

AMBIGUOUS ADVOCACY:
FORCED BEGGING IN SENEGAL AND THE LIMITS OF
HUMAN RIGHTS LAW

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ABSTRACT

The human rights law impacting *talibés* (students at traditional Quranic schools, often forced to beg for food and money) in Senegal has received relatively little attention in legal literature. Human rights groups and sociologists have studied the legal and cultural issues surrounding the estimated 50,000-100,000 *tabliés* in Senegal but no group has presented a realistic picture of how this complex religious pedagogy interacts with local, regional, and international law, as well as with the long-standing religious and cultural practices in Senegal. This paper examines the three “tiers” of applicable law, the selective application and enforcement of that law by Senegalese authorities, and other laws and policies of the Senegalese government that impact the *talibé* system. It ultimately presents (but does not fully answer) the question of how to apply international human rights standards that may be in conflict with local tradition, and the troublesome role that human rights activists may play in these debates.

“Let us not speak ill of our generation, it is not any unhappier than its predecessors.

Let us not speak well of it either.”¹

INTRODUCTION

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¹ SAMUEL BECKETT, WAITING FOR GODOT, 32 (1952).

In Cheikh Hamidou Kane's 1961 novel The Ambiguous Adventure,² the opening scene shows the protagonist, a young *talibé* in a rural *daara*³ being harshly beaten by his teacher for making a mistake when reciting a verse from the Quran.⁴ The boy is beaten and burned for his mistakes, and then sent out into the village to beg for his breakfast with his classmates. . However, as the chapters progress, the reader learns that despite the strict punishment, this particular student is the teacher's preferred student, and is a gifted student of the Quran. Eventually, his relatives remove the student from the *daara* and send him to a new, secular French school. They do this to prevent the village from being overrun by French newcomers and people from villages that adapted to French rule earlier than the student's village. Although the student later earns a scholarship to study philosophy in Paris, he pines for his earlier religious education and thinks fondly of his first Quranic teacher, whose punishment repulsed many readers in the opening scene.

The author, Hamidou Kane, a student of both a rural *daara* and a Parisian doctoral program, initially wrote The Ambiguous

² See CHEIKH HAMIDOU KANE, L'AVENTURE AMBIGUË, 7 (1961) (first English translation in 1963).

³ A *daara* is the Arabized word for the school in which talibés receive Quranic instruction. It has been the traditional Islamic educational institution in Senegal (particularly rural Senegal) since likely the pre-colonial era. It is not to be confused with a *madrassa*, a newer Islamic educational institution with a broader (and less traditional) pedagogical approach and structure.

⁴ *Id.* "There were many times, on the other hand, when, driven to a frenzied rage by the laziness or the blunders of one of his pupils, [the teacher] would give himself up to outrageously brutal outbreaks of violence. But these outbreaks of violence were factors in, expressions of, the interest he took in the disciple who was at fault. The more he held him in esteem, the wilder were her rages. Then switches, burning faggots, anything that might come to hand would serve as instruments of punishment. Samba Diallo remembered that one day, in the throes of a mad rage, the teacher had thrown him to the ground and had furiously trampled on him, as certain wild beasts do to their prey." (Translated by author. Original French, "*Les moments étaient nombreux par contre où, poussé d'abord par une colère frénétique par la paresse ou les bêtises d'un disciple, il se laissait aller à des violences d'une brutalité inouïe. Mais ces violences, on l'avait remarqué, étaient fonction de l'intérêt qu'il portait au disciple en faute. Plus il le tenait en estime, plus folles étaient ses colères. Alors, verges, bâches enflammées, tout ce qui lui tombait sous la main servait au châtime. Samba Diallo se souvenait qu'un jour, pris d'une colère démente, le maître l'avait précipité à terre et l'avait furieusement piétiné, comme font certains fauves sur leur proie.*").

Adventure to explore the differences separating traditional Wolof society and the secular French society during colonialism.⁵ More than sixty years after its original publication, the novel still demonstrates a fundamental, unresolved conflict playing out in Senegal. Despite pressure from international advocacy groups, Senegalese NGOs based out of the capital, Dakar, and laws explicitly banning traditional *daara* practices like forced begging and corporal punishment, Senegalese parents still send their sons to study at *daaras*. While calculating an exact number is impossible, there are an estimated 50,000 to 100,000 *talibés* across Senegal,⁶ many of whom are a permanent staple in the relatively cosmopolitan Dakar. They beg in the streets with such numbers that guide books feature sections on the "street children" and how to handle their persistent begging. These brief exposes on the talibe system often mention unethical Quranic teachers who exploit impoverished parents who cannot afford to feed their children by forcing the children to beg. These children are forced to meet daily monetary quotas or risk physical punishment and torture from their "instructors."

The picture is far more complex than this bleak portrait would paint it. While there are unethical instructors at some *daaras* who exploit or abuse their students, including horrid examples of sexual abuse and punishment that borders on torture, these apexes of cruelty obscure a more subtle situation which must be understood more completely to prevent the ongoing attempts at *daara* reform from failing. The following sections will outline (1) the history of *daaras* and Quranic education in Senegal, (2) the legal reforms and regional and international human rights laws applicable to Senegalese *talibés*, (3) the laws and efforts (outside the specific context of human rights and human trafficking law) to effect change in Senegal, and (4) the prospect of success of the current approach as opposed to a more culturally informed campaign aiming to curb *talibé* abuse and exploitation without upsetting parents and Quranic teachers. his final section will be significantly informed by a more reasonable understanding of the history of *daara*-based education than typically found in advocacy literature, as well as a

⁵ See, Nicolas Michel, "Cheikh Hamidou Kane: 'Je suis plus un témoin qu'un écrivain,'" Interview in Jeune Afrique (29 Dec 2010).

⁶ Of a country of 14 million people. *Central Intelligence Agency, The World Fact Book*, July 2017, <https://www.cia.gov/library/publications/the-world-factbook/fields/2119.html> - sg.

critical evaluation of the religious perspective with which parents and teachers view this system, a factor mostly overlooked by advocates and reformers.⁷

A BRIEF HISTORY OF *DAARAS* IN SENEGAL

According to Wolof oral tradition, *daaras* have been a staple of Senegalese life for centuries.⁸ In the early 19th Century, these Quranic schools flourished as local marabouts created small farms and taught local students in exchange for labor on the farm.⁹ These farms were generally removed from students' parents, making them more akin to boarding schools than day schools.¹⁰ Students labored at these farms for up to a decade, working long hours in the fields, living in Spartan conditions, and reciting the Quran for hours each day.¹¹ From the beginning, begging was central to the *daara* system.¹² Students were expected to beg for food from local communities, as the teachers were not paid for the students education.¹³ Some food was given to older students who were more advanced in their studies—these students were also able to perform more work on the farm and were old enough to leave the school if they decided to.¹⁴ Younger students had to ask the community for food, which was freely given to them as *askaka*, charity required of all Muslims to give to the needy.¹⁵ This system, of course, was neither perfect nor particularly pleasant. Older men surveyed in Senegal recall that they spent their whole childhood “dirty and

⁷ This avoidance may be intentional, to avoid the perhaps difficult conversation of advocating for the elimination of a religiously-motivated practice. This paper will directly address this issue and how it fits into the legal framework of forced begging and other related issues, recognizing that legal papers need not reach satisfying or preferred conclusions.

