely through administrative or disciplinary measures, and a criminal investigation, which should lead if enough incriminating evidence is gathered to a criminal prosecution, is normally required. *Immunities and amnesties provided to perpetrators of intentional killings and to their superiors, and comparable measures leading to de facto or de jure impunity, are, as a rule, incompatible with the duty to respect and ensure the right to life, and to provide victims with an effective remedy.*⁸¹

Similarly, with respect to torture, the Human Rights Committee's General Comment No. 20 states that, "Amnesties are generally incompatible with the duty of States to investigate . . . acts [of torture]; to guarantee freedom from such acts within their jurisdiction; and to ensure that they do not occur in the future."⁸² In *Rodríguez v. Uruguay*, the Human Rights Committee held that the Uruguayan government's refusal, on grounds of an amnesty law, to investigate allegations of torture by a previous regime violated articles 7 and article 2 paragraph 3 of the ICCPR.⁸³ The Committee did not accept the government's claim that "to investigate past events . . . is tantamount to reviving the confrontation between persons and groups . . . [and will] not contribute to reconciliation, pacification and the strengthening of democratic institutions."⁸⁴ The Committee instead noted "with deep concern that the adoption of [the amnesty] law effectively excludes in a number of cases the possibility of investigation into past human rights abuses and thereby prevents the State party from discharging its responsibility to provide effective remedies to the victims of those abuses." Moreover, the Committee expressed concern that, "in adopting this law, the State party has contributed to an atmosphere of impunity which may undermine the democratic order and give rise to further grave human rights violations."⁸⁵

The Committee Against Torture has similarly stated in its General Comment No. 2 that "amnesties or other impediments which preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment violate the principle of non-derogability."⁸⁶

In *Zimbabwe Human Rights NGO Forum v. Zimbabwe*, the African Commission held that

"by enacting Decree No. 1 of 2000 . . . and without putting in place alternative adequate legislative or institutional mechanisms to ensure that perpetrators of the alleged atrocities were punished . . . the Respondent State did not only prevent the victims from seeking redress, but also encouraged impunity, and thus reneged on its obligation in violation of Articles 1 and 7 (1) of the African Charter."⁸⁷ The Commission observed that "[i]t is generally believed that the single most important factor in the proliferation and continuation of human rights violations is the persistence of impunity, be it of a de jure or de facto nature. Clemency, it is believed, encourages de jure as well as de facto impunity and leaves the victims without just compensation and effective remedy."⁸⁸ It called on the Republic of Zimbabwe "to establish a Commission of Inquiry to investigate the causes of the violence which took place from February – June 2000 and bring those responsible for the violence to justice. . . ."⁸⁹

Similarly, the African Commission held that with the constitution of Cote d'Ivoire's grant of "total and complete immunity" to members of the CNSP, "the Respondent State did not only prevent the victims from seeking redress, but also encouraged impunity, and thus reneged on its obligation in violation of Articles 1 and 7 (1) of the African Charter."⁹⁰

The African Commission also found that Mauritania's June 1993 amnesty law "annulling the penal nature" of murders and other grave human rights violations by Mauritanian armed and security forces and "foreclos[ing] . . . judicial actions . . . by victims of the alleged violations" occurring between 1989-1992 did not shield Mauritania from fulfilling its obligations under the African Charter.⁹¹ The Commission

recommended that the government begin “an independent enquiry in order to clarify the fate of persons considered as disappeared, identify and bring to book the authors of the violations perpetrated at the time of the facts arraigned” as well as to issue reparations and compensation to the victims.⁹²

The African Commission has further relied on *Barrios Altos v. Peru*, a landmark Inter-American Court of Human Rights case concerning amnesties.⁹³ In this case, the Inter-American Court held:

“[A]ll amnesty provisions, provisions on prescription and the establishment of measures designed to eliminate responsibility are inadmissible, because they are intended to prevent the investigation and punishment of those responsible for serious human rights violations such as torture, extrajudicial, summary or arbitrary execution and forced disappearance, all of them prohibited because they violate non-derogable rights recognized by international human rights law.”⁹⁴

Senegal’s amnesty law violates its obligation under international law to criminally investigate and punish the perpetrators of gross human rights violations. As noted above, international human rights organizations have documented violations of the right to life, and the rights against arbitrary arrest, detention, torture and cruel, inhuman, and degrading treatment relating to political protests held between February 1, 2021, and February 25, 2024. By granting perpetrators of these human rights violations amnesty, the amnesty law violates Senegal’s international legal obligations.

