



Submission by Human Rights Watch to the Committee on Economic, Social and Cultural Rights on Senegal

64th pre-sessional, 2019

This submission relates to the review of Senegal under the Committee on Economic, Social and Cultural Rights. It focuses on the right to education, exploitation and abuse of talibé children, right to health violations, discrimination based on sexual orientation and gender identity and the protection of students, teachers, and schools in situations of armed conflict.

Barriers to the Right to Primary and Secondary Education (article 13)

Human Rights Watch welcomes the government of Senegal's commitment to expand provision of primary and secondary education to more young people, including by allocating over 20 percent of its national budget to education. However, Human Rights Watch's 2018 research on barriers to secondary education shows that the government has made inadequate progress in the retention of girls in school, and that it does not provide free basic education.

According to Senegal's Education Law, primary and lower-secondary education is free and compulsory for all girls and boys age 6 to 16. However, in practice, secondary school students may be required to pay close to 40,000 FCFA (US\$75) in tuition fees, furniture costs and extra tuition for afternoon classes, forcing many children to drop out.¹ Our findings also show that alongside school fees and indirect costs, gender discrimination contributes to low rates of retention and completion of compulsory lower secondary education, particularly in rural areas. In some communities, parents prioritize boys' education over girls' education.²

¹ "It's not Normal: Sexual Exploitation, Harassment and Abuse in Secondary Schools in Senegal," Human Rights Watch, October 18, 2018, https://www.hrw.org/sites/default/files/report_pdf/senegal1018_web.pdf

² Ibid.

Pregnancy as a Barrier to Education

Senegal has moved from previous restrictive and punitive policies to providing a pathway for pregnant girls to continue their education. In 2007, the government adopted a “re-entry” policy for young mothers, overturning its previous position to expel pregnant girls from school. The policy stipulates that in order to return to school, girls must show a medical certificate that shows they are ready to return to school.³

Despite this positive accommodation however, many girls do not return to school as they lack financial and family support.⁴ According to the joint UNFPA-GEEP study, more than 54 percent of young mothers dropped out of school between 2011 and 2014 and only fifteen percent of young mothers resumed their education in that same period.⁵

Overall, teenage pregnancy rates remain very high across the country. Girls have little access to sexual and reproductive health services, including contraceptives, and teenage pregnancy frequently ends a girl’s schooling. One in ten girls and one in twenty boys age 15-24 had their first sexual encounter before they were 15 years old.⁶ Further, eight percent of girls aged 15 to 19 have already given birth.⁷

In order to curb teenage pregnancy rates and improve the retention of girls in secondary schools the government needs to do more to ensure students have access to adequate comprehensive sexual and reproductive health education. The government has been needlessly slow to adopt a national comprehensive sexual and reproductive health curriculum. At time of writing, it was reluctant to include content

³ “Leave No Girl Behind in Africa: Discrimination in Education against Pregnant Girls and Adolescent Mothers,” Human Rights Watch, June 14, 2018, <https://www.hrw.org/report/2018/06/14/leave-no-girl-behind-africa/discrimination-education-against-pregnant-girls-and#>

⁴ “It’s not Normal: Sexual Exploitation, Harassment and Abuse in Secondary Schools in Senegal,” Human Rights Watch, October 18, 2018, https://www.hrw.org/sites/default/files/report_pdf/senegal1018_web.pdf

⁵ UN Population Fund and Groupe pour l’Étude et l’Enseignement de la Population, “Sénégal : Etude sur les grossesses précoces en milieu scolaire,” p. 64.

⁶ République du Sénégal, Ministère de la Santé et de l’Action Sociale, “Plan Stratégique de Santé Sexuelle et de la Reproduction des Adolescents/Jeunes au Sénégal [2014-2018],” September 2014, <https://www.prb.org/wpcontent/uploads/2018/05/Plan-Strate%CC%81gique-de-Sante%CC%81-Sexuelle-et-de-la-Reproduction-desAdolescentesJeunes-au-Se%CC%81ne%CC%81gal-2014-2018.pdf> (accessed December 19, 2018), p. 17.

⁷ UN Population Fund, “World Population Dashboard – Senegal,” undated, <https://www.unfpa.org/data/worldpopulation/SN> (accessed December 19, 2018).

on sexuality in the curriculum due to concerns that teaching sexuality contradicts Senegal's cultural and moral values, as well as due to pressure from religious groups.⁸

School-Related Sexual and Gender Based Exploitation and Violence

Human Rights Watch research conducted in 2018 found that many girls are exposed to sexual exploitation, harassment, and abuse by teachers and school staff. Human Rights Watch found that some teachers abuse their position of authority by sexually harassing girls and engaging in sexual relations with them, many of whom are under 18. Teachers have lured girls with the promise of money, good grades, food, or items such as mobile phones and new clothes. Female students—and to a certain extent, teachers and school officials—have characterized this as “relationships” between teachers and students. Human Rights Watch believes that this type of characterization undermines the gravity of the abuse, leads to underreporting of the problem, and blurs the perpetrators’ and victims’ perception of the severity of these abuses.

