



UPR Submission: Senegal March 2018

Summary

This submission highlights key aspects of Senegal's compliance with its international human rights obligations since its last Universal Periodic Review (UPR) in 2013. Human Rights Watch highlights Senegal's leadership with the landmark trial of Hissène Habré and the government's support for the International Criminal Court. We acknowledge Senegal's progress with provision of palliative care. Nevertheless, challenges remain in the full implementation of children's rights, including the right to secondary education, harmful practices and sexual and gender-based violence against girls, and the government's efforts to adequately protect children from abuses meted out within the context of Quranic education. The submission also details ongoing human rights violations of lesbian, gay, bisexual and transgender (LGBT) people.

International Justice

During Senegal's 2013 UPR, many member states commended Senegal on the creation of the Extraordinary African Chambers to try former Chadian President Hissène Habré.ⁱ In May 2016, after a landmark trial, Habré was convicted of crimes against humanity, war crimes, and torture, including sexual violence, and sentenced to life in prison. In April 2017, an appeals court confirmed the verdict and ordered Habré to pay approximately \$154 million in victim compensation. Human Rights joins the UN High Commissioner and many others in congratulating Senegal for its support to this historic trial. While Senegalese authorities have evoked the possibility of a pardon for Hissène Habré, this could violate the Chambers' Statute which requires Senegal to comply with the length of the sentence. Senegal should also cooperate with the newly-created Trust Fund which seeks to locate and seize Habré's assets to provide victim compensation.

Human Rights Watch commends Senegal's continued backing and public affirmations of support for the International Criminal Court in the face of unprincipled attacks on the court during the reporting period.ⁱⁱ Senegal entered a formal reservation to the decision adopted by the African Union (AU) in 2017 to adopt a withdrawal strategy from the ICC.ⁱⁱⁱ Foreign Minister Sidiki Kaba, who served as the country's justice minister until September 2017, played a leadership role as the president of the ICC's Assembly of States Parties from 2014 to December 2017.

Recommendations

- Comply with Article 26.3 of the Statute of the Extraordinary African Chambers regarding the length of Habré's sentence;
- Cooperate with the Trust Fund for Victims of Hissène Habré's crimes in the search for Habré's assets;
- Call on African Union member states to offer their full support for the International Criminal Court.

Right to Health

In 2013, Human Rights Watch found that only a few hospitals in the Senegalese capital provided palliative care for patients with end-stage cancer.^{iv} The amount of morphine used was enough to treat just 179 patients with advanced cancer or AIDS – although about 70,000 people there required palliative care each year.^v

During Senegal’s 2013 UPR review, states recommended the improvement of living standards and further and continuous efforts to guarantee access to health.^{vi} Human Rights Watch recognizes the government’s efforts to improve access to palliative care by boosting its estimate for morphine from 1,180 grams in 2012 to 40,329 grams; starting to supply oral morphine tablets to public hospitals; changing regulations limiting the prescription of morphine to seven days at a time to 28 days; and working with the World Health Organization to train physicians, pharmacists, and health workers on using morphine. Moreover, the country’s largest adult cancer unit hired a palliative care specialist.^{vii}

But much remains to be done. A recently published needs assessment, on which the health ministry cooperated with Human Rights Watch, found that nearly half of hospitalized patients in four hospitals needed palliative care, and that many suffered from inadequately treated pain. The study recommends that the government prioritize training of health care workers and ensuring availability of relevant medications throughout the healthcare system.^{viii}

Recommendations

- Guarantee access to palliative care at all hospitals, including outside the capital;
- Provide palliative care training in the education curricula of health workers.

Children’s Rights

As of March 2018, Senegal has not adopted the draft Children’s Code to bring the UN Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child into national law, despite receiving numerous recommendations in 2013 to do so. In 2016, the Committee on the Rights of the Child called on Senegal to expedite the adoption of the Code, and “ensure it addresses all areas covered by the Convention.”^{ix}

Recommendation

- Urgently adopt the Children’s Code, to effectively implement all its international and regional child rights obligations.

Education

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. We also recognize the government’s efforts to increase girls’ attendance and retention in schools and welcome the government’s efforts to ensure that pregnant students and young mothers of school-going age stay in education.

However, Human Rights Watch’s 2017 research on barriers to secondary education shows that the government has made little progress in the retention of girls in school, and does not provide free basic education.^x This despite accepting a recommendation made during its 2013 UPR to “continue efforts to realize the right to education and pay special attention to the access of children and adolescents aged to attend middle and secondary education.”

