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议程项目 3

增进和保护所有人权——公民权利、政治权利、
经济、社会和文化权利，包括发展权

买卖儿童、儿童卖淫和儿童色情制品问题特别报告员
纳贾特·马拉·姆吉德女士提交的报告

增编

对塞内加尔的访问*

内容提要

本报告根据国际人权标准探讨在塞内加尔发生的买卖儿童、儿童卖淫和儿童色情制品等现象。特别报告员根据在访问期间和访问前后所收集的资料，确定了有关买卖儿童、儿童卖淫和儿童色情制品现象以及确保普遍保护儿童的立法措施和保护战略。另外，她还研究了这一领域的国际合作努力。特别报告员提出了若干建议，以帮助加强在打击和防止买卖儿童、儿童卖淫和儿童色情制品，并保护受上述行为之害的儿童的权利等方面正在开展的努力。

* 内容提要以所有正式语文分发。报告本身载于内容提要附件，仅以原文和英文分发。

Annex

Report of the Special Rapporteur on the sale of children, child prostitution and child pornography on her visit to Senegal

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I. Introduction

1. The Special Rapporteur undertook an official visit to Senegal between 21 and 30 October 2009, during which she held meetings with stakeholders in Dakar, Saint-Louis and Mbour. The Special Rapporteur thanks the Government of Senegal for its hospitality and help in organizing meetings with relevant government officials and for its cooperation during and after the visit.

2. In Dakar, the Special Rapporteur met with representatives of the Ministry of Foreign Affairs, the Ministry of Culture, the Ministry of Justice, the Ministry of Young People, the Ministry of the Family, the Ministry of Social Affairs, the Ministry of Tourism and the Ministry of the Interior. She spoke with representatives of the Office of the High Commissioner for Human Rights and the Promotion of Peace, the Child Protection Support Unit and the Senegalese Human Rights Committee. In Saint-Louis, the Special Rapporteur met with the Governor, the Prosecutor General, senior officers attached to the Urban Security Unit at the central police station, senior gendarmerie officers and the directors of the Technical Monitoring Committee.¹ She also met with directors of the Technical Monitoring Committee (TMC) in Mbour.

3. In all three regions, the Special Rapporteur met with representatives of national and international non-governmental organizations and associations working in the child protection field. She also visited care facilities for children at risk.

4. The Special Rapporteur would like to thank the specialized agencies — namely, the United Nations Development Fund for Women (UNIFEM), the United Nations Children's Fund (UNICEF), the United Nations Population Fund (UNFPA), the Office of the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration (IOM) and the International Labour Organization (ILO) — represented on the United Nations country team and which also participated in the joint working meetings organized by the Resident Coordinator of the country team. She would also like to thank the West Africa Regional Office of the United Nations High Commissioner for Human Rights in Dakar for its assistance and invaluable advice.

5. The objective of the Special Rapporteur's visit was to review the current situation with regard to the problems of sale of children, child prostitution and child pornography and to evaluate the State's response in terms of providing protection for child victims of trafficking and sexual exploitation and children at particular risk because of their more vulnerable situation (street children, children not registered at birth, children without a family, migrant children, child workers and children living in poor families or in rural areas). During her visit, the Special Rapporteur solicited the views of all stakeholders on the status of children's rights in Senegal and on the measures adopted and action taken to consolidate and strengthen their rights, with a view to making appropriate recommendations. At the end of her visit, the Special Rapporteur shared her preliminary observations with the relevant State authorities and with the press.

II. National context

6. Senegal has a population of 11.9 million, over a quarter of which is concentrated in the Dakar region. Children under 14 years of age account for 42 per cent of inhabitants. In

¹ Established within the framework of the Programme to Combat Trafficking and the Worst Forms of Child Labour, see below.

2009, Senegal occupied 166th place (out of 180) in the Human Development Index.² Almost 23 per cent of children are orphans, and 39.8 per cent of children aged under 5 have not been registered at birth.³

7. With regard to education, a report issued by the Senegalese Ministry of Justice which analyses the problem of trafficking in human beings, particularly women and children, and sets out a national plan of action for combating it,⁴ indicates that parents have a tendency to remove their children from school and send them out in search of employment at an early age. These children — young people growing up outside traditional systems of social interaction who are given the heavy burden of providing for their needs or those of their family — are exposed to the risk of exclusion and, as a consequence, liable to fall victim to sale, trafficking and exploitation. The existence of an informal education system — principally the Koranic schools or *daaras* — alongside the formal system is another point of note. Regulations governing the teaching given in the *daaras* are currently being drafted.

8. The Ministry of Justice report on trafficking reveals that certain sociocultural practices such as *confiage*, early placement in employment and the *talibé* phenomenon are very widespread.⁵ *Confiage* denotes a practice commonplace in Senegal and other West African countries whereby parenting responsibilities are delegated to persons other than the child's biological parents. In Senegal, the practice is referred to as *yaar doom*, meaning "child-rearing".⁶ In practice, *yaar doom* entails parents sending children to stay with family members or to Koranic schools that are sometimes a long way from their town or village of origin. Under this system, children follow an educational programme while at the same time, in many cases, contributing to the informal economy. In most cases, parents lack the financial resources to contribute to the costs of the institutions and it is not uncommon for children to be exploited sexually and economically.⁷ For example, children are often forced to beg to provide for their own needs and those of their teacher. The Ministry of Justice report emphasizes that the traditional practices of child migration and placing children with members of the extended family are not wrong per se – quite the opposite in fact, as they provide a stepping stone to a better future for thousands of young girls and boys. However, the Special Rapporteur emphasizes the need to "distinguish between children placed outside the family in the context of these traditional practices and child victims of trafficking and exploitation".⁸

² <http://hdr.undp.org/en/statistics/>.

³ *Global Study on Child Poverty and Disparities 2007–2008*.

⁴ *Analyse et Plan National d'Action de lutte contre la traite des personnes, en particulier des femmes et des enfants*, the Senegalese Ministry of Justice in conjunction with UNICEF, the French embassy in Senegal and cooperation from Italy (Dakar, Senegal, 2008).

