



**Optional Protocol to the
Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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**Subcommittee on Prevention of Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment**

**Visit to Senegal undertaken from 5 to 16 May
2019: recommendations and observations
addressed to the national preventive mechanism**

Report of the Subcommittee*, **

* In accordance with article 16 (1) of the Optional Protocol, the present report was transmitted confidentially to the national preventive mechanism on 30 September 2020. On 15 February 2021, the national preventive mechanism requested the Subcommittee to publish the report in accordance with article 16 (2) of the Optional Protocol.

** The annexes to the present report are distributed in the language of submission only.



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I. Introduction

1. In accordance with its mandate under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Subcommittee on Prevention of Torture carried out its second visit to Senegal from 5 to 16 May 2019. Senegal ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 21 August 1986 and ratified the Optional Protocol thereto on 18 October 2006.
2. The Subcommittee members conducting the visit were: Joachim Gnambi Garba Kodjo (head of delegation), Patricia Arias Barriga, Carmen Comas-Mata Mira, Abdallah Ounnir, Catherine Paulet and Haimoud Ramdan. The Subcommittee was assisted by three human rights officers from the Office of the United Nations High Commissioner for Human Rights, two United Nations security officers and four interpreters.
3. The principal objectives of the visit were:
 - (a) To visit a range of places of deprivation of liberty in order to assist the State party in fully implementing its obligations under the Optional Protocol, particularly the obligation to strengthen the protection of persons deprived of their liberty from the risk of torture and ill-treatment;
 - (b) To provide advice and technical assistance to the national preventive mechanism of Senegal, following up on the Subcommittee's previous visit report ([CAT/OP/SEN/2](#)) and the replies of the national preventive mechanism ([CAT/OP/SEN/2/Add.1](#)), and to consider the extent to which the national authorities are supporting its work and responding to its recommendations, taking account of the Subcommittee's guidelines on national preventive mechanisms ([CAT/OP/12/5](#)).
4. The delegation of the Subcommittee met with the persons listed in annex I and visited the places of deprivation of liberty listed in annex II. Interviews were conducted with persons deprived of their liberty, law enforcement and detention officers, medical personnel and others. Meetings were held with members of the national preventive mechanism, the National Observatory of Places of Deprivation of Liberty, which permitted the Subcommittee to examine the mechanism's mandate and working methods and to consider how best to improve its effectiveness. In order to better understand how the national preventive mechanism works in practice, the delegation also visited, together with the national preventive mechanism, three places of deprivation of liberty, which had been chosen by the national preventive mechanism (see annex III). These visits were led by a representative of the national preventive mechanism, with the members of the Subcommittee as external observers.
5. At the end of the visit, the delegation presented its confidential preliminary observations orally to government authorities and officials and to the national preventive mechanism.
6. The present report will remain confidential until such time as the national preventive mechanism of Senegal decides to make it public, in accordance with article 16 (2) of the Optional Protocol. The Subcommittee firmly believes that the publication of the present report would contribute to the prevention of torture and ill-treatment in the country.
7. **The Subcommittee recommends that the National Observatory of Places of Deprivation of Liberty request the publication of the present report in accordance with article 16 (2) of the Optional Protocol.**
8. Moreover, the Subcommittee draws the national preventive mechanism's attention to the Special Fund established under the Optional Protocol. Only recommendations contained in those Subcommittee visit reports that have been made public can form the basis of applications to the Fund, in accordance with its published criteria.¹

¹ See www.ohchr.org/EN/HRBodies/OPCAT/Fund/Pages/SpecialFund.aspx.

9. The Subcommittee wishes to express its gratitude to the national preventive mechanism for its help and assistance relating to the planning and undertaking of the visit.

II. National preventive mechanism

10. On 2 March 2009, Senegal established the National Observatory of Places of Deprivation of Liberty and designated it as the national preventive mechanism. Under article 1 of Act No. 2009-13 establishing the mechanism, the Observatory is responsible for overseeing the conditions in which persons deprived of their liberty are held and transported in order to ensure that their fundamental rights are respected and to prevent torture and other cruel, inhuman or degrading treatment or punishment.

11. At the functional level, Decree No. 2019-769 of 8 April defines the Observatory as an independent administrative authority under the Ministry of Justice, in the category of other administrative bodies.

