

SENEGAL

CCPR A/35/40 (1980)

197. The Committee considered the initial report (CCPR/C/6/Add.2) submitted by the Government of Senegal at its 213th, 214th and 217th meetings held on 31 March and 2 April 1980 (CCPR/C/SR.213, 214, 217).

198. The report was introduced by the representative of the State party who stated that Senegal applied the precepts set forth in the Covenant; that human rights were scrupulously respected in Senegal and the need to safeguard them was reflected in the Constitution, in positive law and in judicial decisions; that any restrictions imposed on those precepts were of an exceptional nature stipulated by law and could be regarded as safety measures in order to protect the established institutions with which Senegalese nationals and aliens were obliged to comply; that the judiciary was totally independent and was specially vigilant in matters concerning the respect and protection of individual freedoms; and that lawyers represented a valuable arm of justice in ensuring the protection of individuals in all matters and at all stages of proceedings. He also informed the Committee that associations led by jurists had been set up with a view to increasing public awareness of human rights by holding conferences, symposia and seminars, by publishing articles or by participating in radio or television broadcasts and that, by doing so, such associations were helping the population to achieve a better understanding of fundamental concepts relating to human rights.

199. Members of the Committee expressed their satisfaction at the comprehensiveness of the report and at the achievements of Senegal in the field of human rights and praised the legal system which was entrusted to protect them. Information was, however, requested on the actual progress made in the enjoyment of human rights in Senegal and on any factors and difficulties, if any, affecting the implementation of the Covenant as required by article 40 thereof.

200. With regard to article 1 of the Covenant, questions were asked as to whether Senegal had any provisions guaranteeing the right to self-determination of peoples within its own boundaries; whether, on the one hand, Senegal did not consider that intervention by the use of arms in the affairs of another State, so as to interfere with their right to self-determination, constituted a breach of the United Nations Charter and the spirit and letter of the Covenant; whether, on the other hand, being a party to the International Covenant on the Suppression and Punishment of the Crime of Apartheid, Senegal recognized that the existence of the apartheid régime was a serious threat to the right of self-determination of African peoples and whether Senegal took the view that economic, military and other assistance to the apartheid régime was likewise incompatible with the obligations arising under article 1 of the Covenant; and how Senegal perceived the link between the establishment of a new international economic order to the right of peoples to self-determination.

201. As regards article 2 of the Covenant, it was noted that the report specified fewer grounds on the basis of which discrimination in Senegal was prohibited than did the Covenant and it was asked whether there were any provisions prohibiting discrimination on such important grounds as language, political opinion, property and “other status”; and to what extent the application of the provisions of the Covenant was ensured to all those who lived in Senegal, including resident aliens.

Noting that the provisions of the Covenant had not been incorporated into Senegalese domestic law, it was asked whether the Covenant had been ratified by law and, if so, whether the Covenant had been published in the different languages spoken in Senegal; whether its provisions had been, or could be, invoked before the judicial and administrative authorities; whether court decisions could be directly based on the provisions of the Covenant and thus override, if need be, other domestic legislation; and whether any provisions of internal law had already been declared inapplicable on the grounds that it was incompatible with an international treaty. Members of the Committee also asked whether the Supreme Court had already had occasion to declare a provision of international law null and void on the grounds that it was in conflict with the Constitution. In this connection, members wondered whether the general reservation appearing in the Constitution concerning the reciprocal application of treaties or agreements applied in the case of multilateral treaties, such as the Covenant. Referring to an article in the Constitution which mentioned “fundamental guarantees granted to civil and military officers in the service of the State”, one member asked what those guarantees were, whether they afforded to civil and military officers any kind of immunity in regard to possible violations of the rights of private individuals and whether they were consistent with the provisions of article 2, paragraph 3 (a), of the Covenant. Information was requested on the administrative or legal procedures to which an individual could resort if he felt that his rights had been violated and on whether such an individual had to submit a case to the court before it could act.

202. In relation to article 3 of the Covenant, it was asked what specific measures had been taken in Senegal to ensure the equal right of men and women to the enjoyment of the rights set forth in the Covenant; what was the percentage of women in the Civil Service, the judiciary and the liberal professions, what role was played by them in the political and social life of the country; and what was the legal capacity of women, especially in respect of the conclusion of contracts.

203. Commenting on article 4 of the Covenant, one member asked whether there were differences of degree in such emergency situations as “state of siege”, “state of emergency” and “period of political crisis” which were frequently mentioned in the report; what bodies were responsible in each case and whether the rights from which there could be no derogation, pursuant to article 4, paragraph 2, of the Covenant, were expressly guaranteed by the Constitution or by some other Senegalese legislative text.

204. In connection with article 6 of the Covenant, information was requested on the results achieved by Senegal in its efforts to reduce infant mortality, fight epidemic diseases and improve the level of health and quality of life of the people. Explanations were also sought on the “particularly serious crimes” for which the death penalty could be imposed, of the number of times the death penalty had been pronounced over the last five years, of the crimes for which it had been pronounced and of the statement in the report that if a minor above the age of 13 incurred the death penalty, he would be sentenced from 10 to 20 years’ imprisonment where the circumstances of the case and the personality of the offender so warranted. It was also asked whether the statement in the report that a pregnant woman sentenced to death did not suffer the penalty meant that she was sentenced but not executed and whether any consideration had been given to the abolition of the death penalty in Senegal.

205. In respect of articles 7 and 10 of the Covenant, some members of the Committee noted the absence in the Penal Code of any provisions for the punishment of torture and inhuman treatment.

They asked what rules there were to ensure that individuals were not physically ill-treated by the police and what procedures existed for investigating complaints in this respect and for dealing with the persons responsible, whether the law authorized solitary confinement and corporal punishment and, if so, in what circumstances these penalties could be imposed and for what type of crime or offence; and whether penalties laid down in the Penal Code for officials of the prison service who overstepped their rights had in recent years been imposed.

206. With regard to article 9 of the Covenant, information was requested on the nature of the “arrest in execution of an order to take into custody” and of the “deprivation of liberty in application of certain precautionary measures”, mentioned in the report; on whether such arrests or measures included detention for political reasons; and on whether a person held by a penal police officer was informed of the reasons for his arrest. Questions were also asked as to what was the average and maximum length of detention in custody pending trial, whether there were guarantees against unlawful detention or against its unnecessary prolongation; and what procedure was applicable for the confinement of mentally deranged persons and what guarantees it afforded to the individual concerned. Some members expressed surprise at the doubling of the period for which a person could be held by the police “during a political crisis or during the execution of international undertakings” and sought clarification of such measures.

207. Commenting on article 12 of the Covenant, members of the Committee noted that the right to freedom of movement might be much more restricted in Senegal than the Covenant anticipated and asked in what way the repatriation deposit, that each Senegalese citizen leaving the country was required to pay into the Treasury, protected Senegalese workers, and whether this requirement did not give rise to inequality on the basis of wealth; whether citizens whose applications for passports or exit visas were rejected enjoyed any judicial protection; and what percentage of the population travelled abroad. Noting also that acquired nationality could be withdrawn within 15 years of its acquisition if the person concerned “behaved in a manner incompatible with Senegalese status”, members asked for clarification of this provision and wondered whether that punishment was not tantamount of discrimination against naturalized Senegalese, in violation of article 2 of the Covenant, and whether the individuals whose nationality was withdrawn had any right to appeal and, if so, to what body.

208. In connection with article 13 of the Covenant, it was asked what was meant by the “general conduct and actions” and by the “serious and evident interference” of an alien which justified his expulsion from Senegal; which judicial or administrative body was competent in reviewing the expulsion order; and whether all the provisions of article 13 of the Covenant were observed by Senegal.

209. As regards article 14 of the Covenant, it was pointed out that the separation of powers and the appointment of professional and irremovable judges were not in themselves sufficient guarantees for the establishment of an independent judiciary; that the irremovability of judges could be seen as a kind of discrimination and privilege vis-à-vis other professions on grounds of social status and could thus be dangerous to the establishment of a democratic society. It was asked what professional and moral criteria governed the appointment of judges in Senegal and whether a decision to transfer any judge would be taken by the administration or by some special body. Questions were also asked concerning the High Court of Justice referred to in Chapter VIII of the

Constitution which had jurisdiction to try members of the Government or their accomplices for alleged offences. Since this Court, though presided over by a professional Judge, appeared to be composed largely of members of the National Assembly elected from among themselves, the question arose as to whether, because of its highly political character, it could not be a dangerous instrument for dealing with cases of this nature. It was asked why it was considered desirable to take particular cases outside the jurisdiction of the ordinary courts; whether the procedures of the High Court complied in all respects with article 14 of the Covenant; and whether a person convicted by it had a right of appeal to a higher tribunal. It was also asked whether a Security Court still existed in Senegal and, if so, what was its composition and jurisdiction; whether its procedures complied with the requirement of the Covenant and how many cases it had considered during the period since the Covenant had entered into force for Senegal. Members also asked which bodies had the jurisdiction to judge labour disputes; whether there was administrative jurisdiction in Senegal; and whether the victim of a miscarriage of justice who had already suffered punishment was explicitly entitled to compensation in existing law.

210. With respect to article 17 of the Covenant, it was noted that measures affecting the inviolability of the home might be taken in order to “protect young people in danger” and clarification of this expression was requested. Members asked what were the legal provisions which restricted the principle of inviolability of correspondence and of postal and telegraphic communications and in what circumstances and cases they could be applied; what was meant by “insult and calumny” which were mentioned in the report as punishable offences and whether the “insult” was punishable if directed against an individual or only against a public official.

211. In relation to article 18 of the Covenant, it was asked whether the religion of the majority had been elevated to the status of the state religion and how far freedom of religion was effectively respected in connection with government institutions and employment.

212. As regards article 19 of the Covenant, information was requested on the laws and regulations which limited the freedom of expression in Senegal; what controls existed, particularly with regard to publications and the press, and whether the powers enjoyed by the two press commissions established under the Press Act of 1979 were justified in terms of article 19, paragraph 3, of the Covenant.

213. In connection with article 20 of the Covenant, it was asked whether there was a law which prohibited war propaganda, and whether someone engaging in such propaganda could be prosecuted. Some members, wondering about the nature of the acts which constituted the offence of “regionalist propaganda” and of uttering “seditious shouts or chants”, doubted whether Senegal could invoke article 20 of the Covenant to penalize such acts which did not necessarily constitute an incitement to national, racial or religious hatred or a form of propaganda for war. One member also wondered whether such a provision was even consistent with articles 19 and 27 of the Covenant.