Although Senegal's Education Law provides for free education for children ages 6 to 16, education is not free in practice.^{xi} Human Rights Watch research found that government secondary schools charge fees and indirect costs for school material, furniture, mandatory tuition and other items each school year upwards of 50,000 Francs CFA (approximately US\$93) per student, forcing many children to drop out.

Our findings show that school fees, and gender discrimination, contribute to low rates of retention and completion of compulsory lower secondary education, particularly in rural areas. Human Rights Watch met many adolescent girls whose families, on account of these fees, were not able to pay for their education. In many cases, girls told us that their education was interrupted when parents or extended family members were simply no longer able to afford their education. In some communities, parents prioritize boys' education over girls' education.

Recommendations

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

School-Related Sexual and Gender Based Violence

Human Rights Watch found that girls are exposed to sexual harassment, exploitation, and abuse by teachers and motorcycle drivers. Human Rights Watch found that some teachers and school staff have sexual relationships with female students thus breaching a teachers' duty of care, and ethical responsibilities, towards their students. We found that teachers sexually exploit female students by offering them money, better grades, food or items such as mobile phones and new clothes in exchange for sex.

Recommendations

- Explicitly prohibit all forms of sexual and gender-based violence against girls and young women in and around educational institutions;
- Investigate sexual harassment, exploitation, and abuse of girls, prosecute if there is sufficient evidence, in line with international fair trial standards;
- Ensure all schools have functioning confidential and independent reporting mechanisms, connected to child protection committees;
- Adopt national awareness campaigns on children's rights, sexual and gender-based violence and how to identify and report sexual exploitation in schools.

Child Marriage and Teenage Pregnancy

Despite accepting recommendations in 2013 to "Raise the age of marriage to 18 and above to reduce on the problems of early marriages" and to "Run public awareness programs on the harmful consequences of child marriages," Senegal has not progressed on its commitment to end child marriage. Nearly one in three girls is married before they turn 18, and more than nine percent of girls are married by age 15.^{xii} Senegal's Family Code stipulates that girls can marry from age 16, while boys can marry when they are 18, while its Criminal Code criminalizes sexual acts with girls younger than 13, married through traditional marriages.^{xiii}

Although some girls are able to stay in schools because their schooling is part of the marriage agreement, some girls experience an abrupt end to their education, and premature motherhood.

Human Rights Watch interviewed young mothers under 18 who were not married. Teenage pregnancy rates remain very high across the country.^{xiv} From 2006 – 2015, 80 out of 1000 girls and young women aged 15 to 19 gave birth. Use of modern contraception remains limited: only 20 percent of adolescents report using these methods.^{xv} Human Rights Watch found that young people do not have adequate access to information and services on sexuality and reproduction, in part because most public secondary schools do not provide adequate and comprehensive content on sexuality or reproduction.

In 2007, the government adopted a re-entry policy for young mothers, overturning its previous position to expel pregnant girls. The policy stipulates that girls are to be suspended until the delivery and can go back upon presentation of a medical certificate stating that they are physically able to resume their studies.^{xvi} Despite this positive accommodation, many young girls do not return to school if they lack financial and family support. According to a 2014 study, the most current data, more than 54 percent of young mothers dropped out of school between 2011 and 2014. Fifteen percent of young mothers resumed their education in that same period.^{xvii}

Recommendations

- Adopt a national plan of action to end child marriage;
- Amend article 111 of the Family Code and article 300 of the Penal Code in order to effectively raise the minimum age for marriage to 18 for both boys and girls;
- Oblige school officials to report cases of students who are at risk of child marriage to child protection committees and relevant enforcement authorities. Expand options for childcare and early childhood development centers for children of teenage mothers so that girls of school-going age can attend school, and introduce formal flexible school programs, including evening classes or part-time classes, for girls who are not able to attend full-time classes;
- Promptly introduce age-appropriate, evidence-based, scientifically accurate mandatory curricula at all levels of education, covering comprehensive information on sexual and reproductive health and rights, responsible sexual behavior, prevention of early pregnancy and sexually transmitted infections.

Talibé Children

An estimated 50,000 *talibés*, children attending residential Quranic schools (*daaras*) in Senegal, are subjected to conditions akin to slavery and forced to endure often extreme forms of abuse, neglect, and exploitation by the teachers, or marabouts, who serve as their de facto guardians. These abuses include forced begging, physical and sexual abuse, and deprivation of their rights to basic health care and education.