12. The first Director was appointed on 19 January 2012 under Presidential Decree No. 2012-119, following which the Observatory officially began its activities. The Director, who leads the mechanism, is assisted by a secretary general, observers and technical support staff. Pursuant to rule 3 of its rules of procedure, the Observatory may request the assistance of external actors, belonging or not to the Government, who, in their capacity as external observers, provide assistance on a continuous or intermittent basis while pursuing their main occupation.

III. Recommendations to the national preventive mechanism

A. Recommendations relating to legal, institutional and structural issues

1. Mandate design

13. During its visit, the delegation of the Subcommittee observed that the Observatory receives and processes individual complaints from persons deprived of their liberty. Although this is an established practice in the mechanism, it does not correspond *stricto sensu* to the preventive mandate provided for in the Optional Protocol. The Subcommittee is of the view that the Observatory should refer such complaints to the competent authorities for processing.

14. The Subcommittee is well aware that national preventive mechanisms can encounter cases of torture or ill-treatment during their visits but wishes to emphasize the preventive nature of their mandate and the synergy that should arise between them and other mechanisms and the competent authorities. As a general rule, the role of a national preventive mechanism is to seek to identify patterns and detect systemic risks of torture and ill-treatment and to assist the State party to overcome them by providing practical and strategic recommendations to officials at the places of deprivation of liberty after each visit and to relevant State authorities. Where necessary, the national preventive mechanism should refer the complaints it receives during its visits to the competent authorities, such as the criminal justice system, the administrative authorities or the ombudsman, so as to promote recourse to existing specialized mechanisms. It could then follow up on the cases in order to keep abreast of any action taken. This information would enable the Observatory to familiarize itself with the system's key nexuses, delays and the shortcomings of complaints and reparation mechanisms.

15. **The Subcommittee recommends that the Observatory focus on the preventive component of its mandate and refer individual complaints received during its visits to places of deprivation of liberty to the competent specialized authorities, thus freeing up resources for the exercise of its specific mandate under the Optional Protocol. Nevertheless, the Observatory should follow up on the complaints it receives to ensure that they are being appropriately addressed.**

2. Structure and independence

16. Article 2 of Act No. 2009-13 of 2 March 2009 defines the Observatory as an independent administrative authority, while Decrees No. 2012-1223 of 5 November 2012 and No. 2019-769 of 8 April 2019 place it under the Ministry of Justice, in the category of other administrative bodies. None of these texts defines the relationship between the Observatory and the Ministry of Justice. The link with the Ministry could undermine the Observatory's structural and functional independence, in contradiction with the provisions of the Optional Protocol on the independence of national preventive mechanisms and with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).

17. As indicated in the report of its first visit, without wishing to call into question the independence of the current Director, the Subcommittee remains concerned about the procedure for appointing the Director of the Observatory. Pursuant to article 1 of Decree No. 2011-842 of 16 June 2011, the appointment of the Director is at the discretion of the President, on the advice of the Minister of Justice. The Director is selected among members of the judiciary, the bar association or the security forces, which greatly restricts representation of other parts of society, including non-governmental organizations, academia and anyone else with the desired profile. The Paris Principles encourage pluralistic representation that does not exclude members of civil society who defend and protect human rights, with the aim of promoting the greatest possible level of independence.

18. **The Subcommittee reiterates its recommendations contained in paragraph 17 of its previous visit report that the Observatory should urge the legislative branch to amend the act establishing the Observatory.² The recommendations concern:**

- (a) **The effective structural independence of the Observatory from the executive branch;**
- (b) **The appointment process for the Director of the Observatory, which should be open, transparent, inclusive and participatory;**
- (c) **The possibility for the Observatory to select and recruit its own personnel;**
- (d) **The relationship between the Observatory and the Subcommittee.**

19. The Subcommittee is concerned by the practice of seconding government officials to occupy posts at the Observatory, as it can put the officials in a position of conflict of interest and loyalty vis-à-vis the sending institution, particularly when that institution falls under the mandate of the national preventive mechanism. Therefore, the practice should be reviewed in the light of these considerations and the recommendations contained in paragraphs 26 and 27 below.

3. Financial resources

20. The Subcommittee is concerned that the lack of financial resources presents a major obstacle to the proper functioning of the Observatory. It welcomes the increase in the Observatory's budget and the financial and material support from the European Union in 2017–2018. However, the European programme having ended, the Observatory once again lacks the necessary resources to conduct visits to all the places of deprivation of liberty in Senegal and to establish regional branches.

21. During the visit, the Observatory informed the delegation of the Subcommittee that it did draw up budget forecasts but that none of the laws governing its mission defined the criteria and modalities for the allocation of its operational budget and that it was, in fact, the Ministry of Justice that apportioned the budget.