According to a statement by then Senegal’s

Minister of Justice, Aïssata Tall Sall, the amnesty would not apply to cases of torture or degrading treatment, and for homicides, it would be up to the judge to decide who would be granted an amnesty. However, the law passed by Senegal’s Parliament does not create such an exception.⁹⁵

4. Blanket Amnesties Violate International Law

Several international bodies have ruled that blanket amnesties violate international law. For example, in *Kwoyelo v. Uganda*, the African Commission observed that “[a]s they have the effect of excluding any form of accountability and hence enabling impunity, blanket amnesties are deemed to be incompatible with human rights . . . rules.”⁹⁶ The African Commission’s General Comment No. 4 similarly provides that, “States should not extend blanket amnesty to individuals for acts of torture. Similarly, States should not grant immunity to individuals for acts of torture since this is contrary to the obligation to prosecute and to provide redress for victims.”⁹⁷ The Human Rights Committee has found blanket amnesties in Peru, Argentina, and Uruguay to be inconsistent with the ICCPR.⁹⁸

The African Commission has observed that “[t]he Inter-American human rights system has a rich jurisprudence relating to national amnesties as a result of its historical context where a number of countries in Latin America had adopted amnesties following periods of human rights violations by repressive regimes in an effort to shield officers from accountability for violations.”⁹⁹ It noted specifically that the “Inter-American Court of Human Rights declared invalid a blanket amnesty in Peru in 2001, which was found to discourage investigations and

deny any remedy to the victims”¹⁰⁰

Senegal’s amnesty law is a “blanket” or “unconditional” amnesty because it “exempt[s] broad categories of serious human rights offenders from prosecution and/or civil liability without the beneficiaries’ having to satisfy preconditions, including those aimed at ensuring full disclosure of what they know about crimes covered by the amnesty, on an individual basis.”¹⁰¹ As such, it violates international law.

V. Conclusions and Recommendations

The foregoing analysis demonstrates that Senegal's amnesty law violates its obligations under international law. To comply with these obligations, the Republic of Senegal should:

1. Guarantee the right to effective remedies of victims of human rights violations relating to political protests held in Senegal between February 1, 2021, and February 25, 2024. This includes the right of victims to have access to an effective judicial remedy as well as to reparations.
2. Guarantee victims' and societies' rights to know the truth about human rights violations relating to political protests held in Senegal between February 1, 2021, and February 25, 2024.
3. Guarantee effective criminal proceedings against perpetrators of gross human rights violations, including in particular, killings, torture, cruel, inhuman or degrading treatment, and arbitrary detentions.

Annex 1: Loi n°2024-09 du 13 mars 2024 portant amnistie,
13 March 2024 (Amnesty Law)

169 ^e ANNEE - N° 7712	NUMERO SPECIAL	JEUDI 14 MARS 2024
JOURNAL OFFICIEL		
DE LA REPUBLIQUE DU SENEGAL		
PARAISSENT LE SAMEDI DE CHAQUE SEMAINE		
ABONNEMENTS ET ANNONCES	TARIF DES ABONNEMENTS	ANNONCES ET AVIS DIVERS
Pour les abonnements et les annonces s'adresser au directeur de l'imprimerie nationale à Rufisque.	VOIE NORMALE Six mois Un an	VOIE AERIE Six mois Un an
Les annonces doivent être remises à l'imprimerie au plus tard le mardi. Elles sont payables d'avance.	Sénégal et autres Etats de la CEDEAO 15.000f 31.000f.	La ligne 1.000 francs
Toute demande de changement d'adresse ainsi que les lettres demandant réponse devront être accompagnées de la somme de 175 francs	Etranger : France, RDC, R.C.A., Gabon, Maroc, Algérie, Tunisie. 20.000f. 40.000f	Chaque annonce répétée... Moitié prix
	Etranger : Autres Pays 23.000f 46.000f	(Il n'est jamais compté moins de 10.000 francs pour les annonces).
	Prix du numéro Année courante 600 f Année ant. 700f.	
	Par la poste : Majoration de 130 f par numéro	Compte bancaire B.I.C.I.S. n° 1520790 630/81
	Journal légalisé 900 f	
	Par la poste -	

S O M M A I R E

PARTIE OFFICIELLE

L O I

2024
13 mars Loi n° 2024-09 portant amnistie 321

PARTIE OFFICIELLE

L O I

Loi n° 2024-09 du 13 mars 2024
portant amnistie

EXPOSE DES MOTIFS

Dans le but d'apaisement du climat politique et social, de renforcement de la cohésion nationale, de consolidation du dialogue national, et afin de permettre à certaines personnes qui ont eu maille à partir avec la justice de participer pleinement à la vie démocratique, Monsieur le Président de la République entend poursuivre la mise en œuvre des mesures de décriminalisation, au-delà du droit de grâce que lui reconnaît la Constitution.

