



**International covenant
on civil and
political rights**

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

Concluding observations of 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.