22. **The Subcommittee recommends that the Observatory prepare a bill for submission to the National Assembly, independently establishing the terms of the allocation of its annual budget.**

² In accordance with Act No. 2009-13, article 8, the Observatory has the authority to make legislative recommendations for the reinforcement of the legal framework of the institution.

23. In this regard, the Subcommittee recalls that, in theory, the organization subject to monitoring should not be the one to decide the financing of the monitoring body. This is closely linked to the matter of functional independence as established in the Paris Principles.³

24. **The Subcommittee recommends that the Observatory assess its budget needs and prepare a detailed forecast to be submitted to the competent authorities, taking into account all the components of its mandate. The State party should consult the Observatory in a direct and constructive manner with a view to determining the nature and amount of the resources it needs to fully discharge its mandate in keeping with the Optional Protocol.**

25. At the time of the delegation's visit, the Observatory had 17 staff members, of whom 6 were women, including technical and administrative staff. Pursuant to article 3 of Decree No. 2011-842, the Observatory is made up of officials assigned to it by the State or of persons recruited by the Observatory itself.

26. The Subcommittee is concerned that the Observatory's staff includes personnel seconded by the Ministry of Justice. This situation poses a risk of conflict of interest and lack of independence for those staff members and does not adequately guarantee the confidential nature of the Observatory's work. Moreover, the Subcommittee is concerned that most of the observers are retired members of the police, gendarmerie or the prison guard corps or former judges. The Subcommittee considers that the mere fact of such persons' retirement is not in itself a guarantee of their independence and could lead them to accept certain situations they otherwise should not. Furthermore, as the delegation was able to observe, the situation also raises the problem of the lack of genuine representation of varied disciplines among the Observatory's staff and observers; for example, none of them are doctors, psychiatrists or social workers.⁴

27. **The Subcommittee recommends that the Observatory recruit its own personnel, ensuring that its members come from a diversity of backgrounds, do not have any actual or perceived conflict of interest and enjoy complete independence. It should be underscored that any recruitment should be carried out through a transparent public process open to various societal actors, bearing in mind gender equality.⁵**

4. Access to places of deprivation of liberty

28. In its previous visit report, the Subcommittee expressed its concern about the narrow interpretation of the powers of the Observatory which excluded places of deprivation of liberty that are under the jurisdiction of the Armed Forces, in particular military barracks and encampments. Under the current text of article 6 of Act No. 2009-13, and in the light of article 4 of the Optional Protocol, the Observatory has the power to visit any place where persons are or may be detained. In addition, the Subcommittee notes the information provided by the Observatory that the authorities have restricted its access to military barracks and encampments, in violation of the State party's obligations under articles 4, 18 and 19 of the Optional Protocol.

29. **The Subcommittee recommends that the Observatory fully discharge its mandate, which includes gaining access to all places of deprivation of liberty, including all military premises under the control of the Ministry of the Armed Forces. In the event of barriers to the conduct of visits to places of deprivation of liberty, the Observatory should remind the State authorities of the provisions of the Optional Protocol and, if the problem is not resolved, should inform the Subcommittee of the situation.**

³ In the section on composition and guarantees of independence and pluralism, the Paris Principles indicate that the national institutions should have an infrastructure which is suited to the smooth conduct of their activities, in particular adequate funding. The purpose of this funding should be to enable them to have their own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect their independence.

⁴ See article 18 of the Optional Protocol and the section of the Paris Principles on composition and guarantees of independence and pluralism.

⁵ Ibid.

5. The specific case of the *daaras*

30. The Subcommittee learned, as a result of its visit and after several entities, including official ones, had drawn its attention to the issue, that some Qur'anic schools (*daaras*) functioning under a closed regime reportedly mistreated children and forced them to beg. The reports, available in the public domain, do indeed highlight cases of ill-treatment in some *daaras* and cases of torture, rape and even violent death in others, which have been recorded by the official authorities, inter alia.⁶ Having been alerted to the issue, the delegation visited two *daaras* in Dakar, one of which turned out to be an open facility and the other closed. While the first school clearly did not fall under the definition in article 4 of the Optional Protocol, the second did meet one of the criteria: the Subcommittee, as guarantor of the Optional Protocol, including its article 4, is of the view that closed *daaras* are places where persons are being or may be deprived of their liberty with the State party's tacit consent. At these closed *daaras*, children are boarded under the care of a religious teacher so that they can receive a free education, with the obligation to beg in order to bring in money or food to meet the needs of the school. The Subcommittee was informed by the Observatory that it did not visit *daaras* because it did not consider them to be within the scope of its mandate.

