



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination Eighty-first session

### Summary record of the 2179th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 14 August 2012, at 3 p.m.

*Chairperson:* Mr. Avtonomov

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The meeting was called to order at 3.05 p.m.

**Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (continued)**

*Sixteenth to eighteenth periodic reports of Senegal (CERD/C/SEN/16-18, CERD/C/SEN/Q/16-18; HRI/CORE/SEN/2011)*

1. *At the invitation of the Chairperson, the delegation of Senegal took its place at the Committee table.*

2. **Mr. Seck** (Senegal) reiterated his country's commitment to ensuring the fulfilment of obligations entered into on its accession to the Convention in 1972, which included the promotion and protection of all human rights, without exception. Senegal pleaded for a greater mobilization of the international community to eliminate racism and racial discrimination and strengthen the legal framework for the prevention and prosecution of acts of racism at national, regional and international levels. Senegal focused on prevention by promoting an open society based on a culture of peace and tolerance that made use of various social mechanisms such as "friendly banter" (members of different ethnic groups could be seen teasing one another without any negative consequences), in which both religious and traditional leaders played an important role. The adoption of the Constitution in 2001 had allowed for a shift toward the strengthening of mechanisms aimed at the promotion and protection of human rights, in both urban and rural areas. At a judicial level, any race-related case could be brought before the court. New measures relating to the rights of vulnerable persons, including non-nationals, had also been adopted.

3. Thanks to the implementation of the law of 2010 on gender balance in the exercise of elected public functions, the new National Assembly established through legislative elections on 6 July 2012 comprised 65 women and 85 men. For several years, women had enjoyed greater access to high-level political and administrative posts. The current system of gender balance had been preceded by measures aimed at ensuring gender equality with regard to access to employment, in particular in the police and gendarmerie, and equal tax treatment. In 2009, Senegal had adopted a national plan of action to combat trafficking in women and children, and a unit to

combat that problem had been established to protect, in particular, victims of economic exploitation, child beggars (known as "talibés"), most of whom came from neighbouring countries. Various mentoring, reintegration and legal advice programmes had been adopted and the Koranic schools in which *talibé* children were educated had been modernized. Furthermore, following the ratification of the Convention on the Rights of Persons with Disabilities, Senegal had adopted a social orientation law in 2010 on persons with disabilities, which would be backed up by the creation of a high-level authority responsible for protecting the rights of disabled persons.

4. With regard to other important advances made since 2002 he referred, in particular, to the establishment of the National Prisons Observatory and the National Parity Observatory along with the ratification of the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance. Regarding the caste issue, the State could not punish people who tried to restrict marriage to members of the same social group, since marriage was a consensual union between two people and the decision to marry within the same socio-ethnic group could not be made punishable by the State. That issue had no bearing on the commitment of Senegal to uphold the principle of non-discrimination.

5. **Mr. Ewomsan** (Rapporteur for Senegal) noted that, despite cases of violence occurring prior to the last presidential elections, Senegal had seen an unusually exemplary political changeover that indicated that democratic principles had truly taken root. One of the country's assets was its constitutional provision granting supremacy to international human rights instruments within domestic law. He noted as very positive the State party's recognition of the competence of the Committee to receive and consider communications from individuals, in accordance with article 14 of the Convention, and the ratification of the main international human rights instruments. He pointed out that Senegal was one of the first countries to have ratified the Rome Statute of the International Criminal Court, and wondered why the State party had been so late in bringing Mr. Hissen Habré to justice, in view of the extent of abuse committed against certain groups of the population. He was pleased that Senegal was endowed with several institutions for the promotion and protection of human rights, such as the

Human Rights Committee, the Ombudsman of the Republic, which was responsible for mediation between the Government and citizens, the Office of the High Commissioner for Human Rights and the Promotion of Peace and the recently established Directorate for Human Rights of the Ministry of Justice. He requested information on the mission assigned to the latter body. Noting that the Senegalese Human Rights Committee could lose its category A status under the International Coordinating Committee of National Human Rights Institutions owing to issues linked to funding and the selection and appointment of its members, he requested information on measures undertaken or envisaged to enable the body to retain its status. Recalling that Senegal had played an important role in the preparation of the Durban Review Conference, he asked for details regarding plans of action and other measures adopted by the State party to implement the Durban Declaration and Programme of Action.

