



International
Press
Institute

PRESS FREEDOM IN SENEGAL

NATIONAL, REGIONAL
AND GLOBAL
FRAMEWORKS

RESOURCE TOOLKIT





ABOUT THIS TOOLKIT

This toolkit is a compilation of domestic legislation, as well as international, regional, and sub-regional commitments, treaties, protocols, and case law that comprise the frameworks for the protection of media freedom, the right to access information, and the safety of journalists in Senegal. It also briefly describes selected laws that limit freedom of expression and press freedom.

It can be used as a resource for domestic and international advocacy groups and other stakeholders working to support and improve the environment for press freedom and journalists' safety in Senegal and across Africa.

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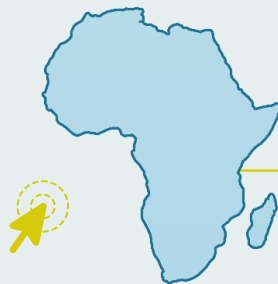
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ABOUT IPI

IPI is a global network of editors, media executives, and leading journalists. Our mission is to defend media freedom and support independent journalism wherever they are threatened.



IPI Africa Programme

DEFENDING PRESS FREEDOM AND
THE SAFETY OF JOURNALISTS

The IPI Africa Program supports and advances press freedom and independent journalism in Africa. Through this program, we monitor and collect data on press freedom threats and violations across the continent, including threats to journalists' safety as well as gendered attacks against journalists both online and offline. We use this data to carry out evidence-based advocacy to hold states and other duty-bearers accountable for their responsibilities to protect press freedom and ensure that journalists can carry out their work freely, independently, and safely.



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01 • INTERNATIONAL STANDARDS AND TREATIES

Press freedom, access to information, and the safety of journalists are fundamental human rights, guaranteed in various international treaties.

Universal Declaration of Human Rights - UDHR (1948)



While the Declaration itself is not legally binding on states, the principles, standards, and freedoms set out in this Declaration have been incorporated into binding international and regional conventions, and national constitutions and other domestic legal frameworks.

Key provisions related to press freedom and the safety of journalists

👉 Article 19:

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions and to seek, receive and impart information and ideas through any media and regardless of frontiers."



International Covenant on Civil and Political Rights - ICCPR (1966)



A multilateral, legally binding treaty that commits state parties to respect the civil and political rights of individuals, including the right to life, freedom of religion, freedom of speech, freedom of assembly, electoral rights and rights to due process and a fair trial.

The right to freedom of expression and the media is enshrined in Article 19 of the [International Covenant on Civil and Political Rights \(ICCPR\)](#).

Article 19:



Everyone shall have the right to hold opinions without interference.



Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

United Nations



International Covenant on Civil and Political Rights

According to Article 19(3), freedom of expression may be subject to certain restrictions, including for the respect of the rights or reputations of others, and for the protection of national security, public order, public health, or morals. But these restrictions must be clearly prescribed by law, necessary to achieve a defined goal, and proportionate.

Senegal ratified the ICCPR in 1978 and hence is bound by its provisions.

Compliance with the provisions of the ICCPR is monitored by the [UN Human Rights Committee](#) and Senegal has an obligation to report progress made and measures put in place to promote the exercise of civil and political rights.



General Comment 34: This document elaborates on Article 19 of the ICCPR and provides guidance on various topics including freedom of expression and the media, the right of access to information, and acceptable limitations on freedom of expression.



See IPI's "The Foundations of Press Freedom in Africa" resource toolkit.

Universal Periodic Review



The Universal Periodic Review is a process that assesses, every four years, countries' human rights records and addresses human rights violations. The UPR regularly enables each State to undertake the following:

- report on the measures it has taken to improve the human rights situation at the national level and to overcome obstacles to the enjoyment of human rights; and
- receive recommendations from other UN Member States, based on contributions from various stakeholders and reports, with a view to continuous improvement.

Senegal's last review was in November 2018. Some of the adopted recommendations included ensuring 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 offenses.

The next review cycle will be in 2024. Building up to the review, stakeholders including civil society organisations can submit shadow reports and also contribute to the consultative processes for the development of the national report. Post the review, civil society including media organizations can urge the government to adopt recommendations on press freedom and freedom of expression.



International Convention on the Protection of All Persons from Enforced Disappearances - ICPPED (2006)



Article 1:

1. No one shall be subjected to enforced disappearance.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability, or any other public emergency, may be invoked as a justification for enforced disappearance.

Article 2:

For the purposes of this Convention, "enforced disappearance" is considered to be the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support, or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which places such a person outside the protection of the law.

Article 3:

Each State Party shall take appropriate measures to investigate acts defined in Article 2 committed by persons or groups of persons acting without the authorization, support, or acquiescence of the State and to bring those responsible to justice.

Senegal ratified the ICPPED in 2008 and is therefore legally bound by it.

Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment - CAT (1984)



Article 1:

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in, or incidental to lawful sanctions.

.....

Article 2:

1. Each State Party shall take effective legislative, administrative, judicial, or other measures to prevent acts of torture in any territory under its jurisdiction.
2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability, or any other public emergency, may be invoked as a justification for torture.
3. An order from a superior officer or a public authority may not be invoked as a justification for torture.

Senegal ratified the CAT in 1986 and is therefore legally bound by it.

Convention on the Protection and Promotion of the Diversity of Cultural Expressions



This Convention reaffirms that freedom of thought, expression, and information as well as diversity of the media enable cultural expressions to flourish within societies. It also recognizes that the diversity of cultural expressions including traditional cultural expressions is an important factor that allows individuals to express and to share with others ideas and values.

