



Economic and Social Council

Distr.: General
13 November 2019
English
Original: French

Committee on Economic, Social and Cultural Rights

Concluding observations on the third periodic report of Senegal*

1. The Committee considered the third periodic report of Senegal (E/C.12/SEN/3) at its 42nd and 43rd meetings (see E/C.12/2019/SR.42 and 43), held on 7 and 8 October 2019, and adopted the present concluding observations at its 60th meeting, held on 18 October 2019.

A. Introduction

2. The Committee welcomes the submission of the third periodic report of Senegal, despite the considerable delay in submission. It also thanks the State party for the submission of its written replies to the list of issues (E/C.12/SEN/Q/3/Add.1) and for the constructive dialogue held with its delegation.

B. Positive aspects

3. The Committee welcomes the measures adopted by the State party that promote the rights contained in the International Covenant on Economic, Social and Cultural Rights, such as:

(a) Act No. 2014-37 of 15 December 2004 supplementing and amending Act No. 91-22 of 16 February 1991 on education policy, which makes education compulsory until the age of 16 and provides for free primary education;

(b) Act No. 2010-11 of 28 May 2010 establishing absolute parity between men and women in all fully or partially elected institutions, and whose implementation is monitored by the National Equality Observatory;

(c) Act No. 2012-30 of 28 December 2012 on the establishment of the National Anti-Fraud and Corruption Office;

(d) Act No. 2013-05 of 8 July 2013 amending Act No. 61-10 of 7 March 1961 on the determination of nationality, which allows the foreign husband of a Senegalese woman and their children to acquire Senegalese nationality;

(e) Decree No. 2014-26 of 9 January 2014 on the establishment, organization and functioning of the National Youth Employment Agency;

(f) The National Social Protection Strategy 2015–2035, adopted in June 2016 with the goal of achieving universal social security coverage by 2035;

* Adopted by the Committee at its sixty-sixth session (30 September–18 October 2019).



(g) Articles 25-1 and 25-2 of Constitutional Act No. 2016-10 of 5 April 2016 amending the 2001 Constitution, enshrining the rights to a healthy environment, natural resources and land.

C. Principal subjects of concern and recommendations

Data collection

4. The Committee is concerned at the lack of data on the enjoyment of economic, social and cultural rights in the State party's third periodic report, in its replies to the list of issues and in its oral replies during the interactive dialogue. This lack does not allow the Committee to assess the impact of all the measures taken by the State party to give full effect to the provisions of the Covenant (art. 2).

5. **The Committee recommends that the State party take all measures to improve its data-collection system, including its national census, with a view to collecting comprehensive and comparative data, which would make it possible to assess the level of enjoyment of Covenant rights, particularly by disadvantaged and marginalized individuals and groups. It also recommends that the State party provide, in its next periodic report, the comparative annual statistical data necessary to assess the progressive realization of Covenant rights and ensure that such data are disaggregated by sex, age, geographical location, disability, religion and other status.**

National human rights institution

6. The Committee notes that the Senegalese Human Rights Committee is not in full compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles), including as a result of the lack of a transparent and pluralistic process for the nomination of its chair and members and a lack of independence, including financial independence, which allegedly adversely affects its functioning. However, it takes note of the undertaking given by the State party to address this situation in its draft law (art. 2).

7. **The Committee strongly encourages the State party to take all measures necessary to ensure that the Senegalese Human Rights Committee is able to fulfil its mandate while maintaining its independence from the executive and the legislative branches of government and that it is protected from interference from any organs of the State. It urges the State party to ensure that the draft law on the review of the national human rights institution is in conformity with the Paris Principles.**

Justiciability of rights

8. The Committee welcomes the fact that economic, social and cultural rights have been enshrined in the Constitution of the State party. It notes that the Constitution recognizes the primacy of international instruments ratified by Senegal over domestic laws and that economic, social and cultural rights may therefore be directly invoked before the courts. The Committee regrets, however, that no information has been provided on examples of cases in which Covenant rights have been invoked before domestic courts or directly applied by them (art. 2).

