

Violence against Women in Mali

A Report to the Human Rights Committee

CONTENTS

1. PRELIMINARY OBSERVATIONS	271
1.1 MALI'S INTERNATIONAL OBLIGATIONS	272
1.2 HUMAN RIGHTS SITUATION IN MALI	273
2. DE JURE AND DE FACTO STATUS OF WOMEN	275
2.1 GENDER EQUALITY IN LEGISLATION	275
2.2 DE FACTO STATUS OF WOMEN	276
3. VIOLENCE AGAINST WOMEN IN THE FAMILY	277
3.1 FORCED MARRIAGE	277
3.2 DOMESTIC VIOLENCE	277
3.3 MARITAL RAPE	278
3.4 CULTURAL PRACTICES IN THE FAMILY THAT VIOLATE THE HUMAN RIGHTS OF WOMEN AND GIRLS	279
3.4.1 EARLY MARRIAGE	279
3.4.2 DOWRY	279
3.4.3 POLYGAMY	279
3.4.4 FEMALE GENITAL MUTILATION	280
4. VIOLENCE AGAINST WOMEN IN THE COMMUNITY	281
4.1 RAPE	281
5. VIOLENCE AGAINST WOMEN AT THE HANDS OF STATE AGENTS	282
5.1 DETENTION	282
6. CONCLUSIONS AND RECOMMENDATIONS	282
CONCLUDING OBSERVATIONS OF THE HUMAN RIGHTS COMMITTEE: MALI	
SEVENTY-SEVENTH SESSION – 17 MARCH - 4 APRIL 2003	
CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES	
UNDER ARTICLE 40 OF THE COVENANT	288
A. INTRODUCTION	288
B. POSITIVE ASPECTS	288
C. PRINCIPAL SUBJECTS OF CONCERN AND RECOMMENDATIONS	288

1. Preliminary Observations

The submission of information specifically relating to violence against women to the United Nations Human Rights Committee forms part of OMCT's Violence Against Women Programme which focuses on integrating a gender perspective into the work of the five "mainstream" United Nations human rights treaty monitoring bodies. OMCT's gender analyses and reporting entail examination of the effects of gender on the form that human rights violations take, the circumstances in which the abuses occur, the consequences of those abuses, and the availability and accessibility of remedies.

OMCT notes with concern that Mali has only submitted its second periodic report (UN Doc. CCPR/C/MLI/2003/2) to the Human Rights Committee on its implementation of the International Convention on Civil and Political Rights (ICCPR) on 3 January 2003 whereas it was due on 11 April 1986. The list of issues, drafted by the Human Rights Committee before the session, was drawn up in the absence of the government report. OMCT regrets the late submission of the government report as this hampers a fruitful discussion between the government and the Human Rights Committee. Mali's second through fifth periodic reports were due on 11 April 1986, 1991, 1996 and 2001 respectively. Mali has an obligation under article 40, paragraph 1 to submit periodic reports on the measures taken by the government to implement the rights proclaimed in the ICCPR and on the progress made in the exercise of those rights.

The Malian State report (UN Doc. CCPR/C/MLI/2003/2) fails to address gender specific violence in any way. The report notes that women are accorded formal legal equality and recognizes that discrimination against women persists in some areas. However, the report neglects to examine violence against women, including but not limited to, domestic violence, marital rape, rape, and female genital mutilation.

With regard to violence against women, OMCT would like to evoke that in paragraph 11 of General Comment 28 adopted by the Human Rights Committee in March 2000, which examines the equality of rights between men and women and updates its earlier General Comment on that topic adopted in 1981,¹ the Committee addresses the fact that much of the violence suffered by women is violence that occurs at the hands of private

individuals and recognises that this violence can amount to torture which is prohibited by article 7 in the Covenant. The paragraph reads:

“To assess compliance with article 7 of the Covenant, as well as with article 24, which mandates special protection for children, the Committee needs to be provided information on national laws and practices with regard to domestic and other forms of violence against women, including rape. It also needs to know whether the State party gives access to safe abortion to women who have become pregnant as a result of rape. The States Parties should also provide the Committee information on measures to prevent forced abortion or forced sterilisation. In States Parties where the practice of genital mutilation exists, information on its extent and on measures to eliminate it should be provided. The information provided by States parties on all these issues should include measures of protection, including legal remedies, for women whose rights under article 7 have been violated.”

In light of the lack of information provided on violence against women in Mali, this report will focus on the linkage between gender and violence against women in Mali. The report places particular emphasis on domestic violence, early and forced marriages, the dowry system, polygamy and female genital mutilation. The report ends with conclusions and recommendations.

1.1 Mali's International Obligations

Mali became a member State of the United Nations on 28 September 1960. Mali acceded the ICCPR on 16 July 1976 and to the First Optional Protocol to the Covenant on 24 October 2001. It is not a State party to the Second Optional Protocol to ICCPR aiming at the abolition of the death penalty.

Mali acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter the Convention against Torture) on 26 February 1999. Mali is also a State Party to other international and regional human rights instruments prohibiting torture, and other cruel, inhuman or degrading treatment directed against women.

