



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

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## Committee against Torture

### List of issues prior to submission of the fifth periodic report of Senegal\*

#### Specific information on the implementation of articles 1–16 of the Convention, including with regard to the Committee’s previous recommendations

##### Issues identified for follow-up in the previous concluding observations

1. In its previous concluding observations (para. 41),<sup>1</sup> the Committee requested the State party to provide information on the follow-up to the recommendations contained in paragraphs 10 (d), 28 and 32, concerning: (a) access to legal aid for all persons of limited means; (b) measures to guarantee that the National Observatory of Places of Deprivation of Liberty is an independent institution, with a transparent and inclusive selection process and the necessary resources, and is able to conduct unannounced visits to all places of detention; and (c) care for *talibé* children, to protect them from exploitation and ill-treatment. Bearing in mind the information received from Senegal on follow-up to its previous concluding observations,<sup>2</sup> the Committee considers that the recommendations included in paragraph 41 of the concluding observations have been partially implemented.

##### Articles 1 and 4

2. In the light of the Committee’s previous concluding observations (paras. 7–8)<sup>3</sup> and the fact that the amendments made to the Criminal Code by Act No. 2020-05 of 10 January 2020 did not affect article 295-1 of the Code, which defines the offence of torture, please specify whether the State party is still considering amending this article to include acts aimed at obtaining information from, punishing, intimidating or coercing a third party and ensure that the offence is punishable by appropriate penalties that take into account its grave nature, in accordance with the Convention.<sup>4</sup> If so, please state whether a timetable has been set for this amendment.

\* Adopted by the Committee at its seventieth session (26–28 April 2021).

<sup>1</sup> Unless otherwise indicated, paragraph numbers in parentheses refer to the previous concluding observations adopted by the Committee (CAT/C/SEN/CO/4).

<sup>2</sup> CAT/C/SEN/CO/4/Add.1.

<sup>3</sup> See also CAT/C/SEN/CO/3, para. 8.

<sup>4</sup> CCPR/C/SEN/CO/5, para. 29 (a); and A/HRC/WG.6/31/SEN/3, para. 28.



**Article 2<sup>5</sup>**

3. In the light of the Committee's previous concluding observations (paras. 9 and 10 (d)), the information received from Senegal on follow-up to the concluding observations<sup>6</sup> and the letter from the Committee's Rapporteur for follow-up to concluding observations, dated 9 October 2019, please state the number of lawyers recruited through the bar examination since 2018 and their posting at the regional level compared to the total number of registered lawyers.<sup>7</sup> Please also specify whether the planned legal aid fund is sufficient to facilitate access to counsel for all destitute persons from the moment of arrest and at all stages of criminal proceedings, regardless of the penalties faced.<sup>8</sup>

4. Bearing in mind the Committee's previous concluding observations (paras. 9–10), please specify the legislative measures taken or in progress to amend the Code of Criminal Procedure to ensure that: (a) the time a person is held in police custody, regardless of the grounds and in all jurisdictions, does not exceed a maximum of 48 hours, or 24 hours for children, renewable once in exceptional circumstances duly justified by tangible evidence, and that once that period has elapsed, the person is brought before a judge who is independent and impartial in relation to the matters in question; (b) the right of detainees to inform family members from the outset of their deprivation of liberty is recognized in law; and (c) detained persons have prompt and confidential access to an independent lawyer or legal aid for as long as is necessary to mount an effective defence and not only for 30 minutes.<sup>9</sup> Please indicate what control measures have been taken, including disciplinary action, to ensure that, in practice and from the outset of the deprivation of liberty, the police respect all the fundamental legal safeguards for detained persons,<sup>10</sup> including record-keeping. Please also indicate what measures have been taken to prohibit the practice known as "*retour de parquet*", or remand order from the prosecution, to prevent the duration of police custody from being extended without grounds.<sup>11</sup>

5. Please specify whether a medical examination and coronavirus disease (COVID-19) test are routinely carried out during police custody and upon arrival at detention facilities, indicating whether the examination can detect the physical and psychological signs of torture and ill-treatment. Please indicate whether a mechanism exists for medical personnel to report any signs of torture or ill-treatment to an independent investigation body confidentially and without risk of reprisals. If so, please indicate the number of cases identified through this mechanism since 2018 and the outcomes of investigations into these cases.