⁵ *Analyse et Plan National d'Action de lutte contre la traite des personnes, en particulier des femmes et des enfants*, page 15.

⁶ *Migrations, confiage et trafic d'enfants en Afrique de l'Ouest. Quelques actions menées par les Associations d'Enfants et Jeunes Travailleurs et par les organisations qui les soutiennent*, http://maejt.org/documents/jeuda_106.doc.

⁷ *Ibid.*

⁸ *Analyse et Plan National d'Action de lutte contre la traite des personnes, en particulier des femmes et des enfants*, page 15.

III. Situation analysis

A. Incidence of sale of children, child prostitution and child pornography

9. According to a report published by Save the Children Sweden in 2003, around 500,000 minors in Senegal are affected by practices that constitute the worst forms of child labour, as defined in International Labour Organization (ILO) Convention No. 182.

10. All stakeholders interviewed attested to the existence of domestic and international child trafficking for the purposes of sexual and/or economic exploitation. However, the Special Rapporteur notes differences in the perceived meaning of the concepts of “sale” and “trafficking” of children, which are often confused and even used interchangeably. Stakeholders referred to cases of illegal international adoption, child trafficking in sports and trafficking in young girls for domestic labour purposes, as well as a few cases in which children were rented out for varying purposes. The stakeholders interviewed also informed the Special Rapporteur that all forms of commercial sexual exploitation of children appeared to be on the increase.

11. There are no official statistics for the number of child victims of sale or sexual exploitation. The Prosecutor General in Saint-Louis reported that only one case of child prostitution, involving a girl aged 14, had been brought before the juvenile courts. The girl in question had been placed in the care of the community educative action services. However, the authorities were unable to provide any official statistics concerning the number of legal proceedings initiated in Senegal relating to the sale and sexual exploitation of children and child pornography.

12. There are also no official statistics for sex tourism. According to the African network of ECPAT International, Senegal is among the countries most affected by sex tourism.

13. The Special Rapporteur also heard allegations that early marriage was a continuing practice.

14. In the Saint-Louis region, according to the Governor, the main problems are begging by *talibé* children, followed by the economic exploitation of children in the fishing industry under the cover of “apprenticeships” or “training”. However, the Governor indicated that there was no trafficking in the Saint-Louis region.

15. The situation of children who beg on the streets is worrying. According to a joint report by the World Bank, ILO and UNICEF in November 2007, there were around 7,600 child beggars in the Dakar region. Their average age was around 11, although the youngest was only 2 years old and around half were under 10. Almost all these child beggars were boys; very few girls are affected. According to the report, the vast majority of child beggars (90 per cent) are *talibé* children.⁹

16. The report states that the incidence of child beggars is essentially the result of migratory flows from regions more severely affected by poverty, drought and food insecurity. Around half of the child beggars are from outside Senegal, mostly from the neighbouring countries of Guinea-Bissau, Guinea, Mali and the Gambia. *Talibé* children are often originally from Guinea-Bissau (30 per cent), while non-*talibé* children are more

⁹ The term “*talibé*” is used in the report in question to describe any child who claimed to have spent the night immediately preceding the survey in a Koranic institution (*daara*) and to be receiving religious instruction there.

likely to be from Mali (30 per cent). Although no national survey has been conducted, estimates indicate that there are around 50,000 child beggars in Senegal.¹⁰

17. The lack of information on the true scale of the problems of sale of children, child prostitution and child pornography is attributable to a number of factors, including the lack of a harmonized, centralized information system, insufficient knowledge of children's rights and child protection law, the lack of easy access to police and the justice system and the lack of any centralized system for monitoring and evaluating children's situation and the impact of any action taken to improve it. The Special Rapporteur would also like to draw attention to a number of other factors, including differences in the perceived meaning of the concepts of sale, trafficking, migration, economic exploitation and apprenticeship, the inadequacy of recourse and warning mechanisms, and the persistence of cultural resistance (failure to report offences for fear of reprisals and stigmatization) and of certain practices such as amicable settlements between the family of the child victim and the perpetrator, particularly in rural areas.

B. International and regional instruments

18. Senegal is a party to the following international human rights instruments: the Convention on the Rights of the Child, the Convention on the Elimination of All Forms of Discrimination against Women, the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and its Optional Protocol, and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

19. More specifically, Senegal is a party to the two optional protocols to the Convention on the Rights of the Child – the Optional Protocol on the sale of children, child prostitution and child pornography and the Optional Protocol on the involvement of children in armed conflict. Senegal has also ratified the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), International Labour Organization (ILO) Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour and International Labour Organization (ILO) Convention No. 138 concerning Minimum Age for Admission to Employment.

20. Senegal is not a party to the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, or to the Convention on the Rights of Persons with Disabilities (or its Optional Protocol), or to the International Convention for the Protection of All Persons from Enforced Disappearance. Senegal has also not ratified the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993.

21. At the regional level, Senegal is a party to the African Charter on the Rights and Welfare of the Child and to the Protocol to the African Charter on Human and Peoples' Rights relating to the rights of women.

22. Senegal has also assumed commitments at the global level at the three world congresses against the sexual exploitation of children and adolescents held in Stockholm

¹⁰ http://www.unicef.org/wcaro/2009_3248.html.

(1996),¹¹ Yokohama (2001),¹² and more recently Rio de Janeiro (2008),¹³ and at the regional level at the Second Arab-African Forum against Sexual Exploitation and Abuse of Children held in Rabat in 2004.¹⁴

23. However, Senegal has yet to submit to the Committee on the Rights of the Child its initial report on the implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, which is due in 2005. The Senegalese authorities informed the Special Rapporteur that the initial report was in the drafting stages.

24. Senegal is also a signatory of the Ouagadougou Action Plan to Combat Trafficking in Human Beings launched by member States of the Economic Community of West African States (ECOWAS) in 2001 and re-adopted at the Euro-African Ministerial Conference on Migration and Development that took place in Tripoli in 2006.

