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I. General data and statistics

A. Demographic, economic, social and cultural characteristics

1. Senegal is situated in the westernmost part of the African continent on the Atlantic Ocean, where Europe, Africa and the Americas converge and at the crossroads of major air and shipping routes. Covering an area of approximately 196,722 km², it is bounded to the north by Mauritania, to the east by Mali, to the south by Guinea and Guinea-Bissau, and to the west by the Gambia and an Atlantic coastline of over 500 km. Dakar, the capital, with an area of 550 km², is a peninsula in the far west of the country. The climate is of the Sudano-Sahelian type, characterized by a dry season from November to May and a rainy season from June to October.

2. According to the most recent estimates (based on the 2002 general population census), Senegal has some 11.4 million inhabitants, with an average annual population growth rate of 2.6 per cent and an average population density of 48 inhabitants per km².

3. This average figure belies the unequal distribution of the population, the underpopulated eastern part of the country (1 to 5 inhabitants per km²) contrasting with the high concentration in the coastal region (density in the Dakar region exceeds 4,000 inhabitants per km²). More than 25 per cent of the population is concentrated in the Dakar region. The other densely populated area is in the centre of the country, in the regions of Fatick, Kaffrine and Kaolack, the “groundnut basin”, with more than 35 per cent of the population. The east of the country is very sparsely populated.

4. Women account for 52 per cent of the population. Foreigners account for approximately 2 per cent. Foreigners live mainly in the capital, Dakar, and work in the business, industry and service sectors, and in international organizations. The religions practised are Islam (94 per cent), Christianity (5 per cent) and animism (1 per cent).

5. An analysis of the age structure reveals a young population: the average age is 22, and 42.7 per cent of the population are under 15. The potentially active population (15 to 64 years) constitute 53.8 per cent of the total and elderly persons (65 years and above) 3.6 per cent. The population of school age (ages 7 to 12) represent 17 per cent of total inhabitants, two thirds of whom live in rural areas.

6. The Senegalese population is also very diverse ethnically. Senegal has about 20 ethnic groups, in which the Wolof (43 per cent of the population), the Pular (24 per cent) and the Serer (15 per cent) predominate. The other groups consist of communities living in the southern areas of the country, particularly in the unspoiled region of Casamance. The Diola constitute the largest such community. The Mandingo and Bambara are small communities in the outlying regions close to Mali or Guinea. Other ethnic minorities live in the mountains of the south-east; for example the Bassari live in the foothills of Fouta-Djallon.¹

7. This ethnic diversity is accompanied by a cultural vitality nurtured by age-old traditions particular to each group. Since the country acceded to sovereignty, the Government has had a policy of promoting authentic and life-affirming traditional cultures and national languages, as well as the country’s official language, French. Inter-ethnic

¹ Source: Ministry of the Economy and Finance, National Statistics and Demography Agency (ANSD), *Situation économique et sociale du Sénégal*, 2006 edition.

marriages, peaceful coexistence of religious communities and the tradition of friendly banter are all values that ensure the cohesion of the Senegalese nation.

8. Administratively, Senegal has 14 regions and 45 departments. In 2008, after the creation of the eleventh region (Matam), the former departments of Kédougou, Kaffrine and Sédhiou became regions. The departments (administrative units of a region) are subdivided into districts.

9. The Local Authorities Code (Act No. 96-06 of 22 March 1996 – the basic statutory text) gave greater autonomy to decentralized bodies by transferring considerable powers to local elected representatives. The regions have become decentralized administrative units governed by a president and elected regional councillors. Large towns are subdivided into boroughs (*communes d'arrondissements*) (43 in total, 19 of which are in Dakar). Smaller towns comprise municipalities (*communes*), of which there are 150 in all. The boroughs and municipalities are governed by a mayor and elected municipal councillors. In rural areas, the decentralized units are called “rural communities” (*communautés rurales*) (340 in all), which are governed by a president and rural councillors, all elected locally.²

10. With regard to the economy, in 2004, according to independent sources, the gross national product (GNP) stood at US\$ 7.2 billion, giving an average per capita income of \$700. Following an ambitious structural reform programme launched in 1994, the Senegalese economy entered a phase of strong growth (5 per cent annual growth in GNP for the period 1995–2006), based since the early 2000s on construction, trade, transport and telecommunications. While the programme has resulted in improved public finance and monetary stability, it has not reduced poverty in any meaningful way (more than half of all Senegalese live below the poverty line) or reduced unemployment, which affects 40 to 50 per cent of the population, particularly young people.³