.....

Article 6:

Rights of parties at the national level

The Convention highlights that state parties may take measures aimed at protecting and promoting diversity of cultural expressions and these include measures aimed at enhancing the diversity of the media including the public service broadcasting.

Article 11:

Participation of civil society

Parties acknowledge the fundamental role of civil society in protecting and promoting the diversity of cultural expressions. Parties shall encourage the active participation of civil society in their efforts to achieve the objectives of this Convention.

Senegal ratified the Convention in 2006.



02 • REGIONAL FRAMEWORKS FOR PRESS FREEDOM IN AFRICA

The following regional conventions and charters describe obligations to African states to safeguard media freedom and the safety of journalists.

African Charter on Human and Peoples' Rights (1981)



Freedom of expression and access to information are fundamental human rights protected by Article 9 of the African Charter.

Article 9:

Every individual shall have the right to receive information

Every individual shall have the right to express and disseminate his opinions within the law

Senegal ratified the African Charter in 1982.

Countries are required to submit reports to the African Commission on Human and Peoples' Rights (African Commission) on measures taken to ensure that the rights enshrined in the African Charter are implemented. Senegal submitted its Cumulative Periodic Report on the Implementation of the African Charter in August 2022, which combines the 12th, 13th, 14th, and 15th periodic reports and concerns the period 2015 to 2022.

African Union Convention on Preventing and Combating Corruption (2003)



This convention acknowledges that access to information is critical to fighting corruption.

👉 **Article 9:** Each state shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offenses.

👉 **Article 12(2):** States must create an enabling environment that will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs.

Senegal ratified this convention in 2007.

African Charter on Democracy, Elections, and Governance (2012)



The African Union's principal binding treaty that sets standards to "deepen and consolidate the rule of law, peace, security and development" across the African Union. Freedom of the press and access to information are explicitly referenced as fundamental human rights and essential components of credible elections and accountable democracies.

👉 **Article 2(10)** - This article states that the objectives of the charter include: Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press, and accountability in the management of public affairs.

👉 **Article 27(8)** - In order to advance political, economic and social governance, state parties shall commit themselves to promoting freedom of expression, in particular, freedom of the press and fostering a professional media.



Senegal has yet to ratify this convention.

African Union Convention on Cybersecurity and Personal Data Protection (2014)



Sets out principles for the establishment of a credible digital space for electronic transactions, personal data protection, and combating cybercrime.

👉 **Article 9:**

States must establish a legal framework that strengthens fundamental rights and freedoms and protects privacy without infringing the free flow of personal data.

👉 **Articles 16 through 19** establish the right to information, right of access, right to object, and the right of rectification or erasure.

👉 **Article 25(3):**

States must ensure that measures adopted to protect cybersecurity do not infringe on rights of citizens protected by the constitution and other domestic laws, as well as rights protected in the African Charter particularly freedom of expression, privacy, and right to fair hearing.

Senegal ratified this convention in 2016.



ADDITIONAL REGIONAL DECLARATIONS, GUIDELINES, COMMITMENTS

In addition to the legally binding frameworks above, Senegal is also expected to abide by several regional protocols, declarations, commitments, and principles. These regional instruments build upon the rights to freedom of expression and access to information enshrined in the African Charter.

Declaration of Principles on Freedom of Expression and Access to Information in Africa (2019)



The 2019 declaration by the African Commission on Human and Peoples' Rights, which replaces the Declaration of Principles on Freedom of Expression (2002), reconfirms the African Charter's provisions on ensuring press freedom and protection of journalists and includes principles on access to information, including information online.

Sets principles on:

- ➡ Freedom of expression, which includes the safety of journalists and other media practitioners; calls on states to take measures to prevent attacks on journalists and media workers.
- ➡ Promotion of a diverse and pluralistic media; self-regulation and coregulation; and the protection of sources and journalistic materials.
- ➡ Right of access to information.
- ➡ Freedom of expression, access to information, and privacy online.

African Declaration on Internet Rights and Freedoms (2014)



Pan-African and civil society-led initiative to promote human rights standards and principles of openness in internet policy formulation and implementation on the continent.

The Declaration establishes 13 principles, including:

- ➡ Principle 3 - Everyone has the right to hold opinions without interference. Everyone has a right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds through the Internet and digital technologies and regardless of frontiers. Any interference with these rights must be clearly prescribed by law, necessary to achieve a defined aim, and proportionate.
- ➡ Principle 4 - Everyone has the right to access information online.
- ➡ Principle 11 - Everyone has the right to due process in relation to any legal claims or violations of the law regarding the Internet.

Model Law on Access to Information for Africa (2013)



A guide developed by the African Commission for the development, adoption or review of access to information legislation by African states

- ➡ The right to information is guaranteed in accordance with the following principles:
- (a) Every person has the right to access information of public bodies and relevant private bodies expeditiously and inexpensively.
 - (b) Every person has the right to access information of private bodies that may assist in the exercise or protection of any right expeditiously and inexpensively.

