MALI

Since 1997, there has been a Ministry for Women in place, but in the face of limited legal protection for women, its effectiveness in promoting women’s rights has been constrained.¹ Article 2 of the Constitution of Mali (1992) establishes equality between women and men, and prohibits discrimination on the basis of gender. Mali ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa in 2005. The country also ratified the Convention on the Elimination of All forms of Discrimination against Women (CEDAW) in 1985, and the Optional Protocol on violence against women in 2000.²

1. Discriminatory family code

The National Assembly approved a draft of a new Family Code in August 2009 but following intense protests from Islamic groups – many of whom were women – President Amadou Toumani Toure declined to sign the new Code into law, and instead sent it back to Parliament for a second reading.³ Although the Code was originally designed to change provisions regarding age at marriage, custody of children, inheritance, and the stipulation that a wife should obey her husband,⁴ the revisions ultimately made more conservative changes, in some cases arguably more discriminatory than in the past.⁵ The new Family Code officially passed into law in 2011.

According to the new Code, men are considered “head of the household” (art. 319) and women are required to obey their husbands (art. 316).⁶ The legal age of marriage is 18 years for males and 16 for females. In certain cases, marriage can be authorised from 15 years with a judge’s permission and consent of the parents.⁷ In addition, religious marriages are now legally recognized.⁸ Although it is a criminal offence to abduct a woman or a girl to force her into marriage (punishable by up to ten years in prison), the law is not effectively enforced.⁹ In practice, women tend to marry at relatively early ages; data for early marriage is as follows: of adult women aged 25-49 questioned for the 2006 Demographic and Health Survey (DHS), 23% were married before the age of 15, 66% before the age of 18, and 95% before the age of 25.¹⁰ The 2006 DHS also indicates that 52.6% of girls aged between 15 and 19 years were married, divorced or widowed.¹¹ Moreover, reported data from 2013

¹ FAO (n.d.)
³ BBC (2009); Amnesty International (2010) p.220; Jones-Casey et al. (2011) p.4
⁴ IRIN (2010); African for Women’s Rights (2010)
⁵ The Guardian (2012)
⁶ World Bank (2013)
⁷ IRIN (2010); US State Department (2012)
⁸ Idem
⁹ IRIN (2010)
¹⁰ DHS (2007) p.85
¹¹ Idem
reveals that 55% of women between the ages of 20 and 24 were married or in union before they were 18 years old, ranking Mali 15th country in the world, within the 20th highest-prevalence countries. As described above, the 2011 Family Code provides that husbands are the heads of families and the Civil Code grants them sole family and parental authority. That said, in polygamous marriages, the husband is only considered to be the head of the family that he establishes with his first wife; subsequent wives are considered to be the heads of their respective households. Overall, women head 12.3% of households in Mali. The 2011 Family Code also provides that husbands decide where the family will live and their wives are obliged to obey. Under the Family Code, a man can appoint a legal guardian to look after the interests of his children in the event of his death: in such cases, the mother must consult the guardian in all legal matters pertaining to her children, and may lose custody of them if she remarrys. Inheritance is governed by Sharia, customary, and civil law, depending on the identity of the person concerned. Under the 2011 Family Code, female and male surviving spouses have equal inheritance rights to property, as do sons and daughters. Under sharia law, however, daughters are entitled to receive only half the share received by sons. A further discrimination is that women can inherit only poor quality land that is not very fertile. Customary law followed by certain ethnic groups views the wife as part of the inheritance, and obliges her to marry a brother of her deceased husband, who then receives all of the estate and assumes custody of the children. In other communities, when a woman dies, her younger sister is expected to marry the widower. In 2006, 28.86% of widows inherited the majority of assets after the death of their spouses. More Polygamy is legal according to Mali’s Marriage Code and under the teachings of Islam, the religion practised by nearly all of the population; men may marry up to four women. The husband must obtain the permission of the first wife before he marries again, although consent is often obtained through coercion and abuse. It is estimated that 39% of women are in polygamous marriages, including 20% of married girls aged 15-19. In some regions, discriminatory or harmful practices relating to marriage persist, such as arranging a girl’s marriage when she is born, giving a daughter in marriage to a witch doctor for religious reasons, or exchanging women between families or communities in order to strengthen relations between them. The present context

12 UNICEF (2012)
13 World Bank (2013)
14 DHS (2007) p.15
15 Idem, p.16
16 World Bank (2013)
17 World Bank (2013)
18 FAO (n.d.)
19 World Bank (2013)
20 Jones et al. (2011) p.2
21 Idem, pp.60, 61
22 Idem, pp.14, 24
23 Idem, p.23
24 Chronic Poverty Research Centre (2011) p.20
26 DHS (2007) p.82
of political and economic instability, and recent intense military conflict, has also been accompanied by an increase in forced marriages.\textsuperscript{28}

