

Women's rights protection instruments ratified by Mali:

- **CEDAW**: ratified in 1985
- **CEDAW Protocol**: ratified in 2000
- **Maputo Protocol**: ratified in 2005

Respect! Although Mali ratified the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) without reservations in 1985, the government has never incorporated its provisions into domestic law. Mali has also ratified the Optional Protocol to CEDAW and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol), but the provisions of all these instruments continue to be widely violated.

The Coalition of the Campaign is particularly concerned by: the persistence of discriminatory laws; discrimination within the family; violence against women, including female genital mutilation (FGM); and limited access to education, employment, decision-making positions, property, health and justice.

/ Discrimination and violence persist

IN LAW

In Mali, customary law - which is particularly discriminatory against women - applies in parallel to statute law. In some northern regions, "Cadi" (Islamic law) justice also applies.

Statutory law in Mali contains many discriminatory provisions, for example:

Discrimination within the family:

According to the *Code du mariage et de la tutelle* of 1962, the minimum age for girls to marry is 15, whereas it is 18 for boys (art. 4). Girls can be married before the legal age if there is judicial authorisation. These early marriages apply to some 71% of young girls in Mali. The husband is considered head of the family and, for example, has the right to decide where the family will reside and the wife has a duty to obey the husband (art. 34).

Similarly, article 86 of the Parental Code limits the exercise of parental authority to the father. Polygamy is authorised under articles 7 and 8 of the *Code du mariage et de la tutelle*, and it is estimated that 40% of the population live in polygamous marriages. In cases of divorce, article 81 of the *Code du mariage et de la tutelle* provides that the husband can ask for restitution of the "benefits that he provided to his wife."

In July 2009, the National Assembly adopted the new Family Code, under preparation since 1996. However, following demonstrations by the country's most conservative forces, the President of the Republic sent the Code back to the National Assembly in August 2009 for a second reading. More than six months later, this second reading has still not occurred.

The text approved by the National Assembly contained a number of provisions protecting women's rights: raising the minimum age of marriage for girls to 18; removing the obligation for a woman to obey her husband (although the husband remains head of the family); recognising civil marriage as the only valid form of marriage; and giving women increased rights in questions of succession. The Coalition of the Campaign regrets however that, contrary to Mali's regional and international obligations, the text is silent on a number of grave violations of women's rights such as female genital mutilation and marital rape.

Transfer of nationality: According to the Citizenship Code, a woman can only pass on her nationality to her children in very limited circumstances (art. 8), whereas a man has the right to pass on his nationality automatically.

Employment: Article 38 of the *Code du Mariage et de la tutelle* forbids a woman conducting a commercial business without her husband's authorisation.

IN PRACTICE

• Discrimination in the family

The coexistence of customary, Islamic and statutory law exacerbates inequalities within the family. Moreover, laws protecting women's rights are often not implemented. For example, even though the *Code du Mariage et de la tutelle* authorises women to request divorce, they rarely do so as a result of social pressures. A number of harmful traditional practices persist, such as levirate and sororate (whereby men 'inherit' their brother's widows or marry their wife's sister). Force-feeding, whereby young girls are forced to ingest large quantities of food in order to gain weight to prepare them for marriage is also wide-spread, especially in the northern regions.

• Violence

A legal vacuum persists on female genital mutilation (FGM) and other practices that are harmful to women's health, domestic violence and sexual harassment. The absence of legislation perpetuates these practices, especially as they seem to be tolerated by the Malian authorities. In all regions, it is estimated that 90% of women have been excised by the age of 4 years, and even earlier in urban areas - the average age of excision in Bamako is 1 year.

• Obstacles to access to education and employment

While governmental action to promote education has enabled a substantial increase in school attendance rates by girls, inequalities remain, notably in rural areas and within nomadic populations, and these steadily increase at higher levels of education. Girls leave school earlier, partly as a result of early pregnancies and because families often consider that male children are a better investment.

Discrimination in employment is also widespread, especially in rural areas. The majority of Malian women continue to work in the informal sector or to occupy subordinate positions, where they are paid less than men doing the same work.