214. Commenting on article 22 of the Covenant, members asked whether the right to form associations in Senegal was conditional upon prior registration and if so, on what grounds such registration could be refused; whether there was any right of appeal to the Court from the decisions of the executive power in this respect; and whether the provision for the dissolution by the administrative authority of occupational organizations without previous submission to the courts,

could not be seen as being in conflict with the Covenant. Noting with interest that the Constitution provided for the establishment of four political parties in Senegal, members asked what precise legislation governed the formation of political parties, how that four-party system worked in practice, and whether the other political groupings, including the Rassemblement national démocratique and the Coordination de l'opposition sénégalaise unie, were considered illegal and, if so, on what grounds.

215. With regard to articles 23 and 24 of the Covenant, clarification was requested of the “serious reasons” for which the age limit of marriage could be waived by the President of the Republic and questions were asked as to the number of waivers on account of age granted in recent years; what was the meaning of the term “marriage property system” and whether there were different customs in different parts of the country in that matter; what was the legal meaning and implications of the provision that made the husband the head of the family and whether this was consistent with the principle of equality of rights and responsibilities of spouses set forth in the Covenant; whether Senegalese law provided for complete equality between men and women as far as the transfer of nationality to children was concerned; what was the legal status and the rights of children born out of wedlock; whether the concept of an adulterine child existed in Senegalese law and, if so, what was the legal status of such a child; and whether adoption existed in Senegal and, if so, whether adopted children had the same rights as legitimate children.

216. In connection with article 25 of the Covenant, information was sought on the composition, competence and powers of the institutions conducting public affairs and on the professional and moral conditions which had to be met by candidates for public posts and what were the grounds covered by the prohibition of discrimination in the conditions of access to public service.

217. In relation to article 26 of the Covenant, it was asked what the Senegalese Government had done in practice to ensure that all persons were entitled without any discrimination to the equal protection of the law, in particular against acts of discrimination committed by private individuals.

218. As regards article 27 of the Covenant, it was asked what minorities existed in Senegal and what was their size, and what measures had been taken to ensure their development and to protect or promote their culture.

219. Commenting on questions raised by members of the Committee under article 1 of the Covenant, the representative of the State party stated that his country was dedicated to the principle of the right of the peoples to self-determination and that interference with the right of the people of any other State to self-determination constituted an inadmissible assault on the freedom of peoples and a serious violation of international law; that apartheid was a crime against humanity which ran counter to the right of peoples to self-determination; and that Senegal was sparing no efforts to achieve the elimination of that racist and colonialist system of government and would continue to give assistance to peoples suffering under that inhuman ideology. He stressed that there was a connection between the new international economic order and the right of peoples to self-determination in that the present unjust international economic order was a consequence of the system of exploitation established by colonialism; and that it was therefore necessary to replace it by one which was more just and based on respect for the right of each State fully to exercise permanent sovereignty over its natural resources and freely to dispose of them and on respect for

the right to development.

220. Replying to a question raised under article 2, paragraph 1, of the Covenant, the representative pointed out that aliens, to the extent that they had been legally admitted to the territory of Senegal, had the right, on the same basis as Senegalese citizens, “freely to form associations or groupings”, freely to travel and reside in any part of Senegal, that they were not subjected to any arbitrary action and had the benefit of many safeguards.

221. As regards the status of the Covenant in Senegal’s internal law, he stated that, being an international treaty, the Covenant had been duly ratified by the Head of State by virtue of a law enacted by the National assembly; that it had been published in the official journal and that, accordingly, the Covenant prevailed over the other laws of the State; that any constitutional provision which was contrary to the Covenant led consequently to a revision of the Constitution; and that the person concerned would first have to consult Senegalese law and only if he failed to find appropriate provisions could he invoke the Covenant in the courts.

222. In relation to article 3 of the Covenant, the representative explained the flagrant injustices under which women in his country had lived for a long time and which, since independence, had been remedied. The general policy of his Government was based on the principle of absolute equality between men and women and the latter were now to be found active in all fields of economic, social and political life, including membership in the Cabinet of Ministers, the National Assembly, trade unions, the magistracy, public administration (one fifth of the total number of civil servants) and the diplomatic service. As to the legal capacity of women, he pointed out that a woman could exercise any profession but that if she was married she could not engage in commerce, which often entailed considerable responsibilities, if faced with her husband’s objection. However, the Justice of the Peace could authorize a woman to override her husband’s objection if his opposition was not justified by the interests of the family.

223. With regard to article 4 of the Covenant, the representative stated that the state of emergency was proclaimed in cases of danger arising from serious disturbances of public order or from events amounting to a public disaster and, in these cases, the competent agency was the civil authority; that a state of siege was proclaimed in the case of imminent danger to the internal or external security of the State and was within the competence of the military authorities; and that both situations were governed by the Constitution and by specific laws.

224. Replying to questions raised under article 6 of the Covenant, he pointed out that a great deal had been achieved in the domain of public health; that there was a sharp decrease in infant mortality and that certain laws in force made it possible to combat venereal disease; prostitution and drug abuse. As to the crimes punishable by death, he stated that, since the promulgation of the Penal Code, offences such as the misappropriation of public funds, assault and battery resulting in death, and rape had now become misdemeanours and thus referred to summary jurisdiction; that a few criminal cases were still brought before the Assize Court; that since the ratification of the Covenant, the death penalty had not been carried out in Senegal and that only two persons had been sentenced to death since 1963. Pregnant women sentenced to death could not be executed before giving birth. He also informed the Committee that Senegal did not envisage, for the time being, the abolition of the death penalty.

225. As regards articles 7 and 10 of the Covenant, the representative stressed that torture and inhuman treatment were absolutely prohibited in Senegal and that there was no exception to that rule. He informed the Committee that in 1964 a police inspector had been prosecuted for such violent acts and convicted.

226. In connection with article 9 of the Covenant, he maintained that security measures involving deprivation of liberty were administrative measures intended to protect such individuals as dangerous alcoholics, lepers and drug addicts and that in any case there were no political prisoners in Senegal at the present time. He pointed out that an accused person under an arrest warrant could be held up to 48 hours; that custody pending trial ordered by the examining judge was not the rule and that normally the accused was released pending trial; that the magistrates' court received a complete list of persons in custody every three months and had to decide whether the proceedings should be expedited; and that the Chief State Counsel, too, had to be kept informed about the progress of proceedings concerning persons in custody.

227. In relation to article 12 of the Covenant, the representative stated that the repatriation deposit required for leaving the country was simply to ensure that a worker who went abroad would be able to return to his country in the event of difficulty; that such a deposit was not substantial and in no way involved discrimination on the basis of wealth; that it was not compulsory since an exit visa could be issued upon presentation of a return ticket; and that the purpose of the exit visas was basically one of administrative policy designed to serve the purpose of the deposit and that it was not to prevent some categories of citizens, and in particular political opponents, from leaving the country. He stressed that a naturalized citizen could not be stripped of Senegalese nationality except in exceptional cases or where he committed a very serious offence resulting in a sentence of more than five years' imprisonment and that since the withdrawal measures were taken by decree, there was the possibility of appeal.

228. Replying to questions raised under article 13 of the Covenant, the representative stressed that the Minister of the Interior could issue an expulsion order only in the case of aliens who had illegally entered Senegalese territory or who had manifestly interfered in Senegal's internal affairs; that the mere fact of an alien being sentenced by the Senegalese courts for a crime did not necessarily lead to expulsion; and that an alien who was the subject of an expulsion order was able to contest the order and take the case to the Supreme Court and could request the assistance of a lawyer for that purpose.

229. With regard to article 14 of the Covenant, he pointed out that the High Court of Justice tried members of the Government accused of offences; that the Court of State Security dealt with political offences; and that each of these special courts was presided over by a senior judge. He informed the Committee that the right of defence was guaranteed; that defence counsel was obligatory for minors and invalids as in the Assize Court; that legal assistance was available to persons without sufficient means; that in cases of miscarriage of justice, the Supreme Court may review the judgement at the request of either the victim or the Privy Seal according to the case; and that, once miscarriage of justice was established, damages could be awarded to the victim.

230. Replying to questions concerning article 17 of the Covenant, the representative stated that the inviolability of the home was a hallowed principle which could only be waived when the physical

or moral safety of young people demanded it; that during a state of emergency the secrecy of correspondence could be suspended under conditions laid down in the Penal Code; that a judge could order the correspondence of an accused person to be opened if he considered it necessary in order to determine the truth; and that no restriction could be placed upon the inviolability of correspondence, telephonic and telegraphic communications, except in accordance with the law. He stressed that “insult and calumny” were offences under the Penal Code and punishable in all cases without discrimination.

231. In connection with article 18 of the Covenant, he stated that Senegal was a land of tolerance which had always upheld and defended the freedom of everyone to choose his religion and to practice it without hindrance.

232. As regards article 19 of the Covenant, he stressed that the restrictions imposed in Senegal on the freedom of expression were consistent with those stipulated in the Covenant; that the restrictions imposed on publications were designed basically to prevent some individuals from discrediting others; that the Press Act established a code of ethics for journalists; that the National Press Commission kept watch on the performance of the press; that the Control Commission was responsible for auditing the accounts; and that if a journalist had his press credentials revoked, he could appeal to the Supreme Court against the decision.

233. In relation to article 20 of the Covenant, the representative stated that the Penal Code contained provisions prohibiting propaganda in favour of war; that in the interests of national unity, all propaganda in favour of secession was strictly prohibited by the Constitution; that the “seditious” character of some associations could be determined only on the basis of the definitions given in the law and that it was for the courts to rule on specific cases; and that his country would scrupulously respect article 20 of the Covenant.

234. Replying to questions raised under article 22 of the Covenant, he stated that the freedom of association was guaranteed by the Constitution and that the Code of Civil and Commercial Obligations laid down the basic rules; that it was possible to form an association by making a prior declaration and registering with the Ministry of the Interior; that this Ministry could refuse registration only on statutory grounds; and that there was the possibility of appeal against the refusal before the Supreme Court. Trade unions could be formed freely according to the conditions laid down in the Labour Code and the only requirement was the depositing of the statute of the trade union concerning with the mayor, the labour inspector and the Chief State Counsel. The procedure for disbanding a trade union was governed by a law and was a judicial procedure. As to political parties, he pointed out that the multi-party system was recognized by the Constitution and that political groupings that were not recognized, such as the RND, were also free to express their opinions, like the major political parties.

