

Mali

1. Discrimination in the family

a) Overarching legal framework for marriage

Women have the same rights as men to enter marriage, civil or religious, if of legal age (Family Code, art 280). However, some provisions of the Family Code discriminate against women. Discriminatory provisions include differing minimum ages for women and men to marry (art. 281), an obligatory dowry for the bride (art. 288), the possibility of polygamy where men may enter into marriage with up to four wives (art. 307) and a three-month waiting period for divorced women and widows to be able to remarry (art. 366).

b) Child marriage

In civil law, the legal minimum age set for marriage is 16 years old for girls and 18 years old for boys (Family Code, art. 281). The law penalises with imprisonment and a monetary fine any civil officer, Minister of worship or person of similar capacity who officiates the marriage of a person who has not reached the minimum legal age (art. 282). Persons under the minimum age (but at least 15 years old) may still enter marriage provided there is permission by a judge and parental consent (art. 281 & 284). In cases when the parents disagree, the father takes the final decision (art. 284).

The law is reportedly not enforced and early marriage is widespread throughout the country (US Department of State, 2017). This is particularly the case in rural areas, where it is reported that girls sometimes marry as young as 10 years old and with men twice their age (Ibid). Under customary and Sharia law, marriage is permitted for girls under the age of 16 (Shadow Report, Hommes, 2016; Girls not Brides, n.d.).

c) Household responsibilities

Under statutory law, the husband is recognized as the head of the household, responsible for the maintenance and protection of his household (Family Code, art. 319; Ordinance 73-036, art. 86). Moreover, the wife is legally mandated to obey her husband, including decisions on where to live (Family Code, art. 316). In polygamous marriages, the husband must treat all wives equally (art. 320). Each parent has the legal responsibility to care for their children, whether during or after marriage (Family Code, art. 318 & 370). This includes ensuring the child's welfare, education, moral development, and overall maintenance (art. 318).

In practice, traditional and discriminatory attitudes persist regarding the roles and responsibilities of women within the family and the society as a whole (CEDAW, 2016; US Department of State, 2017). Under customary and religious tradition, men are placed in a dominant role over women in the family and in society (Hommes, Shadow Report, 2016). Women generally bear a larger share of unpaid care work where they routinely spend hours a day collecting firewood, getting water, pounding millet, and harvesting crops (Bibler and Zuckerman, 2013).

d) Divorce

Under statutory law, divorce may be equally initiated by either spouse on a “no fault” basis or on the grounds of adultery, abuse or alcoholism (Family Code, art. 337-352). Upon the conclusion of the divorce, the divorced woman must wait three months before entering into a new marriage; the divorced husband does not have such requirements (art. 366).

With regard to children, civil law allows each parent the equal right to legal guardianship based on the best interest of the children and the decision of the court (art. 369). In addition, the father and mother share equal rights and responsibilities for the maintenance, education and well-being of the children after divorce, in proportion to the respective incomes (art. 370). This includes equal visitation rights as applicable (Ibid).

In practice, women are particularly vulnerable in cases of divorce regarding child custody and inheritance (US Department of State, 2017). Due to their lack of education and information and the high costs of court proceedings, women have limited access to legal services and the ability to fully enjoy their legal rights, specifically in the case of marriage, divorce, custody, and inheritance (US Department of State, 2017; CEDAW, 2016).

e) Inheritance

Under civil law, women and girls have the same inheritance rights as men and boys. Specifically, the Family Code (2011) stipulates that children succeed their father or mother, without any distinction of sex (art. 773). The civil law also protects women from being denied access to the property of their deceased spouse, for both land and non-land assets. The Family Code stipulates that the surviving spouse, male or female, has a right of occupation of the estate (until its division, or due to remarriage or death) and is entitled to at least a quarter of the estate. The Family Code also provides for the separation of estate as the default marital property regime for both monogamous and polygamous marriages, providing the original owner with the right to administer property during marriage (art. 396).

In practice, many communities continue to lean on customary or religious practices when dealing with inheritance. In some communities, women are considered the property of men and their inheritance rights are denied. They are rather treated as part of the estate, and the practice of levirate is evoked (FAO, n.d.). In other communities, particularly in rural areas, land is traditionally inherited from father to son (FAO, n.d.). Under Sharia law, women inherit a smaller portion than men (FAO, n.d).

2. Restricted Physical integrity

a) Violence against women

In 2005, Mali ratified the Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (The Maputo Protocol), committing to take actions against violence against women. To this end, the state has taken some steps to address the issue, including drafting a bill addressing violence against women as well as a national programme to combat violence against women and girls (CEDAW, 2016). Moreover, the government drafted a National Plan to implement United Nations Security Council resolution 1325, proposing strategies to combat gender-based

violence during conflict and promoting the participation of women in implementing the Agreement for Peace and Reconciliation in Mali (Human Rights Council, 2017). Additionally, the state established the National Action Committee for the Abandonment of Harmful Practices which addresses sixteen traditional practices harmful to the physical integrity and health of women and children in Mali (UN Women, n.d.).