11. In the face of an economic policy dependent on agricultural production, President Abdoulaye Wade launched, in 2005, a national “Accelerated Growth Strategy” designed to elevate the country to the rank of emerging nation, with particular emphasis on the modernization of agriculture and development of the food-processing industry. The Return to Agriculture (REVA) plan encouraging young people, and particularly expatriates and victims of clandestine migration, to develop agricultural projects, and the Great Offensive for Agriculture, Food and Abundance (GOANA), launched in 2008 in response to the food crisis, demonstrate the political will of the State to make agriculture an important lever of economic and social development. The estimated State budget for 2009 is 1,800 billion CFA francs.

12. There has been considerable development of the tertiary sector (tourism, teleservices), the textile and clothing industry, and the seafood sector. Some major projects have been launched to remedy the shortage of infrastructure that is impeding national development (construction of modern road infrastructure in Dakar and the interior, new international airport at Ndiass, motorway between Dakar and Thiès to relieve congestion in Dakar, project for the construction of an ore-handling port at Bargny, modernization of the rail network, iron mining in eastern Senegal, phosphate mining in Matam, etc.).

13. Good results have also been achieved in priority sectors for sustainable human development.

14. The resources allocated to education (from pre-primary to higher education) rose from 35 per cent in 2003 to 37 per cent in 2004 and 40 per cent in 2005. According to the

² Ministry of the Interior.

³ International Monetary Fund (IMF) data.

indicators for education in the period 2000–2005 published by the Directorate of Educational Planning and Reform, the education target of 33 per cent of the State budget, not including debt service payments and common costs, was not met between 2000 and 2004. Only in 2005 was the target met, and indeed comfortably exceeded, reaching 40 per cent, as a result of the President’s proactive policy. The Government and its partners also spent some US\$ 52 million on primary education in rural areas in 2004, with the State contributing around 78 per cent of that amount, households contributing 15 per cent through parents’ associations, donors contributing 6 per cent, and local authorities 2 per cent. The Government has made considerable efforts to expand primary education in rural areas; between 2000 and 2004 it built 7,109 new primary classrooms and renovated 930 more. At the national level, there are 295,474 secondary-school students, 42 per cent of them girls.⁴

15. The priority given to primary health care at the national level has resulted in a reasonable distribution of health-care facilities. Health station coverage (approximately one health station per 11,000 inhabitants) is close to the national target and has been boosted by additional measures in line with the Bamako Initiative recommendations (cost reductions, improved management, involvement of the general public and rationalization of prescribing practices).

16. These measures have resulted in free or less expensive access to health services, implemented through programmes and action plans including:

- The Expanded Immunization Programme
- Antenatal consultations
- Primary medical consultations
- Care of older persons (Sesame Plan)
- Programme of Comprehensive Treatment for Childhood Diseases
- Epidemic response programme
- The Nutrition Enhancement Programme

17. The Government also attaches top priority to the fight against malaria and HIV/AIDS, given their impact on human development. The results of the National Action Plan against HIV/AIDS, with a component on “orphans and children rendered vulnerable by HIV/AIDS”, have been satisfactory. The rate of HIV prevalence in the general population was estimated in 2005 at 0.7 per cent (Demographic and Health Survey, 2005) and 1.5 per cent at so-called “sentinel sites”. The National Action Plan against HIV/AIDS was drawn up for the period 2002–2006. A further National Action Plan is being prepared and will cover the period 2007–2011.⁵

18. Regarding social security policy, after ratifying the International Labour Organization (ILO) Social Security (Minimum Standards) Convention, 1952 (No. 102), Senegal established a modern social security system for workers and members of their families. A review of benefits since 2000 led, over the period 2002–2008, to a 55 per cent increase in the nominal value of pensions and a 50 per cent increase in their real value, as well as to their fortnightly payment. The family allowance rose from CFAF 750 to 2,400 a month per dependent child in the public sector. In the private sector, the Government provides a family allowance of CFAF 6,750 per quarter for each child through the Social

⁴ *Source:* Ministry of Education, 2004 data. See also the 2006 report of Senegal to the Committee on the Rights of the Child (CRC/C/SEN/2).