6. In the light of the Committee's previous concluding observations (paras. 27–28) and the information received from Senegal on follow-up to the concluding observations<sup>12</sup> indicating that the separation of the National Observatory of Places of Deprivation of Liberty from the executive branch would be possible,<sup>13</sup> please specify whether the Observatory is still attached to the Ministry of Justice in administrative and budgetary terms.<sup>14</sup> Please outline the legislative or other measures taken or being considered to ensure that the Director of the Observatory is appointed through an inclusive, participatory and transparent procedure and that persons in positions that may give rise to real or perceived conflicts of interest, such as

<sup>5</sup> The issues raised under article 2 could also touch on issues raised under other articles of the Convention, including article 16. As stated in paragraph 3 of the Committee's general comment No. 2 (2007) on the implementation of article 2, the obligation to prevent torture in article 2 is wide-ranging. The obligation to prevent torture and other cruel, inhuman and degrading treatment or punishment under article 16 (1) are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. In practice, the definitional threshold between ill-treatment and torture is often not clear. See also chapter V of the same general comment.

<sup>6</sup> CAT/C/SEN/CO/4/Add.1, paras. 5–6.

<sup>7</sup> CCPR/C/SEN/CO/5, para. 35 (c).

<sup>8</sup> Ibid., para. 35 (c) and (d).

<sup>9</sup> A/HRC/WG.6/31/SEN/3, para. 29.

<sup>10</sup> A/HRC/WG.6/31/SEN/2, para. 29.

<sup>11</sup> CCPR/C/SEN/CO/5, para. 35 (a).

<sup>12</sup> CAT/C/SEN/CO/4/Add.1, paras. 7–18.

<sup>13</sup> Ibid., para. 13.

<sup>14</sup> A/HRC/WG.6/31/SEN/2, para. 27.

the members of the security forces, cannot be appointed to this post.<sup>15</sup> With reference to reports that the Observatory's budget remains inadequate, despite the progressive budget increase,<sup>16</sup> please indicate whether the State party is considering measures to ensure that the Observatory has its own budget, sufficient to fulfil its mandate effectively.<sup>17</sup> Please specify the number of annual visits conducted by the institution since 2018 and the follow-up given to the recommendations made. Please clarify whether the Observatory may make unannounced visits to police and gendarmerie stations and army barracks<sup>18</sup> and, if so, how many such visits have been carried out in these places since the establishment of the institution. Please provide detailed information about the outcome of the investigations conducted by the public prosecutor for incidents reported by the Observatory following the visits made in 2017 to the Thiès and Mbour remand and short-stay prisons.<sup>19</sup> Please clarify whether the State party is considering allowing civil society organizations to make regular and unannounced visits to all places of deprivation of liberty, in line with the recommendations included in the Committee's previous concluding observations (para. 14 (i)).

7. In view of the Committee's previous concluding observations (paras. 25–26) and the State party's commitment to adopt a new law to bring the Senegalese Human Rights Committee into conformity with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), please indicate whether a timetable has been set for the adoption of such legislation. Please also indicate whether the State party is considering establishing a transparent and participatory process for selection of the members of this Committee, avoiding conflicts of interest, and ensuring the financial and functional autonomy of the institution by providing the necessary resources and allowing it to appoint its own staff, as recommended by the Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions.<sup>20</sup>

8. With reference to the Committee's previous concluding observations (paras. 31–32),<sup>21</sup> and the information received from Senegal on follow-up to the concluding observations<sup>22</sup> about the recovery of many street children and their return to a family environment, please clarify whether the State party is still considering adopting the bill on the status of Qur'anic schools (*daaras*), intended to increase inspections in such establishments.<sup>23</sup> If so, please indicate whether a timetable has been set for its adoption. Please also indicate what measures have been taken in the meantime to establish a specific monitoring mechanism to carry out effective inspections of Qur'anic schools and monitor the children who attend them, to protect them against unsanitary conditions, exploitation and ill-treatment and prevent repeated violations.<sup>24</sup> Please also indicate what measures have been taken to reinforce coordination between the police, social workers and the judiciary and to conduct effective investigations into the marabouts who have forced children to beg or commit offences and those who have ill-treated children.<sup>25</sup> Please clarify whether the State party has adopted a standardized procedure and confidential and independent mechanisms for complaints of violence and abuse in all the country's schools,<sup>26</sup> including Qur'anic schools, in order to protect the child victims from stigmatization and reprisals. Please describe the impact that

<sup>15</sup> Ibid., para. 26.

<sup>16</sup> CAT/C/SEN/CO/4/Add.1, para. 13.

<sup>17</sup> A/HRC/WG.6/31/SEN/2, paras. 26–27; and A/HRC/WG.6/31/SEN/3, para. 39.

