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SUBJECT TITLE: TORTURE IN SENEGAL: THE CASAMANCE CASE

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This document is in two parts. A short introductory paper written in May 1990 updates the second part which is the text of a memorandum sent by Amnesty International to the Government of Senegal one year earlier raising concerns about torture in Casamance region, southern Senegal.

Between 1982 and 1989 several hundred people in Casamance region were arrested for political reasons, connected with a campaign for greater autonomy for the area, and some were convicted of violent acts on the basis of statements to the police which may have been made under duress. About 10 people from the region are still in prison for political reasons. The memorandum describes cases of torture and deaths in detention which may have been due to torture.

In May 1989 Amnesty International submitted to the Government of Senegal the attached 12-page memorandum concerning torture of prisoners arrested in Casamance; the memorandum was discussed with government officials in October 1989 when Amnesty International representatives visited Senegal. The authorities reiterated their opposition to torture and their commitment to preventing it. However, they explained that no official investigation into allegations of torture had been carried out as the alleged torture victims had not made formal complaints through the correct channels. The authorities said that an amnesty declared in June 1988, which resulted in the release of most of the Casamance detainees, meant that no further prosecution could be initiated concerning offences committed by either the separatists or by the security forces before July 1987.

The memorandum ends with Amnesty International's recommendations for measures to prevent the use of torture. Amnesty International believes that under international law, the Republic of Senegal is bound to investigate all allegations of torture, whether or not complaints are formally submitted following established procedures. The organization is concerned that if further arrests of government opponents take place in Casamance, a framework may not yet be in

place to ensure that torture does not take place.

This summarizes a 15-page document, Torture in Senegal: the Casamance Case (AI Index: AFR 49/02/90), issued by Amnesty International on 23 May 1990. Anyone wanting further details or to take action on this issue should consult the full document.

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TORTURE IN SENEGAL:
THE CASAMANCE CASE

Introduction

Several hundred people from the Casamance region in southern Senegal were arrested for political reasons between 1982 and 1989. Some of them were convicted by the State Security Court in Dakar in December 1983 and in January 1986 on charges of threatening the security of the state and of being members of an illegal association. There were further arrests in late 1986, early 1987 and early 1988 and, most recently, in April 1989. It appears that some of these prisoners were arrested because they had called for independence for the Casamance region, without otherwise using or advocating violence. One of them, Father Augustin Diamacoune Senghor, was considered by Amnesty International to be a prisoner of conscience; he was sentenced by the State Security Court in December 1983 to five years' imprisonment. In other cases, prisoners were charged with violent offences after they or others implicating them had made statements to the police while held incommunicado; some, at least, made statements under duress, after being subjected to severe beatings or other forms of torture.

Some 10 prisoners from the Casamance region are still held in jail. Five were convicted in January 1986 of violent offences. The remaining five were arrested in February 1988 in Guinea-Bissau and handed over to the Senegalese security forces. No formal extradition procedures were observed, despite the existence of an extradition convention between the two countries, ratified in 1978, which required that those concerned be referred to a court in Guinea-Bissau. The five men, including Mamadou Sané, known as "Nkrumah", a former political prisoner arrested in 1982 and released in December 1987 after serving a five year sentence, have been charged with "plotting against the internal and external security of the state and forming an unlawful association". They are still awaiting trial, more than two years after their arrest.

Many of those arrested in Casamance are alleged to have been

tortured by members of the security service at the time of their arrest in Ziguinchor, in southern Senegal. No formal investigation has been carried out by the authorities into these allegations.

In May 1989 Amnesty International submitted to the Senegalese authorities a 13-page memorandum about reports of torture in Casamance. This text is attached. In October 1989 three representatives of the organization went to Senegal to have talks with government ministers. The Amnesty International delegates were received by President Abdou Diouf and had talks with the Minister of Armed Forces, the Minister of Justice, the Minister of Interior and security officials in Ziguinchor, the main town in

Casamance, as well as with members of parliament belonging to both the ruling party and opposition parties, and with other opposition leaders. The authorities reiterated their own opposition to torture and commitment to preventing it. The delegates were told, however, that there had been no official investigation into individual allegations of torture as the alleged torture victims or their representatives had not lodged formal complaints with the appropriate authority, the procuracy. Rejecting Amnesty International's call for an official inquiry into the reports of torture in its memorandum, the authorities also referred to the amnesty declared in June 1988. This amnesty led to the release of most of the detainees from Casamance. It was also interpreted by the authorities to mean that no further prosecution could be initiated concerning offences either by the separatists or by the security forces committed in Casamance before July 1987. The amnesty in question contains no overt reference to offences involving human rights violations committed by the security forces. The authorities said that Senegal's international commitments would be respected and they stated their intention to ensure in future that representatives of the procuracy check up regularly on the well-being of detainees held in the custody of the security forces.

