

## **Status of Human Rights in Senegal for the 45<sup>th</sup> Session of the Universal Periodic Review**

### **Introduction**

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ also holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Senegal (Senegal) for the 45th session of the Universal Periodic Review (UPR).

### **Background**

2. Senegal is located in Western Africa and has a population of 18.3 million people.<sup>1</sup> The country is predominately Muslim, with approximately 97.2% of the population identifying as Muslim, and 2.7% identifying as Christian.<sup>2</sup>

3. Senegal's last review was held on November 5, 2018.<sup>3</sup> As a result of the review, Senegal received 257 recommendations, 229 of which Senegal accepted.<sup>4</sup> One recommendation that was made by the United States of America, and supported by Senegal, was that the government "[c]ommit sufficient funding to the ongoing campaign against forced child begging and investigate, arrest and prosecute all individuals who violate the anti-trafficking law."<sup>5</sup> It was also recommended by Luxembourg, and supported by Senegal, that the government "[c]ontinue to commit to fighting violence against women and girls, in particular female genital mutilation, and bring the perpetrators of such acts to justice."<sup>6</sup> It was also recommended by Chile, and supported by Senegal, that the government "[a]dopt a national action plan to end child marriage and amend the Family Code and the Criminal Code to raise the minimum age of marriage to 18 years for both boys and girls."<sup>7</sup>

### **Legal Framework**

#### *Child Exploitation*

4. Under Section 1, Article 1 of the Law to Combat Trafficking in Persons and Related Practices and to Protect Victims 2005:

The recruitment, transportation, transfer, harboring, receipt of persons by threat or use of violence, abduction, fraud, deception, abuse of power or of position of vulnerability or of the giving or benefit payment acceptance to achieve the consent of a person having control over another person, for the purpose of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude is punished with imprisonment from 5 to 10 years and a fine of 5 to 20 million francs.

The offense is constituted when the recruitment, transportation, transfer, harboring or involves a minor, even if none of the means listed in the preceding paragraph is used. Criminal detention from 10 to 30 years is

incurred when the offense is committed through the use of torture or barbarism or to human organ harvesting or it exposes the victim to an immediate risk of death or nature of injuries lead to permanent disability.<sup>8</sup>

5. Further, under Section 2, Article 3 of the same law:

Anyone who organizes the begging of others with a view to profiting therefrom, who hires, trains or misdirects a person with a view to handing them over to begging or pressuring them to beg or to continue to do so, shall be punished by imprisonment of 2 to 5 years and a fine of between 500,000 and 2,000,000 FCFA.<sup>9</sup>

6. Senegal is also a party to the International Covenant on Civil and Political Rights (ICCPR).<sup>10</sup> Under Article 8 of the ICCPR, “[n]o one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited. No one shall be held in servitude.”<sup>11</sup>

7. Additionally, Senegal is a party to the Convention on the Rights of the Child (CRC).<sup>12</sup> Under Article 19 of the CRC:

States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.<sup>13</sup>

8. Moreover, Senegal is also a party to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.<sup>14</sup> Under Article 9, Section 1 of this Protocol:

1. States Parties shall establish comprehensive policies, programmes and other measures:

(a) To prevent and combat trafficking in persons; and

(b) To protect victims of trafficking in persons, especially women and children, from revictimization.<sup>15</sup>

### *Female Genital Mutilation*

9. In 1999, Senegal added Article 299 *bis* to the 1965 Penal Code which criminalized the practice of female genital mutilation (FGM) as well as criminalized aiding or abetting FGM.<sup>16</sup>

10. Again, under Article 19 of the CRC, “States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence . . . .”<sup>17</sup>

### *Child Marriage*

11. Under Article 17 of the Constitution of Senegal, “[m]arriage and the family constitute the natural and moral base of the human community. They are placed under the protection of the State.”<sup>18</sup>

12. Thankfully, since the previous UPR, Senegal announced it was revising the Family Code to raise the minimum age for marriage for girls to eighteen.<sup>19</sup> Previously, the minimum age for girls to be married was sixteen.<sup>20</sup>

