



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

Distr.: General
7 March 2019
English
Original: French

Committee against Torture

Sixty-sixth session

23 April–17 May 2019

Item 4 of the provisional agenda

Consideration of reports submitted by

States parties under article 19 of the Convention

**Concluding observations on the fourth periodic report of
Senegal**

Addendum

**Information received from Senegal on follow-up to the
concluding observations***

[Date received: 18 February 2019]

* The present document is being issued without formal editing.



1. Like the world's major democracies and constitutional States, Senegal has made a firm commitment to eradicate torture. It is in this spirit that it acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 20 August 1986 and to its Optional Protocol on 18 October 2006.
2. As part of this commitment, on 25 and 26 April 2018, it submitted its fourth periodic report to the Committee against Torture on the measures taken to implement the Convention. The Committee took note of the progress made by Senegal in respect for human rights but made recommendations to be implemented by the State before its next appearance.
3. As part of the follow-up procedure, the Committee requested Senegal to provide information on its follow-up to the recommendations contained in paragraphs 10 (d), 28 and 32 of the concluding observations.
4. In this connection, the Government of Senegal would like to submit the following responses.

Responses to the recommendations

(d) Ensure that the bar examination is organized on a regular basis, in order to increase the number of lawyers available, encourage lawyers to settle in the regions and allocate the necessary resources to facilitate access for all persons of limited means to legal assistance;

5. On this issue, Senegal, in agreement with the heads of the bar association, decided to recruit a significant number of young people into the legal profession on a yearly basis and to help them become established around the country using funds earmarked for legal aid. To that end, the bar competition for 2018, launched last May, has just been completed. It included recruitment competitions and expense allocations. The plan is for lawyers to form professional partnerships and build successful law firms.

6. In addition, the authorities' determination to further protect the rights and freedoms of citizens has led to the establishment of a legal aid fund worth more than 600 million CFA francs (CFAF) for 2019, which will enable persons of limited means to receive legal services in criminal matters.

28. The State party should take the necessary measures, including through legislation, to guarantee that:

(a) The procedure for appointing the Director is transparent, inclusive and participatory and that persons who hold positions that could raise questions of conflict of interest are not appointed (CAT/OP/SEN/2, para. 17);

(b) The Observatory is independent of the Executive, and that it is able to select, recruit and remunerate its own staff;

(c) The Observatory is provided with the necessary resources to fully implement its mandate;

(d) The Observatory, with the support of medical and psychiatric experts, is able to conduct regular and unannounced visits to all places of detention, civilian and military alike, including unofficial ones.

7. In order to ensure his or her independence, article 2 of Decree No. 2011-842 of 16 June 2011, on the implementation of Act No. 2009-13 of 2 March 2009, establishing the National Observatory of Places of Deprivation of Liberty, states that "the Director shall be appointed from persons with experience in the judiciary, the bar or the security forces", as proposed by the Ministry of Justice. We believe that this has no bearing on the person's independence, especially as the observer is chosen, among other reasons, for his or her level of autonomy. Furthermore, not only is the five-year mandate non-renewable, but the Director of the Observatory, who may not receive instructions from anyone, enjoys immunities and privileges intended to strengthen his or her autonomy. Directors are chosen from bodies whose statutes offer sufficient assurances of their independence.