⁸ Donna L. Perry, “Muslim Child Disciples, Global Civil Society, and Children’s Rights in Senegal: The Discourses of Strategic Structuralism” 77(1) ANTHROPOLOGICAL QUARTERLY 47, 56 (2004).

⁹ *Id.*; See also, Martin Klein, *Islam and Imperialism in Senegal: Sine-Saloum, 1847-1914* (1968).

¹⁰ *Id.* at 56.

¹¹ *Id.* at 57.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Perry, *supra* 9, at 57. The religious component of giving to talibés is the reason why many urban *daara* teachers give higher quotas to their students on Friday, the Muslim day of worship when people are more likely to feel pious.

“itchy” and recalled brutal punishments doled out by their teachers.¹⁶ Former *talibés* talked of being whipped and slapped for making mistakes in Quranic recitation.¹⁷ Cruise O’Brien described a school where the fields were “watered by the tears of the pupils.”¹⁸ It was not uncommon for students to try to run away from their *daaras*, only to be forced back by their parents.¹⁹ As discussed in the next section, the steadfastness of Senegalese parents in sending their children to a *daara* is due to a combination of factors, but mostly due to an overriding religious purpose.

Starting in the latter half of the 20th Century, more *daaras* were being created in urban centers, far from the agricultural origins of earlier schools. Because urban *daaras* had no land to work, marabouts began marketing prayers and other religious acts and artifacts in the city while their students begged on sidewalks and streets across the city.²⁰ Interestingly, many urban *talibés* are seasonal students, coming into the city when there is no work to do back home.²¹ Tens of thousands of children now beg across the streets of Dakar and other cities, making a traditional activity diffused across the countryside now a highly-visible problem to Senegalese urbanites. Many activists claim this migration to the cities is a bastardization of the “less strenuous and deeply spiritual experience of the rural *talibé*.”²² This revisionism is appealing at first blush, but very quickly proves to be a false reliance on a romantic image of the idyllic village school. Urban *talibés* now beg for longer hours than their rural peers, but the rural students still toil in the fields and face corporal punishments from their teachers. In interviews with rural Wolof farmers who had sent their children to urban *daaras*, many parents did not mind the increased level of begging required of their children.²³ In their eyes, “the urban *talibé*’s ‘farm’ is the urban street, and ‘crop’ [sic] he harvests is cash, and not peanuts.”²⁴ While this in no way makes light of the arduous and frequently brutal expectations on *talibé* students, it is important to recognize that modern, urban *daaras* are not categorically different

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ DONAL B. CRUISE O’BRIEN, THE MOURIDES OF SENEGAL: THE POLITICAL AND ECONOMIC ORGANIZATION OF AN ISLAMIC BROTHERHOOD 164 (1971).

¹⁹ Perry, *supra* 9, at 58.

²⁰ *Id.* at 62.

²¹ *Id.*

²² *Id.* at 63.

²³ *Id.*

²⁴ *Id.*

from the longer tradition of Quranic schools in Senegal. It is certainly not, as some claim, a heartless adaptation of an idyllic provisional system.

In the early 1990s, after the UN Convention on the Rights of the Child, international and domestic activists began pushing for something to be done about the *talibés*.²⁵ UNICEF launched the “Reinstating the Rights of the Talibés” project, which pushed the government to modify its criminal code to prohibit begging.²⁶ These pressures were countered by Islamic religious leaders across Senegal, who are able to wield a remarkable amount of influence over the government through their integration into the daily lives of the average Senegalese citizen.²⁷ Ultimately, the government modified the law to prohibit begging, but included a provision that exempted religious begging (asking for alms) from the prohibition. In 2005 the government finally passed a statute that expressly prohibited all forms of begging, regardless of purpose. The government has prosecuted a small number of *daara* teachers for extreme levels of abuse that resulted in death or severe injury to children, but it has not implemented a well-resourced, systematic effort to reduce levels of begging *talibe*. Despite the high-profile convictions and the passing of new laws, the system persists at a significant level. To understand why *daaras* are still flourishing and why parents are still sending their children to *daaras* by the thousands, one must understand the reasons why students are sent in the first place.

THE FACTORS PERPETUATING THE *DAARA* SYSTEM

Like all socio-religious institutions, there are numerous factors that sustain the *daara* system. Most importantly are the religious foundations for sending one’s child to a *daara*, the cultural and religious practices that place religious orders at a prominent place in Senegalese life, and the limited ability of the Senegalese government to regulate and enforce criminal sanctions in this field. Some early scholars and current activists claim that parents send their children to these harsh schools due to lack of family planning (i.e., parents have too many children to feed and have to send one away) or that children are sent to establish a link between the

²⁵ Perry, *supra* 9, at 66.

²⁶ *Id.*

²⁷ See generally Khadim Mbacke, Sufism and Religious Brotherhoods in Senegal (Eric Ross trans., 2005).

family and powerful Muslim brotherhoods, which will then reward the family for their contribution. These assertions reflect an insultingly condescending perspective on Senegalese parents, with Western authors asserting that rural West African parents “avoid developing a strong emotional bond with their children” so they can “foster them out,”²⁸ or that parents needed to offload “excess” or “surplus” children.²⁹ In contrast, many Wolof farmers assert that their children are valuable additions to farm work and that sending them to a Quranic school was a net loss for the farm.³⁰ This is easily demonstrated with the fact that teachers accepted students in return for their work around the *daara*. If children were parasites who could not contribute to the production of a farm or household, teachers would not have uniformly accepted their labor as payment for their studies. To be sure, poverty and a lack of educational opportunity certainly plays a role—wealthier parents could send their children to a school that requires a fee, but provides far better accommodations for its students. These schools are rare and are frequently outside the financial reach of many parents.