13. Additionally, Article 1 of the CRC defines a child as “every human being below the age of eighteen years.”<sup>21</sup> Further, Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to which Senegal is a party,<sup>22</sup> prohibits all child marriages.<sup>23</sup>

### Child Exploitation

14. Senegal exists as both an origin and destination country for human trafficking.<sup>24</sup> In particular, children from Guinea-Bissau are trafficked to Senegal by Quranic teachers for forced labor, a practice that has been exploited because of the money to be made from child begging.<sup>25</sup> These children are called talibés and reside in Quranic schools called daaras.<sup>26</sup> These children are economically exploited and forced to beg for money or else suffer physical or mental harm.<sup>27</sup> It is estimated that this practice brings in 5,475 billion FCFA for Quranic teachers in the Dakar region per year.<sup>28</sup>

15. This system of exploitation preys on the poor and vulnerable as Muslim religious leaders known as Marabouts tell parents in poor regions that they will take care of their children and teach them the Quran.<sup>29</sup> Some of these children are even as young as six years old.<sup>30</sup> Many of these children come from Kolda, Sine Saloum, Touba, and countries like Guinea.<sup>31</sup> These children are taken far away from their homes and their parents are unaware of what actually happens to their children.<sup>32</sup> One child even said that he had to work to earn money through begging, simply to be able to talk to his family on the phone.<sup>33</sup>

16. Research conducted by a human rights group estimated that 100,000 talibés live in daaras across the country.<sup>34</sup> These children are forced to beg for money, food, rice or sugar, and even have set quotas that are enforced by severe beatings.<sup>35</sup>

17. For example, in January 2022, a ten-year-old talibé died as a result of injuries he received from being beaten by his teacher.<sup>36</sup> One former talibé shared a horrific story of life as a talibé:

When I was a *talibé*, one of my classmates in the same *daara* as me had a stutter and did not have good diction. One day, as he was struggling to recite, the schoolmaster hit him over the head with a wooden tablet. He died two days later. Now that I’m older and myself providing care to the children, I realize he must have died of a brain haemorrhage after that beating.<sup>37</sup>

However, violence against talibés goes unpunished because there is a lack of control over the daaras and the lack of sufficient resources for child protection services.<sup>38</sup> Further, Quranic teachers also have an elevated status in Senegal, allowing them to act with impunity.<sup>39</sup>

18. One former talibé explained what led him to escape from his daara at the age of thirteen. He stated that “[t]here were more than one hundred boys at the school. We slept on

the floor in tiny rooms, packed together like sardines. The master beat me. I had to leave.”<sup>40</sup>

19. As stated above, Senegalese law criminalizes forced begging<sup>41</sup> However, there is little enforcement of this law when it comes to protecting talibés.<sup>42</sup> This stems from the fact there is societal pressure not to enforce these laws against daaras.<sup>43</sup> In fact, Quranic teachers view any attempt to regulate daaras and protect children as an attack on Islam and on the daaras.<sup>44</sup> As such, they actively lobby against legislative reform that would impact the impunity the daaras enjoy now.<sup>45</sup> In fact, in 2018, the government drafted a law that would provide oversight and regulation by incorporating daaras into the national education system.<sup>46</sup> However, as of December 2022, this draft had yet to be considered by the National Assembly due to Quranic teachers lobbying against it.<sup>47</sup>

## Female Genital Mutilation

20. Despite banning female genital mutilation (FGM) in 1999, an estimated 21% of girls who are currently between the ages of fifteen and nineteen have undergone FGM.<sup>48</sup> The main reason this practice has continued although being illegal is because it is deeply ingrained in the culture.<sup>49</sup> As explained by two former excisors, “[i]t was done from generation to generation. If you refused, we would say that you were not respectful of social norms. . . . For us, FGM was an opportunity to educate girls. We organised a ceremony, the koyan, once a year in the village with usually around 20 teenagers.”<sup>50</sup>