Amnesty International considers that, under international law, the Republic of Senegal is bound to investigate all allegations of torture, whether or not complaints are submitted formally following procedures envisaged by law. The authorities' interpretation of a 1988 amnesty law to mean that violations of human rights, including torture leading to the deaths of prisoners, cannot be investigated or prosecuted, appears questionable under the terms of Senegal's own laws. Furthermore, it does not appear consistent with Senegal's obligations under international law to investigate complaints about torture.

Senegal ratified the United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment on 21 August 1986 but the Convention only entered into force on 26 June 1987. Most of the cases reported by Amnesty International occurred between 1983 and 1987 although there have been cases reported in 1988 and 1989. Even though many of the cases reported to Amnesty International pre-date the entry into force of the Convention, nevertheless the United Nations Declaration against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, adopted by the General Assembly in 1975, had already called on all governments, including the Republic of Senegal, to respond to reports of torture by setting up independent and impartial inquiries. Such investigations have proved a vital mechanism in establishing not only whether torture takes place, but how and why. It is only when such information is available that governments are equipped with the appropriate knowledge to take action to eliminate torture. Amnesty International is concerned that if further arrests of government opponents take place in Casamance, a framework may not yet be in place to ensure that torture does not take place.

In 1989 Amnesty International received details about one further case of torture in Senegal. Information about the case had not been

received at the time Amnesty International's May 1989 memorandum was prepared, although the victim in question, Jean-Pascal Badji, had already been tortured and had died in April 1989. He was a songwriter attached to a group of singers in Balankine in the vicinity of Bignona. He was arrested by members of the armed forces (whereas most of those mentioned in Amnesty International's memorandum were arrested by the gendarmerie) and was apparently suspected of being a member of the independence movement. He died soon after his arrest reportedly as a result of torture inflicted

while he was in military custody. Amnesty International has asked the government to investigate the circumstances of his death and is at present awaiting a response.

Casamance region is situated in the south of Senegal and extends from the southern border of the Gambia, south across the lower reaches of the Casamance River to Senegal's southern borders with Guinea-Bissau. The main towns are Ziguinchor, Kolda, Bignona, Vélingara and Sédhiou. Lower Casamance, situated around the mouth of the Casamance River, is the main area where activists have called for independence. The main ethnic groups in this area are the Diola, Mandjak and Ballante. Rice cultivation has been the main economic activity in Casamance for many centuries and Casamance is one of the most fertile regions in Senegal. In spite of the spread of Islamic and Christian religions, in Casamance many traditional rituals, local customs and religious beliefs are still practised.

Critics of the Senegalese Government's policies in Casamance allege that since independence from France in 1960, the Casamance region has been marginalized from the rest of the country in both economic and social terms, and that most senior posts in the region's local administration have been monopolized by northerners, particularly those from the Wolof ethnic group. They also accuse the government of allowing many wealthy northern families to acquire large properties in Casamance to the detriment of local small-scale farmers. Similarly they complain about the lack of respect which, they say, northern settlers and civil servants show towards local traditions and customs.

Historically, the movement to emphasise Casamance's culture and separate identity was begun by the Mouvement des forces démocratiques de la Casamance (MFDC), the Movement of Casamance's Democratic Forces, an organization formed in March 1947 by Casamance nationalists including Emile Badiane, Ibou Diallo and Victor Diatta. In 1948 this organization became part of the Bloc Démocratique Sénégalais (BDS), the Senegalese Democratic Bloc, under the leadership of Léopold Sédar, Senegal's head of state from 1960 until 1980. After independence in 1960, the MFDC appeared to have disbanded; however, in 1982 a leaflet calling for the independence of Casamance and signed by the MFDC was distributed in Casamance and Dakar. Since then, disturbances in the region are believed by many to have been orchestrated by the MFDC and many of those arrested are suspected by the authorities of being members of the MFDC. Whilst some people have admitted being members of the MFDC, other villagers who have spent time in prison claim, however, to be members of no particular political organization and have challenged the government's claims that there is a clandestine organization of any sort directing the campaign for greater autonomy or independence.

