



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Fifth periodic report submitted by Senegal under  
article 40 of the Covenant, due in 2000\***

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\* The present document is being issued without formal editing.



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## General introduction

1. Following the example of other States parties, Senegal ratified the International Covenant on Civil and Political Rights on 13 February 1978. The Government is thus submitting the fifth report of Senegal under article 40 of the Covenant.
2. Since its ratification, the Covenant has become a key component of the internal legal order of Senegal, where it takes precedence over other laws of the land, under article 98 of the Constitution. The Covenant is part of the national body of laws that State institutions are required to implement. The protection of civil and political rights has always been a major concern for the Government of Senegal.
3. The present report, which describes the efforts made by the State to fulfil its international obligations under the Covenant since its last report to the Committee in 1997, was prepared on the basis of contributions from all relevant governmental actors, non-governmental organizations (NGOs), civil society organizations and partners. Their combined efforts made it possible to rapidly appraise the state of the existing legal, judicial and administrative framework.
4. However, gathering statistical data and describing the real state of implementation of certain rights turned out to be a major challenge.
5. The preamble to the Constitution proclaims the adherence of the people of Senegal to the Declaration of the Rights of Man and of the Citizen of 1789 and to the international instruments adopted by the United Nations.
6. The State's commitment to the principles of human rights is enshrined not only in the preamble but also in a coherent set of provisions. These are contained in section II of the Constitution, on civil liberties and human freedoms, economic and social rights, and collective rights.
7. The first part of this report deals exclusively with the measures taken in response to the pertinent recommendations set forth in the concluding observations issued by the Committee to the Government following its consideration of the last periodic report of Senegal, submitted in 1997. The second part of this report covers the implementation of the relevant provisions of the Covenant and the obstacles to their implementation.

## Part one

### Responses to the Committee's concluding observations of 1997 on the previous periodic report of Senegal

8. In 1997, the Committee requested the Senegalese authorities to provide additional information on a number of issues. More specifically, it requested the authorities to:
  - Fully inform the Committee about the events in Casamance
  - Put an end to negative attitudes towards women
  - Improve the living conditions of detainees
  - Provide information on the rights of religious and ethnic minorities
  - Provide information on the effective implementation of the Covenant in law and in practice and on factors and difficulties which affect its implementation

## Chapter I

### Peace and stability in Casamance

9. Thanks to the Government's efforts, the insecurity that reigned in this region in the south of Senegal during the 1980s and 1990s has subsided.
10. The Comprehensive Peace Agreement signed on 30 December 2004 by the Government and the Mouvement des forces démocratiques de la Casamance (MFDC) greatly

eased the situation, although it is regrettably still the case that acts of violence are committed, at regular intervals, by isolated armed groups and individuals continue to fall victim to anti-personnel mines.

11. Against this new backdrop, the State is motivated by a political commitment to preventing torture and impunity that is wholly consistent with the assertion that a democracy must, whatever the circumstances, ensure that only legitimate means are used to protect the security of the State, peace and stability.

#### **A. Mass arrests and detentions**

12. The arrests made in Casamance concern MFDC combatants and other individuals identified as having supported the action of those combatants in any way, whether by providing information, resources or shelter. In such cases, the arrest and detention of a person suspected of supporting MFDC is based on an investigation and is by no means arbitrary.

13. Under these circumstances, it is natural that arrests should be carried out, on the basis of credible information obtained from other detainees or from well-meaning persons following a denunciation.

#### **B. Allegations of the extraction of confessions by means of torture**

14. In accordance with articles 6 and 7 of the Covenant, the legislative and regulatory provisions in force formally prohibit ill-treatment and the courts counter such practices by invalidating any proceedings based thereon; moreover, the perpetrators of such acts are liable to be prosecuted.

15. In the Casamance cases, the allegations are so general in nature as to be very vague, and none of the persons charged by the investigating judge have ever complained, thus giving the public prosecutor no grounds to start a preliminary investigation in that connection.

16. It is worth recalling that in Senegal no one may be imprisoned without a court order, whether his or her arrest took place in the context of an investigation by the police or the gendarmerie, or on the judicial authority of the investigating judge.

#### **C. Peace efforts in Casamance**

17. With the aim of consolidating sustainable peace and development in Casamance, the Government has initiated a number of projects and programmes.

18. One such programme is aimed at supporting the development of Casamance, which was implemented until 2015 and helped to improve the living conditions of women and men by increasing the income generated by business operators, broadening the range of services offered and strengthening the management of the operational capacity of technical agencies. In concrete terms, productivity has increased and marketing channels are profitable.

19. Another initiative is the Casamance Development Hub Project, which has three main components:

- Support for agricultural production and commercialization of value chains
- Rural accessibility
- Disarmament, demobilization and reintegration

## **Chapter II**

### **Negative attitudes towards women**

20. On 28 June 2013, Senegal amended its Nationality Code to put an end to the unequal treatment of men and women as regards their ability to pass on Senegalese nationality by marriage, descent or adoption.

21. Senegalese women are now able to pass on their nationality to their children. This is a major step forward in the fight against all forms of discrimination against women. This is certainly an area in which Senegal is in line with the African Charter on Human and Peoples' Rights and the Protocol thereto on the rights of women.

22. Indeed, the State has always paid attention to the situation of women in Senegal, as demonstrated, in particular, by its gradual adoption of a protective legislative framework and its development of policies designed to eliminate gender inequality, even if there are still some challenges to be overcome in order to achieve true gender equality.

## **A. Developing the protective legislative framework**

### **1. Improving the constitutional status of women**

23. Several constitutional provisions promote equal rights for women, in areas such as:
- Gender equality, including equal access to elective offices and posts (arts. 1 and 7)
  - The right to education, literacy, work, health and a healthy environment (art. 8)
  - The right to acquire and own land (art. 15 (2))
  - The right of women in rural areas to enjoy better living conditions (art. 17)
  - The prohibition of forced marriage (art. 18)
  - The right of married women, like their husbands, to have their own assets and to personally manage their property (art. 19)
  - The right of children of both sexes to attend school (art. 22 (2))
  - The prohibition of any form of gender discrimination with respect to employment, wages and taxation (art. 25 (2))

### **2. Harmonizing national legislation with international obligations**

24. Furthermore, several laws and regulations have been adopted in order to fulfil treaty obligations, including:

- Act No. 1999-05 of 29 January 1999, which increased the penalties applicable to some offences, such as rape, female circumcision, indecent assault, incest and sexual harassment.
- Act No. 1982-019 of 22 January 1982 on the access of women to certain military and paramilitary corps (armed forces, customs, civil aviation).
- Act No. 99-05 of 29 January, which amended article 294 (2) of the Criminal Code to increase the penalties for violence against women.
- The Labour Code, which recognizes maternity rights.
- The Social Security Code, which ensures medical coverage for the spouse and children of women employees.
- Act No. 2008-01 of 8 January 2008, which amended certain provisions of the Tax Code to abolish the joint taxation of couples and to grant full tax autonomy to married women.
- Act No. 2010-11 of 28 May 2010, which established absolute gender parity in all institutions in which some or all posts are elective.
- Act No. 2015-15 of 16 July 2015, which authorized the President of the Republic to ratify the International Labour Organization (ILO) Maternity Protection Convention, 2000 (No. 183).
- Act No. 2016-30 of 8 November 2016, which established the Mining Code, article 109 of which prohibits any discrimination between men and women with respect to wages.

- Act No. 2013-05, which amended Act No. 61-10 of 7 March 1961 on the determination of Senegalese nationality.
- Decree No. 2006-515/PR of 9 June 2006 on the access of women to the gendarmerie.
- Decree No. 2017-313 of 15 February 2017, which established gender units within the general secretariats of ministries.
- Decrees Nos. 2006-1309 and 1310 of 23 November 2006, which enabled women working in the public and private sectors to extend their medical insurance coverage to include their husband and children.
- Prime Ministerial Circular No. 009159 of 26 March 2013, which invited line ministries to incorporate gender into their work; the implementation of this Circular led to the establishment of 22 gender units across the Government.

## **B. Strengthening the protection of women's rights**

### **1. Policies and programmes that promote the rights of women**

25. Senegal recently launched its first national action plan for the eradication of gender-based violence and the promotion of human rights. This multisectoral, multi-stakeholder plan for 2017–2021 is in the initial stage of implementation, which has involved the development of regional action plans.

26. The national action plan covers all aspects of combating the violation of women's rights and domestic violence through forums and informal discussions with community members. Civil society is working exceptionally hard alongside the Government in this area. Achievements include:

- The implementation of national action plans for women from 1997 to 2003.
- The National Strategy for Gender Equity and Equality 2005–2015; a follow-up strategy for 2016 to 2026 is currently being implemented.
- The provision of equipment to ease the domestic burden for women:
  - Between 2000 and 2005, almost 4.5 billion CFA francs (CFAF) were invested in this programme, which involves the provision of mills for grinding millet, sewing machines, equipment for processing agricultural products and cooking kits.
  - Since 2006, the Head of State has committed to providing women's organizations with 1,000 mills per year.
  - Women's access to basic social infrastructure.
  - Nearly CFAF 18 billion have been invested in building social and community infrastructure, through poverty reduction projects and initiatives led by the national and departmental centres for assistance and training for women.
- Institutional and organizational capacity-building for women:
  - This initiative concerns around 25,000 women's organizations, involving over 1 million women throughout the country.
  - A total of 85,813 women received female leadership training between 2000 and 2009.
  - Support has been provided for 730 microprojects supervised by experts from the Ministry for the Family.
- The delivery of babies, including by caesarean section, is now free of charge.
- There was a decrease in female circumcision between 2009 and 2011: of the 5,000 communities identified in 1997, 4,452 communities have abandoned the practice as a result of the Community Capacity-building Programme, which is based on a human rights education strategy led by civil society and supported by the United Nations Children's Fund (UNICEF).

- Community capacity-building has greatly helped to raise public awareness. The progress made in this regard inspired UNICEF, the United Nations Population Fund (UNFPA) and the United States Agency for International Development (USAID) to support the 2010–2015 national action plan to speed up the elimination of female circumcision, which was launched in February 2010.
- The implementation of this plan was managed by a national council chaired by the Prime Minister and a steering committee made up of representatives of relevant ministries and civil society organizations. Under the plan, regional committees supervised by local governors were set up in 11 of the 12 areas where the practice was prevalent; as a result, the rate of abandonment of the practice rose from 71 to 89.04 per cent between 2010 and 2011. The aim of the action plan was to help women who performed circumcisions to start-up businesses in other areas, such as solar energy, crafts and microgardening.

27. Within the framework of the Priority Solidarity Fund, the Government has launched a project to help combat gender-based violence in schools, with a view to instituting a multisectoral, interministerial and multilevel approach both in schools and elsewhere. The aim of the project is to increase access to education for girls and reduce school dropout among girls, by:

- Creating safe learning environments that are gender-sensitive and conducive to reducing gender inequalities relating to access to education and school dropout, especially among girls.
- Raising awareness of the impact of gender-based violence on school enrolment and the quality of education, among ministerial officials, teaching staff and community members, including both women and men.