21. Another woman told the story of her sister who became ill after becoming “cut.”<sup>51</sup> She shared that, after that incident, her mom decided to stop having her children cut.<sup>52</sup> In another tragic story, a one-year-old girl died as a result of complications after the procedure.<sup>53</sup>

22. In November 2021, Senegal launched a public awareness campaign with the help of the United Nations Children’s Fund (UNICEF) and the United Nations Population Fund (UNFPA) to eliminate FGM in Senegal.<sup>54</sup> This new campaign will produce communication materials that can be distributed throughout the country as well as engage community and religious leaders to strengthen the fight against FGM.<sup>55</sup> The UNICEF Chief of Child Protection in Senegal emphasized that, because FGM is a cultural practice, it is important to educate parents on the dangers so that they will decide not to continue this harmful practice.<sup>56</sup>

23. Putting an end to FGM is critical because of the harm it causes girls and women as demonstrated by some of the tragic stories above. Additionally, FGM has been shown to cause the following complications:

Immediate complications include severe pain, shock, haemorrhage, tetanus or infection, urine retention, ulceration of the genital region and injury to adjacent tissue, wound infection, urinary infection, fever, and septicemia. Haemorrhage and infection can be severe enough to cause death.

Long-term consequences include complications during childbirth, anaemia, the formation of cysts and abscesses, keloid scar formation, damage to the urethra resulting in urinary incontinence, dyspareunia (painful sexual intercourse), sexual dysfunction, hypersensitivity of the genital area and increased risk of HIV transmission, as well as psychological effects.<sup>57</sup>

24. Tostan, a NGO working to protect human rights and stop FGM, has worked with 5,300 villages to put an end to this harmful practice.<sup>58</sup> Senegal hopes to eliminate the practice

altogether by 2030.<sup>59</sup>

## **Child Marriage**

25. In Senegal, approximately 31% of girls are married by the age of eighteen, and 9% are married by the age of fifteen.<sup>60</sup> Early marriage is engrained in longstanding sociocultural traditions.<sup>61</sup> Also, parents often make the decision against their daughter's will, which can result in both physical and mental harm.<sup>62</sup>

26. One woman shared her story of how she was made to marry her cousin at the age of fifteen and the devastating effects it had on her life, such as getting a sexually transmitted infection and being forced to drop out of school.<sup>63</sup> After several months, she was able to divorce her husband and returned to school. Now she spends much of her time fighting against early childhood marriage by speaking to young girls, boys, and parents about the devastating impacts early and forced marriages have on children.<sup>64</sup>

27. Another girl was forced to marry a man who was almost the same age as her father at the young age of sixteen.<sup>65</sup> She was forced to drop out of school and live with a man who did not care for her.<sup>66</sup> At the time she could not go to the government, because the legal age for marriage for girls was sixteen.<sup>67</sup>

28. Thankfully, in April 2020, Senegal announced it was revising the Family Code to bring it in line with international standards by raising the minimum age for girls to be married to eighteen.<sup>68</sup> Additionally, Senegal has implemented efforts to raise awareness of early and forced marriages at both the community and national level in order to promote female education and empowerment.<sup>69</sup>

## **Recommendations**

29. Senegal must take immediate measures to enforce the law and protect children who are being exploited for financial gain. In addition to enforcing laws that are already implemented, the government must also take measures to ensure these children have adequate living accommodation and are not being abused and taken advantage of. Further, the government must hold all perpetrators accountable and fully investigate all cases of abuse.

30. We are encouraged by the advances Senegal has made in eradicating FGM. We want to encourage Senegal to continue to educate the population and bring awareness to this harmful practice so that FGM can be fully eradicated.

31. We are encouraged by the fact that Senegal has raised the minimum age of marriage for girls to eighteen. However, raising the age of marriage to eighteen will not be of much benefit if an eighteen-year-old woman is forced to marry a man twice her age. In order to fully eradicate child and forced marriages, Senegal must conduct education and awareness campaigns to ensure that everyone knows that child marriage is now illegal as well as educate the population on the dangers of child marriage. Further, regardless of their age, women must not be forced to marry against their will.