31. The Subcommittee is very concerned about the delegation's observations on the ground and considers that closed *daaras* are places of deprivation of liberty within the meaning of article 4 of the Optional Protocol and, therefore, come under the jurisdiction and mandate of the national preventive mechanism of Senegal. Taking into account the allegations of ill-treatment that it has received and those already in the public domain,⁷ the Subcommittee recommends that the Observatory visit these institutions, in exercise of its preventive mandate and with a view to helping the State party, through targeted substantive recommendations aimed at preventing all ill-treatment, including forced begging.

6. Visibility

32. In the light of the delegation's observation that most members of the prison service and many persons deprived of their liberty are aware of the Observatory, the Subcommittee commends the Observatory for its efforts to heighten its visibility.

33. The delegation welcomed the visibility of the teams visiting places of deprivation of liberty, who wore vests clearly identifying them as belonging to the Observatory. Furthermore, the delegation found information posters designed by the Observatory at most of the places of deprivation of liberty it visited, which is a very positive practice in the prevention of torture and ill-treatment.

34. The Subcommittee recommends that the Observatory pursue its efforts to raise public awareness in Senegal, bearing in mind the need to project an image in line with its mandate and avoid the creation of false expectations, for instance that the Observatory provides free legal aid or processes complaints from persons deprived of

⁶ See, inter alia, BFM TV, "*Sénégal : le sort d'un élève battu à mort dans une école coranique scandalise le pays*" (The fate of a student beaten to death at a Qur'anic school causes an uproar in Senegal), 31 January 2020; Lucie Sarr, "*Sénégal : un maître d'école coranique condamné pour avoir enchaîné ses élèves*" (A teacher at a Qur'anic school convicted of chaining up students), *La Croix*, 5 December 2019; Human Rights Watch, "*Sur le dos des enfants – Mendicité forcée et autres mauvais traitements à l'encontre des talibés au Sénégal*" (On the backs of children: forced begging and other ill-treatment against talibé children in Senegal), 15 April 2010; The Economist, "Thousands of children are abused in Senegal's religious schools", 13 June 2019; Understanding Children's Work, "*Enfants mendiants dans la région de Dakar*" (Child beggars in the Dakar region), Project Working Paper Series, November 2007; Human Rights Watch, "*Il y a une souffrance énorme – Graves abus contre des enfants talibés au Sénégal, 2017–2018*" (Tremendous suffering: serious abuse of talibé children in Senegal), 11 June 2019; Senegal, Ministry of Justice, national unit to combat trafficking in persons, especially women and children, "*Cartographie des écoles coraniques de la région de Dakar*" (Map of Qur'anic schools in Dakar), 2014; and Seneweb, "*Saint-Louis : un talibé retrouvé mort dans son daara, et quatre autres gravement...*" (A talibé found dead and four others seriously injured in Saint-Louis), 23 November 2018.

⁷ See previous footnote.

their liberty. In all its communication efforts, the Observatory should focus on the preventive aspect of its mandate and the confidential nature of its work.

B. Recommendations on visit methodology

35. In order to better understand how the Observatory works in practice, the Subcommittee's delegation visited, together with members of the Observatory, three places of deprivation of liberty chosen by the latter. These visits were led by two teams of the Observatory, with the members of the Subcommittee as external observers.

36. In order to advise and assist the Observatory on the execution of its mandate, the Subcommittee makes the following recommendations concerning preparations for visits to places of detention, the methods to be used during such visits and the steps to be taken following their completion.

1. Prior to the visit

Strategy and procedure

37. Under rule 12 of its rules of procedure, the Observatory is responsible for selecting places to be visited. However, none of the documents relating to the Observatory defines the types of visit that are possible in the various places of deprivation of liberty.

38. While the Subcommittee recognizes the efforts made to prepare annual strategic plans and other documents, such as outlines for prison visits, it notes that the Observatory does not have systematic criteria for determining which places of liberty to visit and why.

39. The Subcommittee is of the view that the selection of places of deprivation of liberty should be done on the basis of predefined, internally discussed criteria. Information gathered on establishments in the course of previous visits, as well as information gleaned through complaints received by the national human rights institution or provided by the ombudsman, non-governmental organizations or the press, can also be useful in choosing which places to visit and what issues to check. A digital database containing all the information gathered on each place of deprivation of liberty and the recommendations issued during the previous visit should be set up to facilitate strategic planning and more systematic follow-up.