⁵ *Source:* Ministry of Health and Preventive Medicine.

Security Fund. These allowances are payable in respect of children in education up to the age of 21, children not attending school up to the age of 15, and children serving an apprenticeship (including in the crafts sector) up to the age of 18.⁶

19. Through its Department for Health, Social and Family Action, the Social Security Fund offers other benefits for vulnerable groups, such as low-cost medicine and nutritional rehabilitation. The present social security scheme operates through formal social protection mechanisms covering only workers affiliated to the Social Security Fund. Senegal has recently developed a National Strategy for Social Protection, the main features of which are the extension of social protection to the non-formal sectors and social protection for vulnerable groups.

20. Persons with disabilities are thought to constitute between 6 and 10 per cent of the Senegalese population, disaggregated as follows: 32.76 per cent with motor disabilities; 16.6 per cent visually impaired; and 50.64 per cent in other categories, including deaf mutes, albinos, the mentally ill and persons suffering from Hansen's disease (leprosy). Members of this group generally live in a situation of insecurity and dependence. According to other documentary sources, children account for an estimated 10 per cent of the total number of persons with disabilities. There are programmes and services geared to the disabled, in particular: the Programme of Education, with an inclusive education dimension which has enabled some disabled children to be enrolled in State primary schools; preschool institutions (of the "Case des Tout-Petits" type), with appropriate adjustments to the physical environment; the Talibou Dabo centre for the social reintegration of persons affected by motor disability; the Verbo-tonal Centre for the social reintegration of deaf mutes; and the centre for visually impaired children at Thiès.

21. In order to reduce poverty and assist disadvantaged families, the Government has set up:

- A Social Development Fund (from 2002 to 2005), which supported the implementation of 1,172 projects together worth CFAF 10.5 billion (including CFAF 2 billion for projects directly affecting families).
- Community-based organizations, of which 300 are for women. The total number of beneficiaries is 917,385.
- The Poverty Reduction Support Programme, funded with CFAF 1.3 billion between 2003 and 2005, to help marginalized and vulnerable groups (women, young people, children, the disabled, the elderly, displaced persons and refugees) through their organizations.
- The Anti-Poverty Programme, with a total expenditure of CFAF 15 billion, providing microcredits to 75,236 persons, 80 per cent of them women.
- The National Solidarity Fund, with an annual expenditure in 2004 estimated at CFAF 650 million.⁷

B. Constitutional, political and legal structure

22. From its independence in 1960, Senegal had been dominated by a single political party, the Senegalese Progressive Union, which later became the Socialist Party, headed by

⁶ Source: Ministry of the Civil Service, Employment and Professional Organizations.

⁷ Source: Ministry for the Family, Microfinance and Women's Enterprise, Poverty Reduction Strategy Paper 2, Ministry of Finance.

Léopold Sédar Senghor. The democratic institutions and multiparty system established between 1970 and 1980 were long held up as an example in a continent dominated by authoritarian regimes. In 1981, Abdou Diouf took over from Senghor as President of the Republic. Elected in 1983, 1988 and 1993, against a background of accusations of electoral fraud by the opposition, he accepted his defeat in 2000 by the Socialists' longstanding rival, Mr. Abdoulaye Wade. After 40 years of domination by the Socialist Party, President Wade embodied the Senegalese people's desire for change and brought about one of the rare changeovers of political power on the African continent. In January 2001, Senegalese voters approved, by more than 90 per cent of votes cast in a referendum, the new Constitution presented by President Wade. On 25 February 2007, Abdoulaye Wade was re-elected in the first round of voting, with 55.9 per cent of the votes cast, in elections supervised and validated by international observers.

23. Institutional reform to entrench democracy has also been a major concern of the new regime headed by President Wade.

24. Senegal has become a major democracy, governed by the Constitution of 22 January 2001, which establishes a semi-presidential system. Executive power is held by the President of the Republic and the Government. The head of State is elected by direct universal suffrage, by majority vote after two rounds of voting, for a term of seven years, which is renewable once only. He determines national policy and appoints the Prime Minister, who is the head of Government, and ministers, who are proposed by the Prime Minister. The Government directs and coordinates national policy.

