



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

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Committee against Torture

Forty-ninth session

Summary record of the first part (public)* of the 1106th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 6 November 2012, at 10 a.m.

Chairperson: Mr. Grossman

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* No summary record was prepared for the second part (closed) of the meeting.

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The meeting was called to order at 10 a.m.

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

Combined third to sixth periodic reports of Senegal (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) said that the Government that had taken office following the March 2012 elections had launched the requisite investigations to determine those responsible for the acts of violence that had marred the electoral process. In an effort to fight impunity and establish its authority to prosecute perpetrators of international crimes committed in Chad between 1982 and 1990, Senegal had signed an agreement in August 2012 to set up extraordinary African chambers in Senegalese courts. Funding had been approved by the African Union, Senegal and funders and it was planned to establish a funding mechanism to cover the costs of the trial of Mr. Hissène Habré.
3. The National Observatory of Places of Detention, whose mission was to conduct unannounced visits to all places of detention in Senegal and all health facilities that received patients hospitalized without their consent, had been established in 2009. The Observatory was also responsible for advising and making recommendations to the authorities and submitting proposals to the Government regarding amendments to relevant legal provisions and regulations. As to sentence enforcement, Senegal had taken alternative measures to deprivation of liberty, helping to alleviate overcrowding in prisons.
4. Concerning redress for harm suffered by victims of acts of torture, persons convicted of such acts were fined and the State could be sued for the fault of its public services. The death penalty had been officially abolished in 2004. In 2005, Senegal had set up a unit to combat trafficking in persons. In 2008, it had established the Observatory of Equality, which prioritized the fight against gender violence. Senegalese Koranic schools were being modernized. Thanks to greater attention to combating female genital mutilation, the practice had declined and, according to 2001 figures, was decried by 89.04 per cent of the population.
5. **Mr. Mariño Menéndez** (Country Rapporteur) welcomed the considerable progress made in Senegal in terms of human rights, such as the abolishment of the death penalty and measures for gender equality. He considered that the definition of torture contained in the Criminal Code could be improved because its conciseness left the courts too much room for interpretation. It would be simpler and more useful if criminal legislation reproduced the definition contained in the Convention against Torture. He asked the delegation to indicate whether persons placed in detention had the right to legal counsel during the first 48 hours of police custody, whether the accused's lawyer was present during questioning and whether an audio or video recording was made in addition to the statement taken. Additional information on steps taken to ensure that there were enough criminal lawyers in the country would be welcome.
6. He wished to know whether persons placed in police custody had to pay to be examined by a doctor when they or their lawyer so requested, and whether a medical check-up was mandatory in all cases of alleged torture. Since the State party had stated its intention to end the practice of continuing to hold detainees in police stations once their police custody was over, he asked whether the practice had in fact been abolished. He asked how long, in practice, police custody could be extended upon the order of the public prosecutor. He requested further information about the categories of individuals who were targeted for spot checks and arrested by law enforcement officers, and about what tangible

measures had been taken to protect vulnerable groups from torture and ill-treatment. Noting that Senegalese mothers apparently could not transmit their nationality to their children, he wondered whether it might not put the children at risk of being stateless and leave them without legal protection. He wished to know whether children born in Senegal were duly registered.

7. He requested additional information on measures taken by the State party to prevent the trafficking of migrants from Senegal to Europe and other African countries. He also wished to know the result of bilateral anti-trafficking agreements signed by the State party and how effective its diplomatic mechanisms were. The protection of minors employed as domestic workers was also a matter of concern.

8. Regarding the rights of minorities, he asked whether the Senegalese Government informed the relevant consular authorities when a foreign national was placed in detention. He also wished to know whether the Diola received protection as an ethnic minority in the Casamance region. Could the delegation confirm that homosexuality was not an offence in Senegal?

9. He requested information on the implementation of International Labour Organization (ILO) Minimum Age Convention, 1973 (No. 138) and Worst Forms of Child Labour Convention, 1999 (No. 182), in particular the inspection mechanisms in place to ensure that children did not do inappropriate or degrading work such as begging. He pointed out that there was little statistical information on forced marriages. He asked for the delegation to comment on reports that conditions at facilities for asylum seekers, especially children, were unsatisfactory.

10. He also wished to know whether the National Observatory of Places of Detention and the Senegalese Human Rights Committee had sufficient resources. He invited the delegation to explain to what extent amnesty laws were in line with the Convention against Torture and whether the laws also applied in cases of torture and ill-treatment.

11. He expressed concern about the very slow pace of investigations into complaints of torture and enquired about any proceedings under way concerning Mamadou Bakhoum, Abdoulaye Wade Yinghou and Yatma Fall, all alleged victims of acts of torture.

12. He requested further information about how the new appeals courts for detainees functioned and wished to know whether in Senegal a person could still be imprisoned for outstanding debt.

13. **Mr. Grossman** (Country Rapporteur), noting the State party's efforts to combat female genital mutilation, asked whether there had been any convictions for such acts. Stressing the importance of statistics for formulating and evaluating policies, he invited the delegation to provide more specific data and information regarding complaints for violence against women, early marriage and trafficking in persons.

14. He asked whether civil society and academia were involved in training law enforcement officers and prison officials. He expressed concern that the severe shortage of lawyers and prosecutors made it almost impossible to observe international standards regarding access to justice and time limits for pretrial detention. Detailed answers to the questions asked in paragraphs 30 to 32 of the list of issues and up-to-date information on the situation in Casamance would be welcome.

