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U.S. Department of State

Senegal Country Report on Human Rights Practices for 1996

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SENEGAL

Senegal is a republic with an elected president, Abdou Diouf, who has been in office since 1981, and a unicameral legislature dominated by the President's Socialist Party (PS) since independence from France in 1960. During the year, the Government decentralized its regional and local administrations.

The stability brought about by the entry of the principal opposition party into government in 1995 continued, with the smaller parties choosing to remain in government while contesting the elections. The judiciary is independent although subject to governmental influence and pressure.

The armed forces are professional and generally disciplined. They traditionally remain aloof from politics and are firmly under civilian control. The paramilitary gendarmerie and the police are less professional and less disciplined. Some members of the gendarmerie and the police continued to commit serious human rights abuses.

Senegal is predominantly agricultural with more than 70 percent of the labor force engaged in farming, largely peanut production. Since the devaluation of the cfa franc in 1994, the Government implemented a series of economic policy reforms to enhance competitiveness, and is phasing out most qualitative restrictions on imports, dismantling monopolies, liberalizing the labor market, and privatizing several important state-owned industries. Supported by the international donor community, Senegal remains dependent on foreign assistance as an important part of its national budget.

The Government generally respected the human rights of its citizens, however, there were serious problems in some areas, particularly torture by police of suspects during questioning, arbitrary arrest, and lengthy pretrial detention. The Government tried or punished few military, gendarmes, or police for previous human rights abuses, particularly for those in the Casamance. The Socialist Party's domination of political life, including irregularities and fraud in the 1996 regional and local elections, calls into question the extent to which citizens can meaningfully exercise their right to change the government. Poor prison conditions, a judiciary subject to government influence and pressure, domestic violence and discrimination against women, and some abuse of children are also problems.

Although there were credible reports of infrequent human rights abuses perpetrated by Casamance rebels, a cease-fire during the year effectively restored the security and safety of the Casamance.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

There were no confirmed reports of political or extrajudicial killings by government officials.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

There are credible reports that police and gendarmes often beat suspects during questioning and pretrial detention, in spite of constitutional prohibitions against such treatment. Torture perpetrated by police, usually beatings, remains an embarrassing public issue for the Government, and is regularly reported in the press. In April two police officers were arrested for torturing a suspect by spraying paint thinner on his buttocks and igniting it. At year's end, the accused officers were on bail pending trial. The Government proposed and Parliament is reviewing a law designed to strengthen legal provisions forbidding torture.

Prison conditions are poor. Prisons remain overcrowded, and food and health care are inadequate. However, there have been no reported deaths in prison due to these conditions.

During the year, a cease-fire was in effect between the Government and the Movement of Democratic Forces in the Casamance (MFDC). The very few incidents which seemed to involve the MFDC were directed against civilians. Although precise data are lacking, the cease-fire has apparently reduced the numbers of persons displaced in the Casamance.

The Government permits visits by government, nongovernmental, and international human rights monitors.

d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention, however, authorities at times violate these constitutional prohibitions.

The law specifies that warrants, issued by judges, are required for arrests. However, laws also grant the police broad powers to detain prisoners for lengthy periods of time. Police may legally hold without charge a person suspected of a crime for 48 hours after arrest and for up to 72 hours if ordered by a public prosecutor. This period may be doubled in the case of crimes against the security of the state. The prosecutor decides whether to forward the case to an investigating judge who may open an investigation. At this point, the suspects are preliminarily charged and may be held or released on their own recognizance. There is a system of bail, but it is rarely used. During temporary detention the accused has no access to family or an attorney but has the right to demand a medical exam. Once charged, a prisoner is permitted visits by both family and legal advisors. The accused may be held in custody for 6 months, and the investigating magistrate can certify that an additional 6 month extension is required. Such extensions may be reviewed by a court on appeal from the accused's attorney.

Police are rarely prosecuted for violations of arrest and detention procedures, and the authorities may detain a prisoner for long periods of time while they investigate and build a case against a suspect. The authorities may and routinely do hold prisoners in custody unless and until a court demands their release. Despite the 6-month limitations on detention, the time between the charging phase and trial averages 2 years.

In a particularly egregious case, in October three defendants were acquitted by a court after 5 to 7 years of detention.

In January the Government released from house arrest MFDC leader Abbe Diamacoune Senghor and four military/political advisors who had been extradited from Guinea-Bissau in 1994. The individuals had been charged but not convicted of compromising the security of the state.

