



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.: General
13 November 2012

Original: English

Committee against Torture
Forty-ninth session

Summary record of the 1109th meeting

Held at the Palais Wilson, Geneva, on Wednesday, 7 November 2012, at 3 p.m.

Chairperson: Mr. Grossman

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The meeting was called to order at 3 p.m.

Consideration of reports submitted by States parties under article 19 of the Convention (*continued*)

Third periodic report of Senegal (continued) (CAT/C/SEN/3; CAT/C/SEN/Q/3 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Senegal took places at the Committee table.*
2. **Mr. Seck** (Senegal), referring to the situation of the Diola ethnic group in his country, said that it comprised approximately 3 per cent of the national population and lived mainly in the south, along with other ethnic groups. Friendly relations between ethnic groups and religions were a key characteristic of Senegalese society, and the questions of privileged status and positive or negative discrimination simply did not arise.
3. **Mr. Baal** (Senegal) said that conditions of detention must conform to standards established in article 55 et seq. of the Code of Criminal Procedure. When police custody was extended, with the authorization of the public prosecutor, the detainee was informed of his or her right to see a doctor and a lawyer. If a medical consultation was requested by the detainee rather than the prosecutor's office, he or she was responsible for paying the fee in advance and the payment was recorded.
4. There were 364 lawyers in total in Senegal and there was no formal distinction between those who worked on civil cases and those who worked on criminal cases. All lawyers received training in all areas of law.
5. The practice of *retour de parquet* was an irregular one that had been put into effect owing to a lack of financial and human resources. It did not involve any additional investigation and was simply intended to help the authorities process cases quickly. The authorities were working to eliminate the practice by recruiting additional staff and reorganizing the investigating offices and the public prosecutor's office.
6. New prisons had been built since Senegal had gained independence, the current total being 37. Financing was currently being sought to build a large prison near Dakar, as well as six smaller regional prisons. Disciplinary cells existed in all prisons but were used rarely and only in serious cases; no one was currently being held in a disciplinary cell. One suicide had been committed in prison in the previous five years; as a result, deterrents — the means of suicide employed — had been removed from toilets and other areas in prisons.
7. Legislation provided for the separation of men and women in detention and did not permit any communication between them. Other categories of detainees were also held separately, including minors, accused persons, pretrial detainees and convicted prisoners. In June 2012, there had been 3,351 persons in pretrial detention.
8. Although there were no regulations on the matter, judges systematically rejected evidence obtained through torture; it was therefore not admissible in court.
9. **Ms. Diouf** (Senegal) said that her country had ratified the Convention on the Rights of Persons with Disabilities in 2009 and adopted framework legislation on the protection of the rights of persons with disabilities in 2010. A number of new mechanisms had also been established, including a national social protection strategy for vulnerable groups and a programme enabling vulnerable groups to access microcredit. Two new departments had been established within the Ministry of Health and Social Action: one to support persons with disabilities and one to support vulnerable groups. The aim of the initiatives was to give vulnerable groups a level of independence and to protect them from trafficking and torture.

The introduction of an equal opportunities card was also being considered, with the aim of helping persons with disabilities access education, health care, training and employment.

10. A number of procedures, including a cash transfer scheme, had been developed to help children access basic social services. The education on family life project in Koranic schools was helping to improve the lives of children and included the distribution of food and hygiene products to pupils.

11. **Mr. Thiandoum** (Senegal) said that any official implicated in torture was prosecuted, regardless of any disciplinary measures imposed. Providing updates on a number of cases of allegations of torture, he said that five persons accused of being responsible for the ill-treatment and subsequent death of Dominique Lopy in police custody had been subjected to disciplinary measures. In the case concerning Alioune Badara Diop, who had died in custody, a conviction had been handed down for arbitrary arrest rather than torture, and CFAF 500,000 in damages had been paid to the victim's beneficiaries.

12. Regarding the two journalists, Campbell Dieng and Karamoko Thioune, who had been beaten following a football match, the defendants had been acquitted of the offences of interference with freedom of work and torture. One person had been found guilty of assault and sentenced to a 1-month suspended prison term. Damages had been awarded to Campbell Dieng.