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TORTURE IN SENEGAL:
THE CASAMANCE CASE

1. Introduction

The Government of the Republic of Senegal has repeatedly indicated its opposition to torture by signing or ratifying international human rights instruments which contain specific prohibitions on torture. These include both the United Nations International Covenant on Civil and Political Rights (ratified in February 1978) and the Organization of African Unity's African Charter of Human and Peoples' Rights (ratified in October 1982). Of most direct relevance is the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which the United Nations General Assembly adopted in December 1984, and which Senegal signed less than two months later, in February 1985, and then ratified in August 1986.

Nevertheless, despite these clear signs that government policy opposes the use of torture, since the beginning of 1985 Amnesty International has received reports of prisoners being tortured or subjected to severe beatings in a variety of places and circumstances in Senegal. In March 1985 the prison service itself commented on the lamentable state in which many prisoners arrived in prison after being beaten or assaulted after their arrest. In April 1987, seven police officers in Dakar were convicted of beating a criminal suspect to death in custody and sentenced to two years' imprisonment and a fine. In March 1988 a man arrested when a curfew was in force in Dakar, Malang Gassana, died in hospital the following day, apparently as a result of injuries incurred when gendarmes subjected him to beatings.

In addition to these examples, all of which have been reported in the Senegalese press, Amnesty International has received numerous allegations that people arrested in Casamance region on suspicion of committing politically-motivated offences have been subjected to torture or severe ill-treatment. The evidence that torture has taken place in Casamance includes testimony by former prisoners and by impartial observers. Details are presented below.

Amnesty International is concerned not only by the existence of evidence that torture has taken place but also by what appears to be a consistent blanket denial by the Senegalese authorities that torture has taken place. The authorities' response to reports of torture by Amnesty International has been to deny the accuracy of the reports and to argue either that they do not call for independent investigation or that the right procedures for setting an investigation in motion have not been

followed by the victims, their families and their lawyers. The authorities also appear to consider that current detention procedures, which in Amnesty International's view have created conditions in which torture can take place, do not require any modification.

Following the conviction of police officers in 1987, and a subsequent strike by other members of the police in protest against the convictions and two-year sentences imposed, Amnesty International had written to the Senegalese authorities asking that clear guidance be given in the training of officials concerned with the imprisonment, interrogation and treatment

of prisoners that torture is a criminal act and that they are required to refuse to obey any order to torture.

The authorities replied that "not only legislation but also administrative practice and the instructions given to the officers responsible for law and order" respect the guarantees against torture.

Nevertheless, Amnesty International continues to receive allegations of torture and ill-treatment of prisoners, particularly on the premises of security forces.

For example, a year ago, during the night of 20/21 March 1988, according to the Justice Minister, Malang Gassama was arrested in front of his home under state of emergency measures. He was admitted to Le Dantec hospital as an emergency case, where he died next morning. But Amnesty International has learned that he was apparently arrested in front of his home at Grand-Dakar while he was engaged in his ablutions for evening prayers and that he apparently died as a result of beatings inflicted by gendarmes. The organisation asked the authorities whether an official investigation into this matter had been set in motion. The Justice Minister replied in June 1988 that an autopsy carried out at the request of the deceased's wife had resulted in the following findings:

"Malang Gassama's death is due to general visceral congestion as a result of cardio-vascular and hepatic lesions. The autopsy has been unable to determine the mechanism triggered off by the decomposition of these lesions."

In the light of these findings, the authorities have not thought fit to take legal action, especially as there is no record of any civil action being brought by an individual in criminal proceedings.

The following two chapters contain details of reports of torture and deaths in detention of prisoners arrested in Casamance from 1982 to 1987 in connection with their suspicious links with a movement seeking independence for the south of Senegal (MFDC). Chapter 4 describes the government's response to reports of torture and Chapter 5 suggests practical ways in which the Senegalese authorities could reduce or end the ill-treatment of prisoners.

2. Allegations of torture and ill-treatment

Since 1983, Amnesty International has received information from various sources on the subject of torture and ill-treatment inflicted on persons suspected of belonging to the Mouvement des Forces Démocratiques de la Casamance (MFDC). The information comes from former prisoners and their families, from statements made by defendants to the courts and from Amnesty International delegates who have visited Senegal in 1985 and 1987 and noted that former prisoners had scars that tended to confirm their stories.

It appears that police officers were essentially concerned to determine who were the members of MFDC and it appears that, in order to achieve this objective, torture and ill-treatment were constantly and systematically employed up to the time of handing over the persons arrested to the judicial authority.