28. In 2015, standard operating procedures were disseminated in all 14 regions of the country among the main actors who work on the issue of gender-based violence. A chart of these actors has been drawn up and finalized, and the channels for the provision of care for victims and survivors of gender-based violence have been mapped.

29. In order to improve the protection and promotion of women's rights, regional action plans against gender-based violence have been drawn up in all 14 regions to ensure that specific measures are taken to address this issue at the community level.

30. Act No. 99-05, punishing all forms of harmful practices, has been translated into the national languages and disseminated in all 14 regions of Senegal. Training on the application of the Act has been organized, in collaboration with civil society organizations, for public prosecutors and squad commanders in the police force and the gendarmerie in high prevalence regions, such as the north, south and south-east. Seminars have been held for imams, chairs of groups for the advancement of women, and other community organizations to inform them about the Act. Other measures include:

- The adoption of the second National Strategy for Gender Equity and Equality, for 2016–2026, which is based on the Plan for an Emerging Senegal.
- The provision of training in advocacy and negotiation techniques for women members of parliament and women electoral candidates; these training sessions focused on key concepts such as gender-sensitive planning and budgeting, leadership, advocacy and lobbying, and raising awareness of the challenges of gender mainstreaming in public policies.
- The establishment, in 2016, of a committee for the review of laws and regulations that discriminate against women, by order of the Minister of Justice.

31. The report on the work undertaken with respect to the authorization of safe abortion and the establishment of a definition of discrimination against women is being widely disseminated. The measures that have been taken include the following:

- The Convention on the Elimination of All Forms of Discrimination against Women has been translated into six national languages and disseminated throughout the country to give members of the public, especially women in rural areas, a better understanding of their rights.

- Technical meetings on aspects of the implementation of the National Strategy for Gender Equity and Equality that are specific to each group of actors have been held for line ministries, through research and planning units, gender units and civil society organizations.
- Regional workshops on the dissemination of this strategy have been held to encourage local stakeholders to take ownership of it and to contribute effectively to its implementation.
- Resources, such as a methodological guide on the institutionalization of gender and a multilevel module on gender, reproductive health and family planning, have been produced.
- Line ministries have received technical support to help them to coordinate gender initiatives.

## **2. The increase in women's participation at all levels of decision-making**

32. All these initiatives have resulted in major progress, including, most notably:

- The representation of women in the National Assembly rose from 24 to 44.6 per cent, or from 33 to 64 women out of 150 members in total, in 2012.
- The 2017 legislative elections resulted in an increase in the number of women in parliament, even though, as a proportion, the representation of women has decreased. Thus, 69 women were elected in 2017, compared with 64 in 2012. The Economic, Social and Environmental Council, which is chaired by a woman, has 23 women among its 120 members, accounting for 19.2 per cent of the total. Its bureau comprises six women and six men.
- Following the local elections of June 2014, the representation of women in local government tripled, rising from 15.9 per cent in 2009 to 47.2 per cent in 2014, as 13,103 out of 27,760 local councillor positions were filled by women.
- A large number of young women have enlisted in the Senegalese armed forces. Between September 2007 and January 2008, 300 women aged 18 to 23 years old joined the Senegalese armed forces.
- More generally, the representation of women in the public sector has improved, rising from 15,584 women (18.4 per cent) to 16,346 women (19.09 per cent) between 2009 and 2010. In 2010, women accounted for 17.29 per cent of the judiciary and 1.58 per cent of the territorial administration. Senegal does not have any women governors or deputy prefects yet, but that is sure to change soon; it is worth bearing in mind that, up until 2004, women could not be appointed to the territorial administration.
- The representation of women has risen from 11 to 47.2 per cent. Fifty members of the High Council for Territorial Units – 33 per cent of the total number of members – are women. Meanwhile, the Economic, Social and Environmental Council is chaired by a woman and its bureau is gender-balanced, with six women and six men, like that of the High Council for Territorial Units.
- As regards the departmental and municipal councils, significant progress was made during the elections of 2014 when there was a jump of 36.2 percentage points.

## **C. Striving for absolute gender equality in Senegal**

### **1. In the legal sphere**

33. When it comes to strengthening the rights of women in order to ensure absolute gender equality in Senegal, priority issues relating to the Family Code include:

- The choice of marital home, which remains a prerogative of the husband (art. 153)
- The amendment of article 152 on paternal authority
- The minimum age for marriage for women (art. 111)
- Removal of the ban on legal action to establish paternity



- Gender discrimination with respect to inheritance rights, under article 637 et seq. on inheritance under Islamic law; Senegal is taking steps to align its national legislation with the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
34. Priority issues relating to the Criminal Code include:
- Passing appropriate legislation on safe abortion in cases of rape or incest
  - Classifying sexual assault as a serious offence (art. 320)

## 2. In the social and political sphere

35. In the economic, social and cultural spheres, Senegal's efforts to achieve absolute gender equality are hindered by challenges relating to the equal exercise of rights enshrined in the African Charter on Human and Peoples' Rights and the Covenant. These challenges include the following:

- Inadequate resources are mobilized for activities that benefit women
- Women continue to suffer from stereotypes, inequalities and discrimination in Senegalese society

## Chapter III Living conditions of detainees

36. In response to the recommendations set forth in the Committee's previous concluding observations, the Senegalese authorities have taken a series of measures to improve the living conditions of detainees and, in particular, to prepare them for reintegration into society.

37. These measures include renovating places of detention, improving the daily life of detainees, establishing a proper policy on social reintegration and enhancing the working and living conditions of prison staff.

### A. Statistics on the Senegalese prison population

38. The prison population is characterized, in particular, by the diversity of the prisoners (men, women and children of Senegalese and foreign origin) and the nature of the serious and less serious offences committed.

39. The majority of prisoners are adults: on 31 December 2017, the prison population totalled 10,045 individuals, of whom 94.69 per cent were men, 3.45 per cent were women and 3 per cent were minors. There were 4,175 pretrial detainees, accounting for 41.6 per cent of the prison population; of those, 92 per cent were men, 5 per cent were women and 3 per cent were minors.

40. At that time, there were 5,870 convicted persons, accounting for 58.4 per cent of the prison population. Of those, 96.6 per cent were men, 2.7 per cent were women and 0.7 per cent were minors.

41. According to these statistics, as at 31 December 2017, foreign nationals accounted for 9.8 per cent of the total prison population in Senegal; of those foreign nationals, 70 per cent had been convicted.

### B. Renovating places of detention in Senegal

42. In an effort to fulfil their treaty obligations, the new Senegalese authorities have committed to improving the living conditions in prisons, for they believe that the prison environment should be humanized and should become a place where detainees prepare to be reintegrated into society.

43. To this end, measures have been taken to reduce prison overcrowding and to renovate places of detention. These include:

- The construction of two new multiple-occupancy cells, a section for minors and a section for women, with a dedicated area for women detained with their children, in Thiès prison.
- The renovation of three multiple-occupancy cells in Foundiougne prison in 2017.
- The construction of a section for women in Fatick prison in 2017.
- The construction of a prison with a capacity of 1,500 detainees in Sébikhotane, which is near completion.
- The construction of eight multiple-occupancy cells with a total capacity of 480 detainees in Koutal prison camp, which began in late 2017.
- The construction of six departmental prisons, each with a capacity of 500 detainees, and the establishment of an annual programme for the renovation of the remaining prisons.

44. Thanks to these measures, the official capacity of the country's prisons rose from 3,815 m<sup>2</sup> in 2014 to 4,224 m<sup>2</sup> in 2017. The Prison Service has drawn up an extensive plan for the construction and renovation of prisons, in accordance with the sectoral policy document of the Ministry of Justice for 2018–2022.

45. This plan includes the construction of 10 new places of detention, including 9 hospital units and 8 prisons.

### **C. Improving the living conditions of detainees**

46. Libraries, telephone booths, television sets, ventilators and extractor fans have been provided in Rebeuss prison, Liberté VI prison camp and several prisons inland, so as to ensure that detainees are held in the best possible conditions. New toilets have been installed and both internal and external security have been improved in these prisons.

47. Moreover, the prison computer system has been overhauled and prisons have been provided with supplies that help to improve the inmates' quality of life.

48. In line with its commitment to keeping all detainees in good health and maintaining satisfactory sanitary conditions in prisons, the Senegalese Government has completed the construction of a medical and social centre in Liberté VI prison in Dakar. The purpose of this centre is not only to provide medical care for detainees but also to ease overcrowding in the special wing of the Aristide Le Dantec hospital.

49. A dental surgery has also been set up to tackle the dental problems that affect most detainees and that have turned out to be the second most widespread health problem in prisons after skin diseases.

50. The medical and social system of the Prison Service has been managed by a doctor and officer of the Senegalese armed forces for several years. Detainees who are unwell receive comprehensive care that includes not only consultations and treatment but also medicines. For this purpose, there is an infirmary in each prison. The most serious infections, meanwhile, are treated in the special wing of the Aristide Le Dantec hospital.

51. As regards food for detainees, the Senegalese authorities have increased the daily maintenance allowance for detainees. This allowance has been increased by CFAF 423 over the course of six years, from CFAF 600 in 2013 to CFAF 1,023 in 2018, in order to ensure that detainees' food is adequate in both quality and quantity. Thanks to this significant investment, detainees now receive sufficient food at the usual times.

52. Sentence reduction measures are also planned. In this regard, the Criminal Code was amended in 2016 to provide for non-custodial sentences; these generally consist of community service for the benefit of society. The Ministry of Justice has worked hard to get the sentence reduction system, as a whole, up and running, including by establishing a sentence reduction committee in each court of appeal.

53. In addition, the prison advisory committees of the *tribunaux de grande instance* (courts of major jurisdiction) are very active when it comes to conditional release procedures.

In 2017, the Ministry of Justice processed 111 applications for conditional release; it approved the measure in 67 of those cases. General pardons granted to thousands of convicted persons have helped to further reintegration and to reduce prison overcrowding.

#### **D. The new social reintegration policy**

54. The new policies of the Ministry of Justice also focus heavily on the reintegration of detainees; in that regard, the Ministry has taken a number of measures relating not only to education, training and apprenticeships but also to employment and work.

55. These measures include:

- The opening of three new literacy classes in the prisons in Dakar and Thiès in 2017, under the National Basic Education Programme for Young Persons and Illiterate Adults.
- The selection of detainees for a vocational training course, within the framework of a partnership between the Prison Service and the National Vocational Training Office.

56. In 2016, 2,712 detainees took part in a training course or an apprenticeship; this is the equivalent of 50.35 per cent of all convicted prisoners, who numbered 5,695 on 31 December 2016, and 29.13 per cent of the total population of all 37 prisons, which comprised 9,310 detainees on that date. In addition to these measures, partnership agreements have been signed for more effective reintegration of detainees, including:

- A funding agreement between the Dakar education authority and the Prison Service, setting out the conditions governing the teaching of specific classes and defining the relationship between the two entities concerned.
- A partnership agreement with the National Agency for the Promotion of Youth Employment, establishing a detainee support scheme.

57. The Government supplemented these measures by setting aside funding, within the budget for 2013, for the provision of socioeducational services in all 37 prisons in Senegal. Women detainees receive training in artistic professions and a special area is provided for children who are detained with their mothers.

