

**Alternative report submitted to the UN Committee on the
Elimination of Racial Discrimination when reviewing the 16th and
17th periodic reports of Senegal at its 81st session
(6-31 August 2012):**

Alternative Report on the Situation of Castes in Senegal

**Prepared by the African Assembly for the Defense of Human Rights
(RADDHO) in association with the International Dalit Solidarity
Network (IDSN)**

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Alternative Report on the Situation of Castes in Senegal

This alternative report has been prepared by the African Assembly for the Defense of Human Rights (RADDHO) in association with the International Dalit Solidarity Network (IDSN)¹. It focuses on issues related to caste based discrimination in Senegal, which, over the years, has been addressed by UN human rights bodies, including the UN Committee on the Elimination of Racial Discrimination's (CERD) review of Senegal in 2002. The writing of this report has been prepared on the basis of reports written by specialists, interviews, and recent articles on caste-based discrimination published in Senegalese newspapers. In the research phase, a challenge has however been the fact that caste remains a hidden issue in contemporary Senegal, and that few comprehensive studies have been conducted on the issue. This leads the authors of this report to recommend the Government of Senegal to undertake a national study on the scope of this human rights problem.

Even though the Government of Senegal is signatory to almost all the international and regional (Africa) human rights instruments, discrimination based on caste still exists in the Senegalese society. It exists in most of the Senegalese tribes but is much more pronounced among the Wolofs and the Peuls. *A national legal scholar, whom was interviewed for this report, affirmed that, 'In the South of the country discrimination based on work and descent does not exist but in the North it is well entrenched.'*²

The legacies of discrimination based on caste continue to exist, especially in the socio-political sphere. Although it is not as profound and visible as it used be in the past decades, inter-caste discrimination still exists. For instance, one of the observers of the Senegalese social and political systems has asserted that, *'De nos jours, meme si, ce n'est pas un probleme de grande envergure au Senegal, il est impossible de voir un forgeron 'teugg' se marie avec un griot 'guelwel. Les teuggs disent que les guewels ne sont pas de nobles puisqu'ils etaient les serviteurs du roi, les transmetteurs de la parole de la classe monarchique et continuent aussi à etre les serviteurs des chef religieux et des hommes politiques. Par contre, les guewels pensent que se marier avec les teugs ferme toutes les portes de la reussite et de la chance'*³

Nonetheless, the Senegalese state, in its reports and statements submitted to the UN Committee on the Elimination of Racial Discrimination and other UN bodies, has successively denied the continuing existence of discrimination based on caste in Senegal. This was also the case in the Diplomatic Mission's response to the presentation of a report with findings on the caste system in Senegal by the UN Special Rapporteur on contemporary forms of racism in June 2011.⁴

This alternative report analyses the socio-economic and political situation of castes in Senegal, and compares it to the international and national legal framework of the country and its limitations.

¹ IDSN is an international lobby and advocacy network, which is working for the elimination of caste-based discrimination and other forms of discrimination based on work and descent. For more information, visit www.idsn.org

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⁴ The Senegalese Mission's oral response to report A/HRC/17/40. See further description later in the report.

Finally, it summarizes the observations and recommendations of UN human rights experts on the issue of discrimination based on caste in Senegal, and provides a set of recommendations for the elimination of caste-based discrimination in the country. These recommendations are intended to serve as critical inputs to the interactive dialogue between the Government of Senegal and the CERD Committee at the 81st CERD session in August 2012.

Socio-Economic and Political Situation of Castes in Senegal

While it is contemplated that the recent emergence of political parties led by caste elites speaks against the fact that caste discrimination exists in Senegal, this argument does not adequately capture the way that certain caste-based practices influence everyday life for many persons in the country.

Despite the process of modernization, caste discrimination exists among almost all the ethnic groups, although it is rarely discussed openly. Victims of the caste system continue to suffer psychologically in silence in their homes, in the streets, in their offices, places of worship and in educational institutions. With respect to the inferior castes such as blacksmith and praise singers to name a few, some people believe that wearing their clothes or sitting on the same chair or bench with them attract poverty and hardship.⁵

Victims of the caste system in Senegal face many problems, which are similar to the conditions described in CERD General Recommendation 29 on descent-based discrimination (2002):

a) Inter-caste marriage

It is often difficult for non-castes to marry castes or vice versa. Many castes prefer to remain single or marry foreign nationals. Many abortions and infanticides occur because of opposition to inter-caste love. *For instance, in 2011, a woman called Cherif Danfa was found guilty of infanticide and sentenced to five years of hard labour. Her family belongs to the goldsmith-jeweler caste for generations, whereas the family of her partner with whom she has two children belongs to the noble class. The family of her partner is opposed to their relationship and has refused to have their son marry her.*⁶ This form of discrimination is based on the concept of pollution as castes are perceived to be the channel of pollution. For instance, any contact with griots (praise singers) by a non-caste, even by touching, is seen as polluting because of their role in circumcision and midwifery. Some children are also denied to sit beside classmates who belong to caste families. Poor caste farmers cannot acquire enough land for large-scale agriculture production or projects. Thus, they are restricted to subsistence farming; they live in dilapidated houses; and depend on others for their livelihood.⁷