De surcroît, la volonté du législateur a toujours été de favoriser l'exercice démocratique dans un contexte de dialogue et d'ouverture politique. Cela s'est traduit à chaque fois par l'adoption de lois portant amnistie des infractions criminelles et correctionnelles ayant un lien avec des événements politiques conflictuels.

Certaines poursuites engagées devant les juridictions ont abouti à des condamnations ayant entraîné des incapacités et des déchéances liées aux droits de vote et d'élection.

C'est dans cet esprit que le présent projet de loi intervient pour amnistier les infractions commises tant au Sénégal qu'à l'étranger et couvrant une période allant de 2021 à 2024.

Pendant longtemps, le législateur a voulu privilégier la voie de l'amnistie de plein droit qui a un caractère général et anonyme avec un champ d'application large, effaçant sans aucune distinction, les infractions visées.

Le présent projet de loi permettra à des personnes privées de leurs droits civiques et politiques d'être rétablies dans leurs droits.

Telle est l'économie du présent projet de loi.

L'Assemblée nationale a adopté, en sa séance du mercredi 06 mars 2024 ;

Le Président de la République promulgue la loi dont la teneur suit :

Article premier. - Sont amnistiés, de plein droit, tous les faits, susceptibles de revêtir la qualification d'infraction criminelle ou correctionnelle, commis entre le 1^{er} février 2021 et le 25 février 2024 tant au Sénégal qu'à l'étranger, se rapportant à des manifestations ou ayant des motivations politiques y compris celles faites par tous supports de communication, que leurs auteurs aient été jugés ou non.

Art. 2. - L'amnistie entraîne, sans qu'elle ne puisse jamais donner lieu à restitution, la remise totale de toutes les peines principales, accessoires et complémentaires, ainsi que la disparition de toutes les déchéances, exclusions, incapacités et privations de droits attachées à la peine.

Art. 3. - L'amnistie ne préjudicie pas aux droits des tiers.

La contrainte par corps ne peut être exercée contre les condamnés ayant bénéficié de l'amnistie, si ce n'est à la requête des victimes de l'infraction ou de leurs ayant droit.

Art. 4. - Les contestations relatives à l'application de la présente loi d'amnistie sont jugées par la chambre d'accusation de la Cour d'Appel de Dakar, dans les conditions prévues par l'article 735 du Code de Procédure pénale.

Art. 5. - Il est interdit à tout magistrat ou fonctionnaire de rappeler ou de laisser subsister sous quelque forme que ce soit dans un dossier judiciaire ou de police ou dans tout document officiel, les condamnations, déchéances, exclusions, incapacités et privations de droit attachées à la peine effacée par l'amnistie sauf dispositions prévues à l'article 3 de la présente loi.

Toutefois, les minutes des jugements ou arrêts ainsi que les décrets, arrêtés et décisions pris dans le cadre de la fonction publique ou des Ordres nationaux échappent à cette interdiction lorsqu'ils ont été déposés dans les greffes ou aux Archives nationales.

La présente loi sera exécutée comme loi de l'Etat.

Fait à Dakar, le 13 mars 2024.

Par le Président de la République
Macky SALL

Le Premier Ministre
Sidiki KABA

Acknowledgements

This report was written by Amrit Singh, Henri Thulliez, and Sebastien Gregoire. Amrit Singh is a Professor of the Practice and Executive Director of the Rule of Law Impact Lab at Stanford Law School. Henri Thulliez is an expert advisor to the Rule of Law Impact Lab and an attorney at the Paris bar. Sebastien Gregoire is an attorney at the Paris bar.

Alioune Tine, Founder of the Think tank Afrikajom Center, reviewed the brief and provided helpful comments. Ibrahima Kane also provided valuable input for this report.