Human Rights Watch found that different forms of sexual exploitation and harassment remain pervasive in secondary schools in Senegal.⁹ Students are particularly vulnerable to these abuses on the way to school, around teachers’ homes, as well as during students’ evening gatherings, which are sometimes organized on school premises.

When girls have turned down teachers’ proposals, they have sometimes found that the teachers punished them for rejecting their advances by awarding them lower grades than they deserved, ignoring and not letting them participate in class discussions or exercises. In some of the areas where Human Rights Watch conducted research, the low retention rate of girls in secondary schools appears to be closely linked to fear that girls will be exposed to sexual harassment and gender-based violence in school, or that girls will be at high risk of pregnancy because of the school environment.¹⁰

Human Rights Watch recommends that the Committee ask the government of Senegal to:

- Adopt a policy to make secondary education fully free of charge;
- Officially and in practice remove school fees and indirect costs in secondary education;

⁸ “It’s not Normal: Sexual Exploitation, Harassment and Abuse in Secondary Schools in Senegal,” Human Rights Watch, October 18, 2018, https://www.hrw.org/sites/default/files/report_pdf/senegal1018_web.pdf

⁹ Ibid.

¹⁰ Ibid.

- Adopt a national education policy against sexual exploitation, harassment and abuse, that includes: guidance on what constitutes or could lead up to these abuses, procedures to be adopted when cases are reported to school staff, clear school-based enforcement mechanisms and sanctions, and referrals to police;
- Ensure that legislation relating to school-related sexual exploitation, harassment and abuse, are rigorously enforced, and that perpetrators of these crimes are brought to justice and punished with sanctions that are commensurate to their crimes;
- Explicitly prohibit all forms of sexual and gender-based violence against girls and young women in and around educational institutions;
- Ensure all schools have functioning confidential and independent reporting mechanisms, connected to child protection committees;
- Adopt a strong curriculum on sexual and reproductive health and rights which complies with international standards, is mandatory, age-appropriate, and scientifically accurate; including information on sexual and reproductive health and rights, responsible sexual behavior, prevention of early pregnancy and sexually transmitted infections; and
- Amend and/or adopt laws to strengthen protection for children affected by abuse.

Abuse and Exploitation Against Talibé Children (article 10, 12, and 13)

Over 120,000 talibés, children attending residential Quranic schools (daaras) in Senegal, are forced to beg for food or money by their Quranic teachers (marabouts), who serve as their de facto guardians. Thousands of these children live in conditions akin to slavery, forced to endure often extreme forms of abuse, neglect, and exploitation. Abuses against these children include severe beatings, chaining, imprisonment, and sexual abuse, and neglect results in deprivation of their rights to basic health care and education. Many daaras are housed in decrepit or unfinished buildings without water, sanitation, electricity or security, exposing the children to health and safety risks.

The government has recently taken steps related to the rights of talibé children. From 2016 to 2017, a government program resulted in the removal of more than 1,500 children from the streets, and 300 more were removed from the streets in 2018. In November 2017, Senegalese police, together with Interpol, picked up over 54 children

including 47 talibés from the streets, arresting five Quranic teachers for child trafficking and exploitation.¹¹

Despite these important steps, Human Rights Watch is concerned that talibé children still face human rights violations. In July 2017, Human Rights Watch found that more than 1000 children taken from the streets as part of the 2016-2017 government program were later returned to the same Quranic teachers who had forced them to beg.¹² In 2017 and 2018, Human Rights Watch documented several cases of talibé deaths to abuse or neglect, and dozens of other cases of beatings for failing to bring their marabout the required sum of money, chaining and imprisonment for attempting to run away, and sexual abuse.

Despite the government's program to remove the children from the streets, there was no noticeable reduction in the number of talibés begging in the streets of Senegal's major cities during 2018, with the exception of two Dakar municipalities where mayors issued decrees banning begging and took steps to close several daaras that did not comply.

Senegal has strong domestic laws against child abuse, trafficking and exploitation, and forced child begging, and arrests and prosecutions of Quranic teachers for such abuses have increased slightly in recent years. Nevertheless, the police often still failed to investigate cases of forced begging and exploitation, social workers failed to report many such cases, and charges against Quranic teachers continued to be dropped or sentences reduced by the judiciary in 2017 and 2018. In its second phase in 2018, the program to "remove children from the streets" in Dakar again failed to ensure justice against the Quranic teachers responsible for forcing the children to beg.

