



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Senegal

<i>Concluding observations (127th session):</i>	CCPR/C/SEN/CO/5 , 31 October 2019
<i>Follow-up paragraphs:</i>	27, 33 and 41
<i>Information received from State party:</i>	CCPR/C/SEN/FCO/5 , 20 December 2021
<i>Information received from stakeholders:</i>	Coalition of civil society organizations , 28 August 2022
<i>Committee's evaluation:</i>	27 [C], 33 [B] [C] and 41[B] [C]

Paragraph 27: Deaths in custody

The State party should take urgent measures to ensure that all deaths in custody are thoroughly and impartially investigated, that victims' beneficiaries receive reparations and that those responsible are prosecuted and punished in a manner commensurate with the gravity of their acts.

Summary of the information received from the State party

Decree No. 2001-362 of 4 May 2001, concerning the implementation and adjustment of criminal penalties, sets out procedures for dealing with deaths in custody. The public prosecutor, his or her representative, or the president of the district court, as well as the judge responsible for the execution of sentences and the investigating judge, where applicable, are notified of the deaths of all prisoners. In the event of a suicide or violent death, the director, in addition to informing the administrative authority, is required by law to immediately request the intervention of the police. In all cases, it is the public prosecutor who decides whether or not to order an autopsy to determine the cause of death. When an autopsy reveals that the death had an external cause, such as physical abuse, the public prosecutor opens an investigation and the perpetrators are prosecuted and punished. Following an investigation into the death of Fallou Ka, three officers were charged, convicted, sentenced to two years' imprisonment and ordered to pay compensation of 2 million CFA francs.

* Adopted by the Committee at its 138th session (26 June–26 July 2023).



Summary of the information received from stakeholders

The State launched investigations into the deaths of two inmates who died in Rebeuss prison in downtown Dakar and has published the results. In the case of the death of Fallou Ka, who had been remanded in custody in Diourbel prison and correctional centre, the director of the prison reported the death to the Prosecutor at the High Court of Diourbel, who ordered an autopsy. The autopsy revealed that Mr. Ka had been subjected to physical abuse leading to his death. An investigation was opened and the officers responsible for Mr. Ka's death were arrested, convicted of assault and battery, sentenced to two years' imprisonment and to pay two million CFA francs in compensation. However, between 2019 and 2021, at least four or five more deaths in custody have occurred, and although the State announces investigations each time, the results have not been made public.

Committee's evaluation

[C]

The Committee takes note of the information on the standard investigation procedure for all deaths in custody and on the conviction and sentencing of officers in the death of Fallou Ka. Nevertheless, the Committee is concerned at the lack of specific information about new measures taken to ensure that all such deaths are investigated, that the procedure is impartial, and that investigations are thorough. Furthermore, it regrets the absence of information on reparations for the victims' beneficiaries, and on ensuring that punishments for perpetrators are commensurate with the gravity of the acts committed. The Committee reiterates its recommendations.

Paragraph 33: Refugees and asylum-seekers

The State party should:

- (a) **Review its legislation to bring it into line with the Covenant and the Convention relating to the Status of Refugees;**
- (b) **Increase the financial and human resources of the National Commission on Eligibility for Refugee Status in order to make it more effective;**
- (c) **Reduce delays in responding to applications for refugee status;**
- (d) **Revise Act No. 61-10 on Senegalese nationality in order to avoid the risk of statelessness, in particular for all foundlings found in Senegalese territory, irrespective of their age, and children born in Senegal to foreign parents.**

Summary of the information received from the State party

(a) A bill on the status of refugees and stateless persons was adopted by the Council of Ministers on 9 September 2020. The bill, which is intended to repeal Act No. 68-027 of 24 July 1968 on the status of refugees, contains important innovations designed to bring the refugee system into line with the Convention relating to the Status of Refugees. It includes protection against prosecution, a family reunification policy and a prohibition on expelling or returning refugees to territories where their lives would be in danger. The bill will shortly be examined by the National Assembly.

(b) The bill on legal aid contains provisions guaranteeing all defendants access to a lawyer and provides for more transparent management of legal aid and the possible diversification of funding sources. It has been submitted to the General Secretariat of the Government. Pending its adoption, the Government is continuing to increase the budget allocated to legal aid every year. The budget allocation for legal aid is expected to be increased to 8 million CFA francs in 2022.