Approximately 120 suspected MFDC members remained in political detention at year's end. Throughout the year, the Government released small groups of MFDC members to suggest good faith in negotiations.

The Constitution prohibits exile and it is not used.

e. Denial of Fair Public Trial

The Constitution provides for a judiciary independent of the executive, the legislature, and the armed forces. However, magistrates are vulnerable to outside pressures due to low pay, poor working conditions, and family and political ties. Also, the Minister of Justice and subordinate authorities have extensive authority to influence judicial procedures, e.g., in keeping the accused in pretrial detention. Political and governmental pressure reportedly came to bear on the court when it fined Sud Communication, a privately owned media group, an unprecedented \$1 million and sentenced five of its journalists to jail for defamation. Sud Communication and the journalists are appealing the decisions.

The legal system is based on French civil law and is composed of ordinary courts and a number of higher and special courts, including the three created in May 1992 to replace the Supreme Court: The Council of State for Administrative Questions, the Constitutional Council, and a Court of Appeal. These Courts remain understaffed, and many of the special courts, including the Unlawful Enrichment Court and special courts to try government officials for treason and malfeasance, are dormant. Muslims have the right to choose customary law or civil law for certain civil cases, such as those concerning inheritance and divorce. However, customary law decisions are rendered by civil court judges. There is a separate system of military courts for members of the armed forces and the gendarmerie. The right of appeal exists in all courts except military courts and the special "illegal enrichment" court. Military

courts may not try civilians.

In principle the accused is innocent until proven guilty, and when brought to trial it is the State's burden to prove that the accused is guilty of the charges. Trials are public, and defendants have the right to be present in court, to confront witnesses, to present evidence, and to have an attorney. In practice, however, some defendants are denied legal assistance at public expense due to lack of funding. Evidentiary hearings may be closed to the public and the press. A panel of judges presides over ordinary courts for both civil and criminal cases; in criminal cases citizens also serve on the panel.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary invasion of the home, and there was little government interference in the private lives of citizens, particularly in rural areas. The law requires search warrants, and only judges may issue them. During high-profile or politically charged investigations, police often proceed without the required search warrants.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and press, and the Government generally respects these rights in practice. Laws prohibit the press from the expression of views that "discredit" the State, incite the population to disorder, or disseminate "false news." However, the Government did not prosecute any groups or persons under these statutes during the year.

A broad spectrum of thought and opinion is available to the public through magazines and newspapers, including foreign publications, and numerous independent radio stations. Political and economic views expressed in the independent press are often critical of the Government and its programs. While publishers are required to register prior to starting publication, the Government routinely approves such registrations. A government monopoly controls local television, an important source of news. French-owned pay television is available but offers no local news.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for these rights, and the Government generally respects them in practice. The Government requires prior authorization for public demonstrations, which it usually grants. After permitting large gatherings earlier in the year, the Government lifted its formal ban on the Moustarchidine movement in the fall.

Citizens wishing to form associations must register with the Ministry of Interior. Business-related associations register with the Ministry of Commerce. By law and in practice, the Ministry of Interior must register such groups so long as the objectives of the association are clearly stated and they do not violate the law.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice. Certain public employees must obtain government approval before departing Senegal.

The Government cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. More than 60,000 Mauritanian refugees resident in Senegal since 1989 as the country of first asylum, and members of other refugee groups, may move freely throughout the country. In 1996 Senegal offered first asylum to many residents of Liberia who were forced to flee the fighting in that country. All either returned to Liberia or settled in other countries by the end of the year. There were no reports of forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the constitutional right to change their government through periodic multiparty elections. However, the Socialist Party's domination of political life--it has held power since independence--and irregularities and fraud in the regional and local elections have called into question the extent to which citizens can meaningfully exercise this right.

The PS holds a 73 percent majority in Parliament with 88 parliamentary seats, 2 more than in 1995 due to opposition member defections. The opposition holds 32 seats. There are 25 legal opposition parties. Five members of the leading opposition party, the Senegalese Democratic Party (PDS), and 4 independent and/or minor opposition members are in President Diouf's 33-member cabinet.

Despite its preeminent position, the PS continued to suffer extensive factional infighting during the first part of the year, which in some cases resulted in serious injuries. This internal PS conflict was responsible, at least in part, for the Government's decision to cancel the November 1995 municipal elections and reschedule them to coincide with the November 1996 rural elections. There were credible allegations that the Government engaged in gerrymandering, illegal fundraising, voter list manipulations, and other irregularities in its manipulation of the electoral process prior to the November elections.