58. In all prisons, detainees have access to training in carpentry, tapestry-making and baking, and there is a bakery that is used for the rehabilitation of detainees at Liberté VI prison camp.

59. Vegetable gardens have been planted in some prisons, with a view to improving the food provided to the inmates. The market garden in Sébikhotane has been restored for this purpose and Sédhiou prison is piloting a fish farming project.

60. The replacement of short prison sentences by community service sentences, together with the other sentence reduction measures provided for in Acts Nos. 2000-38 and 2000-39 of 29 December 2000 and the implementing decree of 2001, facilitate the reintegration of convicted persons into working society. Alternative sentences of this kind give beneficiaries the opportunity to take positive action and give back to society and deter them from reoffending. The judge responsible for the execution of sentences chairs the prison advisory committee for sentence reduction, which is responsible for helping him or her to determine the main features of the treatment that each convicted person will receive.

#### **E. Improving the working conditions of prison staff**

61. Steps taken to improve the working conditions of prison staff include the recruitment of additional personnel, legal and institutional reforms and the provision of equipment.

##### **1. Recruitment of additional personnel**

62. The following measures have been taken:

- Recruitment of 226 prison officers of various ranks who have completed their training at the National School of Prison Administration
- Recruitment of 300 prison officers of various ranks on the basis of a competitive exam held in November 2017

## **2. Legal and institutional reforms**

63. These include:

- A bill amending and supplementing amended Act No. 72-23 of 19 April 1972, establishing staff regulations
- The establishment of a multidisciplinary unit for the provision of psychosocial support for detainees, under Order No. 11160 of 30 June 2017
- The acquisition of an operational site for the National School of Prison Administration, which opened in January 2017
- The development of software for the management of prison registries

## **3. Staff equipment**

64. Initiatives in this area include:

- A special staff equipment plan, the first stage of which has been implemented
- The purchase of office furniture
- The installation of an internal telephone network in the Thiès Regional Prison Service Inspectorate and the prisons under its authority
- The creation of a conference room in the Tambacounda Regional Prison Service Inspectorate

# **Chapter IV**

## **The rights of religious and ethnic minorities**

### **A. Legislative framework for the protection of minorities**

65. All these constitutional principles are effectively protected in Senegal through legislation that has been adopted in various fields. This legislation includes:

- Act No. 1981-77 of 10 December 1981 on the punishment of acts of racial, ethnic or religious discrimination.
- The Code of Civil and Commercial Obligations (article 812 on the exercise of freedom of association in practice and article 824 on foreign associations).
- Act No. 96-04 of 22 February 1996 on media outlets, journalism and technical professions.
- The ministerial order establishing terms of reference for companies that are entitled to broadcast radio programmes; article 19 (2) of this text states that particular attention should be paid to issues relating to cultural and linguistic diversity and the national languages.
- Act No. 92-02 of 6 February 1992 on the statutes of the national broadcasting company, Radiodiffusion Télévision Sénégalaise (RTS), and Act No. 92-57 of 3 September 1992 on pluralism in radio broadcasting.
- Act No. 2006-04 of 4 January 2006, establishing the National Broadcasting Regulation Council to monitor media outlets' compliance with their obligations under the relevant laws, conventions and terms of reference.

66. Although there is no specific law on the rights of religious, ethnic and linguistic minorities in Senegal, the various instruments mentioned above ensure that their rights are respected.

67. As regards the representation of different ethnic and religious groups in political and public institutions in Senegal, the Government would like to draw attention to the following provisions of the Constitution.

68. Article 1 of the Constitution states that Senegal is a secular, democratic and social republic. The State ensures the equality of all persons before the law, without distinction as to origin, race, sex or religion, and respects all beliefs.

69. Article 4 of the Constitution stipulates that political parties and coalitions of political parties may compete in elections. They must observe the Constitution and the principles of national sovereignty and democracy. They are prohibited from identifying with a particular race, ethnic group, sex, religion, sect or language.

70. The obligation of African States to promote the rights of religious, ethnic and linguistic minorities is established in articles 2 and 25 of the African Charter on Human and Peoples' Rights. Article 2 of the Charter reads as follows: "Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status."

71. Article 25 of the Charter stipulates: "States parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood." These freedoms include the freedoms of conscience, profession and worship, which are enshrined in article 8 of the Charter. Freedom of association, freedom of expression, the right to education and the freedom to take part in the cultural life of the community are also guaranteed.

72. These instruments, which are of a general nature, promote human rights, including the rights of religious, ethnic and linguistic minorities.

73. In the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the General Assembly in its resolution 47/135 of 18 December 1992, the United Nations stressed the need for States to protect the national or ethnic, cultural, religious and linguistic identity of minorities within their respective territories and to encourage conditions for the promotion of that identity.

74. In an effort to ensure respect for the rights of religious, ethnic and linguistic minorities, Senegal has taken a series of legislative measures that serve as a basis for all promotional activities.

75. While article 1 of the Constitution establishes the principle of the equality of all persons before the law, without distinction as to origin, race, sex or religion, and asserts that the State should respect all beliefs, article 5 of the Constitution criminalizes all acts of racial, ethnic or religious discrimination. These provisions are reinforced by article 8, which refers to fundamental personal freedoms, economic and social rights and collective rights, and article 9, which establishes that any deliberate obstruction or violation of these rights and freedoms is punishable by law.

76. All individuals enjoy freedom of expression and freedom of association, which may be used to promote the religious and cultural practices and languages of minorities. The same goes for the right to education. Freedom of conscience and religion, meanwhile, is enshrined in article 23 of the Constitution.

## **B. Practical framework for the protection of the rights of ethnic and religious minorities**

77. On a practical level, the social climate is conducive to the exercise of religious freedom. As well as ratifying international and regional instruments for the protection and promotion of human rights, which guarantee freedom of religion, and developing its own legal arsenal, Senegal has always sought to promote and protect religious freedom through its policies.

78. The Government's management of religious diversity at a practical level is reflected in its ongoing efforts to foster respect for religious freedom.

79. For example, it often provides direct material and financial assistance to religious organizations, primarily for the maintenance or restoration of places of worship or the organization of special events, such as the Magal de Touba, which commemorates the return of Sheikh Ahmadou Bamba, guide of the Mourides, following his deportation to Gabon by the settlers; the Gamou de Tivaouane, a festival where the Tijani celebrate the birth of the Prophet Muhammad (peace be upon him); and the Marian pilgrimage to Poponguine for Christians.

80. Assistance of this kind is available to all religious groups. For religious pilgrimages such as the hajj to Mecca and the annual Catholic pilgrimage to the Vatican and the Holy Land, the Government also provides financial assistance in the form of free plane tickets. At these events, the Government is always represented by a large delegation, composed mainly of consular and diplomatic representatives.

81. Following the death of Pope John Paul II, for example, the Government sent a delegation of senior officials and leaders of the Christian community to attend the funeral. The late President Léopold Sédar Senghor, who was a member of the Catholic minority, occupied the presidency for some 20 years, bearing in mind that the population of Senegal comprises mainly Wolofs and is over 90 per cent Muslim. Under the Constitution, the President of the Republic takes an oath before God without reference to any religion, sect, sex or ethnic group.

82. Senegal is among the countries that have a long-standing tradition of harmonious coexistence of cultures and dialogue between religions. The Government observes both Muslim and Catholic religious festivals by declaring them public holidays, including Tabaski (Eid al-Adha), Tamkharite (Muslim New Year), Mawlid (the birth of the Prophet Muhammad), Magal, Korité (Eid al-Fitr), Easter Monday, Ascension Day, the Assumption, All Saints' Day and Christmas.

83. Religious organizations, meanwhile, conduct their activities freely and manage their affairs without interference from the State. It is also worth noting that they are exempt from many taxes. In this way, the State promotes not only freedom of association but also freedom of religion. Religious charities often receive support from the Government.

84. As regards religious education, the State recognizes the right of religious institutions and communities to develop freely. They therefore conduct and manage their affairs without interference from the State, in accordance with article 24 of the Constitution.

85. The Government allows public schools to provide up to four hours of optional religious education per week at the primary level. Parents choose between the Christian and Muslim curricula. In 2011, the number of students who attended these classes during the year was already as high as 700,000. The same right is granted to private schools.

86. The Ministry of Education provides subsidies to schools run by religious institutions that meet national education standards. The majority of these subsidies go to long-established Christian schools with a reputation for high quality teaching. Given that Christians are a small minority in Senegal, this shows that the funds are distributed impartially.

87. It should also be noted that, according to the above-mentioned report, the majority of students who attend these schools are Muslims. In addition to teaching the national curriculum, these schools provide religious education for Christian students and moral education for non-Christian students, who are exempt from the classes on Christianity.

88. Government policy and practice contribute significantly to freedom of religious practice. Leaders of both majority and minority religions conduct their activities and have their say on social and political issues, such as political violence during elections. Indeed, they are often consulted by members of the Government.

89. Public media is widely accessible to religious groups for the purposes of promoting religious activities, preaching and providing religious education. In the light of all the above information and given that Senegal is a recognized model of democracy, the issue of ethnic

and religious representation cannot be considered relevant. One of the cornerstones of any democracy is merit-based promotion.

90. Far from being wishful thinking expressed only in legal texts, this principle can be seen to apply in reality. In view of its commitment to religious and racial tolerance, Senegal was named African country of the year in 2006 by the American Foundation Celebrate Africa, which aims to promote the continent by highlighting its achievements in various fields.

91. This cultural diversity is accompanied by a cultural vitality fuelled by secular traditions that are specific to each group. Senegal has always sought to promote traditional cultures through its policies and the development of the various national languages has remained a government priority over time.

## **Part two**

### **Information on the implementation of the Covenant in Senegal**

#### **Chapter I**

##### **Action taken to uphold civil and political rights**

###### **A. Respect for the rules of non-discrimination**

92. Senegal has ratified all conventions prohibiting discrimination, both at the international level with the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities, and at the regional level with the African Charter on the Rights and Welfare of the Child and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

93. Moreover, relevant provisions in its Constitution are devoted to the unequivocal condemnation and elimination of all forms of discrimination. Article 1 of the Constitution states that Senegal is a secular, democratic and social republic. The State ensures the equality of all persons before the law, without distinction as to origin, race, sex or religion and respects all beliefs. No group of people or individual may exercise sovereignty in their own right.

94. Article 3 of the same text complements this prohibition by specifying that "national sovereignty belongs to the people and is exercised by the people through its representatives or by referendum". The prohibition extends to the exercise of suffrage, such that political parties and coalitions of political parties standing for election are prohibited from "identifying with a race, ethnic group, sex, religion, denomination, language or region".

95. The Constitution also provides that "any act of racial, ethnic or religious discrimination and any regionalist propaganda detrimental to the internal security of the State or to the integrity of the territory of the Republic are punishable by law. In Senegal, there is no restriction or privilege connected with a person's place of birth, identity or descent".

96. The Constitution expressly prohibits "any form of gender discrimination with respect to employment, wages and taxation" and gender parity in elective office, specifically, is enshrined in a constitutional amendment of 2008,.