(c) No information was provided.

(d) The national action plan for the eradication of statelessness in Senegal by 2024, drawn up in 2021, includes a proposal to amend Act No. 61-10 on Senegalese nationality in order to allow foundlings found in Senegal to benefit from the presumption of Senegalese

nationality if they would otherwise be stateless. The action plan will be the subject of a pre-approval workshop in October 2021 and will subsequently be submitted to the Minister of Justice for final approval.

Summary of the information received from stakeholders

(a) Act No. 21-2021 on the Status of Refugees and Stateless Persons was adopted in April 2022. The Act exemplifies a number of achievements, as it includes provision for an appeal body, a prohibition on deportation to a country where the individual's life is in danger and provides that refugees should be granted the same rights as nationals in terms of access to health, education, housing and property transfer. However, the Act provides that a future decree is required for it to enter into force.

Committee's evaluation

[B]: (a) and (d)

(a) The Committee welcomes the adoption of the bill on the status of refugees and stateless persons in April 2022, which aims to bring the law into line with the Covenant and the Convention relating to the Status of Refugees. The Committee requests information on the State party's plans to pass a decree so that the new Act can enter into force.

(d) The Committee welcomes the development in 2021 of a draft national action plan for the eradication of statelessness in Senegal by 2024, which includes a proposal to amend the current law to allow foundlings found in Senegal to benefit from the presumption of nationality. The Committee requests additional information on the adoption and implementation of the action plan. The Committee regrets the lack of information on measures taken to protect children born in Senegal to foreign parents from statelessness. It reiterates its recommendation in this regard.

[C]: (b) and (c)

(b) While noting the information on the measures proposed in the bill on legal aid, the Committee regrets the lack of information on measures to increase the financial and human resources of the National Commission on Eligibility for Refugee Status in order to make it more effective. The Committee reiterates its recommendations and requests information on current access to legal aid for asylum-seekers, refugees and stateless persons and on how the aforementioned bill will affect it.

(c) The Committee regrets the absence of information on measures taken to reduce delays in responding to applications for refugee status and reiterates its recommendation.

Paragraph 41: Exploitation and abuse of children

The State party should adopt urgent measures to put an end to ill-treatment, exploitation, trafficking and all other forms of violence and torture against children, and should in particular:

(a) **Put an end to all forms of exploitation and abuse of children, including by teachers in the traditional Qur'anic schools (*daaras*);**

(b) **In the framework of the National Child Protection Strategy, establish a national database on all cases of domestic violence against children and carry out a comprehensive assessment of the extent, causes and nature of such violence;**

(c) **Expedite the adoption of the Children's Code while ensuring that it complies with the provisions of the Covenant;**

(d) **Ensure the strict application of article 298 of the Criminal Code, which criminalizes intentional physical violence against and neglect of children, by providing the entire judicial chain with resources adapted to the scale of the phenomenon;**

(e) **Accelerate the adoption of the bill on the modernization of Qur'anic schools while ensuring that the adopted law is compatible with the State party's**

obligations under the Covenant and provides for an inspection system with the necessary resources;

(f) Allow civil society organizations to associate themselves with criminal proceedings before the courts in all cases of child trafficking and abuse.

Summary of the information received from the State party

(a) A national toll-free number dedicated to children has been set up, allowing anyone to report cases of missing children, abuse, trafficking, neglect or family breakdown. At the local level, mechanisms for identifying, referring and caring for vulnerable children are established within the departmental child protection committees, which have been set up in 45 out of the 46 departments. Under the “Zero Children on the Streets” project, set up to protect children from the coronavirus disease (COVID-19), 6,605 children were taken off the streets between 2020 and 2021. The project also led to the adoption of the programme for getting children off the streets and reintegrating them into society for 2021–2023. In addition, in 2020, a portal was launched for reporting and removing online images or videos of child sexual abuse.

(b) In 2017 (prior to the reporting period), the Ministry of Women, Family, Gender and Child Protection designed Excel-based tools for collecting data on child protection that were approved by stakeholders working in that area. The tools are being tested by 18 departmental child protection committees that report on the situation of children, including child victims of domestic violence and those who have been the subject of a referral.