In practice, violence against women remains widespread throughout the country and there is a lack of support and protection services for victims (Human Rights Council, 2017; CEDAW, 2016). Harmful practices, including child and forced marriage, polygamy, female genital mutilation, degrading widowhood practices, force-feeding, and levirate and sororate marriage continue to persist and are rarely prosecuted (CEDAW, 2016; Shadow Report, Hommes, 2016). Gender-based violence, including domestic and sexual violence, is socially accepted (CEDAW, 2016). During times of armed conflict in Mali, women and girls were particularly vulnerable to violence and other violations to their human rights (Joint Submission of NGOs, 2016). Moreover, most cases are not reported, owing to a culture of silence and impunity surrounding sexual and domestic violence (CEDAW, 2016).

b) Domestic violence

The legislation does not criminalise domestic violence, although physical assault is criminalised (Penal Code, art. 207-208). No information is available on support services for survivors of domestic violence.

Domestic violence, including spousal abuse, is widespread (US Department of State 2017). However, survivors of spousal violence often do not report the incidents to avoid social stigma and potential ostracism from their families and communities, or in fear that their husbands would divorce or retaliate against them (US Department of State 2017).

c) Rape

According to the Penal Code, rape is a criminal act where the perpetrator may be penalized by five to twenty years of imprisonment (art. 226). The law provides for increased penalties for aggravated forms of rape and sexual violence (Ibid). The law however does not address marital rape.

The law is reportedly not enforced effectively and rape remains a widespread problem (US Department of State, 2017). Sexual violence is under documented, largely due to fear of retaliation, societal and familial pressures, shame and stigma (Human Rights Council, 2017; US Department of State, 2017). Spousal rape remains a taboo (Joint Submission NGO, 2016).

d) Sexual harassment

At present, there is no law that prohibits sexual harassment. Sexual harassment is common in the country, including in schools (US Department of State, 2017).

e) Female genital mutilation

There is no law prohibiting female genital mutilation (FGM). A bill to prohibit FGM was submitted in 2009 to the National Assembly, but was not adopted (CEDAW, 2016). While there is no specific legislation on FGM, authorities have prohibited the practice in government funded health centres (US Department of State, 2017). The government made efforts to encourage abandonment of the

practice, including establishing a National Action Committee on the Eradication of Practices Harmful to Women's and Children's Health, several national programs to eradicating the practice and national awareness raising campaigns (Human Rights Council, 2017; Joint Submission of NGOs, 2016; UN Women, n.d.).

FGM is widely practiced throughout the country, resulting in a very high incidence particularly in rural areas (CEDAW, 2016; US Department of State, 2017; Diabata, 2015). Prohibition of the practice in government funded health centres led to the practice being performed underground, involving more serious health complications for women and girls, including death (CEDAW, 2016). Driving influences for the practice include a mix of cultural, religious and social factors within families and communities where FGM is seen as a traditional rite of passage for young girls into adulthood and marriage (Diabata, 2015; CEDAW, 2016).

f) Abortion

Under the state's penal code, abortion is prohibited, except to save a woman's life (art. 211). The law penalizes both the pregnant woman seeking (or who obtained) an abortion and the physician or medical practitioner performing it (Ibid). Penalties include up to five years imprisonment and a monetary fine.

Women often lack information on their sexual and reproductive health and rights, and defer to their husbands on such matters, including family planning (US Department of State, 2017).

3. Restricted Access to productive and financial resources

a) Secure access to land and assets

While the state provides for equal property rights, in practice, customary or religious laws tend to prevent women from accessing those rights (US Department of State, 2017; FAO, n.d.). Under statutory law, women and men share equal rights to acquire, manage, and make decisions on land (Constitution, 1992). The Family Code enlists the separation of estate as the default marital property regime for both monogamous and polygamous marriages, allowing the original owner of the property to be the legal administrator of property during marriage (art. 396). Measures promoting women's equal access to land include the Agricultural Orientation Law which promotes the equal participation of women and men in the management of a family farm (2006).

In practice, women in Mali have limited access to land as a result of discriminatory traditional practices, male favoured lineages, and poor awareness of the law (US Department of State, 2017; USAID, 2010; FAO, n.d.). Under customary law, the descendants of the first settlers of the land are recognized as the rightful landowners and are responsible for its management (US Department of State, 2017). Traditionally, however, women are not recognised as land owners due to discriminatory attitudes towards women (USAID, 2010). As a result, women often access land through their husbands or opt to establish legally recognized associations to request land for collective use (USAID, 2010; FAO, n.d.).

b) Secure access to formal financial resources

Women and men have equal rights to open a bank account and access credit and loans, irrespective of their marital status (World Bank, 2016). Moreover, the government has made efforts to promote women's access to credit, land and equipment through national programmes to combat poverty. Still, women's access to formal financial resources is contested in practice due to the legal obligation placed on women to obey their husbands. Due to patriarchal attitudes and discriminatory social norms that favour men, women's access to economic life opportunities is limited (US Department of State, 2017; CEDAW, 2016).

c) Workplace rights

In 1964 and 1968, Mali ratified International Labour Conventions No. 111 and 100 relating to discrimination in employment and occupation, and equal remuneration, respectively. Accordingly, the state has made efforts to domesticate these laws within their legal frameworks. Under the state's Constitution, each citizen, female or male, has the equal right to employment (Art 19). In addition, the Labour Code mandates equal pay for equal terms of work, qualifications and performance regardless of sex, origin and status (art. 95). Women and girls are prohibited from working in mines and working night hours (Labour Code, art. 186-189).