6. He noted that the report under consideration did not contain complete statistics on the demographic composition of the population, in particular ethnic or national origins, which prevented the Committee from evaluating the situation of ethnic and national groups with regard to the Convention. He encouraged Senegal to take that obligation into account during the next censuses. The country's domestic legislation contained a definition of racial discrimination that conformed fully to article 1 of the Convention. Noting that 90 per cent of the *talibé* children originating from bordering countries and the subregion were forced to beg either by the religious leaders to whom they had been entrusted or through necessity, he asked the delegation of Senegal to explain why that situation was tolerated while it was contrary to article 3 of Act No. 2005-02, which made it an offence to force a person into begging. The Special Rapporteur on the sale of children, child prostitution and child pornography had noted that begging itself was in breach of article 245 of the Criminal Code, which tolerated begging only "on days, in places and in the circumstances established by religious traditions".

7. The Government had adopted a strategic plan for 2008-2013 for the education and protection of child beggars and out-of-school children and, in February 2007, had established a partnership for the reintegration of street children and a programme to modernize the *daaras* (Koranic schools). He asked the State party to

provide further information on the effectiveness of measures undertaken with regard to the situation of children. Bearing in mind that Senegal was a departure, transit and destination country for children and women trafficked for the purposes of forced labour and sexual exploitation, he commended the adoption of Act No. 2005-06 of 10 May 2005 against trafficking in persons and related practices. He requested further information regarding plans to create a committee responsible for combating that problem and to adopt a national plan to combat trafficking in persons, in particular women and children.

8. With regard to migrant workers, he asked the State party to repeal the provision in the Labour Code that prohibited foreign workers from performing trade union functions and hoped to obtain further information on that subject. He also requested information regarding actions taken by the Ministry for Senegalese Abroad, which was responsible for assisting Senegalese people living abroad and facilitating their return to the country, and regarding the programme adopted with regard to the collection and analysis of statistical data on migration.

9. With regard to refugees and asylum seekers, he hoped to obtain information on the following points: the situation of Mauritanian refugees in the north of Senegal, particularly those living in precarious conditions; the action taken in response to the hunger strike carried out by Mauritanian refugees in Dakar in order to demand their rights; measures undertaken to allow 13,500 non-repatriated Mauritanian refugees to exercise their rights; and the progress of the draft law on the status of refugees, which aimed to bring domestic legislation into line with international law. He urged the State party to simplify the asylum procedure in order to reduce its impact on the ability of asylum seekers to exercise their social and economic rights. Interestingly, Senegal was the only country in Africa to have adopted a law that defined slavery as a crime against humanity. Bearing in mind that vestiges of slavery persisted in Mauritania, he asked whether the State party had taken steps to raise awareness about that issue among Mauritanian refugees repatriated under the Tripartite agreement concluded between Mauritania, Senegal and the United Nations High Commissioner for Refugees. Additional information relating to relations between black African Mauritians and the Wolof and Pulaar groups in Senegal would also be welcome.

10. The State party should protect victims of the caste system by taking legislative, judicial and educational measures to change people's attitudes. He requested information on measures undertaken to eradicate discriminatory practices linked to caste and wished to know which ethnicities most commonly observed such practices. He also requested information on the causal factors behind the Casamance conflict and measures undertaken to bring that conflict to an end.

11. He noted with concern that no case of discrimination had ever been brought before the courts, which could be explained by the absence of adequate legislation, insufficient knowledge of available recourse or mistrust among the population with regard to the police and judicial authorities. He invited the delegation to revisit that issue. With regard to "friendly banter", he wondered whether, in the eyes of those who practised it, it had the tendency to normalize situations that would otherwise be classed as ethnic or racial discrimination. Since Senegal was home to European and Lebanese populations, cases of racism or discrimination might well occur and affect relations between the various communities. He invited the State party to combat that problem, particularly the idea that certain groups of the population were superior to others. He concluded by referring to the "Y'en a marre" ("Enough is enough") movement, which called for respect for fundamental rights under the rule of law, and urged the new Senegalese authorities to advance the country's progress toward the promotion and protection of human rights.