Mali ratified the Convention on the Elimination of All Forms of Discrimination against Women on 10 September 1985 and acceded to the Optional Protocol to the Convention on 5 December 2000. Mali's second through fifth periodic reports (covering the period 1990 to 2002) have not been submitted to the Committee on the Elimination of Discrimination Against Women. The fifth periodic report was due 10 October 2002.

In 1992, the CEDAW Committee adopted General Recommendation 19, which states that "gender-based violence, which impairs or nullifies the enjoyment by women of human rights and fundamental freedoms under general international law or under human rights conventions, is discrimination within the meaning of article 1 of the Convention." It defines gender-based violence as "violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty."

Mali is also a State Party to the International Covenant on Economic, Social and Cultural Rights, the Convention on the Rights of the Child and the Convention on the Elimination of Racial Discrimination.

At the regional level, Mali is a State Party to the African Charter on Human and Peoples Rights. Article 2 of the African Charter stipulates that "Every individual shall be entitled to the enjoyment of the rights and freedoms recognised and guaranteed in the present Charter without distinction of any such kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin fortune, birth and other status." Article 18(3) provides that State Parties shall ensure the elimination of all forms of discrimination against women as well as protection for the rights of women and children "as stipulated in international declarations and conventions." Article 5 of the African Charter prohibits torture, cruel, inhuman or degrading punishment or treatment.

1.2 Human rights situation in Mali

Chapter 1 of the Constitution provides for a catalogue of fundamental rights and freedoms applicable in Mali. The chapter comprises 24 articles

setting out the framework for the protection of civil, political, economic, social and cultural rights.

The Constitution also provides for an independent judiciary.² However, in practice the executive exerts influence over the judicial system. The Ministry of Justice appoints and has the power to suspend judges; it supervises both law enforcement and judicial functions. The President heads the Superior Judicial Council, which oversees judicial activity. The Human Rights Committee has insisted that “the right to be tried by an independent and impartial tribunal is an absolute right that may suffer no exception.”³ This requirement is based on the principle that the different organs of the State must have exclusive power to decide on cases which are put before it. The judiciary as a whole as well as every judge in particular must be protected from any interference, *inter alia*, by the executive authority.

The judicial system’s large case backlog results in long periods of pre-trial detention and lengthy delays in trials. In addition there were reports of corruption in the courts. In this respect, the UN Special Rapporteur on the freedom of opinion and expression transmitted a case to the government concerning the sentencing of the director-general of the Office de radio-télévision du Mali (ORTM) to one month in prison and a fine of 1 million CFA francs. Under the press law, he was convicted following the broadcast by ORTM of an interview in which the mayor of Bamako stated that magistrates are corrupt. The mayor was fined 3 million CFA francs.

The existence of trafficking in children for labour exploitation is another grave problem in Mali. The majority of those trafficked from Mali are boys from the areas of Ségou, Sikasso and Mopti. Networks for trafficking children to Côte d’Ivoire were established in the early 1990s following a demand for cheap labour on its cotton plantations. Most children are recruited by intermediaries and sold on to plantation owners. Trafficked children can work from 10 to 20 hours a day, carry heavy loads, operate dangerous tools and lack adequate food or drink. The Government of Mali is currently working with the International Labour Organization (ILO) to combat this problem. In the context of the ILO-IPEC program, an agreement has been reached between Côte d’Ivoire and Mali regarding the repatriation of victims and extradition of traffickers.⁴

Prostitution is widespread in Mali. The main reason women and girls go into prostitution is economic. The girls and women that fall into prostitution come from an economic background that is deprived. They come from families that have many children, where there are economic problems and a constant fight for survival. Several NGOs in Mali are working to combat the problem of prostitution and help the women involved.

2. De jure and de facto status of women

2.1 Gender equality in legislation

Although the Constitution of Mali proclaims in its preamble to defend the rights of women,⁵ there are many laws in Mali that are facially discriminatory. For instance, it has been reported to OMCT that Malian women who marry foreigners are not able to pass on their Malian nationality to their children from such a marriage. On the other hand, Malian men suffer from no such restriction in passing on their Malian nationality to their children.⁶ Such discrimination in citizenship extends beyond the blatant differential treatment of men and women in Mali. Under such a law, the children of women who marry non-Malian nationals are not eligible for the rights and privileges of Malian citizenship.

Other discriminatory provisions in Malian legislation limit a woman's power over the decisions affecting her own life. For example, with regard to type of marriage, the choice between a monogamous marriage and a polygamous marriage is the decision of the husband, not the wife.⁷ A woman's rights are limited in marriage by law in other ways, including her husband's power over her right to work and the choice of residence.⁸ Malian law also discriminates against women in marriage by providing that wives are obligated to obey their husbands.⁹

With respect to minimum age of marriage, the Malian law provides for different ages between girls and boys. The law expressly allows early marriage of girls, providing that girls may be married at 15, while the minimum age for marriage of boys is 18.¹⁰

With regard to a woman's right to remarry after divorce from her husband or the death of her husband, Malian law is also facially discriminatory. According to Malian law, a divorced woman must wait 3 months after her divorce before she is able to remarry.¹¹ This provision does not apply to men, who are able to remarry even during the divorce proceedings, or, under the polygamous system, while they are still married to other women. If the woman is widowed, then she must wait 4 months and 10 days before she can remarry.¹²

2.2 De Facto Status of Women

The prevailing image of women in Malian society is in their roles as wife and mother. As such, women remain in the private sphere and do not have much access to the public sphere, which is traditionally reserved for men. In accordance with these roles, women are blamed if their husbands are dirty or badly dressed, as well as if their child misbehaves. These attitudes towards women encourage the stereotype that women are inferior to men.¹³ Women who try to rebel against these images and participate in the public sphere are viewed badly by society, including by some women, and are accused of "attempting to wear pants," meaning trying to become a man. Thus, women do not participate in politics or other civic affairs with fewer than 10% of all elected officials being women.¹⁴ In essence, such views reflect an attitude that social and political power is a masculine sphere that women should avoid.

