



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### List of issues in relation to the fifth periodic report of Senegal\*

#### Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please provide information on the measures taken to ensure the primacy of the Covenant over domestic law and its direct application in the domestic legal system. Please supply information on the procedures for giving effect to the concluding observations adopted by the Committee (CCPR/C/79/Add.82) and its Views under the first Optional Protocol. Please provide examples of any cases in which the courts have directly applied the provisions of the Covenant. Please provide further information on the availability of effective remedies for an individual who claims to be a victim of a violation of any of the rights set forth in the Covenant. Please say what measures have been taken to raise public awareness of the Covenant, in particular among judges, prosecutors, lawyers and members of the defence and security forces.

2. In order to ensure the compliance of the Senegalese Human Rights Committee with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), please provide details of the measures taken by the State party to: (a) ensure the transparent selection of members and a membership that guarantees the independence of the institution, and (b) provide the Committee with sufficient resources to implement its mandate in full.

#### Efforts to combat impunity and address past human rights violations (arts. 2, 6, 7 and 14)

3. With reference to paragraphs 9 to 11 of the State party's fifth report (CCPR/C/SEN/5) and to the previous concluding observations (see CCPR/C/79/Add.82, para. 11), please provide more information on the steps taken to shed light on past cases of human rights violations and to establish the truth and the right to compensation of victims of the conflict in Casamance and of their families, having particular regard to the peace agreement signed on 30 December 2004, and on the latter's compatibility with the Covenant. With reference to paragraph 15 of the State party's fifth report, please indicate whether measures have been envisaged to ensure that the Public Prosecutor can order an investigation, even in the absence of a formal complaint, into cases of enforced disappearance or other violations of articles 6 and 7 of the Covenant.

#### Non-discrimination (arts. 2, 7, 24, 25 and 26)

4. With reference to the information submitted in paragraphs 92 to 97 of the State party's fifth report, please provide details of the steps taken to adopt comprehensive

\* Adopted by the Committee at its 125th session (4–29 March 2019).



legislation that: (a) clearly defines and criminalizes direct and indirect discrimination; (b) contains a complete list of prohibited grounds of discrimination, including sexual orientation, gender identity, legal status and disability, and (c) provides effective remedies for victims. Please indicate the number of complaints recorded and prosecutions conducted on the grounds of discrimination in the State party. Please describe the measures taken to combat and prevent acts of discrimination, stigmatization or violence against: (a) persons with albinism; (b) persons living with HIV/AIDS, especially women and homosexual men; (c) children born out of wedlock; (d) persons belonging to ethnic minorities, and (e) persons belonging to sexual or gender minorities.

**Non-discrimination and equality between men and women (arts. 2, 3, 23, 25 and 26)**

5. Please explain the measures taken to give full effect to Act No. 2010-11 of 28 May 2010 establishing absolute gender parity in all institutions in which some or all posts are elective, including the measures taken to give effect to its implementing decree, which clearly includes the offices and commissions of elected councils among the bodies to which parity shall apply. Please provide disaggregated data on the judicial remedies currently being sought and the status of those cases. Please explain whether the State party intends to expand the scope of Act No. 2010-11 to the appointment of women to (central and local) government positions, including ministerial posts (see CCPR/C/SEN/5, para. 24), in accordance with article 7 of the Constitution. Please explain whether a quota policy has been put in place and, if so, please provide statistical data, disaggregated by administration and ministry, to illustrate how effective it has been.

6. With reference to paragraphs 33 and 34 of the State party's fifth report, please provide further information on the steps envisaged to repeal the provisions of the Family Code relating to the choice of marital home, the minimum age for marriage, the ban on legal action to establish paternity, paternal authority and inheritance rights. Please also supply information on the measures envisaged to amend the provisions of the Criminal Code to classify sexual assault as a serious offence. Please provide information on measures aimed at overcoming resistance to these amendments, in particular among traditional and religious leaders and parliamentarians.

**Non-discrimination of persons on the basis of their sexual orientation and gender identity (arts. 2, 7, 9, 13, 14, 17 and 26)**

7. With reference to paragraphs 92 et seq. of the State party's fifth report, please provide updated information on the State party's efforts to decriminalize sexual relations between persons of the same sex by repealing article 319.3 of the Criminal Code. Please also describe the measures taken to combat stereotypes surrounding homosexuality, which is widely considered to be taboo and repugnant to cultural values, and to protect persons belonging to sexual minorities from privacy breaches, arbitrary arrest and violence. Please provide statistical data on arrests for and the bringing of charges of unnatural acts and information on the legal action taken. Please provide statistical data on the number of asylum applications that are based on an individual's belonging to a sexual minority and on the number of such applications that are rejected.