Pregnant women are entitled to 14 weeks of maternity leave fully paid by the government (Labour Code, art. 178-189). Moreover, the Labour Code protects women's employment security while they are on maternity leave (art. 183).

In practice, women's presence in the formal economy is limited and often precarious. Women tend to experience lower wages than men as well as persistent horizontal and vertical segregation (US Department of State, 2017; CEDAW, 2016). Women often turn to the informal sector and thus occupy non-skilled and low paid jobs with no benefits or job security (CEDAW, 2016). Moreover, young girls are vulnerable to domestic work and begging (Ibid).

4. Restricted Civil liberties

a) Citizenship rights

Women and men have the same rights to acquire nationality, regardless of their marital status (Nationality Code, amended 1995). However, while men may confer their nationality to their foreign spouse (art. 23), women may not.

Women can only confer their nationality to their children if the father is stateless (art. 8). The Code establishes the equal right of women and men to register the birth of their children, irrespective of their marital status (US Department of State, 2017). Authorities allowed late birth registration and offered birth registration guides in five local languages (French, Bamanankan, Fulfulde, Sonrai and Tamasheq) as well as audio and video versions for those with low literacy levels to ensure they reach all populations and make this service fully available to them (US Department of State, 2017; Human Rights Council, 2014). Yet, birth registration remains low, especially in rural areas (US Department of State, 2017).

The law allows both women and men to apply for passports and identity cards, irrespective of their marital status (Decree 14, 1988; World Bank, 2016). While the freedom of movement, the right to reside in any part of the country, and the right to enter or leave the country are enshrined in the Constitution, the Family Code obligates women to obey their husbands in the choice of residence (Family Code, art. 319).

b) Voting

Under the state's Constitution, women and men have equal rights to vote provided they are of legal voting age (art. 27).

c) Political voice

The law provides women with the same rights as men to hold public and political office (Constitution). The state has instituted compulsory quotas of at least 30% of party election lists reserved for female candidates and 30% of high-level government appointees be women (Act No. 2015-052, 2015). The government has introduced a national strategy covering the period 2012-2015 and an action plan for the participation and greater representation of women in the general elections (CEDAW, 2016).

Despite these measures, the participation of women in the political life remains largely marginal, with a low representation of women in elected and appointed decision-making positions in the National Assembly, the Government, the judiciary, the civil service at the national, provincial and municipal levels and the diplomatic service (CEDAW, 2016; US Department of State, 2017). Challenges to women's full participation in political and public life include cultural and religious attitudes on the roles of women in society, illiteracy and low education levels among women, low social status, and discriminatory laws that obligate married women to obey their husband (CEDAW, 2017; US Department of State, 2017).

d) Access to justice

By the state's Constitution, women and men are afforded the same rights to sue, to be sued, and to provide testimony in courts that is of equal evidentiary weight, regardless of marital status (art. 9). Moreover, the state has made efforts to provide legal support to women, particularly those who experienced discrimination and gender-based violence (CEDAW, 2016). In 2016, a National Commission of Human Rights was created to protect and promote human rights (Law °2016-036, 2016). Its key functions include ensuring the respect of the rights of vulnerable groups, particularly women, children and the elderly (Ibid). Complementing these efforts is the Ministry for the Promotion of Women, the Family, and Children who is responsible for ensuring the legal rights of women (US Department of State, 2017).

Even so, justice remains largely inaccessible to most women (US Department of State; CEDAW, 2016). Despite provisions in the state's Constitution (which takes precedence above all other legal regimes) against discrimination of all forms, customary discriminatory law is still practiced (CEDAW, 2016; Commission Nationale Des Droits De L'homme, 2016). There are several barriers for women to seek legal redress including their lack of knowledge of their legal rights, fear of retaliation, the social stigma attached to reporting certain crimes to formal authorities, societal and family pressures to resolve

things within the community, the length and cost of legal proceedings and an overall mistrust in the judicial system (CEDAW, 2016; Joint Submissions of NGOs, 2016; ABA, 2012). As a result, women often seek justice in informal courts, particularly disputes regarding domestic violence, divorce and inheritance. Informal courts allow greater accessibility to justice in terms of cost, time spent and location, offer some sense of familiarity given that most mediators speak the same language, and share the same culture and religion (ABA, 2012). However, they tend to lean towards amicable reconciliation and preserving social and family cohesion, which is not always in the best interest of women, particularly those involved in domestic violence cases (Ibid).

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