Religion

The most important reason that parents send their children to *daaras* is religion. Parents that send their children to Quranic schools do so because they believe the *daara* to be the best available option to develop their son into a spiritual, moral adult. Parents frequently state that their goal is for their sons to turn into virtuous men “able to withstand the difficult life that awaits.”³¹ The harsh discipline is a combination of the Islamic concept that Muslims are “slaves to God” and that unconditional obedience is a requirement for piety, and what several scholars assert is a West African tradition that children require strict, oftentimes painful punishment to develop their character.³² Through begging and undergoing the punishments of his teacher, a student “literally becomes a slave to Allah” and learns “humility, suffering, and virtue.”³³ Begging, while probably also springing from the economic needs of the *daaras*, is also seen as a valuable aspect of the Islamic

²⁸ See Caroline Bledsoe, “No Success Without Struggle: Social Mobility and Hardship for Foster Children in Sierra Leone,” *Man* 25(1), 70-88 (1990).

²⁹ Perry, *supra* 9 at 58.

³⁰ *Id.*

³¹ *Id.*

³² *Id.* at 59-60.

³³ *Id.* at 79.

pedagogy, teaching students humility through reliance on other people's charity. On top of these character-building lessons, the students also learn and recite the Quran on a daily basis, striving to memorize the Quran to the greatest extent possible. This is no minor portion of the *daara* system—understanding the Quran, the sacred and central text of the Islamic faith, is a critical feature of a strong Muslim and one that parents strongly desire for their children.

Islamic Influence in Senegal

The role of religion in this issue cannot be overstated. The Senegalese government, many educated, urban Senegalese, and countless international organizations and actors are adamantly opposed to the *daara* system as an institution that exploits children. In light of this pressure, the *daara* system has remained strong due to the pushback of Islamic leaders across Senegal (especially from the influential Sufi brotherhoods that still command tremendous deference from the Senegalese community and government) and from individuals. This was clearly shown when the government first attempted to outlaw begging, and the Islamic leaders successfully pushed for a religious exception. These groups will be particularly perceptive to outside influence. If an international group or effort attempts to undermine what many see as an important Islamic institution, it will naturally be highly unpopular across much of the population. This is almost certainly a large reason why the Senegalese government, despite its efforts to criminalize components of the *daara* system, is moving at a languid pace. Any larger crackdown would risk upsetting people who are already concerned about the further secularization of the state, which the government very much wants to avoid.³⁴

THE RELEVANT LEGAL FRAMEWORK

Several aspects of the *daara* system violate local, regional, and international human rights and human trafficking laws. This section articulates the current state of these laws and how they build a comprehensive legal prohibition on many of the prevalent practices occurring in Senegal, from forced begging to physical

³⁴ See generally, Abdoulaye Dièye, “Secularism in Senegal: Withstanding the Challenge of Local Realities: A Legal Approach,” Buffett Center Working Paper No. 09-006 (2009).

abuse. It is important to note, however, that with the exception of a few laws, the majority of the following conventions and legal agreements are not adequately clear on the legality of child begging—while more extreme examples of *talibé* abuse are absolutely prohibited under almost all of the following laws, the status of begging in general is not typically mentioned, which leads to a analysis of whether begging under the *daara* construct is inherently exploitative, if it is forced labor, or if it harmful to the children. While most international advocates would likely agree that begging is all of these things, the ambiguity in some of the law cannot be denied.

Senegalese Law

There are two Senegalese statutes that specifically address issues faced by *talibés* under the *daara* system, one of which was passed in 2005 in response to local and international pressure from activists. The other is part of the criminal code and has been in place since at least 1975.

Law No. 2005-06

In 2005, specifically "inspired by the definition of the concept of trafficking in persons by" the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children,³⁵ the Senegalese government passed Law No. 2005-06 to Combat Trafficking in Persons and Related Practices and to Protect Victims, which shows a clear substantive and semantic link with the Protocol. This legislation specifically criminalizes forced child begging. Unlike the criminal code, to be discussed in the next sub-

³⁵ See Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (Nov. 15, 2000), (defining "[t]rafficking in persons" as "the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payment or benefits to achieve the consent of a person having control another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs.").

section, the new law makes no differentiation between criminalized forced begging and "tolerable" begging in line with religious traditions. Specifically, the law states that "[w]hosoever organizes the begging of another in order to benefit, or hires, leads, or deceives a person in order to engage him in begging or to exercise pressure on him to beg . . . will be punished by imprisonment of two to five years and a fine of 500,000 - 2,000,000 CFA³⁶ (US\$ 1,046 - US\$ 4,185)."³⁷

Additionally, the law punishes "[t]he recruitment, transportation, transfer, harboring, receipt of persons by threat or use of violence, abduction, fraud, deception, *abuse of authority or position of vulnerability* . . . for sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude" (emphasis added), with 5-10 years of imprisonment and a fine of 5-20 million CFA.³⁸ Even if the above-listed methods were not used, the offense is considered met if the defendant recruits, transports, transfers, harbors, or receives a minor.³⁹ Finally, the maximum imprisonment is raised to 10-30 years if the offense is committed, among other factors, "by the use of torture or barbarism" or if the defendant

³⁶ Heiko Körner, *The franc zone of West and Central Africa*,
³⁷ INTERECONOMICS 198, 199 n.8 (2002),

<https://link.springer.com/content/pdf/10.1007/BF02930213.pdf> (The West African CFA (*Communauté Financière d'Afrique*) franc is a shared currency in eight francophone West African countries: Benin, Burkina Faso, Guinea-Bissau, Côte D'Ivoire, Mali, Niger, Senegal, and Togo.).

³⁷ See Law No. 2005-06, Art. 3 ("*Quiconque organise la mendicité d'autrui en vue d'en tirer profit, embauche, entraîne ou détoume une personne en vue de la livrer à la mendicité ou d'exercer sur elle une pression pour qu'elle mendie . . . est puni d'un emprisonnement de deux à cinq ans et d'une amende de 500.000 francs à 2.000.000 francs CFA (1,046 - 4,185 \ \$).*")(Sen.)

³⁸ *Id.* at Art. 1 ("*Le recrutement, le transport, l'hébergement, l'accueil de personnes par menace ou recours à la violence, enlèvement, fraude, tromperie, abus d'autorité ou de situation de vulnérabilité . . . aux fins d'exploitation sexuelle, de travail ou de services forcés, d'esclavage ou de pratiques analogues à l'esclavage, de servitude est puni d'un emprisonnement de 5 à 10 ans et d'une amende de 5 à 20 millions francs.*")(Sen.).

³⁹ *Id.* ("*L'infraction est constituée lorsque le recrutement, le transport, le transfert, l'hebergement ou l'aaccueil concerne un mineur, même si aucun des moyens énumérés à l'alinéa précédent n'est utilisé.*")(Sen.).