40. The Subcommittee underscores the importance of the Observatory allotting enough time to careful preparation and the definition of specific objectives for each visit. Every member of a team that conducts a visit should know in advance what their attributed role is and what is expected from them, as well as the overall dynamics of the visit. The Observatory should be able to follow the rules established in its practical guide.

41. The Subcommittee recommends that the Observatory develop a targeted strategy for each visit. These strategies should be based on the type and size of the institution, its awareness of the seriousness of human rights issues and its ability to act on the Observatory's recommendations. The Subcommittee also recommends that the Observatory create a digital database to centralize the information at its disposal and previous recommendations, which would also serve as its institutional memory.

42. The Subcommittee is concerned by the fact that the establishments concerned usually receive advance notice of the Observatory's visits. Furthermore, rule 16 of the Observatory's rules of procedure implies that scheduled visits are the norm while unannounced visits are the exception.

43. The Subcommittee recommends that visits be chiefly unannounced.⁸ This will enable the Observatory to observe the actual conditions in which persons are being deprived of their liberty and how life unfolds in the places it visits, without running the risk that these will be changed before its arrival.

⁸ See *Preventing Torture – The Role of National Preventive Mechanisms: a Practical Guide*, Professional Training Series No. 21 (United Nations publication, sales number: 19.XIV.3).

44. The many discussions with the Observatory and its staff members revealed a need for in-service training and capacity-building.

45. **The Subcommittee encourages the Observatory to periodically offer all its members a capacity-building programme, including training in the principles of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) and the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules), and in the methodology for visiting places of deprivation of liberty, including the planning and organization of visits.**

2. During the visit

(a) *Presentation of the mechanism*

46. The Subcommittee's delegation observed that the prison authorities had good knowledge of the Observatory's mandate and members. The Subcommittee welcomes the fact that the Observatory has provided an information booklet to the authorities.

47. More generally, the Subcommittee is of the view that national preventive mechanisms should be pedagogical and firm when presenting the basic principles of their work and methodology at preliminary interviews with the heads of the establishments they visit.

48. Concerning the presentation made to persons deprived of their liberty during its visit to the Thiès remand prison and detention centre, the delegation observed that most of the prisoners knew who the current Director of the Observatory was through his participation in television and community radio programmes, which is very positive.

49. **The Subcommittee recommends that the Observatory clearly explain its mandate, mission, working methods and the goal of its visit to the authorities of the establishment concerned. Its presentation to persons deprived of their liberty should be simple and comprehensible so as not to create expectations that exceed the scope of its mandate.**

(b) *Interviews*

50. The delegation observed that the places chosen to conduct interviews were not entirely appropriate. The office of an establishment's director or a common area such as a garden, which is a high-traffic area, are not sufficiently neutral or private to instil confidence in those with whom the Observatory's team will meet.

51. **The Subcommittee emphasizes the importance of meeting with detainees individually, in private and without supervision. Interviews should take place in a setting that puts interviewees at ease, ideally in a place with which they are familiar. It is important to carefully choose the location where individual interviews take place to ensure that the contents of the interview remain confidential and that the "do no harm" principle is applied, without exception.**

52. **The Subcommittee recommends that the Observatory publish a brochure designed chiefly for detainees that describes its mandate and working methods, explains the notion of informed consent and provides the necessary contact information.**

53. Regarding interview methodology, the delegation observed that the members of the Observatory should have made their status as representatives of the national preventive mechanism and their mandate known to the detainees more clearly and systematically. Moreover, the principle of confidentiality and the voluntary nature of interviews, which are so crucial, were not mentioned often enough.

54. **The Subcommittee stresses the importance of the members of the Observatory introducing themselves to interviewees, specifying their name and function, and explaining the mechanism's mandate, with particular emphasis on the preventive aspect. Express consent should always be obtained and it should be made clear that the interview is confidential and voluntary and can be interrupted at any time at the**

interviewee's request. **The Subcommittee is of the view that introducing themselves properly will help members conducting visits and interviews build trust with interviewees and facilitate communication and information-sharing. Interviews should focus on aspects relevant to prevention, which do not necessarily include, for example, the reasons for the person's detention. Building trust with interviewees is necessary if they are to express themselves freely.**