235. In connection with articles 23 and 24 of the Covenant, the representative pointed out that the matrimonial system in Senegal was that of the separation of property. He maintained that that system seemed the most appropriate in a country where polygamy was still widely practised and the system of legal community of property could give rise to difficulties if some of the women in a household worked and others did not. Nevertheless, the spouses could opt for the system of community of property if they wished. He stressed that the fact that, under the Family Code, the

husband was considered to be the head of the family in no way infringed the principle of equality between men and women; that it was essential that there should be a head of the family; and that if the husband was incapable of assuming his responsibilities, he could be deprived of that role as well as of paternal authority, and the authority could be vested in his wife. He also pointed out that there was no discrimination in the question of transfer of nationality to children and that children of persons holding Senegalese nationality, whether by affiliation, by marriage or by decision of the administrative authorities, had Senegal nationality. As to the questions concerning natural and adulterine children, he stated that if a natural child was acknowledged by his father, his status would be the same as that of the legitimate child. An adulterine child could be acknowledged by his father subject to the consent of the wife; and if so acknowledged, he would have the same status as a legitimate child. Adoption was governed by the Family Code according to which there must be good reasons to believe that it was for the benefit of the child in question. In the case of "full adoption" the child had the same status as the other children in the family, whereas in the case of "simple adoption" he had only inheritance rights.

236. Replying to questions under article 25 of the Covenant, the representative stressed that recruitment for employment in the civil service was carried out entirely according to objective criteria and that there was no discrimination based on sex, opinion or any other consideration and that vacant appointments at different levels of the public service were nearly always filled by examination or competition.

237. In connection with a question raised under article 26 of the Covenant, he stated that all forms of discrimination were forbidden and no person could take advantage of his birth or any other factor in order to obtain privileges and that the principle of equality before the law was based on the need to protect human rights against any possible violations, whether by individuals or by the State.

238. As regards article 27 of the Covenant, he stated that there was complete national integration in Senegal and different ethnic groups lived in perfect harmony; that there were no problems of minorities in Senegal; that although 85 per cent of the population was Moslem, Senegal had a Christian Head of State; that there were several national languages but one of them was common to 85 per cent of the population; and that linguistic pluralism was not a cause of division or of discrimination.

CCPR A/42/40 (1987)

181. The Committee considered the second periodic report of Senegal (CCPR/C/37/Add. 4) at its 721st to 724th meetings, on 6 and 7 April 1987 (CCPR/C/SR. 721-724).

182. The report was introduced by the representative of the State party who said that his country was fully committed to the promotion and protection of human rights, which it considered essential for development. Since the consideration by the Committee of Senegal's initial report in 1980, many legal reforms had been undertaken by the Government of Senegal and in that process the observations of members of the Committee had been taken carefully into account. Certain changes, such as the laws adopted in 1981 relating to the abolition of restrictions on the number of political parties and the elimination of all administrative and financial restrictions on the right to leave the national territory, were a direct response to the concerns expressed by the Committee.

183. Among the other reforms in the legislative sphere to which the representative drew attention were far-reaching changes in Senegal's criminal procedure, which involved measures to decentralize the judiciary, speed up judicial procedures and provide more effective protection of the right to defence. Legislation had also been adopted to restructure the bar, improve the status of judges and strengthen their independence and liberalize the 1979 Press Organs and Journalism Act. The Penal Code and the Code of Civil Procedure were also being modified. In addition, measures had been taken to promote human rights through the dissemination of information in popularized form and through education and training activities.

Constitutional and legal framework within which the Covenant is implemented

184. With regard to that issue, members of the Committee wished to receive information concerning any significant changes made since the consideration of the previous report that would affect the implementation of the Covenant and any problems encountered, the functions of the Higher Council of the Judiciary and the Supreme Court with respect to the unconstitutionality of laws and the way in which the functions of the two bodies differed, the status of the Covenant under article 79 of the Constitution, specific steps taken to ensure that domestic laws and regulations were consistent with the Covenant, the possibility of provisions of the Covenant being directly invoked by individuals before the courts or State institutions on the grounds that the relevant rights were not covered by domestic law, and efforts to disseminate information about the Covenant and the Optional Protocol.

185. Members also wished to know the meaning of the term "fundamental guarantees accorded to civil servants and military personnel", in article 56 of the Constitution, what arrangements existed to provide access to the courts for people in relatively remote areas, whether there were any legal aid schemes to assist the less advantaged sectors of society, how many officials had lost their civil rights, pursuant to article 6, paragraph 1, of the Penal Code and for what length of time such rights had been forfeited. It was also asked what recourse was available to private individuals when a law violated a right provided for under the Constitution, whether the Council of State or bodies other than the Supreme Court had any role in resolving conflicts of jurisdiction between the executive and legislative powers, whether information about the Covenant and related legislative measures had been made available in national languages other than French, whether the powers of the President of the Republic extended to the domain of the rights and duties of citizens allowing him to issue

normative decrees, and whether any special state body existed to deal with problems relating to civil and political rights. Members also wished to know whether the reciprocity provisions in article 79 of the Constitution applied not just to bilateral but also to multilateral agreements and, if so, whether the Government could invoke that provision in case of non-compliance with the Covenant by other States parties, what role, if any, the Supreme Court had in cases concerning the constitutionality of a treaty after it had been ratified, and whether the publication of duly approved and promulgated legislation in the Journal officiel was governed by law.

186. In his reply to questions raised by members of the Committee, the representative of the State party said that the legislative changes adopted by Senegal since 1980, including those referred to in his introductory statement, had been in keeping with the provisions of the Covenant and therefore did not present any particular problems of implementation. Under article 82 of the Constitution, the Supreme Court had responsibility for ruling on the constitutionality of laws at the drafting stage, as well as for determining their unconstitutionality under article 63, provided it had been requested to do so within six days of final enactment either by the President of the Republic or by one tenth of the membership of the National Assembly. Article 82 also conferred on the Supreme Court the right to decide about conflicts of jurisdiction between the executive and legislative powers. The Higher Council of the Judiciary was an advisory body on the French model with the President of the Republic serving as Chairman and the Minister of Justice as Vice-Chairman. It concerned itself with such matters as the appointment, tenure and discipline of judges and the exercise of the right of pardon by the President of the Republic and had no role at all with respect to the determination of the constitutionality of laws. Under article 79 of the Constitution, ratified international treaties took precedence over relevant domestic laws and formed part of the corpus of Senegalese law without requiring any enabling legislation. An individual could invoke the provisions of the Covenant, as had already occurred in a case involving a Ministry of the Interior order challenged in court on the basis of article 4 of ILO Convention No. 87. Continuing efforts were being made in Senegal to harmonize domestic legislation with the provisions of the Covenant, including the repeal of a law that had restricted the right to leave the country; that action had been taken specifically in response to the Committee's comments on the initial report.

187. Regarding the dissemination of information about the Covenant, the representative explained that, although the Covenant had not yet been translated into the national languages, its publication in the Journal officiel had been an important step, since the Journal officiel had a wide circulation in government ministries and other official bodies and among the French-speaking population. The media also played an important role in keeping the public informed of legislative debates and developments and there were government-sponsored television programmes concerning human rights. The Senegalese Committee for Human Rights, the Institute for Human Rights and Peace, and the African Institute of Human Rights were involved with such activities as the dissemination of human rights information, both in French and in the national languages, holding seminars, conferences and symposia, and providing instruction and training. Their efforts were effectively reinforced, particularly in rural areas, by non-governmental organizations concerned with providing legal advice.

188. Responding to other questions, the representative pointed out that the reference in article 56 of the Constitution to guarantees to military and civilian personnel related to legislation adopted in 1961 defining the public service. The guarantees concerned, inter alia, recruitment, remuneration,

trade-union rights, protection against threats and slander, the right to hold political and philosophical opinions, advancement according to procedures defined by statute, disciplinary sanctions subject to certain rules, annual leave, resignation and retirement. As a result of the decentralization of the judicial system, including the replacement at the département level of magistrates courts by two or three departmental courts with broader competence, access to the courts for Senegalese citizens had been made easier. Legal aid was available in certain cases under a system introduced by a colonial ordinance in 1911. Loss of civil rights was only imposed for certain criminal offences and involved the loss of civic, political and even family rights (such as the right of legal guardianship). It was similar in its implications to the former penalty of banishment. Civil rights could be restored under an act of amnesty, and that had occurred in a number of cases. In Senegal individuals could not challenge the constitutionality of laws or administrative acts and could seek their abrogation only on grounds of abuse of power.

189. The second section of the Supreme Court dealt with administrative matters and was similar in function to the Conseil d'Etat (State Council) in France. The High Court of Justice was a specialized political body, composed of members of the National Assembly. It had responsibility for judging crimes, such as high treasons, committed by members of the Assembly or by ministers in the performance of their functions. Under article 56 of the Constitution, powers relating to the rights and duties of citizens were reserved to the National Assembly; regulatory powers, which encompassed all matters not reserved to the competence of the legislature, were exercised by the President of the Republic. The President could act in areas reserved to the National Assembly only in cases where the latter had adopted appropriate enabling legislation that specified the scope and duration of such delegation of authority. The reciprocity provision in article 79 of the Constitution applied essentially to bilateral commercial or other agreements and could not be invoked by Senegal in case of non-compliance with the Covenant by another State party. The Supreme Court ruling rejecting an appeal based on ILO Convention No. 87, which had been ratified by Senegal, was not inconsistent with article 79 of the Constitution, which gave precedence to duly ratified treaties. The rejection of that appeal was based solely on the fact that the text of that Convention had no legal effect since, contrary to article 2 of the Law of 1970 concerning the applicability of laws and regulations, it had not been published in the Journal officiel.

Self-determination

190. With regard to that issue, members of the Committee wished to know what Senegal's practice was with regard to self-determination in internal affairs, including, in particular, the claim to autonomy that had been raised in Casamance, and whether groups claiming such rights could be qualified as "peoples", in the sense of article 1 of the Covenant.

191. In his reply, the representative stated that Senegal's support for peoples struggling for self-determination, notably the people of South Africa, Namibia and Palestine, had been amply illustrated in the report. The right of self-determination was an evolving concept that encompassed not only the right to freedom from colonial domination and to national independence but also the right of people freely to determine their internal political régime and freely to assure their economic, social and cultural development. Regarding the events in Casamance, he explained that the overwhelming majority of residents in the region, which was one of the 10 regions in Senegal but was separated geographically from the rest of the country by Gambia, considered themselves to be

Senegalese and had no desire to secede from the Republic. Only a few individuals, who were members of one of eight local ethnic groups, had rebelled, first against local authorities and later against the central Government. The eight ethnic groups living in Casamance were so intermingled that the small group in question could scarcely be considered as constituting a people having the right to self-determination under article 1 of the Covenant.