13. Investigations were ongoing in the cases of Abdoulaye Wade Yinghou and Yatma Fall. In the latter case the police superintendent in Saint-Louis had been summoned to appear before the local indictment division. An autopsy had been performed on Modou Bakhom and an inquiry into his death was ongoing. An investigation had concluded that Aladji Konaté, whose body had been found handcuffed in a river, had drowned. The two gendarmerie officers responsible for assaulting Malick Bâ and his subsequent death were currently standing trial; no sentence had yet been handed down.

14. **Mr. Seye** (Senegal) said that, despite the violence that had occurred during the presidential elections in 2012, the vote had reflected the will of the people. The authorities were carrying out investigations and identifying those responsible for the violence. He assured the Committee that all cases would be investigated and those deemed responsible brought to justice.

15. **Mr. Baal** (Senegal) said that the National Centre for Monitoring Places of Detention was in the process of being established and currently possessed an office with computers and fixed telephone lines, which could be used to call national and international numbers at the expense of the State. A judge had been appointed to head the Centre and there had been no State intervention in staff appointments.

16. **Mr. Niang** (Senegal) said that the law enforcement agencies were considered to comprise the armed forces, the gendarmerie and the police. All of their personnel received human rights training. Specialists from the University of Dakar's Human Rights and Peace Institute and representatives of civil society groups provided training in the form of lectures and informal discussions. The training for gendarmerie officers was of 30 hours' duration and included courses on international humanitarian law and ethics; non-commissioned officers followed a 14-hour course. A manual on human rights training for the armed forces had been commissioned by the Ministry of the Armed Forces and was near completion.

17. A course on the rights of the child, developed in cooperation with the International Bureau for Children's Rights, was due to be introduced in the next academic year. It was intended that all training courses would be evaluated in terms of their effectiveness in preventing torture. Allegations of torture by law enforcement officials were rare in Senegal, thanks to those officials' exemplary conduct, both in Senegal and abroad.

18. **Mr. Thiam** (Senegal) said that the constitutionality of laws could be challenged in two ways: through a constitutional challenge (not involving an individual citizen) or through an application for judicial review by an interested party. In the latter case, the court referred the matter to the Constitutional Council, which ruled on whether or not the law in question was in conformity with the Constitution. If ruled unconstitutional, the law was not repealed but rather its application was discontinued. A law that had thus been suspended continued to exist and could be applied in other cases by the high courts if it was not challenged. In addition, the President or members of Parliament could challenge a law's constitutionality before it was promulgated. The Constitutional Council had rendered a number of decisions on the constitutionality of laws, including two cases in which it had simply determined the conditions in which referral of a law could be effected.

19. A 2001 decision had ruled that a provision of a headquarters agreement granting immunity from jurisdiction and execution to the Central Bank of West African States was in conformity with the Constitution.

20. **Ms. Diouf** (Senegal) said that her country had developed a new, decentralized prevention strategy for child trafficking. Specialized centres for vulnerable children had been established. They were equipped with a toll-free hotline and made it possible to reintegrate trafficked children. During the period 2010–2011, 2,293 talibé children had been taken off the streets.

21. Sentences were imposed for trafficking; a Koranic teacher had been sentenced in 2010 to 1 year's imprisonment for ill-treating two talibé children, while another 13 people in Dakar had been arrested, prosecuted, sentenced to imprisonment and fined for the offence of economic exploitation of children through begging.

22. Forced marriage constituted a violation of individual freedom and was prohibited and punishable by law. Although statistics were not available, good practices in her country included a school enrolment programme for children carried out by the Forum for African Women Educationalists, in partnership with school heads and teachers. That had significantly reduced forced marriage rates. Her delegation had taken note of the Committee's recommendation that studies and statistics were needed in that area.

23. Corporal punishment, even by parents or teachers, was prohibited throughout Senegal. Teachers who inflicted corporal punishment were liable to prosecution and to pay damages to victims. Under the Family Code, a person with paternal authority was permitted to reprimand a child in a manner commensurate with the child's age and conduct; any excessive punishment was covered by criminal law.

24. Since the introduction of new legislation in 1999, cases of female genital mutilation (FGM) persisted, particularly in high-prevalence zones. The Government imposed penalties for such acts, and had taken additional measures. An assessment of the enforcement of the new legislation had been conducted in 2011. Two national plans of action had been implemented, the first in 2005. Senegal had acted on the recommendations of the United Nations and adopted a holistic cross-border approach to raising awareness of the problem, which also affected neighbouring countries, at various levels. A conference on FGM attended by 28 African countries had been held in Dakar in 2010.

