

SENEGAL

In its report to the United Nations Human Rights Committee, the Government of Senegal asserts that its Constitution promotes and protects human rights, and women's rights in particular. The Government specifically cites Article 7 of its Constitution in paragraph 11 as affirming the principle of "equality of all human beings before the law and of equality between men and women in law." Senegal has also ratified the Convention on the Elimination of All Forms of Discrimination Against Women and the Convention on the Rights of the Child. However, Senegalese law, particularly the Family Code, maintains a bias against women which the Government justifies in order to "protect" women. Equality Now is concerned that Senegalese domestic law does not effectively protect women from violence, polygamy and other human rights violations against women. The Réseau Africain pour le Développement Intégré (African Network for Integrated Development) prepared the attached submission, on which the following summary of concerns is based.

Gender Discrimination in the Family Code

Under the heading "Equality Between Men and Women; Protection of the Child and Family (arts. 3, 23 and 24 of the Covenant)," paragraph 33 of the Government's report states, "in pursuance of various provisions in the Family Code, machinery was established which in most cases protects women. This is the case of article 152 of the Code, which declares the husband to be the head of the family. This provision is in no way perjorative in nature, it merely confers a function on the husband." Paragraph 33 of the Government report also cites article 153 which "gives husbands the right to determine the residence of the household." Article 153 is mentioned in particular as providing an "element of protection" for the wife, "since responsibility for acquiring a dwelling for the household rests primarily with the husband." For similar reasons, it is asserted in paragraph 34 of the Government report that under article 277 of the Family Code, parental authority over children will only be granted to a woman "if the father renders himself unworthy to exercise that power or if he assigns it voluntarily." Equality Now is also concerned about the practice of polygamy, which affects about 30 percent of Senegalese marriages. Polygamy is exclusively reserved as a right for men under Article 133 of the Family Code (Annex 1, p.2).

These provisions in the Family Code directly violate article 23(4) of the Covenant which provides that "States Parties to the present Covenant shall take appropriate steps to ensure equality of rights and responsibilities of spouses as to marriage, during marriage and at its dissolution." Women in Senegal have contested the idea of a patriarchal power in favor of a "parental power" to head the household (see Annex 1, p.2). Equality Now finds the line of argument made by the Government in its report indicative of a general misunderstanding with regard to the human rights of women and urges the Human Rights Committee to take corrective action.

Discrimination in Education and Employment and Property Rights

Equality Now notes that according to the African Network for Integrated Development, 81%-90% of rural women and 54% of urban women in Senegal are illiterate. Illiteracy restricts

the access of women to gainful employment, and limits their ability to enjoy equal access to health care and other services. In paragraph 37 of its report, the Government acknowledges that there is a *de facto* “lack of access to certain managerial functions.” Although Article 104 of the Family Code guarantees non-discrimination on the basis of sex in employment, women are prohibited from working at night and from doing dangerous work.

The African Network for Integrated Development reports that customary law, which prevails particularly in rural areas, denies women inheritance rights. Women in these areas may only acquire land through an intermediary such as a husband or other male relative. Despite some progress in legislation providing for equality, the Network notes that discrimination and male privilege persist in Senegal.

The Criminalization of Abortion

According to paragraph 36 of the Government report, family planning programs have been introduced in Senegal to cope with “population pressures” while “maintaining the prohibition of abortion.” Equality Now notes that the criminalization of abortion leads to increased rates of maternal mortality and is concerned that, due to the dangers of illegal abortion, a woman’s right to life, protected under Article 6 of the Covenant, is threatened by the criminalization of abortion.

Violence Against Women

According to the African Network for Integrated Development, there is no law in Senegal which specifically addresses violence against women. Women in Senegal are often victims of rape, domestic violence, sexual harassment, and other forms of violence. The practice of female genital mutilation (FGM) affects up to 20 percent of the female population (Annex 2). There are no laws prohibiting FGM in Senegal.

INDEX OF ANNEXES

1. “Situation Juridique des Femmes Senegalaises”
Rapport du Réseau Africain pour le Développement Intégré
2. “Senegal: 20% de Femmes Concernées”
Famille & Développement, No. 59 - Décembre 1991