C. Domestic legal framework

25. Article 20 of the Constitution of Senegal establishes that “Young persons shall be protected by the State and by the public authorities against exploitation, drugs, narcotics, neglect and delinquency.” Article 21 stipulates that “The State and the public authorities shall establish the prerequisites and the public institutions that shall guarantee the education of children.” Act No. 99-05 of 1999 amends several provisions of the Criminal Code relating to the protection of children.

Sale of children

26. The Special Rapporteur notes that Senegalese law neither defines nor prohibits the sale of children. The Ministry of Justice informed the Special Rapporteur that the concept of “sale of children” was a new one, but that the problem existed in the subregion. On this point, representatives of the Ministry highlighted that reforms of the Criminal Code that would prohibit the sale of children were under way.

27. The Special Rapporteur recalls that “sale of children” is a concept distinct from “trafficking in children” and should therefore be specifically defined and prohibited.

Child prostitution

28. Article 327 bis of the Criminal Code establishes a special procedure for cases involving minors exposed to prostitution, and for bringing them before the juvenile court. The court shall apply the protection measures established in the Code of Criminal Procedure.

29. Pursuant to article 12 of Act No. 2005-02 concerning measures to combat trafficking in human beings and related practices and establishing protection for victims, unless

¹¹ Declaration and Agenda for Action, First World Congress Against the Commercial Sexual Exploitation of Children, Stockholm, 1996.

¹² Yokohama Global Commitment 2001, Second World Congress Against the Commercial Sexual Exploitation of Children, Yokohama, 2001.

¹³ Declaration and Action Plan to Prevent and Stop the Sexual Exploitation of Children and Adolescents, Third World Congress Against the Sexual Exploitation of Children and Adolescents, Rio de Janeiro, 2008.

¹⁴ Declaration of the Arab-African Forum against Sexual Exploitation and Abuse of Children, Rabat, 2001, re-adopted at the Second Arab-African Forum against Sexual Exploitation and Abuse of Children, Rabat, 2004.

otherwise stipulated elsewhere, no proceedings may be brought or convictions handed down against victims of the offences covered therein.

Prohibition of begging

30. Article 3 of Act No. 2005-02 prohibits begging and stipulates that any person who organizes the begging activities of others with a view to profiting therefrom or who recruits, coerces or misleads another person with a view to forcing them into begging or exerting pressure on them to beg, shall be liable to imprisonment for a term of 2 to 5 years and a fine of between 500,000 and 2 million CFA francs. No suspension of sentence is permitted when the offence is committed against a minor.

31. However, the Special Rapporteur notes that the aforementioned article is inconsistent with the provisions of article 245 of the Criminal Code, which stipulates that begging is tolerated “on the days, in the places and in the circumstances confirmed by religious traditions”. It would be desirable to align the two texts, therefore, to ensure that the prohibition on child begging is applied consistently. The Special Rapporteur recalls article 21 of the African Charter on the Rights and Welfare of the Child, which recommends that States should “eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child”.

Child pornography

32. Article 320 bis of the Criminal Code stipulates that “any gesture, touch, caress, pornographic manipulation or use of images or sounds by any form of technical procedure for sexual purposes involving a child of either sex under 16 years of age shall constitute an act of paedophilia carrying a penalty of between 5 and 10 years’ imprisonment”.

33. Act No. 2008-11 of 25 January 2008 on cybercrime defines a minor as any person under the age of 18 within the meaning of the Convention on the Rights of the Child. “Child pornography” is defined as “any visual representation of any nature or form of a minor engaging in sexually explicit activity or any realistic image depicting a minor engaging in sexually explicit activity”. Article 431-34 of the Act establishes that any person who produces, records, offers, makes available, distributes or transmits images or visual representations of a child pornographic nature by means of a computer system shall be liable to imprisonment for a term of between 5 and 10 years and/or a fine of between 5 million and 15 million CFA francs.

Trafficking in children

34. Act No. 2005-02, adopted in 2005, incorporates the definition of trafficking in persons, especially women and children, contained in the Palermo Protocol, but does not give a specific definition of trafficking in children, as contained in article 3 of the Protocol. The maximum sentence is handed down when the offence is committed against a minor.

Adoption

35. With regard to adoption, the Special Rapporteur observes that the current legal framework does not provide guarantees for adopted children. In this connection, she recalls the 2006 recommendation by the Committee on the Rights of the Child that Senegal should: “(a) regulate domestic adoption e.g. within the extended family and community, in accordance with the Convention with a view to strengthening protection of the rights of the

adopted child; and (b) complete the process of ratification of the 1993 Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption”.¹⁵

Early marriage

36. Article 300 of the Criminal Code prohibits marriages involving minors “under 13 years of age”, and establishes that any person who commits or attempts to commit the sexual act with such minors shall be liable to imprisonment for a term of between 2 and 5 years. In addition, article 111 of the Family Code sets a minimum marriageable age of 16 for girls and 18 for boys.

Other issues

37. Ministerial Decree No. 3749 defining and prohibiting the worst forms of child labour prohibits child begging, forced child labour and child servitude, including prostitution, as well as the involvement of children in pornographic acts, paedophilia, the production, transportation, sale and consumption of drugs and other illegal activities.

38. Criminal law is currently being reformed to harmonize offence definitions, increase penalties and establish a support and reparation fund for minors under the age of 18 who have been the victims of abuse, violence or exploitation. A children’s code is still in the drafting stages.

39. The Special Rapporteur is pleased to learn that trafficking cases are heard in camera, as stipulated by law, to protect the identity and privacy of victims and witnesses.¹⁶ Furthermore, “trial courts may also exempt victims and witnesses from the requirement to attend the hearing in person”.¹⁷ The Act also establishes that any minor who is a victim of trafficking must be assisted during the investigation and trial either by a counsel of their choosing or by a court-appointed counsel (art. 16 of Act No. 2005-02).