**Violence against women and harmful practices (arts. 2, 3, 6, 7, 8 and 26)**

8. With reference to paragraph 24 of the State party's fifth report, please provide details of the penalties imposed for rape, female genital mutilation, incest, sexual harassment and indecent assault. Please indicate whether marital rape is clearly criminalized under Act No. 1999-05 of 29 January 1999. Please provide updated information on the practice of female genital mutilation in the State party's territory, on deterrence measures and the results of such measures, and indicate the number of complaints recorded, prosecutions brought and sentences imposed under Act No. 1999-05. Please provide further information on all measures aimed at overcoming resistance to the implementation of this law, including among traditional and religious leaders.

**Death penalty (art. 6)**

9. In relation to paragraph 106 of the State party's fifth report, please say whether the State party intends to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

**Right to life, prohibition of torture and cruel, inhuman or degrading treatment, conduct of the security forces and treatment of persons deprived of their liberty (arts. 6, 7 and 10)**

10. Please indicate the extent to which infanticide is practised in Senegal by providing statistical data for the past five years from the Ministry of Justice and the National Statistics and Demography Agency on the proportion of women who have faced criminal prosecution for infanticide and the number of them who have been convicted of such acts and or whose cases have been dismissed. With reference to paragraphs 31 and 35 of the State party's fifth report, please provide more information on the measures taken to address the causes of infanticide, including raising women's awareness of contraceptive methods and the psychosocial support available to the women concerned.

11. Please respond to allegations regarding excessive use of force at political rallies and demonstrations and of deaths that have occurred during demonstrations over the past five years. Please provide information on the investigations that have been conducted and their results. Please furnish information on the training and oversight mechanisms that exist in the State party to ensure that police forces comply with the provisions of the Covenant, including when they have to contain mob violence.

12. Please provide information on the recorded number of deaths in custody and their causes and respond to allegations that a detainee was shot dead at Rebeuss prison in 2016. Concerning paragraphs 38 et seq. of the State party's fifth report, please provide an update on the number of places of deprivation of liberty currently operational and up-to-date data, disaggregated by place of detention, on the official capacity of places of detention and the actual number of detainees. Please indicate the measures taken by the State party to increase the budget allocated to the prison service.

13. With reference to paragraphs 118 et seq. of the State party's fifth report, please indicate the effective complaint mechanisms and remedies available to persons who claim to have been subjected to torture or ill-treatment by State officials and give the exact number of complaints, investigations, prosecutions, convictions and the compensation awarded for acts of torture over the past five years. Please indicate the legal measures that have been taken to establish the inadmissibility of statements or confessions obtained under torture.

14. With reference to paragraphs 57 to 60 of the State party's fifth report, please explain whether all training and rehabilitation measures for men are also available for women and minors. Please provide further explanations as to the definition of the term "correctional facility" in Senegalese law and provide information on the number of such facilities in operation and how many people are being held in them, disaggregated by age and sex. With reference to paragraph 60 of the report, please provide statistics on the number of community service sentences handed down by courts, including a comparison with the number of prison sentences.

**Maternal mortality and voluntary termination of pregnancy (arts. 3, 6 and 7)**

15. In view of the very high rates of maternal mortality and early pregnancy, please provide updated statistical data on maternal and infant mortality. Please describe the efforts made to ensure access to safe contraceptive methods and to education and information on contraception and sexual and reproductive health throughout the country, and to prevent early pregnancies. Please supply information on the measures taken to improve pregnant women's access to health services. Please indicate the estimated number of clandestine abortions per year and clarify whether the State party intends to amend its legislation, in accordance with the Covenant, to ensure access to safe, legal abortion when carrying a pregnancy to term would cause the woman substantial suffering, particularly if the pregnancy is the result of rape or incest or when it is not viable. Please also indicate the

number of women convicted of intentionally terminating their pregnancies and the penalties imposed, and the number of persons convicted of performing an abortion.