<sup>1</sup> *Senegal*, THE WORLD FACTBOOK (May 16, 2023), <https://www.cia.gov/the-world-factbook/countries/senegal/>.

<sup>2</sup> *Id.*

<sup>3</sup> *Universal Periodic Review – Senegal*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/sn-index> (last visited May 24, 2023).

<sup>4</sup> *Senegal Infographic 31st*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session31/SN/SENEGAL\\_Infographic\\_31st.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session31/SN/SENEGAL_Infographic_31st.pdf) (last visited May 24, 2023).

<sup>5</sup> OHCHR, UPR of Senegal (3<sup>rd</sup> Cycle – 31st Session): Thematic List of Recommendations, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session31/SN/UPR31\\_Senegal\\_Thematic\\_list\\_of\\_Recommendations\\_E.docx](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session31/SN/UPR31_Senegal_Thematic_list_of_Recommendations_E.docx) (last visited May 24, 2023).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Law to Combat Trafficking in Persons and Related Practices and To Protect Victims 2005, § 1, art. 1 (Act. No. 6/2005) (Sen.), <https://antislaverylaw.ac.uk/country/senegal/>.

<sup>9</sup> *Id.* § 2, art. 3; *Senegal: The State Must Move from Commitment to Strong Action to Protect Talibé Children*, AMNESTY INT’L (Dec. 12, 2022), <https://www.amnesty.org/en/latest/news/2022/12/senegal-letat-doit-passer-des-engagements-aux-actes-forts-pour-protoger-les-enfants-talibes/>.

<sup>10</sup> *Reporting Status for Senegal*, OHCHR, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SEN&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=SEN&Lang=EN) (last visited May 24, 2023).

<sup>11</sup> International Covenant on Civil and Political Rights art. 8, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>.

<sup>12</sup> *Reporting Status for Senegal*, *supra* note 10.

<sup>13</sup> Convention on the Rights of the Child art. 19, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child> [hereinafter CRC].

<sup>14</sup> *Chapter XVIII Penal Matters: 12. a Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime*, UNITED NATIONS TREATY COLLECTION, [https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg\\_no=XVIII-12-a&chapter=18](https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtdsg_no=XVIII-12-a&chapter=18) (Apr. 19, 2023, 9:15 AM).

<sup>15</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime art. 9, § 1, *adopted* on Nov. 15, 2000, 2237 U.N.T.S. 319, [https://treaties.un.org/doc/treaties/2000/11/20001115%2011-38%20am/ch\\_xviii\\_12\\_ap.pdf](https://treaties.un.org/doc/treaties/2000/11/20001115%2011-38%20am/ch_xviii_12_ap.pdf).

<sup>16</sup> 28 TOO MANY, SENEGAL: THE LAW AND FGM 2-3 (2018), [https://www.28toomany.org/media/uploads/Law%20Reports/senegal\\_law\\_report\\_v1\\_\(august\\_2018\).pdf](https://www.28toomany.org/media/uploads/Law%20Reports/senegal_law_report_v1_(august_2018).pdf); CODE PÉNAL [PENAL CODE] art. 299 bis (Sen.), [https://www.africa-laws.org/Senegal/criminal%20law/Code%20p%C3%A9nal%20\(loi%20n%C2%B0%2065-60%20du%2021%20juillet%201965\).pdf](https://www.africa-laws.org/Senegal/criminal%20law/Code%20p%C3%A9nal%20(loi%20n%C2%B0%2065-60%20du%2021%20juillet%201965).pdf).

<sup>17</sup> CRC art. 19, *supra* note 13

<sup>18</sup> Constitution de la République du Senegal du 22 Janvier 2001, art. 17, [https://www.constituteproject.org/constitution/Senegal\\_2009?lang=en](https://www.constituteproject.org/constitution/Senegal_2009?lang=en).

<sup>19</sup> *Senegal*, GIRLS NOT BRIDES, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/senegal/#:~:text=Under%20the%20Family%20Code%201989,parents%20will%20also%20be%20required> (last visited May 24, 2022).

