

**REPUBLIC OF MALI**  
**One People - One Purpose – One Faith**



*MALI PERIODIC REPORT TO THE AFRICAN COMMISSION ON HUMAN  
AND PEOPLES' RIGHTS RELATING TO THE IMPLEMENTATION OF THE  
AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS, 2001-2011*

*December, 2011*

## **TABLE OF CONTENTS**

### **ACRONYMS AND ABBREVIATIONS**

### **INTRODUCTION**

### **PART ONE: GENERAL INFORMATION**

#### **Title I: Legal Framework**

A. Legal Instruments Relating to Human Rights Ratified by Mali

B. Main Legislative and Regulatory Enactments

#### **Title II: Institutional Framework**

### **PART TWO: MEASURES TAKEN TO GUARANTEE RIGHTS PROTECTED BY THE CHARTER**

#### **Title I: Civil and Political Rights**

Rights, Duties and Human and Peoples' Freedom (Article 1)

Non-Discrimination (Article 2)

Equality before the Law and Equal Protection by the Law (Article 3)

Right to Life and Physical and Emotional Integrity (Article 4)

Prohibition of Torture and Cruel, Inhuman or Degrading Treatment or Punishment (Article 5)

Right to the Security of the Person and Prohibition of Arbitrary Arrests or Detention (Article 6)

Right to a Fair Trial (Article 7)

Freedom of Thought, Conscience and Religion (Article 8)

Right to Information and Freedom of Expression (Article 9)

Freedom of Movement, Association, Demonstration and Assembly (Articles 10, 11 and 12)

Right to Participate in Government (Article 13)

Right to Property (Article 14)

## **Title II: Economic, Social and Cultural Rights**

Right to Work under Fair and Favourable Conditions (Article 15)

A. Right to Work in the Public Service

B. Right to Work in the Private Sector

Right to Enjoy the Best State of Physical and Mental Health (Article 16)

Right to Education and Right of Individuals to take part in Cultural Activities (Article 17)

A. Right to Education

a) Formal Education

b) Non-Formal Education

B. Right to take part in Cultural Activities

## **Title III: Specific Rights**

Rights of Women, Children, Older Persons and Persons with Disabilities (Article 18)

A. Rights of Women

B. Rights of Children

C. Rights of Persons with Disabilities

## D. Rights of Older Persons

### **Title IV: Peoples' Rights**

Right of People to Equality (Article 19)

Right of People to Self-Determination (Article 20)

Right of People to the Free Disposal of their Resources and Wealth (Article 21)

Right of People to Economic, Social and Cultural Development (Article 22)

Right of People to Peace and International Security (Article 23)

Right of People to a Sound Environment (Article 24).

### **Title V: Duties stipulated in the Charter**

Promotion of Human Rights (Article 25)

Independence of the Judiciary and Establishment of National Human Rights Promotion and Protection Institutions (Article 26)

Duty to Respect Others and to Regard them without Discrimination (Article 28)

Other Duties (Article 29)

Paragraph 1: Duty to Preserve the Harmonious Development of the Family

Paragraph 2: Duty to Place One's Physical and Intellectual Capacity at the Service of the State

Paragraph 3: Duty not to compromise the Security of the State

Paragraph 4 : Duty to Preserve National Social Solidarity

Paragraph 5: Duty to Contribute to the Defence of One's Country

Paragraph 6: Duty to Work and to Make One's Contribution to the State

Paragraph 7: Duty to Preserve African Cultural Values

Paragraph 8: Duty to Contribute to the Promotion and Attainment of African Unity

**Conclusion:**

**ANNEXES:**

Annex 1: Constitution of the Republic of Mali

Annex 2: Law No. 09-042 of 19 November, 2009 relating to the Establishment of the National Human Rights Commission (NHRC)

Annex 3: Decree No. 09-049/P-RM of 12 February, 2009 on the establishment of an Inter-Ministerial Support Committee for the Preparation of Initial and Periodic Reports for the Implementation of the International Conventions ratified by Mali “CIMERAP”