Endnotes

- 1 Loi n°2024-09 du 13 mars 2024 portant amnistie, 13 March 2024 (Annex 1). Article 1 of the Amnesty Law states that “Amnesty is granted *ipso jure* for all acts that may be classified as criminal or correctional offences committed between February 1, 2021, and February 25, 2024, both in Senegal and abroad, relating to demonstrations or having political motivations, including those made by any communication media, whether or not the perpetrators have been tried.”
- 2 Human Rights Watch, *Sénégal: Le projet de loi d’amnistie ouvre la voie à l’impunité*, 5 March 2024, <https://www.hrw.org/fr/news/2024/03/05/senegal-le-projet-de-loi-damnistie-ouvre-la-voie-limpunite>; Amnesty International, *Sénégal. Il faut enquêter sur les homicides et les violences policières à l’encontre des manifestant·e·s*, 13 February 2024, <https://www.amnesty.fr/presse/sngal-il-faut-enqueter-sur-les-homicides-et-les-vio>.
- 3 Human Rights Watch, *Sénégal: Le projet de loi d’amnistie ouvre la voie à l’impunité*, 5 March 2024, <https://www.hrw.org/fr/news/2024/03/05/senegal-le-projet-de-loi-damnistie-ouvre-la-voie-limpunite>.
- 4 See *Les Ayants Droit Ibrahim Mainassara Baré v. République du Niger*, ECOWAS Court of Justice, 2015 ECW/CCJ/JUD/23/15, 23 Oct. 2015, para. 68, http://www.courtecowas.org/wp-content/uploads/2019/01/ECW_CCJ_JUD_23_15.pdf (citing Article 27 of the 1969 Vienna Convention on the law of treaties: “A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty...”). Furthermore, Article 98 of Senegal’s Constitution states that treaties ratified and published by Senegal take precedence over domestic laws. https://adsdatabase.ohchr.org/IssueLibrary/SENEGAL_Constitution.pdf.
- 5 Human Rights Watch reported that at least 40 people were killed during violent clashes since March 2021. Human Rights Watch, *Sénégal: Le projet de loi d’amnistie ouvre la voie à l’impunité*, 5 March 2024, <https://www.hrw.org/fr/news/2024/03/05/senegal-le-projet-de-loi-damnistie-ouvre-la-voie-limpunite>; Amnesty International reported that at least 60 people have been killed by security forces during demonstrations in Senegal since March 2021. Amnesty International, *Sénégal. Il faut enquêter sur les homicides et les violences policières à l’encontre des manifestant·e·s*, 13 February 2024, <https://www.amnesty.fr/presse/sngal-il-faut-enqueter-sur-les-homicides-et-les-vio>.
- 6 Human Rights Watch, *Sénégal: Le projet de loi d’amnistie ouvre la voie à l’impunité*, 5 March 2024, <https://www.hrw.org/fr/news/2024/03/05/senegal-le-projet-de-loi-damnistie-ouvre-la-voie-limpunite>.
- 7 Yusuf Akinpelu, *Senegal on the brink after elections postponed*, 6 February 2024, <https://www.bbc.com/news/world-africa-68209178>.