Legally, either spouse may petition for divorce, but in rural areas women rarely initiate proceedings because of strong social pressure and fears of losing custody of their children.\textsuperscript{29}

The adolescent fertility rate for 15-19 year olds, according to the preliminary 2012-2013 Demographic and Health Survey, is 172 per 1000 women.\textsuperscript{30}

When it comes to decision-making, women surveyed in the 2006 Demographic and Health Survey (DHS) report that it is primarily their husband or partner who makes decisions regarding both large household purchases (68.0\%) and daily household purchases.\textsuperscript{31} However, 86.9\% of women report they primarily decide the use of the money they earn.\textsuperscript{32}

\textbf{2. Restricted physical integrity}

There is no specific law in Mali to address violence against women in general or, more specifically, sexual harassment or domestic violence, although a five-year national action plan to combat violence against women was launched in 2006.\textsuperscript{33} Police rarely intervene in cases of domestic violence, although assault is punishable by fines and a prison term of up to 10 years.\textsuperscript{34}

Rape is a criminal offence in Mali and the law provides a penalty of up to 20 years imprisonment but it is not effectively enforced and very few cases are registered or prosecuted.\textsuperscript{35} There is no law specifically pertaining to spousal rape.\textsuperscript{36} Sexual harassment, domestic violence, including spousal abuse, and rape are reportedly widespread, although specific data on prevalence is not available. In the recent conflict in Northern Mali (2012-2013), reports of armed groups committing rape and sexual violence were widely reported, although again, specific data is not available.\textsuperscript{37}

There is a high level of tolerance for violence against women in Malian society. Public opinion generally accepts that men have a ‘right’ to beat their wives: in the 2006 DHS, 75.2\% of women questioned agreed with at least one of 5 ‘reasons’ for a man to beat his wife.\textsuperscript{38} In addition, many women are reluctant to report cases of domestic violence for fears of social ostracism, or of being divorced by their husbands and left with no means to support themselves.\textsuperscript{39}

\begin{footnotes}
\footnote{28 US State Department (2012)}
\footnote{29 Purdy, E.R. (2013) p.747}
\footnote{30 DHS (2012-2013) p.9}
\footnote{31 DHS (2007) p.279}
\footnote{32 DHS (2007) p.276}
\footnote{33 World Bank (2013); US Department of State (2012)}
\footnote{34 US State Department (2012)}
\footnote{35 Idem}
\footnote{36 Idem}
\footnote{37 Amnesty International (2012)}
\footnote{38 DHS (2007) p.282}
\footnote{39 US State Department (2012)}
\end{footnotes}
Most women in Mali have been subjected to female genital mutilation (FGM). Estimates as to the exact number of women range from 85.2% to 91.6%, although prevalence varies considerably by region. There is no law in place banning FGM, although it is illegal for the procedure to be carried out in government-run health centres. To date, the government has not put forward any legislation to prohibit FGM. Some efforts, however, have been made to raise awareness of the harmful health effects of FGM/C.

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Abortion is illegal in Mali, with the exception of saving a woman’s life, rape or incest.

Under Malian law, women have the right to decide freely when and how many children to have and reproductive health services are provided through primary health care clinics and a community-based distribution system. In practice, in the 2006 Demographic and Health Survey (DHS), 71.8% of women report that it is primarily their husband or partner who makes decisions concerning their health. When it comes to contraception, the 2012-2013 Preliminary DHS reports that 10% of women age 15-49 use a modern form of contraception while the 2006 DHS reports that 31.2% of women aged between 15 and 49 years old had unmet need for family planning.

While homosexuality is not illegal in Mali, in practice, discrimination is widespread.

3. Son bias

The male/female sex ratio for the working age population (15-64) in 2013 is 0.96, while the sex ratio at birth is 1.03.

There is evidence to suggest that Mali is a country of low concern in relation to missing women due to elevated child sex ratios.

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According to the 2006 Demographic and Health Survey (DHS), 51.6% of boys and 44.7% of girls aged 1-2 years had been vaccinated against the main childhood illnesses. However infant and early childhood malnutrition rates are slightly higher for boys under five than for girls, overall infant and under-five mortality rates are slightly higher for boys. In terms of schooling, 61.1% of girls aged 15-19 had never been to school, against 49.1% of boys in the same age bracket.

40 Lower Figure: DHS (2007) p.287; Higher Figure: UNECA (2009) p.54
41 US State Department (2012)
43 UN, Department of Economic and Social Affairs (2013); Guttmacher Institute (2012)
44 CEDAW (2006)
45 DHS (2007) p.279
46 DHS (2012-2013) p.11
47 DHS (2007) p.71
48 Ilga (2014); US Department of State (2011)
49 Central Intelligence Agency (2013)
50 Idem, p.131
51 Idem, pp.175, 190
52 Idem, pp. 7-8
Discrepancies in vaccination rates would indicate some son preference in regard to early childhood care, but this is not correlated by rates of infant and early childhood mortality and malnutrition. Access to education needs to be considered in the context of low levels of education overall, but even so, the rates given above would indicate preference towards educating sons over daughters, which is likely linked to the practice of marrying girls while they are still very young.