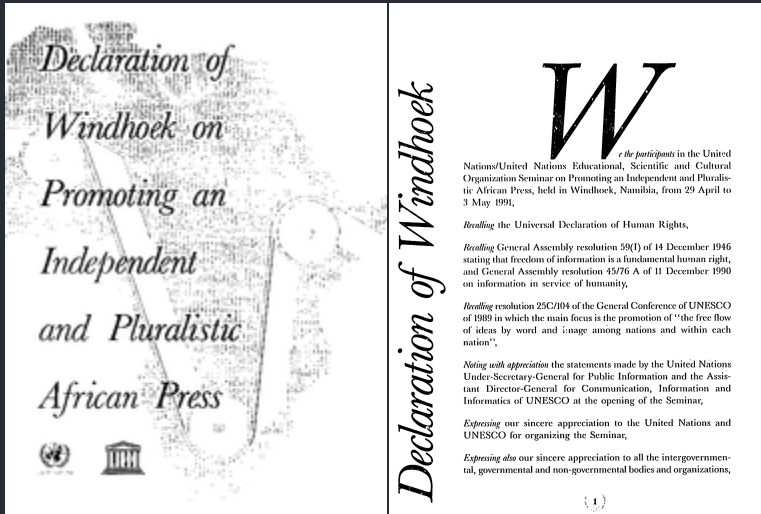
Guidelines on Access to Information and Elections in Africa (2017)



Adopted at the 61st Ordinary Session of the African Commission to provide direction on access to information in the electoral process as a means of strengthening democratic governance in Africa.

- ➡ Key principles include:
- Proactive disclosure by various stakeholders including election management bodies, law enforcement authorities and political parties.
 - Protection of whistleblowers from administrative, social, legal or employment-related sanctions.
 - The duty to create, keep, and maintain information.

The Windhoek Declaration (1991)



This is a statement of principles on press freedom by African journalists, editors, and media professionals.

➡ The declaration calls for constitutional guarantees of press freedom, emphasizes the importance of press independence from government, political or economic control, and advocates for media independence and pluralism.



03 • AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

Article 55 of the African Charter empowers the African Commission to make decisions on complaints, known as communications, from anyone on compliance by states to the rights guaranteed in the African Charter. Though the recommendations are not strictly legally binding, Senegal is expected to abide by the decisions of the African Commission. To date, the African Commission has not considered any complaints relating to freedom of expression, access to information, or press freedom in Senegal.

Human Rights Situation in Senegal



In August 2023, the African Commission issued a [resolution on the 'Human Rights Situation in Senegal.'](#) The resolution condemned “the violence on the part of the demonstrators and the use of force by the authorities which has led to the loss of human life since March 2021” and expressed concern about restrictions imposed by the government on access to social networks and the use of mobile data. The African Commission called on the Senegalese government to “guarantee the right to freedom of opinion, freedom of expression, freedom of assembly and freedom of peaceful demonstration in accordance with the Senegalese Constitution.”



For additional information on the mechanisms of the African Commission, please download IPI's [The Foundations of Press Freedom in Africa](#) resource toolkit.

The ACHPR Special Rapporteur on Freedom of Expression and Access to Information



The mandate of the Special Rapporteur on Freedom of Expression and Access to Information was established in 2004 as part of the African Commission's Special Mechanisms. The role of the Special Rapporteur includes the following:

- analyze national media legislation, policies, and practice within Member States, monitor their compliance with freedom of expression and access to information standards in general and the Declaration of Principles on Freedom of Expression in Africa in particular, and advise Member States accordingly;
- undertake fact-finding missions to Member States from where reports of systemic violations of the right to freedom of expression and denial of access to information have reached the attention of the Special Rapporteur and make appropriate recommendations to the African Commission;
- undertake promotional country Missions and any other activities that would strengthen the full enjoyment of the right to freedom of expression and the promotion of access to information in Africa;
- make public interventions where violations of the right to freedom of expression and access to information have been brought to her attention, including by issuing public statements, press releases, and sending appeals to Member States asking for clarifications;
- keep a proper record of violations of the right to freedom of expression and denial of access to information and publish this in her reports submitted to the African Commission, and
- submit reports at each Ordinary Session of the African Commission on the status of the enjoyment of the right to freedom of expression and access to information in Africa.



04 • THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

The African Court on Human and Peoples' Rights is based in Arusha, Tanzania. Established by a protocol to the African Charter on Human and Peoples' Rights (Protocol), the African Court complements the functions of the African Commission.

The African Court on Human and Peoples' Rights is based in Arusha, Tanzania. Established by a protocol to the African Charter on Human and Peoples' Rights (Protocol), the African Court complements the functions of the African Commission. The African Court has jurisdiction to deal with all cases and disputes submitted to it regarding the interpretation and application of the African Charter, the Protocol, and any other relevant human rights instrument ratified by the concerned States.



Senegal signed and ratified the Protocol in 1998 but has not yet deposited the Declaration under Article 34(6) of the Protocol to accept the competence of the African Court to receive cases directly from individuals and NGOs. The African Court has not considered any cases relating to Senegal.



05 • SUBREGIONAL COURTS

Senegal is a part of the Economic Community of West African States (ECOWAS). The Treaty of ECOWAS makes specific reference to media freedom and access to information rights. According to Article 66 of the Treaty of ECOWAS, member states agree to the following:

- to maintain within their borders, and between one another, freedom of access for professionals of the communication industry and for information sources;
- to facilitate the exchange of information between their press organs; to promote and foster effective dissemination of information within the Community;
- to ensure respect for the rights of journalists;
- to take measures to encourage investment capital, both public and private, in the communication industries in Member States.



The Community Court of Justice of the Economic Community of West African States has not considered any cases relating to freedom of expression, access to information, or press freedom in Senegal.