<sup>18</sup> A/HRC/WG.6/31/SEN/3, para. 30.

<sup>19</sup> CAT/C/SEN/CO/4/Add.1, para. 17.

<sup>20</sup> See also CCPR/C/SEN/CO/5, para. 7; E/C.12/SEN/CO/3, paras. 6–7; A/HRC/WG.6/31/SEN/2, para. 11; A/HRC/WG.6/31/SEN/3, para. 20; and A/HRC/40/5, paras. 144.16–144.20 and 144.31–144.44.

<sup>21</sup> See also CAT/C/SEN/CO/3, para. 15.

<sup>22</sup> CAT/C/SEN/CO/4/Add.1, paras. 21–23.

<sup>23</sup> CCPR/C/SEN/CO/5, para. 41 (e); E/C.12/SEN/CO/3, paras. 26–27 (a); A/HRC/WG.6/31/SEN/2, para. 52; A/HRC/WG.6/31/SEN/3, paras. 12–13 and 85; and A/HRC/40/5, paras. 144.119–144.120.

<sup>24</sup> CCPR/C/SEN/CO/5, para. 41 (e); E/C.12/SEN/CO/3, paras. 26–27 (a); A/HRC/WG.6/31/SEN/2, paras. 12, 40 and 74; and A/HRC/40/5, paras. 144.122 and 144.219–144.220.

<sup>25</sup> E/C.12/SEN/CO/3, paras. 26–27 (a); A/HRC/WG.6/31/SEN/2, paras. 34 and 39; and A/HRC/WG.6/31/SEN/3, paras. 17, 50 and 78.

<sup>26</sup> E/C.12/SEN/CO/3, paras. 43 and 44 (d); A/HRC/WG.6/31/SEN/3, para. 77; and A/HRC/40/5, paras. 144.132–144.133.

the initiatives taken to combat sexual abuse in schools,<sup>27</sup> primarily on the part of teachers,<sup>28</sup> has had on the incidence of such abuse since 2018 and specify whether any campaigns with a stronger focus on forced begging and the sexual abuse of children in schools have been organized for children and their families. Please also outline the measures taken to repeal all provisions authorizing corporal punishment, including article 285 of the Family Code,<sup>29</sup> and expressly prohibit corporal punishment in all settings, investigate such practices and put in place awareness-raising programmes on their harmful effects. Please provide, for the period since 2018, statistical data, disaggregated by the setting where the offence took place (Qur'anic schools, other schools, family setting, tourist areas,<sup>30</sup> gold-mining areas,<sup>31</sup> etc.) and the sex of the victim, on forced begging, ill-treatment, corporal punishment, sexual harassment and the exploitation or trafficking and sexual abuse of children,<sup>32</sup> specifying the number of cases recorded, complaints submitted, investigations opened, prosecutions brought, judgments and sentences pronounced and reparation provided to victims.<sup>33</sup> In particular, please indicate whether any investigations have been initiated and, if so, what results were obtained, with regard to: (a) the death of a boy on 6 April 2019 from the beating he reportedly received in a Qur'anic school; and (b) the chaining of five boys found on 23 November 2019 in a Qur'anic school.

9. Please provide information about the measures taken to combat all forms of gender-based violence,<sup>34</sup> especially when acts or omissions have been committed by public officials or other persons acting in the name of the State or on their instructions. Please provide statistical data, disaggregated by type of offence, age group (minor/adult) and ethnic origin or nationality of the victim, for the period since 2018, on cases of gender-based violence, including sexual violence and rape (outside the school setting), trafficking in persons<sup>35</sup> and female genital mutilation,<sup>36</sup> specifying the number of cases recorded, complaints submitted, investigations opened, prosecutions brought, judgments and sentences pronounced and reparation provided to victims during this period.<sup>37</sup> In view of the adoption of Act No. 2020-05, which introduced increased penalties for rape, please clarify whether there are any plans to further amend the Criminal Code to provide a legal guarantee of effective access to safe voluntary termination of pregnancy, when the life of the pregnant woman or girl is in danger or when bringing the pregnancy to term could cause suffering or serious harm to the pregnant woman or girl, particularly when the pregnancy is the result of rape or incest or is not viable.<sup>38</sup>

### Article 3

10. Please provide annual statistical data for the period since 2018, disaggregated by sex, country of origin and age group (minor/adult) of persons seeking asylum, on the number of:

- (a) Asylum applications registered;
- (b) Successful applications for asylum, refugee status or other forms of humanitarian protection, specifying how many were accepted on the grounds that the applicants had been tortured or were at risk of torture if removed or expelled;

<sup>27</sup> A/HRC/WG.6/31/SEN/2, para. 53; and A/HRC/40/5, para. 144.128.

