

REPORT ON THE MISSION OF GOOD OFFICES TO SENEGAL OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS (1-7 June 1996)

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I. OBJECTIVE

On 12 October 1992, the African Commission on Human and Peoples' Rights was seized by an NGO called, "Rencontre Africaine Pour la Défense des droits de l'Homme" (RADDHO). In its communication, brought against Senegal, it described grave and massive violations of human rights at Kaguitt, in Casamance, following a clash between the Senegalese army and the rebels of the Mouvement des Forces Démocratiques de la Casamance (MFDC).

At its 17th, 18th and 19th ordinary sessions, the African Commission decided to send a mission of good offices to Senegal, with a view to contributing to the amicable resolution of the conflict.

With the aim of attaining this objective by the appropriate ways and means, the mission went to Senegal, collected all useful information and interviewed the principal parties likely to bring significant clarification to the events of Casamance.

II. DURATION AND COMPOSITION OF THE MISSION

Scheduled 1-7 June 1996 and conducted by Professor Isaac NGUEMA, Chairman of the African Commission, the mission also comprised Dr. Vera Valentina de Melo DUARTE MARTINS and Mr. Marcel BUZINGO, member and legal adviser to the Commission, respectively.

III IMPLEMENTATION OF THE MISSION

The mission took place at two locations: Dakar and Ziguinchor (Casamance).

(a) DAKAR

The mission was received for a meeting with:

1. The President of the Constitutional Council, Mr. Yousoupha NDIAYE; the Guardian of Seals and Minister of Justice, Mr. Jacques Baudin; the General Secretary of Government, Mr. Ousmane NDIAYE; the Diplomatic Counsellor of the President of the

Republic, Mr. Amadou DIOP; the Legal Adviser to the President of the Republic, Mr. Yann AGUILA.

2. The Prime Minister, His Excellency Mr. Habib THIAM, who gathered for the occasion the Guardian of Seals and Minister of Justice, the General Secretary of Government, the Diplomatic and Legal Counsellors to the President of the Republic, and the Special Counsellor Minister of the Prime Minister, Mr. Daniel KABOU.

3. The delegation of the Commission participated in a working session presided over by the Guardian of Seals and Minister of Justice, which encompassed the Minister of the Interior, Mr. Abdouahmane SOW; the Minister of the Armed Forces, Mr. Cheikh Hamidou KANE; Professor Assane SECK, President of the National Committee for the Administration of Peace in Casamance; the General Secretary of Government, Mr. Ousmane NDIAYE; Mr. B. Diallo, Diplomatic and Legal Counsellor to the President of the Republic.

4. The Commission also had interviews with the following persons: The Honorable Deputy Landing SAVANE, leader of the opposition; His Eminence Cardinal Yacinthe THIANDOUM, His Excellency Ambassador Moustapha Cissé, General Kaliph of Pire, Personal Counsellor of the Head of State for Islamic affairs.

(b) ZIGUINCHOR

The delegation of the Commission was received and interviewed by:

1. Mr. Famara Ibrahima SAGNA, former Minister, President of the Economic and Social Council.

2. The Regional Governor, Mr. Mame SARR, accompanied by Colonel BOISSY, responsible for the regional arm for the Administration of Peace in Casamance.

3. Mr. Sidy BADJI, former commander of the North Front, who was accompanied notably by two of his lieutenants from the bush

4. Father DIAMACOUNE, accompanied by several of his followers, of whom some were former rebels

5. Monseigneur MAIXENT-COLY, Bishop of the diocese of Ziguinchor.

6. Two priests who are members of the clerical committee established to restore peace to Casamance

IV THE FACTS

1) The Origin of the conflict

Without going into details, the Casamance was occupied first by the Portuguese, who took possession of Ziguinchor in 1845. They ceded the territory to France forty years later, on 12 May 1886, in exchange for the north of Guinea-Bissau, as well as fishing rights at Terre-Neuve.

Covering 28,350 square km, one seventh of the area of Senegal, Casamance is situated between Gambia in the north, Guinea-Bissau and Guinea Conakry to the south, the Atlantic Ocean to the west and the Kouloutou, a tributary to the Gambia River, to the east. Thus, it is isolated from the rest of Senegal. In the course of its history, Casamance developed a cultural identity especially marked by resistance to different colonisations and foreign cultures. In the economic sphere, the inhabitants of Casamance have traditionally practiced an economy of subsistence essentially based on fishing and agriculture. Evoking notably arguments which he considers founded on the history of the territory, Father DIAMACOUNE has not hesitated to affirm the existence of historical documents tending to justify the calling of Casamance to independence. According to him, the administration of Casamance was conferred on Senegal by France, from which comes the following formulation used by this priest: "Casamance with Senegal, but not in Senegal".

