

Summary of the proceedings concerning the *talibés* case

Introduction

In 2012 the Centre for Human Rights submitted a communication to the African Committee of Experts on the Rights and Welfare of the Child (African Committee) which was co-authored with la Rencontre Africaine pour la Défense des Droits de l'Homme (RADDHO), a NGO based in Dakar, Senegal.¹ On 18 April 2013, the Committee declared the Communication admissible and it was heard on its merits on 14 April 2014 where both the representatives of the Applicant and the Respondent were present.

Facts of the case

The communication essentially concerns the plight of about 100, 000 *talibés* children in Senegal who are sent to *Quranic* schools known as *daaras* to receive religious education.² However, their religious instructors, known as *marabouts*, force them to beg in the streets and this practice has existed since the 1980s.³ In the past, the practice consisted asking food or any other property by taking recourse to begging. Nowadays, it is doted with a more lucrative purpose with the economic exploitation of the children. The 1965 Penal Code criminalises the practice of forced child begging and prescribes for 3-6 months imprisonment for any person who allows a child to beg on his or her behalf.⁴ Moreover, the 2005 law to combat Trafficking in Persons and Related Practices and to Protect Victims provides for 5-10 years imprisonment and a fine of 20 million CFA francs for a person who forces a child to beg.

Applicants' arguments

The applicants highlighted the fact that the children live away from their families for long periods of time and stay in unacceptable conditions such as over crowdedness and a lack of hygiene. They are thus exposed to malnutrition, sickness, sexual abuse and other similar vulnerabilities. They pointed out the fire which occurred on 3 March 2013 in Medina which caused the death of 9 children, out of whom 7 were *talibés* who formed part of a group of 40 children stacked in one room with candles as means for light.

¹ The communication is accessible on the website of the Centre for Human Rights at http://www1.chr.up.ac.za/images/files/education/clinics/communications_iii/Communication%20to%20The%20%20Committee%20english%20version.pdf.

² Page 4 of the Communication.

³ As above.

⁴ Article 245 to 247(b) of the Penal Code.

The applicants aver that by allowing the practice of forced child begging within its territory, Senegal is violating several provisions of the African Charter on the Rights and Welfare of the Child (African Children's Charter) namely articles 4 (best interest), 5 (survival and development), 11 (education), 14 (health and health services), 15 (child labour), 16 (protection against child abuse and torture), 21 (protection against harmful social and cultural practices) and 29 (sale, trafficking and abduction).

Policies adopted by Senegal involve stakeholders from several ministries and NGOs but the applicants aver that there is a failure to coordinate the interventions of the different parties and to form the different protagonists. The program of modernisation of *daaras* is still at a pilot stage despite the accentuating problem. Moreover, despite the presence of laws which can be used to curb the practice of child begging, very few cases of prosecution have been registered till date. Given the scale of the practice of child begging, the applicants contend that it will not be exaggerative to state that there has been non-application of the existing laws.

It seems that the deposit of the current communication in 2012 with the committee has triggered several steps that the government of Senegal has taken to face the situation of forced child begging. The National Strategy on Social Protection and the National Strategy on economic and Social Development were adopted in 2013 and they both comprise of parts which concern the protection of children. After the holding of an inter-ministerial meeting on 8 February 2013, on 27 December 2013, there was, for the first time, the adoption and validation of a national policy which focuses on childhood and which also has sections which focus on strategic plans of actions for the eradication of forced child begging. The adoption of the above policy has led to several initiatives such as the mapping of *daaras*, the declaration of the President to have all illegal *daaras* close down, sensitisation programs on the issue of child begging and inspection of *daaras* amongst others but it is the contention of the applicants that these steps did not really materialise and the situation of the *talibés* is still the same. They drew attention to the fact that there is a lack of political will to apply the laws since the *marabouts*, who are religious leaders, have a very strong influence on the day to day affairs of the country. Moreover, attention was drawn to the fact that despite the various numbers of *daaras* there is a limited number of inspectors.

The Applicants essentially pray to the Committee to urge Senegal to accelerate the process of the law which concerns the functioning of the *daaras*, to effectively apply the existing laws

and to demonstrate the political will to punish the *marabouts* who force the children to beg, to adopt adequate measures for the inclusion of children who have been victims of forced begging. Furthermore, the Committee was requested to make use of its power to conduct an on-site investigation on the situation of the *talibés* in Senegal.

Respondent's Argument

The Respondent argued that the protection of childhood remains a priority in the politics of Senegal. It referred to international law and its Constitution which impose an obligation on Senegal to protect the rights of the child. The state highlighted the various codes, projects, policies, strategies and national plans of actions which concern the protection of children. It pointed out to the National Strategy for the Protection of the Child, adopted on 27 December 2013, which focuses on childhood.

The State acknowledged that the phenomenon of forced child begging is against the best interests of the child and made reference to the workshop held from 31 January to 1 February 2013 for the elaboration of strategic plans of actions for the eradication of child begging and the meeting of the inter-ministerial council on the managing of child begging on 8 February 2013. A number of recommendations were validated namely the retreat of all child beggars from the street, their re-integration, social policy communication for a change in behaviour and the prevention of child begging amongst others.

There has been the establishment of a national committee for the protection of the child, regional committees for the protection of the child and departmental committees for the protection of the child. The motivation behind the establishment of these committees was to implement a national system which integrates protection and to support and promote social change.

They referred to several actions which are in progress namely:

- *Renewal of the National Parliament for Children;*
- *Mapping of daaras ;*
- *Implementation of the framework plan against child labour;*
- *Training of CRPE and CDPE in the regions and departments;*
- *Setting-up of a network of voluntary elders protectors of children;*
- *Validation of the Code of the Child ;*
- *Validation of the study on the factors rendering children vulnerable children in Senegal ;*

- *Elaboration and validation of the initial and follow-up reports on the optional protocol to the CDE.*
- *Sharing the recommendations of the report of the African Charter for the Rights and Welfare of the Child.*
- *Harmonised curriculum*
- *Modernisation of daaras*

It also made reference to the different actions adopted by different Ministries to combat the issue of forced child begging and the role of civil society organisations and international partners.

A follow-up group comprising of several sectors is set up, it concerns an executive committee : Ministry of Women, of the Family and Childhood, Ministry of Justice, Ministry of Public Function, Ministry of Education, Ministry of Interior, Ministry of Armed Forces, Ministry of Foreign Affairs, Delegation to the Social Protection and National Solidarity, the CAPE, « La Cellule Nationale de Lutte contre la Traite des Personnes », l'UNICEF, the CONAFE, Save the Children, World Vision, « le Collectif des Maitres Coraniques ».

The political and social measures to combat forced child begging were highlighted. Reference was made to the campaign that is going on against forced child begging. The government acknowledged that the phenomenon of child begging is one which requires immediate attention but nevertheless there is a lack of resources to address to the issue.

The Committee's decision

The Committee stated that they are going to decide on the matter after an on-site investigation to Senegal around June or July 2014.