<sup>28</sup> CAT/C/SEN/CO/4/Add.1, para. 40.

<sup>29</sup> CCPR/C/SEN/CO/5, para. 41 (d); CRPD/C/SEN/CO/1, para.12 (c); A/HRC/WG.6/31/SEN/2, para. 76; A/HRC/WG.6/31/SEN/3, paras. 15 and 79; and A/HRC/40/5, para. 144.181.

<sup>30</sup> CCPR/C/SEN/CO/5, para. 40.

<sup>31</sup> Ibid.

<sup>32</sup> CRPD/C/SEN/CO/1, paras. 29–30; A/HRC/WG.6/31/SEN/2, paras. 12, 36, 39–41 and 71–73; and A/HRC/40/5, paras. 144.88–144.95.

<sup>33</sup> E/C.12/SEN/CO/3, paras. 43 and 44 (d) and (e); and CRPD/C/SEN/CO/1, para. 12 (c).

<sup>34</sup> A/HRC/WG.6/31/SEN/2, paras. 36 and 66.

<sup>35</sup> Ibid., paras. 38–42; and A/HRC/40/5, paras. 144.88–144.95.

<sup>36</sup> A/HRC/WG.6/31/SEN/2, paras. 34 and 62; and A/HRC/40/5, paras. 144.136 and 144.196–144.198.

<sup>37</sup> A/HRC/WG.6/31/SEN/3, paras. 14 and 72–73; and A/HRC/40/5, paras. 144.80, 144.147–144.155 and 144.166–144.168.

<sup>38</sup> CCPR/C/SEN/CO/5, para. 23 (a); E/C.12/SEN/CO/3, paras. 36–37 (a); A/HRC/WG.6/31/SEN/2, para. 50; and A/HRC/WG.6/31/SEN/3, para. 74.

(c) Persons extradited, expelled or removed and the countries to which they were sent;

(d) Appeals lodged against decisions regarding expulsion and the number of decisions regarding removal or expulsion, as applicable, that were set aside on the grounds that the applicants had been tortured or were likely to suffer torture if they were removed or expelled.

11. In the light of the Committee's previous concluding observations (paras. 33–34), please specify the legislative measures taken or in progress to amend the laws governing asylum, extradition and the expulsion of undocumented migrants, to ensure that these laws: (a) contain explicit recognition of the principle of non-refoulement on the basis of the risk of being subjected to torture;<sup>39</sup> and (b) provide for a judicial remedy with an automatic suspensive effect that may be used to appeal against expulsion decisions before a court competent to consider the appeal's merits. Please also outline the measures taken to expedite the procedure for determining refugee status before the National Commission on Eligibility for Refugee Status.<sup>40</sup> Please clarify whether all persons facing expulsion, removal or extradition are informed that they have the right to seek asylum or other accepted forms of humanitarian protection. Please provide information on how the State party ensures that asylum seekers have access to legal aid and interpretation services. Please provide information on the plans and procedures in place for the identification and immediate referral to the appropriate services of vulnerable asylum seekers, including victims of torture, trafficking in persons and gender-based violence, along with unaccompanied minors or children separated from their families, and whether these plans provide for an independent medical examination.

12. Please specify the number of removals, extraditions and expulsions that the State party has carried out since 2018 after receiving diplomatic assurances and the number of cases in which the State party has provided diplomatic assurances or guarantees of its own. Please specify the minimum requirements for diplomatic assurances and guarantees given or received and the arrangements made for monitoring compliance with such assurances in the cases in question.

#### **Articles 5–9**

13. Please indicate whether, since the State party's previous report was considered by the Committee, the State party has rejected, for any reason, a request of a State for the extradition of a person suspected of having committed acts of torture and whether it has started prosecution proceedings against such a person as a result. If so, please provide information on the status and outcome of such proceedings. Please also provide information on cases in which the State party has agreed to extradite a person for torture or related offences. Please indicate whether torture and the related offences mentioned in article 4 of the Convention are covered in extradition treaties concluded with other States parties. Please specify what mutual judicial assistance treaties or agreements the State party has entered into with other entities, whether they be countries, international tribunals or international institutions, and whether such treaties or agreements have led in practice to the transfer of any evidence in connection with prosecutions for torture or ill-treatment. Please provide examples.