The marriage laws in Mali contribute to these stereotypical images of women by declaring that men are the head of the household and that women must obey their husbands. These laws reflect the reality that husbands make 90% of all decisions in the house.¹⁵

In education, women are also at a de facto disadvantage. Boys' education is considered a better investment for parents than girls' education and therefore, there remains a gender disparity in education in Mali.¹⁶ UNICEF statistics indicate that women's literacy lags behind men's, at rates of 33% and 48% respectively. At the primary school level, the rate of girls' enrolment is 33% while boys' enrolment rate is 47%, and at the secondary school level, boys' enrolment is double that of girls (14% and 7% respectively).¹⁷ Additionally, forced and early

marriages, as well as pregnancy, prevent girls from continuing education.¹⁸

The government of Mali has tried to rectify some inequalities between men and women by passing new laws. For example, a law was passed attempting to give women better access to land.¹⁹ However, because of cultural attitudes towards women and a lack of political will, this law has not been effectively implemented. Additionally, the Malian government asserts that a Family Code is in the process of being legislated.²⁰ OMCT insists that such legislation must eliminate all facially discriminatory provisions in Malian law with respect to gender as well as establish effective mechanisms for full implementation of all non-discriminatory provisions.

3. Violence against Women in the Family

3.1 Forced Marriage

It has been reported that forced marriage frequently occurs in Mali, even though it is formally illegal.²¹ Although the consent of both the wife and husband are required before a legal marriage can occur, young girls are sometimes pressured by their families, and even by state agents responsible for preventing forced marriages, to enter into a customary law marriage.²² Oftentimes, people in the community and women in particular are unaware of the statutory requirements for a legal marriage and will enter into a customary law marriage, which has no legal standing, without full knowledge of their rights.²³ Forced marriages make women vulnerable to violence since, if they lack the power to decide to enter into the union, they likely lack the power to decide to leave the union.

3.2 Domestic Violence

Although the Penal Code was amended in 2001, there are no specific provisions outlawing domestic violence.²⁴ Domestic violence is also not addressed in the State Party Report submitted by Mali, contrary to the request in the General Comment 28, paragraph 11, of the Human Rights Committee.

Reports indicate that domestic violence is an accepted part of daily life in Mali. As such, women rarely report instances of domestic violence, or if they do report the violence, social pressures encourage the victim to withdraw the complaint before conviction of the perpetrator.²⁵ The silence around this violence may explain the lack of information regarding the crime of domestic violence. Although some efforts have been made by the NGO community, particularly by the Association pour le Progrès et la Défense des Droits des Femmes (APDF), to encourage women to speak out against domestic violence, the problem remains. APDF reports that in the two year period from 2001 through 2002, they recorded 511 incidents of violence against women (in the city of Bamako).²⁶ Without more proactive efforts by the government to raise awareness about the pervasiveness of domestic violence and women's right to be free from such violence, women will continue to be victims of domestic violence.

It is reported that the government does not offer any services to women victims of domestic violence.²⁷

A specific law outlawing domestic violence and providing special services to victims is essential to effectively combating this problem. Moreover, OMCT would also urge the government of Mali to collect statistics and other information regarding domestic violence and include such information in its future reports to UN human rights treaty bodies.

3.3 Marital Rape

Under the Malian Penal Code, marital rape is not a crime.²⁸ The Special Rapporteur on Violence Against Women, its Causes and Consequences noted in her most recent annual report that, in many countries, husbands can be prosecuted for assaulting their wives but not for raping their wives. She explains that under international norms, men and women are entitled to equal rights and responsibilities in marriage²⁹ and later asserts that the failure to criminalize marital rape is, in effect, "sanctioning a certain measure of violence by the husband against the wife in the home."³⁰

In line with the assertions of the Special Rapporteur, OMCT views marital rape as a grave violation of a woman's basic human right to be free from violence.

3.4 Cultural Practices in the Family that Violate the Human Rights of Women and Girls

3.4.1 Early Marriage

Statistics have shown that women in Mali are married at a young age, with 22% being married by age 15 and 93% married before the age of 22.³¹ The average age of marriage in Mali is reported to be 16.³² Although the age of marriage appears to be rising slowly, the discriminatory law which allows women to be married as young as 15 prevents full eradication of early marriage.