"exposes the victim to an immediate risk of death or injuries likely to cause permanent disability."⁴⁰

The rest of the statute provides additional rules for criminal procedures such as searches and seizures, foreign jurisdiction, and extradition.⁴¹ It also provides victim and witness protection procedures, to include allowances for the government to obtain legal guardianship or designated administrators for minor victims.⁴²

The Senegalese Criminal Code

In addition to the 2005 human trafficking law, the Senegalese Criminal Code contains several provisions that are relevant to the *daara* system. In Section V (Association of Criminals, Vagabonding, and Begging), Paragraph III (Begging), the code specifically states that "Begging is prohibited."⁴³ The same article continues, however, to say that soliciting alms on days and in places and conditions consecrated by religious traditions is not considered "begging" under the criminal code.⁴⁴ This differentiation between "begging" and "soliciting alms" does not exist in the 2005 law and demonstrates the challenging role of *daaras* and *talibés* in Senegalese culture—the government, civil and religious society, and even the law appear quite divided on how to address *talibé* begging, which is simultaneously criminal and tolerated, noxious and traditional.

The criminal code also penalizes the willful injury or beating of children under 15 years old. Specifically, "[w]hosoever willfully injures or beats a child under 15 years of age . . . or who willfully deprives a child of food or care as to endanger his health, or who commits against a child any violence or assault, except minor

⁴⁰ *Id.* ("La détention criminelle de 10 à 30 ans est encourue lorsque l'infraction est commise en recouvrant à des actes de torture ou de barbarie ou en vue de prélèvements d'organes humains ou qu'elle expose la victime à un risque immédiat de mort ou de blessures de nature à entraîner une infirmité permanente.")(Sen.).

⁴¹ *Id.* at Chapter III, Art. 8-11(Sen.).

⁴² *Id.* at Chapter IV, Art. 12-17(Sen.).

⁴³ See Loi No. 75-77, Code Pénal, Article 245, art. 245 (Law No. 75-77 Criminal Code) (9 July 1975) ("La mendicité est interdite.")(Sen.).

⁴⁴ *Id.* ("Le fait de solliciter l'aumône aux jours, dans les lieux et dans les conditions consacrées par les traditions religieuses ne constitue pas un acte de mendicité.")(Sen.).

assaults, will be punished by imprisonment of one to five years and a fine of 25,000 to 200,000 CFA (US\$ 52 - US\$ 418)."⁴⁵ If the abuser is a parent, guardian, or any other person with authority over the child, the prison sentence is raised to five to ten years.⁴⁶

The Regional Legal Framework

In addition to local Senegalese law, Senegal is a member state of the African Union (AU) and party to several regional charters and conventions relevant to human trafficking and rights of children.

The African Charter on the Rights and Welfare of the Child

Senegal is party to the African Charter on the Rights and Welfare of the Child (ratified in 1998), which contains important provisions relevant to *daaras*. Most notably, it requires member states to take measures to prevent "the use of children in all forms of begging."⁴⁷ It also affirms the state's duty to protect every child from "all forms of economic exploitation," and from "performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development."⁴⁸ While both this and the African Charter on Human and People's Rights place an emphasis on preserving traditional local and "African" culture, this charter requires member states to take all appropriate measures to eliminate "harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child," in particular "those customs and practices prejudicial to the health or life of the child."⁴⁹

⁴⁵ See Loi no. 99-05, Code Pénal, art. 298, (Law No. 99-05 Criminal Code) (29 January 1999) ("*Quiconque aura volontairement fait des blessures ou porté des coups à un enfant au-dessous de l'âge de quinze ans accomplis ou qui l'aura volontairement privé d'aliments ou de soins au point de compromettre sa santé ou qui aura commis à son encontre toute autre violence ou voie de fait, à l'exclusion des violences légères, sera puni d'un emprisonnement d'un à cinq ans et d'une amende de 25.000 à 200.000 francs.*") (Sen.).

⁴⁶ *Id.* ("*Si les coupables sont les père et mère ou autres ascendants, ou toutes autres personnes ayant autorité sur l'enfant ou ayant sa garde, la peine d'emprisonnement sera de cinq à dix ans.*")(Sen.).

⁴⁷ See African Charter on the Rights and Welfare of the Child, art. 29(b) (1990) (ratified by Senegal in 1998).

⁴⁸ *Id.* at art. 15(1).

⁴⁹ *Id.* at art. 21(1).

The African Charter on Human and People's Rights

In 1982, Senegal ratified the African Charter on Human and People's Rights. While there are no specific articles on begging, there are several relevant provisions. For example, the charter states that "[a]ll forms of exploitation . . . particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited."⁵⁰ It also affirms a universal right to education⁵¹ and the duty of the state to "promot[e] and protect[] . . . the morals and traditional values recognize by a community."⁵²

The International Legal Framework

Senegal is also party to a number of international conventions and protocols, briefly outlined below, relevant to the *daara* system.

The UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

The UN Supplementary Convention on the Abolition of Slavery requires member states to take "all practicable and necessary legislative and other measures" to effect the complete abolition or abandonment of a variety of institutions and practices, including practices similar to slavery. This includes "[a]ny institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents . . . to another person . . . with a view to the exploitation of the child or young person or his labour."⁵³ Human rights activists interpret this provision to not require that exploitation of the child be the sole purpose for which the child was transferred to another person, but

⁵⁰ African Charter on Human and People's Rights, Art. 5 (1981) (ratified by Senegal in 1982).

⁵¹ *Id.* at art. 18(1).

⁵² *Id.* at art. 17(3).

⁵³ See UN Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, art. 1(a), 1(d) (1957) (ratified by Senegal in 1963), <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SupplementaryConventionAbolitionOfSlavery.aspx>.

rather that it be “a view,” or one of the reasons for the transfer.⁵⁴ If one views the begging of *talibés* to inherently be an exploitation of students for their labor, then the threshold for this provision is almost certainly met. Opponents of this interpretation, of course, would argue that the begging of children serves as a pedagogical tool important to the child’s religious development, as well as serving as the only means by which an urban *daara* can feed its students. While assuredly an unfortunate situation, all members of the *daara* working to gather funds and food can easily be interpreted by a supporter of a *daara* education to be a necessary task that is not inherently exploitative.

UN Convention on the Rights of the Child

Senegal is also party to the UN Convention on the Rights of the Child.⁵⁵ This convention has several provisions relevant to the *talibé* system, including the requirements for member states to “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,” whether the child is in the care of parents or anyone else.⁵⁶ It also mandates that member states will ensure that “facilities responsible for the care or protection of children shall conform with [relevant standards], particularly in the areas of safety [and] health.”⁵⁷ Children are to enjoy “the highest attainable standard of health”⁵⁸ and free primary education.⁵⁹ Most notably in the debate over *daaras*, the convention recognizes the right for children “to be protected from economic exploitation and from performing any work that is likely to be

⁵⁴ See “Off the Backs of the Children: Forced Begging and Other Abuses Against Talibés in Senegal,” Human Rights Watch, at 94 (2010), <https://www.hrw.org/report/2010/04/15/back-children/forced-begging-and-other-abuses-against-talibes-senegal>.

