



**Contribution of ARTICLE 19 Senegal and West Africa Office to the fourth cycle of
the Universal Periodic Review (UPR) of Senegal**

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**Contact : senegal@article19.org
westafrica@article19.org**

I. Introduction

1. ARTICLE 19 is an international non-governmental organisation focusing on the protection and promotion of the rights to freedom of expression and information.¹ We previously contributed to the review of Senegal in 2018.²
2. This report primarily focuses on the right to freedom of expression and opinion, as well as press freedom and the right to freedom of association and of peaceful assembly. In this context, the report addresses the following:
 - Firstly, it highlights the gaps and weaknesses in the legal framework surrounding the right to freedom of expression, particularly the limitations of constitutional guarantees, as well as the restrictions contained in the Press Code, Penal Code, and Criminal Procedure Code.
 - Secondly, it examines notable advancements in terms of respecting the right to freedom of opinion and expression, press freedom, and protest, emphasising the progress made in these areas.
 - Finally, the report addresses infringements and violations of the right to freedom of expression and opinion, as well as press freedom and freedom of peaceful assembly, highlighting cases where these rights have been violated.
3. It should be noted that during its last review in 2018, Senegal accepted seven recommendations (rec 144.81³, 144.82⁴, 144.83⁵, 144.84⁶, 144.85⁷, 144.86⁸, and 144.87⁹) covering the different themes mentioned above.
4. The data collection for this report involved thorough research, analysing government reports, victim testimonies, and other reliable sources (including reports from regional and sub-regional institutions, NGOs, and media records). It also included active and ongoing monitoring of media

¹ ARTICLE 19 is an international human rights organisation focused on protecting and promoting the rights to freedom of expression and information. Around the world, ARTICLE 19 works with civil society, governments and the international community to reform laws, promote independent media, encourage public debate and establish mechanisms to protect journalists and activists, foster a favorable civic space, transparency and freedom of expression online, among other activities. ARTICLE 19 Senegal and West Africa has established strong relationships with media organisations to implement various projects aimed at promoting content diversity, press freedom, a favorable legal environment through advocacy, legal analysis and policy recommendations, analysis of minority narratives and dialogues with women journalists to build their skills and resilience to better engage in a field where social masculinity dominates, the protection of journalists and the fight against impunity, among other sectoral interventions (transparency, civic space, protection.) The organisation is extensively consulted in the processes of developing laws and policies regarding freedom of expression and access to information. Additionally, it serves as the civil society focal point in the National Committee of the Open Government Partnership (OGP).

² <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G13/157/91/PDF/G1315791.pdf?OpenElement>

³ Rec 144.81 _ Bring national legislation into line with international norms on freedom of expression, including decriminalization of press offences (France)

⁴ Rec 144.82 _ Amend the legal provisions that limit freedom of expression indefinitely, in accordance with international and regional human rights norms and commitments accepted by Senegal during the previous review cycle (Chile)

⁵ Rec 144.83 _ Redouble efforts to guarantee the freedom of expression and opinion (Peru)

⁶ Rec 144.84 _ Respect freedom of opinion and expression in accordance with international law and national law (Sweden)

⁷ Rec 144.85 _ Ensure that journalists and media workers can freely exercise their rights to freedom of expression without fear of reprisals, detention, intimidation, threats or harassment (Sweden)

⁸ Rec 144.86 _ Ensure that journalists are free to exercise their right to freedom of expression, conduct impartial, thorough and effective investigations into all cases of assault, harassment and intimidation of journalists and bring to justice the perpetrators of these offences (Greece)

⁹ Rec 144.87 _ Abandon the practice of requiring a compulsory licence to practice journalism (Greece)

and social networks to detect cases of repression, as well as collaboration with local partners, such as human rights defense organisations, civic activists and journalists who gather information on the ground. The collected information is carefully verified to ensure the accuracy and credibility of the data.

5. Since its evaluation in 2018, Senegal has shown significant progress in respecting the right freedom of opinion and expression, as well as press freedom and the right to freedom of association and of peaceful assembly. Positive measures have been taken to strengthen the legal and institutional framework guaranteeing these fundamental rights. However, despite these advancements, it is important to note that violations and infringements persist. These incidents highlight the need for continued action to ensure the full enjoyment of these rights by all Senegalese citizens. The annual report ¹⁰from ARTICLE 19 on the state freedom of expression in the world showed how Senegal experienced a significant regression in its ranking for freedom of expression compared to previous years.