Early marriage of girls makes them vulnerable to violence because of their disadvantaged position due to both their gender and their age. Frequently, when girls are married as children, their husbands are substantially older and able to exert considerable power over their child wives. Furthermore, early marriage often leads to early pregnancy and may thus prolong women's reproductive life. Childbearing during early or middle adolescence, before girls are biologically or psychologically mature, is associated with adverse health outcomes for both the mother and the child.³³

3.4.2 Dowry

It appears that in Mali, a husband must pay a dowry for his wife. In the case of divorce, a woman must, by law, repay the dowry to the husband.³⁴ OMCT fears that the "purchasing" of brides through the payment of a dowry may relegate the woman's status to little more than a piece of chattel. The Special Rapporteur on Violence Against Women, its Causes and Consequences, in her 2002 annual report, recognized that the practice of dowry payments can lead to abuse of women because of the perception of women as property.³⁵

3.4.3 Polygamy

Polygamy is common in Mali, with many people following Islamic laws which permit the practice.³⁶ Polygamy is also legal under Malian law, as mentioned above. About 43% of women and 24% of men live in polygamous unions in Mali.³⁷

General Recommendation #21 issued by the Committee on the Elimination of Discrimination Against Women states that “[p]olygamous marriage contravenes a woman’s right to equality with men, and can have such serious emotional and financial consequences for her and her dependents that such marriages ought to be discouraged and prohibited” and asserts that polygamy is a violation of Convention on the Elimination of All Forms of Discrimination against Women. Considering this General Recommendation and the serious negative effects that polygamy can have on a woman’s physical and mental health, efforts should be made to raise awareness about the harms of such a practice and to outlaw the practice.

3.4.4 Female Genital Mutilation

According to the World Health Organisation, female genital mutilation (FGM) is defined as comprising “all procedures involving partial or total removal of the external female genitalia or other injury to the female genital organs for cultural or other non-therapeutic reasons.”³⁸ Factors such as religion, nationality and ethnicity result in differing practices concerning FGM. Because FGM varies across regional and ethnic lines, four classifications have been recommended by the World Health Organisation in order to clarify and standardize the terminology.

Type I: Clitoridectomy: Excision of the prepuce, with or without excision of part or all of the clitoris.

Type II: Excision: Excision of the prepuce and clitoris with partial or total excision of the labia minora.

Type III: Infibulation: Excision of part or all of the external genitalia and stitching/narrowing of the vaginal opening.

Type IV: Unclassified: includes pricking, piercing, or incising of the clitoris and/or labia; stretching of the clitoris and/or labia; cauterisation by burning of the clitoris and surrounding tissues; scraping of tissue surrounding the vaginal orifice (angurya cuts) or cutting of the vagina (gishiri cuts); introduction of corrosive substances or herbs into the vagina to cause bleeding or for the purpose of tightening or narrowing it; and any other procedure that falls under the definition of female genital mutilation.³⁹

FGM is extremely common in Mali, with 94% of women having experienced the procedure in both urban and rural areas of the country.⁴⁰ A majority of women (80%) support the practice in Mali.⁴¹ Generally, the surgery is performed on girls between the ages of 6 and 8.⁴² Clitoridectomy and excision are the most common types of FGM performed on girls in Mali.⁴³

FGM has serious physical and psychological consequences and it has been widely condemned by health professionals around the world. Particularly, the practice of FGM can cause inflammation and infection at the time of the procedure and it can seriously affect the health of a woman later in her life in pregnancy and during childbirth.

Although the government has instituted an executive order aimed at raising awareness about the harms of FGM, outlawing the practice is not envisioned by the government as of yet.

The Human Rights Committee, in its General Comment 28, paragraph 11, specifically requests information regarding FGM from reporting countries. Mali neglected to include information on this topic in its report and is thus urged to include such information in its future reports.

4. Violence Against Women in the Community

4.1 Rape

Malian legislation provides that rape can be punished with 5 to 20 years of “hard labour” and potentially can include exile from the community. The crime of rape is aggravated if the rape is committed by several persons or if the victim is under 15 years of age.⁴⁴

Rape is not addressed in the government report of Mali, despite the request for information concerning this topic in General Comment 28, paragraph 11, of the Human Rights Committee.

There appears to be a lack of statistical information concerning rape. Reports indicate that families are reluctant to report rape in order to preserve the “honour” of the victim and the family.⁴⁵ Cultural attitudes that

treat rape as a shameful taint on the family honour rather than recognizing the violation of the victim's rights reinforce a culture of silence regarding rape and inhibit the eradication of the crime.

5. Violence Against Women at the Hands of State Agents

It is reported that state agents, particularly police, prosecutors and judges continue to treat women victims of violence without any regard and sometimes even with violence. The victims are blamed by the authorities for the crimes they have suffered.⁴⁶ Although APDF has conducted many trainings to try to counteract these attitudes towards women, much remains to be done by the government to ensure that its agents do not commit violence against women and treat women victims of violence with dignity and respect.

5.1 Detention

Women are vulnerable to violence in detention at the Police Commissariats because there is no specific place for women detainees. In violation of article 8 of the Standard Minimum Rules for the Treatment of Prisoners, women and men are sometimes kept in the same cells, rendering female inmates at risk of sexual violence by the male inmates. Women are also sometimes subject to abuse by the police who are in charge of the investigation.⁴⁷

At the Bollé Center, there is a detention center specifically for women where they have access to aid from NGOs and other services.⁴⁸

6. Conclusions and recommendations

Although Mali has ratified numerous international and regional instruments guaranteeing the human rights of women, and despite the fact that Mali's Constitution declares that women's human rights will be protected, women are discriminated against because of their gender and subjected to gender-specific violence. There still exist many laws in Mali that are facially discriminatory against women as well as cultural attitudes

towards and stereotypes of women, which prevent women's full enjoyment of their human rights.