97. The application of these mandatory provisions has required the drafting, promulgation and amendment of a number of laws, including:

- Act No. 79-02 of 4 January 1979, repealing and replacing article 814 (2) and (3) of the Code of Civil and Commercial Obligations, and article 2 of Act No. 68-08 of 26 March 1968, amending chapter II on associations of book VI of the Code of Civil and Commercial Obligations, and prohibiting the establishment of illegal associations
- Act No. 79-03 of 4 January 1979, repealing and replacing article 5 (1) of Act No. 65-40 of 22 May 1965 on seditious associations

- Act No. 81-17 of 15 May 1981 on political parties
- Act No. 81-77 of 10 December 1981 on the punishment of acts of racial, ethnic or religious discrimination
- The Criminal Code, new provisions of which include articles 166 bis, 256 bis and 257 bis
- Act No. 2010-11 of 28 May 2010, which established absolute gender parity in all institutions in which some or all posts are elective
- Article 109 of the Mining Code of 2016

98. More specifically, Act No. 61-10 of 7 March 1961, as amended by Act No. 89-42 of 26 December 1989, provides that Senegalese nationality may be chosen by a person at any time after reaching the age of 18 and before reaching the age of 25 if that person is:

- A legitimate child born of a Senegalese mother and a father of foreign nationality, or
- An illegitimate child when the parent in respect of whom filiation was established second is Senegalese, if the other parent is of foreign nationality

99. A foreign woman who marries a Senegalese man may take Senegalese nationality unless she explicitly states at the time of the marriage that she does not wish to do so. A Senegalese woman who marries a foreign man does not lose her nationality unless she explicitly renounces it in writing before the marriage. Such renunciation is valid only if she can acquire the nationality of her future husband, in order to prevent situations of statelessness.

100. Furthermore, in the area of employment and social security, the following laws all stipulate that no distinction is to be made between men and women with regard to their application: General Civil Service Act No. 61-33 of 16 June 1961 Regulations, which is supplemented by special statutes applicable to some categories of public officials; Act No. 59-64 of 6 November 1959, as amended by Act No. 97-17 of 1 December 1997 establishing the Labour Code; and Social Insurance Institutions Act No. 75-50 of 3 April 1975.

101. Act No. 72-61 of 12 June 1972 establishing the Family Code instituted divorce by mutual consent, thereby placing men and women on an equal footing. The same Act prohibits repudiation, serious insults and violence against women.

102. Legal amendments have made it possible for a husband to receive medical coverage through his spouse. For instance, Act No. 89-01 of 17 January 1989 repealed those provisions of the Family Code which appeared to discriminate against women. Thus, article 371 (1) as amended now provides that wives and husbands enjoy full civil capacity. This entailed the repeal of article 13, which had established that the wife's legal residence was the residence chosen by the husband.

103. Article 154, which allowed a husband to deny his wife the right to engage in a separate occupation, has also been repealed. Article 19 was amended to enable a woman to temporarily administer her husband's property in his absence. The article provides that, on receipt of a certificate of absence, the court shall appoint a temporary administrator of the property, who may be the spouse who has remained in the home. Finally, article 80, which provided that family record books could be issued only to the husband, was amended to state that a certified copy of the family record book would be provided to the wife at the time the marriage certificate was issued.

104. New legislation has been passed in order to better protect vulnerable groups against all forms of discrimination. Here below are several examples:

- Act No. 99-05 of 29 January 1999, which prohibits the practice of female genital mutilation and has been supplemented by two national plans of action to secure the abandonment of the practice
- Article 299 bis of the Criminal Code
- Act No. 2005-06 of 10 May 2005 on combating human trafficking and related practices and on victim protection



- Act No. 2008-01 of 8 January 2008, amending the relevant provisions of the Tax Code to make equal tax treatment of men and women a reality in Senegal
- The Social Framework Act on the promotion and protection of the rights of persons with disabilities

## **B. Right to respect for human dignity and prohibition of torture**

### **1. Respect for human dignity**

105. As stated in article 7 (1) of the Constitution, “Human beings are sacred. They shall be inviolable. The State has an obligation to respect and protect them. All individuals have the right to life, liberty, security, free development of their personality, physical integrity and, in particular, protection from any kind of physical mutilation.”

106. These provisions of the Constitution are strictly observed and are the basis for the following measures:

- Abolition of the death penalty through the adoption of Act No. 2004-38 of 28 December 2004
- Ratification on 28 November 2008 of the International Convention for the Protection of all Persons from Enforced Disappearance
- Inclusion of a definition of torture in the Criminal Code, through Act No. 96-15 of 28 August 1996, article 295-1 (1)
- Adoption of Act No. 99-05 of 29 January 1999 amending some provisions of the Senegalese Criminal Code through the insertion of article 297 bis, in order to provide for better protection of bodily integrity

107. Recognizing the scale of human trafficking in the West African subregion and in Senegal itself, the Senegalese Government has ratified most conventions on the matter, specifically:

- United Nations Convention on the Rights of the Child of 1989 and its Optional Protocol on the sale of children, child prostitution and child pornography of 2000
- ILO Minimum Age Convention, 1973 (No. 138)
- Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption of 1993
- ILO Worst Forms of Child Labour Convention, 1999 (No. 182)
- United Nations Convention against Transnational Organized Crime adopted in 2001 and the Protocols supplementing it, specifically the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air

108. The National Unit for the Combating of Human Trafficking, which is the central coordinating body on the subject, has provided training to various branches of the criminal justice system, including the police, gendarmerie, judiciary and central and local administrations, as well as to members of civil society.

109. Since its creation, the Unit has sought to gather information about the legal and administrative handling of human trafficking in coordination with various public and private entities working in the fields of migration, trafficking and smuggling. For example, in letter No. 532/MJ/CNLTP of 18 January 2016, the Unit requested public prosecutors, via the chief prosecutors, to provide data on the prosecutions instituted and judgments handed down in relation to human trafficking. Subsequently, the following individual statistical reports were received by the Unit:

*Within the jurisdiction of the Saint-Louis Court of Appeal*Saint-Louis *Tribunal de Grande Instance* (court of major jurisdiction)

110. Six cases were brought forward during the period 2009–2016. One case related to a new human trafficking investigation: *Public Prosecutor v. Amadou Dila Diallo* for assault and battery causing the death of a child under the age of 15, in which proceedings were instituted under articles 288 and 299 of the Criminal Code.

- Three trials resulted in convictions:
  1. *Public Prosecutor v. Thioumo Kande*, charged with exploitation of begging by others and assault, offences that are provided for and punishable under article 3 of Act No. 2005-06 of 10 May 2005 and article 298 of the Criminal Code; case tried on 7 April 2011 resulting in a sentence of 15 days' imprisonment and a fine of CFAF 100,000;
  2. *Public Prosecutor v. Mouhamed Wilane*, charged with assault and battery against a child under 15 years of age; the court classified the offence as battery with total incapacity to work lasting 10 days, sentenced Mr. Wilane to 3 months' imprisonment and deferred its decision regarding the interests of the victim as a civil party;
  3. *Public Prosecutor v. Alpha Amadou Diallo*, charged with assault against a child under 15 and incitement to beg; the court acquitted the defendant of the charge of incitement to begging, found him guilty of assault and acknowledged the withdrawal of charges by the civil party;
  4. *Public Prosecutor v. Samba Ba*, charged with battery against a child under 15 years of age; on 24 August 2011, the court acquitted the defendant for lack of evidence and found Mr. Ba liable for a tort under article 457 of the Criminal Code.

*Within the jurisdiction of the Dakar Court of Appeal*Dakar *Tribunal de Grande Instance Hors Classe* (special court of major jurisdiction)

111. In response to letter 072/PG of 26 January 2016 from the chief prosecutor to the Dakar Court of Appeal, the prosecutor's office of the Dakar *Tribunal de Grande Instance* provided the statuses of human trafficking cases brought before the investigating judges in 2014 and 2015. Out of five cases, two had been tried and two were under examination:

1. *Public Prosecutor v. Boubacar Kassé Sane*, report No. 350/Dieuppeul of 9 June 2014 and preliminary indictment of 10 July 2014; under examination by the eighth chamber;
2. *Public Prosecutor v. Oumou Khairy Sane and Cheikh Seydi Elhadji Malick Sane*, report No. 49/CS Port dated 30 August 2014; tried on 24 September with acquittal of the defendants;
3. *Public Prosecutor v. Mor Seyni Faye*, investigation report No. 128/DIC/BAC of 27 March 2015, tried on 3 April 2015 with acquittal of the defendant;
4. *Public Prosecutor v. Boubacar Kassé*, report No. 350 of the Dieuppeul police station of 9 June 2014 and preliminary indictment of 10 July 2014;
5. *Public Prosecutor v. Mouhamed Abderrahmane Adda, Alioune Badara Gaye and Fatou Ndiaye*, report No. 232 of the Gendarmerie Search Section of 20 April 2015 and preliminary indictment of 24 April 2015;
6. *Public Prosecutor v. David Omayeni Ogisi and 27 others*, report No. 019 of the Port Special Police Station of 13 February 2015 and preliminary indictment of 18 February 2015; under examination by the investigating judge of the second chamber.

*Within the jurisdiction of the Kaolack Court of Appeal**Tambacounda Tribunal de Grande Instance* (court of major jurisdiction)

112. A statistical report on the human trafficking cases handled by the *Tambacounda Tribunal de Grande Instance* between 1 April 2012 and 28 January 2013 has brought to light the following data:

1. *Public Prosecutor v. Prince Omo Oba*, a Nigerian national charged with the procuring of Malian prostitutes and tried on 27 June 2012 by the court, which sentenced the defendant to 45 days' imprisonment with an entry ban of 5 years;
2. *Public Prosecutor v. Maciré Cisse*, a Senegalese national, charged with the procuring of Malian and Nigerian prostitutes and tried on 13 June 2012 by the court, which sentenced the defendant to 45 days' imprisonment with an entry ban of 5 years;
3. *Public Prosecutor v. Happy Asikhemhen*, a Nigerian national, charged with the procuring of Malian and Nigerian prostitutes under article 323 of the Criminal Code and tried on 27 June 2012 by the court, which sentenced the defendant to a fine of CFAF 500,000;
4. *Public Prosecutor v. Adun Queen*, a Nigerian national, charged with trafficking in persons for the purposes of sexual exploitation committed by a group of persons and procuring, under articles 1 and 2 of Act No. 2005-06 of 10 May 2005 and article 323 et seq. of the Criminal Code, and tried on 23 January 2013 by the court, which acquitted the defendant.

*Fatick Tribunal de Grande Instance* (court of major jurisdiction)

113. A statistical report from the *Fatick Tribunal de Grande Instance* dated 28 January 2013 lists seven cases heard by the court, of which five were cases of assault and two of battery:

1. Criminal case No. 67/12, *Public Prosecutor v. Christian Cisse and Béatrice Cisse*, charged with assault; each was given a suspended sentence of 1 month's imprisonment; victim: Rosalie Maguette Cisse;
2. Criminal case No. 99/12, *Public Prosecutor v. Birane Sarr*, charged with battery and sentenced to 1 month's imprisonment and a fine of CFAF 30,000; victim: Andi Ndong;
3. Criminal case No. 182/12, *Public Prosecutor v. Baye Saliou Lo* charged with battery, given a suspended sentence of 1 month's imprisonment; victim: Baye Mor Gueye, a minor;
4. Criminal case No. 95/12, *Public Prosecutor v. Amadou Sidibe*, charged with assault and sentenced to 3 months' imprisonment; victims: Awa Diallo, Marieme Sidibe and Gnilane Diouf;
5. Criminal case No. 205/12, *Public Prosecutor v. Mamadou Diop*, charged with assault and given a suspended sentence of 3 months' imprisonment; victims: Mossane Thior and Salimata Thior;
6. Criminal case No. 239/12, *Public Prosecutor v. Lamine Diouf and Soda Diouf*, charged with assault; the defendants were acquitted; victim: Amy Tine;
7. Criminal case No. 268/12, *Public Prosecutor v. Moussa Ka*, charged with assault and acquitted; victim: Ndimbaté Ba.