8. In order to further ensure that the national mechanism for the prevention of torture is completely independent from the executive branch, Senegal, through the Act establishing the National Observatory of Places of Deprivation of Liberty, has introduced the following measures:
- A non-renewable mandate of five years: the Director may not be relieved of his or her functions prior to the expiration of his or her mandate except in the event of resignation or incapacity (article 2 (2) of the Act). He or she enjoys immunities and privileges during his or her mandate
 - Independence from State authorities: the Director does not receive instructions from any authority in respect of matters falling within his or her remit (article 6 of the Act)
9. It should be noted that, under article 3 of the Act, the Observatory has the power to recruit observers and administrative staff and that these may be subject to disciplinary measures only at the Director's initiative. This guarantee even extends to any public official, civil servant, member of the judiciary, medical practitioner or military officer who has assisted the Observatory in the performance of its duties.
10. Moreover, under article 3 of the Decree implementing the 2009 Act, the Director has the option of recruiting observers and officials solely in accordance with the Labour Code.
11. The Director's independence is also reinforced by article 9 of the Decree, which states that: "The administrative authorities shall take all necessary measures to allow the Director or the observers to meet with any authorized person with a view to obtaining any information or documents necessary for the exercise of the Observatory's supervisory functions." The Director or the observers shall be sent, upon request, administrative or judicial decisions depriving persons of their liberty and, when inspecting a health-care facility authorized to accommodate hospital patients without their consent, any documents justifying a decision to place or keep persons in, or release them from, hospital.
12. In the light of this normative framework, the attachment of the Observatory to a governmental body – the Ministry of Justice in this case – does not affect its functional independence in any way.
13. In addition, the State of Senegal, aware of the importance of this mechanism for the prevention of torture and the promotion and protection of the rights of persons deprived of their liberty, has continuously strengthened the Observatory's independence since its establishment. The increase in the budget allocation from CFAF 25 to 85 million in 2018 is ample evidence of this. We believe that the detachment of the Observatory from the executive power may be considered in order to complete the process.
14. With specific regard to budgetary autonomy, while it is dependent on the Ministry of Justice in terms of funding, the Observatory has independent control over its budget. Under article 12 of the implementing Decree, "the resources allocated to the National Observatory of Places of Deprivation of Liberty, which are provided for under the Finance Act, and the subsidies provided by local authorities or any other natural or legal person, are paid into the current account at the public treasury." This procedure applies to several other State bodies, including the Court of Auditors and the Constitutional Council, and is sufficient guarantee that the Observatory's budget is managed independently.
15. The Observatory conducts both scheduled and unannounced visits to detention centres and sends opinions and recommendations to the ministers responsible for those centres.
16. If the observers find a serious violation of the fundamental rights of persons deprived of their liberty, they immediately notify the competent authorities of the findings and give them a deadline. The observers then have the power to conduct ongoing monitoring to determine whether the violation has ceased.
17. If they discover evidence of a criminal offence, they shall inform the public prosecutor without delay, in accordance with article 32 of the Code of Criminal Procedure. In 2017, following inspections of the Thiès and Mbour detention and correctional facilities, the Observatory referred acts of torture to the public prosecutor at the Thiès *tribunal de*

grande instance (court of major jurisdiction), leaving it for the prosecutor to decide how to proceed with the cases.

18. When inspecting places of detention, particular attention is paid to certain categories of detainees (the mentally ill, persons with disabilities, persons living with HIV/AIDS, minors and women) who require special treatment because of their vulnerability. The mental health of persons deprived of their liberty has been a major concern of the Observatory since its inception. Psychiatric treatment is one of its priorities and a psychiatrist is always present during inspections.

32. The Committee reiterates its previous recommendation (CAT/C/SEN/CO/3, para. 15) and recommends that the State party should:

(a) Operate a coordinated system of care for talibé children, in order to protect them from exploitation and abuse, and establish a monitoring and follow-up mechanism to prevent repeat offences;

(b) Enhance the application of national laws and conduct impartial and thorough investigations into acts of trafficking, ill-treatment and sexual abuse of children in Qur’anic schools and other schools, and ensure that those responsible, including State agents who do not investigate such allegations, are prosecuted and, if convicted, punished with appropriate sanctions;

(c) Expedite the adoption of a bill to regulate teaching in Qur’anic schools and allocate the necessary resources for the effective functioning of the inspection service;

(d) Ensure that all schools have confidential and independent complaints mechanisms;

(e) Conduct awareness-raising campaigns on children’s rights, trafficking, forced begging and sexual abuse of children in schools.

Care for talibé children

19. It is important to note at the outset that since September 2017, the Government of Senegal has had a ministry dedicated to children, thus demonstrating its continuing commitment to ensuring that child protection issues are better taken into account.

20. In addition, the network of departmental child protection committees is expanding considerably under the coordinating mechanism of the National Child Protection Strategy. Of the 45 departments in Senegal, 38 already have their own committees, which also rely on local committees to offer localized services that are better adapted to the needs of the population.

Removal of street children

21. On 30 June 2016, the ministry responsible for the protection of children launched a plan to remove street children, which had three components: removal and reintegration of street children, communication and coordination.

