

Making Sense of Senegal's Constitutional Crisis

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By the Africa Center for Strategic Studies

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The unprecedented attempt by Senegal's President Macky Sall to postpone presidential elections is legally dubious and has thrown the country into a constitutional crisis that will test its democratic institutions.



Opposition rally to demand the release of detained Senegalese opposition leader Ousmane Sonko in Dakar. (Photo: AFP/Carmen Abd Ali)

President Macky Sall's pronouncement that he was abrogating the decree setting Senegal's presidential elections for February 25 has thrown the country into a constitutional crisis that is testing the strength of Senegal's institutions and the balance of powers between them. The Africa Center for Strategic Studies' Associate Professor of Justice and Rule of Law, [Dr. Catherine Lena Kelly](#), explains what is at stake.

How did the constitutional crisis come about?

With a long history of multiparty politics and peaceful transfers of power through the ballot box, Senegal was slated to hold a presidential election on February 25, 2024. The date had been set by decree in accordance with the constitution, several months after incumbent President Macky Sall had reassured the public that he would not try to seek an unconstitutional third term. On February 3, the day before the presidential election campaign was set to start, Sall announced in an address to the nation that he was abrogating the decree that had set the election date. He cited an ongoing conflict between the legislative and judicial branches of government as justification for his action and called for a national dialogue to resolve it.

How are the legislative and judicial branches of government involved?

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Two of the seven members of the Constitutional Council—the judicial authority that validates the eligibility of election candidates—have been accused of corruption. The accusations have not been formally investigated through the justice system and the Constitutional Council has refuted the claims, which came from Karim Wade, the son of former President Abdoulaye Wade and the proposed candidate of the ex-ruling Senegalese Democratic Party (PDS).

In January, when aspiring candidates attested to their eligibility and collected citizens' signatures to meet the requirements for inclusion on the ballot, the Constitutional Council examined 93 dossiers and approved 21 candidacies. They declared Wade ineligible because he was a dual citizen of Senegal and France when he filed his paperwork, and the Senegalese constitution bars dual citizens from running for president. Members of the PDS parliamentary group, along with deputies in the ruling coalition, opened a commission of inquiry about the validation process. Parliament has the power to organize such commissions, but only the Constitutional Council has the authority to determine the validity of candidacies.

Why is this so significant?

Sall's actions have triggered a constitutional crisis in Senegal that falsely pits the legislative and judicial branches of government against each other and gravely threatens democracy and stability in the country. As a collective of Senegalese intellectuals have stated in an open letter, "in effect, what is in limbo in the hours and days to come is the survival of the idea of the Republic."

Neither the president nor the National Assembly has the power to annul or change the date of elections. That authority rests solely with the Constitutional Council. By unilaterally announcing the abrogation of the decree that had set the election date, Sall is attempting to usurp this authority.

Sall's announcement also opens a door for him to extend his time in office. As Senegalese legal analysts have argued, with the electoral code stipulating that there should be no less than 80 days between an electoral decree and the election, the abrogation makes it practically impossible to follow the existing electoral code to hold elections in time for Sall to leave office on April 2, in accordance with the constitution. On February 5, after opposition members of parliament were forcibly removed from the National Assembly by police and gendarmerie, members of Sall's ruling coalition passed legislation to postpone the elections until December 15 and extend the president's term.



Members of Parliament are removed after voicing opposition to the delay of the election. (Photo: BBC)

While the president and the legislature have the right to initiate revisions to constitutional law, their attempts to change the content of the legislation in question violates at least two clauses of the current constitution: Article 103, which indicates that the length of a presidential term cannot be modified, and Article 27, which limits each president to two terms.

With the expiration of the Sall's term on April 2, the constitution requires the transfer of power to the president of the National Assembly. If by then, no elections have occurred, the successor has 90 days to organize and hold them.

What has been the response from the public?

Since Sall's announcement, there have been protests and demonstrations across the country. Multiple opposition leaders and activists have been arrested during protests and campaign events that some have still tried to hold. The television signal of Walfadjri, a major independent media outlet, was cut after showing coverage of the protests, and mobile internet was shut down. Several government ministers have resigned, and over one hundred academics signed an open letter decrying the unconstitutional basis of Sall's actions.