⁵ Momadou Lamine Diop, Doctoral Candidate in Human Rights, Researcher in RADDHO

⁶ See recent newspaper articles: Enquete numero 162m page 5, Friday 23 December 2011. See also Direct Friday page 4 Friday 23 December 2011

⁷ See pp 32-34 of the report on the International Consultation on Castes-based Discrimination Establishing Dalit Rights in the Contemporary World ; the Role of Governments, United Nations and the Private Sector. 29 November- 1 December 2004 Kathmandu Nepal

b) Social status

Second, castes are easily identified through their surnames. Those who have succeeded in changing their social-economic status in the field of commerce, politics or education hide their descent by changing their surnames or creating new genealogies for themselves to prevent being despised by those who claim to be superior by birth. In the religious sphere, castes are discriminated against irrespective of the vehement opposition of Islam to all forms of racial discrimination. In the hinterland, for instance, known castes are not allowed to stand in the first rows in the mosques during prayers.⁸

c) Political representation

In the political sphere, castes continue to be discriminated against. Most inferior castes who are members of political parties led by non-caste political elites are victims of discrimination within their own political parties. They are not even allowed to speak at meetings and it is difficult for them to be elected in their constituencies because of their inferior descent. Even those who have succeeded in occupying key positions in public institutions, political parties and the private sectors are often reminded of their descent and despised. For instance, *the candidacy of one of the presidential aspirants for the 2012 election was attacked by some of his political opponents who argued that his candidacy is not important and that he has to remain in the musical field because he is a musician. He, himself, said that he was not educated and therefore could not rule Senegal.*⁹ The presidential aspirant in question is believed to belong to a caste family, although it has never been publicly announced. While it is not said in the open, there is a fear that if he gets elected, he will appoint caste people as ministers and the parliament would be dominated by castes. People also wonder what will happen, if a Griot is elected as the President of Senegal. Thus, whenever a caste aspires to occupy a key position in public institutions, he or she is reminded of their background.¹⁰

This form of discrimination is even condoned by those who occupy key positions in state institutions. For example, the predecessor of the current President of Senegal, Mr. Abdoulaye Wade, is reported to have told his Gambian counterpart, President Yaya Jammeh, that his successor would not be a caste. Whether this statement is true or false, the ensuing mixed reactions demonstrate the sensitivity and politicization of the issue of caste in Senegal.¹¹

Senegal's Major International and Regional Human Rights Obligations

Senegal is a signatory to the 1948 Universal Declaration of Human Rights, the 1979 Convention on the Elimination of all Forms of Discrimination against Women, the 1989 Convention on the Rights of the Child and the African Charter on Human and Peoples' Rights, the International Covenant on Political and Civil Rights, the International Covenant on Social, Economic and Cultural Rights, the 1948 Convention on the Prevention and Suppression of Genocide, the Convention of 1968 on the

⁸ Abdoulaye Diallo, Specialist in Information Technology, Head of the Documentation and Information Centre of RADDHO

⁹ L AS No 1996, Monday 16 January 2012 page 7 see also Observateur No 2496 page 2 January 2012

¹⁰ This statement is based on the reactions of some of those who are supportive of the continuation of discrimination based on the caste system

¹¹ See Confidence de Wade a Yaya Jammeh sur le Profil de son Successeur: Mon Successeur ne sera pas un caste, Vendredi 19 Aout 2011 -12:31 Bamba Toure3. See also Lera. Net Publie le 19/08/2011 par la senegalaise. www.lasenegalaise.com/?lasenegalaise=infos&infos

Elimination of All Forms of Racial Discrimination, the 1984 Convention against Torture, other forms of Cruel, Inhuman and Degrading Treatments, the Protocol to the African Charter on Human and Peoples' Rights relating to Women's Rights, and the Protocol to the African Charter on Human and Peoples' Rights relating to the Creation of an African Court of Human and Peoples' Rights.

