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SENEGAL

The Center for Family and Human Rights (C-Fam) is a nongovernmental organization which was founded in 1997 and has held Special Consultative Status with the UN Economic and Social Council since 2014. We are headquartered in New York and Washington, D.C. and are a nonprofit, nonpartisan research and advocacy organization that is dedicated to reestablishing a proper understanding of international law, protecting national sovereignty and the dignity of the human person.

INTRODUCTION

1. In 2020, the ministers and high representatives of 34 countries met to launch the Geneva Consensus Declaration (GCD), in which they committed to promoting four objectives: improve women's health, protect human life, strengthen the family as the basic unit of society, and defend the sovereignty of nations with regard to their laws and policies to protect life.¹ Senegal was one of the original signatories of the GCD. This report focuses on Senegal fulfillment of its commitments to human rights in the context of the four pillars of the GCD.

THE GENEVA CONSENSUS DECLARATION

2. The language of the GCD is drawn exclusively from documents agreed by consensus, including core UN human rights treaties, the founding documents of the UN such as the Universal Declaration of Human Rights (UDHR), and major meeting outcomes such as the Beijing Declaration and Platform for Action and the Programme of Action of the International Conference on Population Development.

PROTECTING WOMEN'S HEALTH

3. At the 1994 International Conference on Population and Development (ICPD), nations pledged "to enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant."² This commitment is echoed in the GCD, alongside reaffirmations of the importance of women's equal rights and their contributions to society, both in terms of education, employment, and civic engagement and through the family. The unique and essential role of women as mothers was recognized in the Beijing Declaration and Platform for Action adopted at the 1995 UN Fourth World Conference on Women.³ Both of these landmark conferences, as well as the subsequent Millennium Development Goals and Sustainable Development Goals, include commitments to reduce maternal and child mortality, and while significant progress has been made around the world, critical gaps remain, especially for those in the poorest, most remote, and resource-deprived areas.
4. According to the Maternal Mortality Estimation Inter-Agency Group (MMEIG), Senegal has seen a reduction in its maternal mortality ratio from 553 to 315 deaths per 100,000 live births between 2000 and 2017.⁴ This is comparable to many other countries in the African region, although Senegal is notable for having a high density of nurses and midwives, estimated at almost 23 per 1,000 people, while other countries have only 1-5 per 1,000.⁵ One major factor influencing maternal mortality and morbidity is nutrition; according to the Global Nutrition Report, Senegal has seen improvements in reducing undernourishment, but progress toward nutrition targets is off course based on the most recent available data. In particular, more than half of pregnant women in Senegal are anemic, which is a major risk factor for maternal hemorrhage.⁶ Nutritional outcomes are also linked to education and income; improving maternal and child health will require investment in bringing families out of poverty and ensuring women and girls are educated and literate.⁷

5. Women's literacy in Senegal continues to lag behind men's: according to World Bank data, only 45.4% of women over 15 are literate, compared with 68.4% of men.⁸ Girls drop out of school earlier and at higher rates than boys, and one of the barriers limiting girls' educational attainment is lack of access to menstrual hygiene products.⁹ Women's literacy has been linked with improved maternal health outcomes across several different indicators in Senegal.¹⁰
6. In Senegal, abortion is prohibited altogether according to the Penal Code,¹¹ but the Code of Medical Ethics allows for abortion if three doctors agree it is necessary to save the mother's life.¹²
7. Senegal has seen improvements in maternal health in recent decades, but remains off track for meeting its target under the Sustainable Development Goals.¹³ Nevertheless, these gains have been made without liberalizing the country's abortion law, despite pressure to do so. In keeping with Senegal's affirmation of the Geneva Consensus Declaration, continuing to strengthen health systems, ensure adequate nutrition for pregnant women and mothers, improving hygiene including menstrual hygiene for women and girls, and increasing girls' access to secure and high-quality education and literacy will continue to reduce preventable maternal mortality, while also continuing to use its laws to protect the lives of the unborn.

PROTECTING HUMAN LIFE

8. Abortion is a highly controversial issue in Senegal, and while there is public support for efforts to treat the complications resulting from abortions, including illegal or clandestine procedures, the provision of post-abortion care (PAC) is complicated by the fact that some of the tools for providing this care are also used to induce abortions.¹⁴ This tension is further exacerbated by the fact that international PAC advocates have expressed the intention to shift to a model of providing "comprehensive abortion care" (CAC), and acknowledged that PAC was an "entry point" for abortion advocacy in countries with strong pro-life laws. Providing care for women injured by abortion is in keeping with the 1994 International Conference on Population and Development (ICPD), which urged countries to take steps to mitigate the harmful effects of abortion on women while at the same time asserting that "any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process."¹⁵
9. In its previous UPR sessions, Senegal has received four recommendations directly related to abortion: in its third UPR, Iceland, the Netherlands, Slovenia, and Sweden recommended that Senegal decriminalize abortion and add expanded grounds for cases of rape or incest. These recommendations were marked as "noted" rather than "supported" by Senegal, which is in keeping with international agreements including ICPD, as noted in the Geneva Consensus Declaration.
10. While abortion advocates point to Senegal's abortion law as being derived from its colonial past, it would be erroneous to assume that prior to colonization, the people of