25. As a result of action taken in that regard, 89 per cent of the 5,000 communities surveyed in 1997 had made public declarations that they would cease to practise FGM, as compared with the 71 per cent which had made such declarations in 2010. Technical monitoring committees had been established in high-prevalence zones in order to continue to communicate with the people concerned and try to modify their behaviour, while FGM practitioners were being retrained so that they could take up alternative professions.

26. Although statistics on violence against women and girls were not available, a study had been carried out in 2008 to analyse the various types and prevalence of violence and the different contexts in which it occurred. It also covered the remedies and resources available to victims, including legal, health, police and social mediation services. Positive amendments had been made to Act No. 99/05 of 29 January 1999, providing for more severe sentencing in cases of rape, FGM, assault and incest. The amendments had also established sexual harassment as an offence.

27. The Ministry of Justice had established a national think-tank on violence against women in 2008; the think-tank had made a number of recommendations that would be taken into consideration in the criminal reform process. Among the measures to be taken, women's defence associations would be allowed to bring civil actions and the prosecution of offences against women would not be time-barred.

28. **Mr. Thiandoum** (Senegal) said that the national commission on the eligibility of refugees, in which all competent ministries were represented, received applications on a weekly basis. To date, 14,000 applications had been accepted and 12,000 Mauritanian refugees had decided to remain in Senegal. A biometric digital ID card had been developed with the help of UNHCR; 12,000 cards had been distributed. Asylum seekers whose applications had been rejected could appeal to the commission for a review; the President of the Republic could grant refugee status even if an application had been rejected by the commission. Asylum seekers were treated as refugees, as were their family members. Major innovations involving refugees included the creation of a new body that would deal with asylum applications, repatriation cases, internally displaced persons and stateless persons; that would help to ensure maximum guarantees. Another major innovation was the establishment of a formal appeals procedure for rejected asylum seekers.

29. Foreigners in Senegal had the right to stay for 90 days as tourists. Those who wished to remain beyond that period were required to apply for a permit from the Ministry of Interior through the Police des Etrangers (Foreigners Police). During the application process, which normally took 15 to 30 days, those persons were treated as regular migrants and were not mistreated or persecuted in any way. The Malians mentioned the previous day belonged to that category of migrant. No systematic process was in place to identify irregular migrants; they were only identified if they fell foul of the law. The Ministry of Foreign Affairs systematically notified detentions of foreigners to the consulates concerned.

30. A preliminary bill had been drafted amending Act No. 61/10 of 7 March 1961 to enable a Senegalese father or mother to pass on his or her nationality to their child.

31. **Mr. Baal** (Senegal) said that since the elections in March 2012, the new President had made action to combat impunity a major priority. He had stated publicly to the international community that proceedings against Hissène Habré would begin before the end of 2012. Belgium's latest request for the extradition of Mr. Habré would be considered and decided by the Senegalese judiciary, not the Government authorities.

32. The working group established by the Minister of Justice in May 2012 to consider all mechanisms for bringing the case to trial as soon as possible met weekly and had made rapid progress. It had been agreed to create an extraordinary African chamber within the jurisdiction of Senegal. The African Union had facilitated the negotiation of a cooperation agreement with Chad, which had been adopted by Senegal and transmitted to that country. Once Chad had signed the agreement, the investigation would begin and a trial judge would be appointed. A budget had been agreed for the case. The proceedings would consist of an investigation phase, lasting for a maximum of 15 months, followed by a trial, scheduled to start within 7 months of the investigation. It was hoped that a verdict would be reached within five months of the start of the trial. Important steps had been taken to try the perpetrators of serious humanitarian crimes.

33. **Mr. Seye** (Senegal) invited the Committee to refer to the written replies provided by the delegation, which indicated that the careers of judges were governed by the Supreme Council of Justice. Senegal had ratified the Convention on the Rights of the Child. It also abided by the Riyadh Guidelines concerning justice for minors and had specialized juvenile courts.

34. Detainees who were subjected to torture could lodge a complaint through a lawyer or bring a criminal indemnity action. Anyone in the correctional services who was informed of such a case was required to report it and ensure that the victim received medical care.