#### **Article 10**

14. With reference to the Committee's preceding concluding observations (paras. 37–38), please provide information on training programmes that have been developed since 2018 to ensure that all public officials, in particular members of the armed forces and police, prison staff, immigration officers and border guards: (a) are familiar with the provisions of the Convention and know that violations will not be tolerated and any offence will result in an investigation and prosecution of the perpetrators of such offences; (b) treat members of vulnerable groups appropriately; (c) are aware of the provisions guaranteeing the principle of non-refoulement and the right to asylum and those facilitating the identification of

<sup>39</sup> CCPR/C/SEN/CO/5, para. 33 (a).

<sup>40</sup> Ibid., para. 33 (b) and (c).

applicants who may be victims of torture, human trafficking or gender-based violence; and (d) are familiar with non-coercive interviewing methods. Please indicate whether these training courses are compulsory or optional, whether they are provided regularly and consistently, how many members of each service have already received them, what percentage of all such officials have completed them and what measures have been taken to train the remaining officials. Please also indicate whether the State party has developed a method for assessing the results and effectiveness of these training programmes in reducing the number of cases of torture and ill-treatment. If so, please provide information on the method's content and application.

15. Please provide detailed information on the programmes aimed at training judges, prosecutors, forensic doctors and other medical staff who deal with persons deprived of their liberty to detect the physical and psychological consequences of torture, ensure the effective documentation of torture and verify the admissibility of confessions, in line with the recommendations made in the Committee's previous concluding observations (paras. 24 (c) and 38 (b)). Please clarify whether these programmes include specific training about the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol).

### **Article 11**

16. Bearing in mind the Committee's previous concluding observations (paras. 13–16), please specify what legislative measures have been taken or are in progress to: (a) amend the Code of Criminal Procedure to clarify the circumstances that can justify pretrial detention, so that it is only imposed on an exceptional basis and for limited periods, when it has been determined that it is reasonable and necessary in view of the individual circumstances;<sup>41</sup> and (b) adopt the law on juvenile justice, which provides for alternatives to detention and punishment. Please describe the measures taken to reduce, in practice, the use of pretrial detention and its duration and chronic prison overcrowding, particularly with respect to the training of judges, to promote the use of alternatives to detention and non-custodial sentences,<sup>42</sup> particularly for children in conflict with the law, and to speed up the procedure for the appointment of members of the bodies responsible for implementing such measures. Please provide statistics for each year since 2018 on the number of persons in pretrial detention and the number of convicted prisoners and on the occupancy rate of every detention centre, disaggregated by sex, age group (minor/adult) and nationality of the detained persons (Senegalese/foreign). Please also provide data on changes in the rate of application of alternative measures, in particular for minors in conflict with the law. Please also indicate what control measures have been taken, including disciplinary action, to ensure that persons do not remain in pretrial detention for longer than the maximum sentence to which they are liable.

17. With reference to the Committee's previous concluding observations (paras. 15–16) and reports of difficult detention conditions, please provide up-to-date information on the progress of projects to improve living, hygiene, sanitation and nutrition conditions in places of detention,<sup>43</sup> and on the increase in the number of prison and health-care staff and adequate mental health care, in line with the Committee's recommendations. Please clarify whether the State party is considering transferring inmates with intellectual or psychosocial disabilities to psychiatric facilities. Please describe the detention conditions for persons accused of terrorism and specify whether there have been incidents in which they have been denied access to health care since 2018. Please indicate whether the State party is considering organizing the health service in close cooperation with the general public health service, based on the principle of access for all prisoners to health care of the same quality as that available in Senegalese society. Please provide information on measures adopted to ensure the separation of remand prisoners from convicted prisoners and of minors from adults in prisons and police stations<sup>44</sup> and specify in which facilities prisoners are not yet separated in

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<sup>41</sup> Ibid., para. 35 (e).

<sup>42</sup> Ibid., para. 39 (a); A/HRC/WG.6/31/SEN/3, paras. 31–32; and A/HRC/40/5, para. 144.74.

<sup>43</sup> CCPR/C/SEN/CO/5, para. 39 (b); A/HRC/WG.6/31/SEN/2, para. 28; and A/HRC/40/5, paras. 144.70–144.73.

<sup>44</sup> A/HRC/WG.6/31/SEN/2, para. 78.

this way. Please describe what has been done to meet the specific needs of children in conflict with the law, especially as regards rehabilitation and education services.<sup>45</sup> Please also indicate the measures taken to meet the needs of women deprived of their liberty, including pregnant women and women detained with their children,<sup>46</sup> and to facilitate their access to recreational and cultural activities, vocational training and education. Please also provide information on the measures taken to ensure that the rights of persons deprived of their liberty who are particularly vulnerable, such as lesbian, gay, bisexual, transgender and intersex persons and persons with psychosocial disabilities, are respected in accordance with international standards.