- 8 Radio France Internationale, *Sénégal: l'opposant Ousmane Sonko condamné à 2 ans de prison ferme pour «corruption de la jeunesse»*, 1 June 2023, <https://www.rfi.fr/fr/afrique/20230601-s%C3%A9n%C3%A9gal-l-opposant-ousmane-sonko-condamn%C3%A9-%C3%A0-2-ans-de-prison-ferme-pour-corruption-de-la-jeunesse>.
- 9 Radio France Internationale, *Sénégal: le bras droit de l'opposant Ousmane Sonko arrêté et placé en garde à vue*, 15 April 2023, <https://www.rfi.fr/fr/afrique/20230415-s%C3%A9n%C3%A9gal-bassirou-diomaye-faye-bras-droit-d-ousmane-sonko-arr%C3%AAt%C3%A9-et-plac%C3%A9-en-garde-%C3%A0-vue>.
- 10 Radio France Internationale, *Présidentielle au Sénégal: la justice réintègre Ousmane Sonko sur les listes et ouvre la voie à sa candidature*, 14 December 2023, <https://www.rfi.fr/fr/afrique/20231214-pr%C3%A9sidentielle-au-s%C3%A9n%C3%A9gal-la-justice-r%C3%A9int%C3%A8gre-sonko-sur-les-listes-et-ouvre-la-voie-%C3%A0-sa-candidature>; Jeune Afrique, *Au Sénégal, la radiation de Sonko des listes électorales examinée par la justice*, 12 December 2023, <https://www.jeuneafrique.com/1514035/politique/au-senegal-la-radiation-de-sonko-des-listes-electorales-examinee-par-la-justice-2>.
- 11 Le Monde, *Au Sénégal, le président Macky Sall annonce un projet de loi d'amnistie générale*, 26 February 2024, https://www.lemonde.fr/afrique/article/2024/02/26/au-senegal-le-president-macky-sall-annonce-un-projet-de-loi-d-amnistie-generale_6218693_3212.html.
- 12 Loi n°2024-09 du 13 mars 2024 portant amnistie, 13 March 2024 (Annex 1).
- 13 Le Monde, *Au Sénégal, le président Macky Sall annonce un projet de loi d'amnistie générale*, 26 February 2024, https://www.lemonde.fr/afrique/article/2024/02/26/au-senegal-le-president-macky-sall-annonce-un-projet-de-loi-d-amnistie-generale_6218693_3212.html.
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- 16 Radio France Internationale, *Sénégal: Bassirou Diomaye Faye nomme Ousmane Sonko Premier ministre*, 3 April 2024, <https://www.rfi.fr/fr/afrique/20240402-s%C3%A9n%C3%A9gal-bassirou-diomaye-faye-nomme-ousmane-sonko-premier-ministre>.

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- 18 BBC news, *Sénégal : que retenir des conclusions des assises de la justice ?*, 5 June 2024, <https://www.bbc.com/afrique/articles/cg332z3z4n7o>.
- 19 *Jeune Afrique*, *Au Sénégal, le ministre de la Justice remet en cause la loi d'amnistie de Macky Sall*, 14 December 2024, <https://www.jeuneafrique.com/1641204/politique/au-senegal-le-ministre-de-la-justice-remet-en-cause-la-loi-damnistie-de-macky-sall/>
- 20 X, account @ViePubliqueSN, 27 December 2024, <https://x.com/ViePubliqueSN/>
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- 22 *Ibid.* p. 8; Communication 431/12, *Kwoyelo v. Uganda*, African Commission on Human and Peoples' Rights (2018), para. 288, <https://achpr.au.int/index.php/en/decisions-communications/thomas-kwoyelo-v-uganda-43112>.
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- 24 Amnesty International, *Senegal: Adoption of amnesty law would be an affront to victims of deadly protests and reinforce impunity*, 4 March 2024, <https://www.amnesty.org/en/latest/news/2024/03/senegal-adoption-of-amnesty-law-would-be-an-affront-to-victims-of-deadly-protests-and-reinforce-impunity/>.
- 25 Amnesty International, *Sénégal. Il faut enquêter sur les homicides et les violences policières à l'encontre des manifestant-e-s*, 13 February 2024, <https://www.amnesty.fr/presse/sngal-il-faut-enqueter-sur-les-homicides-et-les-vio>.
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- 27 *Ibid.*
- 28 Human Rights Watch, *Senegal: Amnesty Bill Opens Door to Impunity*, 5 March 2024, <https://www.hrw.org/news/2024/03/05/senegal-amnesty-bill-opens-door-impunity>.
- 29 *Ibid.*
- 30 *Ibid.*
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- 32 Human Rights Watch, *Senegal: Pre-Election Crackdown*, 22 January 2024, <https://www.hrw.org/news/2024/01/22/senegal-pre-election-crackdown>.
- 33 Sud Ouest, *Sénégal : neuf morts, l'armée déployée à Dakar, que se passe-t-il dans ce pays ?*, 2 June 2023, <https://www.sudouest.fr/international/international/afrique/senegal-9-morts-dans-des-affrontements-entre-police-et>

