



## **Senegal: The situation of sexual minorities in Senegal, including societal attitudes and whether there is a difference in the treatment of lesbians and gay men; state protection (2010-April 2013) [SEN104382.E]**

Research Directorate, Immigration and Refugee Board of Canada, Ottawa

### **1. Legislation**

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA), a global federation of LGBTI organizations (ILGA n.d.), indicates that sexual relations between men as well as sexual relations between women are illegal in Senegal (ibid. May 2012, 34). Article 319 of the Senegalese Penal Code states the following:

[translated by ILGA May 2012, 34]

[...] whoever will have committed an improper or unnatural act with a person of the same sex will be punished by imprisonment of between one and five years, and by a fine of 100,000 to 1,500,000 francs [between approximately C\$202 (XE 26 Apr. 2013a) and C\$3,028 (XE 26 Apr. 2013b)]. If the act was committed with a person below the age of 21, the maximum penalty will always be applied. (Senegal 1965)

Media articles indicate that [translation] "homosexual lobbies," representatives of the Health Ministry and human rights advocates were reportedly discussing, in the spring of 2013, to have a bill presented to the government to decriminalize homosexuality in Senegal (AFP 12 Apr. 2013; BBC 12 Apr. 2013). A press release indicates that the President, as a response to this initiative in a meeting of the Council of Ministers in April 2013, [translation] "firmly stated that the state has never considered such an option [to decriminalize homosexuality] and that it is totally excluded under his presidency. He reiterated that in view of [their] roots of cultural values, [they] cannot accommodate to decriminalize homosexuality" (Senegal 11 Apr. 2013).

### **2. Treatment of Sexual Minorities by State Authorities**

The US Department of State's *Country Reports* for 2012 states that "LGBT persons often faced arrest" (US 19 Apr. 2013, 23) and *Country Reports* for 2011 states that "[i]n the recent past gays, lesbians, bisexual, and transgender (LGBT) persons often faced criminal prosecution" (US 24 May 2012, 25). However, the *Country Reports* for 2011 also notes that increased international attention may have "caused the government to curtail prosecutions and other official discrimination," and that "successful legal challenges to the law used to prosecute gays and lesbians for consensual sexual activity may have helped curtail its use by prosecutors" (ibid., 25-26). Corroborating or further information on these legal challenges could not be found among the sources consulted by the Research Directorate.

The Freedom House *Countries at the Crossroads* report for Senegal states that, between April 2007 and December 2010, "[d]iscrimination against the homosexual community has been an increasingly visible problem, including increasing arrests and prosecutions for same-sex sexual acts under Senegal's penal code" (2011). Two members of the International Gay and Lesbian Human Rights Commission similarly note that, between 2008 and 2010, there have been in Senegal "waves of arrests, detentions and attacks" of gay individuals (Johnson and Thoreson 18 Feb. 2010). Afrol News, an independent news agency established in 2000 (Afrol News n.d.), reports that "around 2010, government got tough on homosexuals. Anti-gay rhetoric in the media and by politicians against individuals believed to be gay or lesbian sharply increased" (ibid. 11 June 2010). Afrol News also indicates that between 2008 and June 2010, 50 people were arrested and 16 were tried for same-sex relations (ibid.). Corroborating information for those numbers could not be found among the sources consulted by the Research Directorate.

In October 2012, a man was sentenced to four years in prison for violation of the law on same-sex sexual activity, in addition to other charges (*Gay Star News* 24 Oct. 2012; US 19 Apr. 2012, 23). A fight broke out, reportedly over payment for sex, and the man stabbed his sexual partner, wounding him (*Gay Star News* 24 Oct. 2012; Human Rights Watch Feb. 2013). Pink News, a European gay news service, reports that his sexual partner was sentenced to two years in prison for committing unnatural acts (24 Oct. 2012), while three other sources report that he was sentenced to three years in prison (*Gay Star News* 24 Oct. 2012; US 19 Apr. 2012, 23; Human Rights Watch Feb. 2013). In their submission to the 2013 UN Human Rights Council Universal Periodic Review (UPR) for Senegal, Human Rights Watch writes that "had he not been caught, ... [the] victim, might not have pressed charges against [the other man] for assault out of fear of being prosecuted himself. His conviction demonstrates that such fears would have been warranted" (ibid.).