114. Given the extent of the practice of human trafficking, and following an evaluation of Act No. 2005-06 of 10 May 2005, the National Unit for the Combating of Human Trafficking has prepared a draft revision of the Act, taking into account the need for technical compliance and effective implementation, and has submitted it for adoption.

115. Owing to the difficulties encountered in gathering data on measures taken to prevent and combat trafficking and to provide assistance and support to victims, the National Unit for the Combating of Human Trafficking, together with partners, has designed an electronic

data-collection mechanism. This mechanism, known as SYSTRAITE, was approved in 2016 and judicial officials have been trained in its use. Senegal is now implementing its third two-year action plan to combat human trafficking, covering the period 2018–2020.

116. Capacity-building for the judiciary and other officials continues and there are a growing number of specialized justice officials. The following actions are being carried out to combat child labour:

- Revitalization of the six regional intersectoral committees to combat child labour (Dakar, Thiès, Diourbel, Saint-Louis, Kaolack and Fatick)
- Capacity-building for Government officials and civil society stakeholders in Kédougou to tackle the worst forms of child labour in traditional small-scale gold mining
- Improved operational resources for the Coordination Unit for the Combating of Child Labour with the provision of office furniture and computer equipment and the allocation of a motor vehicle (2015)
- Allocation of funding by the Government since 2014 to support the partial implementation of the actions envisaged under the master plan, focusing on the strengthening of the national legal framework and its alignment with the relevant conventions of the International Labour Organization
- Capacity-building for labour inspectors in the area of human trafficking, in partnership with the United Nations Office on Drugs and Crime, in 2016

117. Given that the goal of eliminating the worst forms of child labour in the world by 2016 has not been achieved, the new strategy has a target date of 2030, based on target 8.7 of the Sustainable Development Goals, to be achieved by taking immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and, by 2025, to secure the prohibition and elimination of child labour in all its forms.

## **2. Action taken to counter torture**

118. Senegal fully endorses the Committee’s position that punishing persons who commit torture is as important as taking preventive measures such as the “halting of incommunicado detention, effective remedies under a transparent, independent and efficient legal system, and ongoing investigations into allegations of torture”. Therefore, the day after its ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 21 August 1986, the Government initiated various actions in order to fulfil its commitments under the Convention.

119. Thus, in accordance with article 4 of the Convention, it adopted Act No. 96-15 of 28 August 1996, by which article 295-1 was added to the Criminal Code, making torture a separate criminal offence in line with the definition in article 1 of the Convention. Since then, attempted torture has been punished in the same way as the actual crime, and persons found guilty of torture or attempted torture are punished by a prison sentence of 5 to 10 years and a fine of CFAF 100,000 to CFAF 500,000. Punishment of complicity in torture is assured under Senegalese law. On this legal basis, members of the security services have been arrested or convicted on charges of torture and ill-treatment.

120. Complicity is covered by articles 45, 46 and 47 (1) of the Criminal Code. It is always punishable, unless a special provision explicitly states otherwise. Moreover, the principle of accomplice liability, which is well established in the Senegalese legal system, means that accomplices incur the same penalty as the main perpetrator of an offence.

121. Senegal was the first State to ratify the Rome Statute of the International Criminal Court, on 1 February 1999. Before that, it had actively supported the Court by leading a major campaign for the signature and, later, ratification by African countries; it also made a voluntary contribution of CFAF 50 million to the Court’s Trust Fund for Victims. Senegal is also bound by the International Criminal Court via a cooperation agreement which facilitates execution of its court orders.

122. To more effectively prevent torture and to strengthen the rights of defence, Senegal has amended article 55 of its Code of Criminal Procedure under Act No. 2016-30 of 8

November 2016 and recently issued circular No. 00179/MJ/DACG/MN of 11 January 2018, specifying the procedures for the application of article 5 of directive No. 05/CM/UEMOA on a person's right to legal counsel from the moment of arrest.

123. Sentences are handed down against law enforcement officers convicted of abuse. Judicial proceedings have been annulled for violation of the aforementioned article 55.

124. Awareness-raising and training on the prohibition of torture are provided for public officials. The initial training programmes of the National Prison Officers College, National Police College and National Gendarmerie Officers College now include a module on human rights.

125. Today, police and gendarmerie stations have separate custodial facilities for women and children.

## **C. Administration of justice and right to a fair trial**

### **1. Independence of the judiciary**

126. Ensuring barrier-free access to an impartial and independent justice system, complete with procedural safeguards, is an ongoing concern of the Government of Senegal. Article 91 of the Constitution establishes that the judiciary is the guardian of rights and freedoms, while the principle of judicial independence is laid down in article 88 of the Constitution.

127. The recently adopted Organizational Act No. 2017-10 of 17 January 2017 on the status of the judiciary has established, within the context of the evaluation of a judge's professional conduct, the right of appeal against an appraisal by the judge's supervisor. Also established is the right of appeal for any judge subject to disciplinary measures. The number of elected members within the Higher Council of the Judiciary has increased and the disciplinary board, composed exclusively of judges, can remove a judge from office only by a majority vote of the members.

128. The Constitution guarantees all citizens the right to be heard in a fair trial. It recognizes the principle of legality as it applies to criminal offences and penalties and the right to a defence, which is an absolute right at all stages of judicial proceedings.

129. These provisions are supplemented by two major texts, the Criminal Code and the Code of Criminal Procedure. While the Criminal Code proclaims the principle of legality as it applies to criminal offences and penalties, the Code of Criminal Procedure outlines the avenues that victims may use in order to bring a case before the justice system.

130. Senegalese courts make their decisions completely independently and if any party to the proceedings is not satisfied, he or she can appeal to a higher court and, if necessary, file a cassation appeal.

131. A procedure for lodging a plea based on unconstitutionality is provided for in Senegalese law; in accordance with that procedure, the constitutionality of a law or of an international convention ratified by Senegal can be reviewed by the Supreme Court.

132. To protect the rights and freedoms of citizens against arbitrary administrative decisions, article 92 of the Constitution provides for:

- Remedy on grounds of ultra vires, which allows any person wishing to have a decision of an administrative authority annulled to submit an appeal to the Administrative Chamber of the Supreme Court
- Full appeal proceedings, which are open to citizens seeking reparations for the harm they may have suffered from the State

### **2. Access to justice**

133. Access to justice and the law is one of the major areas of focus defined in the Emerging Senegal Plan. Under the Plan, the Ministry of Justice is carrying out various measures, such as establishing a new judicial structure, developing community justice and improving access to civil registration documents.

134. As part of the Government's efforts to reform and modernize the judicial system, a new judicial structure was established under Act No. 2014-26 of 3 November 2014 on the organization of the judiciary.

135. Among the innovations introduced, the following should be noted:

- Change of name: "tribunaux régionaux" (regional courts) became "tribunaux de grande instance" (courts of major jurisdiction) and "tribunaux départementaux" (departmental courts) became "tribunaux d'instance" (courts of minor jurisdiction)
- Increase of the monetary jurisdiction limits
- Establishment of administrative chambers
- Establishment of criminal chambers
- Establishment of new courts

136. The judicial structure currently includes 1 Supreme Court, 6 appeal courts, 19 tribunaux de grande instance, 19 labour courts and 45 tribunaux d'instance. Pursuant to Act No. 2017-23 of 28 June 2017 amending Act No. 2014-26 of 3 November 2014 on the organization of the judiciary, commercial courts were formally incorporated into the judicial structure. The new tribunaux de grande instance of Pikine-Guédiawaye, Mbour and Kédougou and the tribunaux d'instance of Salémata, Saraya and Koungeul were set up during the same period.

137. In Senegal, access to justice has been considered a fundamental right at least since the Universal Declaration of Human Rights of 1948 (articles 7 to 10). The Ministry of Justice has made access to justice one of the strategic areas of focus of the Justice Sector Programme; this has involved the establishment of a community justice mechanism, aimed at bringing the justice system closer to the general public.

138. This policy has been incorporated into area III of the Emerging Senegal Plan, an area which is focused on strengthening security, stability, governance, protection of rights and freedoms and consolidation of the rule of law, to create the conditions for sustainable social harmony and thereby help all citizens to achieve their full potential.

139. In terms of capacity-building, several training sessions have been organized. These sessions were aimed at various categories of employees of legal advice centres throughout Senegal. They provided more than 175 such employees with specific knowledge they need to fulfil their duties more effectively. Feedback sessions were held by each legal advice centre for the members of its coordinating committee.

140. Resolving conflicts through mediation is the main activity of the legal advice centres. In 2017, the 18 legal advice centres spread throughout the country handled 12,066 mediation cases, of which 6,848 were successfully resolved.

141. Administrative support primarily involves assistance in obtaining administrative documents but can also extend to assistance in writing complaints. During 2017, a total of 21,450 requests for assistance in obtaining various civil registration documents were recorded.

142. In terms of receiving, informing and directing the public, the legal centres informed 15,443 people of their rights in 2017.

143. Information and outreach activities were also organized over the same period. They included television broadcasts (18), radio broadcasts and awareness-raising and outreach meetings on legal topics; open-door events; and free legal consultations. All these activities served to make the general public aware of the existence and purpose of the legal advice centres and to inform people of their rights.

### **3. Criminal procedural guarantees**

144. One of the main principles of criminal procedure is that any infringement or obstruction of the exercise of a freedom may be ordered only by a legally authorized official, namely a judge or criminal investigation officer. From the beginning, the Code of Criminal Procedure laid down strict requirements for the issuance of an order by a criminal

investigation officer or judge for someone to be taken into police custody or to be held in pretrial detention, respectively. Disciplinary and criminal sanctions are provided for in the event of any violation of these rules.

145. As per article 69 of the Code of Criminal Procedure, a criminal investigation officer may detain any person against whom there is prima facie evidence for a duration of 48 hours. This time limit may be extended for a further 48 hours, after which the detained person must immediately be brought before the public prosecutor. The time limits are doubled in the case of crimes against national security; crimes committed during a state of siege, a state of emergency or exception; or in cases related to terrorism.

#### **4. Rules governing police custody**

146. If, for the purposes of an investigation, a criminal investigation officer is obliged to detain one or more persons, the duration of custody shall not exceed 24 hours. This time limit is extended by 24 hours if there is serious and consistent evidence against the person or persons sufficient to justify bringing charges, after which the criminal investigation officer must bring the person or persons before the public prosecutor or a representative thereof. In the event of practical difficulties affecting the person's transfer, the public prosecutor must be notified immediately of the situation and delay.