12. **Mr. Saidou** said that major Senegalese non-governmental organizations (NGOs) such as Rencontre Africaine pour la Défense des Droits de l'Homme (African Assembly for the Defence of Human Rights) and the Senegalese Human Rights Committee had, in the past, received very little support from the public authorities, and wished to know whether the present government intended to rectify that situation. He requested information on the status of the Office of the High Commissioner for Human Rights and the Promotion of Peace, based in the Office of the President, and asked whether the competencies of that body and the Senegalese Human Rights Committee overlapped. He asked whether the activities of the University Institute for Human Rights were limited to the university sphere or whether they extended to the whole of the Senegalese education system. He also

asked whether any particular pejorative terms were used with regard to non-nationals and what measures had been undertaken by the State party to eradicate stereotypes. Echoing Mr. Ewomsan, he noted that the absence of discrimination cases brought before the court was not a positive sign. In that regard, he asked whether the Convention had been sufficiently disseminated and whether it was translated into all the languages spoken by non-francophone populations in Senegal.

13. **Mr. de Gouttes** noted that the report of the State party contained positive elements: efforts to promote gender equality, the protection of children's rights and legislation on countering racial and ethnic discrimination. He welcomed in particular the law of 1981 that contained a definition of racial discrimination, some of the provisions of article 4 of the Convention and the aggravating circumstances provided for in the Criminal Code for cases of racially motivated violence and murder. Like Mr. Ewomsan and Mr. Saidou, he was concerned that no legal action had been taken and no appeal had been lodged with regard to racial discrimination. In that regard, he called the attention of the State party to General Recommendation 31 of the Committee on the Elimination of Racial Discrimination regarding the prevention of racial discrimination in the administration and functioning of the criminal justice system.

14. He enquired as to which NGOs and civil society organizations had contributed to the preparation of the report for consideration, what were the respective fields of competence of the many bodies involved in the implementation of the Convention and what effective measures had been undertaken to eradicate the effects of the caste system. He also requested information on discrimination and ill-treatment suffered by household staff, in particular young girls, as reported by certain NGOs. Lastly, he requested additional information on the traditional custom of "friendly banter" and asked in particular whether that method of maintaining social peace always served its purpose of promoting ethnic harmony.

15. **Mr. Murillo Martínez** asked whether there were any up-to-date statistics, disaggregated by ethnicity, relating to access to secondary education and what measures had been undertaken in general to improve access to secondary education. He also requested additional information on concrete measures

undertaken to combat the caste system, in particular studies carried out to better understand that problem and the issue of female circumcision in Senegal, notably legislative measures to penalize that practice.

16. **Ms. Dah** welcomed measures undertaken by Senegal to promote gender equality and women's rights and noted that domestic legislation demonstrated that the State party understood the scope and spirit of the Convention. Nevertheless, she invited the State party to consider not only institutional and legal questions, but also the reality of the situation. In that regard, she urged the State party to redouble its efforts to raise awareness of the text of the Convention and show the Senegalese people that discrimination certainly existed just as much in Senegal as elsewhere. She encouraged the State party to produce more detailed statistics and socioeconomic indicators in order to better prevent and combat racial discrimination.

17. **Mr. Diaconu** asked whether the root causes of the Casamance conflict had been examined. One possible solution to the conflict would be to undertake economic and social measures to make the inhabitants of Casamance feel at home in Senegal. It would be interesting to learn the views of the delegation on that matter. He pointed out that the caste issue went beyond the simple question of marriage, since it touched on multiple issues such as access to schooling and employment. According to the information available to the Committee, white Moors and Harratin had been expelled from Senegal in retaliation for the expulsion of black Africans from Mauritania to Senegal. He reminded the State party that such retaliations were unacceptable from the point of view of human rights. With reference to the situation of *talibé* children educated in the *daaras*, he asked whether State schools in Senegal were open to all children.

18. **Mr. Lindgren Alves** pointed out that the report under consideration presented laws adopted in relation to racial discrimination but provided no concrete example of their application. Noting that the Senegalese population was composed primarily of the Wolof, the Pulaar and the Serer, he asked whether any cultural ties united those ethnic groups. He also asked for further details regarding the composition of the population of Casamance and the ties uniting the various local communities.