15. He asked whether the State party had taken steps to change the amnesty laws. On the subject of redress, compensation and rehabilitation measures for victims of acts of torture or ill-treatment, he wished to know about any cases where redress had been ordered. Noting that the Criminal Code did not ban the use of statements made under torture in legal proceedings but that judges could exclude such evidence, he asked for examples of

decisions where that had been done and whether the State party intended to incorporate such a ban in its domestic legislation.

16. He requested further information about complaints of the economic exploitation of minors in Koranic schools and any ensuing judgements. Commending the efforts made to protect girls, he asked whether any perpetrators of sexual violence against children under 12 years of age had been convicted. He also wished to know whether corporal punishment within the family was prohibited, given that article 285 of the Family Code authorized scolding and punishment commensurate with the child's age and change in behaviour. He also noted that corporal punishment was prohibited in schools, and asked whether there were any examples of criminal proceedings for such acts. Could the delegation provide concrete examples of investigations and convictions in cases of sexual exploitation?

17. He requested additional information on projects to modernize prison infrastructure and asked whether the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) was used to train lawyers, doctors and other relevant staff.

18. **Mr. Bruni** asked how a person would go about refusing to obey an order that might lead to acts of torture and about remedies in such cases. Information about the human and financial resources and work programme of the National Observatory of Places of Detention would be appreciated.

19. Regarding the trial of Mr. Hissène Habré, had a schedule been set and had acceding to the extradition request by Belgium been absolutely ruled out?

20. It would be interesting to know whether the effectiveness of human rights training for civil servants and the absolute ban on torture had been evaluated — for example, by examining whether the number of complaints against civil servants or prison conditions had changed — and whether the National Observatory of Places of Detention would play a role in the training. On the subject of detention conditions, he asked whether a detainee who broke a prison's internal regulations could be placed in solitary confinement and, if so, for what type of offence. He also enquired about the maximum length of solitary confinement and the layout of solitary confinement cells and whether statistics were available on the annual rate of suicides in Senegalese detention facilities.

21. Lastly, he invited the delegation to describe progress made towards adopting the law to compensate persons who had been subjected to excessively long detention or had suffered particularly severe harm.

22. **Ms. Belmir** asked about the relationship between the justice authority and the Judicial Service Commission, whether the Minister of Justice had a seat on the Commission and whether he played a decisive role in its decisions. She also asked whether any unconstitutionality claims had been brought before the constitutional court. She requested further information on the plan to strengthen the protection of minors and follow-up given to recommendations by the Committee on the Rights of the Child and the universal periodic review, regarding the age of minority in particular, and about the situation of the *talibé*. She also wished to know to what extent the State party might change its position on amnesty, with a view to combating impunity, and abide by relevant international instruments. Lastly, she said that serious thought should be given to the reciprocity of reservations and the epidemic of violence against women and girls.

23. **Mr. Domah** asked whether the National Observatory of Places of Detention only had the authority to conduct inquiries and issue recommendations or whether it could also refer certain matters for investigation and prosecution. He asked how individuals could raise the issue of constitutionality given that they were unable to petition the constitutional court, whether there was a law protecting the rights of arrested individuals to legal counsel

and to be seen by a doctor and within what time frame they had to be brought before a judge.

24. **Ms. Sveaass** asked what legal measures were in place to protect persons with disabilities, including legal safeguards against involuntary placement in various institutions, oversight of such institutions and applicable regulations. She asked for further information on laws protecting persons placed in institutions and whether they could lodge complaints.

25. It would be useful to know whether the ban on female genital mutilation was countrywide or whether it was for individual communities and municipalities to decide to ban it and whether a real decline in the practice had been recorded.

26. Lastly, she invited comment on information, contained in a 2009 NGO report, that 60 per cent of rapists were not prosecuted, often due to ties with the victim's family.

27. **Mr. Tugushi** asked what measures the State party was taking to ensure that women and girls with disabilities were less exposed to violence, sexual abuse and exploitation, and to train police officers in those issues. He also enquired about how places and institutions where persons with disabilities were placed were monitored independently and effectively. Additional information on the tangible measures adopted to shore up the human and financial resources of the independent body in charge of monitoring detention facilities would be appreciated. Lastly, he asked whether steps were being taken to adopt the revised refugee act intended to better protect refugees and asylum seekers.

28. **Ms. Gaer** asked what hurdles had delayed the submission of the State party's periodic report. Referring to overcrowding in prisons, she asked whether there were plans to resolve the situation at the Thiès prison, where the problem was particularly acute, and whether separation between men and women and between defendants and convicted offenders was observed. According to the 2011 annual report of the United States Department of State, no new prisons had been built in Senegal since 1960, a single mattress was available for every five detainees and complaints from inmates were censured prior to their transmission to the judicial authorities. Could the delegation confirm and comment on that information? She also asked whether anyone had ever been convicted of gang rape and, if so, how the investigations and prosecutions had unfolded.

29. **Mr. Mariño Menéndez** asked what efforts had been made to issue identification documents to immigrants from neighbouring countries, especially the many Malian immigrants. He also wished to know whether the decisions of the recently established national asylum commission regarding asylum applications could be challenged before other State bodies, especially the courts, and whether it was true that foreign convicts who had served their sentence and were awaiting expulsion were kept in detention, sometimes for long periods.

30. It would be useful to know whether family reunification was taken into account in granting residence permits to foreigners. He requested further information about the judge tasked with monitoring detention, in particular whether his mandate was limited to oversight or whether he also had investigative and punitive powers. Additional information about legal advice centres and their role would also be appreciated.

The first part (public) of the meeting rose at 11.50 a.m.