06 • NATIONAL FRAMEWORKS FOR PRESS FREEDOM IN SENEGAL

The Constitution of the Republic of Senegal



The Constitution of the Republic of Senegal guarantees the fundamental rights to freedom of expression, freedom of opinion, freedom of the press, and freedom of information.

Article 8

Article 8 of the Senegalese Constitution guarantees all citizens a range of fundamental freedoms. These include freedom of opinion, freedom of expression, freedom of the press, and freedom of assembly. It also guarantees citizens the right to pluralistic information. It further specifies that these freedoms and rights are exercised within the conditions provided for by law.

Article 10

“Everyone shall have the right to freely express and disseminate their opinions by word, pen, or image or peaceful march, provided that the exercise of these rights shall not undermine the honor of and respect due to other persons, nor threaten public order.”



Constitution
of Senegal

Article 11

“The creation of an organ of the press for political, economic, cultural, sports, social, recreational, or scientific information is free and is not subject to prior authorization.

The regime of the press is established by the law.”

Access to Information



Although the right to access information is enshrined in the Constitution in Article 8, Senegal does not have enabling legislation that expands on this right and sets out clear procedures for the fulfillment of the right to information.

However, other laws do facilitate access to information. For example, the 2013 law on the General Code of Local Authorities, in Article 6, enables citizens to request information from local elected officials. The decree of September 29, 2014, which governs the procedures for preparing, awarding, and executing public contracts, and the 2014 law on the declaration of assets, also facilitate access to information.



07 • LEGISLATION AFFECTING PRESS FREEDOM AND FREEDOM OF INFORMATION IN SENEGAL

Despite the constitutional protections, there are a number of laws that restrict or undermine press freedom and freedom of expression rights in Senegal. These include provisions in Senegal's Criminal Law Code that criminalize insults, defamation, and the publishing of falsehoods among others. These provisions conflict with international standards on freedom of expression and media freedom. Senegal's Press Code also contains several provisions that undermine media freedom.

Senegal's Criminal Code



Article 64 - Classified Information:

Criminalizes acts of "any Senegalese or foreigner who, without intent of treason or espionage, has brought to the attention an unqualified person or to the public military information not made public by the competent authority and the disclosure of which is likely to harm national defense." The offense is punishable by imprisonment of one to five years.



Article 80 - Disrupting Public Order: Criminalizes “acts likely to compromise public security or cause serious political troubles or violate the laws of the country.” The offense is punishable by at least three years imprisonment and a maximum of five years and a fine of 100,000 to 1,500,000 CFA francs. Offenders may be subject to a ban on entering or residing in Senegal.

Article 80 also imposes criminal penalties on “any individual who has received, accepted, or solicited gifts, presents, subsidies, offers, promises or any other means, with a view to engaging in propaganda likely to compromise public security or to cause political unrest, discredit political institutions or their functioning, or to incite citizens to violate the laws of the country.” The offense is punishable by imprisonment of at least one year and a maximum of five years and a fine of twice the value of the promises agreed or things received or requested, or no less than 100,000 CFA francs. Punishment can also include a ban on entering or residing in Senegal.



Article 254 - Insulting the Head of State:

Insulting the President through the press either broadcasting or through articles and exhibitions is punishable by imprisonment of six months to two years and/or a fine of 100,000 to 1,500,000 CFA francs. The penalties are also applicable to offenses against an individual who exercises all or part of the prerogatives of the President of the Republic.



Article 255 - Dissemination of False News: Criminalizes the “publication, distribution, disclosure or reproduction, by any means whatsoever, of false news, fabricated, falsified or falsely attributed to third parties.” The offense is punishable by imprisonment of one to three years and a fine of 100,000 to 1,500,000 CFA francs “when the publication, dissemination, disclosure, reproduction, whether or not made in bad faith, has led to disobedience of the laws of the country or harmed the morale of the population or discredited public institutions or their functioning.”

The same penalties are incurred when such publication, dissemination, disclosure, or reproduction is likely to result in the same consequences. In all cases, the authors may be subject to a ban from entering or residing in Senegal for a maximum of five years. Any attempt to commit these offenses is also punishable in the same way as offenses committed



Article 256 - Dissemination of Immoral Documents and Images: Prohibits individuals from disseminating “immoral” documents and images. This includes all printed materials, writings, drawings, posters, engravings, paintings, photographs, films or photos, matrices or photographic reproductions, emblems, and any objects or images contrary to morality.

The offense is punishable by imprisonment of one month to two years and a fine of 25,000 to 300,000 CFA francs. The convicted may also be subject, for a period not exceeding six months, to a prohibition directly or through an intermediary of any printing, publishing, or consolidation, and distribution of newspapers and periodicals.



Article 258 - Criminal Defamation: Any allegation or imputation of a fact that attacks the honor or consideration of the person to which the fact is imputed is defamation. When made through the press in writing or broadcasting and exhibitions among others, it is punishable even if it is expressed in doubtful form or if it is directed at a person not expressly named, but whose identification is made possible by the terms of speech, threats or printed material, placard or posters. Any outrageous expression, any term of contempt relative or not, to the origin of a person, any invective that does not contain the imputation of a fact is an insult.



Article 259 - Criminal Defamation:

Defamation committed by one of the means highlighted above against the Courts and Tribunals, the Army, and the public administration will be punished by imprisonment of four months to two years and/or a fine of 200,000 to 1,500,000 CFA francs.