Annex 4: List of Human Rights Treaties and Agreements ratified by Mali

**Acronyms and Abbreviations**

**ABS:** Sectoral Budgetary Support

**ACI:** Property Transfer Agency

**ADARS:** Direct Support Fund for the Improvement of School Performance

**AECID:** Spanish Agency for International Development Cooperation

**AMO:** Compulsory Health Insurance

**ANICT:** National Local Authority Investment Agency

**ANPE:** National Employment Agency

**APEJ:** National Youth Employment Promotion Agency

**APEP:** Private Enterprise Promotion Agency

**APERP:** Employment Promotion Support and Poverty Reduction

**APPDH:** Human Rights Promotion and Protection Support

**ARV:** Access to Traditional Medicines

**AfDB:** African Development Bank

**IDB:** Islamic Development Bank

**ILO:** International Labour Office

**WB:** World Bank

**SIB:** Special Investment Budget

**BTP:** Construction and Public Works

**BUMDA:** Malian Copyright Office

**CADJ:** Centre for Access to Justice

**CAFE:** Women’s Apprenticeship Centre

**CAMM:** School of Multimedia Engineering and Technology

**CANAM:** National Health Insurance Office  
**CAP:** Youth Educational Centre  
**CAP:** Vocational Training Certificate  
**CASCA:** Public Service Control Structures Unit  
**CCDV:** Voluntary Counselling and Screening Centre  
**CED:** Development Education Centre  
**ECOWAS:** Economic Community of West African States  
**CEDAW:** Convention on the Elimination of All Forms of Discrimination against Women and Children  
**CEI:** Integration Education Centre  
**CEMOC:** Joint Staff Operational Committee  
**INEC:** Independent National Electoral Commission  
**CENTIF:** National Financial Information Processing Unit  
**CFP:** Vocational Training Centre  
**CGS:** School Management Committee  
**CIVPOL:** Civil-Military, Civil Police  
**CIMERAP:** International Committee to Support the Preparation of Initial and Periodic Reports for the Implementation of International Conventions ratified by Mali  
**CNAOM:** National Orthopaedic Training Centre  
**NHRC:** National Human Rights Commission  
**ICC:** International Criminal Court  
**ANC:** Antenatal Consultation  
**CRLD:** Sickle-Cell Anaemia Research Centre  
**CHC:** Community Health Centre  
**NSF:** National Strategic Framework  
**CSRéf:** Referral Health Centre  
**CSCRFP:** Strategic Growth and Poverty Reduction Framework  
**CSLP:** Strategic Anti-Poverty Framework  
**LA:** Local Authority  
**DDR:** Disarmament Demobilisation Reintegration  
**DEF:** Basic School Diploma  
**DGE:** General Electoral Organization  
**EDS:** Population and Health Survey  
**EDSM IV:** Population and Health Survey in Mali IV  
**EH:** Hospital Facility  
**EID:** Democratic Discussion Forum  
**EMP:** National Peace-Keeping School  
**NFE:** Non-Formal Education  
**ENVR:** National Regional Vaccination School  
**EPH:** Public Hospital Facility  
**EFA:** Education For All  
**ETP:** Technical Vocational Education  
**FAFPA:** Vocational Training and Apprenticeship Support Fund

**FAM:** Medical Assistance Fund  
**FAO:** United Nations Food and Agriculture Organization  
**FARE:** Self-Renewable Employment Fund  
**EDF:** European Development Fund  
**FEMAPH:** Malian Federation of Persons with Disabilities  
**IFAD:** International Fund for Agricultural Development  
**FMPOS:** Faculty of Medicine and Dentistry  
**FNEJ:** National Youth Employment Fund  
**FNL:** National Housing Fund  
**HANDISPORT:** Development of Sports for Persons with Disabilities  
**IDA:** International Development Association  
**INPS:** National Social Welfare Institute  
**INRSP:** National Public Health Research Institute  
**ISFP:** Integration of Vocational Training Graduates  
**APRM:** African Peer Review Mechanism  
**MAP:** African Photography House  
**MATCL:** Ministry of Territorial Administration and Local Government  
**MEFP:** Ministry of Employment and Vocational Training  
**MTA:** Improved Traditional Medicines  
**MTRC:** Malaria Training Centre  
**NEPAD:** New Partnership for Africa's Development  
**OEF:** Employment and Training Observatory  
**ILO:** International Labour Organization  
**MDGs:** Millennium Development Goals  
**WHO:** World Health Organization  
**NGO:** Non-Governmental Organization  
**UNO:** United Nations Organization  
**UNIDO:** United Nations Industrial Development Organization  
**OAU:** Organization of African Unity  
**PADESC:** Support Programme for Economic and Social Development of Culture  
**PAFHAM:** Mali Housing Financing Support Project  
**PAFIP:** Training and Youth Integration Support Programme  
**PAFPE:** Vocational Training and Employment Support Project  
**PAJE/nièta:** Young Businesses/nièta Support Project  
**WFP:** World Food Programme  
**PANA:** National Programme of Action for Adaptation to Climate Change in Mali  
**PAPESPRIM:** Support Programme for the Promotion of Employment in the Private Sector of Mali  
**PAPME:** Small and Medium Enterprise Support Project  
**PASAOP:** Support Programme for the Agricultural Sector and Farmer Organizations  
**PCFP:** Photography Training Centre  
**PDES:** Economic and Social Development Project  
**PDUD:** Urban Development and Decentralization Project

**PEMA:** Proclamation of the Gospel by the Media in Africa  
**PEJ:** Youth Employment Programme  
**PEJ II:** Youth Employment Programme II  
**PEJIMO:** Project for the Integration of the Youth in Professional Life through Labour-Intensive Investments  
**PEV:** Expanded Programme on Immunization  
**PISE:** Education Sector Investment Programme  
**PMA:** Minimum Package of Activities  
**SMEs-SMIs:** Small and Medium Enterprises/Industries  
**PNA/ERP:** National Employment Action Programme for Poverty Reduction  
**PNFP:** National Vocational Training Policy  
**PNPE:** National Environmental Protection Policy  
**UNDP:** United Nations Development Programme  
**PNVA:** National Agricultural Extension Programme  
**PRODEC:** Ten-Year Educational Development Programme  
**PRODEFPE:** Ten-Year Youth Vocational Training and Employment Development Programme  
**PRODEJ:** Ten-Year Justice Development Programme  
**PRODESS:** Health and Social Development Programme  
**TFP:** Technical and Financial Partner  
**PMTCT:** Prevention of Mother-to-Child Transmission  
**PLWHIVs:** Persons Living with the Human Immunodeficiency Virus  
**RAMED:** Medical Assistance Regime  
**GPHC:** General Population and Housing Census  
**SCAMA:** Creativity and Craft Industry Week of Mali  
**SCAMG:** Commercial and Craft Industry Week of Mali in Guinea  
**SEMA:** Mali Equipment Company  
**SITA:** International Tourism and Crafts Fair  
**SITOUR:** Bamako International Tourism Fair  
**SNIS:** National Health Information System  
**SP:** Sulphadoxine-Pyrimethamine  
**UDPM:** Democratic Union of the Malian People  
**UFAE:** Enterprise Training and Support Unit  
**UNESCO:** United Nations Educational Scientific and Cultural Organization  
**USAID:** United States Agency for International Development  
**USRDA:** Sudanese Union of the African Democratic Rally  
**HIV/AIDS:** Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome  
**UNV Sanghai:** United Nations Volunteers Programme

## **INTRODUCTION:**

1. This periodic report was prepared pursuant to Article 62 of the African Charter on Human



and Peoples' Rights adopted by the Eighth OAU Assembly of Heads of State and Government on 27 June, 1981 in Nairobi, Kenya, and came into force on 21 October, 1986.