In this context it is important to note that Senegal's own detention procedures, set out in the Code of Penal Procedure, allow for suspects to

be detained (gardés à vue) for a maximum of four days before being referred to the Procuracy, where their case may be investigated further by an examining magistrate (juge d'instruction). However, in cases involving suspected offences against the security of the state, the Code of Penal Procedure provides for this initial period of detention to be extended to a maximum of eight days. This provision has generally been invoked in the case of suspected MFDC supporters, who have consequently been detained for up to eight days incommunicado without being seen by relatives, lawyers or even a representative of the Procuracy. It is during this period, according to Amnesty International's information, that most cases of torture occur.

There is an impressive number of accounts from different sources regarding beatings inflicted for several days on end, both at the time of arrest and on police or gendarmerie premises in Ziguinchor - the administrative capital of Casamance at the time - or in Bignona or during transfer by boat to Dakar. It appears that this treatment was inflicted almost indiscriminately, with no regard for age or sex. According to accounts received by Amnesty International, this ill-treatment took the form of particularly brutal blows with batons, leaving indelible marks, by the use of torture in the form of electric shocks under the nails or to the genital organs, by pouring petrol into suspects' private parts (both men and women), by prolonged deprivation of food and a total absence of medical care for sick or injured prisoners and by the humiliation of elderly people.

It appears that many people have died in suspicious circumstances during periods of detention; others have died during or after their transfer to Dakar while on remand. The large number of deaths occurring just after suspects' arrest is a matter of concern to Amnesty International. Chapter 3 below sets out particulars of these deaths.

Amnesty International has received a variety of testimonies from people arrested in Casamance on suspicion of involvement with the MFDC who claim to have been beaten or tortured. While it is not possible to cross-check every detail contained in the testimonies, they are nevertheless consistent in many of the details described.

A prisoner who was arrested in June 1984 has given the following testimony:

"I am married, I have two wives and four children. I was accused of concealing my father, who had been sent a summons. I replied 'No'. They accused me of having carried provisions to people hiding in the forest. I replied 'No'. They parted my buttocks and poured in petrol. They then called in my wife to show her the effect of the petrol in my anus. They hit one of my wives, who was three months pregnant. Afterwards they took her to a classroom to rape her, and came and told me afterwards. They arrested my two

children aged three and two and exposed them to the sun while refusing them their mother's help. They slapped my mother, who is very old."

The following testimony taken by Amnesty International illustrates the forms of torture inflicted upon political detainees in Casamance. The person who gave the information to Amnesty International was arrested in pg; late 1986 in Bignona by gendarmes and accused of being involved in separatist activities.

"I was arrested by the gendarmerie a few days after giving food to a villager who had evaded arrest when a campaign of repression began in November 1986, in Casamance. My only 'crime' was to provide a little food for humanitarian reasons to a man who was very hungry and who was hiding in a forest nearby. I was beaten at the time of my arrest and before the gendarmes started to interrogate me. They asked me to confess to being an MFDC member and to denounce other people who, they said, were involved in separatist activities. When I refused, denying the accusations, they suspended me in a contorted position, I had my head thrown back ... then they started to beat the soles of my feet. They stopped only when I fainted. They started up again several times until I admitted to their accusations. For me it was the only way of getting them to stop torturing me. I confessed to everything they accused me of, but they still beat me again on several occasions. They gave me nothing to eat for three days and I had only a very little water to drink. I was imprisoned for eight days in the Ziguinchor gendarmerie before being transferred to Dakar, and over the whole of this time I was handcuffed. The torture made me very ill, but no doctor came to see me and I received no treatment. When I dared to ask the gendarmes to take me to hospital, they swore at me, humiliated me and beat me again"

Several testimonies indicating that gendarmes poured petrol into the private parts of female and male suspects have reached Amnesty International. Inhuman and humiliating treatment was inflicted on women; in particular, lighted cigarettes were stubbed out in their genital organs and rags stuffed into their vaginas.

During a major trial in 1985, in which over a hundred people were tried and heavy prison sentences imposed, several defendants testified that they had been tortured on gendarmerie premises in Casamance where they were being held before their cases were sent to the Public Prosecutor. Despite these statements, the State Security Court decided that the prisoners' complaints were unfounded. In several cases the confessions extorted under torture were the only evidence produced by the prosecution during the two trials. According to Article 15 of the Convention against Torture, however, a statement obtained under torture cannot be used as evidence against the victim during a trial. In addition, the authorities have refused to order an inquiry into the allegations of torture and ill-treatment inflicted on prisoners from Casamance.

Another case concerns Lamine Diédhiou, known as Babagnary, from Thionck-Essyl, who was arrested in 1987 and underwent a method of torture consisting of pulling out all of his beard hair by hair. Another suspect, from Kabiling, Diédhiou Kalifa, was allegedly manhandled at the Ziguinchor gendarmerie. His two arms were broken.