2) The Evolution of the Conflict

At demonstrations organised in December 1982 in Ziguinchor at the instigation of movements desirous of expressing the frustrations felt in Casamance to the central government (but not without separatist ulterior motives) the forces maintaining public order intervened when certain demonstrations lowered the national flag from public buildings.

Skirmishes followed, and further, loss of human life on both sides, which set off the beginning of violence and the joining with the rebels of separatist groups under the leadership of the Movement of Democratic Forces of Casamance (MFDC) having at its head Father DIAMACOUNE as spiritual leader.

The conflict evolved unevenly, marked sometimes by grave violations of human rights by one side as by the other, sometimes by cessation of hostilities following cease-fires. In this regard it is necessary to emphasize the unmistakable will of the Senegalese head of state, President Abdou Diouf, concerned to resolve the conflict through negotiated means, not by arms, while remaining first on respect for national unity and territorial integrity.

The following initiatives to this effect have been revealed:

- The creation of a National Committee for the Administration of Peace in
- Casamance

- The liberation of a good number of persons arrested due to the conflict
- The prosecution of elements of the army accused of having violated human rights
- The adoption of the law bringing code of the local communities

Further, it is important to consider as an initiative in the search for peace the unilateral cease-fire declaration of 3 December 1995, made by Father Augustin DIAMACOUNE SENGHOR which declares itself "given for eternity, to place in the world truth, charity, justice and peace".

Even more, it is important to note that certain former warriors, such as Sidy BADJI, commander of the North Front of the MFDC, have deposited their arms after having realised that the revelations of Father DIAMACOUNE relating to the calling of Casamance to independence are without foundation.

This accords furthermore with the point of view contained in the CHARPY report made following the arbitration asked of France, in its capacity as former colonial ruler of Senegal.

According to the report, rejected by the separatist camp, "Casamance did not exist as an independent territory before colonisation".

In any case, this conclusion has not dampened the conviction of Father DIAMACOUNE for whom "the independence of Casamance is a fixed idea" to use the words of a high personality who knows him well. Still less has it deterred the deputy Secretary General of the MFDC, Monsieur Nkruma SANE, who is presently a refugee in France. He has likewise persisted in developing the separatist platform, while opposing the declaration of unilateral cease-fire of 3 December 1995.

For their part, although they have responded favourably to this declaration of Father Diamacoune, the rebels of the South Front still remain in the bush, awaiting the outcome of these events.

3) Present Situation

The present situation is characterised by four principal elements:

1. The will affirmed by both sides to sit down at the negotiation table.
2. This will is manifested by the departure abroad of elements of the separatist movement following the decision of the Senegalese government to grant their passports so that they might go meet with their activists exiled in Europe, in order to determine the object and place of the negotiations to be undertaken with the government.
3. The mutual suspicion of each party as to the sincerity of the other. For its part, the government of Senegal fears being deprived of the present of the principle interlocutor, if Father DIAMACOUNE leaves the country and remains abroad, like others who have left and have not yet returned.

For its part, the MFDC does not believe the intention of the Senegalese authorities to negotiate because it notes that they have refused Father DIAMACOUNE his passport to leave the

country and even in Ziguinchor he is kept under surveillance.

4. The existence of occult influences, difficult to identify, which pull the strings of the conflict on which they are based, and which have not, consequently, any interest in the return of peace.

5. The divisions and inconsistency of the MFDC which is reflected in the contradictory and fluctuating declarations of its leaders.

It is in this general context that one fears that the cease fire will not be renewed, and the combatants will recommence with further violence and determination.

In consequence, the prospects for negotiations find themselves presently at an impasse. Only significant initiative, without equivocation, can renew the dynamic of peace, that which assumes a good comprehension and a deep analysis of the existing phenomena.

V ANALYSIS OF THE FACTS

Upon analysis of the facts, two opposing themes appear.

1) Separatist position

The separatist thesis propounded by Father DIAMACOUNE and his unconditional followers advocates the accession of Casamance to international sovereignty. They articulate a number of arguments, of which the following are notable:

1. Historical legitimacy.

2. Feelings of frustrations for having been deprived of their lands, being governed by outsiders, not truly sharing their cultural traditions or their aspiration (the example of a hotel constructed on the site of a former cemetery, which was destroyed for this purpose, was given).

3. Revolt against living in poverty despite the natural riches of their region, these being neglected for many years by the central power which has only exploited them for the benefit of other regions.

4. The will to put an end to the injustices that they continue to undergo, which make the rejects in a state whose sovereignty over Casamance they contest.

5. The firm conviction of being able to live better in the future in a free and independent Casamance, occupied chiefly with the well-being of its population, with cooperation accords with other states, Senegal among them.

2) Government Position

The authorities of the Senegalese state oppose this separatist position with a series of arguments of which these are the principals:

1. No more than for other regions of Senegal does any historical argument support the separatist claims in Casamance, which was never an autonomous territory under colonisation.