4. Restricted resources and assets

According to 2000 Land Tenure Law, men and women have an equal right to hold title to land. The Agricultural Law of 2006 similarly ensures the promotion of gender equality in the agricultural sector; article 24 states that Mali favours supporting the establishment of vulnerable groups, including women and youth as farmers.\(^{53}\) The percentage of women having access to land increased in Mali from 18.7% in 2007 to 20% in 2008-2009. This positive trend may partially be attributed to implementation of the Agricultural Law described above.\(^{54}\)

In practice, however, these laws not strongly enforced and few women are aware of the formal rights.\(^{55}\) Most Malian women access land on the basis of customary law, religious law, or a combination of the two, under which primary rights to land are passed between men.\(^{56}\) Women thus tend to access land through their husband or husband’s family. While women may cultivate land owned by her family of birth, she is not allowed to retain the land or transfer the latter to her husband upon marriage.\(^{57}\) Women also face the signification challenge of meeting the costs of inputs for production when they do have access to land.\(^{58}\)

Under the Constitution, married and unmarried Malian women have legal ownership rights to non-land assets, but these rights are often restricted in practice and, as in legislation regarding access to land, many women are unaware of what rights they do enjoy.\(^{59}\) That said, the new Family Code of 2011 provides separation of property as the default marital property regime for both monogamous and polygamous marriages (art. 388), as well as provides that within marriage, it is the original owner who legally administers property during marriage (art. 396).\(^{60}\)

There are no legal restrictions on women’s access to financial services, including when opening a bank account or accessing credit and bank loans.\(^{61}\) Low incomes and an inability to provide sufficient collateral often prohibit women from accessing large bank loans, although government-run micro-credit development programmes have enhanced women’s ability to access credit for agricultural equipment and trade. The latest data available shows that only 16% of creditors in Mali are women.\(^{62}\)

\(^{53}\) Jones et al. (2011) p.2
\(^{54}\) Ministry of Economy and Finance (2010)
\(^{55}\) Jones et al. (2011) p.3
\(^{56}\) Idem
\(^{57}\) Focus on Land in Africa (2013)
\(^{58}\) Idem
\(^{59}\) US State Department (2012); World Bank (2013)
\(^{60}\) World Bank (2013)
\(^{61}\) Idem
\(^{62}\) Ministry of Promotion of Women, Child, and Family (2010)
5. Restricted civil liberties

Married and unmarried women may apply for a passport in the same way as a man. They may also, according to the Constitution, get a job or pursue a trade or profession in the same way as a man. Their freedom of movement and access to public space is, however, affected by other legislation. For example, the 2011 Family Code provides that the choice of domicile is to be made by the husband. In addition, according to the 2006 Demographic and Health Survey (DHS), 57.3% of women reported that it is primarily their husband who decides whether they can visit friends and relatives.

The Malian Constitution guarantees freedom of association and freedom of assembly, and while these rights have generally been respected in practice, exceptions have occurred especially following the coup in 2012. Little information is, however, available on reports relative to discrimination against women’s associations and freedom for collective action, although there is evidence of considerable disparity in civic participation among gender groups, with more marginalized groups such as women and youth participating considerably less than more dominant, male groups. In addition, although freedom of expression is protected by the Malian constitution, the 2006 DHS reported that 24.6% of women had no access to the media at all, compared to 13.9% of men.

No legal quota exists regarding the minimum proportion of women in the national assembly and other decision-making bodies, although the political party, Alliance for Democracy in Mali, has a 30% quota. The majority of decision-makers in public service (Ministers, General Secretaries, and Administrative Directors etc.) are represented by men; in 2012, there were 15 women in the National Assembly (out of 147 members, constituting just over 10%), and six women in the 29-seat cabinet. In 2013, women held 10.2% of parliamentary seats.

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Under Malian law, gender-based discrimination in hiring is prohibited, and women have the right to 14 weeks fully paid maternity leave, financed by social security. However, nearly 50% of women in Mali are employed in agriculture (48.4%), meaning that they are not covered by employment legislation. The Labour Code also mandates equal remuneration for men and women for work of equal value.

Malian women do not have the right to pass their nationality on to their children, in instances where the children’s father is not a Malian citizen.

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63 World Bank (2013)
64 DHS (2007) p.279
65 US State Department (2012)
66 World Economic Forum (2011)
68 QuotaProject (2009)
69 CNDIFE (2010)
71 World Bank (2013)
72 Focus on Land in Africa (2013)
73 World Bank (2013)
74 Idem
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