35. With regard to the questions raised concerning homosexuality, he invited the Committee to refer to the delegation's written replies.

36. **Mr. Niang** (Senegal), referring to the situation in Casamance, said that any gendarmes, police officers and military and paramilitary personnel accused of a criminal offence were systematically prosecuted. Disciplinary measures had also been taken against all officers who had been accused of an offence.

37. **Mr. Thiam** (Senegal) said that his delegation had taken due note of the reminder to abide by the deadlines for submission of periodic reports. He emphasized that the number of treaty body reports pending submission had been significantly reduced and efforts would continue to further reduce their number.

38. Diplomatic assurances had not been given or received by his country in any case involving the expulsion of foreigners to or from Senegal. However, such assurances could be given to a country whose nationals were subject to an expulsion order and it was hoped that other countries would be prepared to give assurances to Senegal should there be a need to do so.

39. Lastly, Senegal had ratified the International Labour Organization (ILO) Convention concerning Minimum Age for Admission to Employment (No. 138) on 15 December 1999, in addition to the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182).

40. **Mr. Mariño Menéndez** (Country Rapporteur) said that the delegation's presentations and responses had been comprehensive, rigorous and dignified. He emphasized that the availability of statistics pertaining to implementation of the Convention would give the Committee a better understanding of the situation in the country and so improve the quality of its recommendations.

41. Considerable progress had apparently been made in the case of Hissène Habré, which had acquired a significant international dimension. The agreements concerning the special chamber for the trial of that case would also afford scope for the prosecution by the international community of a number of other key figures alleged to have committed international crimes in Chad; that represented commendable progress.

42. He asked whether prison sentences continued to be imposed for failure to pay debts in Senegal. He requested clarification of the role and competence of judges who oversaw the serving of prison sentences. Did they investigate, prevent or punish illegal acts? It would also be helpful to have more details about the real status, role and functioning of the local courts (*maisons de justice*), which appeared to resort to mediation in low-level social conflicts.

43. With regard to asylum policy under article 3 of the Convention, he would like to know whether foreigners convicted of an offence who had served their sentence remained in detention pending expulsion for an indeterminate period, and if so under what conditions. He asked whether Senegal had specific laws on the treatment of unaccompanied foreign minors in view of their vulnerability. He also wished to know whether refugees or persons

granted asylum in Senegal had the right to family reunification. Would asylum seekers be able to appeal negative decisions by the new administrative body that would rule on asylum, statelessness and internally displaced persons, and if so where would such appeals be lodged?

44. The investigations into the allegations of torture of Dominique Lopy and Alioune Badara Diop appeared to have continued for five years. He invited the delegation to indicate whether proceedings in other, more recent cases would last a similar length of time, noting that the physical signs of torture that constituted evidence in such cases tended to disappear with time.

45. He asked for further clarification of the role of the Senegalese Committee for Human Rights and how it differed from that of the National Centre for Monitoring Places of Detention. In addition, he wished to know how they were linked to the national preventive mechanism established under the Optional Protocol to the Convention against Torture.

46. The State party had been among the first to ratify the Convention and cooperated well with the Committee. The status of the case of Hissène Habré attested to the fact that justice was being implemented and the President was paying greater attention to action to combat impunity for torture. In that context, however, it was striking that the prosecution of a number of judicial police officers on charges of torture was considered a taboo subject and was not mentioned in public; indeed, it would appear that the proceedings were secret. He asked why such cases should be shrouded in secrecy.

47. **The Chairperson** (Country Rapporteur) said that he wished to highlight the importance of the request made by President Sall to the Gambia not to execute nine death-row prisoners and his explicit condemnation of those executions as contrary to the right not to be subjected to torture or other cruel, inhuman or degrading treatment.

48. The State party's oral and written replies indicated clearly that it had harmonized its laws and upgraded its policies to bring its practices in line with the Convention. With regard to the establishment of deadlines and the allocation of resources for the State's various holistic and multifaceted initiatives in the area of torture, he asked whether the academic world and civil society were involved and what results were anticipated from those initiatives.

49. The statistics requested by the Committee were helpful for its recommendations. At the same time, they enabled the State party to develop public policies and to assess the effectiveness of the measures it had taken.