2. In accordance with this Article, "each State Party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken, with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter."

3. It should be stated that Mali ratified the African Charter on Human and Peoples' Rights per Order No. 81-36/P-RM of 29 October, 1981.

4. The preparation of this report reviews the status of the implementation of the Charter by taking into account directives on the subject, observations made during the presentation of the Initial Report (26<sup>th</sup> Ordinary Session of the African Commission on Human and Peoples' Rights held in Kigali from 1 to 15 November, 1999), as well as the developments observed over the last few years.

5. This report, which reduces the periodic reports which were due in 2001, 2003, 2005, 2007, 2009 and 2011 respectively into a single document, examines the human rights situation in Mali by relying particularly on the provisions set forth by the regulatory framework at the national, regional and international levels.

6. The Republic of Mali, mindful of the fact that the ratification of many international legal instruments in various areas enjoins it to submit initial and periodic reports to the organs tasked to supervise the implementation of its international commitments by State Parties, established the Inter-Ministerial Support Committee for the Preparation of Initial and Periodic Reports for the implementation of the International Conventions ratified by Mali, "CIMERAP" per Decree No. 09-049/P-RM of 12 February, 2009.

7. The said Committee is basically made up of representatives of the ministries. Furthermore, it may appoint any other person or structure whose contribution it deems useful for the accomplishment of its mission, particularly the National Human Rights Commission and the main civil society organizations working in the area of human rights.

8. In order to collect the necessary information for the preparation of this report, a wide consultation process was initiated at the national level for the main stakeholders directly or indirectly concerned with human rights issues.

9. A validation workshop which brought together all stakeholders involved in human rights issues (government bodies and civil society organizations) was organized and subsequently adopted by Cabinet.

## **PART ONE: GENERAL INFORMATION**

## **OVERVIEW**

10. Mali is a land-locked country situated in the heart of West Africa within the Sudano-Sahelian belt. It covers a surface area of 1,241,238 km,<sup>2</sup> with 65% of it in the desert or semi-desert region. It shares a 7,420 km-border with its neighbours: Algeria to the north, Niger to the east, Burkina Faso to the south-east, Cote d'Ivoire to the south, Guinea-Conakry to the south west, Senegal to the west and Mauritania to the north-west.

11. The country is divided into eight (8) Administrative Regions and a District (Bamako), forty-nine (49) Cercles and 703 rural and urban towns.

12. According to the results of the latest General Population and Housing Census (RGPH 2009), Mali's population was estimated at 14,517,176 inhabitants, 70% of whom live in the rural areas and are engaged in the primary sector. It is a very young population, with 59.5% of them being less than 19 years old. Women account for 50.4% of the population. The annual population growth rate stands at 3.6%.

13. According to the Statistical Yearbook of the Ministry of Education, the gross school-going rate in the first cycle of basic education (1<sup>st</sup> cycle or primary 1) increased from 79.5% in 2009-2010 to 81.5 % in 2010-2011, with girls accounting for 74% and boys representing 89.1%. The gross basic school admission rate decreased from 74.70% in 2009-2010 to 69.5% in 2010-2011. The rate for girls decreased from 69.10% to 64.3%. The completion rate decreased from 56.30% in 2009-2010, with girls accounting for 48.6%, to 57.1% in 2010-2011, with girls accounting for 50.4%.

14. Mali is an ethnic and cultural melting pot. Its population is made up of Muslims, Christians and animists. The Malian economy relies on agriculture, livestock, fishing, craft industry, trade, tourism, mining, industry as well as small and medium enterprises, etc.

15. According to the results of Growth and Poverty Reduction Strategic Framework (GPRSF), the GDP growth rate stood at 4.5% in 2009, as against 4.3% in 2007 and 5% in 2008. The majority of the Malian population live below the poverty line. Furthermore, Mali is very vulnerable to fluctuations in the world prices of commodities which are basically made up of three primary commodities (cotton, gold and livestock), its main exports.

16. As a country with a millennia-old civilization, Mali taps the roots of its current political and human rights practice from its own history and universal democratic values.

17. Indeed, in 1236, the "Kouroukan Fouga" Charter, the Founding Act of the Great Mali Empire, had all the attributes of a constitution and contained provisions relating to the

protection and promotion of human rights.

## **TITLE I: LEGAL FRAMEWORK**

### **A. Legal human rights instruments ratified by Mali**

18. The Republic of Mali is party to several international legal human rights instruments. Among others, these are as follows:

#### **1- At the International Level:**

- the International Convention on Civil and Political Rights and its first Optional Protocol;
- the International Convention on Economic, Social and Cultural Rights;
- the International Convention on the Elimination of All Forms of Racial Discrimination;
- the Convention on the Rights of the Child;
- the International Convention on the Elimination of All Forms of Discrimination against Women and its Optional Protocol;
- the Convention on the Protection of the Rights of All Migrant Workers and Members of their Families;
- the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and its Optional Protocol;
- the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict;
- the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography;
- the 1949 Geneva Conventions and their Additional Protocols I and II;
- the Convention on the Prevention and Punishment of the Crime of Genocide;
- the 1951 Convention on the Status of Refugees and its Protocol;
- the International Convention against Doping in Sport;
- the Rome Statute of the International Criminal Court;
- the core Conventions of the International Labour Organization, particularly Conventions No. 4, 6, 29, 87, 98, 100, 105, 111, 138 and 182 ;
- the core Conventions of UNESCO, and more particularly the Convention against Discrimination in Education;
- the Convention on the Rights of Persons with Disabilities and its Optional Protocol, and
- the International Convention for the Protection of All Persons from Enforced Disappearance.