Senegal regarded abortion as tantamount to a right or an integral component of medicine. Furthermore, in the decades since its independence, the people of Senegal have not chosen to drastically change the provisions of their penal code with regard to abortion apart from creating very narrow exceptions in the Code of Medical Ethics.

11. No global human rights treaty ratified by Senegal asserts a human right to abortion, or could reasonably be interpreted as including such a right.¹⁶ Furthermore, to the extent that Senegal's current law on abortion derives from its colonial past, for Senegal to maintain its current laws or pass laws further enhancing protections for the unborn would be consistent with the principle of self-determination as well as national sovereignty.

SUPPORT FOR THE FAMILY

12. The GCD reaffirms the obligations of States in regard to the family enshrined in international law, including the definition of the family as “the natural and fundamental group unit of society” and recognition that it is “entitled to protection by society and the State.” Signatories to the GCD further committed to “support the role of the family as foundational to society and as a source of health, support, and care.”¹⁷
13. The Constitution of Senegal states that “[m]arriage and the family constitute the natural and moral base of the human community. They are placed under the protection of the State.” This clearly ties the founding of a family to marriage, and a later states that “[t]he woman has the right of having her own patrimony[,] as [does] her husband. She has the right to the personal management of her assets.” This implies an understanding that marriage is between a man and a woman. The Constitution of Senegal also prohibits forced marriage.¹⁸ In Senegalese law, there is no recognition of same-sex relationships, and sexual acts between persons of the same sex have been illegal since 1966. These laws are supported by a wide margin of the public in Senegal, including its current government. Further legislation to increase penalties for homosexual acts has been proposed, but not adopted; those proposing the bill to further restrict acts already criminalized cited the pressure coming from Western countries that “wants to impose itself on all citizens of the world.”¹⁹
14. In Senegal's previous Universal Periodic Reviews, it has received numerous recommendations to decriminalize homosexuality and create novel categories of nondiscrimination on the grounds of sexual orientation and gender identity. All of these have been marked as “noted” rather than “supported.”²⁰ This position of Senegal reflects the fact that these issues are not subjects on which global consensus exists; nor are they included as rights in any binding international legal instrument to which Senegal is a party. As summarized in the Family Articles, a project of the coalition Civil Society for the Family, the right to found a family is based on the union of a man and a woman, and “Relations between individuals of the same sex and other social and legal arrangements that are neither equivalent nor analogous to the family are not entitled to the protections singularly reserved for the family in international law and policy.”²¹

NATIONAL SOVEREIGNTY

15. As stated in the GCD, with regard to the legal status of abortion and the protection of the unborn, it is a matter of longstanding consensus that “each nation has the sovereign right to implement programs and activities consistent with their laws and policies.” However, opposition to this sovereign right of countries has become increasingly commonplace in those parts of the United Nations system governed more by expert opinion or bureaucratic oversight than by the standard of negotiated consensus. There is no global mandate to pressure countries to liberalize their abortion laws or expand the categories for non-discrimination as a matter of international human rights law with regard to, for example, sexual orientation or gender identity, and to the extent that mandate-holders engage in such behavior, they do so *ultra vires*.
16. Nevertheless, the frequency of such pressure has only increased toward countries whose laws restrict abortion in order to protect the unborn, or which maintain a traditional view of marriage and the family, in line with the human rights obligations expressed in the binding treaties they have ratified. Such nonbinding opinions have been further elevated in many parts of the UN, although they have never been accepted nor adopted by consensus in the General Assembly.
17. The GCD, by anchoring its every assertion in a document adopted by consensus, reaffirms the centrality of the family, the rights of women and children and the fact that these rights are not upheld by abortion, and the importance of national sovereignty, especially in those places where global consensus does not exist.
18. Unlike other UN human rights mechanisms, the UPR provides a space for sovereign nations to speak to each other and provide encouragement to fulfill their human rights obligations. To the extent that this venue has been used to exert further pressure on countries to liberalize their abortion laws or redefine the family as a matter of national law and policy, it is important that global consensus on these matters be upheld and promoted in the UPR as well, particularly by those countries that have already taken a stand in this regard by signing the GCD.