National Legal Framework

Some of the aforementioned legal instruments have been integrated into the 2001 Constitution, thereby enabling them a space in the Senegalese legal architecture. Legally speaking, the Senegalese tradition is monist in that the courts of law can enforce international human rights treaties as soon as they are ratified and published, even if they have not been incorporated into the country's domestic legal framework through a special act of Parliament.¹² Besides, there are articles in the Constitution that guarantee the equal protection of the rights of all the citizens. Article 1, for instance, stipulates that, '*The Republic of Senegal is a secular and democratic state. It ensures the equality of all its citizens before the law irrespective of their origin, race, sex, religion and convictions*'. Other legal measures taken in the socio-economic, cultural and political spheres prohibit discrimination. For example, the Senegalese Labor Code ensures equal treatment and access of all the citizens to *professional training and employment irrespective of their origin, race, sex and religion*.

Limitations of Constitutional and Legislative Mechanisms

Notwithstanding the richness of the Senegalese legal system, it lacks specific constitutional or legislative mechanisms for the effective elimination of discrimination based on caste. The aforementioned constitutional and legislative measures are vague in relation to issues relating to caste-based discrimination. Besides, although the state claims to have a monist legal tradition, in fact, the Senegalese Courts are vehemently opposed to the direct enforcement of international human rights treaties. This attitude undermines the constitutional principle enshrined in Article 98 of the Constitution.

The absence of specific legal measures for the abolition of caste-based discrimination is due to the attitude of the Senegalese civil society, ruling elites, law making and enforcement institutions and intellectuals towards the said form of discrimination. Most Senegalese are of the conviction that the issue must not be regarded as a subject of public discussion, because they believe that talking about it in public is tantamount to the commission of a taboo. Even most of the intellectuals or businessmen from the inferior castes conceal their social identity by refusing to talk about their plight in public. Thus, Professor Penda Mbow, in her presentation entitled 'Democracy, human rights, and castes in Senegal', opined that when Madeleine Mukamabano had wanted to organize a public debate to deepen the reflection on issues related to the caste system, some people told her that it was not a real problem but it was a psychological issue that would disappear naturally because it had had no impact on people's living conditions.¹³ But the truth is that the victims often choose to suffer

¹² See Article 98 of the 2001 Constitution of Senegal. See also the report on Senegal entitled 'the Justice Sector and the rule of law' published by the Open Society Institute's Network November 2008

¹³ "Démocratie, droits humains et castes au Sénégal" by Professor Penda Mbow, Journal des africanistes. 2000, tome 70 fascicule 1-2. pp. 71-91. For an English translation of this paper visit www.dalits.nl/pdf/CastesinSenegal.pdf

psychologically in silence instead of talking about their social identity. Besides, it has been suggested that caste based discrimination exists even among the Senegalese in the Diaspora.¹⁴

UN observations and recommendations on caste discrimination in Senegal

Over the years, UN human rights bodies and experts have incessantly expressed concern about caste discrimination, also known as discrimination based on work and descent, as an urgent human rights problem that requires a lasting solution in a wide range of countries, including in Senegal. The CERD Committee has been instrumental in addressing this form of descent-based discrimination, and in 2002 “strongly reaffirmed that discrimination based on “descent” includes discrimination against members of communities based on forms of social stratification such as caste and analogous systems of inherited status which nullify or impair their equal enjoyment of human rights” in CERD General Recommendation No. 29 (2002).

In 2002, the Senegalese caste system was subject of lengthy discussions during the examination of Senegal’s reports during the 61st Session of CERD.¹⁵ The Committee on the Elimination of Racial Discrimination noted the following:

445. The Committee notes with concern the continuing legacy in Senegal of aspects of a caste-based system, despite its having been banned by law. It recommends that the State party ensure that the existing provisions are effectively applied, including by taking steps to guarantee access to justice for victims, in accordance with its general recommendation XXVI.

In an Expanded Working Paper on discrimination based on work and descent prepared in 2004 by two experts of the former UN Sub-Commission on the Promotion and Protection of Human Rights, Mr. Asbjorn Eide and Mr. Yozo Yokota, stated that *the Committee on the Elimination of Racial Discrimination was worried about the continuing legacy in Senegal of the different aspects of a system based on castes, despite its having been banned by law.*¹⁶ The caste system in Senegal was subject to further analysis as a result of this study, which resulted in the formulation of a set of draft UN Principles and Guidelines on the Effective Elimination of Discrimination based on Work and Descent; a framework formulated to provide general and specific measures for governments to prevent and eliminate discrimination based on work and descent globally.¹⁷

The UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia, and other forms of intolerance has also addressed this issue as part of his mandate to fight racial discrimination. Mr. Githu Muigai stated in his annual report to the Human Rights Council in 2011 that, *‘The caste system exists within several groups in Senegal. All the characteristics of caste can be*

¹⁴ Pages 3-5 Discrimination based on Descent in Africa:
idsn.org/fileadmin/user_folder/pdf/Old_files/africa/pdf/Africafull.pdf -

¹⁵ United Nations Press Release ‘Committee on Elimination of Racial Discrimination Starts Examination of Senegal’s Reports, CERD 61st Session, 6th August 2002

¹⁶ Expanded Working Paper by Mr. Asbjorn Eide and Mr. Yozo Yokota on the Topic of Discrimination based on Work and Descent 5th July 2004

¹⁷ The draft UN Principles and Guidelines is an outcome of a Sub-Commission study on discrimination based on work and descent. They were published by the Human Rights Council in May 2009 (A/HRC/11/CRP.3). Although still a draft, governments can use and endorse them as a guiding framework to comprehensively eliminate discrimination based on work and descent.