Non-discrimination and equality of the sexes

192. With regard to that issue, members of the Committee wished to receive information concerning non-discrimination on grounds of political opinion, language, property or other status, restrictions on the rights of aliens compared with those of citizens, difficulties encountered with regard to the effective enjoyment of equal rights by women provided for under the Constitution and elsewhere and affirmative action taken to promote equality of the sexes, the compatibility of articles 152 and 154 of the Family Code with article 3 of the Covenant, and, in relation to equality of the sexes, concerning the acquisition of Senegalese nationality.

193. In his reply, the representative of the State party said that the Constitution of Senegal prohibited and condemned discrimination in all its forms. While only certain forms of discrimination were specifically enumerated in article 1 of the Constitution, that enumeration was not at all limitative and the Constitution and laws had to be seen as a whole. Thus, for example, article 7 of the Constitution prohibited discrimination on the basis of birth, status or family, and article 20 prohibited discrimination at work on the basis, *inter alia*, of "opinion". The fact that the Covenant was itself a part of Senegal's internal juridical order was also worth noting in that connection. Regarding the rights of aliens, he recalled that under article 7 of the Constitution all human beings were equal before the law. Citizens and aliens therefore enjoyed the same basic rights, except for certain civic rights reserved to citizens, in conformity with article 25 of the Covenant. Restrictions placed on aliens were few in number and were intended more as measures of protection than of exclusion. Article 7 of the Constitution also provided for equality of the sexes before the law and the Government of Senegal had constantly sought to promote such equality further. While much undoubtedly remained to be done to ensure the equal rights of women, considerable progress had been made. Many women were now performing the same functions as men in various fields of social and economic activity and were serving as ministers, legislators, members of the Economic and Social Council and as Supreme Court Counsellors. There were also many women judges, lawyers and business executives.

194. Responding to questions concerning the Family Code, the representative acknowledged that articles 152 to 154 of that Code attributed certain rights and duties to the husband. However, the special marital and parental rights accorded to the husband by society were not attributed on the basis of his being a male, but only in order to ensure family cohesion and harmony. If abused, such rights could be taken away and, in any case, married women continued to enjoy all their civil rights. If the place of residence selected by the husband in his capacity as head of family was not suitable, the wife could seek legal authorization to change her domicile. Similarly, notwithstanding a husband's opposition, a married woman could exercise a profession, provided that the interests and welfare of the children were not harmed thereby. It was important to realize that African and Senegalese society were different from Western society. Seen in that context, it was clear that the various provisions of the Family Code, including the one relating to polygamy, were not

incompatible with article 3 of the Covenant. At the same time, the representative pointed out that there was a certain divergence of opinion with respect to such matters in Senegal and that a special committee as to meet shortly to address the various issues. That committee could also be invited to consider whether those provisions of the Family Code were compatible with article 3 of the Covenant.

195. Regarding the transmission of nationality, the representative drew attention to the fact that Act No. 61-10 of 7 March 1961 had been superseded by a law adopted in 1986. Pursuant to the principle of jus soli, under the new law Senegalese nationality could be transmitted either through the father or through the mother to any child born in Senegal. The principle of equality of sexes was also respected in the case of transmission of nationality in accordance with the principle of jus sanguinis, in that all children born to a Senegalese father, or to a Senegalese mother where the father was of unknown nationality or stateless, were considered Senegalese. Children born out of wedlock acquired the nationality of the parent who first acknowledged them; thus, a Senegalese mother could transmit her nationality even to a child born out of wedlock.

State of emergency

196. With regard to that issue, members of the Committee wished to know whether the provisions of Acts No. 69-29 and 69-30, both of 29 April 1969, had ever actually been applied, what the composition of the advisory control commission mentioned in paragraph 69 of the report was and whether its decisions could be appealed to the courts, under what circumstances a state of emergency, which involved the use of emergency powers by civilian authorities, would be declared, as oppose to a state of siege, when such powers would devolve upon the military authorities, whether guarantees of civil rights were adequately protected during states of emergency, and whether remedies existed to compensate persons who had been illegally arrested during a state of emergency.

197. In his reply, the representative of the State party pointed out that articles 47 and 58 of the Constitution contained basic provisions concerning states of emergency but that no enabling legislation had been enacted until 1969 when Acts Nos. 69-29 and 69-30 had been adopted. Those laws had enabled the National Assembly to specify in detail the modalities relating to the proclamation and application of a state of siege or state of emergency with a view to averting abuses, but they had never been invoked. The advisory control commission envisaged in Act No. 69-29 had not been established and it was therefore not possible to answer questions about how it would actually function in practice. A state of emergency could be declared in cases where there was a serious threat to public order or internal security, whereas a state of siege could be invoked in case of an external threat to the country. Article 58 of the Constitution and the relevant laws provided very effective control of executive action by the National Assembly during states of siege or emergency and ensure that the Constitution and laws would not be abused.

Right to life

198. With regard to that issue, members of the Committee wished to know which offences were subject to the death penalty, how often that penalty had been imposed by the courts and whether its abolition was being considered, what progress had been made in reducing infant mortality, under

what circumstances law enforcement officials were permitted to resort to the use of force, and how many law enforcement officials had been charged under the relevant criminal statutes prohibiting unnecessary resort to violent methods.

199. In his reply, the representative said that, while a number of violent crimes, such as premeditated murder and infanticide, as well as espionage were punishable by death under the Penal Code, no death sentences had ever been imposed for armed robbery, infanticide or espionage. Although the death sentence had been imposed a number of times for other crimes, it had actually been carried out in only two instances since Senegal became independent in 1960. As elsewhere, the possibility of abolishing the death penalty was also under discussion in Senegal, with opinions on the subject differing rather widely. Law enforcement officials, if found guilty of crimes of sufficient gravity, would not be exempt from sanctions set forth in the Penal Code, including the death penalty. While there had been occasional confrontations between the police and university students during public demonstrations, only one death was alleged to have been caused by police violence, that of a student who had been injured at a demonstration and who had subsequently died in hospital. Senegal had sought to reduce infant mortality through a variety of programmes designed to provide material and child health training and services to pregnant women and mothers, particularly in rural areas. Senegal was also serving as a pilot country for a primary health care programme sponsored by the World Health Organization (WHO) and the United Nations Children's Fund (UNICEF) and was participating in a vaccination programme, also jointly sponsored by WHO and UNICEF, which had already resulted in the vaccination of more than 75 per cent of all children up to 23 months of age against seven serious communicable diseases.

Freedom from torture: treatment of prisoners and other detainees

200. With regard to those issues, members of the Committee wished to know the findings of the State Security Court concerning the allegations of torture it had considered in connection with the trials of November 1985. They also asked what measures had been instituted by the Government to ensure not only that torture was prohibited by law but also that it did not occur in practice, how many persons had died in police custody during the period under review and what investigations had been instituted in such cases, what measures existed under Decree No. 66-1081 of 31 December 1966, or elsewhere, to ensure the treatment of prisoners in a manner consistent with article 10 of the Covenant and whether the Standard Minimum Rules for the Treatment of Prisoners were applied. It was asked whether illegal medical or scientific experiments on human beings were specifically prohibited by law and whether any cases relating to such practices had been brought before the courts, whether there were any standard instructions or codes of conduct relating to the treatment of individuals during arrest, detention and interrogation, what arrangements existed for the inspection and supervision of prisons and places of detention, whether there were written regulations for the reception and prompt investigation of complaints by detainees of cruel or inhuman treatment by police and gendarmerie officials, how many such complaints had been received in 1985 and 1986, and how many prosecutions of police or prison officers there had been in recent years under article 288 of the Penal Code.

201. In his reply, the representative of the State party explained that, while some of the so-called separatists who had been brought to trial in November 1985 before the State Security Court had alleged that they had been tortured during the pre-trial interrogation period, no medical or other

proof had been produced in support of those allegations either before the examining magistrate or the State counsel. Thus, there had been no grounds for submitting the case to the State Security Court under the provisions of the Code of Criminal Procedure relating to allegations of torture. Torture was almost unknown in Senegal and its use in connection with the commission of any crime was deemed an aggravating circumstance. Sanctions against its use were provided for, *inter alia*, under articles 59 and 288 of the Criminal Code, the former also providing for sanctions in cases of torture during interrogation. Allegations of torture were always carefully examined, and whenever an official had been convicted of such an act the courts had been extremely severe. While there was a general prohibition of torture in the Constitution, to which reference was made in some articles of the Penal Code, there was no formal law against torture. In August 1986, Senegal had signed and ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the provisions of which would be scrupulously applied. Only two persons had died in police custody during the past 20 years. Strict inquiries by experts appointed by the legal authorities had established that the deaths had not been attributable to mistreatment.

202. Responding to questions raised by members of the Committee concerning the treatment of prisoners and detainees, the representative said that, pursuant to article 698 of the Penal Code, the internal system in prison establishments was determined by Decree No. 66-1081 of 31 December 1966. Articles 20 to 29 of that Decree conformed as closely as possible to all the instruments containing minimum rules to which Senegal had described and the Decree itself clearly stipulated that its provisions constituted minimum rules. Members of the judiciary helped to instruct prison staff in the minimum rules. The implementation of that Decree, which had been revised twice, was subject to strict surveillance. The Inspector-General of the Courts, who was responsible for ensuring that the prison régime aimed first and foremost at social rehabilitation, received regular reports from the Director of Prison Administration. Regarding detainees, he said that there was protection against their ill-treatment at various levels: examining magistrates could receive complaints from detainees at any time, they could also submit complaints to the Inspector-General of Courts and Tribunals, which they did quite frequently, and there was a control at the level of the Indictments Division of the Public Prosecutor's Office, which had jurisdiction over the conduct of examining magistrates. The police authorities were also very attentive to the treatment of detainees. Overall, it was difficult for the police or prison guards to violate the rights of detainees and the incidence of ill-treatment was low.

Liberty and security of person

203. With regard to that issue, members of the Committee wished to know whether there was a maximum limit on the length of pre-trial detention resulting from renewal orders by the examining magistrate, what controls were exercised to ensure that pre-trial detention did not, in fact, exceed the prescribed limits, how soon after arrest the individual concerned was allowed to contact a lawyer, and how soon his family was informed of his arrest.