<sup>20</sup> *Id.*; CODE DE LA FAMILLE [FAMILY CODE] art. 111 (Sen.), <https://www.africa-laws.org/Senegal/Family%20law/Code%20de%20la%20famille.pdf>.

<sup>21</sup> CRC art. 1, *supra* note 13.

<sup>22</sup> *Reporting Status for Senegal*, *supra* note 10.

<sup>23</sup> Convention on the Elimination of All Forms of Discrimination Against Women art. 16, *adopted* Dec. 18, 1979, 1249 U.N.T.S. 13, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

<sup>24</sup> *Senegal*, GLOB. ORGANIZED CRIME INDEX, <https://ocindex.net/country/senegal> (last visited May 24, 2023).

<sup>25</sup> *Id.*

<sup>26</sup> *Senegal: The State Must Move From Commitment to Strong Action to Protect Talibé Children*, *supra* note 9.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Tom Collins & Sam Bradpiece, *The Religious Schools Making Millions out of Child Begging*, THE TELEGRAPH (Jan. 3, 2023, 2:02 PM).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> “*These Children Don’t Belong in the Streets: A Roadmap for Ending Exploitation, Abuse of Talibés in Senegal*,” HUM. RTS. WATCH (Dec. 16, 2019).

<sup>35</sup> *Id.*

<sup>36</sup> *Senegal: The State Must Move from Commitment to Strong Action to Protect Talibé Children*, *supra* note 9.

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> *Id.*

<sup>40</sup> Collins & Bradpiece, *supra* note 29.

<sup>41</sup> *Senegal: The State Must Move From Commitment to Strong Action to Protect Talibé Children*, *supra* note 9.

<sup>42</sup> *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *See id.*

<sup>45</sup> *Id.*

<sup>46</sup> *Id.*

<sup>47</sup> *Id.*

<sup>48</sup> *Senegal*, ORCHID PROJECT, <https://www.orchidproject.org/about-fgc/where-does-fgc-happen/senegal/> (last visited May 24, 2023).

<sup>49</sup> *Promoting Zero Tolerance for Female Genital Mutilation (FGM), One Community at a Time*, WORLD VISION INT’L (Feb. 5, 2021).

<sup>50</sup> *Id.*

<sup>51</sup> *Senegal: Breaking the Cycle of FGM*, AL JAZEERA.

<sup>52</sup> *Id.*

<sup>53</sup> *Id.*

<sup>54</sup> Lalaina F. Andriamasinoro, *Ending Female Genital Mutilation in Senegal*, UNICEF (Nov. 26, 2021), <https://www.unicef.org/senegal/en/stories/ending-female-genital-mutilation-senegal>.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*

<sup>57</sup> *Female Genital Mutilation (FGM) Frequently Asked Questions*, UNFPA (Feb. 2022), <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>.

<sup>58</sup> Jaya Patten, *Female Genital Mutilation in Senegal*, THE BORGES PROJECT (July 12, 2021).

<sup>59</sup> *See Youth Join Forces in Senegal to End Female Genital Mutilation*, UNFPA (Nov. 5, 2021), <https://wcaro.unfpa.org/en/news/youth-join-forces-senegal-end-female-genital-mutilation>.

<sup>60</sup> *Senegal*, *supra* note 19.

<sup>61</sup> *Forced and Child Marriage in Africa as a Manifestation of Gender-Based Violence and Inequality*, WALK FREE (May 28, 2019).

<sup>62</sup> Fatou Ndiaye, *Senegal: Survivor of Early, Forced Marriage Says Tradition Needs to Change*, BARZA WIRE (May 2, 2022), <https://wire.farmradio.fm/farmer-stories/senegal-survivor-of-early-forced-marriage-says-tradition-needs-to-change/>.

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Child Marriage in Senegal*, COMUNDOS (Nov. 5, 2019).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Senegal*, *supra* note 19.

<sup>69</sup> *Id.*