18. In the light of the Committee's previous concluding observations (paras. 15–18), please describe the solitary confinement regime and clarify whether there is a regular procedure and an independent body that examines the disciplinary measures taken. Please also provide information about the measures the State party has adopted to prevent and combat the corporal and psychological punishment of uncooperative prisoners by some prison officers. Please also indicate: (a) the maximum duration of solitary confinement, in law and in practice; (b) the measures in place to ensure that solitary confinement is only used as a last resort, for the shortest time possible and cannot be imposed on children in conflict with the law or persons with intellectual or psychosocial disabilities; and (c) whether there is a register of disciplinary punishments and solitary confinement and monitoring of their proportionality. Please clarify whether the State party has prioritized the installation of detection devices to replace body searches. Please describe the measures adopted to ensure that body searches are undertaken only if absolutely necessary and, in that case, in private and by a trained staff member of the same sex as the prisoner.

19. In view of the Committee's previous concluding observations (paras. 17–18) and reports of deaths in police custody and in prisons, please provide data on the number of deaths of persons deprived of their liberty since 2018, including in mental health facilities and police stations, disaggregated by place of detention, sex, age group (minor/adult) and ethnic origin or nationality (Senegalese/foreign) of the deceased and cause of death (violence between or against detainees, suicide, natural causes, illness). Please provide detailed information on the number and outcome of investigations conducted in these cases, specifying whether a forensic medical assessment, including an autopsy, was performed and on the number of deaths believed to have been caused by assaults committed or tolerated by public officials involving excessive use of force or the failure to provide the detainee with the necessary medical attention and treatment in time.<sup>47</sup> Please also provide information on the number of sentences pronounced, the criminal and disciplinary penalties imposed, the redress provided to victims and their survivors and the steps taken to prevent the recurrence of such acts. Please specify whether forensic medical examinations are performed in accordance with the Model Protocol for a Legal Investigation of Extra-legal, Arbitrary and Summary Executions. Please also clarify whether investigations have been opened and prosecutions have been brought and, if so, what results were obtained, in respect of the executions of Yamadou Sagna, Abdoulaye Baldé and Mbaye Mboup, mentioned in the Committee's previous concluding observations (para. 29). In particular, please submit the results of the criminal investigations opened into the deaths in custody of: (a) Louis Dieng, who died on 20 February 2019 following an asthma attack although he was sharing a cell with 87 other prisoners; (b) Serigne Fallou Ka, who was beaten to death on 2 May 2019 at Diourbel remand and short-stay prison; (c) Babacar Mané and Cheikh Ndiaye, who died of cardiac arrests caused by electrocution on 29 August 2019 at Rebeuss remand prison; (d) Sény Sané, village chief of Toubacouta in Casamance, who died on 1 August 2019 in the special wing of Le Dantec Hospital during his detention; and (e) El Hadji Ousmane Diop, who was arrested in Nord-Foire and died at Rebeuss remand prison on 31 March 2019.

20. In view of the Committee's previous concluding observations (paras. 33–34), please describe the procedure and criteria used to assess the necessity and proportionality of detention for immigration-related reasons and indicate what alternatives to detention are in

<sup>45</sup> Ibid., para. 34.

<sup>46</sup> Ibid., paras. 28 and 78.

<sup>47</sup> CCPR/C/SEN/CO/5, para. 27.

place. Please clarify whether decisions to impose detention for immigration-related reasons are periodically reviewed and whether it is possible to challenge the lawfulness and proportionality of such decisions and the duration of the detention imposed. Please specify whether the State party is considering a ban on the detention of unaccompanied children for immigration-related reasons. Please describe the measures taken to ensure that persons placed in detention for immigration-related reasons are held separately from ordinary prisoners. Please provide annual statistical data for the period since 2018, disaggregated by sex, age group (minor/adult) and nationality of the detainees, on the number of persons detained for immigration-related reasons and the proportion of the total number of cases per year in which alternatives to detention were used.