204. In his reply, the representative of the State party explained that, since the adoption of judicial reforms in 1984, liberty had become the rule and detention the exception. For that reason, the term "pre-trial detention" had been changed to "temporary detention". Although an examining magistrate could renew a detention order at six-month intervals, in correctional matters carrying a maximum penalty of two years or less it was unusual for a magistrate to detain a person for a very long time.

There were several controls to ensure that the detention period did not exceed the prescribed limits: the accused could be released by the governor of the prison after the expiry of the initial six-month period if the detention order had not been renewed, the detainee could apply to the examining magistrate for conditional release and, if the latter failed to rule on such an application, he could appeal directly to the Indictments Division; if the Indictments Division failed to act within one month of receipt of a dossier from the Public Prosecutor's Office, the accused was automatically released from detention. Detainees could contact a lawyer immediately after arrest but the latter could intervene only after the judicial procedure had begun. An arrested person's family was not notified not later than 24 hours after the individual had been taken into custody. Prohibition of communication with a detainee could be ordered only by the examining magistrate and such prohibition could not exceed 10 days.

Right to a fair trial

205. With regard to that issue, members of the Committee wished to receive information concerning laws and practices guaranteeing public trials and the public pronouncement of judgements, in accordance with article 14, paragraph 1, of the Covenant, as well as the circumstances under which the press could be excluded from a trial. They also asked about the organization and functioning of the bar, the number of lawyers in private practice, the way in which they were organized and the regulation of their fees, arrangements for the provision of legal aid or advice, the composition and jurisdiction of the Court of State Security, and any actual cases considered by that Court since entry into force of the Covenant in respect of Senegal. Members also wished to know whether the verdict in a case was subject to review as to the facts under article 3 of Order No. 60-16 of 3 September 1960 and whether the phrase "all courts", used in that article, also covered the assize court, whether "pupil lawyers" were qualified lawyers or merely in the process of qualifying, and, in the latter case, whether they met the requirement in article 14, paragraph 3 (d), of the Covenant when serving as defence counsel in criminal cases, how the panel of advocates from which defendants could select their counsel was established, and whether the phrase "suffering from a disability", which appeared in article 101, paragraph 4, of the Code of Criminal Procedure, was meant to include persons with insufficient means.

206. In his reply, the representative of the State party said that the codes of both criminal and civil procedure stipulated that trials should be held in public except in respect of matters involving public order or the safeguarding of public morals. Journalists were authorized to attend all public trials and to publicize legal proceedings. A law adopted on 4 January 1984 had replaced the 1960 decree under which the bar had been governed. Lawyers in Senegal were independent and free of governmental control. They could practise individually or in partnership with others. Their fees were not regulated but an indicative scale had been established by the Ministry of Justice that could be referred to in case of dispute. Disputes over fees that could not amicably resolved were submitted for arbitration. The activities and professional interests of lawyers were managed under the direction of the Bar Council, chaired by the President. The 1984 Act had strengthened the Bar Council by giving it legal status and financial autonomy, as well as by lengthening the terms of office of the President and members of the Council so as to provide greater stability and continuity. Legal assistance was governed by a decree, dating from 1911, which was still in force and which provided for the appointment of a defence lawyer by the President of the Bar Council, upon request, as well as for the allocation of funds to cover legal costs. The Court of State Security was presided

over by a judge assisted by two assessors and a government representative. It also comprised several examining magistrates. From 1973 to 1985, the court had tried approximately 10 cases of minor importance, in addition to the case tried in November 1985, which had been discussed earlier. A number of persons convicted in 1984 of attempting to disturb the peace in a neighbouring country had received rather light sentences.

207. Responding to other questions, the representative explained that there were two appeals procedures, ordinary and extraordinary. Through the ordinary remedy, which applied to both criminal and civil cases, it was possible to appeal convictions imposed by courts of summary jurisdiction for minor offences to the Division of Summary Jurisdiction Appeals of the Court of Appeals, which reviewed the proceedings from the standpoint of both fact and points of law. Similarly, decisions by examining magistrates could be appealed to the Indictments Division of the Public Prosecutor's Office. However, criminal convictions by the assize court, which ranked as a court of appeal and whose decisions were regarded as an expression of the sovereign will of the people, since citizens chosen by lot sat with the bench, could be appealed only through the power of cassation exercised by the Supreme Court. Under that procedure the facts of the case were treated as judged and were not reviewed. The term "pupil lawyer" referred to a lawyer in pupillage, i.e. a person who had finished his legal studies and had been admitted, on the basis of the results of a competitive examination, to the chambers of a senior lawyer for a three-year period of apprenticeship. Such a person could plead only in certain cases in lieu of his "pupil master" and under the latter's responsibility. A lawyer in pupillage could in no circumstances act regularly on behalf of a client. The panel of advocates was drawn up independently by the Bar Council: the major panel included in order of seniority all fully qualified practising lawyers; the minor panel was composed of lawyers still in pupillage. The term "suffering from a disability" referred to handicapped persons and had nothing to do with insufficient means.

Freedom of movement and rights of aliens

208. With regard to that issue, members of the Committee wished to know whether any limitations had been imposed by law on the right of citizens to move freely or to settle anywhere in Senegal, what special provisions and regulations, if any, pertained to the expulsion of aliens other than those holding refugee status, and whether the Act of 7 March 1961 relating to naturalization, under which it was possible to rescind the naturalization of an alien within 15 years of granting it if his behaviour was incompatible with the status of a Senegalese citizen, was still in force. One member also asked for clarification of the terms of articles 7 and 8 Act No. 68-27, which seemed somewhat inconsistent.

209. In his reply, the representative said that both citizens and aliens enjoyed the right to freedom of movement and of establishment set out in article 11 of the Constitution. Any restriction of such rights was exceptional and could be applied only pursuant to laws enacted by parliament in the interests of public order, security or public health. The conditions of entry and residence of aliens were regulated under the Act of 25 January 1971, which provided for expulsion on grounds such as interference in the country's internal affairs or the commission of offences punishable by imprisonment. Any administrative measures taken against an alien could be appealed to the Supreme Court. It was envisaged that the provision under which an alien serving a prison sentence could be expelled upon completing his prison term would be dropped in the planned new code. The Act of 7 March 1961 relating to naturalization had been amended twice, in 1970 and again in 1985,

to take account of changing circumstances and policies. The granting of naturalization was regarded by public opinion as something a favour to an alien and the citizenship status of a naturalized person was therefore somewhat delicate. If such a person committed acts, such as criminal offence, for which he could have been imprisoned and expelled had he remained an alien, he could be deprived of citizenship and subsequently expelled. However, the regulations relating to such cases had been drafted very carefully and were applied fairly. Regarding the provisions relating to refugees in articles 7 and 8 of Act No. 68-27, he explained that article 7 provided for “most favoured foreign national” treatment of refugees in respect of the exercise of a profession, whereas article 8, under which aliens enjoyed the same treatment as nationals, related to a broader group of benefits including the basic right to work.

Right to privacy

210. With regard to that issue, members of the Committee wished to know whether any restrictions had been imposed by law on the inviolability of correspondence and communications, and which authorities, other than judges, could authorize a house search and under what circumstances. It was also asked whether telephone-tapping could be authorized by law during an emergency.

211. In his reply, the representative stated that the guarantee of the inviolability of correspondence and other communications embodied in article 10 of the Constitution was rigorously enforced, and only a few exceptions were authorized, for example an examining magistrate might require a prison governor to send him the correspondence of a detainee whose case was under investigation. Correspondence from a lawyer to his client, however, was strictly inviolable. The interception or suppression of correspondence was punishable by imprisonment ranging from three months to five years. House searches, other than those carried out by the criminal police, acting under the authority of the Public Prosecutor’s Office, were authorized only in the case of persons arrested in flagrante delicto. The police were prohibited from divulging information about any papers or documents seized. Professional secrecy and the right of defence were also protected under the Code of Criminal Procedure and, for example, the chambers of a lawyer could be searched only in his presence and with the authorization of the appropriate batonnier. Telephone-tapping was unknown in Senegal; however, during a state of emergency or a state of siege, the law authorized the administrative authorities to control all postal, telegraphic or telephonic communications.

Freedom of expression

212. With regard to that issue, members of the Committee wished to know whether newspapers, other than the newspapers of authorized parties, had to be registered and, if so, how many applications for registration had been approved or refused, whether the publication and dissemination of foreign press publications could be prohibited by joint action of the Ministry of the Interior and the Ministry of Information and, if so, under what circumstances, whether foreign journalists were subjected to restrictions that were different from those imposed on Senegalese journalists, whether there were any private radio and television stations in Senegal, and whether it was possible, notwithstanding state control, to express various opinions about religious, social and political questions on radio and television, including criticisms of government action or policy and, if so, whether there were any establishment norms or directives in that regard. Referring to article 255 of the Penal Code, which prohibited the publication and dissemination of inaccurate reports,

members of the Committee wished to know whether journalists who had published erroneous information in good faith were subject to prosecution under that article, whether any person had been actually charged under that article and, if so, on what grounds, whether it was the responsibility of the accused to prove the truth of the published statement, and whose responsibility it was to decide that the publication of a given report actually constituted an incitement to law-breaking. Some members pointed out that, in their view, the provisions of that article could be so broadly construed as to interfere with the ability of journalists to carry out their duties in a responsible manner. With reference to articles 259 to 261 of the Penal Code, relating to libel, it was asked why libel against public officials was punished more severely than libel against private individuals.

213. In his reply, the representative of the State party explained that article 13 of the new Press Law adopted in 1986 stipulated that newspapers and periodicals could be published without authorization, provided that the Public Prosecutor's Office in Dakar was duly notified. Publication could be prohibited by the Press Commission, with written justification, but such decisions could be appealed on grounds of illegality (cassation). No newspapers had been banned since 1979. There were only two or three newspapers favouring the Government and the majority were either privately owned or were organs of various political parties. A foreign publication could, in fact, be banned by joint decision of the Ministries of Information and of the Interior for reasons of security or to protect public morals, but any such decision had to be justified and could be appealed to the Supreme Court on grounds of abuse of power. Only one such appeal was known to have been filed, in a case involving a French-language newspaper printed in France, Le Communiste, and the appeal in that instance had been upheld. There were no private radio or television stations in Senegal, which was a developing country. Although such media were State owned, a large place therein was reserved for discussion of the various problems confronting society and such debates were entirely free of any censorship or control. Those taking part had only to exercise self-discipline so as not to give offence to others. The radio and television stations were independent of any political party and were open to the expression of all shades of opinion. The dissemination of false information, in the meaning of article 255 of the Penal Code, presupposed malicious intent to incite lawlessness, offend public morals or discredit public institutions. Thus, there could be no question in such cases of claiming to have acted in good faith. At a certain period a number of abuses of that type had been committed and there had been two convictions involving newspapers that had clearly acted with malice. Libel was in a different category of offence and was punishable only if the allegation was proved false. Even in such a case a journalist could seek to prove that he had acted in good faith in making or disseminating the libellous statement. However, the person who had been libelled also had the right, in such cases, to attempt to prove the contrary. Libel against public officials was punishable more severely since officials had less opportunity to defend themselves and the difference in degree of punishment was slight.