OMCT regrets that, despite General Comment 28 adopted by the Human Rights Committee in March 2000, the Government report contains no information on violence against women and would call upon the Government to provide such information, including statistics on rates of violence against women in its next periodic report to the Human Rights Committee. It would also recommend Mali to submit the next report in due time.

OMCT recalls that Article 3 of the International Covenant on Civil and Political Rights obligates member States to ensure the equal rights of men and women to the enjoyment of all civil and political rights set forth in the Covenant. Mali's laws demonstrate a disregard for this article, with several provisions in the laws that facially discriminate against women in Mali. OMCT insists that the Malian government should eliminate all facially discriminatory laws. For example, any law denying the right of a Malian woman to pass on her citizenship to her child fails to guarantee equality between women and men in Mali and should be repealed. Additionally, laws granting husbands control over decisions regarding type of marriage, the marital residence, and their wife's ability and right to work should be repealed to grant women control over their own lives and to promote women to a position of equal decision-making within marriage.

OMCT further recommends that discriminatory laws concerning remarriage of women who are divorced or widowed be removed.

OMCT not only considers that facially discriminatory laws must be removed, but new laws aimed at guaranteeing women's equal rights also must be implemented. Such laws must be accompanied with the necessary political will for enforcement.

Cultural attitudes and stereotypes that consider women inferior make full equality of women with men in Mali impossible to achieve. OMCT considers education and awareness raising campaigns essential to combating discrimination and violence against women. Thus, besides new legislation which is more protective of women's human rights, the government must make efforts to raise awareness among the general population about laws existing in Mali that protect women's human rights. Additionally, such

awareness raising campaigns should address the gender disparity in education in Mali and encourage people to consider their daughter's education an investment as important as the education of their sons.

OMCT is concerned that the laws of Mali provide for differing minimum ages of marriage for girls and boys, with girls at 15 and boys at 18. Early marriage has been shown to render girls more vulnerable to domestic violence and, by prolonging their reproductive lives, it can also lead to other serious health consequences. OMCT would strongly encourage the government to raise this age limit to 18 years for both women and men and to ensure that the legal age limit for marriage is strictly enforced.

Practices such as early marriage, dowry payments, and polygamy can lead to violence against women because women often find themselves powerless with such arrangements. OMCT strongly encourages the government to outlaw such practices.

OMCT is particularly concerned by reports that forced marriage occurs in Mali, and is alarmed that State officials sometimes participate in putting pressure on a girl to submit to a forced marriage. Such a practice is a violation of a woman's fundamental human right to freely enter into marriage, contravening article 23(3) of the International Covenant on Civil and Political Rights. Although Malian law claims that marriage is only possible with the consent of both spouses, the government must also ensure the full implementation and enforcement of this law.

Although domestic violence is not well documented in Mali, it appears to be a serious problem. OMCT is very concerned that the Government has yet to develop a comprehensive policy and legislative response to this problem. OMCT would like to call upon the Government to urgently draft and adopt specific legislation for the prevention, prohibition and punishment of domestic violence along the lines of the guidelines submitted by the United Nations Special Rapporteur on violence against women to the fifty-second session of the United Nations Commission on Human Rights (U.N. doc. E/CN.4/1996/53, Add.2). The measures that the government should envisage incorporating within domestic violence legislation include; the establishment of a system for the enforcement of *ex-parte* restraining and protective orders that would have the effect of ensuring that the perpetrator could not approach the victim and other witnesses and that the perpetrator be obliged to vacate the family home; and provisions

on the rights of victims to receive appropriate legal, medical and other assistance including alternative shelter and reparations.

Additionally, in light of reports that women victims of violence are sometimes treated badly, or even subject to more violence, when they report the crime to police, OMCT would recommend that all law enforcement personnel and members of the judiciary be given appropriate gender-sensitive training in responding to cases of domestic violence, rape and other forms of violence against women. OMCT also strongly encourages the government to establish a female police authority.

OMCT is very concerned that marital rape is not a crime in Mali and would call upon the Government to amend the Penal Code in order to ensure that rape in the context of marriage is criminalised.

OMCT is gravely concerned about the widespread practice of FGM in Mali, which violates the right to life and physical integrity, as well as endangers the health of women and girls. OMCT calls upon the government to take stronger measures for the eradication and punishment of female genital mutilation including through the adoption of legislation prohibiting the practice and through the involvement of religious and community leaders in education and awareness-raising campaigns on FGM.

The lack of information concerning the occurrence of rape in Mali is another cause of concern for OMCT. Although there is legislation that punishes rape severely, it appears that victims of this crime are reluctant to report it, in the interest of preserving the “honour” of the woman and her family. OMCT urges the government to raise awareness about available legal, medical and social remedies for rape victims. OMCT also insists that all incidents of rape be investigated and that perpetrators are prosecuted and punished with due diligence.