⁵⁵ See UN Convention on the Rights of the Child (ratified by Senegal in 1990), UN Convention on the Rights of the Child (ratified by Senegal in 1990).

⁵⁶ *Id.* at art. 19(1).

⁵⁷ *Id.* at art. 3(3).

⁵⁸ *Id.* at art. 24(1).

⁵⁹ *Id.* at art. 28(1) (Recognizing economic and institutional limitations, this article merely identifies the right to education and requires states to provide education to its children “with a view to achieving this right progressively and on the basis of equal opportunity.”).

hazardous or to interfere with the child’s education, or to be harmful to the child’s health or physical, mental, spiritual, moral or social development.”⁶⁰ Human rights organizations opine that Senegal is “clearly violating its obligations under the [Convention],”⁶¹ and point out decisions like General Comment No. 8 by the Committee on the Rights of the Child,⁶² which held that Article 19’s prohibition on “physical or mental abuse” applied to corporal punishment everywhere, including schools.⁶³ These organizations also generally argue that the “parents of thousands of exploited and abused *talibés*”⁶⁴ are failing to meet their obligation under the Convention “to provide . . . appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.”⁶⁵ Finally, the Convention also requires states to “take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.”⁶⁶ If one views the *daara* system as inherently dangerous, exploitative, and abusive, the Convention seems to glaringly oppose this entire system. From an alternate perspective, of course, one could note that the Convention also requires member states to respect “the right of the child to freedom of thought, conscience and religion,”⁶⁷ and the right and duty of parents (and other guardians) “to provide direction to the child in the exercise” of this right.⁶⁸ Obviously, these requirements are subject to legal limitation to protect the safety, health and rights of the children, but it is indisputable that the Convention recognizes the importance of children and parents to practice their own religious beliefs. While this emphasis would certainly not limit the obligations under other provisions, it could

⁶⁰ *Id.* at 32(1).

⁶¹ See “Off the Backs of the Children: Forced Begging and Other Abuses Against Talibés in Senegal,” Human Rights Watch, at 98 (2010), <https://www.hrw.org/report/2010/04/15/back-children/forced-begging-and-other-abuses-against-talibes-senegal>.

⁶² Convention on the Rights of the Child: General Comment No. 8, OHCHR: CONVENTION ON THE RIGHTS OF THE CHILD (2007), www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx.

⁶³ See UN Committee on the Rights of the Child, General Comment No. 8, The Right of the Child to Protection from Corporal Punishment and Other Cruel or Degrading Forms of Punishment (Art. 19; 28, para. 2; and 37, *inter alia*), UN Doc. CRC/C/GC/8 (2006).

⁶⁴ *Supra* 55, at 69.

⁶⁵ *Supra* 56, at art. 5.

⁶⁶ *Id.* at art. 24(3).

⁶⁷ *Id.* at art. 14(1).

⁶⁸ *Id.* at art. 14(2).

bolster an argument that the *daara* system is not inherently illegal or abusive, but simply an expression of religious choice and parental direction, and that opponents should focus on the more extreme abuses within the system without attacking the more benign *daaras* and teachers throughout Senegal.

UN Protocol to Prevent, Suppress and Punish Trafficking in Persons

Under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons (also known as one of the “Palermo Protocols”), Senegal is obligated to prevent trafficking in persons within its borders.⁶⁹ The Protocol defines “trafficking in persons” as “the recruitment, transportation, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion . . . of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”⁷⁰ At a minimum, exploitation includes, among other acts, “forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery . . . or servitude.”⁷¹ Even more strictly, the “recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation” is considered to be trafficking in persons regardless of the means by which that trafficking occurred.⁷² Also of note is the fact that the consent of the victim is “irrelevant” under the protocol, provided that the means set forth in the definition were used.⁷³ Additional provisions requires member states to strengthen efforts to “alleviate the factors that make persons . . . vulnerable to trafficking,”⁷⁴ and to strengthen measures to “discourage the demands that fosters all forms of exploitation . . . that leads to trafficking,” to include educational and social efforts.⁷⁵

⁶⁹ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime art. 9, Nov. 15, 2000, <http://www.refworld.org/docid/4720706c0.html>.

⁷⁰ *Id.* at art. 3(a).

⁷¹ *Id.*

⁷² *Id.* at art. 3(c); *See also* art. 3(d) (defining child as any person under eighteen years of age).

⁷³ *Id.* at art. 3(b).

⁷⁴ *Id.* at art. 9(4).

⁷⁵ *Supra* 70, at art. 9(3).

Not unlike other instruments relevant to the *daara* system, the Protocol almost certainly prohibits the extreme examples in the *daara* system. Shackling a student to prevent them from escaping or using student-provided donations to fund a teacher's lavish lifestyle certainly meet the Protocol definition of exploitation. Less clear, however, is whether a "non-abusive" *daara*, which requires begging as a pedagogical tool but not for the personal benefit of the teacher, is inherently exploitative. To argue that begging, regardless of reason or tradition, is always exploitative is certainly an attractive option for human rights advocates who recognize the dangers that begging, particularly in cities, can pose on children, and who view begging as an activity that prevents students from receiving an education, rather than being an inherent part of an education. The danger with this approach, of course, is that it entails the international community and certain sectors of Senegalese society (typically more urban, educated, and wealthy demographics)⁷⁶ telling poor, pious parents that they are abusive and immoral in their attempt to give their sons the same religious education that they themselves received. This conflict will be explored further in a later section.

ILO Convention No. 29

Under the International Labour Organization's Forced Labor Convention (No. 29), Senegal is compelled to undertake to suppress "the use of forced or compulsory labour in all its forms."⁷⁷ Compulsory labor in this context includes "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."⁷⁸ This is a fairly broad definition—*talibés* certainly face penalties if they do not perform duties that were expected of them. However, the convention gives little additional information in whether the construct of a *daara* would qualify as a student not offering himself voluntarily to such tasks. If children are too young to volunteer, their parents are surely old enough to use their judgment to make this determination on behalf of their child. Although far outside of the norms of many Western countries, one could argue that children

⁷⁶ See Perry, *supra* 9 at 66.

⁷⁷ See Forced Labour Convention, ILO, May 1, 1932, No. 29, Art. 1(1) (1930, ratified by Senegal in 1960).

⁷⁸ *Id.* at art. 2(1).

being required to beg to build religious character is not entirely unlike a child at a boarding school required to perform unpaid tasks around campus in order to teach discipline and build character. It may be necessary to determine what parents expected to be required of their child (what they, with their parents, offered voluntarily to perform) and consider forced labor to be any required tasks that substantively exceed those expectations.