Freedom of association

214. With regard to that issue, members of the Committee wished to have further information concerning the requirement of prior authorization of political parties and to know how many requests for such authorization had been refused in the period under review.

215. In his reply, the representative of the State party said that, under the Code of Civil and Commercial Obligations, political parties were subject to the regulations relating to associations.

The Code provided that associations could be freely established after prior notification had been filed and registered with the administrative authorities. As specified in the Code, registration could be refused only for such reasons as illegality of purpose, grave presumption of danger to public morals, or attempted reconstitution of an association previously prohibited under article 816 of the Code. Any such refusal by the public authorities had to be justified and could be appealed to the Supreme Court on grounds of abuse of power. Prior to the adoption of Act No. 81-17 of 6 May 1981 relating to political parties, the Supreme Court had upheld the refusal of registration of one political party, the Rassemblement national démocratique (RND). Since 1981, that party had come into existence together with 15 other political parties and no applications for registration had been refused.

Right to participate in the conduct of public affairs

216. With regard to that issue, members of the Committee wished to receive information concerning indirect as opposed to direct suffrage, the loss of the right to vote by persons sentenced in absentia, the scope of the term “adults without legal capacity” in the context of the right to vote, the age limit for administrative appointments, in the light of article 25 (c) of the Covenant, and the meaning of a term, used in paragraph 187 of the report, in legislation relating to equality of the sexes in the public service, which seemed to make such equality subject to “special provisions”. One member wondered whether the laws relating to loss of the right to vote were not too rigorous, since such an important right should not be taken away except for grave reasons and then only for a limited period rather than for life.

217. In his reply, the representative stated that, while both direct and indirect suffrage were recognized under the Constitution, in practice all elections held to date had been on the basis of direct suffrage. The loss of the right to vote if convicted in absentia related only to persons convicted for crimes (condamnation par contumace). Persons convicted in absentia for civil offences (condamnation par défaut) were not subjected to loss of the right to vote. The term “adults without legal capacity” referred to persons, other than minors, who had been found mentally incompetent by a doctor and placed under guardianship. Article 20 of Act No. 61-33 of 15 June 1961, relating to the status of civil servants, limited eligibility for appointment to the civil service to persons between the ages of 18 and 30. However, under certain conditions it was possible to waive the upper limit on age. The “special provisions” mentioned in paragraph 187 of the report referred only to regulations governing the conditions of work of women, particularly those intended to protect the health of pregnant women, and in no way constituted discrimination on the basis of sex. Regarding loss of the right to vote, the representative stressed that such a measure was taken only in extremely serious cases involving criminals condemned by the assize court, fugitives from justice, recidivists, and those who were permanently mentally disabled.

Rights of minorities

218. With regard to that issue, members of the Committee wished to know whether there were any special factors or difficulties involved in the effective enjoyment by minorities of their rights under article 27 of the Covenant and why, in the absence of religious or ethnic conflict in Senegal, it had appeared necessary to prohibit political groupings based on ethnic or religious affiliation in article 3 of the Constitution.

219. In his reply, the representative of the State party explained that the population of Senegal was so intermingled ethnically and culturally that many Senegalese did not quite know which of the seven ethnic groups in the country they belonged to. Religious tolerance had reached a level where Catholics and Muslims readily celebrated each other's religious holidays. Under such circumstances the application of article 27 did not present any difficulties. The Constitution recognized the equality of all citizens without distinction as to race, origin or religion and prohibited ethnic or religious propaganda and politics. Its purpose, which was fully consistent with the purposes of article 27 of the Covenant, was to prevent the growth of ethnic or religious strife.

General observations

220. Members of the Committee expressed their warm appreciation to the delegation of Senegal for its co-operation and for the competence it had shown in responding to questions and providing explanations concerning the implementation of the Covenant in Senegal. The report and the delegation's responses had clearly shown that the Government and people of Senegal were deeply attached to the principle of respect for human rights. The submission by a developing country, such as Senegal, of its initial and second periodic reports with only minor delays was also seen as a clear demonstration of the State party's commitment to meeting its obligations.

221. Members were of the view that, in general, the laws and practices relating to civil and political rights in Senegal were in conformity with the requirements of the Covenant. While some areas of concern remained, including those relating to the rights of women and to the loss of voting rights, the discussion had indicated a genuine desire on the part of Senegal for further progress. The Committee noted with special satisfaction that a number of changes had been introduced, notably in the Criminal Code, following the consideration of the State party's initial report, and expressed the hope that the comments made by members with respect to the second periodic report would be similarly taken into account.

222. The representative of the State party thanked the Committee for its comments and the consideration it had shown to his delegation and assured it that the Committee's observations on the report would be attentively examined by the competent legal authorities in his country, with a view to introducing further legislative improvements.

223. In concluding the consideration of the second periodic report of Senegal, the Chairman once again expressed the Committee's thanks for the report and for the delegation's participation and said that the constructive dialogue that had been taken place between the delegation and members of the Committee had been useful to both parties.

CCPR A/48/40 (1993)

81. The Committee considered the third periodic report of Senegal (CCPR/C/64/Add.5) at its 1179th to 1181st meetings, held on 20 and 21 October 1992 (CCPR/C/SR.1179-1181). (For the composition of the delegation, see annex XI.)

82. The report was introduced by the representative of the State party, who stated that the United Nations human rights instruments had served as a major source of inspiration to Senegal on its accession to international sovereignty, when it had resolved to make the primacy of the law the foundation of the State. As a result, human rights were not merely reflected in the preamble to the Constitution but were defined systematically in articles 6 to 20 and could be evoked and defended before all appropriate bodies. In 1970, the Senegalese Human Rights Committee was established to plan and coordinate government policy and disseminate information on human rights. The Committee had been reorganized, most recently in 1990, in order to adapt it to the national and international situation concerning the promotion and protection of human rights. Additionally, the public authorities had encouraged the establishment of competent non-governmental organizations. About 10 such organizations had been formed and they enjoyed the support of the people and Government.

83. At the national level, fundamental human rights were observed both in legislative acts and in actual practice. This included the whole spectrum of civil and political rights as well as economic, social and cultural rights. At the international level the primacy of the law, particularly in the human rights field, was viewed by Senegal as the basis for its foreign policy. Senegal had acceded to 26 international human rights instruments which, under article 79 of the Constitution, had primacy over national laws and which had been integrated into legislation and could be invoked before all Senegalese courts.

Constitutional and legal framework within which the Covenant is implemented, self-determination, non-discrimination, equality of the sexes, protection of the family and rights of persons belonging to minorities

84. With regard to these issues, the Committee wished to know whether the Optional Protocol had been published in the Journal Officiel; whether an individual could invoke the provisions of the Covenant before Senegalese authorities, especially the courts; what the functions and activities were of the Senegalese Human Rights Committee; what measures had been taken to publicize the Covenant and the Optional Protocol and create public awareness about the rights contained therein; whether the Constitution had been amended to include all the grounds of discrimination covered in the Covenant; and whether specific legislative, administrative and judicial arrangements had been made by the Government of Senegal to prevent racial discrimination.

85. The Committee also wished to have further information on the compatibility with the Covenant of articles 152 to 154 of the Family Code, which grant special rights to men; on the powers vested in the President of the Republic under article 47 of the Constitution; on the definition of the term "minorities", in so far as such groups are recognized by the Government; and on how the provisions on non-discrimination contained in articles 2, 26 and 27 were being applied, particularly in the southern part of the country. They also wished to know whether a commission had been set up to

study family law matters and what steps had been taken to ensure a more equitable sharing of the rights and responsibilities of spouses.

86. In his reply to the questions raised by members of the Committee, the representative of the State party said that the Optional Protocol had been published in the Journal Officiel in 1978, following its ratification in 1977 by Act 77-73. Upon ratification, the Covenant became part of domestic law and its provisions could be invoked in any trial in Senegal. Both of those instruments had been focused upon by the Senegal Human Rights Committee, which had a weekly radio programme on human rights. Non-governmental human rights organizations in Senegal also helped to disseminate information in lectures and discussions.

87. Article 154 of the Family Code had been abrogated by Act 89-01 of January 1989. Article 152 of the Code provided that the husband should determine the residence of the household. However, if the wife believed that her husband's choice endangered the health or morals of the family, she could apply to a departmental judge to accord her separate residence. That article could not, therefore, be considered as discriminatory. Recent amendments had been made in the Family Code and in the relevant sections of the Penal Code providing for equitable treatment in cases of desertion. The practice of polygamy was recognized in the Family Code since it was a social custom in the country and it was considered Utopian to attempt to abolish the practice. The Family Code limits the number of wives to three and obliges the husband to treat his wives equally. A woman can complain to a judge if her husband violates his obligations.

88. Article 47 of the Constitution, which vested special powers in the President of the Republic when the nation faced certain serious and imminent dangers, had never been applied nor had the measures that the President could take ever been defined. Article 58 of the Constitution, however, provided adequate means to regulate states of emergency. States of emergency had been declared in 1988 and 1989 for unrelated reasons and merely imposed a curfew. During those emergencies, people had been free to move about during the daytime. An advisory control commission, presided over by a judge, had been established under Law No. 69-29 of 29 April 1969 for the purpose of monitoring states of emergency and to ensure, in particular, that any measures undertaken did not violate human rights.

89. Concerning ethnic, religious or linguistic minorities, there was sufficient interaction and tolerance in Senegal that there were no problems in that regard. Legislation took into consideration the social situation of ethnic and linguistic minorities and there was perfect harmony between the Muslim majority and the Catholic minority. Measures to prevent discrimination were taken in schools where children learned tolerance, a message that was also carried on the radio and in other media. With respect to the situation in the southern part of the country, Casamance, an accord had been signed by the State of Guinea-Bissau, the State of Senegal and the Movement of Democratic Forces of Casamance (MFDC). The accord had been preceded by the amnesty laws of 1988 and 1991 permitting the MFDC to withdraw its troops. Since the serious events of September 1992, dialogue had been restored and a regional commission had been monitoring the application of the accord. The Government of Senegal was currently trying to seek a juridical solution to the problem of Casamance and hoped that the international community would assist it in this respect.