40. In March 2010, Senegal adopted a law declaring that slavery and the slave trade shall be considered crimes against humanity, becoming the first African nation to adopt legislation of this kind.

D. Institutional framework

41. The main ministry dealing with child-related issues is the Ministry of the Family, Food Security, Female Entrepreneurship, Microfinance and Early Childhood (Ministry of the Family). The Department for the Protection of Children’s Rights is responsible, inter alia, for ensuring consistency between domestic legislation and the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child. The Department produces bimonthly, biannual and annual progress reports on the status of children.

42. The objectives of the Ministry of Social Affairs and Institutional Relations include ensuring access to essential socio-economic services for vulnerable groups. The Ministry organizes training for teenagers from poor families, care for *talibé* and orphaned children and financial support to help teenagers who have completed their training find employment.

43. The Department of Correctional Education and Social Protection attached to the Ministry of Justice is mandated to provide legal protection of an educational and social

¹⁵ CRC/C/SEN/CO/2, para. 35.

¹⁶ Art. 14 of Act No. 2005-02.

¹⁷ Art. 14, para. 2, of Act No. 2005-02.

nature. The Department is tasked with organizing prevention initiatives for children in conflict with the law or otherwise at risk and for overseeing their training and rehabilitation.¹⁸ The community educative action services form part of this Department, which runs three types of centre: protection centres, social rehabilitation centres and multi-purpose centres.

44. Juvenile courts have also been established for children in conflict with the law. According to the Ministry of Justice, as far as possible the juvenile courts avoid removing children from their family environment. There is also a detention centre for juveniles in conflict with the law which provides schooling and support for minors, but the Special Rapporteur did not visit this centre. According to information received, the juvenile courts lack financial and human resources. In addition, cooperation with the Children's Unit is still insufficient.

45. The National Agency for Early Childhood and Preschool Reception Centres, attached to the General Secretariat of the Office of the President of the Republic, was created in 2004.¹⁹ The preschool reception centres, known as *cases des tout-petits*, provide day-care facilities for children up to the age of 6.

46. The Special Rapporteur also met with a representative of the Child Protection Support Unit, a body also attached to the Office of the President. The mandate of the Unit, which was created in March 2007, includes contributing to the formulation and implementation of national child protection policy, ensuring coherent service provision, fostering advocacy and social mobilization, developing a national system for collecting and disseminating data on vulnerable children, establishing a monitoring and evaluation system, and, lastly, mobilizing financial resources. With support from UNICEF, the Unit has also carried out research into child begging.

47. The Children's Unit is a police unit specializing in child protection. However, its territorial jurisdiction is limited to the city of Dakar. Every police station in Senegal is required to inform the Unit of any incidents involving children, but this is rarely done. Based on information received, it would seem desirable to create units of this kind at the regional level, prioritizing the areas in which the incidence of child exploitation tends to be highest. There is also a Vice Squad that is supposed to prevent the sexual exploitation of children for tourism purposes.

48. The Special Rapporteur met with representatives of the Partnership for the Withdrawal and Reinsertion of Street Children, a non-profit-making association subject to private law which is supported by international partners. The Partnership's mission is to prevent child begging and children dropping out of their families and communities, to promote and raise awareness of children's rights, to mobilize society and to generate resources.

49. The projects planned by the Partnership for the Withdrawal and Reinsertion of Street Children were not yet operational at the time of the Special Rapporteur's visit. The Partnership aims to put its plans into action by entering into agreements with NGOs and decentralized State agencies at the local level.

50. The Senegalese Human Rights Committee, established by Act No. 97 of 2004, is an independent advisory body mandated to observe and evaluate the human rights situation, including the status of children's rights, to promote respect for these rights and to foster related dialogue and cooperation. The Committee has 29 members, including eight NGO

¹⁸ Decree No. 81/1047 of 29 October 1981.

¹⁹ Decree No. 2003-720.

representatives, and is required to report on its activities annually. Lack of financial resources precludes the production of ad hoc reports on specific issues. The Committee forms part of the Committee responsible for consultations on the future children's code.

51. According to the Senegalese Human Rights Committee, children very rarely contact it directly to report violations. They are more likely to turn to NGOs, and it then falls to the NGOs to report the violations to the Committee. The Committee works with the Department of Correctional Education and Social Protection and serves as a point of liaison between courts and NGOs when assisting the children placed in the various care centres under its jurisdiction.

52. The Office of the High Commissioner for Human Rights and the Promotion of Peace²⁰ is attached to the Office of the President of the Republic. Despite being the recipient of all complaints of human rights violations, it is permitted neither to participate in the judicial process nor to challenge court decisions. Instead, its role is to monitor the implementation of international human rights treaties, in conjunction with the relevant departments, to coordinate preparation of the periodic reports that must be submitted to the international treaty bodies and to support the work of the Senegalese Human Rights Committee. It also advises the President of the Republic on how to deal with complaints filed and oversees implementation and follow-up of Presidential decisions.²¹

53. The High Commissioner's representative informed the Special Rapporteur that the Office had received no complaints of violations of the rights of the child.

54. The future children's code will introduce an additional recourse mechanism in the form of a children's ombudsman. The Special Rapporteur urges the Senegalese Government to keep her up-to-date on developments in this area.

55. Almost all stakeholders interviewed expressed frustration at the overlap and duplication in service delivery attributable to lack of coordination between the different bodies. Confusion reigns with regard to the delimitation and scope of the activities and responsibilities of each.

56. To rectify this situation, it has been decided that, with input from several specialized agencies and international organizations, the Child Protection Support Unit should make an inventory of all organizations working with child protection and seek to clarify the role and responsibilities of each in order to improve coordination and increase accountability.

E. Steps taken to address the sale of children, child prostitution and child pornography

Strategies

57. The Programme to Combat Trafficking and the Worst Forms of Child Labour launched in 2000 was implemented by Decree No. 0756 and is coordinated by the Ministry of the Family. The Programme's objective is to enhance Government capacity for designing and implementing local initiatives for combating trafficking and the worst forms of child labour (including begging, the forced labour of young girls, child abuse and sexual exploitation) and to ensure follow-up for these initiatives. Technical Monitoring Committees (TMCs) composed of local stakeholders drawn from the public and private sectors have been established to oversee the Programme's implementation at the local level. The second phase of the project, which began in 2008, entails the creation of a support fund

²⁰ Created by Decree No. 2004-657.