II. Freedom of Association and Peaceful Assembly

6. During the 2018 UPR, Senegal accepted recommendations 144.84¹¹ and 144.83¹², urging it to redouble efforts in ensuring freedom of expression and opinion in line with international standards. Although no specific recommendations were made to Senegal regarding freedom of peaceful assembly, the restrictions imposed on this right over the past two years raise serious concerns.
7. Article 18 of the Senegalese Constitution recognises the right to freedom of opinion, expression, and peaceful assembly. Despite this constitutional recognition, it remains the case that the grounds of "public order maintenance" have often been invoked to systematically deny requests for demonstrations from opposition parties, civil society, and citizen movements.¹³ We note that authorisation regimes are out of line with international human rights standards, and that having to apply for authorisation for protests from the authorities undercuts the idea that peaceful assembly is a basic right.¹⁴
8. During the COVID-19 pandemic, the Senegalese government issued a series of administrative decisions and decrees between March 2020 and May 2021, prohibiting all demonstrations in the country and imposing restrictions on freedom of movement to limit the spread of the coronavirus.¹⁵

¹⁰ ARTICLE 19 annual report 2022 _ https://www.article19.org/wp-content/uploads/2023/06/A19-AR22_pages-v6-14June-web.pdf

¹¹ Rec 144.84_ Respect freedom of opinion and expression in accordance with international law and national law

¹² Rec 144.83_ Redouble efforts to guarantee the freedom of expression and opinion

¹³ Out of 4828 declarations received, 108 were prohibited, i.e., 2.24% in 2018; out of 5535 declarations, 75 were prohibited, i.e., 1.36% in 2019; out of 2,516 declarations, only 79 are prohibited, i.e. 4.33% in 2020, the increase in which was linked to restrictive measures, taken by the authority as part of the proclamation of the state of emergency on March 30, 2020 as part of the fight against the COVID-19 pandemic, such as the ban on meetings and gatherings in certain public places until January 05, 2021. A clear downward trend was observed in 2021, with 45 bans, or 1.95% of the 6256 declarations received. <https://justice.sec.gouv.sn/communiqu-e-le-ministere-de-la-justice-repond-a-amnesty-international/>

¹⁴ See : Human Rights Committee, 'General comment No. 37 (2020) on the right of peaceful assembly (article 21)', CCPR/C/GC/37, 17 September 2020. <https://www.ohchr.org/en/documents/general-comments-and-recommendations/general-comment-no-37-article-21-right-peaceful>

¹⁵ Administrative decisions and decrees <https://www.economie.gouv.sn/sites/default/files/2021-01/Detail-des-textes-reglementaires-Covid-19-v170520.pdf>

9. On March 13, the Minister of the Interior banned all demonstrations and gatherings,¹⁶ both public and private, on Senegalese territory for a period of 30 days between March 14 and April 14, 2020. This ban was extended a lot of times invoking the COVID-19 context.
10. In March 2021, several demonstrations erupted throughout the country in relation to the rape allegation case against opposition leader Ousmane Sonko, resulting in the death of 14 protesters.¹⁷ In 2022, at least 2 persons were killed during protests. More recently, in June 2023, violent protests broke out across the country following the conviction of opposition leader Ousmane Sonko, leading to the death of at least 16 people.¹⁸ In most of cases, these deaths resulted in use of excessive force by security forces, including fire guns shots. Currently, a significant number of citizens, activists and political leaders from the main opposition party are being detained or imprisoned¹⁹ on accusations of participating in unauthorised protests, undermining state security or calling for insurrection. The excessive use of force, systematic protest bans, and imprisonment of protesters have severely reduced civic space and intensified political tension.
11. Still on the sidelines of this wave of protests, internet restrictions²⁰ have severely affected access to and use of popular digital platforms such as WhatsApp, Twitter and Facebook, the authorities claiming the reason was to prevent the dissemination of hate speech or calls for insurrection, which are likely to exacerbate the already tense situation.
12. In March 2022, the Economic Community of West African States (ECOWAS) Court of Justice called for the repeal of Ministerial Order No. 7580 of July 20, 2011, which prohibits "political demonstrations" in downtown Dakar, thus justifying a blatant violation of the right to protest.²¹ The ministerial order was enacted in response to protests against constitutional revisions that would have allowed President Abdoulaye Wade to run for a third consecutive term. This decree prohibits all demonstrations of a "political nature" in downtown Dakar, where most government institutions are located. Since, this order has been used as a basis to ban demonstrations from citizens movement, civil society organisations and political parties. Unfortunately, there has been no action to comply with the ECOWAS court decision to repeal this decree.