**Forced labour, contemporary forms of slavery and trafficking in persons (arts. 6, 7, 8, 24 and 26)**

16. Please indicate all measures taken to ensure the full implementation of Act No. 2005-06 of 10 May 2005 on combating trafficking in persons and related practices, as mentioned in paragraph 104 of the State party's fifth report, in order to eradicate the worst forms of child labour – particularly domestic work, forced begging and mining – and of women's exploitation – above all as domestic servants and in the context of forced prostitution in the vicinity of mining sites. In particular, please indicate the number of prosecutions and convictions relating to trafficking in persons, including in women and children. Please provide information, disaggregated by location, occupation and gender, on the training provided to law enforcement officials, prosecutors and judges on the effective implementation of Act No. 2005-06. Please say whether the State party intends to amend article 245 of the Criminal Code to stipulate that no circumstances justify forcing children to beg.

**Treatment of aliens, including refugees and asylum seekers (arts. 7, 13 and 26)**

17. Having regard to paragraph 220 of the State party's fifth report, and in view of the lack of information on this matter in the report, please describe the progress of the 2012 draft law on refugee status and statelessness. Please provide information on any possible obstacles to its adoption by Parliament. Please indicate the measures taken by the State party to raise awareness among State services, local authorities, banking institutions and the general public to ensure that identity cards issued to refugees are recognized and give card holders access to their rights. In addition, please provide details of the measures taken by the State party to produce machine-readable or biometric travel documents enabling refugees to move freely.

**Liberty and security of person and administration of justice (arts. 9 and 14)**

18. With reference to paragraphs 144, 145 and 146 of the State party's fifth report, please provide statistics on the proportion of cases that exceed the once-renewable, 48-hour limit on police custody and on the proportion of individuals taken into police custody in connection with crimes against national security or terrorism. Please provide examples of cases where disciplinary measures and criminal sanctions have been imposed for violations of the statutory time limits. With reference to paragraph 162 of the State party's fifth report, please provide updated statistics on the length of pretrial detention at the different establishments and explain whether the six-month limit of validity for detention warrants applies to both minor offences and criminal cases. Please provide further information on the special judicial commission that rules on claims for compensation brought by persons who have been detained if a decision is taken to discontinue proceedings, or if the length of the sentence is shorter than the time spent in pretrial detention. Please provide details of the number of decisions rendered by the commission, the number of individuals who have received compensation and the amount of the compensation granted.

19. With reference to paragraphs 122 and 147 of the State party's fifth report, please specify the measures taken to ensure that persons have effective access to legal counsel from the moment they are taken into custody. Please specify the measures taken to implement regulation No. 05/CM of the West African Economic and Monetary Union on the harmonization of the rules governing the legal profession, according to which legal counsel must be present from the moment of arrest. Please provide information on obstacles preventing its implementation. Please provide data, disaggregated by region, on the number of practising lawyers and on the budget for legal aid for those with limited means, if such assistance is offered.

20. With reference to paragraphs 126 to 132 of the State party's fifth report, please indicate the composition of the Higher Council of the Judiciary and provide details on how judges and prosecutors are appointed and transferred, including the criteria applied and length of placements. Please provide statistics on the number of transfers and resignations

of judges over the last three years and, in each case, the reasons behind them. Please indicate whether the State party intends to make the prosecutor's office independent of the Ministry of Justice.

21. With reference to paragraphs 163 to 175 of the State party's fifth report, please provide information on the civil claims related to the Hissène Habré case, including compensation for victims.

**Protection of children (arts. 23 and 24)**

22. With reference to the information provided in paragraphs 109 et seq. of the State party's fifth report, please provide statistical data on the number of reported deaths and cases of physical, mental and moral violence against children, whether inflicted in the family environment or by persons to whom the child has been entrusted, including marabouts. Please provide statistics on prosecutions, convictions, sentences and the compensation awarded by courts. Please provide information on the percentage of children who do not live with their biological parents and say whether measures are being taken to monitor these children and to record the names of the persons who actually exercise authority over them. Please explain the measures taken to implement the recommendations of the Committee on the Rights of the Child, particularly in regard to ensuring the effective enforcement of article 298 of the Criminal Code criminalizing physical abuse and wilful neglect of children (see CRC/C/SEN/CO/3-5, para. 38). Please specify the measures taken to preclude violence against children in Qur'anic schools.