ILO Convention No. 182

A more recent ILO Convention requires Senegal to take “immediate and effective measures” for the “prohibition and elimination of the worst forms of child labor.”⁷⁹ Under this convention “the worst forms of child labour” comprises, among other things “all forms of slavery or practices similar to slavery, such as the . . . trafficking of children, debt bondage and serfdom and forced or compulsory labour,”⁸⁰ and “work which, by its nature of the circumstances in which it is carried out, is likely to harm the health, safety or morals of the children.”⁸¹ These definitions again leave us with a lack of clarity on how begging fits into this convention. Most activists would likely, as with other conventions, interpret *talibé* begging as forced labor and work which harms the health and safety of children. Religious authorities and parents in Senegal would likely argue that while some teachers certainly exceed the bounds of this definition by requiring too much and too dangerous of work by children, the actual act of begging as a pedagogical tool, or as a means of supporting the school, is not inherently dangerous or “forced” on the child under the meaning of this convention.

LIMITATIONS ON THE EFFORT AGAINST THE *DAARA* SYSTEM

Despite international and national efforts to stop forced begging by *talibés*, including the laws discussed above as well as numerous efforts by a variety of local and international NGOs, the “*talibé* problem” persists. Despite the 2005 law, very few people have been prosecuted. In the first two years after the law was enacted, only five *marabouts* were arrested for physical abuse across a community

⁷⁹ See Worst Forms of Child Labour Convention, ILO, (No. 182), Art. 1 (1999, ratified by Senegal in 2000).

⁸⁰ *Id.* at art. 3(a).

⁸¹ *Id.* at art. 3(d).

of thousands of *daaras*.⁸² The Senegalese president has publicly discussed the need to combat the problem and the government has hosted workshops on forced child begging. However, after a long history of laws and efforts, very little has changed.⁸³ This is, no doubt, due to a variety of factors, most notably resources, religion, and access to education.⁸⁴

Resources and Will

The government of Senegal is severely under-resourced to tackle the challenge of child begging. In 2015, the national budget for the labor inspectorate was US\$90,000, for an agency staffed at almost half the rate of labor inspectors recommended by the International

⁸² Emily Delap, *Begging for Change: Research Findings and Recommendations on Forced Child Begging in Albania/Greece, India, and Senegal*, ANTI-SLAVERY INTERNATIONAL 2009, at 21.

⁸³ *See I Still See the Talibés Begging: Government Program to Protect Talibé Children in Senegal Falls Short*, Human Rights Watch, July 11, 2017, <https://www.hrw.org/report/2017/07/11/i-still-see-talibes-begging/government-program-protect-talibe-children-senegal>.; *See also, Exploitation in the Name of Education: Uneven Progress in Ending Forced Child Begging in Senegal*, Human Rights Watch, March 19, 2014, <https://www.hrw.org/report/2014/03/19/exploitation-name-education/uneven-progress-ending-forced-child-begging-senegal#aae581>.

⁸⁴ In addition to civil society and governmental avenues of addressing the situation of the *talibés*, Senegalese artists have a long history of exploring the *talibé* system through art. A notable example is a pair of controversial West African films in the early 1970s that directly attacked the *talibé* system. The Malian director Souleymane Cissé's 1972 film "Cinq jours d'une vie" depicts a cruel teacher who overworks his students to the point that they spend all their time begging and ultimately resort to theft to satisfy his quotas. *Cinq jours d'une vie* (Five Days in a Life, 1972). Two years later in 1974, Mahama Johnson Traoré released "Njangaan," a Marxist attack that depicted marabouts as exploiters of poor farmers and their children. Ultimately, the child protagonist dies in a car accident, for which the government does nothing to investigate. *Njangaan* (1974). More recently, influential Senegalese rapper Keyti released the 2012 song "Nguir Gune Doon Gune" ("For a Child to Be a Child"), with pointed lyrics intended to start a national dialogue (e.g., "I wonder how a parent can sleep at night / Ignoring whether his or her child is hungry or sick or not"). *See*, Sheba Lo, *Building Our Nation: Senegalese Hip Hop Artists as Agents of Social and Political Change*, in *Hip Hop and Social Change in Africa*: Ni Wakati 40, 40-42 (Msia Kibona Clark and Mickie Mwanza Koster Eds. 2014). Senegalese cinema has continued to explore the issue in film, most recently with Alassane Sy's "Marabout", a short film that climaxes with the murder of a *marabout* by one of his students. *Marabout*, (2016).

Labor Organization.⁸⁵ The Ministry of Labor has openly acknowledged the insufficiency of this number, citing a high turnover rate for inspectors, as well as reduced budgets.⁸⁶ Additionally, the Ministry of Education only employs two inspectors in their *daara* inspectorate, for a population of *talibés* that exceeds 100,000.⁸⁷ In 2015, the Ministry of Justice's anti-trafficking unit had five staff members and one vehicle.⁸⁸ Most of the groups responsible for enforcing laws against forced begging operate in Dakar and Thiès, with even more limited resources for enforcing the law in other major cities.⁸⁹ Even in cities where there are resources, however, few crimes related to child begging ever make it to the courts. Inspectors are authorized to assess penalties for any offense under the law, but in general limit these to minor offences and refer more severe crimes to the courts.⁹⁰ However, many crimes go unreported. One government employee at the child protection service told Human Rights Watch that they did not report cases of *talibés* being abused because it was "too common" and they doubted that a prosecutor would actually initiate an investigation.⁹¹ On the other hand, the government established a reporting hotline at the only government-run shelter for trafficking victims, which received more than 2,500 calls during 2015.⁹² A Senegalese official noted that due to critical underfunding, however, the hotline is not staffed at

⁸⁵ See *Senegal: 2015 Finding on the Worst Forms of Child Labor*, U.S. Department of Labor, Bureau of International Labor Affairs, 2015, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/senegal>.

⁸⁶ *Id.*

⁸⁷ *Id.*; See also *Decades of Abuse in Quranic Schools: Authorities fail to Prosecute Abusers or Regulate Schools*, Human Rights Watch, April 2015, <https://www.hrw.org/news/2016/07/28/senegal-new-steps-protect-talibes-street-children>.

⁸⁸ See "Senegal: Decade of Abuse in Quranic Schools," Human Rights Watch (April 2015), <https://www.hrw.org/news/2015/04/20/senegal-decade-abuse-quranic-schools>.

⁸⁹ See "Cartographie et Analyse des Systems de Protection de l'Enfance au Senegal," Government of Senegal (2011).

⁹⁰ *Id.*

⁹¹ See *Senegal: Decade of Abuse in Quranic Schools*, HUMAN RIGHTS WATCH (April 20, 2015), <https://www.hrw.org/news/2015/04/20/senegal-decade-abuse-quranic-schools>.