²¹ Art. 12 of Decree No. 5691 of 6 July 2004.

to finance action proposed by vulnerable communities and associations, including children's and young people's associations. The fund is not yet in place and no evaluation of the implementation of the first phase of the action plan has been performed.

58. Within the framework of the Programme to Combat Trafficking and the Worst Forms of Child Labour, departmental action plans to address child abuse and sexual exploitation have been developed and implemented in Mbour and Saint-Louis. The objective of these action plans is to ascertain the nature, characteristics and scale of the problems, determine their causes and effects, formulate policies and intervention strategies, define the roles of the actors involved, and establish a framework for prevention, protection and reintegration.

59. The beneficiaries of these action plans are girls aged between 6 and 16 who are at risk of falling victim to sexual exploitation, teenage girls aged between 14 and 18 who are in conflict with the law, children living in intolerable situations, such as victims of abuse and physical violence, and street children aged between 10 and 16 who have lost all contact with their families. The TMCs work to strengthen local capacity for raising public awareness of children's rights and act as children's advocates in dealings with the marabouts.

60. The Special Rapporteur particularly commends the consultation work carried out by the Mbour TMC and the approach to children's rights its members have chosen to adopt. The TMC, which is chaired by the Prefect of Mbour, has been operational since 2002 and meets every month to consider cases of child victims of trafficking, the worst forms of child labour, abuse and sexual exploitation. Where necessary, the TMC refers cases to the health services or to partner NGOs based in other countries which are able to provide assistance for child victims. In special cases, the monitoring and early warning system allows for children to be removed from their environment and placed in a reception centre or health facility, as appropriate. Where required, a member NGO will help find a lawyer for children in conflict with the law. However, according to TMC members the Committee does not have a network of lawyers which it can regularly call on for assistance.

61. The challenges the TMCs face include difficulties in accessing care because of the distance and costs involved, the lack of free legal aid, transportation and logistical problems (vehicles, computer equipment), and inadequate follow-up and evaluation of the care provided, resulting in a lack of data about children who have been reintegrated. Local actors mentioned the shortage of funding and a lack of human resources trained to provide effective care for child victims of abuse and sexual exploitation. In this connection a number of interviewees said that they would welcome the creation of a dedicated fund for the care of child victims.

62. Senegal is also in the process of drafting a National Action Plan for Combating Trafficking in Human Beings, especially Women and Children, which will be coordinated by the Ministry of Justice.

63. Working in partnership with the United Nations Population Fund (UNFPA), the Ministry of the Family has launched a project called Education for Family Life in the *Daaras* under which language teaching and vocational training will be provided to *talibé* children, as well as assistance in developing income-generating activities that will help them escape poverty.

64. A national child protection strategy is also being drafted. The Special Rapporteur recalls that in 2006 the Committee on the Rights of the Child recommended that Senegal should develop a comprehensive national plan of action based on children's rights and a participatory approach.

65. In March 2003 Senegal adopted a tourism charter introducing a local strategy for the promotion of “responsible tourism beneficial to the people of Senegal and to the domestic economy”. The Vice Squad systematically monitors beaches, hotels, bars, nightclubs, massage parlours and other tourist places. However, the Ministry of Tourism has no official statistics on the number of children who are exploited for sex tourism.

66. The central police station in Saint-Louis informed the Special Rapporteur that its officers carried out checks in hotels, bars, parks, cybercafes and *daaras* as part of its efforts to detect cases of child abuse and sexual exploitation.

Provision of care for child victims of sexual exploitation and abuse

67. The Special Rapporteur visited several care centres for vulnerable children in Dakar, Saint-Louis and Mbour. She spoke with the staff of these centres as well as with some of the children. She also met members of the TMCs established in Saint-Louis and Mbour under the Programme to Combat Trafficking and the Worst Forms of Child Labour. She encountered a lack of formal, harmonized procedures for assisting and supporting at-risk children, and a lack of social services at the community level. On this point, the Prosecutor General in Saint-Louis complained of the lack of trained child counsellors, proper care centres, and psychologists able to deal with child victims of abuse and sexual exploitation.

68. The GINDDI Centre, which was established in 2003, provides shelter, information and counselling for children in difficult situations and is directly attached to the Ministry of the Family. The Centre’s mission is to take children off the streets and reintegrate them in the community; to provide psychological support and social assistance for boy and girl victims of trafficking from Senegal and other countries in the subregion and for child victims of sexual abuse and harmful sociocultural practices; and to implement strategies to raise public awareness of children’s rights and the various mechanisms and instruments protecting their rights.

69. The Centre operates a free helpline (80 000 8888) which is fully funded by the State, through which the public can file complaints and report violations. The helpline operates 24 hours a day seven days a week. In 2009 it received a total of 8,140 calls. The Centre would like to align its helpline number with the international childline number of 116, and is in discussions with the national operator Sonatel to this end.

70. Children receive care and assistance on a residential, semi-residential or non-residential basis and are supported by a social economics teacher, a part-time psychologist and special educational social workers. On average, children remain at the Centre for no more than three months. Whilst there, they receive instruction in civilian life, schooling and vocational training and take part in sporting activities. The Centre frequently takes part in exchanges with other care centres.

71. The Centre reported that in 2009 it provided support to the following number of children on a residential or non-residential basis:

Street children and <i>talibé</i> children	896
Children from other countries in the subregion	115
Girl victims of rape and harmful cultural practices	43
Girls receiving vocational training	105
Total	1 054

72. Boys account for the majority of children in the Centre’s care. The Centre provided the following data on the number of boys receiving assistance between January and September 2009:

Boys admitted	Boys returned to their family	Boys found back on the street	Currently resident	Comments
896	621	275	46	Aged 5–18

73. Often children are taken off the street by police officers attached to the Children's Unit and it is these officers who refer them to the Centre. However, this is done on an informal basis as there is no official procedure.