Human Rights Watch recommends that the Committee ask the government of Senegal to:

- Increase enforcement of current domestic laws that criminalize child trafficking, forced begging and abuse, and investigate and hold accountable Quranic teachers who violate these laws;

¹¹ Lauren Seibert (Human Rights Watch), "A Move Toward Justice for Senegal's Exploited Talibé Children," commentary, All Africa, December 6, 2017, <https://www.hrw.org/news/2017/12/06/move-toward-justice-senegals-exploited-talibe-children>

¹² Human Rights Watch, "*I Still See the Talibés Begging*": Government Program to Protect Talibé Children in Senegal Fall Short, July 11, 2017, <https://www.hrw.org/report/2017/07/11/i-still-see-talibes-begging/govern...>, p.19.; Human Rights Watch interview with government officials, May and June 2017.

- Pass the draft law establishing legal status and regulations for daaras (“projet de loi portant statut des daaras”), which has been approved by the Council of Ministers but awaits a vote before the National Assembly;
- Increase funding and support to structures that can provide legal assistance to separated children such as talibés who are victims of abuse or exploitation;
- Formally involve relevant sectors of the Ministry of Justice, including its AEMO social services agency, in the program to remove children from the streets (*retrait des enfants de la rue*) with a view to ensuring investigations and prosecutions of adults, including Quranic teachers, forcing children to beg for profit or committing other abuses.
- Mandate local inspections of existing *daaras*, with a view to ensuring that any failing to meet appropriate health and safety standards or exploiting children through forced begging are shut down;

Dedicate funding to building the capacity of existing children’s shelters and care centers, as well as to installing new shelters or care systems in regions that lack facilities to care for abused or separated children.

Barriers to the Right to Health (article 12)

Palliative Care

Senegal is a regional leader in palliative care, which focuses on pain treatment and quality of life. A 2012 study found 16 of 22 countries in Francophone Africa have no healthcare providers specializing in palliative care. However, since 2014, the Senegalese government has taken steps to improve access to palliative care. It has revised its national estimate for morphine in order to increase the quantity, to address need, and it has expanded the types of morphine formulations available, buying morphine tablets for public hospitals. It changed regulations limiting the prescription of morphine to seven days at a time – forcing patients at the end of life to travel long distances to get a new prescription – to 28 days.

Despite this progress, there is still some work that remains to be done in expanding palliative care services to incurable patients and areas of the country beyond the capital.¹³

Human Rights Watch recommends that the Committee:

¹³ Senegal Makes Strides on Palliative Care, Other Countries in Francophone Africa Should Follow Suit, October 12, 2017, <https://www.hrw.org/news/2017/10/12/senegal-makes-strides-palliative-care>

- Commend Senegal for its work on improving access to palliative care services.

Human Rights Watch recommends that the Committee ask the government of Senegal to:

- Expand palliative care services to incurable patients and areas of the country beyond the capital.

Discrimination based on Sexual Orientation and Gender Identity (article 2, 12)

Since 2009, Human Rights Watch has documented numerous human rights violations against lesbian, gay, bisexual and transgender (LGBT) people.

Senegalese law criminalizes consensual homosexual conduct—a fact that is used to justify arrests of individuals perceived to be homosexual. Criminalizing same-sex sexual conduct and state failure to protect LGBT people from violence go hand in hand. They further marginalize an already vulnerable population, and limit LGBT people’s access to the right to non-discrimination and the right to the highest attainable standard of physical and mental health.

Human Rights Watch and its Senegalese partner organizations identified 38 cases between 2011 and 2016 in which police arrested people based on their perceived sexual orientation, and charged them with “unnatural acts” under article 319 of the Criminal Code. Senegal denied at its 2018 Universal Periodic Review that anyone is arrested for consensual same-sex conduct, but unfortunately such arrests continue to occur. The arrests documented have been the result either of sweeping police raids of public areas known to be gay hangouts, or of unsubstantiated denunciations from family members, neighbors, or acquaintances of those arrested. During arrests, many men and women described police officers slapping them, beating them with fists, and with hard rubber batons.

Examples include the arrest of 11 men at a birthday party in Kaolack in December 2015; the arrest of seven male drummers and dancers at a wedding of a woman and a man at a private home in Ziguinchor in July 2015, after a guest reported the presence of “homosexuals” to police; and the arrest of ten women, accused of being lesbians, as they visited a sick friend at a hospital in Dakar in January 2015. One victim said that on May 2015, when he was stabbed and beaten in an apparent homophobic attack, police detained him instead of his attackers and denied him medical treatment. Police also failed to protect LGBT people: in one emblematic case in December 2015, the police commissioner of a police station in a Dakar suburb told a man who had come to report

regular death threats and physical harassment relating to his sexual orientation: “We do not defend homosexuals.”