The regional and local elections held on November 24 and 27 were marked by allegations of fraud and many serious procedural and other irregularities. Many polling places in the capital opened late or not at all. There were reports of similar problems elsewhere, but apparently not on the same scale as in Dakar. One million extra blank voter's identification cards were printed, an amount far exceeding the legal limit. Although 500,000 of the extra cards were publicly burned, allegations remained that 300,000 blank cards were not accounted for. Almost all opposition politicians and civic leaders renewed their calls for the creation of an independent national electoral commission to administer elections. In spite of strong sentiment supporting such a measure, the Government refused to create an independent electoral commission.

Women are underrepresented in the political process. While there are no legal impediments to their participation in government and politics, cultural and educational factors hamper them. Only 3 of the 33 ministers who comprise the President's Cabinet are women, and there are only 2 in the 19-member Economic and Social Council, the Government's quasi-policymaking body. Women won two mayoralty elections and one rural commune in the November local elections. There are no women heading political

parties, and only 14 female Deputies in the 120-member National Assembly. Women's lower representation reflects not only disparity in education (see Section 5), but also cultural pressures. Political parties often rank women low on party lists, making it difficult for them to be elected to the National Assembly or be appointed ministers.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. Government officials are generally cooperative and receptive to their views.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution states that "men and women shall be equal in law" and prohibits discrimination based on race, religion, sex, class, or language. However, de facto discrimination against women is pervasive, and the Government frequently does not enforce antidiscrimination laws.

Women

There are credible reports that violence against women, usually wife beating, is common, particularly in rural areas. The Government and cooperative newspapers led a yearlong media campaign against spouse abuse. Police do not usually intervene in domestic disputes, and most people are reluctant to go outside the family for redress. The law and society view rape as a very serious crime, and the law stipulates that persons convicted of rape may be imprisoned up to 10 years, more if the victim is a minor. Rape trials often result in convictions. In the past, vigilante action was often meted out to the accused before the police were able to arrest rape or family violence suspects.

Despite constitutional protections, women face extensive societal discrimination, especially in rural areas where Islamic and Senegalese customs, including polygyny and Islamic rules of inheritance, are strongest, and women are generally confined to traditional roles. In the countryside, women perform much of the subsistence farming and childrearing and have limited educational opportunities. Although the Government has committed itself to equalizing male/female primary school enrollment, there is still much social and official discrimination against women in educational opportunities. Only 19 percent of females over 15 years of age are literate, while the rate for males over age 15 is 30 percent.

According to the U.N. only 20 percent of women are engaged in paid employment. Traditional practices, moreover, make it difficult for women to obtain bank credit. Women usually marry young (the majority by age 16 in rural areas), and average

6 live births (down from 7 in 1995). About half of all women live in polygynous unions.

In urban areas women encounter somewhat less discrimination and are active in government, political life, the legal profession, and business. About 14 percent of lawyers are women. Urban women are more likely to take advantage of the Government's efforts to increase respect for women's legal rights to divorce, alimony, and child support, and to seek education and employment. In general, urban women receive equal pay for equal work.

Children

The Ministry of Women, Children, and the Family, established in 1990, is responsible for promoting children's welfare. Numerous organizations assist the Ministry in support of children's rights, including the Ministry of Health which maintained a nationwide effort focusing on child survival. Organized street begging by children who are Koranic students results in a significant interruption of their education. The Government continues to increase the number of classrooms and encourage more children, particularly females, to enter and stay in school.

There are no laws or regulations concerning female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health. However, the Ministry of Women, Children, and the Family sponsors programs to educate women to the dangers of FGM. FGM is not practiced by Senegal's largest ethnic group, the Wolofs (representing 43 percent of the population), but it is performed on girls belonging to some other ethnic groups. Infibulation, the most extreme and dangerous form of FGM, is practiced by members of the Toucouleur and Peulh ethnic groups, particularly those in rural areas. Unsubstantiated recent studies estimate that between 5 and 20 percent of females undergo the procedure.

People with Disabilities

There is no official discrimination against disabled persons. There are no laws that mandate accessibility for the disabled, and in practice most persons with disabilities are generally unable to participate in many occupations due to physical barriers and a lack of equipment and training opportunities that would make such participation possible.