Although OMCT commends the establishment of a separate facility for women at the Bollé Center in Mali, we remain concerned that women in detention at Police Commissariats are sometimes kept in the same cells as men and are vulnerable to violence at the hands of prison agents. All necessary efforts should be taken to guarantee women the right to be free from torture and other cruel, inhuman or degrading treatment or punishment and OMCT would urge the government of the Mali to implement the Standard Minimum Rules for the Treatment of Prisoners.

Finally, OMCT would insist on the need to fully implement all provisions of the Convention on the Elimination of Discrimination against Women, the Declaration on the Elimination of Violence against Women as well as the Beijing Platform of Action, in Mali as these are the most relevant international instruments concerned with all forms of violence against women.

-
- 1 The complete text is available on the website of the Office of the High Commissioner for Human Rights: www.unhchr.ch and can be obtained under the symbol: UN Doc. CCPR/C/21/Rev.1/Add.10.
 - 2 Article 81 Constitution of Mali.
 - 3 Gonzales del Rio v. Peru (comm.. 263/1987, paragraph 5.2, decision adopted on 28 October 1992).
 - 4 For further details, please see www.ilo.org.
 - 5 Mali Constitution (2003).
 - 6 Code de la Nationalité (information from the Association pour le Progrès et la Défense des Droits des Femmes (APDF), a member of the OMCT-SOS Torture Network).
 - 7 Code Malien du Mariage et de la Tutelle (1962), art. 7.
 - 8 *Ibid.* art. 34 &38.
 - 9 *Ibid.* art. 32.
 - 10 *Ibid.* chap. III, art. 4.
 - 11 *Ibid.* art. 80.
 - 12 *Ibid.* art. 101.
 - 13 Information received from APDF (27.02.03).
 - 14 Center for Reproductive Rights, *Claiming Our Rights: Surviving Pregnancy and Childbirth in Mali*, p. 51 (2003).
 - 15 Information received from APDF (27.02.03).
 - 16 *Ibid.*
 - 17 See www.unicef.org for statistics.
 - 18 Information received from APDF (27.02.03).
 - 19 Law No. 86-96/AN-RM (12 July 1986).
 - 20 UN Doc. CCPR/C/MLI/2003/2 (13 January 2003), p. 34.

- 21 Center for Reproductive Law and Policy, *Reproductive Rights of Young Girls and Adolescents in Mali: A Shadow Report*, p. 14, available at www.reproductiverights.org.
- 22 *Ibid.*
- 23 *Ibid.*
- 24 Information received from APDF (27.2.03).
- 25 Center for Reproductive Law and Policy, *Reproductive Rights, Ibid.*, p. 16.
- 26 Information received from APDF (19.08.02).
- 27 *Ibid.*
- 28 Center for Reproductive Law and Policy, *Reproductive Rights, Ibid.*, p. 16.
- 29 U.N. Doc. E/CN.4/2002/83, ¶ 62.
- 30 *Ibid.*, ¶ 101.
- 31 Center for Reproductive Law and Policy, *Reproductive Rights, Ibid.*, p. 14, available at www.reproductiverights.org.
- 32 Population Reference Bureau, Mali, Profil Démographique ; see also *Protect the Lives of Pregnant Women, Rights Groups Urge, Africa News*, Feb. 6, 2003 (claiming that median age of marriage for women is 16.5 years).
- 33 WHO Doc. WHO/FRH/WHO/97.8, *Violence Against Women*.
- 34 Code Malien du Mariage et de la Tutelle (1962), art. 3.
- 35 U.N. Doc. E/CN.4/2002/83.
- 36 Information received from APDF (27.02.03)
- 37 Center for Reproductive Rights, *Claiming Our Rights, Ibid.*, p. 53.
- 38 WHO, *Female Genital Mutilation : An Overview*, 1998.
- 39 *Ibid.*
- 40 Center for Reproductive Rights, *Claiming Our Rights, Ibid.*, p. 51.
- 41 *Ibid.*, p. 52.
- 42 *Ibid.*
- 43 *Ibid.*
- 44 Center for Reproductive Law and Policy, *Reproductive Rights, Ibid.*, p. 15.
- 45 *Ibid.*, p. 16.
- 46 Information received from APDF (27.02.03)
- 47 *Ibid.*
- 48 *Ibid.*

Human Rights Committee

SEVENTY-SEVENTH SESSION – 17 MARCH - 4 APRIL 2003

**CONSIDERATION OF REPORTS SUBMITTED
BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT**

CONCLUDING OBSERVATIONS BY THE HUMAN RIGHTS COMMITTEE:

MALI

1. The Human Rights Committee considered the second periodic report of Mali (CCPR/C/MLI/2003/2) at its 2083rd and 2084th meetings, held on 24 and 25 March 2003 (CCPR/C/SR.2083 and 2084). It adopted the following concluding observations at its 2095th and 2096th meetings (CCPR/C/SR.2095 and 2096), held on 2 and 3 April 2003.