147. In both cases, the criminal investigation officer must immediately make his or her decision known to the public prosecutor, his or her representative or, where applicable, the presiding judge of the departmental court vested with the powers of the public prosecutor and must explain to the person in question why he or she has been placed in custody.

148. When the person in custody is a minor between the ages of 13 and 18 years, the criminal investigation officer must hold the minor in special quarters separate from adult prisoners.

149. Persons held in police custody are under the effective control of the public prosecutor, his or her representative or, where applicable, the presiding judge of the departmental court vested with the powers of the public prosecutor. In all places where persons are held in custody, criminal investigation officers are required to keep a custody log, which is to be numbered and initialled by the public prosecutor and must be presented whenever required to the judge responsible for monitoring persons in police custody.

150. The time limit may be extended for a further 48 hours with the written consent of the public prosecutor, his or her representative or the investigating judge. The time limits are doubled in the case of crimes against national security or crimes committed during a state of siege or a state of emergency or under the conditions set out in article 47 of the Constitution, with the proviso that the two grounds for doubling the time limit are not cumulative.

151. If the period of police custody is extended, the criminal investigation officer is required to inform the person in custody of the reasons for the extension and of the provisions of article 56. The officer must also inform the individual of his or her right to appoint a lawyer from among those in the register or on a training contract. Mention of these formalities shall be made in the record of the statement given during the custodial interrogation; if they are omitted, the record is rendered invalid.

152. The appointed counsel may be contacted by the person in custody or any other person designated by him or her or, failing that, by the criminal investigation officer. If the appointed counsel cannot visit the detainee in person within a reasonable period of time, he or she may communicate with the detainee by telephone or any other means, so long as the confidentiality of such communication is guaranteed.

153. If the appointed counsel cannot be contacted, the criminal investigation officer is required to make mention of this fact in the record of the statement by the person in custody. The criminal investigation officer or an officer under his or her command must inform counsel of the nature of the charges.

154. Following the interview, which may not exceed 30 minutes, counsel may submit written observations that shall be appended to the case file. Counsel may not disclose the details of the interview to anyone while the person remains in custody. The criminal

investigation officer shall make mention in the record of the statement any information or requests submitted pursuant to the law. To be valid, these details must be signed by the persons concerned, with any refusals to sign also being noted in the record. Failure to include this information shall render the record null and void.

## **5. Prevention of torture during custody**

155. Under current legislation, if the public prosecutor or his or her representative deems it necessary, arrangements can be made for the person in custody to be examined by a designated doctor at any time during the period of custody. The person in custody, through the criminal investigation officer, his or her lawyer or any other person, may request the public prosecutor to arrange for such a medical examination at any time. On receiving such a request, the public prosecutor must order the requested medical examination. This examination is to be conducted at the location where the person in question is being held in custody and, if not requested ex officio by the public prosecutor, the cost of the examination must be paid in advance by the requesting party. In the latter case, the payment must be recorded in the document attesting to the designation of the examining physician.

156. The record of the statement by the person in custody must indicate the date and time at which the person was first placed in custody, the reasons for the custody, the duration of questioning, the length of rest periods, and the date and time at which the person was either released or brought before the competent judge. To be valid, these details must be signed by the persons concerned, with any refusals to sign also being noted in the record.

157. In agencies and services where criminal investigation officers are required to keep a record book, the annotations and signatures must be recorded therein. Only the annotations shall be reproduced in the procedural record transmitted to the judicial authority.

158. If criminal investigation officers commit acts of abuse in connection with the application of custodial measures, the public prosecutor or his or her representative shall inform the chief prosecutor, who shall refer the matter to the Indictment Division. Victims of such acts of abuse may also petition the Indictment Division to examine their case. The Indictment Division, in accordance with its powers under articles 213, 216 and 217 of the Code of Criminal Procedure, may either remove the perpetrator of the abuse from police service, temporarily or permanently, or, if a criminal offence is found to have been committed, return the case file to the chief prosecutor for the initiation of legal proceedings.

159. These provisions should be read in conjunction with article 213 et seq. of the Code of Criminal Procedure on oversight of the activities of criminal investigation officers by the Indictment Division.

160. In addition to this torture prevention mechanism, the Senegalese legislature, following ratification on 18 October 2006 of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted Act No. 2009-13 of 2 March 2009, which established the National Observatory of Places of Deprivation of Liberty, an independent authority, empowered to oversee all places of detention.

161. To prevent torture, the Universal Declaration of Human Rights, the Convention against Torture of 1984 and various United Nations resolutions recommend that States provide training on the standards established in their instruments to the officials responsible for implementing the law in order to strike the right balance between their essential duty to safeguard public order and their essential duty to respect fundamental human rights. In Senegal, this instruction is provided by the training colleges for defence and security forces and by universities.

## **6. Pretrial detention guarantees**

162. The importance placed on preservation of personal liberty is also reflected in the following provisions regarding decisions to remand an accused person in custody:

- In the case of offences or misdemeanours for which the maximum penalty is a prison term of three years or less, an accused person lawfully domiciled in Senegal may not be held in pretrial detention for more than five days.



- In the case of the same types of offences as described above, an accused person lawfully domiciled within the jurisdiction of the court may not be subjected to pretrial detention.
- A warrant of detention issued by an investigating judge is valid for a maximum period of six months only.
- A special judicial commission of the Supreme Court is established to “rule on claims for compensation brought by persons held in pretrial detention if the proceedings against them ultimately result in their release or acquittal or if a decision is taken to discontinue the proceedings”.

## 7. Hissène Habré case

163. As stated above, Senegal is a party to the 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It ratified the Convention on 21 August 1986 and declared under article 22 that it recognized the competence of the Committee against Torture to consider violations of articles 5 and 7 of the Convention. Under these provisions, Senegal as a State party first needed to take the necessary measures to establish its jurisdiction over these offences and prosecute the alleged offenders under its jurisdiction or extradite them.

164. As mentioned above, Act No. 96-15 of 26 August 1996 provided for the incorporation of article 295-1 into the Criminal Code, making torture a criminal offence in line with the definition set out in the Convention.

165. In addition to this amendment, the Code of Criminal Procedure had to be revised to establish the universal jurisdiction of Senegalese courts in the matter. That was made clear by the Court of Cassation judgment handed down on 20 March 2011, which concluded the prosecution of Mr. Habré after victims joined the proceedings as a civil party on 25 January 2000. The Court deemed that “no procedural text recognizes the universal jurisdiction of the Senegalese courts to prosecute and try alleged perpetrators or accomplices of acts of torture when the acts were committed outside Senegal by foreign nationals currently on the territory of the Republic of Senegal. The presence in Senegal of Hissène Habré is not sufficient to justify the proceedings against him.”

166. Victims of Hissène Habré submitted a communication to the United Nations Committee against Torture on 18 April 2001 claiming violation by Senegal of the Convention against Torture. In its decision of 17 May 2006, the Committee found that Senegal as a State party was in breach of its obligations under articles 5 and 7 of the Convention and requested information on the measures taken to implement its recommendations to prosecute or extradite Hissène Habré.

167. Act No. 2007-05 of 12 February 2007 amended article 669 of the Code of Criminal Procedure, extending the jurisdiction of Senegalese courts to include torture, crimes against humanity, war crimes and genocide committed by any foreign national outside the territory of the Republic when that person is arrested in Senegal, if a victim is a resident of Senegal or if the Government obtains extradition.

168. To ensure the prosecution of these international crimes, article 9 of the Constitution as amended on 7 August 2008, taking as its basis article 15 of the International Covenant on Civil and Political Rights, restates the principle of non-retroactivity, while also specifying that the principle is not contravened by the trial and conviction of any individual for acts or omissions which, at the time they were committed, were held to be criminal under the rules of international law regarding acts of genocide, crimes against humanity or war crimes.

169. By adopting the aforementioned legislation, Senegal has successfully upheld its international commitments, resulting both from international conventions and the International Court of Justice judgment handed down on 20 July 2012, which ordered Senegal without further delay to submit the case of Mr. Hissène Habré to its competent authorities for the purpose of prosecution, if it did not extradite him.

170. However, Hissène Habré considered that his rights had been violated by the legislative and constitutional amendments and so had already filed a complaint on 6 October 2008 with

the Court of Justice of the Economic Community of West African States which, in judgment No. ECW/CCJ/JUD/06/10 handed down on 8 November 2010, addressed the African Union mandate given to Senegal, indicating that the mandate conferred upon Senegal the duty to develop and submit an appropriate procedure to prosecute and try Mr. Habré within the strict framework of special ad hoc international proceedings. This mandate resulted from the historical development of the Habré case. On 26 November 2005, the Senegalese Minister of the Interior issued an order placing Habré at the disposal of the Chairperson of the African Union, Olusegun Obasanjo, President of Nigeria. In July 2006, the Assembly of Heads of State and Government of the African Union decided to consider the Hissène Habré case as falling within the competence of the African Union, mandated Senegal to prosecute and ensure that Hissène Habré was tried on behalf of Africa by a competent Senegalese court with guarantees for fair trial and further mandated the Chairperson of the African Union, in consultation with the Chairperson of the Commission, to provide Senegal with the necessary assistance for the effective conduct of the trial.

171. In January 2011, the Assembly made a request for “the Commission to undertake consultations with the Government of Senegal in order to finalize the modalities for the expeditious trial of Hissène Habré through a special tribunal with an international character consistent with the Economic Community of West African States (ECOWAS) Court of Justice Decision” while during its seventeenth session held in July 2011, the Assembly confirmed “the mandate given to Senegal to try Hissène Habré on behalf of Africa”.

172. While the African Union Commission experts and Senegal were in the process of finalizing the documents to establish an ad hoc international criminal court, the judgment of the International Court of Justice was handed down, ordering the Senegalese Government to prosecute without delay or extradite the person in question.

173. On 22 August 2012, one month after the International Court of Justice ruling, an agreement was signed between the Government of Senegal and the African Union on the establishment within the Senegalese judicial system of the Extraordinary African Chambers, which are empowered to prosecute the main perpetrator(s) of the crimes and serious violations of international law, international custom and the international conventions ratified by Chad and Senegal that were committed in Chad between 7 June 1982 and 1 December 1990. The Statute of the Chambers was also adopted and annexed to the agreement. A ratification law was passed and the judicial structure of Senegal was modified.

174. The Chambers were officially established on 8 February 2013 and the Public Prosecution Service referred the case to the Investigative Commission of the Chambers after making two requests for international assistance to Belgium and Chad. The preliminary investigation instituted on 2 July 2013 was officially closed on 13 July 2015 with an order of committal transferring the case of Hissène Habré to the Trial Chamber of the Extraordinary African Chambers.

175. The Trial Chamber, in its judgment dated 30 May 2016, found Hissène Habré guilty of acts of torture, war crimes and crimes against humanity and sentenced him to life imprisonment. Following an appeal brought by the lawyers of Hissène Habré, the Appeals Chamber upheld the life sentence on 27 April 2017.

## **D. Collective rights and individual freedoms**

176. The Republic of Senegal guarantees that all its citizens enjoy fundamental individual freedoms, economic and social rights and collective rights. These rights and freedoms include civil and political rights such as freedom of opinion, freedom of expression, freedom of the press, freedom of association, freedom of assembly, freedom of movement and freedom of demonstration.