74. The duties of the Centre's staff include communicating with members of the child's family and educating them in children's rights. Children are returned to their family only if deemed appropriate by the Centre's team. Every child has a "mentor" who monitors their progress. The Centre also oversees the return and reintegration of child victims of trafficking who are citizens of Guinea-Bissau, working in partnership with the International Organization for Migration (IOM).

75. The Special Rapporteur was impressed by the rights-based approach advocated by the Centre's representative, which rested on an undertaking to construct a life plan designed to prevent relapses, in consultation with the child and their family.

76. However, certain obstacles have still to be overcome. A database holding information on all children cared for by the Centre is vital if the Centre is to be able to guarantee that all children can be traced, that the effectiveness of the care it provides can be evaluated and that the child's subsequent progress can be monitored. In addition, liaison between the Centre and organizations working in the field needs to be made more systematic and professional, for example through the conclusion of specific mandates or agreements. Formal and more systematic mechanisms for ensuring children's access to health services and legal aid are also needed if comprehensive protection for every child is to be guaranteed. The representative of the Centre also highlighted the need to reinvigorate the monitoring and early warning committees working in the field that are responsible for referring children to the Centre.

77. The Special Rapporteur was pleased to learn that the Centre is looking into the possibility of introducing a mechanism for reporting violations of children's rights to the Centre that would be accessible to children and would guarantee that complaints were treated confidentially and those reporting them would be protected.

78. The Special Rapporteur also visited the Thiaroye Multi-Purpose Centre opened in 1965. The Centre caters for girls with behavioural problems, girls who have suffered sexual abuse or are in conflict with the law, and girls placed in the Centre's care at their parents' request. In some cases, girls are placed in the Centre as a result of a court order. The girls' ages range from 11 to 25. The Special Rapporteur learnt that girls living nearby also took part in some of the activities organized at the Centre.

79. The Centre employs four teachers who are funded by the Ministry of Education and teach the standard State curriculum. A further three teachers are funded by the Centre itself. The Centre also offers courses in dressmaking, hairdressing and catering. It is able to provide residential care for 15 girls.

80. The Centre is receiving a growing number of child victims of prostitution and sexual exploitation. However, caring for these children is proving difficult. Access to support services and legal aid is also problematic. For this reason, the Centre's representative said that the creation of a local primary care centre in Dakar, for example, at which victims could receive psychological support before being referred to the Centre would be a good idea. Follow-up of girls who have left the Centre indicates that they struggle to find employment. The Department of Correctional Education and Social Protection is attempting to find a solution to this problem.

81. The Special Rapporteur also visited the Pikine Protection Centre, which provides semi-residential care for children either as a preventive measure or, in the case of juvenile delinquents or minors whose moral well-being is at risk, by court order. Because the Centre was being renovated at the time, the Special Rapporteur was not able to properly assess the quality of the services it provides.

82. The Special Rapporteur also had the opportunity to visit the Mbour Nursery and meet its directors. The Nursery caters for a range of children rescued from various circumstances, including newborns, *talibé* children, street children, victims of violence and refugee children. In this case also, interviewees commented that access to health services was difficult.

83. In Saint-Louis, the Special Rapporteur met the Head of the Urban Security Unit at the central police station. He explained that when a minor is suspected of being involved in prostitution, police officers first approach the minor's parents. If the parents cannot handle the situation, the police refer the case to the Prosecutor General and the community educative action teams. The Head of the Urban Security Unit said that the main difficulties his officers encountered in their work with children were: (1) communication difficulties, as children are often afraid to tell police officers what has happened to them, even when the officers are not uniformed, and there is no secure reception facility for children; (2) the lack of residential care facilities, for example, reception centres for child victims of sexual exploitation and abuse, and the lack of coordination and information that means officers in Saint-Louis do not know about certain facilities, such as the GINDDI Centre in Dakar; (3) difficulties in collecting evidence in cases of sexual exploitation and violence; and (4) the State's tardiness in adopting new scientific methods for collecting and processing evidence.

84. The Special Rapporteur also visited two NGO-run facilities in Saint-Louis that cater for children in difficult situations, almost all of them *talibé* children. At these centres, children receive care, literacy training and shelter.

85. Despite the good intentions of their directors, the Special Rapporteur notes that neither of these centres has an integrated programme offering comprehensive protection that encompasses medical, legal and psychological assistance, and that there is no system of child follow-up and evaluation.

86. The Special Rapporteur visited a *daara* that was home to a large number of boys of varying ages. The living and sleeping conditions she found there were appalling: cramped, dilapidated buildings and a total lack of hygiene. At the time of her visit, a young *talibé* was teaching the Koran. The Special Rapporteur spoke with the marabout who ran the *daara*. He informed her that he never sent the boys begging (they supposedly went of their own accord), that he was responsible for the Koranic education of the boys, who, according to him, had been placed there by their parents, and that he would improve their living conditions if only he had more resources. The Special Rapporteur stresses the urgent need to regulate the teaching and accommodation provided for children in Koranic schools.

Awareness-raising/prevention

87. Police officers, gendarmes, judges and public prosecutors all receive training in the rights of the child. However, it is regrettable that only the officers of the Children's Unit have received specialized training in child protection and trafficking in human beings.

88. The GINDDI Centre organized a day-long awareness-raising workshop to promote the cause of children, focusing in particular on the rape and abuse of young girls. The target audience was families and people working with children.

89. The Senegalese Government is escalating its efforts to increase the rate of birth registration. The National Agency for Early Childhood and Preschool Reception Centres, in

conjunction with local authorities, works with mothers to ensure that their children are registered in the civil registry. In 2007 and 2008, 2,732 children were registered. The Agency also runs campaigns to sensitize mothers to the importance of registering the birth of their children, targeting those areas in which birth registration rates are particularly low, and has made admission to a preschool reception centre conditional upon the presentation of a birth certificate.