Article 260 - Criminal Defamation:

Defamation committed by the above-highlighted means "because of their functions or their position, against one or more members of the Government, one or more members of the National Assembly, a public official, a depositary or agent of public authority, a citizen entrusted with a service or public mandate, temporary or permanent, a juror or a witness, by reason of his deposition," is also an offense.



Article 261 - Criminal Defamation: Criminalizes defamation committed against individuals by the means set out in Article 248, punishable by imprisonment of three months to two years and/or a fine of 100,000 to 1,000,000 CFA francs. Defamation committed by the same means “against a group of people not designated by the preceding article, but who belong by their origin to a particular race or religion, will be punished by imprisonment of two months to two years and a fine of 50,000 to 500,000 CFA francs when the aim is to incite hatred between citizens or residents.”



Article 262 - Insults: Insults committed by the highlighted means against courts and tribunals, the army, or public administration will be punished by imprisonment of one to three months and/or a fine of 20,000 to 1,00,000 CFA francs. Insults, committed in the same way against individuals when not preceded by provocation, will be punished by imprisonment of up to two months and/or a fine of 20,000 to 100,000 CFA francs. The maximum penalty will be six months imprisonment and a fine of 500,000 CFA francs if the insult was committed against a group of people who belong by their origin to a particular race or religion, with the aim to incite hatred between citizens or residents.



Article 430 - Concealment of Documents: It is an offense to knowingly conceal, in whole or in part, documents misappropriated or obtained through crime or misdemeanor and it will be subject to the penalties established by Article 370. The fine may be raised beyond 200,000 CFA francs up to half the value of the items concealed. All without prejudice to harsher penalties, if applicable in case of complicity.

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

In 2016, the National Assembly adopted two laws amending the Criminal Code and the Code of Criminal Procedure aimed at combating terrorism and cybercrime. The law amending the Criminal Code contains a number of provisions restricting freedom of expression online and extends some of the offenses established by the criminal code to electronic communications.



Article 279.1: Establishes penalties of “hard labor for life” for acts of terrorism committed with intent to “intimidate a population, seriously disrupt public order or the normal functioning of national or international institutions, or to compel a government or an international organization to perform or refrain from performing any act of terror.”



Article 279.1(15) qualifies “offenses related to information and communication technologies” as terrorism acts, and Article 279.1(16) broadly qualifies “offenses against national defense” as terrorism acts. According to Article 279.1(16), anybody who engages in defending or supporting terrorism acts will be punished by imprisonment of one to five years and a fine of 500,000 to 2,000,000 CFA francs.



Article 279.6: Prohibits individuals from distributing or making available to the public a message with the “intention of inciting the commission of a terrorist act” is punishable by “forced labor for life when there is a risk that one or more of these acts will be committed.”



Article 363a: Prohibits individuals from intentionally violating another’s right to privacy:

1. by capturing, recording, transmitting or distributing words spoken privately or confidentially, without the author’s consent;
2. by taking, recording, transmitting or distributing a person’s image while in a private place, without their consent.

When the acts mentioned in the present article were carried out in full view of the interested party without their objection, when they were in a position to do so, their consent is presumed.”

The offense is punishable by imprisonment of one year to five years and a fine of 500,000 francs to 5,000,000 CFA francs.



Article 431.21: Bans individuals from placing or storing on any electronic medium, without the express consent of the interested party, personal data which, directly or indirectly, indicates the racial or ethnic origin, political, philosophical or religious opinions or union membership or health status of that person, except in cases provided by law. Violations are punishable by imprisonment of one to seven years and/or a fine of 500,000 CFA francs to 10,000,000 CFA francs.



Article 431.43: Criminalizes “insults made through a computer system to a person by virtue of their belonging to a group characterized by race, color, heritage, national or ethnic origin or religion or towards a group of persons distinguished by one of these characteristics.” The offense is punishable by six months to seven years imprisonment and a fine of 500,000 CFA francs to 10,000,000 CFA francs.



Article 431.60: Prohibits individuals from disseminating all printed materials, writings, drawings, posters, engravings, paintings, photographs, films or photos, matrices or photographic reproductions, emblems, any objects or images that are contrary to morality. Offenses are punishable by five to ten years imprisonment and/or a fine of 500,000 CFA francs to 10,000,000 CFA francs.



Article 431.61: Stipulates that in the case of a conviction for an offense committed through means of electronic communication, the court may, by way of additional penalties:

- prohibit the transmission of electronic communication messages;
- prohibit, temporarily or permanently, access to the site used to commit the offense or its host;
- order the use of available technical means to prevent access to the site.

The court may also issue an injunction to anybody legally responsible for the site used to commit the offence, or any qualified person to implement the technical means necessary to ensure compliance with the measures in the previous paragraph.

The offense is punishable by six months to three years imprisonment and a fine of 500,000 CFA francs to 2,000,000 CFA francs.

SPOTLIGHT:

Senegal's Criminal Code IN PRACTICE



Over the past few years, growing attacks on journalists and media outlets in Senegal have tarnished the country's image of being a bastion of press freedom in the region.

In November 2022, journalist Pape Alé Niang, an investigative reporter, and editor-in-chief of the news site Dakar Matin, was arrested and charged under Articles 64, 80, 255, 370, and 430 of the criminal code. The charges followed his participation in a Facebook broadcasting program that discussed the contents of an internal report related to the judicial case against opposition leader Ousmane Sonko. In July 2023, he was arrested again on charges of instigating an insurrection and disrupting public order after publishing a live video online about the detention of Sonko.