23. Please indicate the status of the draft law on the modernization of the Qur'anic schools known as *daraas* and identify any current obstacles to its adoption. Please also indicate the status of the draft Children's Code, including information on the content of the current draft and whether the State party intends to prohibit corporal punishment of children in all settings. Please clarify whether the State party intends to repeal article 285 of the Family Code, which recognizes the right of the person(s) exercising parental authority to chastise a child. Please provide details of any obstacles preventing the enactment of the Children's Code and the amendment of all provisions of the Family Code that are not compatible with the Covenant, and on the status of the dialogue with religious authorities referred to in paragraph 35 of the State party's fifth report.

24. Please indicate the progress made on birth registration and, in particular, on the abolishment of fees for late birth registration, including for migrants and people living in remote areas. Please describe the measures taken to implement the recommendations on birth registration made by the Committee on the Rights of the Child (see CRC/C/SEN/CO/3-5, para. 32). Please indicate the measures the State party intends to take to review the provisions of Act No. 61-70 of 7 March 1961, amended in 2013, under which Senegalese nationality may be acquired only by newborn foundlings. Please indicate the measures being considered to grant nationality to children born in Senegalese territory who would otherwise be stateless.

**Freedoms of expression and association, right of peaceful assembly and protection of journalists and human rights defenders (arts. 6, 7, 9, 19 and 21)**

25. With reference to paragraph 179 of the State party's fifth report, please clarify whether a provision on press offences still exists in the new Press Code or any other legislation and, if so, please detail the contents of that provision and the penalties incurred. Please provide information on the number of arrests and convictions in connection with press offences. Please address allegations that article 192 of the Press Code (on offences undermining State security), article 254 of the Criminal Code (on offences against the Head of State), articles 259 to 263 of the Criminal Code (on defamation) and article 431.60 of the new Criminal Code (on the online production and dissemination of immoral documents or images) are used to silence dissenting voices among opposition parties, journalists and human rights defenders. With reference to paragraph 183, please provide information on the measures taken to strengthen the independence and financial and budgetary autonomy of regulatory institutions such as the Regulatory Authority for Telecommunications and Post and the National Media Regulatory Council.

26. Please respond to allegations that human rights defenders were vilified and intimidated in 2018 because of their public stances and that journalists have been subjected to violence or intimidation, particularly during the period around the parliamentary elections in July 2017. Please provide details of the measures taken to guarantee the exercise of the right to freedom of political speech in accordance with the provisions of the Covenant.

27. With reference to paragraphs 188 and 189 of the State party's fifth report, please address allegations that the maintenance of public order is used as a pretext to refuse requests by opposition parties and civil society organizations to hold demonstrations.

28. With reference to paragraph 237 of the State party's fifth report, please provide further information on legal provisions guaranteeing citizens' right to information and indicate whether the State party intends to adopt a comprehensive law on access to information. Please indicate whether measures are being considered to consolidate all the sources of the Senegalese legal order together in a single data platform to ensure access to information on all constitutional, legislative, regulatory and jurisprudential provisions, in order to improve comprehension of the hierarchy of norms and the use of these norms by judges and defendants.

#### **Participation in public affairs (art. 25)**

29. With reference to paragraph 223 of the State party's fifth report, please indicate all measures taken to ensure the holding of free, reliable and transparent elections. Please provide details of the contents of revised article 29 of the Constitution of 19 April 2018 and of the revised provision of the Electoral Code of 18 June 2018 on the sponsorship of candidates by voters. Please respond to allegations that, in practice, persons deprived of their liberty in Senegal (whether in pretrial detention or having been sentenced to prison) cannot exercise their right to vote or to be elected. In the context of the allegations made by the former Mayor of Dakar, Khalifa Sall, please explain whether, under the Criminal Code, individuals convicted in court are automatically struck off electoral lists and, if so, how long this disbarment may last. Please clarify whether the Criminal Code provides for: (a) categories of convicted persons who are denied their civil and political rights; and (b) other categories of persons whose civil rights are restricted, in particular their right to vote. If no such provisions exist in the Criminal Code, please indicate the legal rules governing this matter and, in particular, the provisions on which the Constitutional Council's decision of 20 January 2019 was based.

#### **Dissemination of information relating to the Covenant (art. 2)**

30. Please describe steps taken to disseminate information on the Covenant, the fifth periodic report of the State party and its forthcoming examination by the Committee. Please provide detailed information on the participation of representatives of civil society and non-governmental organizations in the preparation of the State party's report.

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