- manifestants-que-se-passe-t-il-dans-ce-pays-15413024.php?csnt=1919973a996; France 24, Sénégal : «Les manifestants ont déversé leur colère sur tout ce qu'ils ont vu», 10 February 2024, <https://www.france24.com/fr/afrique/20240210-au-s%C3%A9n%C3%A9gal-les-manifestants-ont-d%C3%A9vers%C3%A9-leur-col%C3%A8re-sur-tout-ce-qu'ils-ont-vu>; Deutsche Welle, *La police sénégalaise accuse les manifestants de violences*, 5 June 2023, <https://www.dw.com/fr/senegal-manifestations-violence-police/a-65832069>.
- 34 Grand Panel, *Les présumés auteurs de l'incendie de la bibliothèque de l'UCAD et du bus TATA ont été libérés*, 19 mars 2024, <https://www.grandpanel.sn/les-presumes-auteurs-de-lincendie-de-la-bibliotheque-de-lucad-et-du-bus-tata-ont-ete-liberes>; PressAfrik, *Manifestation de juin 2023 : Les étudiants soupçonnés d'avoir incendié la bibliothèque de l'UCAD, les individus du bus Tata de Yarakh sont libres*, 19 mars 2024, https://www.pressafrik.com/Manifestation-de-juin-2023-Les-etudiants-soupconnes-d-avoir-incendie-la-bibliotheque-de-l-UCAD-les-individus-du-bus_a270485.html.
 - 35 Constitution of Senegal 2001 (with amendments through 2016), art. 98, https://adsdatabase.ohchr.org/IssueLibrary/SENEGAL_Constitution.pdf.
 - 36 All member states of the African Union, with the exception of Morocco, have ratified the African Charter on Human and Peoples' Rights and by doing so are subject to the jurisdiction of the African Commission on Human and Peoples' Rights, which can be seized by individuals. Out of the 54 African Union member States, 34 have ratified the Protocol on the establishment of the African Court on Human and People's Rights, including Senegal. However, Senegalese individuals and non-governmental organizations cannot directly petition the African Court as Senegal did not make a special declaration to allow the Court's jurisdiction on cases brought by individuals and NGOs. Only another African Union member state or the African Commission are able to initiate proceedings against Senegal before the African Court.
 - 37 Protocol to the African Charter on Human and People's Rights on the Establishment of an African Court on Human and People's Rights, art. 30, <https://www.african-court.org/wpafc/wp-content/uploads/2020/10/2-PROTOCOL-TO-THE-AFRICAN-CHARTER-ON-HUMAN-AND-PEOPLES-RIGHTS-ON-THE-ESTABLISHMENT-OF-AN-AFRICAN-COURT-ON-HUMAN-AND-PEOPLES-RIGHTS.pdf>
 - 38 African Charter on Human and People's Rights, art. 45, https://au.int/sites/default/files/treaties/36390-treaty-0011_-_african_charter_on_human_and_peoples_rights_e.pdf.
 - 39 Protocol (A/P.I/7/91) on the Community Court of Justice, 6 July 1991, art. 19, http://www.courtecawas.org/wp-content/uploads/2018/11/Protocol_AP1791_ENG.pdf.
 - 40 ECOWAS member states acknowledged as fundamental principles of the organization the "recognition, promotion and protection of human and peoples'

- rights in accordance with the provisions of the African Charter on Human and Peoples' Rights", art. 4(g), Revised Treaty of the ECOWAS, <https://ecowas.int/wp-content/uploads/2022/08/Revised-treaty-1.pdf>. Violations of ACHPR provisions can thus be examined by the ECOWAS Court of Justice to determine if a member State did not respect this principle.
- 41 *Ajavon v. Republic of Benin*, African Court on Human and Peoples' Rights, Application No. 062/2019, Judgment of 4 December 2020, para. 234 <https://www.african-court.org/cpmt/storage/app/uploads/public/602/10a/50c/60210a50cb6e2538353022.pdf> (citing African Commission on Human and Peoples' Rights, Communications 54/91: *Malawi African Association v. Mauritania*; 61/91: *Amnesty International v. Mauritania*; 98/93: Ms. Sarr Diop, Union Interafricaine des Droits de l'Homme and *RADDHO v. Mauritania*; 164/97 à 196/97: *Collectif des Veuves et Ayants-droit v. Mauritania*; 210/98: *Association Mauritanienne des Droits de l'Homme v. Mauritania*, 11 May 2000, para. 83).
- 42 *Les Ayants Droit Ibrahim Mainassara Baré v. République du Niger*, ECOWAS Court of Justice, 2015 ECW/CCJ/JUD/23/15, 23 October 2015, para. 68, http://www.courtecowas.org/wp-content/uploads/2019/01/ECW_CCJ_JUD_23_15.pdf (citing Article 27 of the 1969 Vienna Convention on the law of treaties: "A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty...").
- 43 Office of the United Nations High Commissioner for Human Rights, *Rule of Law Tools for Conflict States: Amnesties*, 2009, p. 11, <https://www.ohchr.org/en/publications/policy-and-methodological-publications/rule-law-tools-post-conflict-states-amnesties>. (Emphasis added). United Nations Secretary General Kofi Annan affirmed that amnesties "can never be permitted to . . . excuse gross violations of human rights." United Nations Security Council, Report of the Secretary General, The rule of law and transitional justice in conflict and post-conflict societies, UN Doc. S/2004/616, 23 August 2004, para. 32, <https://digitallibrary.un.org/record/527647?ln=en&v=pdf>.
- 44 ICCPR, art. 6; ACHPR art. 4.
- 45 ICCPR, art. 9; ACHPR, art. 6.
- 46 ICCPR, art. 7; ACHPR, art. 5.
- 47 ICCPR, art. 2; ACHPR, arts. 1, 7.
- 48 CAT, arts. 1, 2, 12, 13, 14, 16.
- 49 ACHPR, art. 7 ("Every individual shall have the right to have his cause heard.").
- 50 *The Matter of Sébastien Germain Marie Aïkoué Ajavon v. Republic of Benin*, African Court on Human and Peoples' Rights, Application No. 062/2019, Judgment of 4 December 2020, (*Ajavon v. Republic of Benin*), paras. 227-239, www.african-court.org/cpmt/storage/app/uploads/public/602/10a/50c/60210a50cb6e2538353022.pdf.
- 51 Amnesty International, *Benin: New Laws, New Human Rights Restrictions*, Submission to the 42nd Session of the UPR Working Group, 26 January 2023, para. 9, <https://www.amnesty.org/en/wp-content/uploads/2022/07/AFR1457362022ENGLISH.pdf>.