9. **The Committee encourages the State party to raise awareness of the Covenant and its justiciability, as well as the Committee's general comments, among judges, lawyers, public officials and other law enforcement officials, as well as the general public, and to ensure access to effective remedies for violations of the rights enshrined in the Covenant. The Committee also invites the State party to inform parliamentarians of their role in the implementation of the Covenant. In this regard, the Committee refers to its general comment No. 9 (1998) on the domestic application of the Covenant.**

Maximum available resources

10. The Committee notes with concern that the share of public funds allocated to social services is tending to decline, with the exception of flagship programmes. It is also concerned that tax revenues represent a relatively small part of public budgets and that a high percentage of these revenues are derived from indirect taxation, which limits the State party's ability to reduce its high level of inequality. The Committee notes that the State party is highly dependent on international assistance and cooperation and regrets that a larger share of domestic resources is not mobilized for the realization of the rights set out in the Covenant (art. 2 (1)).

11. The Committee recommends that the State party ensure the effective mobilization of domestic resources by, inter alia, developing a more efficient, progressive and socially just fiscal policy and increasing the fees charged to foreign investors for the exploitation of extractive and fisheries resources, as a means of combating economic inequalities and progressively achieving the full realization of economic, social and cultural rights. It also recommends that the State party ensure that the process of adopting fiscal policies and budgets is conducted in a transparent and participatory manner.

Non-discrimination

12. The Committee notes with concern the existence of discriminatory legal provisions in Senegalese law. It also notes the lack of a general law prohibiting all forms of direct and indirect discrimination. The Committee is concerned about the persistence of discrimination against certain individuals on the basis of their sex, skin colour (albinism), descent or sexual orientation (art. 2).

13. The Committee recommends that the State party adopt comprehensive legislation on non-discrimination that: (a) clearly defines and criminalizes direct and indirect discrimination; (b) gives a comprehensive list of prohibited grounds of discrimination, including descent and colour, sexual orientation, gender identity, disability, residence status and other status; and (c) provides effective remedies for victims. The Committee urges the State party to decriminalize consensual homosexual relations and repeal article 319 (3) of the Criminal Code, along with all other legal provisions that are discriminatory with regard to sexual orientation or gender identity. The Committee draws the attention of the State party to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

Equality between men and women

14. The Committee takes note of the steps taken by the State party, including the adoption of Act No. 2010-11 on gender parity and the establishment of the National Observatory on Gender Parity. However, it remains concerned that the Act is not enforced throughout the country. It is also concerned that the Act does not ensure the participation of women in all decision-making positions, including at the national and local government levels. The Committee is further concerned about the persistence of discriminatory provisions against women in the Family Code and the Social Security Code (art. 3).

15. The Committee urges the State party to bring its legislation into line with the requirement of gender equality. In particular, it recommends that the State party repeal: (a) the relevant provisions of the Family Code, including article 152 on paternal authority but also provisions relating to the choice of marital home, the minimum age for marriage, and the ban on legal action to establish paternity and inheritance rights; and (b) article 21 of the Social Security Code, under which child benefits are allocated only to the father. The Committee recommends that the State party ensure that Act No. 2010-11 on gender parity is enforced throughout the country and that it extend the Act to cover all positions, including appointed positions. The Committee draws the attention of the State party to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.

Right to work

16. While noting the initiatives taken by the State party to reduce unemployment, including among youth, women and persons with disabilities, the Committee remains concerned about the limited impact of these initiatives, as evidenced by the high rate of unemployment among young people and women. The Committee is also concerned about the low employment rate of persons with disabilities (art. 6).

17. **The Committee recommends that the State party take the necessary measures to:**

(a) **Strengthen the implementation of its national employment policy by introducing specific objectives, focusing its efforts in particular on young people and women, and enhancing quality in education and technical and vocational training;**

(b) **Address societal expectations regarding the role and empowerment of women, improve their access to credit and increase education and training opportunities (including for leadership positions) with a view to their participation in gainful and sustainable economic activity;**

(c) **Decentralize youth employment initiatives in rural areas, improve vocational guidance, and enhance supervision of the design and implementation of professional projects;**

(d) **Integrate informal markets into the formal economy in order, among other things, to strengthen protection for workers and increase tax revenues and social security contributions.**

18. In this regard, the Committee refers the State party to its general comment No. 18 (2005) on the right to work.

Right to just and favourable conditions of work

19. The Committee regrets the shortcomings in the protection of the right to just and favourable conditions of work for men and women working in the informal sector, in which women are overrepresented, and the fact that women's salaries are markedly lower than men's for work of equal value. The Committee is concerned about the insufficient human and budgetary resources available to the labour inspectorate, which do not allow it to effectively monitor the situation of persons who are exploited, in particular undeclared domestic workers and children (art. 7).