2. In the sociological plan, Casamance is composed of a mosaic of ethnic and cultural groups, while the MFDC rests its base on an ethno- cultural minority; thus this movement cannot legitimately claim to speak in the name of all Casamançais, the vast majority of whom, furthermore, do not want independence. According to this hypothesis, if independence came out, it would inevitably plunge the region into civil war without precedent.

3. The principle of maintenance of national unity and territorial integrity cannot be questioned. Should Casamance by misfortune become independent, there would be no reason for the other regions of Senegal not to claim the benefits of the same status, using similar arguments.

4. Senegal is a republic, respecting the principle of non- discrimination, equality for all its citizens and all national communities before the law. Casamance has never been the object of discrimination in relation to other regions. Much the contrary, it has received more investments than the others.

3) Elements of analysis of the two positions presented

1. Given the separatist position, it is easy to demonstrate that the reasons advanced are not unique to the Casamance, but can be invoked with a certain measure of profit by other regions of Senegal.

2. Furthermore, it is not possible to rule out that the volume of investments from which Casamance has benefitted might be more important than those granted to other regions.

3. As for the question of lands, of which certain natives have been deprived, it is important to emphasize this has in no way been the result of a conspiracy, but simply the consequence of the application of new legislation installing a system of private property.

4. Also, this situation is explained by the drought which provided the movement of populations from the semi-arid zones of the north towards Casamance, better endowed by rain patterns and having more fertile land.

5. The newly-arrived have practiced market economics while the natives limited themselves to an economy of subsistence. The former have thus become richer than the latter, and the frustrations felt at seeing these "strangers" coming from outside to make fortunes with the local lands and materials (agriculture, fishing, etc.) are not surprising.

6. Furthermore, these migratory movements have naturally introduced other cultures into Casamance, particular Wolof culture, without imposing itself by force.

7. As for the argument drawn from historical identity, without it being necessary to have reference to the study of CHARPY, it is simple to demonstrate that each people had in its history a cultural identity. Furthermore, the wise founders of the OAU in 1963 pronounced themselves in favour of territorial integrity and the immutability of the borders inherited from colonisation.

8. In sum, the arguments developed to support the separatist positions lack pertinence. They cannot justify the grave attacks against human rights in the course of the conflict.

9. Concerning the arguments developed by the government authorities, it is not sure that they are more pertinent. In effect, it is clear that Senegal has just endowed itself with a law on regionalisation, while at the moment that the conflict ignited in Casamance, the Senegalese state had a mechanical and static conception of national unity.

10. Furthermore, the principle of territorial integrity and inviolability of borders seen to perpetuate the arbitrary and artificial divisions affected by the former colonial powers, without consulting the concerned populations.

11. As for the principle of equality of citizens and communities, it is clear that this means not a mathematical equality, but above all an equality of participation in the administration of public affairs.

12. In total, it appears that neither the position of the separatists, nor that of the state authorities, can be taken in its entirety. For this reason, a frank and constructive dialogue must be instituted between the two parties, from which a solution can emerge, a solution which will assure the cohesion and continuity of the people of the unified Senegalese state in a community of interest and destiny.

VI CONCLUSIONS AND RECOMMENDATIONS

With the goal of bringing about a constructive dialogue, it is recommended on the one hand that certain conditions be fulfilled, and on the other hand that certain objectives be aimed at.

Conditions Favourable for negotiations

The Commission recommends:

1. The Government should:

- consider lifting the measures which confine Father DIAMACOUNE to his residence, to permit him to move freely and involve himself more easily in the negotiations and the search for peace.
- free all political prisoners detained for reasons connected to the conflict
- assist all displaced persons and refugees, encouraging them to return to their homes by guaranteeing their security
- fight impunity by prosecuting those implicated in torture and summary executions

2. The separatists should:

- ensure that their leaders based in Europe and abroad return to Senegal where guarantees of their safety will be given
- accept that future negotiations will take place on African soil
- work for coherence in statement of their positions

3. Both parties should:

- do their best to identify and isolate those who oppose a return to peace, who have made the conflict the foundation of their business

B. Objectives of negotiation

The Commission recommends that each of the parties put all in place to realise the following objectives:

- a. To resolve the problem on the ground
- b. To post in Casamance so far as possible, officials native to the region
- c. To elaborate a vast programme of investment with the object of further developing the region
- d. To establish a system of social integration, to help unemployed youth, and encompassing demobilised rebels.
- e. To create a joint committee of follow-up to supervise the realisation of these objectives

Before concluding this report, it is important to note the quality of facilities placed at the disposal of the mission by the Senegalese authorities.

The Commission maintains its expression of profound gratitude with the hope that the sincerity, the loyalty, and the transparency which the authorities demonstrated throughout the mission will contribute to re-establish peace, justice and well-being of the populations of Senegal in general and of the people of Casamance in particular.