### Articles 12 and 13

21. With reference to the Committee's previous concluding observations (paras. 11–12) on offences committed during the non-international armed conflict in Casamance, please specify: (a) whether the State party is considering repealing the amnesty law for acts of torture or ill-treatment committed by each of the parties to the conflict and for other offences committed in Casamance during the conflict, to make it possible to conduct investigations and punish the perpetrators;<sup>48</sup> (b) the measures taken in Casamance since 2018 to protect civilians and control security forces and prevent such acts from reoccurring;<sup>49</sup> (c) the result of investigations conducted to find persons reported missing, in particular those who had apparently gone missing after being arrested by law enforcement authorities; and (d) the measures taken to provide all persons who have been harmed directly by enforced disappearance or the detention of a relative with information that may be useful to determine the whereabouts of the disappeared or detained person. Please clarify whether investigations have been opened and prosecutions have been initiated and, if so, what results were obtained, in respect of the 15 persons killed in the forest of Bofa Bayotte in January 2018, mentioned in the Committee's previous concluding observations (para. 11), and clarify whether independent forensic medical examinations and autopsies took place. Please specify whether the victims and their survivors have obtained redress.<sup>50</sup> Please also specify the results of the investigations into the death on 27 October 2019 of Abdou Elinkine Diatta, leader of the Movement of Democratic Forces of Casamance, and the injuries inflicted on three persons.

22. In view of the Committee's previous concluding observations (paras. 21–22), please indicate whether the State party has amended its laws on the Supreme Council of Justice and on the status of judges so as to ensure that the President of the Republic and the Minister of Justice are no longer members of the Council and that all other necessary measures are taken to guarantee the independence of the judiciary, including the appointment of judges on the basis of objective and transparent criteria, with guarantees of their security of office.<sup>51</sup> Please also indicate whether the State party is considering abolishing: (a) the authority of the Minister of Justice to give instructions to prosecutors in individual cases in order to preserve their discretionary power in cases related to violations of the Convention by public officials;<sup>52</sup> and (b) the requirement to obtain authorization from the Minister, referred to as a "prosecution order", to prosecute a law enforcement official.<sup>53</sup> Please clarify whether the State party has taken measures to assign investigations to a different service from the one that is the subject of the complaint,<sup>54</sup> to ensure that there is no institutional or hierarchical link between the investigators and the alleged perpetrators. In cases where there are strong reasons to believe that a complaint of torture or ill-treatment is well founded, please specify whether the suspected perpetrator is automatically suspended from duty or transferred during the investigation.

23. With reference to the Committee's previous concluding observations (paras. 19–20), please provide annual statistical data for the period since 2018, disaggregated by sex, age

<sup>48</sup> Ibid., para. 9 (a).

<sup>49</sup> A/HRC/WG.6/31/SEN/2, para. 94.

<sup>50</sup> CCPR/C/SEN/CO/5, para. 9 (b).

<sup>51</sup> Ibid., para. 37; and A/HRC/40/5, paras. 144.76–144.79.

<sup>52</sup> CCPR/C/SEN/CO/5, para. 37.

<sup>53</sup> Ibid., paras. 28 and 29 (b).

<sup>54</sup> Ibid.



group (minor/adult) and ethnic origin or nationality of the victim and the services to which the persons accused of committing acts of torture belong, on complaints and investigation reports of actual or attempted acts of torture and ill-treatment and complicity, participation or acquiescence in such acts. Please indicate how many ex officio investigations into the above-mentioned offences have been carried out. Please provide information on all judicial and disciplinary proceedings initiated, specifying whether they resulted in conviction, discharge or discontinuance of proceedings and the sentences and disciplinary measures handed down.<sup>55</sup>

#### Article 14

24. In view of the Committee's previous concluding observations (paras. 39–40), please clarify whether the State party has taken or is considering measures to ensure that victims of torture and ill-treatment have access to effective remedies and can obtain redress,<sup>56</sup> including in cases in which the perpetrator of torture has not been identified. Please also clarify whether the State party has assessed the needs of torture victims with a view to putting in place specialized State rehabilitation services or funding other services run by non-governmental organizations. Please specify the resources allocated.

25. Please provide annual statistical data on redress and compensation measures, including means of rehabilitation, ordered by the courts and actually provided to victims of torture or ill-treatment or their families since 2018. These statistics should include data on the number of applications for State compensation for torture and ill-treatment, the number of time-barred claims owing to the courts' inaction, the number of applications granted and the range of awards in successful cases. In particular, please specify what redress was ordered for the victims of the offences committed by Hissène Habré.