Amnesty International has received information on the case of a prisoner named Abdoulaye Sambou who had a foot amputated while he was held at Dakar prison in 1987. This amputation was due to the fact that his feet were bound by wire and were infected.

In most of the cases reported to Amnesty International the members of the gendarmerie tortured prisoners during their period of detention in Ziguinchor and Bignona. It also appears that certain prisoners were manhandled after signing confessions.

Amnesty International has received information from a variety of sources to the effect that in December 1983, during the transfer of a group

of prisoners by boat from Ziguinchor to Dakar, some of them - including women and old people - were allegedly tortured by gendarmes. Hésa Tendeng, for example, born in Batinière-Boulane in the district of Nyassia, department of Ziguinchor, was said to have died as the result of ill-treatment, kicking and beating with the butt of a gun on board the "Falemé", a national navy vessel. It is reported that the gendarmes tried to throw his body overboard, but the master of the vessel objected.

It appears that other people died in 1983 after disembarking from the "Falemé", some of them at Le Dantec hospital, apparently as a result of cruel, inhuman or degrading treatment they received on board the vessel:

- Mamadou Goudiaby, a mason from the village of Djibanghary, department of Sédhiou, who lived in Ziguinchor;
- Apou-Marie Manga, housewife, born in Enampor in the district of Nyassia;
- Asséga Manga, housewife, born in Enampor.

An Amnesty International delegate who, in 1985, visited six women arrested in Casamance who were being held in Rufisque prison noted that they bore the scars of injuries. It seems that all of them were beaten by gendarmes either in Ziguinchor or in Dakar itself. It seems certain that some of them were tortured. They were living in prison in precarious conditions and in complete isolation more than a year and a half after their arrest. They had no visit before the visit of the Amnesty International delegate, nor had they received news of their families. They knew nothing at all about what had happened to their husbands and children.

It seems that, at the time of the visit, they were being relatively well treated and were receiving acceptable treatment from the women guards and governor. They were also living with women imprisoned under common law, most of them sentenced for infanticide or prostitution.

One of them had been arrested at Ziguinchor market as she was selling peanuts on her own behalf. She was wounded by a bullet which had left a large scar on her left foot. She stated that she had been tortured in Dakar and, as proof, showed the visible traces of burns and scars on her fingernails. Married and the mother of four children, she knew nothing at all of what had happened to her family.

Another woman, aged 60 at the time and the mother of nine children, had been arrested at her home. She was accused of having

attended a demonstration. She was injured by a baton blow on the head. After her arrest, she had been stripped naked and beaten with batons by gendarmes.

A third woman aged between 60 and 70 in 1985 was unable to express herself coherently and could only weep profusely. She had been arrested on a footpath as she was going to the holy wood. She has several children and grandchildren, of whom she had no news. Her fellow prisoners seemed to treat her with special respect because of her age and stated that she too had been beaten.

In December 1987 another Amnesty International delegate interviewed a number of former political prisoners who had been held for a few months in 1986 and 1987 on the charge of having links with the separatist movement. These ex-prisoners bore the scars of injuries on their hands caused by wearing handcuffs and on their feet caused by torture.

In conclusion, there appear to be good grounds for stating that ill-treatment (violent blows and very unpleasant positions) had been inflicted on many prisoners during the preliminary investigation and that it has been possible to verify the use of torture in several cases. The ill-treatment stopped when the persons in custody were placed under the protection of the courts, but it is a matter of concern that the gendarmerie apparently continued to apply these methods in the course of their inquiries, despite it being revealed and despite the denunciations that reached them. Nothing and nobody was able to halt them in what they were doing.

3. Deaths in custody

Deaths of prisoners in custody appear to have been particularly numerous in the mid-1980s, particularly in 1983 and 1984. Amnesty International has received details of detainees who died in Casamance itself, while in gendarmerie custody, and of others who died at a later stage in their detention.