25. This positive, irreversible step on the path towards a State governed by the rule of law has been accompanied by institutional reform aimed at strengthening participatory democracy and the system of justice.

26. Thus, the constitutional amendments of 2007 and 2008 led to the establishment of a Senate, with legislative power being exercised by a parliament consisting of, once again, two chambers – the Senate and the National Assembly. In the same context, Act No. 2008-32 of 7 August 2008 set up the Economic and Social Council.

27. The President of the Republic, the Prime Minister and members of parliament have the right to initiate legislation. The President has the power to dissolve the National Assembly. The Government is accountable to the President and to the National Assembly, under the conditions provided for in articles 85 and 86 of the Constitution.

28. The judiciary is independent of the legislative and executive branches. The Senegalese legal system is based on the French model, and includes a Constitutional Court, a Supreme Court and other courts. The Court of National Security, a court of special jurisdiction inherited from the former regime, has been abolished.

II. General framework for the protection and promotion of human rights

A. Acceptance of international human rights norms at the national level

29. Notwithstanding the changes of political regime, the constitutional system of the State of Senegal is characterized by genuine continuity, and the Constitution of 22 January 2001 has reaffirmed and consolidated this legacy comprising the guiding principles underlying all Senegalese basic laws, including a firm commitment to respect for and promotion of human rights, and specifically to combating racial discrimination. This commitment is evident both in the preamble and the text of the Constitution.

30. The relevant provisions in the preamble to the Constitution are underpinned by intangible principles characterizing the constitutional continuity of the State of Senegal, as is clear from the following declarations and commitments:

The sovereign people of Senegal ... affirms its adherence to the Declaration of the Rights of Man and of the Citizen of 1789 and the international instruments adopted by the United Nations and the Organization of African Unity [now the African Union], including the Universal Declaration of Human Rights of 10 December 1948, the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, the Convention on the Rights of the Child of 20 November 1989 and the African Charter on Human and Peoples' Rights of 27 June 1981.

The use of the adverb "including" in this provision indicates that the Constitution remains open to many other human rights instruments to which Senegal is party.

31. Senegal has ratified the core human rights instruments, including the following:

- Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (date of ratification: 9 May 1963), and the Protocol thereto, signed in New York on 31 January 1967 (date of ratification: 3 October 1967)
- International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966 (date of ratification: 1978)
- International Covenant on Economic, Social and Cultural Rights, adopted in New York on 16 December 1966 (date of ratification: 13 February 1978)
- Optional Protocol to the International Covenant on Civil and Political Rights, adopted in New York on 16 December 1966 (date of ratification: 13 February 1978)
- International Convention on the Elimination of All Forms of Racial Discrimination, signed in New York on 7 March 1966 (date of ratification: 19 April 1972)
- Convention on the Elimination of All Forms of Discrimination against Women, adopted in New York on 18 December 1979 (date of ratification: 5 February 1985)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984 (date of ratification: 21 August 1986)
- Convention on the Rights of the Child, adopted in New York on 20 December 1989 (date of ratification: 31 July 1990)
- Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (date of ratification: 31 October 2003)
- Rome Statute of the International Criminal Court, adopted on 17 July 1998 (date of ratification: 1 February 1999)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted on 18 December 1990 by the United Nations General Assembly in its resolution 45/158: entry into force 1 July 2003
- United Nations Convention against Transnational Organized Crime, together with the Protocol against the Smuggling of Migrants by Land, Sea and Air and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, signed in Palermo, Italy, in December 2000 and ratified on 19 September 2003 pursuant to Act No. 2003-17 of 18 July 2003

32. In addition, Senegal has ratified the following African legal instruments: the African Charter on Human and Peoples' Rights, signed in Nairobi on 21 June 1981 (date of ratification: 13 August 1982); the African Charter on the Rights and Welfare of the Child, adopted in Addis Ababa in July 1990 (date of ratification: 29 September 1996) and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, adopted in Maputo on 11 July 2003. Senegal also ratified the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (adopted on 10 June 1998 and in force since 25 January 2004) and the Protocol of the Court of Justice of the African Union (adopted on 11 July 2003). Senegal is actively involved in the process of merging these two African courts to establish a single court – the African Court of Justice and Human Rights.

33. This important body of international and regional legal instruments demonstrates the clear political will of the Senegalese authorities to participate in the protection and promotion of human rights.

