


AFRICAN UNION		UNION AFRICAINE
الاتحاد الأفريقي African Commission on Human & Peoples' Rights		UNIÃO AFRICANA Commission Africaine des Droits de l'Homme & des Peuples
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Concluding Observations and Recommendations on the Combined periodic report of the Republic of Senegal on implementation of the African Charter on Human and Peoples' Rights (2004 - 2013)

I. Introduction

1. The Republic of Senegal is a State Party to the African Charter on Human and Peoples' Rights (the African Charter) having ratified it on 13 June 1982.
2. The Republic of Senegal presented its combined (8th, 9th, 10th and 11th) periodic report, in accordance with Article 62 of the African Charter, at the 56th Ordinary Session of the African Commission on Human and Peoples' Rights (the Commission) held from 21 April to 7 May 2015 in Banjul (The Gambia).
3. . The Report was presented by a Delegation of the Republic of Senegal (the Delegation), led by His Excellency Professor Cheikh Tidiane THIAM, Ambassador to the Cabinet of the Senegalese Minister for Foreign Affairs, Head of Delegation
 - Professor Saliou NDIAYE, Ambassador of Senegal in the Gambia
 - Mr Mouhamadou Moustapha SEYE, Director of Human Rights at the Senegalese Ministry of Justice
 - Mr Ndongo DIENG, Ministry of Foreign Affairs
 - Mr El Hadj Magatte NDAW, Ministry of Foreign Affairs
 - Mrs Dieynaba TOURE BATHILY, First Counselor at the Embassy of Senegal in The Gambia
 - Mr Mouhamadou Moustapha THIOUNE, Director of Public Freedoms, Senegalese Ministry of Interior
 - Mr Ibrahima DEME, Director of the Promotion of Good Governance at the Senegalese Ministry of African Integration, NEPAD and the Promotion of Good Governance
 - Mrs Astou SYLLA, Senegalese Ministry of Women, Family and Childhood

- Mr Assane DRAME, Secretary General of the Senegalese Committee on Human Rights

4. The Report underscores progress made by the Republic of Senegal in the area of human and peoples' rights as well as legislative, administrative and other measures taken to implement provisions of the African Charter, since Senegal presented its combined (3rd to 7th) periodic report at the 34th Ordinary Session held from 6 to 20 November 2003 in Banjul, The Gambia.
5. The present Concluding Observations highlight the positive aspects, factors restricting the effective enjoyment of human rights and areas of concern regarding observance of human rights in the country. The Commission further provides recommendations to the Government of Senegal aimed at enhancing the enjoyment of human rights by the Senegalese population.
6. The Commission commends the Delegation of the Republic of Senegal for the open and constructive dialogue that prevailed during presentation of this combined period report and for the information provided in response to concerns raised by the members of the Commission.

II. Positive aspects

The Commission:

7. Commends Senegal for the political will demonstrated through presentation of its periodic reports on a regular basis.
8. Notes with satisfaction the involvement of all stakeholders, including civil society, the Senegalese Committee on Human Rights (CSDH) and the National Advisory Board on Human Rights (an advisory body whose members are from ministerial departments and civil society organizations), in the preparation and adoption of the report.
9. Welcomes measures taken to implement recommendations made by the Commission following the review of its combined periodic report at the 34th Ordinary Session (Banjul, November 2003). In particular, those relating to the families of the Diola boat disaster victims, harmonization of national legislation with the African Charter, improvement of detention conditions, improvement of the situation of children, especially street children, and actions in favour of the media and respect for fundamental rights by the latter.
10. Takes note of the ratification by the Republic of Senegal of relevant regional and international human rights instruments, particularly:

- the Optional Protocol to the Convention against torture and other cruel, inhuman or degrading treatment or punishment;
 - the Optional Protocol to the Convention on the rights of the child on the involvement of children in armed conflict;
 - the Convention on the rights of persons with disabilities.
11. Welcomes the General Peace Agreement of 30 December 2004 signed between the Government of Senegal and the Movement of the Democratic Forces of Casamance (MFDC), as well as Senegal's commitment to an extensive reconstruction programme in the Casamance. The Commission also appreciates the implementation of a special development programme for the Casamance region.
 12. Welcomes the Government of Senegal's decision to declare children orphaned by the « Diola » boat disaster as wards of the State, establish a national Office to cater for wards of the State, and the significant efforts deployed to ensure a maritime link between Dakar and Ziguinchor with the commissioning of a new boat for transporting people and the entry into service of a cargo vessel to promote marketing of products.
 13. Notes that the Government of Senegal has developed an integrated national system for the protection of children, which was incorporated into the Economic and Social Policy Document (DPES).
 14. Commends efforts made to address the phenomenon of street children through various actions, in particular, introduction of the offence of begging into the criminal code and adoption of a law criminalizing human trafficking and exploiting others through begging, establishment of a strategic framework for the reduction of the phenomenon of street children, development of a National social protection strategy, establishment of a mechanism for the pooling of resources and experiences to address the practice, and other initiatives aimed at effectively addressing this phenomenon.
 15. Welcomes the implementation of programmes for children in vulnerable situations with a view to strengthening priority actions to eliminate the worst forms of child labour and protect them from all forms of exploitation, abuses and violence.
 16. Welcomes the allocation of CFAF 4.5 billion for rehabilitation of detention facilities, in particular, the construction of a multi-purpose building at the Rebeuss prison facility consisting of a library, a socio-educational service, a concert hall and a computer room, reinstallation of electrical connections at the Rebeuss and Cap Manuel prisons, installation of gas cookers in prison facilities and construction of rooms for minors at the female prison in Dakar.

17. Welcomes measures aimed at improving health conditions in prisons and providing full medical coverage for sick prisoners.
18. Takes note of the installation of libraries, telephone booths, television sets, fans and air extractors at the Rebeuss prison and at the Liberté 6 Prisons Camp as well as in some prisons in the countryside.
19. Appreciates the creation of the function of a judge responsible for the enforcement of sentences and the introduction in the criminal code of alternative sentences instead of custodial ones consisting of community service.
20. Notes the recruitment of about 700 prison officers and the amendment of staff regulations granting them greater benefits such as housing allowance.
21. Appreciates the modification in the duration of the warrant of committal to 6 months for correctional matters and the transfer of detainees to less populated prisons in order to effectively address overcrowding and idleness in prisons.
22. Notes the establishment by the Government of independent administrative authorities to regulate the media sector, including, the Postal Service and Telecommunications Regulatory Authority (ARTP), the National Radio and Television Regulatory Council (CNRA), and the Ethical Standards Compliance Council (CORED), which is an Autonomous Journalism Practice Regulatory Organization.
23. Notes with satisfaction the adoption of the draft press code proposing solutions to the numerous challenges confronting the media sector. These solutions include the decriminalization of press offences, access to information, enhancing the status of the journalist, and financing private media.
24. Notes the establishment of a National Digital Committee (CNN) with the aim of providing guidelines, coordinating and steering actions to be carried out to ensure switching from analogue to digital radio and television broadcasting system in June 2015.
25. Appreciates efforts deployed by the State Party in combating human trafficking, especially through adoption of a law on combating human trafficking and related practices and protection of victims, and establishment of a national task force for combating human trafficking. For this purpose; The Commission welcomes the adoption of Act nr. 2005-06 of 10 May 2005 on combating human trafficking and related practices and protection of victims.

26. Welcomes the expansion of the judicial map through establishment of new courts in Senegal, and particularly, the implementation of the Justice Sector Programme with the aim of ensuring good governance at the judicial level through consolidation of the rule of law, establishment of specialized local courts for mediation, information and legal aid and establishment of a legal assistance system.
27. Takes note of rules established to govern police custody in conformity with international standards, in particular, measures relating to the detention of minors.
28. Welcomes the willingness of Senegal to try former Chadian President Hissen Habré, as demonstrated by the different agreements signed with the African Union for the establishment of “Extraordinary African Chambers” and the agreement with Chad on judicial cooperation in this matter.
29. Welcomes measures established for the prevention of torture during police custody and the establishment of the national observatory of places of deprivation of liberty, an independent authority vested with the power to exercise control of all detention centres.
30. Welcomes the adoption by Senegal of a series of laws on torture in line with the relevant provisions of the Rome Statute of the International Criminal Court.
31. Takes note of guarantees relating to detention and on-going reforms to the Criminal Code with a view to providing the country with a criminal legislation in keeping with international commitments to which it is a party.
32. Takes note of clarifications provided on the status of the Human Rights Committee of Senegal (CSDH).
33. Appreciates efforts made by the State to guarantee the enjoyment of social and economic rights of populations, such as access to housing and water.
34. Takes note of efforts deployed by the State Party to improve the health status of populations, particularly those with disabilities, by providing free or partially free healthcare in State health facilities.
35. Appreciates measures taken to fight against discrimination, wilful transmission of HIV/AIDS as well as violation of the obligation of confidentiality, among other measures.
36. Applauds actions undertaken by the Government in the area of education, particularly with regard to persons with disabilities.

37. Welcomes the psychosocial support and care afforded to victims of abuse and human rights violations, especially through establishment, counselling and guidance centres throughout the territory.
38. Welcomes actions undertaken to promote employment of young people, particularly the establishment of financing and technical support initiatives, support and placement agencies, and training and financing institutions.
39. Welcomes measures adopted to safeguard cultural heritage, particularly, the codification and development of national languages, promotion and enhancement of local cultural expressions and other measures such as reduction of taxes on imported books.
40. Welcomes the adoption of Act nr. 2010-11 of 28 May 2010 instituting full parity between men and women in all totally or partially elective institutions.
41. Welcomes the enactment of Law No. 63 of 28 June 2013 to amend Law No. 1961-10 of 7 March 1961 allowing Senegalese women to pass on their nationality to their spouses and children of foreign nationality.
42. Welcomes the adoption of measures in favour of women, particularly Decree No. 2006-515/PR of 9 June 2006 on access for women to the gendarmerie
43. Welcomes the adoption of the decrees 2006-1309 and 1310 of 23 November 2006 establishing respectively that a female civil servant and a female salaried worker in the private sector is able to include her husband and children in her medical plan.
44. Welcomes actions taken in favour of women, through projects and programmes on capacity-building for women's organizations involved in combating poverty and increasing income of households, and the establishment of support mechanisms for poor women at centres for the advancement of women.
45. Welcomes the popularization and integration of certain provisions of the Maputo Protocol into domestic legislation.
46. Applauds efforts to harmonize national legislation with international commitments on the protection of women's rights through revision of various legislative and regulatory texts and the adoption of new policies.
47. Welcomes actions undertaken for training of magistrates on the application of the Convention on the Elimination of All Forms of Discrimination against Women.

48. Welcomes measures adopted regarding environmental protection, in particular, the establishment of an institutional and legal mechanism for an effective protection of the environment.
49. Appreciates efforts made and measures taken for a sustainable management of forests, wildlife conservation, coastal erosion control, protection of the ozone layer and rational use of chemical products.

III - FACTORS RESTRICTING THE ENJOYMENT OF HUMAN RIGHTS GUARANTEED IN THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

50. Most of the population are ignorant of legal instruments on human rights promotion and protection adopted at the country level as well as regional and international instruments ratified by the Republic of Senegal and this is a barrier to the effective enjoyment of human rights in the State Party.
51. The weight of sociological and cultural factors, persistence of customary practices as well as deeply-rooted bias particularly against women, continue to act as barriers to the full enjoyment of women's rights.
52. Limitations of financial resources for the effective implementation of State programs, for the realization of a number of rights

IV AREAS OF CONCERN

Despite efforts of the Government to promote and protect human rights, the Commission is seriously concerned about:

53. The non-ratification of several human rights instruments, including:
 - African Charter on Democracy, Elections and Governance
 - African Union Convention on Protection and Assistance to Internally Displaced Persons in Africa (Kampala Convention)
54. The slow progress in adopting and enacting codes and laws currently being developed or revised, particularly the revision of the criminal code, the adoption of the draft law on freedom of the press and the legal framework concerning talibé children and the reform of justice in general.
55. The lack of effective management of Talibé children, and the delay in implementing the reform of koranic schools which host these children (Daaras).

56. The high maternal and infant mortality rates despite efforts deployed by the Government.
57. Shortcomings identified in the education sector despite progress made by Senegal in the implementation of the right to education, particularly in the construction of school infrastructures; the training of trainers and the review of the curriculum.
58. Delays in meeting standards adopted by the World Health Organization (WHO) with regard to the number in terms of health facilities, qualified personnel and supply of medicines.
59. The systematic lack of benefit of the poorest populations in exemption programmes established for them, thereby reducing their access to care they are entitled to.
60. The persistence of chronic malnutrition in children under 5 years, particularly in rural zone.
61. The slow progress in eliminating inequalities between men and women contained in the Civil Code, particularly, the choice of residence of the marital home, marital age, prohibition of legal search for paternity even in the case of rape and discrimination based on gender in inheritance rights.
62. The slow progress in harmonizing national legislation with the requirements of the Maputo Protocol.
63. The maintenance of severe sentences against women in the event of abortion or attempted abortion in the Penal Code, and the non-criminalization of sexual assault.
64. The discriminatory nature of the social security regime, in that women still do not receive family allowances, and the lack of pension allowance for the husband and children of a working woman who passes away.
65. inadequate mobilization of domestic resources and budgetary provisional resources for the implementation women's priority programs and the realization of their rights.
66. Failure to systematically ensure gender mainstreaming in public policies.
67. Insufficient human rights in training for law enforcement officials.