55. **The Subcommittee underscores the relevance of rule 24 of the Observatory's rules of procedure, which urges observers to be neutral and courteous and to respect human dignity without judgment. In addition, when interviewees require a physical examination, their consent should be obtained and the examination should be performed by a person with the requisite expertise.**

56. **The Subcommittee recalls that the purpose of interviews is to assist the national preventive mechanism in understanding the situation of persons deprived of their liberty and determining the best way of reducing cases of torture and ill-treatment. If other problems are raised during an interview, the Observatory should draw the interviewee's attention to the available mechanisms and remedies and direct him or her to them. It would also be advisable for any complaints received during a visit to be transmitted to the competent mechanism, such as the ombudsman.**

(c) *Registers*

57. The Subcommittee welcomes the attention paid by the Observatory to checking the registers of places of deprivation of liberty. However, its register checks should be more exhaustive and technical. Ensuring that registers are being properly kept should lead to the formulation of guidelines for their improvement, increased use and demonstrable usefulness. The importance of registers lies in the opportunity they provide the Observatory to detect unlawful actions and in the clues and background information they contain that allow it to determine whether torture or ill-treatment, irregularities and rights infringements have occurred. Registers also protect detainees, and officials too, at every establishment from potential unfair allegations.

58. **Since registers enable an informed reading of reality at the place concerned, the Subcommittee recommends that the Observatory refine its register-checking strategy with the aim of focusing on prevention.**

(d) *Confidentiality*

59. The Subcommittee regrets that most contact with detainees took place in groups and in the presence of prison personnel. Some detainees complained, in private, about the attitude of prison officials and the risk of reprisals should they speak with the Observatory. In one specific case, a detainee, in apparent desperation, openly complained about one prison official in the presence of that person and other officials and described the reprisals he and his fellow detainees had experienced. The Subcommittee regrets that the interview took place in the presence of the prison officials and is worried about the potential consequences of the detainee's statement.

60. **In general, all contact with persons deprived of their liberty should remain confidential, in other words, out of the sight and hearing of third parties. The Subcommittee underlines the importance of the principle of confidentiality in the Observatory's working methods. It is of the highest importance that the Observatory's teams always bear this principle in mind and integrate it into their work in order to avoid exposing detainees, professionals or any other person to potential reprisals. Furthermore, the relationship between members of the Observatory and prison officials should be strictly professional in order to strengthen the perception that the Observatory is independent.**

(e) *Reprisals*

61. The Subcommittee underlines the need to always seek to protect interviewees from possible reprisals, even when there appears to be little risk, which was not always done during the visits.

62. **The Subcommittee recommends that the Observatory always consider that there is a risk of intimidation, sanctions or reprisals and therefore take steps to address that risk. In addition to taking the necessary precautions, the Observatory should warn the authorities that reprisals of any kind are inadmissible, that the authorities will be informed of reprisals where appropriate and that the Observatory will monitor the situation to ensure that those responsible for reprisals are duly punished.**

63. **The members of the Observatory should also inform interviewees that they can report any reprisals taken against them following the visit, and encourage them to do so. If necessary, follow-up visits should be conducted.**

(f) *Debriefing the head of the institution*

64. The Subcommittee regrets that, during a joint visit, one of the Observatory teams was unable to complete its visit and did not, therefore, meet with the director of the establishment. Another team who did meet with the relevant authorities was unable to address all of the main problems observed during the visit. Moreover, the authorities had not been notified that they must protect interviewed detainees and officials from reprisals.

65. **The Subcommittee underscores the importance of the national preventive mechanism systematically holding constructive debriefing sessions with the heads of places of detention. They should be held as soon as possible following the visits, with a view to sharing with the persons concerned preliminary observations and recommendations and highlighting the matters that warrant immediate intervention or that should be urgently addressed for humanitarian reasons. The risk of reprisals should always be mentioned as a preventive measure. Similarly, the Subcommittee urges the Observatory to carefully apply rule 25 (4) of its rules of procedure, which outlines the actions the Observatory is expected to take in case of failure to respect fundamental rights.**

3. **Following the visit**

(a) *Visit reports*

66. The Subcommittee notes that visit reports are prepared but that there is no real practice of systematically transmitting them and the recommendations they contain to the authorities and relevant ministries or a genuine follow-up and dialogue procedure.

67. The delegation observed that, in its visit reports, the Observatory occasionally cites interviewees, providing details about them that could lead to their identification.