#### Article 15

26. In the light of the Committee's previous concluding observations (paras. 23–24), please indicate whether the State party has taken legislative measures to ensure that the inadmissibility of confessions or statements extracted under torture is explicitly mentioned in its legislation.<sup>57</sup> Please provide up-to-date statistics for the period since 2018 on: (a) the number of cases in which detainees have alleged that their confessions were extracted under torture; (b) the number of these cases in which confessions have been declared inadmissible; and (c) the number of these cases that have been investigated and the outcomes of those investigations, specifying whether a forensic medical examination of the alleged victim was carried out, the sentences handed down to those found guilty and the redress and compensation granted to the victims.<sup>58</sup>

#### Article 16

27. In the light of the Committee's previous concluding observations (paras. 29–30) mentioning the excessive use of force, including extrajudicial executions, by law enforcement authorities, and the use of real bullets and tear gas to suppress political rallies and demonstrations, please provide information on the training programmes delivered since 2018 to all law enforcement officials on the use of force, particularly to those who take part in policing demonstrations, with due regard for the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.<sup>59</sup> Please specify the control measures in place to ensure that security forces use non-violent measures before using force when conducting demonstration control operations. Please provide data for the period since 2018, disaggregated by type of offence and sex, age group and ethnic origin of the victim, on allegations of the excessive use of force by public officials. Please also provide information on the outcome of the investigations and prosecutions conducted in each case and the

<sup>55</sup> Ibid., para. 29 (b); and A/HRC/WG.6/31/SEN/3, para. 27.

<sup>56</sup> CRPD/C/SEN/CO/1, paras. 27 (b) and 28 (b).

<sup>57</sup> CCPR/C/SEN/CO/5, para. 29 (a); and A/HRC/WG.6/31/SEN/3, para. 29.

<sup>58</sup> A/HRC/WG.6/31/SEN/3, para. 26.

<sup>59</sup> CCPR/C/SEN/CO/5, para. 25.

sentences and penalties imposed.<sup>60</sup> Please specify whether investigations have been opened, and their outcomes, regarding the excessive use of force: (a) against students protesting at the Gaston Berger University campus in Saint-Louis in May 2018, including the use of lethal force against Fallou Sène; (b) during the demonstration of 14 June 2019 organized by the platform Aar Li Nu Bokk; and (c) against persons who did not respect the curfew imposed in March 2020 to combat the COVID-19 pandemic.

28. In view of the Committee's previous concluding observations (paras. 35–36), noting reports of violent arrests motivated by the person's perceived sexual orientation and the State party's inadequate action to protect persons with albinism from ritual attacks and other harmful traditional practices, please indicate whether the State party is considering repealing the third paragraph of article 319 of the Criminal Code, which is invoked to prosecute consensual same-sex conduct,<sup>61</sup> and apply a moratorium in the meantime. Please also specify: (a) the measures taken to prevent, investigate, prosecute and secure convictions for violence, including police violence, based on the actual or perceived sexual orientation or gender identity of the victim<sup>62</sup> or on his or her albinism;<sup>63</sup> and (b) the measures in place to protect lesbian, gay, bisexual, transgender and intersex persons and persons with albinism, including to encourage victims to report such violence. Please provide data on cases of hate crime identified since 2018, disaggregated by grounds for discrimination, including the grounds of sexual orientation, gender identity and albinism, by the age group, sex and ethnic origin or nationality of the victim and state whether the perpetrator was a public official. Please also provide information on the outcome of the investigations and prosecutions conducted in each case and the sentences and penalties imposed.

### **Other issues**

29. Given that the prohibition of torture is absolute and cannot be derogated from, including within the framework of measures related to states of emergency and other exceptional circumstances, please provide information on any steps taken by the State party during the COVID-19 pandemic to ensure that its policies and action comply with its obligations under the Convention. In addition, please specify the measures taken in relation to persons deprived of their liberty, including in places of confinement such as homes for older persons, hospitals or institutions for persons with intellectual or psychosocial disabilities.

### **General information on other measures and developments relating to the implementation of the Convention in the State party**

30. Please provide detailed information on any other relevant legislative, administrative, judicial or other measures taken to implement the provisions of the Convention since its ratification by the State party, including institutional developments, plans or programmes. Please indicate the resources allocated for this purpose and provide relevant statistical data. Please also provide any other information that the State party considers relevant.

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<sup>60</sup> Ibid.; and A/HRC/WG.6/31/SEN/3, para. 33.

<sup>61</sup> CCPR/C/SEN/CO/5, para. 15 (b); and A/HRC/WG.6/31/SEN/3, para. 25.

<sup>62</sup> CCPR/C/SEN/CO/5, para. 15 (c) and (d); and A/HRC/WG.6/31/SEN/3, paras. 34–35.

<sup>63</sup> CRPD/C/SEN/CO/1, paras. 27 (a) and 28 (a).