The organization has received the names of several people who died on gendarmerie premises, in particular at Ziguinchor, apparently as a result of torture or ill-treatment:

- Samba Bassène, village chief for Bougouillon, district of Nyassia, department of Ziguinchor, is reported to have died on the Ziguinchor gendarmerie premises in 1983;
- Malamine Sagna, a farmer living in Tobor, district of Tanghory, department of Bignona, arrested on 30 December 1983, is reported to have died soon after his arrival at the gendarmerie brigade at Thionck, in Dakar, following blows he had received, particularly in the ribs;
- Mamadou Badji, known as Niambaly, a joiner from Mampalago, department of Bignona. Amnesty International has learned that he apparently died at the gendarmerie brigade premises in Ziguinchor, probably in late 1982 or early 1983;
- Timothée Badji of Bougouillon is reported to have died at the Ziguinchor brigade premises following burns, probably in late 1982 or early 1983;
- Abdou Sagna, of the village of Diatok in the department

of

Bignona, is reported to have been arrested after the first demonstration organized by the separatists on 26 December 1982,

to have been tortured at Bignona police station and to have died

while he was being taken to hospital;

- Ousmane Diatta of the village of Ebinkine, department of Bignona,

was aged 67 at the time of his arrest in October 1986. It is

reported that he was tortured by seven gendarmes from the Bignona

brigade and died in 1987.

Amnesty International has also received information from a variety of separate sources on the death of several other prisoners from Casamance between 1984 and 1987. Some of these deaths occurred in Le Dantec hospital in Dakar, while the prisoners were being transferred under the responsibility of the courts. In these cases, the death certificates,

serving as authorisation for burial, were drawn up at the examining magistrate's request. Amnesty International has learned that, despite an express demand by a lawyer, no autopsy was carried out in any of the cases.

The death certificates should be examined more closely:

1. Bakari Sané. Born in Ziguinchor in 1957, a farmer living in

Fanda. Arrested on 26 December 1983 by the Ziguinchor gendarmerie

brigade, collapsed on 9 January 1984. He was admitted to hospital

on 9 May 1984 and died on 8 June 1984. The body was buried on 13

August 1984 by a delegation of prisoners. The certificate bears

the date of 17 August 1984 and mentions as the cause of death a

premature cancer of the liver. This seems impossible to verify;

no autopsy was carried out. It is of interest that the certificate was drawn up more than two months after the official

date of death and four days after burial. Information compiled on

this case would point to the death occurring as a result of ill-treatment. The prisoner's family was left in absolute ignorance

of his fate.

2. Lamine Mané, known as Pécos. Born in 1946 in Kagnobon, department of Bignona, he was returned to custody on 13 February

1985 after being arrested two weeks earlier. The date of his

admission to hospital has not been specified; the date of death

was 22 February 1985. The certificate was drawn up on 26 February

1985. The official causes of death were as follows: "General

visceral congestion; body in state of advanced decomposition,

rendering any interpretation of external injuries impossible;

absence of detectable internal haemorrhage". Eye witnesses stated

that he arrived at Le Dantec hospital spitting blood and that his

body bore traces of many deep injuries. No autopsy was

carried out, despite repeated requests by the defence lawyer.* It appears likely that this person died as a result of torture inflicted upon him both at the time of his arrest by the Ziguinchor gendarmerie and at Dakar, at the gendarmerie; the probable date of transfer to hospital seems to have been a few days before his death.

3. Moussa Sagna. Aged 70 at the time of death, originally from

Kagnabon in the district of Sindian, the father of 10 children.

He was arrested on 18 January 1984; he died in the "special pavilion" in Le Dantec hospital on 24 September 1984. The body

was handed over to his family. The certificate states only the

date on which it was drawn up, the official cause of death being

as follows: "Bronchial pneumonia plus general deterioration in

health". It seems that ill-treatment had been inflicted on this

elderly man, who had never had a conviction.

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* During the Amnesty International mission to Senegal in October

1989, the delegates learned that an autopsy was carried out several days after the body was buried.

4. Youssouf Badji. Aged 54, a fisherman, living in Niafoulène. The order placing him in custody was dated 11 February 1985. The certification drawn up on 8 March 1985 did not show the date of hospitalisation, and gave the date of death as 7 March 1985, i. e. three weeks after detention. The official causes of death are as follows: "Natural death due to liver disease, the nature of which is to be determined by histological examination". To the best of Amnesty International's knowledge, this examination has not been carried out.

Three other people - Malamine Badji, Alhadji Keba Sané and Lang Diédhiou - died in prison in 1987 under suspicious circumstances. No investigation has been ordered, to the best of Amnesty International's knowledge, to determine the cause of their death.

From April 1984 to February 1988, a list of six people who died after leaving prison has been brought to Amnesty International's attention; their families state that the deaths were the results of torture and ill-treatment.