13. Recommendations

- Ensure prior notification regimes for protests fully align with international human rights standards;
- Ensure full accountability for violations in the context of protests, including by conducting thorough, independent, and transparent investigations and providing victims with access to an effective remedy and redress;

¹⁶ Summary of the main texts issued since the beginning of the Covid-19 health crisis / <https://www.economie.gouv.sn/sites/default/files/2021-01/Detail-des-textes-reglementaires-Covid-19-v170520.pdf>

¹⁷ Put first our statement, Amnesty Statement _ <https://www.amnesty.org/fr/latest/news/2022/03/senegal-un-an-apres-mars-2021-les-famillesreclamentjustice/#:~:text=14%20personnes%20ont%20%C3%A9t%C3%A9%20tu%C3%A9s,selon%20la%20Croix%2DRouge%20S%C3%A9n%C3%A9galaise>.

¹⁸ 'Senegal: Concerns over deadly repression, violence and internet shutdowns' <https://www.article19.org/resources/senegal-repression-violence-internet-shutdowns/>

¹⁹ https://www.lemonde.fr/afrique/article/2023/06/21/senegal-les-manifestants-arretes-soumis-a-la-pleine-rigueur-de-la-loi_6178639_3212.html

²⁰ <https://www.article19.org/fr/resources/declaration-restrictions-internet-reseaux-sociaux/>

²¹ Ecowas court decision on Senegal _ http://www.courtecowas.org/wp-content/uploads/2022/06/ARR%C3%8BT-ECW-CCJ-JUD-22-22-La-ligue-Senegalaise-Des-Droits-Humains-Amnesty-c.-Etat-du-S%C3%A9n%C3%A9gal-31_03_22.pdf

- Avoid using excessive use of force against protestors and comply with international standards on the use of force and firearms during public protests;
- Develop and implement regular and mandatory training programs for law enforcement personnel on international human rights laws and standards and principles on the use of force; Comply with the ECOWAS court decision and repeal decree n°007580/MINT/SP of July 20, 2011, banning demonstrations in downtown Dakar;
- Cease and refrain internet shutdowns and other restrictions to the internet, including restricting access to social media platforms, including in the context of protests.

III. Freedom of Opinion and Expression

14. During the 2018 UPR, Senegal accepted recommendations 144.82²², 144.83²³, 144.85²⁴, 144.86²⁵, 144.87²⁶, and 144.81²⁷, urging it to guarantee and respect the right to freedom of expression and the press by bringing its national legislation in line with international standards on freedom of expression, including the decriminalisation of press offenses.
15. In terms of advancements, following the adoption of the Press Code in 2017, two implementing decrees of the Press Code were discussed and approved in a cabinet meeting in June 2022.²⁸ Press assistance was also increased to XOF 1,400,000,000 (around 2,329,090 USD) even if its allocation still divides the actors in the sector. Additionally, during COVID-19, the government allocated XOF 2 billion (around 3,327,229 USD) due to the impacts of the crisis.

A) Shortcomings of the Press Code and Penal Code

16. ARTICLE 19 has noted serious inconsistencies between the Press Code and international standards, which it had already pointed out during its adoption in 2017,²⁹ and reiterated in our contribution to the UPR in 2018.
17. Journalists and other media professionals continue to be subjected to jail sentences for press offenses such as defamation and insult despite Senegal's commitment to decriminalise them in the previous UPR (Rec 144.81³⁰). The senegalese Penal Code classified offences liable to be considered as defamation, insult or apology for a crime or offence under "offences committed by any means of public diffusion". Defamation is explicitly defined in article 258, paragraph 1,

²² Rec 144.82_ Amend the legal provisions that limit freedom of expression indefinitely, in accordance with international and regional human rights norms and commitments accepted by Senegal during the previous review cycle

²³ Rec 144.83_ Redouble efforts to guarantee the freedom of expression and opinion

²⁴ Rec 144.85_ Ensure that journalists and media workers can freely exercise their rights to freedom of expression without fear of reprisals, detention, intimidation, threats or harassment

²⁵ Rec 144.86_ Ensure that journalists are free to exercise their right to freedom of expression, conduct impartial, thorough and effective investigations into all cases of assault, harassment and intimidation of journalists and bring to justice the perpetrators of these offences