20. **The Committee recommends that the State party:**

(a) **Ensure the right to just and favourable conditions of work, including in the informal sector, in line with the Transition from the Informal to the Formal Economy Recommendation, 2015 (No. 204), of the International Labour Organization (ILO);**

(b) **Strictly enforce article L.105 of the Labour Code in order to ensure that men and women receive equal pay for work of equal value, including in the informal sector;**

(c) **Adopt urgent measures to ensure decent work for all women, particularly domestic workers and rural women, and to ensure that women victims of discrimination, harassment, abuse or violence have access to protection mechanisms and to effective remedies and compensatory measures; and include to this end in the Labour Code a provision that punishes sexual harassment in the workplace;**

(d) **Protect children from all forms of work that are likely to interfere with their development or physical or mental health.**

21. **The Committee recommends that the State party increase the human and budgetary resources allocated to the Labour Inspectorate and ratify the ILO Domestic Workers Convention, 2011 (No. 189). In this regard, the Committee refers the State party to its general comment No. 23 (2016) on the right to just and favourable conditions of work.**

Trade union rights

22. The Committee notes the continuing existence of obstacles to freedom of association in the State party, including with regard to the rights to freely form trade unions without prior authorization and to exercise this right without intimidation. The Committee is particularly concerned that the Ministry of the Interior has discretionary power to issue a receipt recognizing the existence of a union after it has ensured that those who form an organization of any kind are of good moral character and are not in conflict with the law. It is also concerned that this provision excludes migrant workers from being able to form trade unions (art. 8).

23. The Committee recommends that the State party bring its legislative framework on trade union rights into line with article 8 of the Covenant, while taking into account the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). The Committee also recommends that the State party repeal Act No. 76-28 of 6 April 1976 and amend article L.8 of the Labour Code in order to ensure the right of workers and workers' organizations to establish organizations of their own choosing, by eliminating the requirement of prior authorization by the Ministry of the Interior.

Social security

24. While noting the efforts made by the State party to strengthen the social protection floor in Senegal, the Committee is concerned about the low rate of social protection coverage in the formal sector, as revealed by figures for 2016 from the National Statistics and Demography Agency. In addition, the Committee notes that 83 per cent of women work in the informal sector and that such women, in particular domestic workers, have limited access to social protection. The Committee is also concerned about the low rate of social coverage for migrants, who rarely have access to information on their rights (art. 9).

25. The Committee recommends that the State party take all measures necessary to improve its social security schemes, in particular for women in the informal sector, persons with disabilities and older persons, with a view to progressively covering all workers in the country and providing all persons with a sufficient level of benefits to enjoy an adequate standard of living. It requests the State party to provide comprehensive information on its social security schemes and their coverage rate in its next periodic report. Lastly, the Committee draws the attention of the State party to its general comment No. 19 (2007) on the right to social security and to its statement on social protection floors (E/C.12/2015/1).

Forced begging and exploitation of children

26. The Committee remains deeply concerned about:

(a) The persistence of the practice in some Qur'anic schools run by marabouts of using children for economic gain, thus preventing them from having access to their rights to health, education and good living conditions;

(b) The fact that the implementation of the plan for the removal of street children, adopted in 2016, has been fraught with difficulties in terms of coordination, capacity to provide temporary care, rehabilitation and sustainable reintegration, and has not resulted in the conviction of those responsible;

(c) The numerous allegations from different sources that the police do not always investigate cases of forced begging and exploitation, that social workers fail to report many such cases and that charges against Qur'anic teachers continue to be dropped or sentences reduced by the judiciary. The Committee notes that most of the measures announced to counter this scourge have failed (art. 10).

27. Reiterating the recommendations already made by the Committee on the Rights of the Child (CRC/C/SEN/CO/3-5, paras. 68 and 70), the Committee against Torture (CAT/C/SEN/CO/4, para. 32) and the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW/C/SEN/CO/2-3, para. 57), the Committee urges the State party to:

- (a) **Send a strong signal of the political will to end the practice of forced child begging;**
- (b) **Allow associations to sue for damages in criminal proceedings in order to contribute towards combating impunity for these forms of exploitation.**

Right to an adequate standard of living

28. While welcoming the establishment of the National Commission on Land Reform and the approval of the Urban Development Master Plan for Dakar with a view to protecting agricultural land holdings under threat of land-grabbing by real estate developers, the Committee is concerned about reports that some local authorities continue to allocate large areas of land reserved for agriculture and pasture to foreign companies and religious authorities, thus depriving the communities that depend on that land, and in particular rural women, of their means of subsistence. The Committee is also concerned about the fact that small-scale fishers are deprived of their means of subsistence as a result of overfishing by mainly foreign companies (art. 11).