The widespread protests are not surprising given the Senegalese public's staunch support for democracy over the years. According to the latest Afrobarometer public opinion surveys, over 8 in 10 Senegalese citizens said they prefer democracy to other forms of government. Over 7 in 10 affirm the principle that the president is required to obey the law and abide by courts' decisions. Before the constitutional crisis, many Senegalese citizens lamented that the "supply" in the quality of democracy in their country did not match the high levels of "demand." Sall's attempt to delay the elections unconstitutionally is likely to further reinforce this divergence.



(Photo: [Walfadjri](#))

Did this come as a surprise?

The extent of the crisis is significant in the arc of Senegalese history. Senegal has never postponed elections before, and there have been multiple peaceful transitions from one president to another starting in 1981 and from one party to another (2000, 2012).

Moreover, there have been ongoing efforts to balance powers across branches of government in Senegal. The Assises Nationales, a national dialogue that happened 2007-2009, generated recommendations from citizens about how to strengthen democratic institutions. When President Sall came into office in 2012, the National Commission for Institutional Reform did further related work. These efforts reinforced Senegalese citizen preferences for democratic institutions with effective checks and balances that reaffirm the rule of law.

The independence of the Constitutional Council has also been the subject of previous public debate, particularly after the Council validated President Abdoulaye Wade's controversial candidacy for a third term in 2012. Through a 2016 referendum called by Sall, the Council's composition was modified to include seven as opposed to five members, although the executive branch still retained effective majority control over them. In 2017-2018, there were further initiatives by judges and magistrates to enhance the independence of the judiciary. writ large.

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The run-up to the 2024 elections had already been defined by the Sall administration's strategic use of the law to bring charges against several prominent opposition figures in ways that invalidated their presidential candidacies. The politician who many predicted would win the 2024 race, Ousmane Sonko, was one such person. The former mayor of Dakar, Khalifa Sall (no relation to the President), was another. Khalifa Sall and Karim Wade were also barred from the 2019 elections on various charges. Although some of the charges may have merited investigation, the pattern of disbarments and the way these cases unfolded did not always hew to the principle of the rule of law.

Escalating tensions as a result of this pattern of marginalizing viable presidential contenders resulted in mass protests in March 2021 and June 2023, which led to deadly clashes with police. Social strains were also stoked by Sall's prolonged and controversial reticence to disavow ambitions to seek a constitutionally prohibited third term,

something he finally did in July 2023. This still did not quash political tensions, however, due to growing public trust challenges arising from the extended and high-profile effort to bar Sonko from the 2024 elections, trials of other opposition figures, and the restrictions on assembly and media freedoms that characterized Sall's second term.

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What has been the stance of Senegal's military?

The leaders of the Senegalese Armed Forces have been silent about the constitutional crisis, which squares with the military's history of professionalism and its mindful separation from partisan politics.

What has been the reaction from the region and internationally?

The European Union has called for peaceful elections that comply with Senegalese law. So has the United States, which has also expressed concern about the gendarmerie's removal of opposition legislators from the National Assembly. The Economic Community of West African States has called for the return to a constitutionally sound timeline for elections. Its Protocol on Democracy and Good Governance stipulates consistency in a country's electoral laws in the 6 months leading up to an election.

Additional Resources

- Aanu Adeoye, “Constitutional Crisis Looms in Senegal After President Macky Sall Delays Vote,” *Financial Times*, February 5, 2024.
- Joseph Siegle and Candace Cook, “Africa's 2024 Elections: Challenges and Opportunities to Regain Democratic Momentum,” *Spotlight*, Africa Center for Strategic Studies, January 17, 2024.
- Africa Center for Strategic Studies, “Creating a Culture of Military Professionalism in Senegal,” *Spotlight*, December 6, 2023.
- Nick Roll, “Succeeding Sall: Who Will Be Senegal's Next President in 2024?” *Al Jazeera*, July 14, 2023.
- Paulin Maurice Toupane and Aissatou Kanté, “Avoiding the Worst Case Scenario in Senegal,” *Institute for Security Studies*, June 22, 2023.
- Borso Tall, “Senegal's Democratic Credentials Have Taken a Beating Under Macky Sall,” *World Politics Review*, April 25, 2023.
- Catherine Lena Kelly, “Senegal Pulled Off Another Peaceful Poll. Why this Time the Results May Herald a Big Political Shift,” *The Conversation*, August 17, 2022.
- Danielle Resnick, “Senegal's Democratic Backsliding Is a Threat to African Democracy,” *Foreign Policy*, July 29, 2022.
- Catherine Lena Kelly, “Questions of Justice, Governance, and Rule of Law Surround the Local Elections in Senegal,” *Georgetown Journal of International Affairs*, April 15, 2022.