The government’s criminalization and harassment of men who have sex with men (MSM) and men perceived to be gay or bisexual is undermining its effectiveness in addressing the HIV epidemic. In some regions, police appeared to conduct surveillance of, and investigation into, MSM associations working on HIV prevention and treatment in key populations. Police arrested members of one such association in 2011, with the apparent goal of forcing the association to stop their activities. Four members of such associations said police approached investigation of their association as if they were organized criminal networks, rather than grassroots organizations working with Senegal’s Ministry of Health to address a concentrated HIV epidemic amongst Senegalese MSM.

Senegal’s own National Strategic Plan on HIV (2018-2022) points out that the criminalization of homosexual conduct in Senegal constitutes a “real obstacle” to HIV prevention and treatment services, thereby restricting human rights. It also calls for increased accessibility of condoms and lubricants for MSM, includes calls for improving the human rights situation for MSM, and recommends dismantling legal barriers that complicate their access to treatment. However, fear of arrest and prosecution has restricted the ability of MSM health activists to operate freely and prevents gay men from accessing essential services.

As affirmed at the 15th International Conference on AIDS and STIs in Africa (ICASA) in Senegal, December 3-7, 2008, criminalization of homosexual conduct is a significant hurdle in providing education, testing, and treatment to MSM populations in Africa. Its direct effects and the stigma it reinforces drive MSM populations underground in fear of discrimination, violence, arrest, and other repercussions.

Human Rights Watch recommends that the Committee ask the government of Senegal to:

- Decriminalize consensual same-sex conduct by removing article 319.3 from the Penal Code;
- Ensure that organizations conducting HIV prevention and treatment activities targeting men who have sex with men (MSM) are able to work freely, without fear of police harassment.
- Pass and implement anti-discrimination legislation that protects individuals from discrimination on the basis of sexual orientation and gender identity;

- Instruct police to conduct thorough investigations of all complaints regarding crimes against individuals relating to sexual orientation or gender identity.

Protection of Education During Armed Conflict (article 13)

The Safe Schools Declaration is an inter-governmental political commitment that provides countries the opportunity to express political support for the protection of students, teachers, and schools during times of armed conflict;¹⁴ the importance of the continuation of education during armed conflict; and the implementation of the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict*.¹⁵ As of December 2018, 82 countries have endorsed the Safe Schools Declaration. Senegal has yet to endorse this important declaration.

As of November 2018, Senegal was contributing 1,198 troops and 37 staff officers to UN peacekeeping operations around the world. Such troops are required to comply with the UN Department of Peacekeeping Operations “UN Infantry Battalion Manual” (2012), which includes the provision that “schools shall not be used by the military in their operations.”¹⁶

Moreover, the 2017 Child Protection Policy of the UN Department of Peacekeeping Operations, Department of Field Support, and Department of Political Affairs notes:

United Nations peace operations should refrain from all actions that impede children's access to education, including the use of school premises. This applies particularly to uniformed personnel. Furthermore ... United Nations peace operations personnel shall at no time and for no amount of time use schools for military purposes.¹⁷

¹⁴ Safe Schools Declaration, May 28, 2015, https://www.regjeringen.no/globalassets/departementene/ud/vedlegg/utvikling/safe_schools_declaration.pdf (accessed November 6, 2018).

¹⁵ Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict, March 18, 2014, http://protectingeducation.org/sites/default/files/documents/guidelines_en.pdf (accessed November 6, 2018).

¹⁶ United Nations Infantry Battalion Manual, 2012, section 2.13, “Schools shall not be used by the military in their operations.”

¹⁷ UN Department of Peacekeeping Operations, Department of Field Support and Department of Political Affairs, “Child Protection in UN Peace Operations (Policy),” June 2017.

Senegal's peacekeeping troops are deployed in the Democratic Republic of the Congo, Central African Republic, and Mali — all countries where attacks on students and schools, and the military use of schools has been documented as a problem.¹⁸

Human Rights Watch recommends that the Committee ask the government of Senegal:

- Are protections for schools from military use included in the pre-deployment training provided to Senegalese troops participating in peacekeeping missions?
- Do any Senegalese laws, policies, or trainings provide explicit protection for schools and universities from military use during armed conflict?

Human Rights Watch recommends to the Committee that it call upon the government of Senegal to:

- Endorse the Safe Schools Declaration, and take concrete measures to deter the military use of schools, including by bringing the *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict* into domestic military policy and operational frameworks.

¹⁸ Education Under Attack: 2018, The Global Coalition to Protect Education from Attack, 2018, http://www.protectingeducation.org/sites/default/files/documents/eua_2018_full.pdf