²⁶ Rec 144.87_ Abandon the practice of requiring a compulsory licence to practice journalism

²⁷ Rec 144.81 _ Bring national legislation into line with international norms on freedom of expression, including decriminalization of press offences

²⁸ Press Code: two bills adopted by the Council of Ministers_ <https://www.culture.gouv.sn/index.php/2021/01/07/code-de-la-presse-deux-projets-de-loi-adoptes-en-conseil-des-ministres/>

²⁹ ARTICLE 19: The new Press Code fails to meet the requirements of international law_ <https://www.article19.org/fr/resources/senegal-article-19-deploire-ladoption-dun-code-de-la-presse-regressif-et-demande-au-president-de-la-republique-de-ne-pas-promulguer-le-code/>

³⁰ Rec 144.81 _ Bring national legislation into line with international norms on freedom of expression, including decriminalisation of press offences

and in article 261, paragraph 1, in the case of private individuals. The same applies to insult in art. 258 para. 2, and to insult committed against specific persons in arts. 259 and 260.

18. Article 255 of the Penal Code on “false news” has also been widely used to prosecute and imprison journalists, including activists and human rights defenders.
19. Article 4 of the Press Code provides a restrictive definitions of journalists. They must have a diploma in journalism or a bachelor's degree followed by two years' experience, which must then be validated by a commission established by the Ministry of Communication. This definition excludes the journalistic activities of bloggers or individuals engaged in the dissemination of information to the public by mass media.
20. Articles 22 to 36 also require journalists to register for a national press card. We note that general state registration or licensing systems for journalists are inconsistent with Article 19 of the ICCPR. In this regard, recognised journalists with more than ten years of experience have been arrested, such as Serigne Saliou Gueye,³¹ on the basis of denying their journalist status if they do not possess the national press card.
21. Article 80 of the Penal Code also contains vague terms regarding acts that could be considered to be acts of terrorism, which unduly restricts the right to freedom of expression and has been used against journalists and human rights defenders.
22. Moreover, recent amendments to the Penal Code and the Code of Criminal Procedure in 2021, contain vague provisions dealing with terrorism, punishable by sentences of up to life imprisonment.³² Article 279-1 contains a vague and broad definition of what constitutes terrorist acts. This failure to properly narrow down the scope of what constitutes terrorist acts leaves the door open to the risk that legitimate exercise of the right to freedom of expression and the right to protest could be criminalised.

23. Recommendations:

- Amend Article 4 of the Press Code to adopt a functional definition of a journalist in line with international human rights standards;
- Repeal or amend Articles 22 to 36 of the Press Code;
- Repeal or amend Article 258 of the Penal Code and effectively decriminalise defamation and insult;
- Repeal or amend Article 255 of the Penal Code criminalising the publication of false news;
- Repeal or amend Article 80 and Article 279-1 of the Penal Code; and,
- Adopt a right to information law in line with international human rights standards, including the principle of maximum disclosure in the public interest.

B) Judicial Prosecutions Against Journalists and Activists:

³¹ Journalist Serigne Saliou Gueye jailed for lack of press card_ https://www.pressafrik.com/Le-journaliste-senegalais-Serigne-Saliou-Gueye-place-sous-mandat-de-depot_a257819.html

³² Senegal: Freedom of expression threatened by revisions to penal code _ <https://www.article19.org/fr/resources/senegal-penal-code-amendments-threaten-free-speech/>