#### **2- At the Regional Level:**

- the African Charter on Human and Peoples' Rights;
- the African Charter on the Rights and Well-Being of the Child;

- the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights;
- the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women;
- the OAU Convention Governing Specific Aspects of the Refugee Problem in Africa;
- the African Youth Charter, and
- the human rights commitments made by Mali within the framework of ECOWAS and the Francophonie.

19. Under the provisions of Article 116 of the Constitution of 25 February, 1992: "Duly ratified or approved treaties or agreements shall, as soon as they are published, be more binding than the laws, subject to its application by the other party in respect of each treaty or agreement."

20. The commitment to the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights in the preamble to this Constitution confers constitutional status on these two instruments of regional and international scope.

#### **B. Main legislative and regulatory enactments:**

21. The commitment of Mali to the universal values of human rights remains constant and is manifested at the regulatory level by the regular ratification of legal regional and international human rights promotion and protection instruments and the adoption of constitutional, legislative and regulatory provisions.

22. Thus, all the constitutions and other enactments of constitutional value which Mali has had since it attained independence in 1960 proclaimed the fundamental rights and freedoms of the human being.

23. Since 1991, the promotion and protection of human rights have been part of the pluralistic democratic process and the rule of law.

24. Indeed, the Constitution of 25 February, 1992 gives priority to human rights and freedoms. In this regard, in the preamble of this Constitution, Mali committed itself to the Universal Declaration of Human Rights and the African Charter on Human and Peoples' Rights, and commits itself to the defence of the specific rights of women and children and to ensure an improvement in the quality of life of all of its citizens. The whole of Title I of this Constitution deals with the rights and responsibilities of the human being.

25. It should be stated that the on-going reform of the 1992 Constitution which seeks to launch a wide range of political changes aims at providing the country with institutions which will work to achieve sustainable development. The objective is not to undermine the current institutions, but rather to adapt them to development needs and sub-regional integration.

26. Indeed, the planned reforms, which are the outcome of brainstorming activities on the

consolidation of democracy in our country, are making the most of the recommendations of the various meetings held on the electoral process and democratic governance in Mali.

27. In addition to the constitutional provisions, several legislative enactments have been adopted in the following areas:

▪ **Right to life, freedom, security and integrity of the person:**

- Law No. 01-079 of 20 August, 2001 on the Criminal Code which punishes violations on freedom, crimes and offences against persons, particularly homicide, assault and battery, violence, illegal arrests and the forcible confinement of individuals. Furthermore, the said law basically included crimes for which the International Criminal Court (ICC) has jurisdiction;
- Law No. 01-080 of 20 August, 2001 on the Criminal Procedure Code;
- Decree No. 99-254 of 15 September, 1999 on the Civil, Commercial and Social Procedure Code

▪ **Rights relating to the status of the person:**

- Law No. 62-18 /AN- RM of 03 February, 1962, amended by Law No. 95-70 of 25 August, 1995 on the Nationality Code;
- Law No. 2011-087 of 30 December, 2011 on the Code of Persons and the Family;
- Order No.73-036 of 31 July, 1973 on the Family Code ;

▪ **Prohibition of slavery, servitude and torture:**

- The Criminal Code and Labour Code prohibiting slavery and all similar practices;
- The Criminal Code punishing acts of torture and violence leading to mutilation, amputation or any other disability or illness, and
- Law No. 02-056 of 16 December, 2002 on the status of police officers prohibiting the officers from engaging in torture, ill treatment or inhuman, cruel, degrading or humiliating treatment within or outside the service.

▪ **Freedom of thought, conscience, religion, opinion and expression:**

- Law No. 00-046 of 7 July, 2000 on the regime relating to the press and press offences;
- Law No. 92-038 of 24 December, 1992 on the establishment of the High Communications Council;
- Law No. 93 - 001 of 6 January, 1993 on the Framework Law relating to the establishment of the National Committee on Equal Access to the State Media, and

- Law No. 61-86/AN-RM of 21 July, 1961 on the organization of the freedom of religion and worship.
- **Freedom of assembly, association, procession and demonstration:**
  - Law No. 04 - 038 of 5 August, 2004 on associations;
  - Law No. 00 - 047 of 13 July, 2000 on the status of opposition political parties, and
  - Law No. 05 - 047 of 18 August, 2005 on the Political Parties Charter.
- **Right to participate in government and the election of leaders:**
  - Law No. 06-044 of 04 September, 2006 on the Electoral Law which sets the conditions for the holding of elections, eligibility and ineligibility to stand for elections, rules governing their organization and the various remedies.
- **Right to work and rest, freedom of association and social security:**
  - Law No. 92-020 of 23 September, 1992 on the Labour Code which recognizes that every citizen has the right to work, rest and training and which absolutely prohibits forced or compulsory labour. It also recognizes that all workers have the right to join a trade union of their choice as well as the right to go on strike;
  - Law No. 02-053/AN-RM of 16 December, 2002 (amended) on the Civil Service Code;
  - Order No. 79-07 of 18 January, 1979 on the Civil Service Pension Scheme;
  - Law No. 99-041 of 12 August, 1999 on the Social Welfare Code of the Republic of Mali;
  - Law No. 95-071 of 21 August, 1995 on the Pension Scheme for Parliamentarians;
  - Order No. 33 CMLN of 30 September, 1971 on the Military Pension Scheme;
  - Order No. 041 CMLN of 06 December, 1971 on the Scheme on Disabilities related to Military Service, and
  - Order No. 02-062/P-RM of 05 June, 2002 on the Child Protection Code.
- **Right to education, health and a sound environment:**
  - Law No. 99-046 of 28 December, 1999 on the educational framework law;
  - Law No. 02-049 of 22 July, 2002 on the health framework law;
  - Law No. 02-044 of 24 June, 2002 relating to reproductive health;
  - Law No. 09-015 of 26 October, 2009 on the institution of the Compulsory Health