The government has taken steps to address recommendations related to the rights of *talibé* children raised during Senegal's review in 2013.^{xviii} In mid-2016, a government-run program resulted in the removal of more than 1,500 children from the streets. In November 2017, the Senegalese government, together with Interpol, picked up over 50 children from the streets. The majority were *talibés*, or Quranic students. Police took the children to shelters for interim care and reunification with their families. During this operation, some five Quranic teachers were arrested for child trafficking and exploitation.^{xix}

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 in mid-2016 were returned to their abusive Quranic teachers.^{xx} In 2016 and 2017, Human Rights Watch documented five cases of sexual abuse by Quranic teachers; more than 30 cases in which *talibés* were beaten, chained, or imprisoned; and five cases in which *talibés* died as a result of abuse allegedly meted out by teachers.^{xxi}

Notwithstanding strong domestic laws against child abuse, trafficking and exploitation, and forced child begging, the perpetrators are rarely prosecuted. Though arrests of abusive *marabouts* have increased slightly in past years, Senegalese courts have only prosecuted a handful of cases, mostly involving extreme abuse. All too often, public prosecutors drop investigations, and judges drop charges in spite of seemingly abundant evidence.

Recommendations

- Increase enforcement of current domestic laws that criminalize forced begging for economic gain and the physical abuse of children, and investigate and hold accountable *marabouts* who force children to beg or commit other abuses;
- Accelerate and conclude the review of the draft law regulating Quranic schools (“projet de loi portant statut des *daaras*”), and submit the law to the National Assembly;
- Increase funding and support to structures providing legal assistance (“services d’assistance juridique”) to marginalized children such as *talibés*;
- Ensure children are protected during any operations to remove street children; ensure transit centers adhere to international law.

LGBT Rights, Sexual Orientation and Gender Identity

Since 2009, Human Rights Watch has documented widespread human rights violations of lesbian, gay, bisexual and transgender (LGBT) people.^{xxii}

During Senegal’s 2013 UPR review, states recommended that Senegal decriminalize consensual sexual acts between adults of the same sex, eliminate discriminatory legislation and practices based on sexual orientation and protect and integrate the LGBT populations in society.^{xxiii} Senegal responded that “homosexual[ity] was not an offence as such... No legal proceedings had been brought against persons based solely on their homosexuality.”^{xxiv}

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.^{xxv} The arrests we documented were the result either of sweeping police raids of public areas known to be gay hangouts, or of uninvestigated 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.”^{xxvi}

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. Senegal’s National Strategic Plan on HIV (2013-2017) 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 prevented gay men from accessing essential services, including HIV/AIDS prevention and treatment.^{xxvii}

Recommendations

- standards; and provide adequate support to swiftly reunite *talibés* with their families;
- Decriminalize consensual same-sex conduct by removing article 319.3 from the Penal Code;
- Pass and implement anti-discrimination legislation that protects individuals from discrimination on the basis of sexual orientation;
- Instruct police to conduct thorough investigations of all complaints regarding crimes against individuals relating to sexual orientation or gender identity.

ⁱ Human Rights Council, “Report of the Working Group on the Universal Periodic Review, Senegal,” A/HRC/25/4, December 11, 2013, http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session25/Documents/A-HRC-25-4_en.doc, para. 124.

ⁱⁱ Justice in Conflict, “Ten African States who will Stick with the International Criminal Court,” October 27, 2016, <https://justiceinconflict.org/2016/10/27/ten-african-states-who-will-stick-with-the-international-criminal-court/> (accessed March 27 2018); “Africans Speak Out Against ICC Withdrawal,” Human Rights Watch news release, November 2, 2016, <https://www.hrw.org/news/2016/11/02/africans-speak-out-against-icc-withdrawal>; “ICC holds first sub-regional Seminar of Counsel and the Legal Profession in Dakar, Senegal,” ICC press release, ICC-CPI-20141027-PR1056, October 27, 2014, <https://www.icc-cpi.int/Pages/item.aspx?name=pr1056> (accessed March 27, 2018); “ICC: African Countries Support Court: Annual Meeting of Member Countries,” Human Rights Watch news release, December 17, 2014, <https://www.hrw.org/news/2014/12/17/icc-african-countries-support-court>.

ⁱⁱⁱ Elise Keppler, “AU’s ‘ICC withdrawal Strategy’ Less than Meets the Eye,” commentary, Human Rights Watch dispatch, February 1 2017, <http://bit.ly/2o1mHqA>.

^{iv} Palliative care is a health service focused on alleviating suffering and quality of life. According to the World Health Organization (WHO), palliative care is an integral part of comprehensive care for cancer, HIV, and other conditions. WHO defines morphine as an “essential” for treating pain.