68. **The Subcommittee recommends that the principles of confidentiality always be applied during interactions with detainees and the authorities. It is important that, in its interactions with the authorities and its reports, the Observatory be mindful not to divulge information enabling the identification of interviewees.**

69. **More generally, the Subcommittee recalls its recommendation to national preventive mechanisms to prepare a report following each visit, in which they should raise their concerns and make recommendations (CAT/OP/12/5, paras. 36 and 37). In principle, under article 12 of the Optional Protocol, the report should be public and safeguard the confidentiality of personal information. It should deal chiefly with prevention, highlighting current problems and suggesting solutions in the form of practical recommendations. Recommendations should be tangible, measurable and focused on the formulation of preventive measures to address the shortcomings of current practices and mechanisms. They should also take into account applicable national and international norms relating to the prevention of torture and other ill-treatment, as well as the recommendations of the Subcommittee. Once a report has been transmitted, the Observatory should formulate a strategy to monitor the implementation of its recommendations and use the report as the basis for dialogue with the authorities of the detention place concerned and relevant ministries.**

(b) *Annual report*

70. The Subcommittee is concerned that no annual report has been published since the establishment of the Observatory in 2012. Nevertheless, it welcomes the five-year compilation prepared by the Observatory covering the period 2012–2017. At the time of the delegation’s visit, the Observatory had already finished the five-year report and was waiting to meet with the President before making it public.

71. **The Subcommittee is of the view that having to submit its annual report to the President does not prevent the Observatory from making it public. The Subcommittee recommends that the Observatory implement article 9 of Act No. 2009-13, which gives it the power to publish its annual reports, in keeping with article 23 of the Optional Protocol. Publishing the annual reports of national preventive mechanisms is an opportunity to make the mechanisms more visible, to keep the authorities and the public informed of their activities, just like any other public institution, to identify and analyse issues related to the prevention of torture and, above all, to establish and maintain an ongoing dialogue with the relevant authorities.**

72. **The Subcommittee recalls the recommendation contained in paragraph 32 of its previous report, whereby the Observatory should take steps to ensure that its annual reports can be submitted to and debated in Parliament as well as being submitted to the President. The Parliament, as the seat of the people’s sovereignty, should also receive the report in line with its duty to oversee the Government.**

73. **The Subcommittee encourages the Observatory to use its knowledge of the field to produce thematic reports exposing structural issues in the Senegalese system of deprivation of liberty, such as the practice known as *retour de parquet* and the insufficient or sometimes non-existent legal assistance provided to persons deprived of their liberty.**

IV. Next steps

74. **The Subcommittee welcomes the positive results achieved by the National Observatory of Places of Deprivation of Liberty, particularly in terms of its visibility among the various national actors. It strongly encourages the Observatory to broach with the relevant authorities the Subcommittee’s recommendations on its structural and functional independence, especially from the executive branch, as well as the legislative reforms mentioned in the present report. The Subcommittee is of the opinion that the Observatory’s independence from the executive branch should be addressed as a matter of priority.**

75. **The Subcommittee encourages the Observatory to engage more actively with the authorities on the monitoring and implementation of its recommendations. The Observatory’s ability to exercise its role as mechanism for the prevention of torture and ill-treatment and to publish its reports, including its annual reports, must not be restricted.**

76. **The Subcommittee regards its visit and the present report as part of an ongoing dialogue with the national preventive mechanism of Senegal. It stands ready to provide technical assistance and advice in order to reinforce the capacity of the mechanism to prevent torture and ill-treatment in all places of deprivation of liberty in Senegal and to translate the common goals of prevention from commitments into reality. The Subcommittee urges the Observatory to submit to the Subcommittee its annual report and any other thematic report it deems necessary.**

77. **The Subcommittee requests that a reply to the present report be provided within six months from the date of its transmission to the Observatory. The reply should respond directly to all the recommendations and requests for further information made in the present report, giving a full account of action that has already been taken or is planned (including timescales) in order to implement the recommendations.**

78. **The Subcommittee recommends that the Observatory make the present report public and requests that it be notified of the mechanism's decision in this regard. Making the present report public will contribute to transparency and enable the Observatory to apply to the Special Fund established under the Optional Protocol for support in implementing the recommendations it contains.**

79. **The Subcommittee recommends that, in accordance with article 12 (d) of the Optional Protocol, the national preventive mechanism of Senegal enter into dialogue with it on the implementation of its recommendations, within six months of the Subcommittee's having received the reply to the present report. The Subcommittee also recommends that the Commission initiate discussions with it on the arrangements for such a dialogue at the time of submission of its reply to the present report.⁹**

⁹ The national preventive mechanism of Senegal is encouraged to consider approaching the treaty body capacity-building programme of the Office of the United Nations High Commissioner for Human Rights (registry@ohchr.org), which may be able to facilitate the dialogue. The contact details of the Special Fund established under the Optional Protocol are available at www.ohchr.org/EN/HRBodies/OPCAT/Fund/Pages/SpecialFund.aspx.

