

ORDINARY PUBLIC HEARING OF 07

APRIL 2015

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DAKAR COURT OF  
APPEAL

DAKAR REGIONAL COURT

Judgment No

Prosecution No

At the ordinary public hearing of the *Dakar Regional Court* sitting in Dakar (Senegal), of April two thousand and fifteen, held for the affairs of correctional police by M. xxx Judge at the seat, President, assisted by Mrs. Xxx and Mr.xxx, judges, members, in the presence of Mr . xxx Substitute of the Public Prosecutor and with the assistance of Attorney xxx, Registrar, has rendered the judgment, the content of which follows:

PUBLIC PROSECUTION  
AND

- 1) XXX on behalf of his daughter
- 2) Xxx on behalf of her daughter and her niece

OFFENSE Rape,  
pedophilia, abduction

DECISION (see  
device)

PARTIES:

Mr. The Public Prosecutor, applicant, following interrogation report in flagrante delicto of 06.02.2015;

Questioned by Mr. the President in the hearing of 10 February two thousand fifteen in accordance with article 384 of the criminal procedure code, the defendant has declared wanting to be tried immediately but the case was successively postponed until the hearing of 3 1.03.2015, date at which it was pleaded.

When the case was called, Mr. the Public Prosecutor stated that he had caused the aforementioned accused to appear before the court in today's hearing to defend themselves because of the above mentioned offences. And the defendant was questioned. The clerk noted the statements of the civil party and of the civil party as well as of the responses to the accused. The Public Prosecution requested against the defendant a prison sentence of ten (10) years. The accused presented his defense;

Then the debates were declared closed and the case was postponed for a judgment of 07.04.2015. on that date, the Court, after deliberation, ruled as follows:

**THE TRIBUNAL**

Considering the exhibits in the file;  
Considering the questioning of the accused;  
Considering the submissions of the civil parties;  
Considering the requests of the Public Prosecution;  
Considering the defense of the accused;  
After deliberation in accordance with the law.

Whereas according to the indictment report of fragrant delicto, the public rosecutor has deferred the accused before this court on account of rape of a minor below 13 years, of pedophilia and of abduction of minors

**IN THE FORM:**

Whereas the action was brought in the form and time limit provided for by law;  
That it befits to declare the action admissible

## **ON MERITS**

Whereas it results from the procedure the following facts: by letter dated January 15, 2015 lady xx seized the police station of Yeumbeul of a complaint against xxx. During the preliminary investigation, she stated that she had discovered blood clots in the stools of her daughter xxx nicknamed xxx who told him that xxx has sodomized her by miming the act;

Heard during the preliminary investigation, xxx explained that xxx introduced his penis into her anus and pushed it;

She clarified that he also did so to xxx;

Questioned, xxx stated that he introduced his penis in her anus and specified that he did the same concerning xxx.

xxx argued that he introduced his index finger in her anus;

Heard, xxx revealed that her grandson had taught her that xxx has been kissing her little girl xxx;

Xxx and xxx declared having seen xxx introducing his sex into her anus;

Xxx explained that one day he heard a child cry in the bedroom of xxx before leaving the bedroom;

Heard, xxx, the father of xxx remarked to have surprised his daughter coming out of the bedroom of xxx;

Questioned, xxx contested any sexual conjunction with the named xxx and xxx;

That it befits to declare xxx guilty of this offence and to sentence him to an imprisonment term of 2 years;

### **On the abduction of minors**

Whereas article 346 of the penal code provides that whoever, by fraud or violence, abducts and cause the abduction of minors, on took them, abducted them, or removed them from where they had been placed by those under whose authority or direction they been submitted or placed, incurs the penalty of forced temporary labor of five to ten years;

That in the instant case, xxx by taking the victims into him room without consent of their parents has committed the offence of abducting minors;

That it befits to declare him guilty on this account and sentence him to an imprisonment of 2 years;

### **On the concurrent sentencing**

Whereas article 5 of the penal code provides that in case of commission of multiple crimes or misdemeanors, the heaviest penalty will only apply;

That in view of the foregoing, it befits to sentence the accused to 10 years which appear to be the heaviest;

### **On the civil action**

Whereas the named xxx and xxx respectively legal representatives of xxx and xxx has renounced their right to file a civil party action;

That it befits to give them notice thereof;

That xxx the legal representative of xxx called xxx declared filing a civil party action et requested 10 000 000 FCFA as damages;

That this civil party action filed prior to the requests of the public prosecution appear valid;

That it befits to declare it admissible;

Whereas the criminal behavior of xxx entailed to xxx called xxx an actual damage deserving reparation;

That thus request for damages of her legal representative is founded in principle although it seems exaggerated on the quantum;

That in effect, the Court is in possession of enough elements of appreciation to set this amount to 5 000 000 FCFA;

That it befits therefore to sentence xxx to pay xxx on behalf of his minor daughter xxx called xxx the said sum as damages, to order provisional compliance and to set the maximum prison term for failure to pay:

## FORT THESE REASONS

Ruling publicly, after trial, in correctional matters and in first instance;

### IN THE FORM

- Declares the action admissible

### ON MERITS

- Declares xxx guilty of rape of the named xxx and xxx, minors below 13 years
- Sentences him to an imprisonment of 10 years;
- Declares admissible the civil party action of xxx, legal representative of xxx called xxx;
- Sentences xxx to pay him on behalf of the latter the sum of 5 000 000 FCFA as damages;
- Order provisional implementation;
- Set the maximum prison term for failure to comply;
- Sentences him to the costs;

DETAILS OF COSTS	
Fixed tax	600f
Legal liability	600f
Extraction	600f
Stamp	10.000f
<b>TOTAL</b>	<b>11.800f</b>

The whole in accordance with the legal texts referred to above;

In witness thereof the present judgment is signed by the President and the Registrar on the day, month and year as above.

**The President**