In March 2023, journalist Pape Ndiaye of privately-owned media house WALF TV was arrested as a result of on-air comments he made about the judicial prosecution and court case of opposition leader Ousmane Sonko. He was charged with six crimes, including inciting a crowd, contempt of court, intimidation and reprisals against members of the judiciary, speech discrediting a judicial act, spreading fake news, and endangering the lives of others. About a month before his arrest, the media regulator, CNRA, suspended WALF TV for a week in retaliation for its "irresponsible coverage" of a public protest in Mbacke.



In May 2023, there were multiple cases of journalists being detained or arrested. Ndèye Maty Niang, a journalist at investigative news outlet Kéwoulo, was arrested and charged with six crimes, including calling for insurrection, violence, hatred; acts, and maneuvers likely to undermine public security; contempt of court; and usurping the function of a journalist. The charges related to her reporting for Kéwoulo and critical comments she made about the government in Facebook posts. As of December 2023, Ndèye Maty Niang remains in jail.

Investigative journalist Babacar Touré was arrested for "slandorous accusation, defamation, and publishing false news" in connection with his remarks on the Africa 7 platform. He was released after a few days in prison and is currently on probation.

Journalist Serigne Saliou Gueye, editor-in-chief of the privately-owned daily Yoor Yoor, was arrested and accused of usurping the function of a journalist because he did not have a national press card and of contempt of court over an article. The article critiqued the prosecution of opposition leader Ousmane Sonko.

Oustaz Assane Seck, preacher and columnist on Sen TV was also remanded in custody for comments made during a program: "Either Ousmane Sonko is a candidate and he wins the election, or he is not a candidate and the country burns", were described as "undermining state security, calling for insurrection, acts and attempts to disrupt public order".

Senegal's Press Code



In 2017, Senegal's parliament passed a new press code that contains several restrictive provisions that criminalize the work of journalists and undermine Senegal's international and regional commitments to freedom of expression. A selection of the code's most problematic provisions criminalizing press offenses is highlighted below



Article 4 narrowly defines a journalist and requires an individual to graduate from a state-recognized school of journalism or hold an undergraduate degree followed by two years of professional experience as a journalist at a press outlet. A journalist's professional experience must be validated by the Press Card Commission.



Article 5 states that journalists and media workers have the right to free access to all sources of information and to investigate without hindrance all facts of public interest, subject to respect for 'defense secrecy', the secrecy of investigations, and regulations applicable to access certain sites or structures.



Article 22 to 36 establish the regulations pertaining to accreditation. According to Article 22, only holders of a national press card can claim to be a journalist or media worker. The press card “gives its holder unrestricted access to all places and spaces of events or public demonstrations, where they are likely to find information of public interest or useful to the accomplishment of their mission, subject to respect for ‘defense secrecy,’ the secrecy of investigations and inquiries, and the regulations applicable to access certain sites or structures.”



Article 23 sets up the Press Card Commission, which comprises eight full members and eight alternate members from different government, press, and civil society bodies. Members of the commission, proposed by peers or supervisors, are appointed by the Minister of Communication.



Article 29 requires journalists applying for a press card to include several documents like a certified copy of a diploma from a state-recognized school of journalism or a document considered to be equivalent by the government authorities.



Article 32 states that anybody who makes a total or partially inaccurate statement to obtain a press card or who, in order to gain an advantage, has used a fraudulently obtained, expired, or canceled card, will be liable to penalties.



Article 34 states that press cards are issued for a period of three years and journalists must request a renewal of the card at least three months before the expiry date.



Article 35 states that the Commission may decide to permanently or temporarily withdraw a national press card:

- when requested by the self-regulatory body;
- in cases of violation of the conditions for issuing the national press card;
- when the journalist or media worker has been the subject of a criminal conviction accompanied by a provisional or definitive ban on exercising the profession of a journalist or media worker.

Before any decision is taken, the interested party is heard, and accompanied, where appropriate, by his or her counsel.

Articles 22 to 36 are contrary to General Comment No. 34 of the Human Rights Committee on the interpretation of Article 19 of the International Covenant on Civil and Political Rights ("ICCPR"), which states that:

"Journalism is a function performed by people from all walks of life, including full-time professional reporters and analysts as well as bloggers and other individuals who themselves publish the product of their work, in print, on the Internet or otherwise, and general systems of registration or licensing of journalists by the State are incompatible with paragraph 3. Limited accreditation schemes may be lawful only where they are necessary to give journalists privileged access to certain places or to certain events."



Article 68 requires press companies to register with the Ministry of Communication as soon as they are set up



Article 78 states that the circulation, distribution, and sale in Senegal of foreign newspapers and periodicals may be prohibited by a joint decision of the Minister of the Interior and the Minister of Communication.



Article 179 states that the editor and administrator have editorial control of the content published on their sites and social networks. In instances where internet users can contribute, the editor and administrator must implement appropriate moderation measures which must also enable anyone to report indecent or inappropriate content to the publisher and administrator. Where such content is reported, the administrator should disable access to it or promptly delete such content.



Article 181 states that service providers, either natural or legal persons who provide, either for a fee or free of charge a platform for content accessible by the public are criminally or civilly liable if they do not act promptly to prevent access to illegal content after having been informed or seized by a judicial authority concerning the illegal nature of the content.



