



**International covenant
on civil and
political rights**

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HUMAN RIGHTS COMMITTEE
Sixty-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Senegal

1. The Committee considered the fourth periodic report of Senegal (CCPR/C/103/Add.1) at its 1618th and 1619th meetings, on 21 and 22 October 1997, and subsequently adopted ¹ the following comments:

A. Introduction

2. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State party. While noting that the fourth report has been presented in a timely manner and provides some useful information on the constitutional and legislative norms applicable in Senegal in the field of human rights, the Committee reiterates its previous comment on the State party's third periodic report, regretting the lack of information in the document on implementation of the provisions of the Covenant in practice. At the same time, the Committee appreciates the detailed and updated information provided orally by the delegation in the course of its consideration of the report.

B. Factors and difficulties affecting the implementation of the Covenant

3. The Committee notes with concern that continuing violence and unrest in the region of Casamance have resulted in persistent violations of rights guaranteed by the Covenant.

¹At the 1640th meeting, held on 5 November 1997.

4. The Committee further notes the continued existence in the State party of laws and customs, in particular those affecting equality between men and women, which impede the full observance of the Covenant.

C. Positive aspects

5. The Committee observes with satisfaction that the State party has strengthened the status of the Senegalese Human Rights Committee (law of 10 March 1997), and in particular has ensured participation by non-governmental organizations, as well as its capacity to act as an advisory body for dialogue, consultation and promotion of human rights. The activities of the Ombudsman (Médiateur) are also welcomed.

6. The Committee appreciates the creation of the Interministerial Committee on Human Rights and Humanitarian International Law (Comité inter-ministériel des droits de l'homme et du droit international humanitaire) by Decree of 2 July 1997, as well as the recent change in the Electoral Code leading to the establishment of a body to monitor and supervise elections.

7. The Committee further welcomes the efforts to overcome the problem of illiteracy and the activities of the Ministry on Woman, Children and Family which has initiated plans of action in collaboration with non-governmental organizations. The Committee also appreciates efforts made to enhance the public's awareness of women's issues.

8. In the field of law reform, the Committee notes with appreciation the criminalization of torture in the Penal Code.

9. In the context of the right to remedies for violations of human rights, the Committee notes with interest that an individual may appeal to the Constitutional Council to challenge the constitutionality of proceedings before the Council of State or the Court of Cassation. The Committee welcomes the willingness of the Government of Senegal to comply with the Views of the Committee in the case of *Koné v. Sénégal* (Communication 386/1989) and to provide for a remedy acceptable to the author, namely an award of 500,000 francs, a plot of land and adequate medical treatment, all implemented just before the consideration of the report before the Committee.

10. In relation to the State party's accession to various international human rights instruments, the Committee welcomes its acceptance of the primacy of international human rights standards over national legislation.

D. Subjects of concern and the Committee's recommendations

11. In the context of events in Casamance, the Committee expresses concern at allegations it has received of indiscriminate killing of civilians by the army and police, of disappearances, and of ill-treatment and use of torture against persons suspected of being supporters of the Mouvement des forces démocratiques de Casamance (MFDC). Therefore:

The Committee recommends that measures be taken to ensure the full observance of articles 6 and 7 by military personnel and police, and the effective implementation in practice of article 7 of the Covenant

vis à vis people suspected of being MFDC sympathizers. The Committee also recommends that, especially because of the distance from the capital and the region's proximity to neighbouring States, consideration be given to establishing an independent mechanism to monitor and investigate human rights abuses in Casamance, and that persons found responsible for violations of rights be brought to justice and the victims compensated. The Committee also recommends further training in human rights for all security and law enforcement personnel.

12. The Committee regrets that certain traditional cultural attitudes with respect to women are not compatible with their dignity as human beings and continue to hamper their equal enjoyment of rights embodied in the Covenant. The practice of polygamy, which is incompatible with articles 2(1), 3 and 26 of the Covenant, is of particular concern. The Committee continues to be especially disturbed at the persistent custom of female genital mutilation, which violates articles 6 and 7 of the Covenant, and the high rate of maternal mortality which results from that practice, from early child birth and from the strict prohibition of abortion. It recommends that judges and lawyers make use of ordinary criminal law provisions to deal with instances of female genital mutilation until a specific law for this offence, the adoption of which the Committee strongly supports, is enacted. In this regard:

The Committee encourages the State party to launch a systematic campaign to promote popular awareness of persistent negative attitudes towards women and to protect them against all forms of discrimination; it urges the State party to abolish practices prejudicial to women's health and to reduce maternal mortality. The Committee recommends that the State party indicate, in its next periodic report, the outcome of proposals on the matter of polygamy made by the Working Group on the National Action Plan for Senegalese Women (1996-2000). In the light of these concerns, the Committee further recommends that the State party bring its legislation, including family and inheritance laws, into conformity with articles 2(1), 3, 6, 7, 23 and 26 of the Covenant.

13. Although the Penal Code provides legal redress for offences such as assault, the Committee is concerned at the persistence of violence against women, including spousal abuse. Therefore:

The Committee recommends that specific attention be given in the law to the problem of domestic violence, and stresses the need for information and education campaigns to prevent and combat any form of physical violence against women.

14. The Committee notes that the criteria enabling a judge to hold an arrested person in pre-trial detention are not defined under the law. It expresses its concern at the extensive discretionary power given to judges in such situations. Furthermore, in cases of offences against the security of the State, the Committee notes with concern the provisions of the Code of Criminal Procedure allowing special detention in police custody, and in particular allowing the Public Prosecutor to authorize extension of the length of detention. The Committee is also concerned about the lack of access to counsel by detainees. Therefore:

The Committee recommends that the State party set out in its Code of Criminal Procedure criteria establishing grounds on which persons awaiting trial may be held in detention which are in conformity with article 9 (3) of the Covenant. Furthermore, the Committee recommends the repeal of provisions dealing with special detention in cases of offences against the security of the State, or the provision of further legal safeguards in such cases.

15. Although measures have been taken to improve the condition of prisoners, the Committee expresses its concern at recurring problems of overcrowding and poor health and sanitary conditions in many prisons, which are incompatible with article 10, paragraph 1, of the Covenant. Therefore:

The Committee recommends that measures be taken to reduce overcrowding and to upgrade prison facilities as quickly as possible.

16. The Committee is concerned over the lack of full enjoyment of freedom of association, in particular the fact that foreign workers are barred from holding official positions in trade unions, and that trade unions may be dissolved by the executive. Therefore:

The Committee recommends that the State party take all necessary measures to permit foreign workers to hold official positions in trade unions, and provide guarantees and legal redress to trade unions, in accordance with article 22 of the Covenant, against dissolution by administrative measures.

17. The Committee expresses its concern at the statement in the report that "there are no minorities in Senegal", and at the failure of the State party to provide information on the recognition and protection of religious and ethnic minorities in Senegal. In that regard:

The Committee recommends that the State party take legal and practical steps to recognize and protect religious and ethnic minorities, with a view to ensuring the rights guaranteed under article 27 of the Covenant. The Committee further suggests that the Government of Senegal take into consideration the Committee's General Comment No. 23 on this matter.

18. The Committee recommends that full and comprehensive information on the implementation of the provisions of the Covenant in law and in practice, as well as on factors and difficulties which affect its implementation, be incorporated in the State party's next periodic report.

19. The Committee draws the attention of the Government of Senegal to the provisions of the guidelines regarding the form and contents of periodic reports from States parties, and requests that its next periodic report, due on 4 April 2000, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Senegal and in all recognized languages.