Insurance Scheme;

- Law No. 09-031 of 27 July, 2009 on the institution of the Compulsory Health Insurance Scheme (RAMED) ;
- Law No. 01-020 of 30 May, 2001 relating to pollution and nuisance, and
- Decree No. 01-395/ P-RM of 06 September, 2001 setting the modalities for the management of waste water and sludge.

## **TITLE II: INSTITUTIONAL FRAMEWORK**

28. Since it attained national and international sovereignty on 22 September, 1960, the country has witnessed three political regimes, with one transition after the events of 26 March, 1991:

- from 1960 to 1968: a socialist regime led by a one-party arrangement (US RDA);
- from 1968 to 1991: a military regime which installed a one-party constitutional arrangement in 1974, (UDPM), and
- from 1992 to 2001: a regime of rule of law and pluralistic democracy characterized by an integral multiparty arrangement introduced by the Constitution of 25 February, 1992.

29. In 1992, Mali entered a new phase of its history after the events of March, 1991. The country, like the other States of the sub-region, then opted for a democratic regime after the National Conference had been held.

30. This desire was crowned with the adoption of a constitution promulgated on 25 February, 1992, and which constitution stated in its preamble as follows: “The sovereign people of Mali (have)... undertaken to remain faithful to the ideals... of a State based on the rule of law and pluralistic democracy...”

31. It is in this regard that Article 25 of the Basic Law states that the Republic of Mali has the following eight (8) institutions: the President of the Republic, the Government, the National Assembly, the Supreme Court, the Constitutional Court, the High Court of Justice, the High Council of Local Government Authorities as well as the Economic, Social and Cultural Council.

32. Each of the eight Constitutional Institutions provided for by the said article plays a direct or indirect role in the promotion and protection of human rights.

### **A. Judicial Institutions:**

- Supreme Court as well as the other courts and tribunals:



33. According to Article 81 of the Constitution, judicial power, which is independent from the Executive and the Legislature, is exercised by the Supreme Court and the other courts and tribunals. In this regard, these courts ensure the respect of the rights and freedoms specified by the Constitution.

34. Since judicial authority is entrusted to judges, it is the primary responsibility of the latter to ensure the effective protection of these rights. This judicial protection is ensured throughout the country, particularly through the regular and administrative courts

35. The right to refer cases to these courts is formally recognized for all persons, with the only limitations being legal capacity, deadline for appeal or interest in instituting proceedings.

36. The organization and running of these courts and tribunals meet the main international justice delivery standards, namely equality before the law without any discrimination, independence and impartiality of justice delivery, presumption of innocence, the principle whereby offences and punishment are grounded in law, right of appeal in criminal cases, right to a defence as well as legal aid and assistance. The judicial reform system aims at improving the justice system with the institution of a new judicial organization in order to make it more effective.

- **Constitutional Court:**

37. The Constitutional Court is the main guarantor of fundamental human rights and public freedoms. It plays this role through its missions which aim at monitoring the constitutionality of laws, regular conduct of elections, regulation of the running of institutions and the activities of public authorities (Article 85 of the Constitution). Its decisions are not subject to any appeal. They are binding on the public authorities, all administrative and judicial authorities as well as all natural persons and legal entities (Article 94 of the Constitution).

## **B. Other Constitutional Institutions:**

- **Government:**

38. The Government plays an essential role in the promotion and protection of human rights through its various ministries in charge of foreign affairs and international cooperation, security, justice, promotion of women, children and the family, local government, health, education as well as social development and solidarity.

- **National Assembly:**

39. Through its legislative activities and functions relating to the control of the actions of the government, the National Assembly contributes to the promotion and protection of human rights. It is responsible for making the rights enshrined in the Constitution a reality and providing legislative follow-up to the regional and international commitments made by Mali. Through questions to the Government and commissions of enquiry, it can query the Government on any human rights violation situation and request it to adopt appropriate measures to put an end to the situation.

- Other institutions of the Republic:

40. The other institutions of the Republic are as follows: the High Court of Justice, the High Council of Local Government Authorities as well as the Economic, Social and Cultural Council.

### **C. Independent Structures:**

41. The human rights promotion and protection organs are the National Human Rights Commission, the Office of the Ombudsman, the High Communications Council, and the National Committee on Equal Access to the State Media as well as the Organizations and Associations for the protection of vulnerable groups.

- **National Human Rights Commission:**

42. The National Human Rights Commission (NHRC) is an independent administrative authority tasked with contributing to the promotion and respect of human rights through advice, proposals and evaluations in the area of human rights and fundamental freedoms.