### **1. Freedom of association**

177. Article 8 (1) of the Constitution sets out the principle of freedom of association, while imposing conditions for its exercise in accordance with the law. Freedom of association is more specifically guaranteed by articles 7 and 29 of the Labour Code and article 12 of the

Constitution, which strictly regulate the exercise of this right by groups with aims, or carrying out activities, contrary to criminal law or public order.

178. The freedom of all workers to set up trade unions and professional associations is recognized in article 25 (3) of the Constitution. However, no provision has been made for authorizing foreign workers to take up posts as official representatives within trade unions.

## 2. Freedom of expression and of the press

179. Freedom of expression is enshrined in articles 8, 10 and 11 of the Constitution. This freedom is strengthened by the new Press Code, adopted on 20 June 2017, which promotes audiovisual enterprises and the freedom of expression.

180. Ever since independence, Senegal, mindful of the importance of freedom of opinion and the role it must play in building and consolidating a State governed by the rule of law, has adhered to the principles of the Universal Declaration of Human Rights and has enshrined the basic elements of the right to communication in its fundamental charter. The Constitution of 1963 set out, in article 8, the principle of the freedom of expression. This principle is likewise taken up in the Constitution of 22 January 2001, which, in its preamble, reaffirms the country's "adherence to the Declaration of the Rights of Man and of the Citizen of 1789 and to the international instruments adopted by the United Nations and the Organization of African Unity, in particular the Universal Declaration of Human Rights of 10 December 1948, the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979, the Convention on the Rights of the Child of 20 November 1989 and the African Charter on Human and Peoples' Rights of 27 June 1981".

181. The Senegalese Constitution recognizes, in article 8, "fundamental individual freedoms" and "civil and political freedoms", in particular the freedom of opinion and of expression, and states in article 10 that "everyone has the right to freely express and disseminate his or her opinions through the spoken or written word, images or peaceful marches, provided that the exercise of those rights does not insult or defame others, or disturb the public order". That statement is reinforced in article 11, which states that "The creation of a media organization for political, economic, cultural, sport, social, leisure or scientific information shall be free and shall not be subject to prior authorization of any kind."

182. Freedom of the press is thus a constitutional freedom in Senegal and a fundamental freedom that is all the more precious as its existence is one of the essential safeguards of the other rights and freedoms and national sovereignty. Freedom of expression is a condition and a guarantee of democracy.

183. The State has set up the following independent administrative authorities to regulate the media:

- The Regulatory Authority for Telecommunications and Post, Act No. 2006-4 of 4 January 2006
- The National Media Regulatory Council, set up to replace the High Council for Radio and Television

184. In addition to those public bodies, the Council for the Respect for Ethics and Standards of Conduct was set up as a self-regulatory body for journalists.

185. In Senegal, thanks to the liberalization of the sector, media outlets operate in an enabling environment that guarantees them a high degree of freedom of expression. The media landscape is particularly rich and diverse. There are around 20 daily newspapers, a dozen weekly and monthly magazines and one hundred or so private commercial or community radio stations.

186. Private radio stations play an important role not only in keeping citizens informed but also in stimulating real public debate in society, thanks to interactive shows in which members of the public can take part on-air and live by telephone. Since the setting up, in 2003, of 2sTV, the first private television channel, the number of television channels has increased considerably. There are currently 12 public or private television channels in Senegal. In addition to these traditional media outlets, the online press has been growing rapidly and constantly; there are now more than 20 news sites in operation. In 2008, as part

of its contribution to the Global Cybercrime Strategy and to cybersecurity, Senegal adopted a framework law on personal data and another on the fight against cybercrime.

### 3. Freedom of demonstration and of assembly

187. Freedom of assembly and freedom of association are enshrined in the Constitution; articles 811 et seq. of Act No. 68-98 of 26 March 1968, the Code of Civil and Commercial Obligations; and article 7 of Act No. 97-17 of 1 December 1997, the Labour Code.

188. In Senegal, anyone wishing to exercise the right to demonstrate by means of a peaceful march simply has to make a prior declaration to that effect; there is no requirement to seek prior authorization. However, in order to safeguard public order and safety, the administrative body responsible for overseeing public meetings can, in the light of its policing functions, set the route of the demonstration or postpone it by a duly reasoned decision subject to administrative or judicial appeal.

189. According to the statistics for 2016 on the exercise of the right to demonstrate, 981 out of the 999 requests to hold demonstrations received were granted and only 18 were blocked by duly reasoned orders.

### 4. Freedom of religion

190. Senegal is known for its freedom of religion and religious tolerance. The right of all citizens to hold the religious beliefs of their choice is a concrete reality. There are several religions in the country, the main one being Islam. Christianity and animism also have a number of followers in Senegal. Senegalese Islam is based on brotherhoods, principally the Mouride, Tidjane and Khadrya brotherhoods. There are also a number of religious centres, the most important being Touba and Tivaoune, for Muslims, and Popenguine, for Christians.

191. Despite its religious plurality, Senegal is not a theocracy. The State respects all religious confessions, but is not religious in nature. Article 1 of the Constitution states that: “the Republic of Senegal is secular, democratic and social”. Secularism is the first characteristic attributed to the Republic of Senegal by the drafters of its Constitution. This secularism, which arises from the separation of the spiritual from the temporal, in no way means that religions are prohibited, but rather that they are equal before the State.

192. Article 4 of the Constitution prohibits political parties from identifying, among other things, with any one religion. This prohibition is reiterated in Act No. 81-17 of 6 May 1981 on political parties, as amended. The Act states that political parties, which, under the terms of the Constitution, take part in the exercise of the right to vote, are not entitled to refer to any religion during the course of their activities or in their statutes. The lack of any reference to religion in Senegalese political life made it possible for the first President of Senegal – a Christian – to govern, for some twenty years, a majority Muslim country, without ever being criticized for his religious affiliation as a part of the political debate.

193. Moreover, three of the four first ladies of Senegal have been Christians. Religious plurality is clearly reflected in the composition of all the country’s institutions, religious affiliation being neither a criterion for, nor an obstacle to, access to public office. Citizens are not required to state their religion on any administrative documents. Religious affiliation is quite simply neutral.

194. Freedom of religion also translates into the absence of discrimination on the ground of religion in recruitment for both public and private sector posts. Likewise, religious holidays are recognized by the State, be they Muslim or Christian.

195. There is even a list of religious events. On the occasion of religious ceremonies, the State helps to provide food and other supplies and to ensure the safety of pilgrims thereby contributing to the smooth organization of ceremonies. Moreover, the State supports Qur’anic schools known as *daraas*.

196. The Government has launched programmes to modernize the country’s religious centres; work in that regard has already commenced in Touba and Tivaoune. Mention should also be made of the renovation of Dakar Cathedral by the State and the renovation of Popenguine, which is aimed at improving conditions for visiting Christian pilgrims. In

addition, work has been completed on the Great Omarian Mosque, the Medina Gounass de Bopp Mosque in Dakar and the Great Mosques of Thiénaba and Tivaoune, as has the renovation of the mosque of the religious centre of Léona Niassène in Kaolack. Furthermore, several thousand square metres of land have been set aside as the site for the Massalikoul Djinane Islamic complex, which will comprise a great mosque, an Islamic institute and the home of Serigne Touba.

197. The various religions are practised in complete harmony, as can be seen from the dialogue between Muslims and Christians. Large crowds gather at mosques on Fridays and at churches on Sundays. On Muslim holidays, the church authorities take steps to strengthen the relationship between the two religions. Many families are made up of both Muslims and Christians. Some cemeteries are shared by followers of the two faiths. State institutions do not hinder the performance of animist practices.

198. During major religious celebrations, the administrative authorities represent the State at certain places of worship or ceremonies. The State, specifically the Minister of the Interior, ensures that religions are protected. As to criminal law, the hindrance of the free exercise of the right to worship is a punishable offence under articles 230 et seq. of the Criminal Code.

199. In Senegal, citizens enjoy the effective freedom to practise the religion of their choice. Religious guides can play an important role as a bridge to wider society, conveying messages on issues such as the importance of vaccination for children or calls for peace and national unity.

## 5. Freedom of movement and of circulation

200. Article 12 of the International Covenant on Civil and Political Rights states that: “Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence ... Everyone shall be free to leave any country, including his own ... The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (*ordre public*), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant ... No one shall be arbitrarily deprived of the right to enter his own country.”

201. Article 13 of the same Covenant states that: “An alien lawfully in the territory of a State party to the present Covenant may be expelled therefrom only in pursuance of a decision reached in accordance with law and shall, except where compelling reasons of national security otherwise require, be allowed to submit the reasons against his expulsion and to have his case reviewed by, and be represented for the purpose before, the competent authority or a person or persons especially designated by the competent authority.”

202. The geostrategic position of Senegal, at the intersection of maritime and air routes to the American and European continents, and its historic heritage as the capital of formerly French West Africa, make it a transit and destination country for large-scale migratory flows, mainly originating from the region of West Africa. Furthermore, the gradual collapse of the economies of the countries of that region, shaken by recurring political crises, has considerably increased migratory flows towards Senegal.

203. There is significant immigration to Senegal, which offers attractive tax rates, a sizeable informal sector, particularly in trade, and cheap labour. In addition, an ever-increasing number of new companies are setting up in the country, owing to the vibrant national economy. Sociopolitical stability is another reason for migration to Senegal, where the situation of migrants is governed by a wide range of international and domestic legal instruments.

204. Senegal has ratified a number of international and subregional conventions and treaties on migration that complement the domestic legal framework. They are:

- Equality of Treatment (Accident Compensation) Convention, 1925 (No. 19), signed in Geneva on 5 June 1925 and ratified by Senegal on 22 November 1962
- Convention relating to the Status of Refugees of 28 July 1951

- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted in New York on 18 December 1990 and ratified by Senegal on 9 June 2003
- United Nations Convention against Transnational Organized Crime and its two additional Protocols: the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children and the Protocol against the Smuggling of Migrants by Land, Sea and Air; the Convention was adopted by the General Assembly on 15 November 2000 and ratified by Senegal on 27 October 2003

205. Senegal is one of the founding members of the Economic Community of West African States (ECOWAS). Consequently, the country is party to the various protocols of agreement adopted by that regional organization, which, very early on in its existence, took an interest in migration issues, given the significant migratory flows recorded within the Community. The main instrument in that regard is ECOWAS – Protocol A/P1/5/79 of 29 May 1979 relating to free movement of persons, the right of residence and of establishment, the movement of vehicles for the transportation of persons and, above all, the principle of the abolition of visas and entry permits for citizens of the Community.

206. The following supplementary protocols should also be taken into account in this regard:

- Supplementary Protocol A/SP1/7/85 of 6 July 1985 on the rights and obligations of migrants and conditions and procedures for expulsion
- Supplementary Protocol A/SP1/7/86 of 1 July 1986 on the right of residence and special provisions concerning border area seasonal workers
- Supplementary Protocol A/SP1/6/89 of 30 June 1989 on the settlement of disputes arising between Member States regarding the interpretation and application of the Protocol
- Supplementary Protocol A/SP2/5/90 of 29 May 1990 on the rules governing the right of establishment and the provisions for the protection and promotion of investments

207. The founding treaty of ECOWAS and the various agreements it has concluded guarantee the free movement of goods and persons within the region.