4. The Government's Response to Reports of Torture

Government officials have responded in various ways to evidence of torture and to the possibility that torture might take place. In general, however, the authorities have been unwilling to order inquiries into reports of torture (possibly on the grounds that this would imply that the reports might be true). However, the 1984 United Nations Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment, which came into force in 1987 and to which Senegal has been a party since 1985, places a clear obligation on the authorities to carry out an investigation whenever there are "reasonable grounds" to suspect that torture may have occurred, independently of any complaint lodged by the victim or in his/her name.

Its article 12 states:

"Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

In October 1988 the Senegalese Government presented its initial report about the implementation of the United Nations Convention in Senegal to the Special Committee against Torture set up under the terms of the Convention. The five-page report emphasised that torture is a criminal act in Senegal, punishable by law. However, it gave little attention to the ways in which torture could be prevented by amending detention procedures, and omitted all reference to the allegations of torture which had taken place between 1985 and 1988. This report has not yet been examined by the Committee against Torture.

)))))))))) * Since this memorandum was prepared, the government has submitted a supplementary report to the Committee against Torture (UN doc. CAT/C/5/Add 19).

In addition to the 1987 prosecutions of police officers for beating a detainee to death, other evidence that the authorities were aware that prisoners were being tortured or ill-treated in police custody is found in a confidential prison service memorandum dated 1 March 1985 (No. 000932/DPP/OCS) to prison governors, testifying to the intensive use of torture on gendarmerie and police premises.

"For some time now, prisoners have been arriving in our establishments bearing injuries inflicted by the officers who arrested them. Some prisoners, moreover, even die in our cells, thus increasing the number of deaths, to our detriment. These situations risk discrediting us and hampering our efforts to humanise and improve the prisoner's living conditions in the prison environment...."

In response to letters from Amnesty International expressing the organization's concern about allegations of torture and ill-treatment, the Justice Minister has replied on several occasions that the scars mentioned by Amnesty International "may well have been caused by injuries sustained during the struggle put up by people arrested against the law enforcement officers". Several people bearing the scars of injuries, however, were in no way arrested in the act of committing an offence, and some were even arrested several days after the demonstrations or confrontations. Other detainees had taken no part in these events, to our knowledge.

When Amnesty International has urged that an independent and impartial inquiry should be carried out into all allegations of torture, particularly those relating to the treatment of detainees in gendarmerie custody in Casamance, the government has invariably responded by saying that these allegations of torture "of a general nature" are a premeditated method of defence on the part of defendants.

The authorities have also rejected Amnesty International's requests for inquiries, on the grounds that no application for legal proceedings has been made by the defendants' lawyers or families; nevertheless, the UN Convention against Torture places an obligation on the authorities to ensure that an independent inquiry is ordered whenever there are reasonable grounds to believe that an act of torture has been committed.

Replying to Amnesty International, the government has declared that instruction and information on the prohibition of torture form an integral part of the training of security force personnel.

^ab=5. Measures to prevent torture

Despite the government's denials that torture has taken place in Casamance, Amnesty International considers that sufficient evidence is available to warrant an official investigation and to necessitate

changes in detention procedures to provide greater safeguards for detainees.

The UN Convention against Torture makes it clear that states are obliged to investigate individual allegations of torture. However, in the case of Casamance where there appears to have been a pattern of torture during the 1980s, it would seem most appropriate for the government to set up an independent and impartial commission of inquiry to investigate the allegations of torture on people indigenous to the Casamance region, and on deaths in custody over recent years and to make public the results of such an inquiry. Complainants and witnesses should be protected from

intimidation. It should also be empowered to make recommendations for changes in arrest or detention procedures which might reduce the possibility of torture.

Amnesty International's "Safeguards against Torture" contains a series of recommendations concerning protection against torture. Its Article 13 says:

"As stated in the United Nations Declaration against Torture, governments should ensure that all complaints and well-founded reports of torture are impartially investigated. Complainants and witnesses should be protected from intimidation.

Even if some form of official complaints machinery does exist, there may be a reluctance to use it. Victims of torture may fear reprisals from the security forces. Sometimes, ill-treatment is not reported because the victims do not believe that it will do any good. They may believe that the word of a security official will be given more weight in court than their own testimony. They may wish to protect their families from the fear and anxiety caused by the knowledge that they were tortured. In some societies it is thought undignified to admit to having been tortured. In others, it may be particularly difficult for victims, especially women, to reveal that they have been physically or sexually abused. Just as the existence of allegations cannot be taken as proof of torture, the paucity of official complaints does not demonstrate the absence. Therefore, complaints procedures should provide for an investigation of allegations wherever there is reasonable ground to believe that torture has occurred, even if formal complaints have not been lodged.