50. The delegation had indicated in connection with the alleged cases of torture in which five people had lost their lives that investigations were still under way, but that one case had gone to trial in January 2012 and a sentence had been handed down. However, that sentence had been short and did not mention torture. In the Committee's experience, the perpetrators of torture couched in other terms — such as abuse of power — tended to receive lower sentences. However, under the Convention, sentences should be commensurate with the offence of torture. The fact that the case was not isolated and that a number of people had died raised the question whether the criminal law was being misused. In addition, it would be helpful for the Committee to know whether some or all victims of torture or their relatives had received redress, again in accordance with the principle of proportionality enshrined in the Convention.

51. Bearing in mind the case of Aladji Konaté, who had allegedly drowned while escaping from prison, he asked which authority had jurisdiction over allegations of torture by members of the armed forces. The case stretched credulity. Had there been an

investigation into that incident? Had the alert been raised immediately when the person concerned had escaped? Had anyone been called to account for a breach of prison security?

52. At times, the State party had attributed shortcomings in the implementation of the Convention to the dearth of judicial officials. The number of lawyers per capita in the State party was the lowest in the world; its interest in training greater numbers of lawyers and judicial officials was therefore evident. What concrete plans did the State party have in that area?

53. **Mr. Bruni** said that he failed to understand why the State party intended to consider the request from Belgium to extradite Hissène Habré, given that it had clearly stated that it planned to put on trial all the alleged perpetrators of atrocities committed in Chad between 1982 and 1990.

54. **Ms. Belmir** requested additional information on the role of the Executive in the appointment of judges, particularly as the Minister of Justice could deputize for the President as Chair of the Judicial Service Commission, which was in charge of appointing judges.

55. She asked whether the State party was in a position to provide Koranic education to talibé children in order to put a stop to their exploitation by some of the marabouts who ran daaras.

56. **Mr. Domah** asked whether the reports and recommendations of the Centre for Monitoring Places of Detention were given serious consideration in the State party. Given that judges had been appointed to chair many of the Centre's subordinate bodies, he requested additional information on the status, independence and credibility of judges and their ability to undertake that task. It would be useful to have information demonstrating the independence of the judiciary. He drew the delegation's attention to the need to provide the Committee with specific information on the legal, administrative and judicial measures that were being taken to prevent torture; it was not enough to describe measures taken to promote human rights in general. He also requested data on cases in which the courts had applied the legislation prohibiting the use as evidence of statements made as a result of torture.

57. **Ms. Gaer** requested additional information on any plans to put the Istanbul Protocol into practice in the State party. It would be useful to hear how the State party was monitoring changes in practice since FGM had been criminalized. She asked whether the authorities had responded to the call made by NGOs on 8 August 2011 for an end to gang rape and impunity for such crimes.

58. Given the delegation's statement that Yatma Fall might be demoted if he was found guilty of torture, she wished to know what provision was in place to punish individual gendarmes or police officers who committed acts of torture. Were such individuals ever dismissed from their posts? The Convention aimed to criminalize torture and thus prevent such acts. However, the cases to which the delegation had referred suggested that police officers who were found guilty of acts of torture faced little or no change in their professional status. She would welcome the delegation's comments in that regard.

59. **The Chairperson** asked when the new large prison being built near Dakar would open. The Committee welcomed the news that the State party would put on trial all the alleged perpetrators of atrocities committed in Chad between 1982 and 1990.

60. **Mr. Baal** (Senegal) said that his Government had signed an agreement with the African Union to establish a special court in the Senegalese justice system to try the main perpetrator or perpetrators of the serious violations of international law committed in Chad from 1982 to 1990. The extraordinary African chambers would be created within the existing Senegalese court structure in Dakar. To date, the only perpetrator of those crimes

who had been identified was Hissène Habré, but that did not exclude the possibility that others could be identified and tried. The three previous requests to extradite Mr. Habré had been rejected as they had not been supported by the requisite documentation. The fourth such request had been received and was currently being examined.

61. During the speaker's 26 years as a judge, the Minister of Justice had never chaired a session of the Judicial Service Commission at which it had appointed or discussed appointing a judge. There was therefore no risk of interference by the Executive in the appointment of judges.