Article 192 provides that in the event of exceptional circumstances, the competent authority (Governor, Prefect, or Sub-Prefect) may, in order to prevent or stop an attack on state security, territorial integrity, or in the case of incitement to hatred or incitement to murder, order:

- the seizure of the distribution media of a press company;
- the suspension or cessation of the broadcast of a program;
- the temporary closure of the media outlet.

The decision of the administrative authority must be written, reasoned, and notified to the head of the press company concerned. The latter may immediately file at the Supreme Court with jurisdiction in administrative matters an appeal for the annulment and suspension of the decision.



Article 194 establishes penalties of imprisonment of three months to one year and/or a fine of one hundred thousand to one million francs for “any violation of the obligations set out in articles 71, 73, 96 paragraph 2, in the fourth indent of paragraph 1 and the first indent of paragraph 2 of article 178 of the present Code.”



Article 198 estestablishes penalties of imprisonment of six months to three years and/or a fine of two hundred to five hundred thousand francs for “anyone who makes a totally or partially inaccurate declaration to obtain the issuance of a national press card. The same penalties apply to those who knowingly make inaccurate statements or provide falsified documents to enable others to obtain the issuance of a card.”



Article 199 states that anyone who uses a fraudulently obtained national press card is punishable by imprisonment of three months to one year and a fine of two hundred to five hundred thousand francs.



Article 201 stipulates that any printer who fails to indicate his name and address on any writing made public, in accordance with the provisions of article 92 of the present Code, shall be liable to a fine of two hundred to five hundred thousand francs.



Article 203 establishes that “the distribution of a publication declared non-compliant with the conditions established by the present Code” is punishable by imprisonment of two to six months and/or a fine of two hundred to five hundred thousand francs. Penalties will be applied against the owner, the publication director, and the printer of the media outlets, and “seizure will be carried out, under the conditions of common law, of copies distributed or sold irregularly.”



Article 204 establishes that “the distribution of a publication declared non-compliant with the conditions established by the present Code” is punishable by imprisonment of two to six months and/or a fine of two hundred to five hundred thousand francs. Penalties will be applied against the owner, the publication director, and the printer of the media outlets, and “seizure will be carried out, under the conditions of common law, of copies distributed or sold irregularly.”



Article 206 states that anyone who “circulates, distributes or offers for sale in Senegal foreign press outlets prohibited by a jointly motivated decision of the Ministers of the Interior and Communication, or resumes under a different title the publication of a prohibited newspaper or written document” will be punished by imprisonment of two months to one year and/or a fine of one hundred thousand to one million francs. Distributors may also be prosecuted in accordance with common law if they have knowingly distributed books, writings, brochures, newspapers, drawings, engravings, or lithographs of a criminal nature.



Article 207 states that when the mandatory information cited in Article 92 of this Code has not been included in a publication, the printer, the owner of the newspaper, and the publication director are liable to a fine of two hundred to five hundred thousand francs. When the legal deposit required by Article 82 of the present Code has not been made, the publication director is liable to a fine of five hundred thousand francs..



Article 208 states that the publication director is liable to a fine of one hundred thousand to one million francs, if he refuses to include within the time limits, corrections and responses from any person named or designated in his or her print media. The same penalties also apply in cases under articles 99 and 185 relating respectively to audiovisual communication and online press.



Article 224 states that if an offense under Section VI of Chapter IV of Title I and Title IV of Book III, as well as Articles 363 and 429 of the Penal Code, is committed by a means of public dissemination provided for in the present Code, the publication director, the individual in charge of programs or information, and the editor-in-chief will be prosecuted as the principal perpetrator when the incriminated message has been the object of fixation before its communication to the public. When any of these people is implicated, the author or producer will be prosecuted as an accomplice.



Article 225 states that when the offense results from the content of a message sent by an Internet user through an online communication service and is made available to the public... the publisher or administrator, as well as the access provider, are held criminally liable as the principal perpetrator, unless it is established that they had no actual knowledge of the message before it was posted online, or if, the moment they became aware of it, they acted promptly to remove the message. In the cases provided for in the preceding and present articles, the employing press companies are civilly liable for any financial penalties pronounced for the benefit of third parties.

SPOTLIGHT:

Senegal's Press Code IN PRACTICE



The National Council for the Regulation of Audiovisual Communication (CNRA) is responsible for enforcing the Press Code and has the power to receive and investigate complaints about violations of the Code.

The Council can also impose sanctions such as fines and suspension of media outlets.

The Ministry of Culture and Communication also has a role to play in enforcing some of the provisions and in instances where some parties are aggrieved, they can file complaints before the Court. It should be noted that this framework establishes state regulation of the media instead of self-regulation.

Below are some instances of enforcement of the Press Code that have led to violations of media freedom:

Suspension of Walf TV: Privately-owned TV Station, Walf TV had its operations suspended for seven days in February 2023 by the CNRA. They were accused of violating the Code by showing scenes of violence. This followed the TV station's live coverage of protests by supporters of the opposition which resulted in violent clashes with security agents.

Walf TV was again suspended for 30 days on the orders of the Minister of Communications and Telecommunications in June 2023, for the same reason of covering demonstrations.



Suspension of ZIK FM and Sen TV: In March 2022, the CNRA suspended ZIK FM and Sen TV for 72 hours for alleged repeated violations of the Press Code. In a press statement, the CNRA highlighted that it had noted new breaches of the principles of objectivity, neutrality, fairness, and balance committed by Ahmed Aïdara, journalist presenter and mayor of Guédiawaye, exposing Sen TV and/or Zik Fm to sanctions provided for by the regulations, in particular the partial or total suspension of programs.