Based on its experience, Amnesty International believes that complaints procedures should reflect the following principles:

1. The main objective of complaints machinery is to establish, to the degree of certainty possible, whether torture or ill-treatment has occurred. As it is not a criminal inquiry, it should therefore not be necessary to prove beyond reasonable doubt who committed the offence in order to conclude that an offence has taken place.

2. The investigating body, however constituted, should be able to demonstrate its formal independence from the detaining and interrogating authorities as well as from governmental pressure and influence. In order that its findings prove credible, the government might include among its members persons nominated by independent non-governmental bodies such as the country's Bar and medical associations. There is no strong reason to exclude representatives of the general public, especially in countries

with systems involving trials by jury, from serving on a board charged with reviewing complaints against the police.

3. The terms of reference of the investigating body should include authority to subpoena witnesses, records and documents, to take testimony under oath, and to invite evidence and submissions from interested individuals and non-governmental organizations. The investigating body should also have powers to review procedures and practices related to the notification of arrest; to visits to

detainees by lawyers, family and their own physicians; to medical examinations and treatment and to the admissibility of statements in court allegedly obtained by coercion.

4. The investigating body should be capable of acting on its own initiative, without having to receive formal complaints, whenever there is good reason to believe that torture has occurred. To do so, it must be given the staff and other resources to carry out autonomous investigations.

5. The methods and findings should be made public.

6. The investigation should be speedy if it is to serve the cause of either justice or deterrence.

7. The right to file a complaint should be available to all current and former detainees, their lawyers, families and to any other person or organization acting on their behalf.

8. Accurate records of complaints filed should be published on a regular basis.

9. Security agents against whom repeated complaints of ill-treatment are filed should be transferred, without prejudice, to duties not directly related to arresting, guarding or interrogating detainees, pending a thorough review by senior officers of their conduct.

10. The investigating body should have available to it the medical documentation resulting from an examination by an independent doctor given immediately after the complaint is filed. Records of any post-mortem examination relevant to a complaint should likewise be available. "

On the basis of the information which it has received about the circumstances in which torture has taken place, Amnesty International also considers that a number of changes in detention procedure would help reduce the possibility of torture.

It appears that detainees have been tortured or ill-treated primarily while detained (gardés à vue) by the gendarmerie or other branches of the security forces. At present, the law allows some detainees to be held incommunicado for up to eight days. It is vital that the authorities take steps to protect detainees from ill-treatment during this time. As torture takes place while detainees are held incommunicado, a direct way of preventing torture would be to ensure that they are not held incommunicado. The International Covenant on Civil and Political Rights which Senegal ratified in 1978 states that every individual arrested should be brought promptly before a judge or other authority empowered to exercise judicial power. At a minimum, the detainees should be seen every day by an

official who is not involved in their interrogation, preferably a representative of the Procuracy, for under the terms of the law the Procuracy is responsible for upholding legality in all circumstances and therefore has a special responsibility to ensure that prisoners are not subjected to any form of unlawful treatment, such as torture. Moreover, the Standard Minimum Rules for the treatment of prisoners, adopted by the General Assembly of the United Nations, make provision for a defendant to be allowed to communicate with and to be visited by family, friends and a lawyer (Articles 92 and 93).

Detainees subjected to torture in Casamance appear to have been both kept in custody and interrogated by the same agency - the gendarmerie. The formal separation of these two security functions would allow some further protection for detainees by providing a degree of supervision of their welfare by an agency not engaged in interrogating them.

Strict procedures are also needed to regulate the process of interrogation itself. A clear chain of command within the agency concerned would indicate who is responsible for supervising interrogation procedures and practices and for disciplining those who violate procedures. The procedures could include the regular and personal supervision of interrogation by superior officers, as well as specified limitations on the duration of interrogation sessions and the number of interrogators.

Senegal's Code of Penal Procedure already provides for a number of other safeguards. These include, for example, informing all detainees held for more than 48 hours of their right to a medical examination. In practice, however, these safeguards are known not to have been respected: indeed, those who have requested medical attention are reported to have been laughed at or punished by their guards. Further action is required, therefore, to enforce the safeguards against ill-treatment which already exist in law, but not in practice.

Finally, although the government has regularly indicated in the international arena its opposition to torture, it is not obvious that the instructions received by members of the gendarmerie and other branches of the security forces involved in handling prisoners truly reflect this. It is clear that a strong statement by senior government officials responsible for the security forces, condemning torture and repeating that those responsible for torture will be punished, would in itself be a significant deterrent.

Finally, Article 11 of the United Nations Convention against Torture states clearly that:

"Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture."