



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations concerning the sixteenth, seventeenth and eighteenth periodic reports of Senegal as adopted by the Committee at its eighty-first session, held from 6 to 31 August 2012

1. The Committee on the Elimination of Racial Discrimination considered the sixteenth, seventeenth and eighteenth periodic reports of Senegal, submitted in a single document (CERD/C/SEN/16-18), at its 2179th and 2180th meetings (CERD/C/SR.2179 and SR.2180), held on 14 and 15 August 2012. At its 2199th meeting (CERD/C/SR.2199), held on 29 August 2012, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission, in a single document, of the State party's sixteenth, seventeenth and eighteenth periodic reports and of an updated core document. However, it notes that the report does not contain sufficient information on the practical application of the Convention and regrets that it was submitted late.

3. The Committee is satisfied with the frank and constructive dialogue it held with the delegation of the State party, which included representatives of a number of ministries, and notes with satisfaction the oral statement and detailed replies provided by the delegation during its consideration of the report.

B. Positive aspects

4. The Committee applauds the State party's adoption in March 2010 of a law which classifies enslavement and slave trading as crimes against humanity, thereby becoming the first African nation to adopt legislation of this kind.

5. The Committee notes with interest the steps taken by the State party to combat human trafficking, including the adoption of Act No. 2005-06 of 10 May 2005, on combating human trafficking and related practices, and the introduction of a national action plan (2008–2013) to combat human trafficking, especially trafficking in women and children.

6. The Committee welcomes the State party's determination to modernize Koranic schools (*daaras*) and to integrate them into the educational system. It notes with satisfaction the measures taken by the State party in respect of the *talibé* child beggars,

including the adoption of a strategic plan (2008–2013) to educate and protect child beggars and children who do not attend school, and the establishment in February 2007 of the Partnership for the Rescue and Rehabilitation of Street Children (PARRER), which brings together Senegalese Government officials, NGOs, private-sector entities, development partners, religious organizations, civil society and the media.

7. The Committee welcomes the adoption of a national strategy for the development of statistics (2008–2013) in Senegal.

8. The Committee welcomes the encouraging results of various measures taken by the State party to eradicate female genital mutilation.

9. The Committee notes with interest that, since its consideration of the State party's eleventh to fifteenth periodic reports, the State party has ratified the following international instruments, among others:

(a) The Convention on the Rights of Persons with Disabilities (September 2010);

(b) The International Convention for the Protection of All Persons from Enforced Disappearance (December 2008);

(c) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (October 2006);

(d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (March 2004);

(e) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (November 2003);

(f) The United Nations Convention against Transnational Organized Crime, its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and its Protocol against the Smuggling of Migrants by Land, Sea and Air (October 2003).

C. Concerns and recommendations

Demographic composition of the population

10. The Committee regrets that the State party's periodic report does not contain comprehensive statistical data on the ethnic composition of the population living in its territory and that it does not include socioeconomic indicators disaggregated by ethnic or national origin as recommended by the Committee in its previous concluding observations (A/57/18, para. 441).

In accordance with paragraphs 10 to 12 of its revised treaty-specific reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party collect and publish reliable and comprehensive statistical data on the ethnic composition of its population, including immigrants, as well as socioeconomic indicators disaggregated by ethnic origin. Such data and indicators should draw on national surveys or censuses that are based on self-identification and that take account of ethnic and racial dimensions so that the State party can devise policies and take appropriate measures. This will also enable the Committee to better evaluate how the rights enshrined in the Convention are exercised in Senegal. The Committee requests the State party to provide these disaggregated data in its next report.

Legal actions relating to acts of racial discrimination

11. The Committee takes note of the various options open to people who wish to file a complaint regarding acts of racial discrimination and observes with interest the State party's emphasis on fostering tolerance and a culture of social harmony among the different sectors of society, as well as the cathartic role of the tradition of "friendly banter". The Committee regrets, however, that the State party considers the absence of complaints and court decisions on the matter as proof that there is no racial discrimination in Senegal (art. 6).

Recalling its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, the Committee reminds the State party that the absence of complaints or legal actions by victims of racial discrimination may reveal, in particular, a lack of relevant legislation, insufficient awareness of existing legal remedies or a reluctance on the part of the authorities to prosecute those who commit such acts. The Committee requests the State party to ensure that its legislation contains appropriate provisions and that people know their rights and are aware of all the legal remedies available to them in cases of racial discrimination.

Direct or indirect discrimination

12. The Committee notes that the State party's position on the 30-year conflict in Casamance, where the Diola are the largest population group, is to stress the region's underdevelopment while denying that there is any ethnic dimension to the conflict. The Committee notes with interest the new Government's pledge to make the restoration of a lasting peace in Casamance a national priority, and it welcomes the measures that the State party plans to put in place in order to build up the infrastructure and open up the region. The Committee nevertheless expresses deep concern that tensions have resurfaced between the Mouvement des Forces Démocratiques de Casamance and the Senegalese Army since November 2011 and have been accompanied by acts of violence that mainly affect the civilian population (arts. 5 and 6).

The Committee recommends that the State party pursue the dialogue with the Mouvement des Forces Démocratiques de Casamance with a view to the restoration of a lasting peace in the region. It also recommends that the State party adopt a programme of reparations and, if possible, compensation for civilian victims of the conflict in Casamance so as to create a climate of trust that will make possible a peaceful and lasting solution to the conflict. The Committee also invites the State party to implement the planned measures for boosting economic development and opening up Casamance as soon as possible and to ensure the active participation of the people who will benefit from this by consulting them and involving them in decisions that affect their rights and interests.

Discrimination based on descent

13. The Committee reiterates the concerns it expressed in 2002 (A/57/18, para. 445) regarding the persistence in Senegal of a caste system that involves the stigmatization and ostracism of certain groups and the violation of their rights (art. 5).

Recalling its general recommendation No. 29 (2002) on article 1, paragraph 1, of the Convention (Descent), the Committee recommends that the State party should:

(a) Take specific steps to combat and eliminate all traces of the caste system by, inter alia, adopting special legislation to ban discrimination based on descent;

(b) **Take steps to raise awareness and educate the public about the harmful effects of the caste system and the situation of victims;**

(c) **Provide the Committee with further detailed information on the phenomenon and its scale.**

***Talibé* child beggars**

14. The Committee notes with interest the importance attached to the problem of economic exploitation of *talibé* children and the numerous steps that the State party has taken to improve their education and increase the protection afforded to them. The Committee notes with concern, however, the persistence and scale of the problem surrounding the *talibés*, most of whom come from neighbouring countries. The Committee is concerned at the fact that many of these children are victims of trafficking, are exploited as beggars, are subjected to physical and psychological abuse, and live in appallingly unhealthy conditions involving serious deprivation. The Committee also regrets that the inconsistency between article 3 of Act No. 2005-02, prohibiting begging, and article 245 of the Criminal Code, which permits begging “on the days, in the places and in the circumstances confirmed by religious traditions”, persists despite the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/16/57/Add.3, para. 31) (art. 5).

The Committee recommends that the State party speed up the *daara* modernization programme and introduce without delay the standard curriculum for Koranic schools launched in 2011. The State party should also set up a complaints mechanism accessible to children, tighten up its inspections of religious schools and impose more severe punishments on marabouts engaging in economic exploitation of *talibés*. The Committee further recommends that the State party continue to strengthen the measures in place to combat child trafficking and that it speed up its implementation of measures for the rescue and rehabilitation of street children.

Refugees

15. The Committee notes with satisfaction that draft amendments to the Act on the Status of Refugees were put before the National Assembly in early 2012 but is concerned that the State party’s legislation on asylum is not fully in line with international refugee law (arts. 5 and 6).

The Committee recommends that the State party should speedily adopt the draft amendments to the Act on the Status of Refugees, fully implement the provisions of the Act without delay and properly monitor that implementation.

16. The Committee welcomes the implementation of the voluntary repatriation programme for Mauritanian refugees, under which some 24,500 have returned between 2007 and 2012. The Committee also notes with satisfaction the situation regarding the integration of some 20,000 Mauritanian refugees living in Senegal and the State party’s intention to issue identity papers to all refugees recognized as such. It further notes the State party’s ratification, in 2005, of the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness. The State party nevertheless regrets that numerous refugees are still awaiting their identity papers and therefore remain in a vulnerable situation, as they are excluded from some benefits and do not enjoy full freedom of movement or access to education for their children (art. 5).

The Committee draws the State party’s attention to its general comment No. 30 (2004) on discrimination against non-citizens and encourages it to facilitate the integration of all refugees living in Senegal and issue them with identity papers as soon as possible so that they can fully enjoy their rights.

Asylum seekers

17. The Committee is disturbed at the slow rate at which the National Commission on Eligibility for Refugee Status deals with asylum applications (a year on average) and the negative effect of this on asylum seekers' enjoyment of economic and social rights. The Committee also regrets that the 2012 bill on the status of refugees does not give asylum seekers the right to education, work or medical care (art. 5 (e)).

The Committee requests the State party to take all necessary steps to enable asylum seekers to fully enjoy their economic and social rights.

Migrants

18. The Committee echoes the concerns of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families regarding the fact that migrant workers in an irregular situation are placed in detention with persons either accused or convicted of crimes (CMW/C/SEN/CO/1, para. 15). It also echoes the concerns of the Working Group on Arbitrary Detention regarding the excessively long periods of administrative detention served by foreigners awaiting deportation due to administrative delays or logistical problems (A/HRC/13/30/Add.3, para. 68) (arts. 5 and 6).

The Committee recommends that the State party not hold migrants in premises intended for pretrial detention or for the deprivation of liberty and that it ensure that migrants deprived of their liberty are held for as short a time as possible.

Non-citizens

19. While the Committee welcomes the information provided by the delegation on the draft amendments to the Nationality Code, it is disturbed to note that the law currently does not allow Senegalese women married to foreigners to pass their nationality on to their children or their husbands in the same way that Senegalese men may (arts. 2 and 5).

The Committee recalls its general comments No. 25 (2000) on gender-related dimensions of racial discrimination and No. 30 (2004) on discrimination against non-citizens, and it recommends that the State party speed up its revision of the Nationality Code so as to ensure that Senegalese women married to foreigners may pass their nationality on to their children or their husbands in the same way that Senegalese men may.

National human rights institution

20. The Committee notes with concern that the Senegalese Human Rights Committee may be downgraded from "A" status to "B" status in November 2012 if it fails to provide written evidence that it is in full compliance with the Paris Principles (General Assembly resolution 48/134). The Committee notes, in particular, the concerns of the Subcommittee on Accreditation regarding the funding levels of the Senegalese Human Rights Committee, the procedures for nominating and appointing members, the appointment of members on a part-time basis and the Committee's ability to choose its own members.

The Committee recommends that the State party take all necessary steps to bring the Senegalese Human Rights Committee into full compliance with the Paris Principles in order to safeguard its independence of action. It further invites the State party to make good on its intention to double the budget of the Senegalese Human Rights Committee, as announced during the interactive dialogue, to ensure that the Senegalese Human Rights Committee has adequate human and financial resources, and to inform the International Coordinating Committee of National Institutions for

the Promotion and Protection of Human Rights (ICC) of the measures taken in order to prevent the Senegalese Human Rights Committee from losing its “A” status.

D. Other recommendations

Follow-up to the Durban Declaration and Programme of Action

21. The Committee notes with appreciation the State party’s leading role in the Durban processes. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference, the Committee recommends that the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 by the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009, when implementing the Convention in its domestic legal system. The Committee requests that the State party include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

Dialogue with civil society

22. The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, when preparing its next periodic report.

Amendments to article 8 of the Convention

23. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention that were adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee cites General Assembly resolutions 61/148, 63/243 and 65/200, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment to the Convention concerning the financing of the Committee and to notify the Secretary-General expeditiously in writing of their agreement to the amendment.

Dissemination

24. The Committee recommends that the State party’s reports be made readily available to the general public as soon as they are submitted and that the Committee’s concluding observations with respect to these reports be similarly publicized in the official and other commonly used languages.

Follow-up to concluding observations

25. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of these concluding observations, on its follow-up to the recommendations contained in paragraphs 14, 18 and 20 above.

Paragraphs of particular importance

26. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 11, 12, 13 and 17 and requests the State party to provide detailed information in its next periodic report on the specific measures taken to implement them.

Next report

27. The Committee recommends that the State party submit its nineteenth, twentieth, twenty-first and twenty-second periodic reports in a single document by 19 May 2015, taking into account the treaty-specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in these concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60–80 pages for the common core document (see HRI/GEN.2/Rev.6, para. 19).