24. During its last review in 2018, Senegal accepted recommendation 144.85³³, which called for ensuring that journalists and media professionals can freely exercise their right to freedom of expression without fear of reprisals, detention, intimidation, threats, or harassment. Despite the efforts made to guarantee a free, independent, and pluralistic press, journalists and media professionals face significant challenges, including judicial prosecutions and imprisonments based on repressive provisions contained in the Press Code, Penal Code, and Code of Criminal Procedure.
25. For example, journalist Pape Alé Niang was arrested on November 6, 2022, and detained for "spreading false information likely to discredit public institutions." He was eventually released on January 10 but is still under judicial control and other repressive measures.³⁴ Other journalists like Pape Ndiaye were prosecuted for disseminating "false news" and "contempt of court", for just having asserted in the case of rape involving the opposition candidate Ousmane Sonko that all the deputies of the Dakar public prosecutor's office were in favor of dismissing the case, but that the public prosecutor had sent the actors to trial on instructions from the President Macky Sall.³⁵ He is currently facing judicial control. Several other activists and opposition leaders,³⁶ like Othmane Diagne, Abdou Karim Gueye, Mor Talla Gueye, El Hadj Malick have been prosecuted under false news charge and placed to prison. Some of them are currently under electronic bracelet.
26. Journalists and reporters in the course of their duties fall victim to physical attacks, intimidation, and harassment from security forces. On 28 September 2020, the reporter Adja Ndiaye went to a police station for a report.³⁷ As she was about to leave the premises, a police officer stopped her roughly and ordered her to leave. When Adja Ndiaye complained about the treatment, she was physically assaulted, thrown on the ground and subdued by police officers. They also damaged her equipment. Adja Ndiaye had to be admitted to a clinic because of pain in her neck, ribs and elbows.
27. Other case of attacks have been reported. On 29 May 2023, Baidy Ndao,³⁸ a cameraman from Senego media was injured by tear gas at cité keur gorgui. Another female journalist Fatou Dione, working for the online media "Buur News" was violently pushed by police on November 5 in Dakar capital while covering a demonstration.

28. Recommendations:

- Ensure accountability for attacks against journalists and media workers through the conduct of impartial, prompt, thorough, independent and effective investigations into all alleged cases of violence, threats and attacks, including bringing perpetrators to justice and ensuring that victims and their families have access to appropriate restitution, compensation and assistance; and,

³³ Rec 144.85_ Ensure that journalists and media workers can freely exercise their rights to freedom of expression without fear of reprisals, detention, intimidation, threats or harassment

³⁴ Senegal: Pape Alé Niang's arrest violates fundamental rights and freedoms <https://article19ao.org/senegal-larrestation-de-pape-ale-niang-est-une-violation-des-droits-et-libertes-fondamentaux/>

³⁵ ARTICLE 19 is deeply concerned by the arrest of Walf TV journalist Pape Ndiaye on March 3. <https://twitter.com/article19wafri/status/1632993074023477253?s=20>

³⁶ Senegal: Repressive legislation threatens freedom of expression <https://www.article19.org/resources/senegal-repressive-legislation-threatens-freedom-of-expression/>

³⁷ Police officers should be prosecuted for assaulting a media Camerawoman <https://www.article19.org/resources/senegal-police-should-face-prosecution/>

³⁸ <https://twitter.com/article19wafri/status/1663252213467054097?s=20>

- Cease the arbitrary arrests and detention of journalists and media workers.
- Enforce in law the security and protection of journalists as stated in the principles of FoE and ATI in Africa of the ACHPR and the directives on security and protection of Journalists and fight of crimes against journalists

C) Pressure and Repression Against Media

29. The authorities have exerted strong pressure on the media by blocking their signals. In 2021, the signals of Walfadrji TV and SENTV were blocked for irresponsible coverage of demonstrations. On February 10, 2023, the National Council for Audiovisual Regulation (CNRA) again blocked the signal of Walfadrji for seven (07) days, citing "irresponsible" coverage of the protest in Mbacké. Furthermore, in June 2023, WALFTV also experienced signal blocking and a 30-day suspension by the Minister of Communication out of no legal basis granting him such authority.
30. The National Audiovisual Regulatory Council (CNRA) lacks the independence, diversity and pluralistic membership required of an effective and independent regulator. Article 3 of law N°2006-04 of 04 January 2006 ³⁹creating the CNRA provides for all the members to be appointed directly by the President, without public consultation. The CNRA, rather than being accountable to the public, reports directly to the President, and only after then is the report made public, as set out in Article 13 of the Law.
31. As the 2024 presidential election draw near, it becomes crucial to ensure that Senegal's media regulatory framework aligns with international standards of freedom of expression.

32. Recommendations:

- Take concrete measures to guarantee media freedom and independence by refraining from blocking signals or suspending media outlets without clear and justifiable grounds, in line with international human rights standards; and,
- Foster open dialogue and collaboration between the government, media regulatory bodies, and media stakeholders to address concerns and find mutually agreeable solutions, ensuring respect for freedom of expression and responsible journalism.
- Adopt a law establishing an independent audiovisual authority, to replace the CNRA as previously recommended by ARTICLE 19

³⁹Loi n° 2006-04 du 4 janvier 2006, portant creation du conseil national de regulation de l'audiovisuel (CNRA)
<http://www.cnra.sn/do/wp-content/uploads/2013/10/LOI-2006-04-PORTANT-CREATION-DU-CNRA.pdf>