90. As part of its efforts to combat sex tourism, the Ministry of Tourism has launched campaigns to raise awareness of child sexual exploitation and HIV/AIDS for the staff of certain hotel chains.

Participation of children

91. The Children's Parliament in Dakar is currently being reconstituted and reorganized. The Saint-Louis and Mbour sections of the Parliament are operational and the Mbour section is represented on the Mbour Technical Monitoring Committee.

92. However, members of the Children's Parliament would benefit from greater knowledge of their rights and the advocacy mechanisms available for children. Liaison between departmental sections and local representatives remains limited, and children are rarely consulted on the formulation and follow-up of action plans, programmes and strategies.

Follow-up and evaluation

93. All stakeholders interviewed agreed that follow-up on child victims of sexual exploitation and the evaluation of programmes and policies for combating and preventing the problem could be better.

94. The Special Rapporteur commends the steps taken by UNICEF to construct a database of street children in three Senegalese departments that will be used to compile information on the profile, number and situation of these children.

95. The lack of a complaints mechanism accessible to children is one of the main obstacles to effective follow-up of child victims of sale, trafficking and/or sexual exploitation. The establishment of a Children's Ombudsman is under consideration. The Special Rapporteur is ready to provide assistance and advice throughout this process.

96. The Special Rapporteur also notes the absence of rules and standards regulating living conditions and services in care centres, shelters and protection centres for children in difficult circumstances.

97. The lack of a harmonized, centralized system for collecting and processing data on child victims of sexual abuse and violence and at-risk children limits the Government's ability to ascertain the scale, forms and causes of these problems and, by extension, its ability to combat them more effectively.

98. The Special Rapporteur welcomes the Government's decision to introduce a fund for the victims of sexual violence as part of the Criminal Code reforms, and invites the Government to keep her informed of developments in this area.

Civil society engagement

99. The Special Rapporteur commends the engagement of members of civil society and their readiness to work together among themselves, and also with Government bodies, at the local and national levels.

100. However, the NGOs in the three cities visited were hampered by a lack of financial resources and adequately trained personnel. In particular, they highlighted a need for

greater capacity for preventing child trafficking, sale, sexual abuse and sexual exploitation and a better understanding of the specificities of each problem and the links between them in order to improve detection and the provision of care and follow-up for the children concerned.

Private sector/media

101. The Special Rapporteur commends the media's active involvement in the field, in particular its efforts to raise awareness of children's rights and keep the public updated on the State's progress towards fulfilment of its child protection undertakings. The media regularly reports cases of children in difficult situations. However, its handling of these cases must always be underpinned by a professional ethic respectful of children's rights.

102. Private sector engagement is also on the increase and codes of conduct have been adopted by certain hotel chains to support the fight against sex tourism. However, the Special Rapporteur perceives a need for greater social responsibility among enterprises, telecommunications companies, and banks, etc. and also in relation to Internet usage, including through support for child protection programmes.

IV. International and regional cooperation

103. There are a number of technical and financial partners working in Senegal. However, partnership strategies tend to take a project-based approach rather than a long-term perspective. The Special Rapporteur also notes overlaps and a lack of coordination in project design and implementation which lead to duplication of effort and a lack of clarity about the role and accountability of each stakeholder.

104. The Special Rapporteur believes that international partners could do more in Senegal to introduce the many methods of combating cybercrime, child pornography and sex tourism, for example, that have been implemented in other countries.

V. Conclusions and recommendations

A. Conclusions

105. **While child abuse and exploitation for sexual purposes or begging are issues of great concern to the parties interviewed, the scale of these problems is not known. However, the Special Rapporteur notes a genuine political will to combat and prevent the exploitation of children and to safeguard the rights of children in general.**

106. **Legislative reforms, such as the adoption of laws on trafficking in human beings and cybercrime, have increased protection for children's rights. The adoption and implementation of the Programme to Combat Trafficking and the Worst Forms of Child Labour at the departmental level have brought national and local stakeholders together and raised their awareness of the issues. Through the Technical Monitoring Committees, local stakeholders are working together to eliminate such practices and ensure care for child victims.**

107. **Certain challenges remain, including the lack of a comprehensive, harmonized child protection strategy, the fact that legislation is only partially applied, the persistence of certain traditional social practices, the lack of regulation in Koranic schools, the lack of an information, follow-up and evaluation system, and the need to strengthen stakeholder capacity to adopt a children's rights-based approach. There is also a need to establish a framework conducive to cooperation and coordination**

between development partners in order to guarantee the sustainability and quality of child protection initiatives, and respect and the promotion of children's rights.

B. Recommendations

108. On the basis of the above, the Special Rapporteur would like to make the following recommendations to the Government, emphasizing that she is ready to provide assistance and advice in their implementation at any time.

109. With regard to national strategies, she recommends that the State party should:

- Conclude the drafting of a national strategy for the protection of children's rights, working with all stakeholders
- Ensure that this strategy entails the implementation of protection systems that will guarantee the best interests of the child and encompass: (i) prevention; (ii) detection, childcare and medical, psychological, social and legal support; and (iii) the promotion of the rights of the child
- Develop the mechanisms and methodologies needed to coordinate strategy implementation and follow-up at the central and local levels
- Allocate the budget and human resources necessary to implement this strategy
- Reinforce child protection policies and incorporate them within national growth and poverty reduction policies, as well as in local development policies

110. With regard to legislation, the Special Rapporteur recommends that the State party should adopt the following measures:

Harmonization of laws

- Use the Criminal Code reform as an opportunity to incorporate a clear definition of "sale of children" and specify the penalties for offenders, in accordance with the Palermo Protocol
- Incorporate a definition of "trafficking in children" in the Anti-Trafficking Act that conforms to the definition contained in the Palermo Protocol
- Raise the minimum marriageable age for girls to bring it into line with the international standards established in the Convention on the Elimination of All Forms of Discrimination against Women
- Raise the age established in article 320 of the Criminal Code, on child pornography involving children aged 16 to 18
- Eliminate the inconsistencies between article 3 of the Anti-Trafficking Act and article 245 of the Criminal Code on the prohibition of begging in order to ensure that the prohibition is respected and applied
- Finish drafting the Children's Code, so that it may be adopted as a matter of urgency
- Ratify the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption
- Strengthen the legislative framework applicable to domestic adoption