B. Legal framework for the protection and promotion of human rights at the national level

34. Article 98 of the Constitution expressly provides that “duly ratified treaties or agreements shall, once they are published, take precedence over legislation, subject to implementation, in the case of each agreement or treaty, by the other party. Consequently, every international human rights legal instrument ratified by Senegal has been incorporated into the domestic legal order and forms part of the body of domestic law that the organs of State are obliged to implement. More crucially, Senegal has acknowledged, without reservation, the competence of the treaty bodies established by the core human rights conventions.

35. Title II of the Constitution, entitled “Civil liberties and personal freedoms, economic, social and collective rights”, guarantees the exercise of the following civil and political rights without discrimination of any kind on the basis of race: freedom of opinion, freedom of expression, freedom of the press, freedom of association and freedom to demonstrate. The following are also established: cultural rights; religious rights; philosophical rights; trade union rights; freedom of expression and freedom to demonstrate; the right of free enterprise; the right to education; the right to literacy; the right to own property; the right to work; the right to health; the right to a healthy environment; and the right to diversity of information.

36. Very early on, Senegal established sustainable mechanisms to better combat human rights violations, including torture. The death penalty was abolished by the authorities on the symbolic date of 10 December 2004.

37. Senegal has continued to consolidate its national institutions since independence. It has accomplished a great deal at the institutional level, with the establishment in 2004 of the Office of the High Commissioner for Human Rights and the Promotion of Peace, whose mission — to protect and promote all human rights — is a top priority.

38. The Office of the High Commissioner, attached to the Office of the President, includes:

- A human rights desk, which can receive complaints from any natural or legal person, and from organizations working in the field of human rights and international humanitarian law.
- A follow-up unit, which is also responsible for documentation and promotion of human rights and international humanitarian law. Its tasks include preparing national

reports on the situation of human rights and drafting replies to communications and statements addressed to Senegal by regional or international human rights or international humanitarian law monitoring bodies.

- A coordination unit to combat trafficking in persons and similar practices.

39. In order to usefully supplement the work of the Office of the High Commissioner, the Government has retained a number of bodies, including the Senegalese Human Rights Committee and the Office of the Ombudsman.

40. The powers of the Senegalese Human Rights Committee, established in 1970 to replace the National Human Rights Commission, have recently been extended. Initially governed by Decree No. 93-141 of 16 February 1993, the Committee's status was enhanced four years later by a law promulgated on 10 March 1997. The Committee is an independent body, which is pluralistic in its composition. Its main role is:

- To publicize human rights through advocacy
- To draw the attention of the authorities to human rights violations and, where appropriate, to propose measures to end them
- To issue opinions or recommendations in all matters relating to human rights
- To submit an annual report to the President on the situation of human rights in Senegal

41. The Office of the Ombudsman, on the other hand, is an independent administrative authority established by Act No. 91-14 of 11 February 1991, as amended by Act No. 99-04 of 29 January 1999. In addition to its traditional powers under the Act of 1991, confirmed by the new law, the Office, which usually responds to individual complaints, has been able to take preventive action on its own initiative since the adoption of Act No. 99-04 of 29 January 1999. It plays an important intermediary role between government and citizens who feel aggrieved in their rights or interests.

42. A parliamentary committee on law and human rights has been established, and parliamentary networks at subregional level are active in the promotion and protection of human rights.

43. Also, several regulatory bodies have been set up, including for the audio-visual sector and the supervision of elections.

44. The National Audio-visual Regulation Council was established by Act No. 2006-04 of 4 January 2006, and is responsible for ensuring consistency in the audio-visual sector and enforcing the rules of pluralism, ethics, professional standards, the applicable laws and regulations, and the terms of reference and agreements governing the media. This new institution modernizes and strengthens the machinery that has governed the audio-visual sector in Senegal since 1991, not least by abolishing the former High Audio-visual Council.

45. The National Independent Electoral Commission was established by Act No. 2005-07 of 11 May 2005, and monitors compliance with the electoral law by administrative authorities and political parties, candidates and voters. It has considerable powers, enabling it to guarantee free, transparent elections. The digitization of national identity and voter identity cards, and the publication of electoral lists, including on the Internet, has further facilitated the supervision of elections.