Religious Minorities

Approximately 92 percent of the population are Muslim. There are small Christian (2 percent) and indigenous (6 percent) religious communities. Officially, adherence to a particular religion confers no advantage or disadvantage in civil, political, economic, military, or other matters. In practice, however, membership in an Islamic subgroup may afford certain political and economic protections and advantages.

Section 6 Worker Rights

a. The Right of Association

The Constitution and the Labor Code provide all workers with the right of association, and they are free to form or join unions. A minimum of seven persons, each having worked in the trade for at least 1 year, may form a trade union by submitting a list of members and a charter to the Ministry of Interior. While the Ministry does not always grant initial recognition to a union, once it gives recognition, the Ministry virtually never withdraws it. It may, however, disband a union if its activities deviate from its charter. The Labor Code does not apply to the informal and agricultural sectors where most people work.

Although they represent a small percentage of the working population, unions wield significant political influence because of their ability to disrupt vital sectors of the economy. The small industrial component of the total work force of 4 million is almost totally unionized. The only union in the agrarian sector is one representing workers at a privately owned sugar company. Some farmers are organized into the National Farming Association, an advocacy organization.

The National Confederation of Senegalese Workers (CNTS), the largest union organization, has close ties to the ruling Socialist Party, and union members hold a considerable number of government

positions. One is a PS minister, and four others hold PS seats in Parliament. While ostensibly an independent organization, the umbrella CNTS consistently supports government policies.

The rival to the CNTS is the National Union of Autonomous Labor Unions of Senegal (UNSAS). UNSAS is a federation of strategically important unions such as those of electricians, telecommunication workers, teachers, water technicians, and hospital, railroad, and sugar workers.

The Constitution and the Labor Code provide for the right to strike, but with restrictions. Unions representing members of the civil service must notify the Government of their intent to strike no less than 1 month in advance, and private sector unions must make a similar notification 3 days in advance. The Government or the employer can use the time to seek a settlement to the dispute but cannot stop the strike. There were numerous legal--but no illegal--strikes in 1996. Regulations prohibit employers from retaliating against legal strikers, and these regulations are enforced through the Labor Court.

The Labor Code permits unions to affiliate with international bodies. The CNTS is active in regional and international labor organizations and is the dominant Senegalese member of the Organization of African Trade Union Unity.

b. The Right to Organize and Bargain Collectively

The law provides unions with the right to organize and to bargain collectively, and these rights are protected in practice. There are also legal prohibitions governing discrimination by employers against union members and organizers. Employers found guilty of antiunion discrimination are required to reinstate workers. There were no known instances in which workers were prevented from exercising the right to organize and bargain collectively. The Ministry of Labor can intervene in disputes between labor and management if requested, and it plays a mediation role in the private and state enterprise sectors.

Labor laws apply to all industrial firms including those in the Dakar Industrial Free Trade Zone.

c. Prohibition of Forced or Compulsory Labor

There were no reports of forced labor, which is prohibited by law.

d. Minimum Age for Employment of Children

The minimum age for employment is 16 years for apprenticeships and 18 for all other types of work. Inspectors from the Ministry of Labor closely monitor and enforce these restrictions within the small formal wage sector, which includes state-owned corporations, large private enterprises, and cooperatives.

However, children under the age of 16 frequently work in the much larger traditional or informal sectors, such as family farms in rural areas or in small businesses, where the Government does not enforce minimum age and other workplace regulations.

e. Acceptable Conditions of Work

Legislation mandating a monthly minimum wage has been in force since the country's independence in 1960. The Ministries of Labor and Finance determine wage rates after negotiating with the unions and management councils. The minimum wage of less than \$.40 (202 cfa francs) per hour, last negotiated in 1989, is not adequate to support a worker and a family.

Within the formal sector, the law mandates: a standard workweek of 40 to 48 hours for most occupations, with at least one 24-hour rest period and 1 month per year of annual leave; enrollment in government systems for social security and retirement; safety standards; and a variety of other measures. These regulations are incorporated into the Labor Code and are supervised by inspectors from the Ministry of Labor. However, the authorities' enforcement is uneven, especially outside the formal sector. There is no explicit legal protection for workers who file complaints about unsafe conditions. While there are legal regulations concerning workplace safety, government officials do not often enforce them.

In theory workers have the right to remove themselves from unsafe working conditions, but in practice the right is seldom exercised in circumstances of high unemployment and a slow legal system.

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