A. Introduction

2. The Committee welcomes the submission of the second periodic report of Mali and the opportunity thus afforded to it to resume its dialogue with the State party after an interval of more than 20 years. In the view of the Committee non-submission of a report over such a lengthy period reflects a failure on the part of Mali to discharge its obligations under article 40 of the Covenant and an obstacle to in-depth consideration of the measures to be taken to ensure satisfactory implementation of the Covenant. The Committee invites the State party to submit its reports henceforth in accordance with the reporting interval established by the Committee.
3. The Committee welcomes the information provided on political and constitutional developments in the State party as well as on the constitutional and legal framework created by the democratic renewal since

1990. Nevertheless it regrets the formalistic nature of the second periodic report, which is not in accordance with the Committee's guidelines: the report contains very little information on the day-to-day implementation of the Covenant or on factors and difficulties encountered. The Committee notes with regret that the report does not address the issues transmitted to the State party in advance. It regrets that the delegation was unable to reply in depth to the questions and concerns raised in the list of issues as well as during consideration of the report.

B. Positive aspects

4. The Committee welcomes Mali's transition to democracy in the early 1990s. It notes the efforts made by the State party to ensure greater respect for human rights and establish a State governed by the rule of law through the initiation of wide-ranging programmes of legislative reform, settlement of the conflict in the north and establishment of the position of ombudsman. The Committee notes that these efforts have been made despite the meagre resources available to the State party, and the difficulties facing it.
5. The Committee welcomes the moratorium on the application of the death penalty in force in Mali since 1979, and the current trend towards the abolition of capital punishment.
6. The Committee commends the State party on the measures it has taken to combat the trafficking of Malian children to other countries.

C. Principal subjects of concern and recommendations

7. The Committee notes that under the Constitution treaties take precedence over legislation and that, according to information supplied by the delegation, the Covenant can be invoked directly before national courts. It regrets, however, that specific instances in which the Covenant has been directly invoked, or in which the Constitutional Court has considered the compatibility of national legislation with the Covenant, have not been brought to its attention.

The State party must ensure that judges, lawyers and court officers, including those already in service, are trained in the content of the Covenant and the other international human rights instruments ratified by Mali. The Committee wishes to be provided with more comprehensive information on the effective remedies available to individuals in the event of violation of the rights set forth in the Covenant, as well as instances in which courts or tribunals have invoked the provisions of the Covenant.

8. The Committee notes with concern that the National Advisory Commission on Human Rights, established in 1996, is yet to meet.

The State party should take appropriate measures to allow the National Advisory Commission on Human Rights to function, in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights ("Paris Principles"), as set forth in General Assembly resolution 48/134.

9. The Committee, while welcoming the conclusion in 1992 of the National Pact between the Government and the rebel movement in the north of the country, regrets that it has not been provided with adequate information on the status of implementation of the peace agreements.

The Committee wishes to receive more detailed information in this regard, in particular on the repatriation of Malian refugees, economic and social development in the north, and the effects of the policy of decentralization on pacification and the situation of human rights in that region.

10. While welcoming the establishment of a Ministry for the Advancement of Women, Children and the Family, the Committee expresses its grave concern at the continued existence in Mali of legislation which discriminates against women, in particular with regard to marriage, divorce, and inheritance and succession, and of discriminatory customary rules relating to property ownership. The Committee, while appreciating that adoption of a Family Code requires wide-ranging consultations, notes with concern that the proposed reform, ongoing since 1998, has not yet concluded. The

Committee is also concerned by information that the practice of the levirat, a practice whereby a widow is inherited by the deceased husband's brothers and cousins, is said to persist in Mali (articles 3, 16 and 23 of the Covenant).

(a) The State party should expedite adoption of the Family Code; the Committee recommends that it should comply with the provisions of articles 3, 23 and 26 of the Covenant, in particular with regard to the respective rights of spouses in the context of marriage and divorce. In this connection the Committee draws the attention of Mali to its General Comment No. 28 (2000) on equality of rights between men and women, in particular with regard to polygamy, a practice which violates the dignity of women and constitutes unacceptable discrimination against women. The State party should abolish polygamy once and for all.

(b) Particular attention should be paid to the question of early marriage by girls, a widespread phenomenon. The State party should raise the minimum legal age for marriage by girls to the same age as for boys.

(c) The State party should establish a succession regime that does not discriminate against women: equality of heirs without discrimination on the basis of sex should be guaranteed, and the State should ensure that there are better guarantees of the rights of widows and that on succession there is a fair distribution of assets.

(d) The State party should abolish the levirat once and for all and apply appropriate penalties against those engaging in the practice, and take appropriate measures to protect and support women, especially widows.

11. The Committee notes with concern that a very high percentage of women in Mali have reportedly been subjected to genital mutilation. The Committee welcomes the programmes already implemented by the authorities and non-governmental organizations to combat the practice, but regrets that there is no specific legal prohibition. The State party, moreover, has not been able to provide precise information on the specific results produced by the actions already taken (articles 3 and 7 of the Covenant).

The State party should prohibit and criminalize the practice of female genital mutilation so as to send a clear and strong signal to those concerned. The State party should strengthen its awareness-raising and education programmes in that regard, and inform the Committee, in its next periodic report, of efforts made, results obtained, and difficulties encountered.