Annexe I

Liste des interlocuteurs du Sous-Comité

A. Autorités

Ministère des affaires étrangères et des Sénégalais de l'extérieur

Martin Pascal Tine (Ambassadeur)

Moustapha Ka (Directeur des droits humains)

Elhadj A.L. Diagne

Abdou Ndoye

Ministère de l'intérieur

Dame Toure

Amadou Salmone Fall

Sofietou Mbaye

Mairièmè SY Loun

Ministère de la justice

Ismaila Madior Fall (Ministre)

Mamadou Saw (Secrétaire d'État)

Daouda Ndiaye

Niane S. Nasser

Samba Diouf

Amadou Ndiaye

Basséna Maruis Atéba

Mar Ndiaye

Ministère de l'éducation nationale

Oumar Mbaye

Ministère de la santé et de l'action sociale

Mamadou Lamine Faty

Diallo Aboubacar (bonne gouvernance)

Assemblée nationale

Seydou Diouf (Président de la Commission des lois)

Moussa Sane (député)

Bounama Fall (député)

Boubacar V. Biaye

Binta Thiam

Charles Sow

Top Sow

Papa Babou Ndiaye

Pouvoir judiciaire

Ahmed Tidiane Coulibaly (Procureur général près la Cour suprême)

B. Observateur national des lieux de privation de liberté et délégués

Josette Marceline Lopez Ndiaye (Observateur national des lieux de privation de liberté)

Djibril Ba (Observateur délégué)

Mamadou Boye (Observateur délégué)

Amadou Diallo (Observateur délégué)

Elias Abdoulaye Diop (Observateur délégué)

Yaye Fatou Gueye (Observateur délégué)

Idrissa Ndiaye (Observateur délégué)

Mamadou Ndong (Observateur délégué)

Abdou Gilbert Niassy (Observateur délégué)

C. Organismes des Nations Unies

Haut-Commissariat des Nations Unies aux droits de l'homme

Organisation mondiale de la Santé

Haut-Commissariat des Nations Unies pour les réfugiés

Fonds des Nations Unies pour l'enfance

D. Société civile

ACAT Sénégal

Amnesty International

Association des juristes sénégalaises

Comité sénégalais des droits de l'homme

Handicap Forum

Institut des droits de l'homme et de la paix de l'Université Cheikh Anta Diop de Dakar (IDHP/UCAD)

Ligue sénégalaise des droits humains

Plateforme des associations communautaires pour le respect, la protection et la promotion des droits humains (PAC-DH)

Rencontre africaine pour la défense des droits de l'homme (RADDHO)

Annexe II

Lieux de privation de liberté visités par le Sous-Comité

Gendarmeries

Brigade de gendarmerie de Louga
Brigade de gendarmerie de Saint-Louis
Brigade mixte de Ziguinchor

Commissariats de police

Commissariat central de Dakar
Commissariat central de Saint-Louis
Commissariat de police de l'île
Commissariat de Ziguinchor
Commissariat urbain de Kolda

Prisons

Camp pénal de Liberté 6
Maison d'arrêt de Rebeuss
Maison d'arrêt et de correction de Kolda
Maison d'arrêt et de correction de Louga
Maison d'arrêt et de correction de Saint-Louis
Maison d'arrêt et de correction de Ziguinchor
Maison d'arrêt pour femmes de Liberté 6

Centres pour enfants et adolescents

Maison d'arrêt et de correction de Hann (ex-Fort B)

Établissements de santé

Hôpital psychiatrique de Thiaroye
Pavillon spécial de l'Hôpital Aristide Le Dantec

Autres

Tribunal d'instance et tribunal de grande instance de Saint-Louis
Une daara (régime fermé) dans le quartier de Pikine, à Dakar

Annexe III

Lieux de privation de liberté visités conjointement par le Sous-Comité et l'Observateur national des lieux de privation de liberté

Brigade de gendarmerie nationale de Mbour

Commissariat urbain de Mbour

Maison d'arrêt et de correction de Thiès