• **Under-representation in political life**

Notwithstanding the increase in the number of women in the National Assembly, which has risen from 3 in 2000 to 13 in 2005 and then to 15 of 147 members of parliament in 2009 (15.3%), women's participation in political life remains low. There is no law setting quotas for the representation of women in politics or other decision-making

The Coalition of the Campaign calls on the authorities of Mali to:

- **Reform or repeal all discriminatory laws**, in accordance with CEDAW and the Maputo Protocol, in particular the discriminatory provisions of the *Code du mariage et de la tutelle*, the Citizenship Code and the *Code de la parenté*.
- **Organise the second reading of the Family Code** by the National Assembly as soon as possible; ensure that this process does not result in the diminution of guarantees of women's rights; and carry out awareness-raising programs to promote understanding and acceptance of the Code by the Malian population.
- **Harmonise statutory, religious and customary law** in accordance with CEDAW and the Maputo Protocol, and ensure that where there is contradiction, statutory law prevails.
- **Strengthen laws and policies to combat violence against women**, in particular by adopting a specific law prohibiting all forms of violence against women, including domestic violence and marital rape; providing additional financial resources to combat domestic violence; adopting a law criminalising FGM and ensuring that perpetrators are prosecuted and punished; and implementing awareness-raising campaigns.
- **Take measures to eliminate obstacles to education and employment**, in particular by ensuring that girls (including students who are pregnant) are able to remain in the educational system; increasing the budget allocated to education to increase educational infrastructure and teacher training; introducing courses for adults designed to reduce the high level of illiteracy among women; and carrying out awareness-raising programs on the need for girls' education.
- **Take measures to ensure women's access to healthcare**, including obstetrics and family planning, in particular by carrying out awareness-raising campaigns to inform the population (especially in rural areas) about contraceptive methods; and increasing the budget for the establishment of health facilities and training of medical personnel, in particular in rural areas.
- **Take all necessary measures to ensure women's access to justice**, in particular by: training police and legal personnel; ensuring women's access to legal aid; and informing women of their rights and recourse mechanisms.
- **Implement all recommendations issued by the CEDAW Committee** in February 2006.

positions. However, in 2005 a law was adopted linking the amount of financial assistance provided by the state to political parties to the number of women elected.

• **Obstacles to access to property**

While statutory law provides for women's access to property, matters of inheritance and access to land are mainly governed by customary law, which provides that women do not have access to land ownership, despite their extensive participation in agriculture. Customary law also provides that daughters can only inherit half the share received by sons.

• **Obstacles to access to health**

Mali has high rates of maternal mortality, due to the absence of appropriate health-care and limited recourse to existing maternal health and sexual hygiene services, especially in rural areas, as well as the persistence of FGM, early marriage and non-medically supervised abortions.

• **Obstacles to access to justice**

Although women's access to justice is provided for by law, women's capacity to exercise this right is limited by obstacles such as legal costs, lack of information about their rights and the absence of legal aid.

PRINCIPAL SOURCES

- Focal Points: AMDH, WILDAF-Mali
- FIDH Report, 2006, www.fidh.org
- UNICEF, www.unicef.org
- Inter-Parliamentary Union, www.ipu.org
- Wikigender: www.wikigender.org

For more information on women's rights and the actions of the campaign in Mali, see: www.africa4womensrights.org

THE CAMPAIGN FOCAL POINTS IN MALI

Association malienne des droits de l'Homme (AMDH)



AMDH was created in 1988. Its headquarters are in Bamako but it has sections in all 8 regions of the country. AMDH aims to promote and protect human rights, notably by ensuring the primacy of law, ensuring the respect of rights and freedoms and raising awareness among the population and authorities of Mali's international obligations.

WILDAF-Mali



WILDAF-Mali is a member of the Pan African network WILDAF. It aims to promote and strengthen strategies that link the law to development, in order to increase women's participation and influence at all levels and thereby to contribute to the emergence of a culture of respect for women's rights in Africa.

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