Right to life, treatment of prisoners and other detainees, liberty and security of the person

90. With reference to these issues, the Committee wished to know, in view of the fact that only two death sentences have been pronounced in the last 30 years, whether any consideration had been given to the abolition of the death penalty in Senegal; when, pursuant to article 52 of the Penal Code, was a person considered a minor; whether any investigations had been carried out with regard to accusations made by humanitarian organizations concerning extrajudicial executions and, if so, with what results; what procedures would be followed in the event of violations of rules and regulations governing the use of firearms by the police and armed forces; whether there had been any further developments since the submission of the report relating to the investigation of cases of torture or ill-treatment of persons deprived of their liberty; what measures had been taken to punish those found guilty, to prevent the recurrence of such acts and to disseminate information on the rights recognized in the Covenant among law enforcement officers; and whether a lawyer could have full access to his client immediately after arrest.

91. Members of the Committee also wished to know whether capital punishment was applicable under the code of military justice and whether it could be invoked during a state of emergency; how many people had been compensated for illegal or arbitrary detention; what measures the Government had taken to investigate alleged cases of extrajudicial executions; what measures the Government had taken to prevent the occurrence of such executions; and whether any agents of the Government had been implicated in such executions.

92. In his reply, the representative of the State party said that the Government viewed questions concerning torture or extrajudicial executions with great seriousness. Amnesty laws had been promulgated to restore the peace rather than to assure impunity to the guilty parties. The Government had opened investigations when abuses had been reported by non-governmental organizations and had developed a fruitful cooperation with such organizations. Additionally, article 66 of the Penal Code provided for the opening of an investigation when a body was discovered and the cause of death was either unknown or suspect. Such a case would be brought to the attention of the Public Prosecutor immediately so that an investigation could be undertaken without delay.

93. To protect the rights of the accused, Senegal had opted for an alternative to habeas corpus, in its Code of Criminal Procedure. Under article 55 of the Code, the criminal investigation officer can normally detain suspects only for 24 hours before lodging charges. Only in cases where there are strong reasons implicating the detainee, can detention be extended to 48 hours, with the accord of the Public Prosecutor or his representative. However, at that point the detainee had to be informed of the reasons for his detention. Special custodial arrangements were made for minors between the age of 13, which was the age of criminal liability, and the age of 18, which was the age of majority.

Right to a fair trial

94. In regard to that issue, the Committee wished to have further information on the jurisdiction and activities of the State Security Court, including examples of cases that had been assigned to it, and on its relationship with ordinary courts. In particular, members of the Committee wanted to know whether it was possible to appeal against decisions of that court before the ordinary courts. Also, in the light of paragraph 58 of the report, members of the Committee wished to know whether it was

possible to sentence a person in absentia and, if so, under what circumstances.

95. In his reply, the representative of the State party stated that the State Security Court, which was abolished by Law No. 92/31 of 4 June 1992, had been the subject of much criticism at both the national and international levels. A number of practices associated with it, such as the absence of the right of appeal to its decisions, had clearly been in conflict with democratic processes in Senegal. A number of mechanisms were employed to ensure that accused persons were present in court and able to respond to charges. In cases where the accused was not in custody but had personally received a summons, failure to appear in court precluded the possibility of challenging the court. While in such cases both the judgement and the sentence were rendered in the person's absence, the right of appeal was not compromised. In situations where a summons had not been delivered by hand to the accused, the court could either decide to renew the effort to make contact with the accused, or choose to declare the absence as "simple default", which provided for the possibility of the sentenced person opposing the verdict and the sentence. In such a case, the matter would be reconsidered by the same court.

Freedom of movement and expulsion of aliens, right to privacy, freedom of opinion and expression, prohibition of propaganda for war and the incitement to national, racial or religious hatred and freedom of association and assembly

96. With respect to these issues, the Committee wished to know how the expression of different points of view was ensured in the State broadcasting corporation; whether the Government had recently applied penalties in cases where newspaper articles had been considered to jeopardize public security or morals; how the compatibility of Act 78-02 of 29 January 1978 with article 21 of the Covenant was ensured; and how the obligations under article 20 of the Covenant were implemented in Senegalese law and practice. Members of the Committee also wished to have further information on actual cases in which naturalized citizens had been deprived of their status as Senegalese; and on legislation relating to freedom of movement, especially those relating to restrictions thereon.

97. Additionally, members of the Committee wished to know whether the Government had plans to privatize the mass media in Senegal; which authorities were able to authorize the holding of private meetings and whether their decisions could be appealed; whether the Senegalese Human Rights Committee provided any services for the active defence of human rights; and whether the penal provisions restricting freedom of the press had been reviewed in the light of the democratic progress that had been achieved. Members of the Committee also requested further information on possible restrictions on the right of privacy and on the number and frequency of prosecutions against journalists.

98. Replying to the questions, the representative of the State party said that cases in which naturalized citizens were deprived of their status as Senegalese were set forth in article 16 of Act 61-10 of 7 March 1961, as amended by Act 89-42. Under that Act, naturalized citizens could not hold office or practice a profession for which Senegalese nationality was required. These restrictions expired after a specified number of years following naturalization and could be lifted by decree if the naturalized citizen had rendered exceptional services to Senegal. Senegalese nationals wishing to travel outside Africa were required to hold a return ticket, prove that they had the means

to live in the country of destination and to have an entry visa for that country. The State broadcasting corporation had recently been reorganized and a body had been created to ensure that pluralism was respected and different points of view were expressed. Private meetings could be held freely and the authorities merely had to be informed about them. The authorities had to be informed in advance of public meetings or requested to authorize them. Such authorizations were usually never refused but refusals were, in any case, subject to appeal to the administrative courts. Following the reform of the electoral law, the requirement to request authorization to hold meetings during an election campaign had been abolished. Propaganda for war and advocacy of hatred were prohibited by law and severe penalties were provided for those guilty of incitement to racial hatred or hostility. Tolerance and fraternity were taught at all educational levels and were also stressed in religious instruction.

99. Concerning freedom of the press, criminal provisions had been introduced as a result of slander and defamatory statements by journalists some years earlier, which were considered to have had a demoralizing effect on the army. However, no prosecutions had been brought against journalists in the past two or three years. The situation in this respect was being reviewed and it was expected that the offences in question would be reduced to ordinary law offences, which would allow anyone who had been slandered to seek compensation.

100. Some private bodies were already present in radio and television in Senegal. Foreign radio and television broadcasting had also begun to operate in Dakar and privatization of the media was expected to proceed further in 1993. Exceptions to the right to privacy could be made during states of emergency but, in practice, there had been no censorship of correspondence or monitoring of telephone communications.

101. The Senegalese Human Rights Committee was chaired by a Supreme Court judge and was made up of one representative of the Office of the President, one representative of each of the main ministries and representatives of workers' organizations, women's and youth movements, non-governmental organizations and others. The Committee published reports on its activities, which included drawing the attention of the competent authorities to human rights violations.

Concluding observations by individual members

102. The Committee expressed its appreciation to the State party for the punctual submission of its reports since its accession to the Covenant and its spirit of cooperation with the Committee. It was noted that the third periodic report did not deal fully enough with the difficulties the country faces, particularly in the south, and how those difficulties affected the implementation of the Covenant. However, the authorities in Senegal had taken the Committee's comments into account in the process of reorienting national legislation and providing the legal guarantees necessary for the enjoyment of human rights. The abolition of the Security Court and the reorganization of the supreme judicial bodies were welcomed, as were the delegation's candid response on shortcomings with regard to notification of derogations under article 4 of the Covenant. However, it was noted that a declaration should have been made, in accordance with article 4 of the Covenant, regarding the limitations on freedom of movement imposed under the recently declared state of emergency.

103. Some areas of concern remained, particularly over the lack of investigation into allegations

of extrajudicial executions and torture by members of the army or police. Particular concern was expressed over the danger that the amnesty laws might be used to grant impunity to officials responsible for violations, who had to be brought to justice.

104. Members of the Committee emphasized that the right of access to legal counsel began from the moment an individual was deprived of his freedom. Concern was expressed over the fact that detainees could be held without charge for up to eight days, even though article 55 of the Penal Code offered some protection in such situations. Members of the Committee also expressed their concern over the possibility that the amended Press and Journalism Act of April 1979 still inhibited freedom of expression and infringed on the right of access to information, noting that all such restrictions must accord with the criteria set out in article 19, paragraph 3, of the Covenant. Additionally, concern was expressed over the numerous restrictions on the mass media and the holding of meetings.

105. In regard to non-discrimination, members of the Committee expressed their concern over the Family Code and noted that its provisions were not compatible with the Covenant, particularly in regard to establishing the husband as the sole head of the household. In this regard, members of the Committee also expressed their concern over the continued practice of polygamy in Senegal since, in actual practice, it was impossible for a man to treat his wives equally. Members of the Committee also expressed concern over the reluctance of the Government to recognize the existence of minorities and emphasized that article 27 of the Covenant conferred benefits on members of such groups.

106. The representative of the State party thanked the members of the Committee for their remarks on his Government's implementation of the Covenant. He had taken careful note of the concerns that had been voiced and would faithfully transmit them to his Government.

107. The Chairman of the Committee observed that the delegation had furnished rich material for the Committee's consideration of the report of Senegal. He was certain that the delegation would fully inform the Government of the discussion and ensure that all comments made by Committee members were taken into account. It was obvious that that had been done after the consideration of the second periodic report, and Senegalese legislation had improved accordingly.

Comments of the Committee

108. At its 1203rd meeting (forty-sixth session), held on 5 November 1992, the Committee adopted the following comments.

Introduction

109. The Committee expresses its appreciation for the State party's third periodic report which had been prepared in accordance with the Committee's general guidelines and showed progress in implementing the provisions of the Covenant. At the same time, the Committee finds that the report focuses on laws and administrative regulations rather than on the actual implementation of the provisions of the Covenant and contains little information on factors and difficulties encountered in their application. In its comprehensive replies to the questions raised by Committee members,

however, the delegation has endeavoured to complement the written report. The information, both written and oral, provided by the State party has enabled the Committee to make a realistic assessment of the human rights situation in Senegal.