Suspension of SenTV and Walfadri TV: In March 2021, following public protests over the arrest of opposition leader Ousmane Sonko, the CNRA suspended SenTV and Walfadri TV accusing them of irresponsible coverage and flagrant breaches of the regulations. This followed their coverage of the protests that were ongoing at the time.



Also check out IPI's [The Foundations of Press Freedom in Africa](#) resource toolkit.



08 • MEDIA REGULATORY BODIES

National Audiovisual Regulatory Council (CNRA)

Law N°2006-04 of 4 January 2006 establishes the National Audiovisual Regulatory Council (CNRA), Senegal's media regulatory body. The CNRA is tasked with ensuring the "independence and freedom of information and communication in the audiovisual sector" and is responsible for establishing the rules governing the production, programming, and broadcasting of audiovisual media programs during election campaigns. As highlighted above, the CNRA is also responsible for enforcing the Press Code.

According to **Article 3**, all nine members of the CNRA are appointed by the President of Senegal, without public consultation.

According to **Article 13**, the CNRA must submit an annual report to the President of Senegal. Once submitted to the head of state, the report is made available to the public.

Articles 26 to 29 lay out the powers of the CNRA to impose sanctions on media outlets.

According to **Article 26**, in the case of a violation of the law and a subsequent failure to comply with the formal notice issued by the CNRA, the CNRA may impose a sanction. Sanctions may include the total or partial suspension of a program for one to three months, a financial penalty of two to ten million francs, or a daily penalty of 100,000 to 500,000 francs if media outlets fail to comply with the decisions of the CNRA.

According to Article 26, the CNRA may also propose to the licensing authority to reduce the duration of a media license by six months to a year or to permanently withdraw a media license.

According to **Article 29**, agents of the CNRA may access the premises of media outlets, request and take copies of all professional documents, and collect, by summons or on-site, all information and evidence. CNRA agents may also search equipment and close down premises in cases of non-compliance with laws concerning the audiovisual sector. In the performance of its duties, the CNRA may receive assistance from law enforcement officers.

Council for the Observation of the Rules of Ethics and Professional Conduct in the Media (CORED)

CORED is a self-regulatory body that is industry-led and was established to ensure compliance by journalists, media outlets, and media workers with the ethics and professional standards of the industry. This includes ensuring compliance with the Press Code and the Charter of Journalists in Senegal among other regulations. CORED also plays a mediation role between aggrieved parties which may include members of the public and the journalists or media outlets or individual journalists and media outlets.

CORED highlights its functions as including the following:

- defend freedom of expression and press, as well as the citizen's right to free, plural, balanced, accurate and truthful information;
- issue a discharge for obtaining the national press card;
- propose to the authorized body (the CNRA) the withdrawal of the national press card;
- issue recommendations and opinions to the public, press companies and Institutions on the exercise of the profession in Senegal;
- promote good practices;
- propose honorary distinctions to be awarded to journalists and media workers
- pronounce disciplinary sanctions against journalists and media technicians;
- initiate and promote media research and studies;
- strengthen the training of journalists and media technicians in Senegal in the field of ethics and professional conduct

SPOTLIGHT:

Council for the Observation of the Rules of Ethics and Professional Conduct in the Media (CORED) IN PRACTICE



Opinion No. 28/2022: Complaint by Marc Alain Aldasoro against the leral.net website

In this matter, CORED demonstrated that self regulation is the best form of media regulation by demonstrating objectivity in the matter while applying the principles highlighted in the Press Code.

CORED highlighted that on July 27, 2022, the CORED Peers' Tribunal examined a complaint by Mr Marc Alain Aldasoro against the leral.net news website. Aldasoro lodged a complaint with CORED in his capacity as a businessman. This French investor believed that Ndiaga Diop defamed him in an article published on June 1, 2022 on leral.net titled "*Marc Alain ALDASORO ou la liberté d'exploiter les sénégalais.*" He was also disappointed that the author of the article did not contact him to verify the validity of the assertions, which he described as "racist" and intended to cause harm.

In its decision, the Tribunal issued a warning to journalist Ndiaga Diop and coordinator Oumar Chérif Ndao and reprimanded leral.net. The Tribunal recommended that the Leral group, condemned for the third time in a year, should ensure balanced reporting whenever a person (individual or corporate) is implicated, per the Press Code.



09 • LOCAL RESOURCES AND ORGANIZATIONS SUPPORTING JOURNALISTS

- [Amnesty International Senegal](#)
- [Article 19 Senegal](#)
- [Association de la Presse Culturelle Du Sénégal \(APCS\)](#)
- [Association de la Presse Étrangère au Sénégal \(APES\)](#)
- [Association des Éditeurs et Professionnels de la Presse en Ligne du Sénégal \(APPEL\)](#)
- [Association nationale de la presse en ligne \(Anpel\)](#)
- [Conseil pour l'observation des règles d'éthique et de déontologie dans les médias \(CORED\)](#)
- [Coordination des Associations de Presse \(CAP\)](#)
- [Jonction](#)
- [La Convention Des Jeunes Reporters Du Sénégal \(CJRS\)](#)
- [Le Collectif Assainir la Presse \(CAP\)](#)
- [Les Photojournalistes du Sénégal \(LPS\)](#)
- [Media foundation for West Africa \(MFWA\)](#)
- [Syndicat des professionnels de l'information et de la communication du Sénégal \(Synpics\)](#)