29. **The Committee recommends that the State party:**

- (a) **Establish a transparent mechanism to ensure fair access to land and to secure land rights, in particular the land rights of women; and take into consideration proposals by the National Commission on Land Reform, which is tasked with preparing a land policy instrument aimed at addressing, among other things, shortcomings in Act No. 64-46 of 17 June 1964 concerning the national domain;**
- (b) **Ensure the meaningful and effective participation of the fishers concerned in the negotiation of fishing agreements and strengthen the means of controlling overfishing, with the assistance and cooperation of the international community, where necessary.**

Right to housing

30. While noting the adoption of Act No. 2014-03 of 22 January 2014 on the reduction of rents not calculated according to the corrected surface area, the Committee regrets that it has only been applied in respect of tenants who were occupying their accommodation at the time the Act was passed and not future tenants. The Committee is concerned about rent levels, in particular in urban areas, which make access to housing difficult for a large part of the population (art. 11).

31. **The Committee recommends that the State party establish a mechanism at both the national and local levels to monitor application of Act No. 2014-03 in order to allow offenders to be reported, and consider amending the Act so as to facilitate access to affordable housing for non-owners. In this connection, the Committee recalls its general comment No. 4 (1991) on the right to adequate housing.**

Access to health-care services

32. While noting the steps taken by the State party to achieve universal health coverage, the Committee remains concerned about the insufficient resources allocated to the health sector, as reflected by the extremely low portion of the national budget allocated to the Ministry of Health (8 per cent). The Committee is particularly concerned about, on the one hand, the inadequacy of the steps taken to retain qualified doctors in public health facilities and, on the other, the inadequacy of the measures taken to ensure free access to care for those most in need (art. 12).

33. **The Committee calls on the State party to redouble its efforts to ensure access to quality health care throughout the country and, among other things:**

- (a) **To ensure that no charge is made for treatment for children under the age of 5 years, in particular those living in rural areas;**
- (b) **To improve the geographical distribution of medical facilities so as to ensure that children living in remote areas have access to health care;**

(c) **To increase the national budget for health in order to mobilize more resources for the recruitment of specialized personnel and the purchase of equipment needed for ensuring access to quality health services.**

Right to health and the environment

34. The Committee is concerned about the lack of measures taken to combat atmospheric pollution, in particular in Dakar, the consequences of the dumping of household waste and the discharge of wastewater in urban and peri-urban areas, and the pollution resulting from the use and disposal of plastic bags, despite the adoption of Act No. 2015-09 of 4 May 2015 on the prohibition of the production, importation, possession, distribution and use of low-micron plastic bags and the rational management of plastic waste (art. 12).

35. **The Committee encourages the State party to take immediate steps to address environmental hazards that affect the health of the population, in particular in urban and peri-urban areas, by:**

- (a) **Strictly regulating the use of polluting vehicles;**
- (b) **Improving wastewater monitoring and management; and**
- (c) **Strictly enforcing Act No. 2015-09.**

Right to sexual and reproductive health

36. The Committee notes with concern that voluntary termination of pregnancy is criminalized in the State party except when the life of the woman is at risk, which has led to a very high incidence of unsafe clandestine abortions. This has in turn led to many women suffering from life-threatening complications that in certain cases have resulted in death, in particular in rural areas. In addition, the Committee notes the high rate of early pregnancy, which hinders the right to education and the right to health of girls. While noting the taboos surrounding the issue of sexuality and related sociocultural inhibitions, the Committee is concerned about the inadequate access to information and services regarding sexuality and reproduction, which should address the prevention of sexual violence and the risks associated with early pregnancy (art. 12).