⁹² See U.S. Dep't of State, Bureau of Democracy, H.R., and Lab., *Trafficking in Persons Report: Senegal* (2015), <http://www.state.gov/j/tip/rls/tiprpt/2015/index.htm>.

all times and a number of calls go unanswered.⁹³ Whether due to the Senegalese government overall lacking the resources or the government simply not prioritizing and allocating enough funds for victims of the *talibé* system, the government officials tasked with enforcing the laws do not have the resources necessary to do so in any significant way.

In reality, most conflicts and crimes are dealt with at the local level by the “enormous influence” of traditional and religious leaders in the community.⁹⁴ Most of these crimes never reach the police.⁹⁵ Even when they are, the traditional leaders are generally still involved in the cases.⁹⁶ There are obviously multiple perspectives on this practice—a report by Human Rights Watch condemns this as state functions being “preempted by social pressure from religious leaders.”⁹⁷ The Senegalese government, however, states that dialogues with the community reveal the continued importance of these traditional leaders in resolving disputes and charges of all kind, holding that involvement of these leaders is “unavoidable” in these issues, even when the state has primacy on an investigation or prosecution.⁹⁸ The contrast between these positions reveals the seemingly conflicting influences in the campaign against forced begging. Due to limited resources and the importance of local traditional and religious leaders, any significant effort to eradicate *talibé* begging would require the buy-in of these community leaders. The campaign against one of the central religious components of the *talibé* system, however, is certainly unlikely to be received well by communities and community leaders who view the *talibé* tradition as one of central importance to the development of the spiritual strength and individual virtue of the *talibé* population.

There are two ways to possibly handle this, neither of which are particularly effective. The first is for the Senegalese government to establish regulatory standards for *daaras* across Senegal, particularly urban *daaras* which face particular challenges in crowded cities like Dakar. The state could mandate certain rules for running a school—these rules could be more mild and designed to

⁹³ See ILO Worst Forms of Child Labour Convention, *supra* 80.

⁹⁴ Cartographie et Analyse, 90, at 71.

⁹⁵ *Id.*

⁹⁶ *Id.*

⁹⁷ See Senegal: Decade of Abuse, *supra* 92.

⁹⁸ Cartographie et Analyse, *supra* 90, at 71.

limit the most dangerous aspects of child begging (e.g., requirements to limit begging quotas or to prevent children from begging on some of the high-traffic highways that cut through Dakar), or they could be more strict (e.g., prohibiting begging entirely prohibiting any use of corporal punishment, or mandating that a certain number of hours each day be dedicated to educational activities). Regardless of the strictness of these regulations, however, the state fundamentally lacks the resources and infrastructure to properly regulate *daaras* around the country. A decade after the implementation of the bolstered criminal statute in 2005, there is still no comprehensive data on how many *daaras* exist across Senegal, where they are, how many pupils they have, or any details relating to the living conditions or practices of these schools.⁹⁹ In a situation where the government authorities cannot even map the location of Quranic schools, expecting a new regulatory scheme to be effectively implemented is delusional at best. This assumes as well that such a scheme would even be implemented in the first place—a recent effort by the Ministry of Education led to a draft law designed to specifically “regulate and modernize *daaras*.”¹⁰⁰ The regulation has not yet been approved by Parliament.¹⁰¹

Another approach, recognizing the limits of any broad regulatory effort, would be to concentrate enforcement efforts on the worst examples of *talibé* abuse. This approach, while slightly fatalistic about the effort to stop all forced begging, would hopefully prevent or deter the worst abuses committed by the most unscrupulous of teachers. This is, informally, similar to the approach Senegalese authorities have taken. With virtually every *daara* employing forced begging by its students, the majority of arrests and convictions have been for actual physical abuse, such as a teacher in Saint-Louis convicted to six months in prison for shackling his student by the ankles, or a conviction for a rape charge in 2014.¹⁰² In a 2015 investigation, Human Rights Watch uncovered only three prosecutions of Quranic school teachers over the course of fifteen months.¹⁰³ Even this approach, however, is limited to such a degree that a Quranic teacher would likely have little fear of legal

⁹⁹ Senegal: Decade of Abuse, *supra* 90.

¹⁰⁰ ILO Worst Forms of Child Labour Convention, *supra* 80, at 298-99.

¹⁰¹ *Id.*

¹⁰² Senegal: Decade of Abuse, *supra* 90.

¹⁰³ *Id.* at 7-8.

repercussions for abuse. In a 2013 incident, a *daara* burned to the ground, killing nine *talibés*, but the teacher was only briefly detained and then set free without any charge.¹⁰⁴ In 2014, two children died in a *daara* in Saint-Louis, but their deaths were not investigated by authorities.¹⁰⁵ Neither were the deaths of two other children who washed up on the beach and were reportedly *talibés*.¹⁰⁶ In order for this approach to work, the Senegalese government would need to increase its prosecution of the most heinous examples of abuse to such a degree that it serves as some sort of deterrence.

For any number of the aforementioned reasons, the current approach to reducing child begging in Senegal is not working. It lacks the resources, the resolve, the regulatory capacity, and the community buy-in necessary to effectively address the issue. While resource limitations are understandable in a country that is still relatively poor, even substantial resource assistance from NGOs and international organizations would not do anything to sway the minds of the community, or change the vast quantity of *daaras* across all regions of the country. Another reason why this is the case, however, is wholly separate from the regulation of *daaras* and criminal prosecution of practices related to *talibés*.

Availability of Alternate Education Options

As previously discussed, the main purpose of the *daara* system is to instill Islamic values and knowledge of the Quran into new generations of young men. To be sure, the specific *daara* construct has been a fixture in Senegalese society for generations, and some of the consternation and resistance to the elimination of the *daara* system is surely due to a sense of tradition and history. On top of that, much has much made about the role of poverty and desperation that may lead parents to send their child to a *daara*. Far more prevalent than any of these reasons, however, is the very real belief by many Senegalese parents that a *daara* is the best and only means of giving their sons a religious education.¹⁰⁷ This choice, despite the assumption by some of “backwards Wolof farmers . . . send[ing] their sons to live as ‘slaves’ to the marabouts,” these decisions by religious Senegalese parents are more “deliberate choices, driven by faith,” than the sad result of poverty or lack of

¹⁰⁴ *Id.* at 5, 14.

¹⁰⁵ *Id.* at 13-14.

¹⁰⁶ *Id.* at 14.

¹⁰⁷ Perry, *supra* 9, at 59.

child planning.¹⁰⁸ The act of begging, to be sure, is a fixture in *daara* systems, serving dual roles as a simultaneous “tuition” and a pedagogical tool for the development of pious humility. But the primary reason for sending their sons to these schools is to ensure a deep understanding of the Quran. For most parents, the *daaras* are the only option for this goal.