43. Established by Law No. 09-042 of 19 November, 2009, the NHRC is for these purposes tasked with the following:

- (i) Consider all situations in which human rights violations have been observed or brought to its attention and take any appropriate action with the relevant authorities on the matter;
- (ii) Advise or make recommendations to the Government or any relevant authority on any human rights-related issue;
- (iii) Draw the attention of the authorities to all decisions or actions likely to infringe upon human rights;
- (iv) recommend to the Government all measures or actions likely to promote or protect human rights, particularly in the area of legislation and regulation as well as in administrative practices;
- (v) Carry out sensitization, information, educational and communications activities aimed at ensuring the promotion and respect of human rights or participating in them;

(vi) Carry out information and sensitization activities to prevent torture and other cruel, inhuman or degrading treatment or punishment;

(vii) Contribute to the formulation of reports the Government presents to international organizations, pursuant to its treaty obligations in the area of human rights;

(viii) Visit detention facilities where necessary and inform the Government about the prison situation of detainees, and

(ix) Prepare an annual report for the attention of the Government on the human rights situation.

44. It cooperates, within the limits of its authority, with international human rights organizations and publishes the opinions and reports it adopts.

- **Office of the Ombudsman:**

45. The Office of the Ombudsman was instituted by Law No. 97-022 of 14 March, 1997 as an independent authority tasked with the settlement of disputes between the authorities and the people in the execution of its public service missions. It is appointed for a non-renewable 7-year mandate and cannot be dissolved before it has served out its mandate. It is also financially autonomous.

46. It is tasked with receiving complaints from any natural person or legal entity concerning the running of State departments, local authorities, public establishments and any organ with a public service mission in their relations with the people.

47. The Office of the Ombudsman presents to the President of the Republic and the National Assembly an annual report which is published.

- **High Communications Council:**

48. The High Communication Council was established by Law No. 92-038/AN-RM of 24 December, 1992. It advises on the conditions of production, programming and dissemination in the area of print and electronic communication and issues relating to the guarantees of the freedom of communication. It rules on the allocation or withdrawal of frequencies to private radio and television stations and ensures compliance with the specifications concerning them.

49. It must be consulted before the adoption of any legislative or regulatory measure relating to print and electronic communication. It takes account of the communication requirements of the rural communities and encourages cultural integration as well as the development and full dissemination of national languages.

- **National Committee on Equal Access to the State Media**

50. The National Committee on Equal Access to the State Media was established by Law No. 93-001/AN-RM of 06 January, 1993, pursuant to Article 7 of the Constitution which provides that “equal access by all to the State media shall be ensured by an independent organ whose status shall be determined by a framework law.”

51. According to Article 3 of this law, the Committee ensures the balance and pluralism of information and takes account of the various political, economic, socio-cultural sensitivities of the country as well as the management of air time and editorial space for candidates and political parties during election campaigns.

52. Today, practitioners are calling for the establishment of a sole regulatory organ which will play the role of the High Communications Council and the National Committee on Equal Access to the State Media.

- **Auditor General:**

53. The Auditor General is appointed by Law No. 03-030 of 25 August, 2003 which assigns him the following missions:

- Evaluate public policies through the monitoring of the performance and quality of public services and bodies as well as development programmes and projects in particular;
- Monitor the frequency and sincerity of income and expenditure operations carried out by the Institutions of the Republic, the departments of the State, local authorities, public establishments or any other financial organ receiving financial assistance from the State, and
- Make proposals to the public authorities on appropriate measures and actions for more balance between the costs and performance of public services, a more relevant use of public resources and the assurance of the regular running of public bodies and structures in general.

54. The Auditor General is appointed by the President of the Republic for a non-renewable term of seven (7) years on the basis of a competitive procedure. He enjoys administrative and financial autonomy. A decree issued by the President of the Republic determines the modalities of the selection procedure, professional competence and moral qualities required of an Auditor General.

- **Democratic Discussion Forum:**

55. The Democratic Discussion Forum (EID) was instituted by Decree No. 96-159/P-RM of 31 May, 1996, as amended by Decree No. 323/P-RM of 26 June, 2009. It is an annual platform which aims at informing the local and international public about the status of human rights in the Republic of Mali, contributing to the attainment of a national democratic culture and giving significant impetus to the policy of promoting and protecting the rights and freedoms of the citizenry.

56. The modalities for its organization and running are set forth by Order No. 09-3825/MJ-SG of 17 December, 2009. Under Article 5 of this Order, “Any person who deems it necessary may ask questions through the Democratic Discussion Forum.”

57. The EID sessions are held on 10 December, the day on which the Universal Declaration of Human Rights is celebrated. On this day, a reasonably representative sample of Malian civil society may publicly question the authorities on all issues of interest to the life of the Nation, particularly issues relating to human rights. These sessions are broadcast live on radio and national television.

- **African Peer Review Mechanism (APRM):**

58. The African Peer Review Mechanism was established as part of the New Partnership for Africa’s Development (NEPAD) which aims at promoting cooperation between African States in order to ensure the promotion and protection of human rights through an evaluation of the implementation of the obligations contracted by each of the States.

59. Mali was the 9<sup>th</sup> country to join the African Peer Review Mechanism after it was established on 28 May, 2003. Mali submitted itself to this exercise which actually commenced in June, 2007 and prepared a self-evaluation report as well as a national plan of action with the participation of all stakeholders of society for the following components:

(i) political and democratic governance, (ii) socio-economic governance, (iii) corporate governance and economic management, and (iv) socio-economic development.

60. The governance self-evaluation report in 4 thematic areas of the APRM as well as the plan of action for the deepening of governance were submitted to the Heads of State and Government during the African Union Summit held in June, 2009.

- **Children’s Parliament:**

61. The Children’s Parliament is a platform for the free expression of all children in Mali under the Ministry for the Promotion of Women, Children and the Family.