22. This initiative resulted from a presidential directive issued at a Cabinet meeting on 22 June 2016, which urged the Government “to continue the great efforts made to combat child begging, in particular through effective implementation of the National Child Protection Strategy, and modernization and support of Qur’anic schools (*daaras*)”.

23. Following the instructions of the President of the Republic for the removal of street children, the Government has taken significant measures, including:

- Regular operations to take children off the streets (362 children were taken off the streets in 2018, 165 of whom were returned to their families in Senegal, 32 to Guinea-Bissau and 14 to the Gambia in 2018)
- The adoption of an inclusive and protective approach to the process which involved Qur’anic teachers (the Federation) and calling parents (of children living on the streets) to police stations or gendarmeries as part of a commitment to ensuring the

supervision and protection of the children, under penalty of prosecution in the event of repeat incidents

- The strengthening of cooperation with neighbouring countries (of origin) to return children, with the support of the West African Network for the Protection of Children
- The mobilization of human, logistical and financial resources to monitor removal operations
- The development of a programme for the permanent removal of street children, included in the 2019 budget of the Ministry of Good Governance and Protection of Childhood;
- The launch of other sectoral projects and programmes, including a programme to support the modernization of Qur'anic schools (64 modern schools are under construction) by the Ministry of Education.

Fight against trafficking and exploitation of children through begging

24. In the context of the fight against trafficking and exploitation of children through begging, the Ministry of Justice has instructed all public prosecutors to indict the alleged perpetrators of these acts systematically and to seek tough penalties against them.

25. A database on the issue (SYSTRAITE) was developed by the National Unit to Combat Trafficking in Persons, especially women and children, and was approved in 2016.

26. In addition, a revised version of Act No. 2005-06 of 10 May 2005, on trafficking in persons, is being drafted to better tackle the problem.

27. In terms of action to protect children, the coordination mechanism of the National Child Protection Strategy established a higher-level national intersectoral committee for child protection, chaired by the Prime Minister. It provides a forum for interaction between all stakeholders in the sector. The committee is supported by the National Executive Secretariat for Child Protection, which is chaired by the minister for child protection.

28. Given the transnational dimension of child protection, Senegal is continually reinforcing its cooperation framework with countries in the subregion through:

- The promotion and progressive implementation of the minimum standards and norms for the care of children in vulnerable situations adopted by the Economic Community of West African States (ECOWAS), as a single reference point for improving the care of vagrant children and returning them to their families
- The establishment of a network of coordination mechanisms to combat child trafficking between Senegal and the Gambia, Guinea, Guinea-Bissau, Mali and Mauritania. The purpose of the network is to facilitate the exchange of information on trafficking-related issues. A national committee has been set up in each country to bring together stakeholders from civil society and the criminal justice system (police and justice). Currently, the network is coordinated by Senegal through the National Unit to Combat Trafficking in Persons, especially women and children
- The signature of a memorandum of understanding between the child protection directorates of Senegal and Guinea
- A pilot cooperation project between Senegal, Guinea-Bissau and community stakeholders in the care of child victims of trafficking and abuse. The project facilitates the process of tracing children's families and returning them to their communities
- Transnational initiatives by civil society organizations making arrangements for the return of children to their families in neighbouring countries and providing training for those involved

Children's Code

29. Today, one of the Government's priorities in terms of children's rights is the establishment of the Children's Code. There had been some delays due to reorganization

but it is now back on track. The Government of Senegal has used the implementation of the project to improve coordination and communication mechanisms between State actors and civil society in Senegal to ensure children's rights and protection as a basis to restart the process of drafting the Children's Code.

30. To this end, a working group composed of state sectors and representatives from civil society organizations, established by order No. 07232 of 29 April 2014 of the Minister of Justice, took responsibility for piloting the process for the preparation of the Children's Code from July 2014 to February 2015, in a participatory and inclusive manner.

31. After it was circulated among the various competent sectoral ministries for views and comments, the internal committee of the Office of the Prime Minister held a meeting to consolidate the document. It decided to take over the drafting in view of major reservations regarding the style and certain substantive aspects.

32. Acting on these instructions, the Minister of Justice established a new working committee, by order No. 015923 of 4 July 2018, to draw up a draft children's code, under the coordination of the Director of Human Rights. The committee was given three months to submit its report to the Minister of Justice.