*found among the Wolof Community, which is principally divided between Geer and the Neeno... However, the extent to which neeno castes approach the courts for legal redress on discrimination claims is negligible.*¹⁸

The Special Rapporteur expressed serious concern about the continuing existence of the caste system and described it as a form of 'societal' structural discrimination. He argued that the systems based on inherited status are examples of cases where even clear legislation to prohibit discrimination has been introduced, individuals and groups of individuals continue to be discriminated. In the report (A/HRC/17/40), he called on States to review and redesign their legislations, policies and programmes, having disproportionate effect on individuals of specific racial or ethnic group, including the legislations, policies and programmes that might discriminate directly or indirectly specific ethnic minorities and victims of inherited status systems.

In the Diplomatic Mission's response to the presentation of the report in June 2011, Mr. Abdoul Wahab Haidara, Head of the Department on Disputes and Human Rights of the Senegalese Ministry of Foreign Affairs, argued in the Human Rights Council that, '*En effet, tel qu'il apparait dans votre rapport, vous semblez fonder votre analyse sur une source datant de 10 ans, dont le contenu est aujourd'hui contredit par une réalité palpable, et les sénégalaises et sénégalais très fiers de leur origine et ascendance, peuvent en témoigner, à savoir qu'il n'y aucune forme de discrimination à l'égard des personnes castes du fait des pouvoirs publics*'.¹⁹ (Translated: Indeed, as your report shows, it seems that your analysis is based on information obtained 10 years ago, whose content is in contradiction with the current reality, and the citizens of Senegal are proud of their origin and ancestry, and can even testify that there is no form of discrimination against castes practiced by the authorities).

While it is true that there is a need for updated studies on the extent of the problem, this response also shows that the recurrence of the debate at the UN level illustrates that the legacy of the caste system is not yet over in Senegal.

Conclusion: Recommendations and Remarks

In conclusion, RADDHO recommends that:

1. The Senegalese Government should acknowledge the existence of caste based discrimination as a human rights problem that exists in the country, and in effect introduce specific legal measures to prevent and eliminate caste discrimination in accordance with CERD General Recommendation No. 29. Acknowledging and explicitly prohibiting the existence of caste discrimination within the Senegalese society will motivate state and non-state actors to work hard for its elimination, and will encourage victims to seek justice and redress. In this regard, the Government may seek inspiration from other affected countries and from national frameworks, which have been developed to address this particular problem (see recommendation no. 2).

¹⁸ Annual report of 24 May 2011 (A/HRC/17/40, para. 60) by Mr. Githu Muigai, Racism, Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related forms of intolerance.

¹⁹ Oral intervention by the Diplomatic Mission of Senegal in response to the presentation of a report by the UN Special Rapporteur on contemporary forms of racism in the Human Rights Council, Geneva on 14 June 2011

2. The Senegalese Government should implement all aspects of international human rights law relating to the elimination of all forms of discrimination, including the provisions contained on “caste and analogous systems of inherited status” in CERD General Recommendation 29. Furthermore, the Government may consider taking guidance from and endorsing the draft UN Principles and Guidelines for the Effective Elimination of Discrimination based on Work and Descent, published by the UN Human Rights Council in 2009, as a comprehensive framework to address caste-based discrimination.
3. The Senegalese Government should encourage the holding of public debates on the issue, inviting state officials, representatives of civil society organizations, intellectuals, opinion leaders, journalists, and legal experts in order to promote awareness of those affected, and should seek public views on the issue of caste discrimination in Senegal. The Government should furthermore encourage intellectuals from the caste community to speak openly about their plight and stop considering the issue as a social taboo in the public debate.
4. The Government should establish a Special Mechanism that collects disaggregated data on the size and plight of the marginalized caste community in Senegal, and should undertake a national study on the scope of this human rights problem in the country. This will enable the Government to know the nature of the problem, and on this basis be efficient and active in its efforts to effectively tackle caste based discrimination. In this regard, documentation and studies relating to caste discrimination should be disseminated throughout the country to raise awareness on the scope of the problem, including the recommendations by CERD in follow up to this review. Moreover, the Government should raise awareness about the legal protection mechanisms available to victims to prevent them from being stigmatized and to ensure equal access to justice for all.