- 52 *Ajavon v. Republic of Benin*, African Court on Human and Peoples' Rights, Application No. 062/2019, Judgment of 4 December 2020, paras. 228-229.
- 53 *Ibid.*, paras. 234-239.
- 54 *Ibid.*, paras. 238-239.
- 55 Article 1 of the ACHPR states that, "The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them." ACHPR art. 1.
- 56 *Zimbabwe Human Rights NGO Forum v. Zimbabwe*, African Commission on Human and Peoples' Rights, Communication 245/02, 15 May 2006, paras. 211, 215, <https://achpr.au.int/en/decisions-communications/zimbabwe-human-rights-ngo-forum-v-zimbabwe-24502>.
- 57 *Ibid.*, para. 215.
- 58 *Mouvement ivoirien des droits humains (MIDH) v. Côte d'Ivoire*, African Commission on Human and Peoples' Rights, Communication 246/02, 29 July 2008, para. 90, <https://achpr.au.int/en/decisions-communications/mouvement-ivoirien-des-droits-humains-midh-cote-divoire-24602>.
- 59 *Ibid.*, para. 97, 98.
- 60 *Les Ayants Droit Ibrahim Mainassara Baré v. République du Niger*, ECOWAS Court of Justice, 2015 ECW/CCJ/JUD/23/15, 23 October 2015, para. 69, http://www.courtecowas.org/wp-content/uploads/2019/01/ECW_CCJ_JUD_23_15.pdf.
- 61 *Ajavon v. Republic of Benin*, African Court on Human and Peoples' Rights, Application No. 062/2019, Judgment of 4 December 2020, para. 235 (quoting UN Human Rights Committee, *Rodríguez v. Uruguay*, Communication No. 322/1988, 9 August 1994, para. 12.4); *Zimbabwe Human Rights NGO Forum v. Zimbabwe*, African Commission on Human and Peoples' Rights, 15 May 2006, para. 200, <https://achpr.au.int/en/decisions-communications/zimbabwe-human-rights-ngo-forum-v-zimbabwe-24502> (quoting Human Rights Committee, General Comment No. 20 (44) on Article 7, para. 15).
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- 64 U.N. Committee Against Torture, General Comment No. 3, 13 December 2012, paras. 2, 27, <https://documents.un.org/doc/undoc/gen/g12/487/18/pdf/g1248718.pdf>.
- 65 *Ibid.*, para. 41. (Emphasis added).
- 66 Senegalese Criminal Procedure Code, arts. 2, 3, 4, 5, <https://justice.sec.gouv.sn/wp-content/uploads/2020/11/code-procedure-penal.pdf>.
- 67 Radio France Internationale, *Sénégal: les députés réunis pour débattre du*

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