68. The imbalance in access to water between urban and rural areas, which does not allow all Senegalese to have access to safe drinking water.

V - RECOMMENDATIONS

In light of the above, the Commission recommends that the Government:

- i. Take all necessary measures to ratify the African Union Convention for the protection and assistance of internally displaced persons in Africa (Kampala Convention) and expedite harmonization of national legislation with the requirements of the Maputo Protocol.
- ii. Adopt the bill on the status of refugees and stateless persons.
- iii. Take the necessary measures for the Senegalese Human Rights Committee to attain A Status in accordance with the Paris Principles.
- iv. Expedite the adoption and enactment of laws to amend the Civil Code and other on-going reforms.
- v. Finalize the modernization of civil status management.
- vi. Put in place measures to ensure that all persons benefit, in a permanent and fair manner, from the availability and accessibility of ARVs and other safe and effective medicines to fight against HIV and related opportunistic infections.
- vii. Take the necessary measures to increase ART coverage for children and ensure that infants receive appropriate paediatric antiretroviral therapy.
- viii. Establish a similar system to the “equal opportunities card” (for persons with disabilities) to fight against poverty among elderly persons in Senegal.
- ix.
- x. Facilitate access to healthcare for low-income families and increase the number of health facilities and healthcare providers while ensuring they are fairly distributed throughout the country.
- xi. Take appropriate measures to expand the scope of the free healthcare initiative for children under 5 years and for pregnant women to include diseases other than malaria in order to reduce maternal and infant mortality rates.
- xii. Guarantee protection of women’s reproductive health and ensure women’s access to adequate and affordable health services.

- xiii. Take adequate measures to combat violence against women, including domestic abuse, and ensure that perpetrators are brought to justice.
- xiv. Strengthen the operational and institutional capacities of institutions in charge of combating female genital mutilation.
- xv. Empower women in their work-related activities by providing them with support to develop income-generating activities.
- xvi. Adopt legislative and other measures to reduce unemployment, particularly among women and young graduates.
- xvii. Continue efforts to ensure free and compulsory primary education, especially for girls and children under 15 years of age.
- xviii. Increase the number of schools to meet the needs of a growing student population and enhance the quality of education, particularly in the higher education sector. Provide training to trainers, and review and ongoing programs.
- xix. Implement the reform of Koranic schools (Daaras).
- xx. Increase the number of hours devoted to human rights education in the training of law enforcement officers (judges, national police, gendarmerie and prison services) and introduce human rights education. at all levels of the school curriculum. Police services should be guided by the provisions of the Guidelines on the Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa while taking or reviewing the law and policies and providing training for police officers and prison officers.
- xxi. Continue the prison modernization program and build new ones, if necessary.
- xxii. Take adequate measures to reduce inequalities in access to water between urban and rural areas, and ensure access for all Senegalese to safe drinking water by allocating a substantial budget for this purpose.
- xxiii. Take all measures to regulate activities of extractive industries and ensure that national land and mining laws/policies are applied and adhered to.
- xxiv. Ensure that citizens affected by major economic development projects, such as in extractive industries, enjoy their right to be consulted and informed in advance and receive adequate notice prior to being displaced, taking into account their economic, social and cultural rights impacted by the exploitation of mineral resources.

- xxv. Ensure that victims of forced eviction receive adequate and timely compensation for the economic and social impacts of extractive industries.
- xxvi. Assign sufficient qualified personnel to environmental management and provide them with the necessary resources to effectively accomplish their tasks.
- xxvii. Adopt legislative measures to protect human rights defenders and ensure that they are able to conduct their activities peacefully and safely.
- xxviii. Take appropriate measures to guarantee the safety and physical integrity of all persons regardless of their sexual orientation and maintain an atmosphere of tolerance towards sexual minorities in the country.
- xxix. Provide, in the next periodic report, information on the effective implementation of recommendations contained in the present Concluding Observations.

Adopted by the African Commission on Human and Peoples' Rights at its 18th Extraordinary Session held from 29 July to 7 August 2015 in Nairobi, Kenya.