Recently, there has been an increase in non-*daara* Quranic schools, which teach in both French and Arabic and teach traditional school subjects like math and French in addition to Quranic studies. Most of these schools are day schools and do not require students to live at the school and perform begging or other labor for the teachers. The downside of this lack of labor, however, is that these schools charge tuition, which puts them outside the reach of most poorer parents. Another option is to send their children to public state schools. Unfortunately, despite impressive strides over the past two decades, a large portion of rural, poorer children in Senegal still lack access to primary education or beyond.¹⁰⁹ In addition to those that lack access, many other parents refuse to send their children to state schools.¹¹⁰ Senegal has officially adopted a laïcité policy, which requires secular instruction in schools and does not allow for Quranic education.¹¹¹ Because of the importance of a Quranic education, many parents would rather send their sons to a *daara*.¹¹² In 2010, the Senegalese government began creating “modern *daaras*” which will follow government regulations to provide both secular and Quranic instruction.¹¹³ Despite over 1,600 *daaras* applying to be “modernized” under this new program, the current scope of the project and the resources of the government to build, certify, and recurrently inspect these schools makes it likely that these schools will be helpful to many students across Senegal, but

¹⁰⁸ *Id.* at 33.

¹⁰⁹ *See generally* “Le Developpement de l’education: Rapport National du Sénégal,” Senegalese Ministry of Education (2004). Note that in 2010, the Senegalese government recognized Quranic schools, which led to a dramatic increase in the recorded enrollment rate for school children across the country. This recognition, however, did not come with regulation, so a large number of “enrolled primary school students” are actually talibés receiving Quranic instruction and little else.

¹¹⁰ Mathew Wells, “*Off the Back of the Children*” *Forced Begging and Other Abuses Against Talibés in Senegal*, HUMAN RIGHTS WATCH at 50, <https://www.hrw.org/report/2010/04/15/backs-children/forced-begging-and-other-abuses-against-talibes-senegal>.

¹¹¹ *Id.*

¹¹² *Id.* at 13.

¹¹³ *Id.* at 1-2.

will not affect the majority of the tens of thousands of *talibé* in Senegal.

CONCLUSION

The situation of *talibés* in Senegal is a sad confluence of factors and any solution will require coordinated efforts to address the economic and religious factors that led to the current state of affairs. It is clear that the Senegalese government's effort to prosecute the worst cases of abuse have not had a dramatic deterrent effect, and that creation of "modern *daaras*," while solid in theory, is unlikely to impact the majority of *talibé* around the country. Efforts by Senegalese and international advocates to demonize the *daara* system have done little to decrease the desire of Senegalese parents to give their children an education grounded in religion. In light of this, is there an alternative approach that could yield faster results?

One of the biggest issues in this situation is the fundamentally different viewpoints of people who oppose the entire system of *daaras*, claiming that having children beg is always going to be exploitation of those children. According to this approach, any effort to reform or regulate the *daara* system is simply a bandage until a wholesale replacement can be implemented. While making no claims of moral relativism, this is a prime example of external actors looking at a long-standing practice and declaring it morally bankrupt and based on disregard of the rights of children. This is, of course, a valid viewpoint, but no number of Human Rights Watch reports will convince devout Muslim Senegalese parents to abandon a multi-generational tradition that teaches their children Quranic values and humility. To many of these parents, sending their children into hard conditions is not an act of abandonment, but one of love and sacrifice. Claims that the entire concept is a form of exploitation unacceptable in any modern society will fall flat. In addition to its inherent paternalism, this approach is simply not going to work.

Alternatively, and in spite of the plain letter language in the Senegalese and international laws that touch on forced begging, and despite the common interpretation of other instruments that only tangentially relate to issues in the *daara* system, organizations looking to reform the system should accept some level of flexibility on these international agreements. The spirit of the numerous relevant agreements is to protect children from unacceptable danger and abuse, and to ensure that they are not denied their rights under the law. Either explicitly or implicitly, the

international community should recognize that local traditions, particularly related to religion, are going to be extremely difficult to uproot entirely, and that some provision should be provided for to allow the traditions to continue in a way that still protects the children under the spirit of the law. A bright-line prohibition in the African Charter on the Rights and Welfare of the Child are little more than text if a group of parents thinks that some begging is helpful for the development of character in their children.

A more realistic approach would be for the Senegalese government to affirm that the fundamental construct of the *daara* system is not at issue. Instead, they should announce and execute a vigorous effort to prosecute the worst examples of abuse in the *daara* system. Instead of stigmatizing the entire community of *daaras*, the government should defend and support the legitimate *daaras* and aggressively pursue those teachers who exploit and abuse their students for their own personal gain or pleasure. This approach would likely earn more buy-in from religious leaders and parents than a broader attack on the system of *daaras*, while also protecting *talibés* trapped in abusive schools.

At the same time, the government must find a more aggressive solution to the lack of Islamic curriculum in its public-school system. While respecting its own laws on secularism, the government has more room for flexibility on this front. It has already demonstrated its innovativeness by establishing “modern *daaras*” that incorporate secular and religious instruction. If directly incorporating Islamic instruction into the curriculum of public schools is too outside the allowances of laïcité laws, the government should explore alternatives, such as offering religious classes immediately before or after the school day, or partnering with local religious teachers and authorities who can provide Islamic instruction to groups of students outside of the school. If it relies on building new hybrid schools, the government will likely never build enough to meet the needs of all children who would otherwise become *talibés*. By incorporating Islamic instruction into the structure of the public-school system, regardless of the precise means by which they do that, they could achieve a twofold victory by providing Islamic instruction to students who would otherwise be sent to a *daara* and by enticing parents to send their students to a public school with a regulated curriculum that will ensure they learn subjects in addition to the Quran.

The “*talibé* problem” poses many important questions for Senegalese society—questions about the role of the state in society, the sway with which religious authorities and religious institutions

can operate outside legal norms or requirements, and the flexibility of a state government to respond to the unique needs of its populace while also enforcing the rights and protections granted to some of the most vulnerable members of society. There are certainly no easy answers, but people operating in this sphere would do well to perhaps spend more time evaluating *why* the situation is the way it is and looking at the human element that leads a parent to send their child off to a dangerous, difficult experience. Once we better understand the sociological, religious, and cultural aspects of a problem, we can then turn to look for a solution. In better understanding these factors, the community of activists and officials working on this problem can establish efforts that get to the core issues at stake, instead of judging from surface level conditions. Ultimately, a more empathetic approach is likely to yield better, more sustainable outcomes by meeting the needs of all involved parties.