(c) The draft Children’s Code is currently being considered by the Ministry of Justice before being sent back to the General Secretariat. It will then be sent to the Council of Ministers and the National Assembly for approval. Meanwhile, the Ministry of Women, Family, Gender and Child Protection is working with the Ministry of Justice and all stakeholders in the area of child protection to overcome the sociocultural attitudes that constitute the main obstacle to the adoption of the bill.

(d) Article 298 of the Criminal Code, which criminalizes the physical abuse and wilful neglect of children, is implemented effectively by all Senegalese courts. For example, the Saint-Louis Court of Appeal recently sentenced a Qur’anic teacher to 2 years’ imprisonment for inflicting a fatal beating on a 15-year-old child.

(e) The bill on the status of Qur’anic schools was adopted in the Council of Ministers on 6 June 2018. The bill will be supplemented by four implementing decrees, including one on the conditions governing the opening and oversight of Qur’anic schools.

(f) Act No. 2005-06 of 10 May 2005 on the punishment of the crime of trafficking in persons and on victim protection is currently undergoing revision, which may entail establishing the right of civil society organizations working to combat trafficking in persons and child abuse to become parties to criminal proceedings related to such offences.

Summary of the information received from stakeholders

The campaign conducted to remove *talibé* children (who study in Qur’anic schools) from the streets did not have expected results. The lack of support from Qur’anic masters and the lack of follow-up made the efforts unsustainable. Those children are still on the street and are subjected to abuse by Qur’anic masters. The police indicated that they were not permitted to arrest Qur’anic masters during the campaign. Act No. 2020-05 of 10 January 2020 makes rape a crime and extends the criminalization of acts of paedophilia. While in certain cases, proceedings have resulted in conviction of Qur’anic masters found guilty of committing violence against children, the convictions have not been commensurate with the levels of abuse.

Article 298 of the Criminal Code is not rigorously applied owing to a number of factors, including sociocultural barriers, non-reporting, fear of justice and ignorance of the law. Non-governmental organizations have been taking steps to raise awareness and conduct advocacy.

The law on the modernization of Qur’anic schools was adopted in 2019 by the Council of Ministers and sent to the National Assembly, where the vote was blocked by opponents.

Committee's evaluation

[B]: (a) and (b)

(a) The Committee welcomes the measures taken to facilitate the reporting of child exploitation and the establishment of departmental child protection committees in all but one department. The Committee notes the measures taken to take children off the streets and remove images and videos of child abuse from the Internet. Nevertheless, the Committee requests additional information on measures taken to end child abuse and exploitation by Qur'anic masters.

(b) The Committee notes the piloting of a data-collection tool and requests further information on progress towards the creation of a national database on all cases of domestic violence against children and on plans to carry out a comprehensive assessment of the extent, causes and nature of such violence.

[C]: (c), (d), (e) and (f)

(c) The Committee notes the information on the measures taken to pass the Children's Code into law, including efforts to convince stakeholders to support the draft law. Nevertheless, the Committee is concerned that the Children's Code has not yet been passed into law and reiterates its recommendation.

(d) The Committee notes the State party's stated commitment to implementing article 298 of the Criminal Code. Nevertheless, it notes continued sociocultural barriers to reporting of cases, and the courts' timid application in practice of sentencing provisions under article 298. The Committee regrets the lack of specific information regarding measures taken to provide the entire judicial chain with resources in order to ensure strict application of that article. The Committee reiterates its recommendation.

(e) The Committee regrets that the vote in the National Assembly on the bill on the status of Qur'anic schools was reportedly blocked by opponents. It requests further information on the current status of the bill and whether similar legislation, compatible with the State party's obligations under the Covenant, is envisaged. The Committee reiterates its recommendation.

(f) The Committee takes note of the information provided indicating that the ongoing revision of the law on the punishment of the crime of trafficking in persons and on victim protection might include a provision allowing civil society organizations to associate themselves with criminal proceedings before the courts, and requests updated information in this regard. The Committee regrets the lack of information on cases of child abuse other than trafficking in this regard and reiterates its recommendation.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2026 (country review in 2027, in accordance with the predictable review cycle).