62. **Mr. Thiam** (Senegal) said that once they had examined the fourth request from Belgium to extradite Hissène Habré, the judges of the Indictment Division of the Court of Appeal would inform the President of their recommendation. Even if the Court of Appeal decided in favour of extradition, it was up to the President to decide whether to sign the extradition request. Given that the current President had declared that he wanted proceedings against Mr. Habré to begin in Senegal in 2012, it was highly unlikely that he would sign the request.

63. **Mr. Niang** (Senegal) said that Aladji Konaté had not escaped from prison. He had been arrested by gendarmerie officers and had fled from the patrol vehicle in which he had been travelling. He had been handcuffed on arrest, and as a result, when he had plunged into a river while escaping, he had been unable to swim and had drowned.

64. **The Chairperson** asked what action had been taken against the gendarmes who had been in charge of the detainee.

65. **Mr. Niang** (Senegal) said that the gendarmes involved had been disciplined and an investigation was under way. Any police or gendarmerie officer who was found to have committed an act of torture was brought before an ordinary court presided over by a civil judge, assisted by two military or paramilitary advisers.

66. **Mr. Thiandoum** (Senegal) said that foreigners seeking refugee status could appeal if their applications were rejected. A bill had been prepared to establish an administrative body that would provide legal protection for refugees. Under the bill, children accompanying applicants for refugee status and asylum seekers or children who joined their parents at a later date had the right to stay or be reunited with their families.

67. The five cases of death in custody to which reference had been made had been brought before the courts. Decisions had been handed down in some cases, but others were ongoing. Yatma Fall would be demoted if the court found him guilty of breaching his professional code of conduct; in that case he would be stripped of his right to work as a criminal investigation officer.

68. **Ms. Diouf** (Senegal) said that some of the persons convicted for the exploitation of children had received prison sentences, others had been fined and a third group had received both penalties. On 29 June 2010, the Koranic schoolteacher Souleymane Ndiaye had been sentenced to 1 year's imprisonment for mistreating two of his students. In such cases, even if the child's parents failed to bring a complaint, civil society organizations could do so on behalf of the child. In September 2010, 13 individuals had been prosecuted for forcing children to beg. Twelve of them had been sentenced to 6 months' imprisonment and fined CFAF 100,000 each and the other had received 1 month's imprisonment and the same fine.

69. The Government was currently focusing on consolidating the significant progress it had made in curbing FGM. The Ministry of Justice was organizing awareness-raising sessions in that regard and the aim was to eradicate the practice completely by 2015. Non-State actors were involved in efforts to reach all communities. Senegal had been sharing the lessons it had learned about FGM prevention with other countries in the region.

70. **Ms. Lo** (Senegal) said that the Government, in cooperation with the Islamic Development Bank, had embarked on a huge project to modernize the Koranic schools. The aim was to provide children with high-quality religious education and with the skills embodied in the school curriculum. Several new Koranic schools had been set up and an inspection system had been introduced. Under a framework agreement between the Koranic schools and the Ministry of Education, the schools had given an undertaking to stop all forms of begging by their pupils. Many other steps had been taken, including revising the curriculum, refurbishing school buildings, installing new equipment and providing school meals.

71. **Mr. Seye** (Senegal) said that no one was imprisoned in Senegal because they were in debt. However, there had been convictions for damage linked to debts. Since the cases connected with the elections and the pre-election period were currently under judicial investigation, he was not at liberty to provide information on them.

72. There was indeed a need for more lawyers in his country and measures were being taken in that regard. The maisons de justice had been created in 1999. There were currently 11 such courts, which used conciliation and mediation to resolve problems and tried to raise citizens' awareness of their rights and responsibilities.

73. **Mr. Haidara** (Senegal) said that the Senegalese Committee for Human Rights and the Centre for Monitoring Places of Detention had completely separate mandates. The Committee for Human Rights raised awareness about human rights and issued opinions and recommendations on that subject. It had accepted the Paris Principles in 1993 and had published a handbook on human rights education.

74. **Mr. Thiaw** (Senegal) added that his Government had co-sponsored several resolutions on human rights education and training in the Human Rights Council. It was committed to the international abolition of the death penalty.

75. **Mr. Seck** (Senegal) thanked the Committee for the frank and fruitful dialogue it had held with his delegation.

The meeting rose at 5.50 p.m.