CONCLUDING RECOMMENDATIONS

19. We encourage Senegal to continue protecting the natural family and marriage, formed by a husband and a wife, as the fundamental unit of society.
20. Senegal should continue to improve maternal and child health outcomes, including by ensuring adequate nutrition for pregnant women and affordable maternal health care, as well as improving access to hygiene, sanitation, and adequate nutrition, particularly for pregnant women and mothers, with special attention to those in rural and remote areas and for those in low-resource settings. In accordance with Senegal’s commitments in the Geneva Consensus Declaration, this does not require the inclusion of abortion.
21. Senegal should continue to ensure that women and girls have access to secure and high-quality education, including secondary education, and improve women’s literacy.

22. Senegal should continue to assert the fact that abortion is not a human right in the context of multilateral negotiations, as well as in the Universal Periodic Review, in accordance with the Geneva Consensus Declaration, and call on its fellow signatories to do likewise.

¹ Geneva Consensus Declaration on Promoting Women’s Health and Strengthening the Family, 2020. Available at <https://undocs.org/en/A/75/626>

² United Nations International Conference on Population and Development. (1994). “Programme of Action of the International Conference on Population Development,” Cairo.

³ United Nations Fourth World Conference on Women. (1995). “Beijing Declaration and Platform for Action” (Annex II, Paragraph 29). Beijing.

⁴ World Health Organization, UNICEF, UNFPA, World Bank Group, and United Nations Population Division. Maternal mortality in 2000-2017: Senegal. Available at https://cdn.who.int/media/docs/default-source/gho-documents/maternal-health-countries/maternal_health_sen_en.pdf

⁵ Integrated African Health Observatory, World Health Organization African Region. “Maternal mortality: The urgency of a systemic and multisectoral approach in mitigating maternal deaths in Africa.” Analytical Fact Sheet, March 2023. Available at https://files.aho.afro.who.int/afahobckpcontainer/production/files/iAHO_Maternal_Mortality_Regional_Factsheet.pdf

⁶ Global Nutrition Report. Country Nutrition Profiles: Senegal. Available at <https://globalnutritionreport.org/resources/nutrition-profiles/africa/western-africa/senegal/>

⁷ Oh, K., Kang, S., Cho, H., & Faye, D. (2019). Factors influencing nutritional practices among mothers in Dakar, Senegal. PLOS ONE, 14(2), e0211787. <https://doi.org/10.1371/journal.pone.0211787>

⁸ The World Bank, Gender Data Portal: Senegal. Available at <https://genderdata.worldbank.org/countries/senegal/>

⁹ United Nations Volunteers. “Breaking barriers to girls' education.” February 1, 2023. Available at <https://www.unv.org/news/breaking-barriers-girls-education>

¹⁰ Diallo, M. A., Mbaye, N., & Aidara, I. (2023). Effect of women's literacy on maternal and child health: Evidence from demographic Health Survey data in Senegal. The International Journal of Health Planning and Management, 38(3), 773-789. <https://doi.org/10.1002/hpm.3624>

¹¹ Sénégal: Code pénal [Senegal], Loi de base No. 65-60, 21 July 1965, available at: <https://www.refworld.org/docid/49f5d8262.html>

¹² Sénégal. Décret n° 67-147 du 10 février 1967 instituant le Code de déontologie médicale. Available at <https://abortion-policies.srhr.org/documents/countries/09-Senegal-Code-of-Medical-Ethics-1967.pdf>

¹³ <https://dashboards.sdgindex.org/profiles/senegal/indicators>

¹⁴ Suh, S. (2019), "Post-abortion Care in Senegal: A Promising Terrain for Medical Sociology Research on Global Abortion Politics", Reproduction, Health, and Medicine (Advances in Medical Sociology, Vol. 20), Emerald Publishing Limited, Bingley, pp. 19-43. <https://doi.org/10.1108/S1057-629020190000020007>

¹⁵ United Nations International Conference on Population and Development, *ibid.*

¹⁶ See the San Jose Articles, 2011, available at www.sanjosearticles.com

¹⁷ Geneva Consensus Declaration, *ibid.*

¹⁸ Senegal’s Constitution of 2001, amended 2018. Available at https://www.constituteproject.org/constitution/Senegal_2016

¹⁹ Boko, Mawunyo Hermann. “Senegal: Why the opposition wants to toughen the law against homosexuality.” The Africa Report, December 29, 2021. Available at <https://www.theafricareport.com/161739/senegal-why-the-opposition-wants-to-toughen-the-law-against-homosexuality/>

²⁰ United Nations: Office of the High Commissioner for Human Rights. Universal Periodic Review documentation: Senegal. <https://www.ohchr.org/en/hr-bodies/upr/sn-index>

²¹ Civil Society for the Family. The Family Articles. Available at <https://civilsocietyforthefamily.org/>