19. **Mr. Kemal** said that Senegal had seen rapid economic growth and welcomed migrants from neighbouring countries, which presented economic rather than racial problems. Such migrants often lived in inadequate accommodation and suffered social injustices. He wished to know what the Government of Senegal was doing to improve the situation of those people. He invited the delegation to provide explanations for the tensions existing in certain villages, even between members of the same ethnic group.

20. **The Chairperson**, speaking as a member of the Committee, noted that the report of the State party did not address articles 2 or 3 of the Convention. In that regard, the State party should consider paragraph 2 of article 2 of the Convention, which provided that States parties should, if circumstances required, undertake special measures to guarantee the fundamental rights of certain racial groups or individuals belonging to those groups. Article 3, which concerned racial segregation, was very important for Africa. He asked whether Senegal was party to the International Convention Against Apartheid in Sports. Furthermore, he asked what measures had been undertaken by the State party to comply with articles 6 and 7 of the Convention.

21. **Mr. Vázquez** read in paragraph 24 of the report that a child born of a Senegalese mother and a foreign father could choose to take Senegalese nationality and asked whether the same rule applied to children with a Senegalese father and a foreign mother.

22. **Mr. Amir** asked whether it was true that the army had bombarded rebel positions and harmed civilians in Casamance. He understood that the dispute was primarily land-related, since northern populations had been displaced to Casamance and were now occupying land belonging to the local people. He asked why those populations could not reclaim their land and what the State party was doing to advance negotiations.

23. **Mr. Calí Tzay** noted that, according to paragraph 25 of the report, a foreign woman who married a Senegalese man could obtain Senegalese nationality and asked whether a foreign man could also obtain nationality by marrying a Senegalese woman. He noted with satisfaction that the legal provisions punishing the offence of abandoning the marital home, which were considered to be discriminatory against women, had been repealed and replaced with the offence of abandoning the family. He asked whether the new

provisions also applied to men. He pointed out that Senegalese women worked primarily in the agricultural sector and asked what proportion of women occupied administrative or technical positions. Lastly, he invited the delegation to indicate which functions, other than posts in the army or the gendarmerie, were now open to women and asked whether plans to incorporate some 300 women in the army had been implemented and what had been the results of that exercise.

24. **Ms. January-Bardill** referred to paragraph 44, which stated that access to key positions was not linked to ethnicity but purely to individual merit, and asked what measures the State party envisaged in order to guarantee equal access for all to civil service posts. She wondered about the subjective nature of “merit” as a concept and the possible discriminatory effects that it could generate and invited the delegation to elaborate on that topic.

25. **Mr. Thornberry** requested additional information on measures put in place by the State party to raise awareness of racial discrimination. He also asked whether press violations were still punishable by imprisonment. He recalled General Recommendation 29 on descent-based discrimination and requested further information on the caste issue in Senegal.

26. **The Chairperson**, speaking as a member of the Committee, asked whether any members of ethnic minorities occupied seats in the Senate.

27. **Mr. Seck** (Senegal) explained that the problems in Casamance, the southernmost part of Senegal that comprised three separate regions, were predominantly political and that the Government of Senegal had tried on many occasions to initiate negotiations in order to bring peace to the area. The problems were not caused by a situation of ethnic, racial or religious discrimination, but by the demands of rebels claiming independence, which were unfounded from a legal point of view. In any event, the Senegalese army had never attacked civil populations in Casamance. The Casamance conflict had arisen out of deep divisions inherited from the country’s colonial past and fuelled by the underground economy, namely the arms trade and traffic in narcotic drugs. However, the situation was developing positively, as the rebels had begun to establish political parties.

28. **Mr. Sèye** (Senegal) said that the Directorate for Human Rights, which had taken over from the Office

of the High Commissioner for Human Rights and the Promotion of Peace, was part of the Ministry of Justice but was in fact entirely independent. It was responsible for ensuring the protection of vulnerable persons (in particular women, children and persons with disabilities), protecting individual and civil liberties, maintaining contacts with non-State institutions and raising awareness of human rights among the population. It had set a goal to protect all fundamental rights, notably the right to health, and to facilitate access to justice. The Ministry of Education planned to include human rights studies in school curricula and, within the framework of agreements concluded between the Ministry of Justice, the Ministry of Defence and the Ministry of Internal Affairs, the security services would also receive human rights training.

*The meeting rose at 6.05 p.m.*