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Declaration of Organisations, Movements, and Civil Society and Media Figures: For an Urgent Reform of Article 255 of the Penal Code to Ensure Freedom of Expression in Accordance with International Standards.

We, movements and organisations of civil society, express our deep concern regarding the recurrent and troubling use of Article 255 of the Penal Code in Senegal. One year after the rise to power of President Bassirou Diomaye Faye, we are alarmed to observe that several journalists, activists, commentators, and engaged citizens have been arrested or prosecuted under this legal provision. This situation stands in stark contrast to the democratic aspirations expressed by citizens during the recent elections, as well as the commitments to reform and institutional renewal made by the new authorities.

The latest victim is Abdou Nguer, a commentator and political analyst. On 20 May, he was placed in custody by the investigating judge of the 3rd chamber of the Dakar court. He is charged with spreading false news, insulting the Head of State, and glorifying a crime or offence. This marks the second pre-trial detention within a month, with the charges related to videos shared on social media, particularly TikTok, in which he allegedly analysed

public interest cases such as the PRODAC affair and the report from the Court of Auditors.

On 17 April, this commentator from SenTV was placed in custody for the first time after appearing before the investigating judge of the 3rd chamber of the Dakar court. He was prosecuted for "spreading false news." His summons stemmed from a self-referral by the public prosecutor, following the dissemination of comments deemed sensitive regarding the late magistrate Mamadou Badio Camara, former president of the Constitutional Council.

His prolonged detention highlights the limits of freedom of expression in a rule of law state. Abdou Nguer is accused of having expressed critical opinions on matters of public interest, a right protected by the Senegalese Constitution and by international legal instruments ratified by Senegal.

After a self-referral by the prosecutor for allegedly insulting former President Macky Sall, Pastef (majority) members Assane Gueye, known as Azoura Fall, and Ousseynou Kairé were tried in flagrant délit on 21 May and face six months in prison, three of which may be served. It is worth noting that Azoura Fall had previously been granted provisional release due to health issues before being summoned again.

As for activist Assane Diouf, he was placed in custody for spreading false news and insulting an authority akin to the President of the Republic after appearing before the senior investigating judge on 3 March. On 10 April, journalist Simon Faye, editor-in-chief of SenTV and Zik FM, was summoned and detained for spreading false news before being released under judicial control.

Among political figures, the cases of Moustapha Diakhaté and Adama Fall are noteworthy. The former is a critical voice against the current government. He was arrested on 22 November 2024 for "insults via a computer system towards a group characterised by its national origin" before being released on 24 January. The latter, Adama Fall, a political actor and opponent to the government, was placed in police custody for defamation and spreading false news on 21 February, before being released on 26 February.

These recent cases, among many others, reflect a worrying trend of the abusive use of Article 255 of the Penal Code, which seriously threatens freedom of expression and press freedom, especially in the digital space. It

states: “The publication, dissemination, disclosure, or reproduction, by any means whatsoever, of false news, fabricated or falsified documents, or documents falsely attributed to third parties, shall be punished by imprisonment for one to three years and a fine of 100,000 to 1,500,000 francs (...)”.

This article, drafted in ambiguous terms within a [post-colonial legislative framework](#), opens the door to subjective interpretations. Furthermore, the systematic recourse to the harshest penalties, without consideration of the specific circumstances of the offence, raises serious concerns regarding adherence to the principle of proportionality of penalties in a rule of law state.

The United Nations (UN) has warned against excessive state responses. They call on states to refrain from disproportionate measures such as internet shutdowns or the adoption of vague and overly broad laws used to criminalise, block, censor, or restrict online speech, to the detriment of civic space.

To avoid inadequate and harmful legal responses to human rights, the Senegalese state must implement a series of measures, including: strengthening the role of free, independent, and diverse media; investing in media and digital education; empowering individuals; and restoring public trust.

All individuals in pre-trial detention based on this controversial article in recent months should be entitled to prompt trials and immediate release. For those already convicted, it is imperative to consider a review of their situation, especially through sentence adjustments or measures of clemency, to ensure respect for the principles of proportionality and protection of human rights.

To realise some of the conclusions from the National Justice Assizes of Senegal held in June 2024, we, movements and organisations of civil society, call on the Senegalese state to:

- **Reform Article 255 of the Penal Code**, which criminalises the publication of false news, and Article 80 to align them with international standards;
- **Review all punitive measures**, including criminal restrictions on **defamation**, **insult**, or the publication of **false information**, ensuring they are necessary,

proportionate, justifiable, and compatible with international human rights standards;

- **Prefer alternative penalties to imprisonment**, respecting the principle of **proportionality**, such as **suspended sentences**, **community service**, fines **proportionate** to the **financial capacity** of the convicted individual, and a programme on responsible information use;
- **Respect international commitments** regarding human rights, particularly those stemming from the African Charter on Human and Peoples' Rights and the International Covenant on Civil and Political Rights, to which Senegal is a party;
- **Establish a judge for detentions** and liberty to rule on detentions.

In a period where Senegal is perceived as a model of stable democracy in Africa, these widespread summons and arrests could tarnish the image of a country respectful of human rights. Democracy is not limited to elections; it is a culture. It also relies on a free and pluralistic civic space where citizens can express themselves without fear of systematic reprisals.

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