^v “Senegal: Thousands Urgently Need Pain Relief” Human Rights Watch news release, October 24, 2013: <https://www.hrw.org/news/2013/10/24/senegal-thousands-urgently-need-pain-relief>.

^{vi} UN Human Rights Council, Report of the Working Group on the Universal Periodic Review: Senegal, A/HRC/25/4 UPR, December 11, 2013, para. 124.86;93;95;96;97;99;100.

^{vii} Diederik Lohman, “Senegal Makes Strides on Palliative Care,” commentary, Human Rights Watch Dispatch, October 12, 2017, <http://bit.ly/2C9MJk3>.

^{viii} Hamdi, H. et al, “Palliative Care Need and Availability in Four Referral Hospitals in Senegal: Results from a Multicomponent Assessment,” *J Pain Symptom Manage*, vol. 55, (2018).

^{ix} UN Committee on the Rights of the Child, “Concluding observations on the combined third to fifth periodic reports of Senegal,” CRC/C/SEN/CO/3 -5, March 2016, https://www.ecoi.net/en/file/local/1082439/1930_1461319626_g1604422.pdf (accessed March 27, 2018).

^x In response to recommendation 124.7 (Vietnam), 124.103 (Cuba), 124. 105 (Costa Rica), 124.108 (Ghana), 124,110 (Lebanon), and 124.118 (Turkey).

^{xi} Loi 2004-37 du 15 Décembre 2004, Secrétariat General du Gouvernement, <http://www.jo.gouv.sn/spip.php?article2689>, art. 3 bis.

^{xii} UNICEF, Unicef Data: Monitoring the Situation of Children and Women, “Child Protection – Child Marriage,” March, 2018, <https://data.unicef.org/topic/child-protection/child-marriage/>, 2017, (accessed March 27, 2018); Girls not Brides, “Senegal,” undated <https://www.girlsnotbrides.org/child-marriage/senegal/> (accessed March 27, 2018).

^{xiii} Code de la Famille, 2000, art. 111 ; Code Penal, Loi de Base N. 65-60 du 21 Juillet 1965, art. 300.

^{xiv} UNFPA and Groupe pour l’étude et l’enseignement des populations, “Sénégal : Etude sur les grossesses précoces en milieu scolaire,” June 2015, <http://senegal.unfpa.org/sites/default/files/pub-pdf/ETUDESURGROSSESSESENMLIEUSCOLAIREAUSENEGALjuin2015.pdf>.

^{xv} UNFPA, “ World Population Dashboard – Senegal,” undated, <https://www.unfpa.org/data/world-population/SN> (accessed March 27, 2018).

^{xvi} Guide pour le Management des Etablissements Scolaires, Ministère de l’Education nationale, 2013.

^{xvii} UNFPA and Groupe pour l'étude et l'enseignement des populations, "Sénégal : Etude sur les grossesses précoces en milieu scolaire," p. 64.

^{xviii} These recommendations included, "Ensure quality education for talibé children"; "eliminate child labor including the begging of talibés children"; "criminalize the perpetrators of such activities and; modernize and regulate daaras," UN Human Rights Council, "Report of the Working Group on the Universal Periodic Review, Senegal," A/HRC/25/4 UPR, December 11, 2013, para. 123.31;32;33;13;43;55;56;58;59;70.

^{xix} 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>.

^{xx} Human Rights Watch, *Senegal- 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/government-program-protect-talibe-children-senegal>, p.19.; Human Rights Watch interview with government officials, May and June 2017.

^{xxi} *Ibid*, p.31.

^{xxii} Human Rights Watch, *Senegal- Fear for Life: Violence against Gay Men and Men Perceived as Gay in Senegal*, November 30, 2010 <https://www.hrw.org/report/2010/11/30/fear-life/violence-against-gay-men-and-men-perceived-gay-senegal>.

^{xxiii} United Nations Human Rights Council, "Report of the Working Group on the Universal Periodic Review, Senegal," A/HRC/25/4 UPR 2013, para. 126.1-14.

^{xxiv} *Ibid.*, para 60.

^{xxv} "Senegal: Quash Conviction of 7 for 'Acts Against Nature'" Human Rights Watch news release, August 28, 2015, <https://www.hrw.org/news/2015/08/28/senegal-quash-conviction-7-acts-against-nature>.

^{xxvi} Confidential briefing paper published by Human Rights Watch and four Senegalese partner organizations and shared with the Senegalese government in June 2016.

^{xxvii} *Ibid*.