46. Human rights are taught and disseminated in various ways, with the active involvement of human rights organizations.

47. At the national level, in implementation of General Assembly resolution 59/113B on the plan of action for the first phase (2005–2007) of the World Programme for Human

Rights Education in primary and secondary school systems, the Ministry of Education has prepared, in close cooperation with civil society organizations, a basic curriculum for the teaching of human rights. Consultations on the document prepared by the Ministry were conducted at national level, with the support of development partners, particularly the United Nations Educational, Scientific and Cultural Organization (UNESCO).

48. At university level, the Institute of Human Rights and Peace (University of Dakar) is developing taught and research master's degrees in the area of human rights.

C. Reporting process for the promotion of human rights at national level

49. In its bid to provide the international community with objective reports that faithfully reflect the real situation on the ground, Senegal has a long tradition of cooperation with civil society, resulting in the production of credible, high-quality documents.

50. Consultation with non-State actors in the preparation of human rights reports is mandatory under the Act of 10 March 1997 establishing the Senegalese Human Rights Committee. The Committee was established in accordance with the Paris Principles on national human rights institutions, and is therefore independent and pluralistic, its main role being to hand down opinions or recommendations on any matters relating to human rights, including reports prepared by the Government for human rights treaty bodies.

51. Preliminary draft reports drawn up by a technical committee consisting of officials from the Office of the High Commissioner for Human Rights and the Promotion of Peace and ministerial departments must be submitted to the national human rights institution for its opinion and observations (Act of 10 March 1997 establishing the Senegalese Human Rights Committee).

52. Broad consultation with civil society, including human rights NGOs, completes this long process, thus ensuring that the reports are widely disseminated among citizens.

III. Implementation of substantive human rights provisions

A. Non-discrimination and equality

53. The relevant provisions of the Constitution unequivocally condemn and seek to eliminate all forms of discrimination. Article 1 states: "Senegal is a secular, democratic and social republic which guarantees the equality of all citizens before the law, without distinction as to origin, race, sex or religion, and respects all beliefs."

54. Article 3 of the Constitution states: "National sovereignty belongs to the people, and is exercised by the people through its representatives or by referendum. No section of the people nor any individual may assume the exercise of sovereignty."

55. Article 4 supplements this provision: "Political parties or coalitions may compete in elections. They are required to observe the Constitution and the principles of national sovereignty and democracy. They may not identify with a particular race, ethnic group, sex, religion, sect, language or region."

56. Article 5 of the Constitution states: "Any act of racial, ethnic or religious discrimination and any regionalist propaganda prejudicial to the internal security of the State or to the integrity of the territory of the Republic shall be punishable by law."

57. Article 7 plainly asserts: “The Senegalese people acknowledges the existence of inviolable and inalienable human rights as the basis of any human community and of peace and justice in the world. All human beings are equal before the law. Women and men are equal before the law. In Senegal no right or privilege shall attach to place of birth, identity or descent.”

58. A number of provisions of the new Constitution establish the right of women to equal treatment before the law. Thus, article 15, paragraph 2, and article 19 establish the right of women to:

- Purchase and own land
- Own assets in their own right and personally manage their property

59. Article 25 prohibits “any discrimination between men and women in respect of employment, pay or taxation”.

60. Equal access for women and men to elected and political office is now guaranteed under the Constitution. Following the amendment to article 7 of the Constitution in November 2007, equal access for women and men to offices and positions is now established.

B. Remedies and procedural safeguards

61. The legal machinery for the protection of human rights in Senegal essentially consists of the Constitutional Council and the ordinary courts. Article 91 of the Constitution expressly provides that “the judiciary is the guardian of the rights and freedoms defined by the Constitution and the law”.

62. In establishing rights and obligations, the legislature, as the administrative authority, may set limits on the content of the legal provisions on human rights, or the conditions in which they are exercised.

63. In these cases, an application to prevent the enactment or implementation of legislation may be made to the Constitutional Council, by lodging either a constitutional challenge (*voie d’action*) or an application for judicial review (*voie d’exception*).