33. The conceptual work culminated in the preparation of an initial draft in November 2018, which has been submitted to the Minister of Justice.

34. In this way, the State of Senegal undertakes to adopt, as soon as possible, a children's code that takes into account all concerns relating to the establishment of a holistic child protection system.

Complaints mechanism accessible to children

35. Article 118 of the draft law on the children's code mentioned above expressly states that: "Complaints can be filed with the Children's Ombudsman by children themselves, their legal representatives, medical or social services or by any person or association with knowledge of facts that have harmed the child's interests. When a matter is referred by a child directly, the Children's Ombudsman may immediately inform the child's parents or legal representative and the authorities competent to act in his or her interest. The Children's Ombudsman may take action on its own initiative if it becomes aware of facts affecting the child's interests."

36. The Government's commitment to creating an independent body known as the Children's Ombudsman is clearly reflected in the adoption of the draft bill establishing that office. Following an in-depth study of the case by the highest authorities, at the instigation of the General Secretariat of the Government, the bill establishing the Children's Ombudsman was submitted to the Supreme Court, which gave a favourable opinion. Ultimately, the draft must be adopted by the Council of Ministers and then submitted for legislative processing.

Law on the status of Qur'anic schools

37. The bill on the status of Qur'anic schools and its implementing decrees have been approved by various stakeholders, including Qur'anic teachers religious representatives, ministerial departments, civil society and other partners, following extensive consultations held between September 2016 and December 2017.

38. The bill adopted by the Government at the meeting of the Council of Ministers on 6 June should be sent to the National Assembly for adoption before the end of this legislature.

Campaigns to raise awareness of children's rights

39. The Government of Senegal, through the National Unit to Combat Trafficking in Persons, has planned awareness-raising activities on human trafficking as part of the prevention strategy under the 2018–2019 National Action Plan to Combat Trafficking in Persons. The activities will take the form of interactive round tables and forums on community radio stations for religious leaders, judicial officials, civil society and schools.

40. Initiatives taken to combat violence in schools include:

- The incorporation of children’s rights and the protection of children from violence into the guide on science and social life for elementary schoolteachers, and coverage of early and unwanted pregnancy in teachers’ handbooks at middle and high school levels. Furthermore, a project is under way to overhaul primary and secondary education curricula, which could provide enhanced and more in-depth coverage of these topics
- A guide on best practice for preventing and addressing violence in schools has been prepared and is pending approval
- A teacher training programme on adolescent reproductive health and gender-based violence in schools
- A training programme for monitoring and early warning committees on the topics covered by the “Learn Without Fear” campaign
- A guidance programme for administrative and teaching staff on school violence and adolescent reproductive health
- A training programme for school mediators. It is clearly stated in the programme that all victims should report violence in complete safety to members of the institution’s monitoring mechanism, members of the youth advice centre, service delivery point (health centre) staff, the Forum for African Women Educationalists of Senegal, the Women’s Rights Observatory against Violence, police stations or gendarmeries, or services for the non-institutional supervision of minors
- A project to combat gender-based violence in schools, supported by the United Nations Educational, Scientific and Cultural Organization (UNESCO), the United Nations Children’s Fund (UNICEF) and Plan International, with financing from France, aimed at strengthening curriculum content and teacher training to include gender-based violence in schools, and enhancing policy and regulatory frameworks to combat the problem. The project began with a diagnostic analysis on the response to gender-based violence in Senegalese schools (August 2017)
- A draft code of ethics for teachers in Senegal, pending adoption since 2014
- School rules

41. More recently, a five-year project to strengthen support for the protection of children in education in Senegal is being prepared, with support from Canada. Two elements of the adopted approach seem promising: the creation of an internal framework within the Ministry of Education, bringing together several departments in the design and implementation of the project (heads of pre-schools and elementary, middle and secondary schools and the Qur’anic school inspectorate, under the coordination of the Directorate of Educational Planning and Reform (DPRE); and a multi-stakeholder approach – involving the Ministry of Education, UNICEF and Plan International – combined into a single logical model for action. The two cooperation agencies had in the past supported independent programmes (UNICEF had supported the integrated package of services and Plan International a programme for the protection of children in schools, developed in a decentralized manner with the education and training inspectorates).