12. The Committee is concerned about reports of domestic violence in Mali and the failure by the authorities to prosecute the perpetrators of these acts and to take care of the victims. Bearing in mind the delegation's reply, to the effect that domestic violence is punishable under the current provisions of the Penal Code, the Committee stresses the need for special legislation to deal with such violence, given its specific nature (articles 3 and 7 of the Covenant).

The State party should adopt specific legislation expressly prohibiting and punishing domestic violence. Victims should be properly protected. The State party should adopt a policy of prosecuting and punishing such violence, including by issuing clear directives to that effect to its police and through appropriate awareness-raising and training measures for its officials.

13. The Committee states its concern about reports that women do not enjoy rights on an equal basis with men as regards political participation and access to education and employment.

The State party should strengthen its efforts to promote the situation of women in the area of political participation, access to education and access to employment, and invites the State party to give information, in its next report, on the action it has taken and the results obtained.

14. While noting the considerable efforts made by the State party, the Committee remains concerned by the high maternal and infant mortality rate in Mali, due in particular to the relative inaccessibility of health and family planning services, the poor quality of health care provided, the low educational level and the practice of clandestine abortions (article 6 of the Covenant).

So as to guarantee the right to life, the State party should strengthen its efforts in that regard, in particular in ensuring the accessibility of health services, including emergency obstetric care. The State party should ensure that its health workers receive adequate training. It should help women avoid unwanted pregnancies, including by strengthening its family planning and sex education programmes, and ensure that they are not forced to undergo clandestine abortions, which endanger their lives. In particular, attention should be given to the effect on women's health of the restrictive abortion law.

15. The Committee is concerned by reports of cases of torture and extrajudicial executions, allegedly committed by soldiers in 2000 following the murder of three tourists in Kidal. The Committee finds it difficult to accept the view of the delegation that there were no extrajudicial executions, even though no inquiry has been conducted by the State party. The Committee is also seriously concerned by the delegation's statement that no inquiries have been conducted into the complaints of torture and inhuman or degrading treatment made by members of opposition parties arrested in 1997, because of the national reconciliation process and the need to protect public order (arts. 6 and 7).

The State party should avoid the growth of a culture of impunity for the perpetrators of human rights violations, and should ensure that systematic inquiries are conducted into allegations of violence against life and limb by its officials.

16. The Committee regrets that the State party has not given a clear response to the reports of slavery-like practices and hereditary servitude in the north of the country. While domestic law does not authorize such practices, the Committee is seriously concerned about their possible survival among the descendants of slaves and the descendants of slave-owners. The Committee stresses that the lack of complaints about such practices cannot be adduced as proof that the practices themselves do not exist (art. 8).

The State party should conduct a careful study of the relations between the descendants of slaves and the descendants of slave-owners in the north of the country, with a view to determining whether slavery-like practices and hereditary servitude still continue and, if so, to inform the Committee of measures taken in response.

17. Recalling the efforts undertaken by the State party in this regard, the Committee remains concerned by the trafficking of Malian children to other countries in the region, in particular, Côte d'Ivoire, and their subjection to slavery and forced labour (art. 8).

The State party should take action to eradicate this phenomenon. Information on measures taken by the authorities to prosecute the perpetrators of this traffic, as well as more precise details of the numbers of victims and of children benefiting from protection, repatriation and reintegration measures, should be provided in the next periodic report.

18. While welcoming the various programmes adopted by the State party, the Committee is very concerned about the situation of migrant girls leaving the countryside for the towns to work as domestic servants and who, according to some reports, work an average of 16 hours a day for very low or non-existent wages, are often the victims of rape and ill-treatment, and may be forced into prostitution (art. 8).

The State party should intensify its efforts to punish those responsible for the exploitation of these migrant girls. The State party should adopt and develop appropriate complaint and protection mechanisms and is urged to provide information on the number of girls subjected to such exploitation, the number of those benefiting from protection and reintegration measures, and the content of its labour legislation and criminal law in this area.

19. The Committee notes that, under Malian law, police custody may be extended beyond 48 hours, and that such extensions are authorized by the public prosecutor.

The State party should: (a) supplement its legislation to conform to the provisions of article 9, paragraph 4, of the Covenant, which requires that a court decide without delay on the lawfulness of detention in custody; and (b) supervise the conditions of such custody, in accordance with article 9 of the Covenant. Precise information about the rights of persons in custody, measures to uphold these rights in practice and the methods of supervising conditions under which people are held in custody should be provided in the next periodic report.

20. The Committee is concerned by reports of the hardship suffered by some 6,000 Mauritanian refugees who, for the last 10 years, have been living in the west of the country (Kayes region), are not registered, possess no identity papers, have the de facto status of stateless persons and whose right to physical security is not sufficiently protected.

The State party should enter into discussions with the Office of the United Nations High Commissioner for Refugees (UNHCR), with a view to improving the status and conditions of these persons.

21. The Committee sets 1 April 2005 as the date of submission of Mali's third periodic report. It requests that the text of the State party's second periodic report and its present concluding observations should be published and widely disseminated throughout the country and that the third periodic report should be brought to the attention of civil society and non-governmental organizations working in Mali.
22. In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should within one year provide information on its response to the Committee's recommendations contained in paragraphs 10 (a) and (d), 11 and 12. The Committee requests the State party to provide in its next report information on the other recommendations made and on the implementation of the Covenant as a whole.