Application of legislation

- Provide information and training about domestic legislation, the Convention on the Rights of the Child and its Optional Protocol, to all parties with a role in law enforcement
- Strengthen the capacities of the police force and judiciary by equipping them with sufficient material and human resources and secure reception centres for children, and providing officers and officials with ongoing training in child counselling and interviewing techniques, as well as in cybercrime
- Facilitate access to police and judicial services by providing free medical, legal and judicial assistance to child victims and accelerating legal procedures
- Guarantee confidentiality for the testimonies of child victims and witnesses and ensure protection for children through the use of in camera hearings and/or video links
- Ensure strict compliance with adoption controls and procedures
- Ensure that offenders do not enjoy impunity and that the penalty fits the offence
- Guarantee reparation for child victims by establishing a reparation fund
- Increase coordination between the GINDDI Centre and all police forces in the country
- Strengthen and formalize links between the Children's Unit and regional police forces, between the Children's Unit and the juvenile courts, and also between the Children's Unit and the centres run by the Department of Correctional Education and Social Protection

111. In institutional terms, the Special Rapporteur recommends that the State party should:

- Strengthen institutions' capacity at the central and local levels by endowing them with sufficient resources to ensure effective implementation and follow-up of the policies and strategies formulated
- Clarify the mandates and responsibilities of the numerous agencies and departments involved in child protection, and the interfaces between them, tasking the Child Protection Support Unit, in conjunction with UNICEF, to make and disseminate an inventory of all stakeholders for this purpose
- Improve coordination and the exchange of information between the various nodes of the protection network (police, care centres, social workers, juvenile courts) in order to ensure follow-up for every child taken into care by mechanisms of the State and thus prevent relapses
- Establish a centralized, harmonized information system that, through accurate data collection and processing, will permit better assessment of the scale of the problems and identification of evolving trends and, consequently, the most appropriate responses

112. With regard to the detection, care and follow-up of child victims, the Special Rapporteur recommends the following measures:

- Implement recourse and reporting mechanisms that are easily accessible to children and guarantee their protection

- Strengthen the capacities of care centres and facilities by endowing them with qualified human resources and a standing budget allocation
- Provide support and assistance to the families of child victims
- Formalize childcare procedures with a view to harmonizing practice and ensuring more effective coordination between the parties involved
- Give ongoing training to all parties working with children in the counselling, identification, comprehensive care and follow-up of child victims; develop work tools and make them available to these parties
- Introduce standards and regulations for all childcare facilities and perform regular inspections with a view to improving the care they provide and, in particular, to protecting children against any form of exploitation or violence while in the care of such facilities

113. With regard to prevention, the Special Rapporteur recommends that the State party should adopt the following measures:

- Ensure easy access to essential infrastructures and social services and provide financial support for vulnerable families and communities
- Ensure adequate care and follow-up for vulnerable children
- Make birth registration standard practice throughout the country
- Strengthen and adapt the campaigns to raise awareness among target groups (children, families, communities) of child protection mechanisms and children's rights, with the support of the media, Internet and other means of communication
- Research, identify and strengthen "positive" social norms and endogenous protection practices (within families, communities, among peers, etc.)
- Mobilize communities, families and children to promote such protective social norms
- Introduce regulations in Koranic schools (programmes, prerequisites, living conditions, etc.) without delay
- Make Internet use safe for children by introducing mechanisms that block access to pornographic sites, running information campaigns on the risks of Internet usage, and making Internet cafes subject to regular checks

114. With regard to children's participation, the Special Rapporteur recommends that the State should:

- Ensure adequate representation of children in difficult circumstances in the Children's Parliament and its local representative bodies, and the application of the gender perspective
- Strengthen the ability of members of the Children's Parliament to understand their rights and champion their cause
- Ensure that all children, without discrimination, have access to information and are able to express an opinion and participate in all stages of the process of developing, implementing and monitoring child protection strategies
- Strengthen the capacities of all parties working with children within the framework of a participatory approach

115. With regard to social responsibility in business and the media, the Special Rapporteur recommends that the State should adopt the following measures:

- Foster the systematic adoption of codes of conduct by companies active in tourism, travel, financial services and the media, and among Internet service providers and telecommunications companies
- Increase cooperation with the private sector, in particular telecommunications and Internet companies, banks, etc., including by supporting child protection programmes
- Increase cooperation with media companies to encourage them to increase educational and awareness-raising broadcasts covering the sale and sexual exploitation of children, child protection and children's rights
- Step up training for the media in the ethical handling of cases in which children's rights have been violated

116. With regard to monitoring and follow-up, the Special Rapporteur recommends the following measures:

- Accelerate the process of establishing a children's Ombudsman, in accordance with general comment No. 2 of the Committee on the Rights of the Child, with a view to ensuring the promotion and protection of children's rights, monitoring progress in relation to the status of children's rights, following up on initiatives launched and evaluating their impact
- Ensure that the respective roles of the Ombudsman and the various existing mechanisms for promoting and monitoring children's rights, and the interaction between them, are clearly defined

117. With regard to international cooperation, the Special Rapporteur recommends the following measures:

- Implementation of a framework for cooperation between the various international technical and financial partners that will facilitate the transition from a project-based approach to an approach underpinned by a long-term, integrated child protection strategy
- Provision of long-term technical and financial support for child protection strategies and programmes
- Improvement of systems for sharing information and expertise in the areas of policing and justice between Senegal and the international community
- Dissemination throughout Senegal of the numerous practices and tools developed by other States for application in various areas, including the fight against cybercrime, child pornography, sex tourism and illegal adoption