37. **The Committee recommends that the State party:**

- (a) **Review its criminal legislation with a view to making it compatible with women's rights and expand the set of circumstances under which voluntary termination of pregnancy is legal;**
- (b) **Ensure that women who have recourse to this practice are not held to be criminally liable;**
- (c) **Ensure the dissemination and availability of appropriate, high-quality sexual and reproductive health information and services, including family planning services, to all women and adolescent girls, especially in remote rural areas and in schools.**

38. The Committee draws the State party's attention to its general comment No. 22 (2016) on the right to sexual and reproductive health.

HIV/AIDS

39. While noting the efforts made by the State party to reduce the prevalence rate of HIV/AIDS among the population, the Committee notes with concern that it remains significantly higher than the national average among sex workers, men who have sexual relations with men, drug users and persons in detention. The Committee is also concerned about figures indicating a low antiretroviral treatment coverage among children, which results in this category of the population being left behind (art. 12).

40. **In view of the fact that the groups that have a higher prevalence of HIV and AIDS tend to form part of the category of persons who are "in conflict with the law", the Committee encourages the State party to adopt a national strategy to combat the**

stigma that prevent these categories of the population from enjoying their right to health on an equal basis with the rest of the population. In this regard, the Committee requests the State party to consider the possibility of decriminalizing:

- (a) **Same-sex relations;**
- (b) **Drug use.**

Access to education

41. The Committee welcomes the increase in primary school enrolment rates in the State party, in particular as a result of the abolition of school fees. However, the Committee is concerned at reports that schooling still involves indirect costs, in particular at the secondary level. In addition, it regrets that there is a shortage of school and training places, in particular in rural and disadvantaged areas, and that 47 per cent of school-aged children are reportedly outside the school system, including because they have no birth certificate. The Committee notes with concern the inadequate availability of inclusive and quality education in public schools, to the benefit of potentially expensive private schools and Franco-Arab and Qur'anic schools, which are generally free but whose current curricula do not ensure the same level of education as in public institutions. In addition, the lack of inclusive education training and disability training means that children with disabilities are not adequately provided with the training necessary for their integration, including their professional integration (arts. 13 and 14).

42. **The Committee recommends that the State party:**

- (a) **Take stronger measures to ensure that primary education and, progressively, secondary education is genuinely free of charge;**
- (b) **Eliminate the requirement of a birth certificate to enrol in school and strengthen measures to increase birth registration;**
- (c) **Continue its efforts to adopt standards with a view to ensuring quality education for all;**
- (d) **Improve the quality and infrastructure of schools, especially in rural areas, and ensure that children with disabilities have equal access to education throughout the country.**

Sexual abuse in schools

43. While acknowledging the efforts undertaken by the State party to combat gender-based violence, the Committee is deeply concerned about the persistence of sexual abuse in secondary schools in Senegal, which to date seems only to have been partially addressed by the State party. The Committee is particularly concerned about the lack of available statistics on the number of cases reported by school principals, the number of cases in which the perpetrators have been prosecuted and the penalties imposed. This situation of impunity can seriously hamper girls' right to education. The Committee notes in this regard the high dropout rate in primary and secondary schools, especially among girls as a result of early pregnancy, among other things (art. 13).

44. **The Committee urges the State party to continue its efforts to reduce the dropout rate in primary and secondary schools, especially among girls. It urges the State party to take seriously the question of the sexual abuse of girls in schools and requests the State party to:**

- (a) **Adopt a national policy to combat sexual exploitation in schools;**
- (b) **Amend the Criminal Code by introducing as an aggravating circumstance sexual abuse committed in an educational setting;**
- (c) **Adopt a binding code of conduct for principals, teachers, education officials which is to be displayed in all schools;**
- (d) **Establish a confidential complaint and reporting mechanism in schools;**

- (e) Conduct the necessary investigations into all reported cases of sexual abuse.

D. Other recommendations

45. The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
46. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the attention of the State party to its statement on the pledge to leave no one behind (E/C.12/2019/1).
47. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, *inter alia*, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (HRI/MC/2008/3).
48. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, including at the national and regional levels, in particular among members of the National Assembly, public officials and judicial authorities, and to inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with the Senegalese Human Rights Committee, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in its consultations at the national level prior to the submission of its next periodic report.
49. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide within 24 months from the adoption of the present concluding observations, information on the implementation of the recommendations made by the Committee in paragraphs 13 (non-discrimination), 27 (forced begging and exploitation of children) and 44 (sexual abuse in schools) above.
50. The Committee requests the State party to submit its fourth periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (see E/C.12/2008/2), by 31 October 2024. In addition, it invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).