According to the US *Country Reports* for 2012, in January 2012, "two women were arrested following the circulation of a cell phone video that showed them kissing" and, while detained for a several days, were "never formally charged with a crime" (US 19 Apr. 2013, 23). Corroborating information on this event could not be found among the sources consulted by the Research Directorate. Media sources report the arrest of a woman in November 2011 for a lesbian [translation] "affair" (Dakaractu 29 Nov. 2011; Rewmi 29 Nov. 2011).

Amnesty International (AI) writes that in three trials that took place in 2009 and 2010, "men alleged to be homosexuals ... were sentenced to long prison terms on the basis of 'confessions' extracted under torture" (AI Sept. 2010, 7). Sources indicate that nine men were arrested in December 2008, sentenced under Article 319 of the Penal Code and held in custody, where they were "tortured" by police, until their release in April 2009 (ibid., 19-20; Human Rights Watch Nov. 2010, 25, 33).

In their submission to Senegal's October 2013 UPR, four civil society organizations note that the judiciary is ineffective at protecting sexual minorities in Senegal (ADAMA, AIDES-Sénégal, Espoir, and Prudence n.d., 3-4). The UPR submission also states that the Senegalese Commission on Human Rights (Comité sénégalais des droits de l'homme) does not condemn abuse and persecution of sexual minorities (ibid., 4).

### **3. Treatment of Sexual Minorities by Society**

The US *Country Reports* for 2011, citing "NGO observers," states that a smaller number of cases of violence against members of sexual minorities was reported by the media in 2011, compared to

2009 and earlier, may be due to a number of factors, including an increased likelihood that LGBT individuals may have "gone underground" due to past violence and media and reporting that contributed to negative social attitudes towards LGBT people (US 24 May 2012, 25-26). Corroborating information could not be found among the sources consulted by the Research Directorate.

Sources note that members of sexual minorities in Senegal face societal discrimination (Freedom House 2011; US 19 Apr. 2013). An article published on 8 March 2010 by Voice of America, which is funded by the US government, began as a radio news service in 1942, and is now a multimedia broadcast service (Voice of America n.d.), quotes a researcher with the US-based International Gay and Lesbian Human Rights Commission, who says that

"[m]any LGBT [in Senegal] are sort of in and out of exile. They have to move frequently from place to place because their housing is not secure and if their neighbors, or families or communities find them to be LGBT, or if allegations are made that someone is LGBT, they are often ejected from the community, or they face pretty severe violence from even their own family members ...."

The article later states, quoting a gay Senegalese interviewee, that "if someone is known to be gay in Senegal it is a justification for others to insult and attack him" (VOA 8 Mar. 2010). An article in the *Huffington Post Canada* notes the case of a Senegalese man who hid his sexual orientation, fearing "violence, imprisonment, and alienation from his family" (5 Sept. 2012). Inter Press Service reports that, after his arrest in December 2008 for allegedly "'engaging in homosexual acts,'" a "prominent gay AIDS activist" and his partner "have been forced to move seven times, after landlords discovered their identities" (9 Jan. 2012).

Media sources report on the assault in December 2012 of a gay couple by the parents of one of the men, in which the parents reportedly beat up the two men (*Gay Star News* 30 Dec. 2012; *Le Pays* 28 Dec. 2012).

Jamra, an Islamic NGO in Senegal, has announced that they would put in place a national monitoring group to oppose the decriminalisation of homosexuality, which the group considers in contradiction with the cultural and religious values of Senegal (*Le Quotidien* 9 Apr. 2013; *Gay Star News* 10 Apr. 2013). The group also plans to work with Senegalese Christian groups (ibid).