208. The instruments of the West African Economic and Monetary Union (WAEMU) have served to further uphold the right of establishment of the citizens of the region. Compliance with the rules of the West African community is enforced by the community's courts of justice. Senegal is a founding member of the Organisation des États Riverains du fleuve Sénégal (Senegal River Riparian States Organization), which became the Organisation pour la Mise en Valeur du fleuve Sénégal (Senegal River Basin Development Organization) following the signing of a treaty on 11 March 1972 in Nouakchott. A convention signed on the same day declares the Senegal River and its tributaries to be an "international watercourse" and guarantees the signatory States freedom of navigation upon and equality in all forms of use of the River.

209. Senegal is a signatory to the Treaty establishing the West African Economic and Monetary Union (WAEMU) of 10 January 1994. The aim of the Treaty, among other things, is to create a common market among the Member States, based on the free movement of persons, goods and services, and a common external tariff and common market policy. The Treaty, amended on 25 January 2003, devotes a series of articles to the free movement of persons, the right of residence and the right of establishment.

210. The most relevant instruments to which Senegal is a party are the convention on establishment signed on 27 March 1964 between Senegal and Morocco; the agreement between Senegal and Mauritania signed in 1992 on the movement of the citizens of both countries under which official border crossings are established; and the agreement on the joint management of migratory flows between Senegal and France signed on 23 September 2006 and subsequently amended on 25 February 2008.

211. The Constitution of Senegal guarantees the freedom of movement of all persons. All persons may leave and re-enter Senegal, provided that they have completed the necessary administrative formalities. Article 14 of the Constitution states that: "All citizens of the

Republic shall have the right to move freely or to settle anywhere within the national territory and abroad.”

212. The large-scale influx of migrants from the subregion during the 1970s led the State of Senegal to adopt Act No. 71-10 of 25 January 1971 on conditions of admission to and residence and establishment in Senegal for foreign nationals and its Implementing Decree No. 71-860 of 28 July 1971. The Act, which could be considered to be the framework law in this field, has been only slightly amended since its adoption. Changes to the law were made through the adoption of Act No. 78-12 of 29 January 1978, strengthening sanctions against foreign nationals in an irregular situation, and then Act No. 82-06 of 30 June 1982 introducing article 831 bis into the General Tax Code, which strengthens sanctions for foreign nationals who fail to present their identity card for annual inspection. Mention should also be made of Act No. 2005-06 of 10 May 2005 on the fight against trafficking in persons and similar practices and on victim protection, a law which provides for heavy sanctions against persons accused of such offences.

213. Migrants can work in Senegal and enjoy adequate legal protection. Under Senegalese law, migrant workers can be employed only once administrative authorization has been granted in the form of a work permit.

214. Moreover, article 13 of the Implementing Decree explicitly states that: “authorization to remain or to establish oneself in Senegal is granted on an individual basis. Such authorization may, however, be extended to cover children of the foreign national concerned aged under 15 years provided that the applicant has made a request in that regard and that his or her children accompany him or her on entry into Senegal”.

215. In addition to prohibiting all forms of discrimination in the context of work, the Labour Code, in article L159, states that employers must pay the travel expenses of the worker, his or her spouse and their minor children.

216. Under Act No. 61-10 of 7 March 1961, as amended by Act No. 89-42 of 26 December 1989 on Senegalese nationality, foreign nationals established in Senegal can be naturalized. The acquisition of Senegalese nationality by foreign nationals requires a decision of the public authorities on the request of the applicant. Applicants must have at least 10 years of uninterrupted residence in Senegal. This period is reduced to five years for someone who is married to a Senegalese national, has rendered exceptional service to the nation, or has worked for five years in the civil service or a public institution.

217. In addition, “The following may opt for Senegalese nationality from the age of 18 years up until the age of 25 years:

1. A legitimate child born of a Senegalese mother and a father of foreign nationality;
2. An illegitimate child, when the parent in respect of whom filiation has been established in the second instance is Senegalese, if the other parent is of foreign nationality.”

218. A number of State bodies are involved in migration management. This is particularly true of the police, specifically: the Air and Border Police Directorate, the Aliens and Travel Documents Police Directorate and the National Surveillance Directorate. The main objective of the Internal Governance Sectoral Policy Letter is the strengthening and consolidation of national security, which covers, among other things, all activities related to the fight against illegal emigration, cross-border crime and intensification of the fight against illegal drug trafficking.

219. The National Border Management Commission was created by Decree No. 94-370 of 3 June 1994, supplemented by Decree No. 96-96 of 1 February 1996 and then replaced by Decree No. 97-570 of 2 June 1997. Under article 2 of the Decree, the Commission “is responsible for carrying out studies, preparing for the necessary negotiations and submitting to the Head of State appropriate proposals concerning the management of the borders shared by Senegal with its neighbouring States”.

220. The National Committee for the Management of the Situation of Refugees, Repatriated Persons and Displaced Persons was created by Decree No. 2003-291 of 8 May

2003. Its composition and powers and the functioning of its various components were established by Presidential Order No. 3809 of 13 April 2004. The Committee works closely with the Regional Representation for West Africa of the Office of the United Nations High Commissioner for Refugees, with which it successfully carried out the voluntary repatriation of almost 2,400 black Mauritians who had been living in Senegal since the beginning of the crisis involving Senegal and Mauritania in 1989. Those refugees not wishing to return to Mauritania have been given guidance on integrating into the local community with a view to naturalization. Furthermore, an agreement on application of the clause on cessation of refugee status for Rwandan and Liberian refugees is likely to be signed shortly.

## **E. Equal participation of citizens in the conduct of public affairs and in political life**

221. The Senegalese Constitution guarantees the equality of all citizens before the law, without distinction as to origin, race, sex or religion, and respects all beliefs. No group of people nor any individual may assume the exercise of sovereignty. Article 3 of the Constitution states that: “National sovereignty belongs to, and is exercised by, the people through their representatives or by referendum.”

222. Article 7 of the Constitution plainly states that: “The Senegalese people acknowledge the existence of inviolable and inalienable human rights as the basis of any human community and of peace and justice in the world. All human beings are equal before the law. Women and men are equal before the law. In Senegal no right or privilege shall be attached to place of birth, identity or descent.”

223. Article 25 of the International Covenant on Civil and Political Rights states that: “Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- To take part in the conduct of public affairs, directly or through freely chosen representatives;
- To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- To have access, on general terms of equality, to public service in his country.”

224. In order to give full effect to this provision of the Covenant, in Senegal, political parties may be freely established and such parties are considered to be associations governed by ordinary law.

225. Senegal has a long-standing culture of democracy. Proof of this can be seen in particular in the level of participation in the voting process, through free and transparent elections.

226. Senegal adopted an Electoral Code with broad consensus support. Under the Code, a number of commissions, made up of representatives of the political parties and presided over by judges and prosecutors, are responsible for counting the votes. Furthermore, under the Code, polling is placed under the supervision of the judicial branch and the Constitutional Council is responsible for settling disputes concerning presidential and legislative elections. For the first time in the country’s history, members of the armed forces and of paramilitary units have the right to vote.

227. The culture of democracy can also be seen in the freedom enjoyed by political parties in relation to their establishment and functioning.

228. Since 1981, Senegal has gone back to a thoroughgoing multiparty system. There are over one hundred political organizations, some of which have difficulty in funding their activities.

229. The measures taken by the Ministry of Territorial Governance since 2013 are part of a policy to overhaul the decentralization process. The 2013 reform of the territorial development process entitled “Act III of Decentralization” has the following aims:



- To place all services under the control of local authorities across the territory
- To ensure the financial autonomy and legal personality of local authorities to enable them to better design, plan and implement development actions
- To increase funding for local authorities and the strengthening of their basic infrastructure

230. Through this reform, local authorities have been given responsibilities that until now had been those of the State, with the aim of better coordinating local development in Senegal.

231. With regard to local governance, Senegal has introduced a framework for direct, grassroots, citizen-based participation through a decentralization process.

232. Local authorities are provided with resources by the State through the National Programme for Local Development and the Programme for Strengthening and Equipping Local Authorities, in addition to the long-standing Fund for Equipping Local Authorities and the Decentralization Support Fund. There is no doubt that this new approach, which serves to strengthen the decentralization process, brings the Republic of Senegal closer to achieving human rights, peace and development.

233. Senegal has set up a local development agency responsible for driving and intensifying the process of decentralization and sustainable development at the local level.

## **Chapter II**

### **Difficulties in implementing the provisions of the Covenant**

#### **A. Women's rights**

234. Senegal promotes and protects women's rights in line with the Covenant.

235. Efforts in the field of women's rights have focused on empowering women and combating sexual and marital violence. The Government has set up gender units within the various ministries in order to develop a culture of women's rights within the administration. However, obstacles remain in the form of cultural, religious and economic pressures.

#### **B. Detainees' rights**

236. Measures taken to expand, renovate and build additional detention facilities and the introduction of non-custodial sentences and measures have considerably reduced prison overcrowding. Steps have also been taken to improve the health and nutrition of detainees and to protect their physical integrity. However, efforts to protect the rights of detainees continue to be affected by the weak state of the national economy.

#### **C. Collective rights and individual freedoms**

237. Senegal has adopted a wide range of legislation on the press. However, in many cases, the legislation does not reflect the current media landscape. Some laws contain provisions that limit or restrict access to official information, or criminal law provisions on seditious and subversive activities, national security, slander, libel and the spreading of false news. Other equally significant constraints, such as the economic, social and cultural environment, also influence the freedom of the press.

238. Although there are many media outlets, their level of professionalism is not always sufficient. Despite the fact that there are a number of good-quality training schools, many journalists have not had any vocational training.

239. The State provides the press with various forms of support, focused on media outlets, capacity-building for journalists', the effective freedom of the press and the promotion of pluralism as an integral part of that freedom.

### **Chapter III: Initiatives and undertakings to overcome challenges**

240. In order to overcome challenges relating to human rights nationally, the State has set the following priorities:

- Strengthen national human rights bodies
- Strengthen and protect the rights of vulnerable groups
- Bring domestic legislation into line with international instruments
- Provide more training for State and civil society actors
- Enhance cooperation with all the international mechanisms
- Create a citizen-based human rights culture through public awareness-raising and the provision of information on human rights instruments
- Ensure the protection of human rights by punishing perpetrators of violations

241. As a part of its commitments, Senegal, which is a party to virtually all the human rights instruments, reiterates its undertaking to submit reports and follow-up on the recommendations of the human rights mechanisms.

### **Conclusion**

242. Respect for human rights is one of the key values reflected in State policy and the domestic legal and institutional framework. Human rights are anchored in the country's traditions and Constitution as an essential value that Senegal must defend and promote in its domestic and foreign policies. Owing to the promotion of those rights, all Senegalese citizens and all persons living under Senegalese jurisdiction reside in a welcoming and stable country, where rights holders live together peacefully in diversity, freedom and mutual respect.

243. Senegal wishes to renew its commitment to cooperate with the human rights treaty bodies and the special procedures of the Human Rights Council regarding the Covenant and to take action on any recommendations arising from the constructive dialogue.

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