62. Established by Decree No. 96-172/PM-RM of 13 June, 1996, it is tasked with “ carrying out all activities relating to the information and sensitization of children, parents, the public authorities, civil society and all those who can contribute to the expression of true national and international solidarity for the improvement of the physical, mental, social and economic

well-being of children in Mali and the world.”

63. The members of the Children’s Parliament are aged between 10 and 18. They are appointed at the regional level upon a proposal by the NGOs, town council or schools, while the various categories are taken into account (pupils, working children, those with disabilities, children from rural communities, etc.).

64. They participate in the education of children, democratic governance and the attraction of the attention of duty bearers to their responsibilities.

- **Government Audit Structures Support Unit:**

65. The Government Audit Structures Support Unit (CASCA) was established under the authority of the President of the Republic by Decree No. 00-590/P-RM of 28 November, 2000, as amended by Decree No. 01-224/P-RM of 28 May, 2001. Its main missions are as follows:

- study and use the monitoring and inspection reports submitted to the President of the Republic, and
- follow up and evaluate the implementation of the recommendations contained in the said reports on behalf of the President of the Republic.

- **Economic and Financial Division:**

66. It was to ensure that the fight against corruption was better waged that Mali established a specialized court called the Economic Division made up of magistrates, police officers, investigators specializing in the handling of economic offences, etc. Indeed, these corruption-related offences are mainly of economic nature, and their punishment requires legal personnel to have knowledge of all aspects of their handling.

- **National Financial Intelligence Processing Unit (CENTIF) :**

67. The National Financial Intelligence Processing Unit (CENTIF) was established pursuant to the provisions of Article 16 of Uniform Act No. 06-066 of 29 December, 2006 on the fight against money laundering in the UEMOA Member States. Decree No. 07-291/P-RM of 10 August, 2007, which sets forth the organization and modalities of its running, states that CENTIF is a financially autonomous administrative institution and an autonomous decision-making authority in matters which fall within its jurisdiction.

68. It is particularly tasked with receiving, analysing and handling information capable of establishing the origin of transactions or the nature of operations subject to suspicious activity reports which are required for natural persons or legal entities. It advises on the implementation of the policy of the State concerning the fight against money laundering. In this regard, it makes proposals for all necessary reforms aimed at strengthening the

effectiveness of the fight against money laundering.

#### **D. Associations and Civil Society Organizations:**

59. The involvement of the country in a pluralistic democratic process for the establishment of a State governed by the rule of law has made civil society dynamic. This has led to the mushrooming of associations and organizations operating both in the area of sensitization and the development of human rights.

60. Generally, these associations and organizations are independent of the political authorities, while most of them are operating actively. Several of them are dealing with the issue of women's or children's rights by particularly getting involved in the implementation of international conventions on these rights. They are contributing in their own way to the promotion and protection of human rights especially through:

- Dissemination of rights and freedoms among the general public and target populations (women, children, persons with disabilities, etc.);
- Recommendations to the Government likely to ensure better protection and promotion of these rights and freedoms, and
- Condemnation of their violation by the authorities and assistance to victims of these violations.

They are contributing to the promotion and protection of human rights particularly through:

- prevention (sensitization activities, participation in the decision-making process and observation of trials and elections);
- condemnation (petitions, communiqués and public demonstrations);
- dissemination of rights and freedoms among the general public and target populations (women, children, persons with disabilities, etc.), and
- recommendations to the Government likely to ensure better protection and promotion of these rights and freedoms.





## **PART TWO: MEASURES TAKEN TO GUARANTEE THE RIGHTS PROTECTED BY THE CHARTER**

### **TITLE I: CIVIL AND POLITICAL RIGHTS**

74. Priorities in the area of human rights have been strongly emphasized in the General Policy Statement of the Government. With regard to the strengthening of the rule of law and public freedoms, it should be stressed that Mali's situation is relatively good in this regard and that the country has endorsed most of the relevant conventions. Political rights as well as the freedom of expression, press, association, conscience and religion are provided for by the Constitution and adequately respected generally.

Mali has conducted a study on the status of harmonization of the national legislation with the international and regional human rights instruments it has ratified.

#### **Human and Peoples' Rights, Responsibilities and Freedoms (Article 1)**

75. The Constitution of 25 February, 1992 is the first national legal basis for human rights. This basic law has considerably expanded and strengthened Mali's human rights framework.

76. The preamble of the Constitution states that the sovereign people of Mali solemnly undertake to defend the republican form and secularity of the State, declare their determination to defend the rights of women and children, the cultural and linguistic diversity of the national community and to ensure the improvement in the quality of life, protection of the environment and cultural heritage and endorse Universal Declaration of Human Rights of 10 December, 1948 and the African Charter on Human and Peoples' Rights of 27 June, 1981.

77. Furthermore, the Constitution proclaims all the fundamental human rights and the main civil, political, economic, social and cultural rights as well as solidarity rights, as contained in international and regional human rights instruments.

78. The basic law of Mali guarantees fundamental rights and individual human freedoms. Indeed, Title I of the same dedicates Articles 19 to 24 to rights and freedoms and provides for mechanisms meant to ensure that they are respected.

79. Finally, the Constitution reaffirms the commitment of the sovereign people of Mali to the promotion of peace and establishes the right to a healthy environment. It provides that the protection and defence of the environment as well as the promotion of the quality of life constitute a right for all and the State.

### **Non-Discrimination (Article 2)**

80. The Constitution prohibits all forms of discrimination based on sex. Article 2 provides that: "All Malians shall be born and remain free and equal in respect of their rights and duties. Any discrimination based on social origin, colour, language, race, sex, religion and political opinion shall be prohibited."