### **3.1 Treatment of Lesbians by Society**

In its UPR submission, Human Rights Watch writes that, in Senegal,

[a]buses against lesbians and other sexual and gender minorities have been less thoroughly documented, but lesbian activists have reported to Human Rights Watch that lesbian and bisexual women ... suffer violence and discrimination. (Feb. 2013)

Two members of the International Gay and Lesbian Human Rights Commission (IGLHRC) noted in February 2010 that since 2008, "[f]amily and community have turned on those suspected of being gay or lesbian" (Johnson and Thoreson 18 Feb. 2010). A socio-anthropologist quoted in a 2009-2010 study by the Dakar central police station indicates that homosexual women and men are [translation] "excluded by the prevailing attitude" in Senegal society (qtd. in *Le Soleil* 30 May 2012). According to the Senegalese news website SeneNews, in April 2012, two women who kissed

in a bar were reportedly beaten by a group of men; the men were stopped by security guards (10 Apr. 2012). Corroborating information could not be found among the sources consulted by the Research Directorate.

Further information on the situation of lesbian women and whether treatment of lesbians differs from the treatment of gay men could not be found among the sources consulted by the Research Directorate.

#### **4. Support Services**

Legislation on HIV/AIDS was adopted in 2010 in Senegal and some of the aims of the law are [translation] “to eliminate all forms of stigmatisation and discrimination against persons infected or affected by HIV/AIDS and to promote positive attitudes toward them” and “to protect women, children, other vulnerable groups and medical staff”; the high risk groups include men having sex with men (Senegal 2010). Human Rights Watch reports the following:

The Senegalese health authorities have undertaken noteworthy efforts to ensure that prevention and treatment efforts reach men who have sex with men (MSM), including through the passage of the 2010 HIV/AIDS law .... However, fear of arrest and prosecution has prevented gay men from accessing essential services, including HIV/AIDS prevention and treatment. (Feb. 2013)

The civil society submission to the UPR states that the application of the 2010 HIV/AIDS law has been [translation] "hampered by a homophobic environment" (ADAMA, AIDES-Sénégal, Espoir, and Prudence n.d., 3).

Nevertheless, the *Huffington Post Canada* reports that Prudence, an organization that began as an "informal association" of MSM and focused on HIV education, is recognized by the government as an HIV/AIDS organization and, that "the Government of Senegal does not acknowledge [Prudence's] targeting of the MSM community but has chosen to turn a blind eye, out of recognition that such targeting is necessary to prevent the spread of the disease. Prudence is [as of September 2012] 479 members strong and quickly growing" (5 Sept. 2012). Prudence's mission statement includes [translation] "fighting poverty, stigmatization, and discrimination against MSM" and "protecting the rights of the MSM community" (Prudence 7 May 2013). According to the US *Country Reports on Human Rights Practices for 2012*, "Senegalese NGOs worked actively on LGBT rights issues, but because of laws against homosexuality and social stigma, they maintained an exceedingly low profile" (US 19 Apr. 2013, 23). In correspondence with the Research Directorate, a representative of Prudence notes that civil society NGOs assist [translation] "gay organizations" in HIV and STI prevention, and that the AIDS and STI division of the Ministry of Health in Senegal has set up care sites for gay men in each region of Senegal (7 May 2013). Corroborating information or further information on support services available to members of sexual minorities could not be found among the sources consulted by the Research Directorate.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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## Additional Sources Consulted

**Oral sources:** Attempts to contact representatives from the following organizations were unsuccessful: Groupe Andligeey, Behind the Mask, Ford Foundation, Open Society Initiative for West Africa, None On Record, International Lesbian, Gay, Bisexual, Trans and Intersex Association, International Gay and Lesbian Human Rights Commission.

**Internet sites, including:** AfricanVeil.com; AllAfrica.com; ecoi.net; Factiva; The Global Forum on MSM and HIV; GlobalGayz.com; *The Guardian*; International Gay and Lesbian Human Rights Commission; Merhaba; None on Record; Open Society Initiative for West Africa; Organisation for Economic Co-operation and Development – Social Institutions and Gender Index; Senegal – Comité sénégalais des droits de l'homme, Conseil national de lutte contre le SIDA, Gouvernement du Sénégal, La Présidence de la République du Sénégal; United Kingdom – Border Agency; United Nations – Integrated Regional Information Networks, Joint United Nations Programme on HIV/AIDS, Refworld.

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