- Constitutional challenge: the Constitution of Senegal gives the President of the Republic, or parliamentarians constituting one tenth of the members of the National Assembly, the power to appeal to the Constitutional Council to verify the constitutionality of legislation before its promulgation. Thus, a law that infringes human rights provisions may be brought before the Constitutional Council for the purposes of such verification.
- Judicial review: the Constituent Assembly sought to “democratize” access to the Constitutional Court for the purposes of verifying the constitutionality of legislation, through the mechanism of a judicial review. This form of referral is more open, in that it is available to all citizens, who may, under the conditions provided for by law, raise the objection of unconstitutionality if they believe that the law applicable to their case does not comply with the Constitution. The courts to which an application for judicial review is submitted are obliged to refer the matter to the Constitutional Council and to stay proceedings until the latter has decided on the preliminary question referred to it.

64. At the level of the ordinary courts, this issue relates more to first-generation human rights. As such, individuals on trial enjoy, in addition to the rights granted to every party to proceedings, specific rights provided for in criminal proceedings.

65. The guiding principles applicable to criminal proceedings in Senegal are:
- (a) The adversarial nature of the proceedings;
 - (b) The requirement that the court make a decision on all the questions submitted to it and on nothing else;
 - (c) Respect for the right to a defence.
66. Thus, defendants or persons seeking damages in criminal proceedings have the right, in accordance with article 10 of the Universal Declaration of Human Rights, to “a fair and public hearing by an independent and impartial tribunal”.
67. In addition, persons being prosecuted have the right to respect for their physical integrity; this precludes any act of torture in the search for evidence. This principle is set out in article 5 of the Universal Declaration.
68. Furthermore, persons being prosecuted have the right to confidentiality insofar as their correspondence and communications by post, telegraph and telephone are concerned.
69. The right to privacy is also guaranteed.
70. Generally speaking, defendants enjoy all the protections afforded by the international human rights conventions to which Senegal is a party and those stipulated in Title II of the Constitution. Detained persons may have the legality of their detention reviewed, given their right to liberty and security. In addition, they must be tried at the earliest opportunity.
71. Anyone being prosecuted for a criminal offence enjoys the following two fundamental rights:
- (a) Presumption of innocence: this right is provided for, *inter alia*, in article 7, paragraph 1 (b), of the African Charter of Human and Peoples’ Rights and in article 11, paragraph 1, of the Universal Declaration of Human Rights. In criminal trials, if the prosecution fails to prove that a person is guilty, he or she is presumed innocent until evidence of guilt is presented. If the prosecution fails to present any such evidence, the defendant is acquitted or discharged;
 - (b) Right to a defence: this is a generic term that encompasses the right to defend oneself or be defended by counsel of one’s choice, the right to have the last word, the right to be informed of the charges against one and the right to examine witnesses or have witnesses examined.
72. The above principles guarantee the effectiveness of article 9 of the Constitution, which provides as follows: “Any impairment of freedoms or voluntary restriction placed on the exercise of a freedom shall be punishable by law. No person shall be convicted of an offence unless it was an offence under a law that was in force before the act was committed. Defence is an absolute right at all stages and levels of proceedings.”

C. Participation in public life

73. The participation of all citizens in public life, with no discrimination, is guaranteed by the Constitution.
74. Article 3 of the Constitution expressly provides: “National sovereignty belongs to the people, and is exercised by the people through its representatives or by referendum. No section of the people nor any individual may assume the exercise of sovereignty. Suffrage may be direct or indirect. It shall always be universal, equal and secret. All Senegalese

nationals of either sex, aged 18 or over and in possession of their civil and political rights, shall be entitled to vote under the conditions determined by law.”

75. As stated above, parties or coalitions may compete in elections. The full multiparty political system means that, provided that they respect the fundamental values of the Republic, any group of citizens can create a political group once the formalities for registering an association have been completed. All citizens have the right freely to set up associations, economic, cultural or social groupings, and companies, provided that they comply with the formalities laid down in laws and regulations.

76. The Constitution grants every citizen the right freely to express and disseminate their opinions orally, in writing, through images or in peaceful demonstrations, provided that the exercise of these rights does not insult or defame others, or disturb the public order (Constitution, art. 10).

77. Press outlets that provide information on politics, the economy, culture, sports, social issues, leisure or science may be freely established without the need for prior authorization of any kind (Constitution, art. 11).

78. At community level, local authorities provide the institutional framework for citizens’ participation in running public affairs. They are administered freely by elected assemblies (Constitution, art. 102).