Positive aspects

110. The Committee takes note with satisfaction of the progress that has been achieved in the implementation of provisions of the Covenant in Senegal. Among the positive developments aimed at strengthening the protection of human rights that has occurred since the consideration of the second periodic report in 1987 the Committee notes, *inter alia*, the adoption of new legislation or legislative amendments more in accordance with the Covenant such as the reorganization of the judicial branch, particularly the establishment of the State Council, the Supreme Court and the Constitutional Council, the abolition of the State Security Court, and the creation of the post of Mediator. The Committee also notes the adoption of a new Electoral Code; the application, for the first time, of certain provisions contained in the Covenant by the national courts; and the careful consideration that had been given by the Government of the State party to the comments and recommendations formulated by the Committee during consideration of the second periodic report.

Factors and difficulties impeding the application of the Covenant

111. The Committee notes that during the period under review, a state of emergency was proclaimed that affected the southern part of Senegal (région de Casamance), and that several of the rights covered by the Covenant were derogated. In addition, the persistence of certain customs and the existence of outmoded legislation hinder Senegal's full compliance with its obligations under the Covenant.

Principal subjects of concern

112. The Committee does not agree with the Government's contention that the provisions of the Covenant must be interpreted and applied against the background of the conditions prevailing in the country. Rather, it believes that all efforts should be made to bring those conditions into conformity with internationally agreed human rights standards. It finds that certain provisions of penal legislation are not in conformity with article 6 of the Covenant, especially in respect of the application of the death penalty to minors, or with article 9 of the Covenant, particularly in so far as they allow detainees to be kept incommunicado during the first eight days following arrest and deprived of access to a lawyer for the period of arrest. The passiveness of the Government in conducting timely investigations of reported cases of ill-treatment of detainees, torture and extrajudicial executions is not consistent with the provision of articles 7 and 9 of the Covenant. To achieve full compliance with article 4 of the Covenant, greater efforts are also needed to ensure the proper protection of human rights under a state of emergency. The Committee considers that amnesty should not be used as a means to ensure the impunity of State officials responsible for violations of human rights and that all such violations, especially torture, extrajudicial executions and ill-treatment of detainees should be investigated and those responsible for them tried and punished. Furthermore, the Committee is concerned about remaining areas of discrimination against women.

Suggestions and recommendations

113. The Committee recommends that laws relating to states of emergency, the protection of the right to life and the death penalty, forced labour, the treatment of detainees and their access to a lawyer and freedom of expression -particularly restrictions imposed on the exercise by journalists of this right -be brought into conformity with articles 4, 6, 8 and 19 of the Covenant, respectively. The proclamation of any state of emergency must be notified to the Secretary-General of the United Nations in a timely manner. Efforts should also be made to remove social barriers in order to ensure the real equality of men and women. The Committee also recommends that training courses should be organized for members of the police, the army and the security forces as well as for other law enforcement officials so as to better acquaint them with the basic principles and norms of human rights and laws aimed at their protection.

114. The Committee has received a communication from the State party dated 17 May 1993, referring to the comments of the Committee (see CCPR/C/90).

CCPR A/53/40 (1998)

50. The Committee considered the fourth periodic report of Senegal (CCPR/C/103/Add.1) at its 1618th and 1619th meetings, on 21 and 22 October 1997, and at its 1640th meeting, on 5 November 1997, adopted the following observations.

1. Introduction

51. The Committee expresses its appreciation for the opportunity to resume its dialogue with the State party. While noting that the fourth report has been presented in a timely manner and provides some useful information on the constitutional and legislative norms applicable in Senegal in the field of human rights, the Committee reiterates its previous comment on the State party's third periodic report, regretting the lack of information in the document on implementation of the provisions of the Covenant in practice. At the same time, the Committee appreciates the detailed and updated information provided orally by the delegation in the course of its consideration of the report.

2. Factors and difficulties affecting the implementation of the Covenant

52. The Committee notes with concern that continuing violence and unrest in the region of Casamance have resulted in persistent violations of rights guaranteed by the Covenant.

53. The Committee further notes the continued existence in the State party of laws and customs, in particular those affecting equality between men and women, which impede the full observance of the Covenant.

3. Positive aspects

54. The Committee observes with satisfaction that the State party has strengthened the status of the Senegalese Human Rights Committee (law of 10 March 1997), and in particular has ensured participation by non-governmental organizations, as well as its capacity to act as an advisory body for dialogue, consultation and promotion of human rights. The activities of the ombudsman (médiateur) are also welcomed.

55. The Committee appreciates the creation of the Interministerial Committee on Human Rights and Humanitarian International Law (Comité inter-ministériel des droits de l'homme et du droit international humanitaire) by Decree of 2 July 1997, as well as the recent change in the Electoral Code leading to the establishment of a body to monitor and supervise elections.

56. The Committee further welcomes the efforts to overcome the problem of illiteracy and the activities of the Ministry on Woman, Children and Family which has initiated plans of action in collaboration with non-governmental organizations. The Committee also appreciates efforts made to enhance the public's awareness of women's issues.

57. In the field of law reform, the Committee notes with appreciation the criminalization of torture in the Penal Code.

58. In the context of the right to remedies for violations of human rights, the Committee notes with interest that an individual may appeal to the Constitutional Council to challenge the constitutionality of proceedings before the Council of State or the Court of Cassation. The Committee welcomes the willingness of the Government of Senegal to comply with the Views of the Committee in the case of *Koné v. Senegal* (Communication 386/1989) and to provide for a remedy acceptable to the author, namely, an award of 500,000 francs, a plot of land and adequate medical treatment, all implemented just before the consideration of the report before the Committee.

59. In relation to the State party's accession to various international human rights instruments, the Committee welcomes its acceptance of the primacy of international human rights standards over national legislation.

4. Subjects of concern and the Committee's recommendations

60. In the context of events in Casamance, the Committee expresses concern at allegations it has received of indiscriminate killing of civilians by the army and police, of disappearances, and of ill-treatment and use of torture against persons suspected of being supporters of the Mouvement des forces démocratiques de Casamance (MFDC). Therefore:

The Committee recommends that measures be taken to ensure the full observance of articles 6 and 7 by military personnel and police, and the effective implementation in practice of article 7 of the Covenant vis à vis people suspected of being MFDC sympathizers. The Committee also recommends that, especially because of the distance from the capital and the region's proximity to neighbouring States, consideration be given to establishing an independent mechanism to monitor and investigate human rights abuses in Casamance, and that persons found responsible for violations of rights be brought to justice and the victims compensated. The Committee also recommends further training in human rights for all security and law enforcement personnel.

61. The Committee regrets that certain traditional cultural attitudes with respect to women are not compatible with their dignity as human beings and continue to hamper their equal enjoyment of rights embodied in the Covenant. The practice of polygamy, which is incompatible with articles 2(1), 3 and 26 of the Covenant, is of particular concern. The Committee continues to be especially disturbed at the persistent custom of female genital mutilation, which violates articles 6 and 7 of the Covenant, and the high rate of maternal mortality which results from that practice, from early childbirth and from the strict prohibition of abortion. It recommends that judges and lawyers make use of ordinary criminal law provisions to deal with instances of female genital mutilation until a specific law for this offence, the adoption of which the Committee strongly supports, is enacted. In this regard:

The Committee encourages the State party to launch a systematic campaign to promote popular awareness of persistent negative attitudes towards women and to protect them against all forms of discrimination; it urges the State party to abolish practices prejudicial to women's health and to reduce maternal mortality. The Committee recommends that the State party indicate, in its next periodic report, the outcome of proposals on the matter of polygamy made by the Working Group on the National Action Plan for Senegalese Women (1996-2000). In the light of these concerns, the Committee further recommends that the State party bring its legislation, including family and

inheritance laws, into conformity with articles 2(1), 3, 6, 7, 23 and 26 of the Covenant.

62. Although the Penal Code provides legal redress for offences such as assault, the Committee is concerned at the persistence of violence against women, including spousal abuse. Therefore:

The Committee recommends that specific attention be given in the law to the problem of domestic violence, and stresses the need for information and education campaigns to prevent and combat any form of physical violence against women.

63. The Committee notes that the criteria enabling a judge to hold an arrested person in pre-trial detention are not defined under the law. It expresses its concern at the extensive discretionary power given to judges in such situations. Furthermore, in cases of offences against the security of the State, the Committee notes with concern the provisions of the Code of Criminal Procedure allowing special detention in police custody, and in particular allowing the Public Prosecutor to authorize extension of the length of detention. The Committee is also concerned about the lack of access to counsel by detainees. Therefore:

The Committee recommends that the State party set out in its Code of Criminal Procedure criteria establishing grounds on which persons awaiting trial may be held in detention which are in conformity with article 9 (3) of the Covenant. Furthermore, the Committee recommends the repeal of provisions dealing with special detention in cases of offences against the security of the State, or the provision of further legal safeguards in such cases.

64. Although measures have been taken to improve the condition of prisoners, the Committee expresses its concern at recurring problems of overcrowding and poor health and sanitary conditions in many prisons, which are incompatible with article 10, paragraph 1, of the Covenant. Therefore:

The Committee recommends that measures be taken to reduce overcrowding and to upgrade prison facilities as quickly as possible.

65. The Committee is concerned about the lack of full enjoyment of freedom of association, in particular the fact that foreign workers are barred from holding official positions in trade unions, and that trade unions may be dissolved by the executive. Therefore:

The Committee recommends that the State party take all necessary measures to permit foreign workers to hold official positions in trade unions, and provide guarantees and legal redress to trade unions, in accordance with article 22 of the Covenant, against dissolution by administrative measures.

66. The Committee expresses its concern at the statement in the report that "there are no minorities in Senegal", and at the failure of the State party to provide information on the recognition and protection of religious and ethnic minorities in Senegal. In that regard:

The Committee recommends that the State party take legal and practical steps to recognize and protect religious and ethnic minorities, with a view to ensuring the rights guaranteed under article 27 of the Covenant. The Committee further suggests that the Government of Senegal take into

consideration the Committee's General Comment No. 23 on this matter.

67. The Committee recommends that full and comprehensive information on the implementation of the provisions of the Covenant in law and in practice, as well as on factors and difficulties which affect its implementation, be incorporated in the State party's next periodic report.

68. The Committee draws the attention of the Government of Senegal to the provisions of the guidelines regarding the form and contents of periodic reports from States parties, and requests that its next periodic report, due on 4 April 2000, contain material which responds to all the present concluding observations. The Committee further requests that these concluding observations be widely disseminated among the public at large in all parts of Senegal and in all recognized languages.