81. This constitutional provision is confirmed by Article 58 of the Criminal Code as follows: "Any statement or act likely to establish or give rise to racial or ethnic discrimination, any statement or act which aims at causing or sustaining the propagation of regionalism, any spreading of news with a tendency to affect the unity of the nation or reputation of the State, and any act which runs contrary to the freedom of conscience and the freedom of worship, and which is likely to cause citizens to rise up against one another shall be punishable by a term of imprisonment of one to five years or by a period of banishment of five to ten years."

82. Mali unconditionally ratified the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Thus, Mali fully endorses the definition of discrimination based on sex within the meaning of the said Convention.

83. The rejection of racial segregation and Apartheid is a constant factor of politics in Mali, which country, mindful of ensuring the respect of human and peoples' rights, has never

maintained relations with a State where the system of government is founded on racial discrimination.

84. In accordance with the provisions of the Charter, Article 179 of the Malian Criminal Code condemns racist behaviour during cultural or sporting events.

### **Equality before the law and protection by the law (Article 3)**

85. In its preamble, the Constitution endorses the Universal Declaration of Human Rights of 10 December, 1948 and the African Charter on Human and Peoples' Rights of 27 June, 1981.

86. The Declaration of Independence of the United States of America of 4 July, 1776 and the French Declaration of the Rights of Man and the Citizen have made this right their priority.

87. The basic law of Mali has not departed from this rule. Article 2 provides that all Malians are born and remain free and equal in respect of their rights and duties.

88. Indeed, equality before the law is one of the essential attributes of a constitutional State. All persons residing in the country, be they Malians or foreigners are, except where otherwise provided legally, equal before the law and entitled to equal protection by the law without any distinction whatsoever.

89. They are also assured the right to go to court. No one can be deprived of the right to go to court if it is not done in accordance with the legal rules and procedures such as those relating to the manner in which statements of the Head of State, Government and representatives of foreign powers are received (Article 604 to 608 of the Criminal Procedure Code), on the one hand, and to legal proceedings against members of the Government, magistrates, parliamentarians and certain civil servants (Article 613 to 625 of the same Code and Article 75 of the Criminal Code), on the other hand. The few adjustments in the form of attachments of privilege in favour of these categories of officials can only be justified by the sensitive nature of the offices they hold.

90. Law No. 01-082 of 24 August, 2001 on legal aid also guarantees that the destitute have access to legal aid in all cases. Legal fees, which only applied in cases involving minors and judgments of the Courts of Assizes, were extended to all cases at the preliminary investigation stage.

91. Any person who thinks he has been wronged by a measure taken on behalf of the State or one of its agencies may contest it before the regular or administrative courts.

92. Finally, the State enjoys no immunity in cases of human rights violation.

93. For the specific situation of women and children, readers should please refer to the paragraphs dedicated to them in this report.

#### **Right to Life and Physical and Moral Integrity (Article 4)**

94. The Constitution of 25 February, 1992 and the Criminal Procedure Code establish personal safety and security through several provisions.

95. Under Article 1 of Title One of the Constitution on rights and responsibilities: “the human being shall be sacred and inviolable. Any individual shall be entitled to life, freedom, safety and integrity of his person. ”

96. Thus, Articles 2, 3, 4, 5, 9, 10 and 12 provide guarantees against arbitrary arrests, acts of torture and other cruel, inhuman or degrading treatment.

97. The death penalty is recognized by the law (Art. 4 of the Criminal Code), but its execution will be suspended until delivery for pregnant women and after the weaning of children for breastfeeding women (Art. 11 of the Criminal Procedure Code).

98. Since 1980, no execution has taken place in Mali. Under the Third Republic, death sentences were commuted to life imprisonment or determinate sentences by the Head of State, in accordance with right of pardon he derives from Article 45 of the Constitution which establishes a sort of de facto moratorium on the death penalty.

99. It should be emphasized that at a cabinet meeting of 17 October, 2007, the Government adopted a draft bill on the abolition of the death penalty which was submitted to the National Assembly. However, this draft bill has still not been passed by the Assembly because most of the parliamentarians are opposed to it.

#### **Prohibition of Torture and Cruel, Inhuman or Degrading Punishment and Treatment (Article 5)**

100. Article 3, Paragraph 1 of the Constitution states: “*No one shall either be subjected to torture or inhuman, cruel, degrading or humiliating punishment or treatment.*” Furthermore, “*any person subjected to a measure which deprives him of his freedom shall be entitled to an examination by a doctor of his choice.*” (Art. 10, Paragraph 1 of the Constitution).

101. The above constitutional provisions derive from the Universal Declaration of Human Rights of 10 December, 1948, the African Charter on Human and Peoples’ Rights of 27 June, 1981 and the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment as well as its Optional Protocol ratified by Mali in 1995 and 2005 respectively.

102. Moreover, they are included in the Criminal Code which defines torture as “*any act through which pain or sharp, physical or mental suffering is intentionally inflicted on a person with the particular aim of extracting information or confessions from him or a third party, punishing him for an act which he or a third party has committed or is suspected to have committed, intimidating him or bringing pressure to bear on him or intimidating or bringing pressure to bear on a third party, or for any other reason based on any form of discrimination whatsoever, where such pain or suffering is inflicted by an official of the Civil Service or any other person acting in an official capacity or at his instigation or with his express or tacit consent. This term shall not extend to pain or suffering only resulting from legitimate sanctions, inherent to these sanctions or caused by same*” (Article 209).

103. The Code imposes punishment with a term of imprisonment of one to five years, a term of solitary confinement of five to ten years (where the violence led to mutilation, amputation, etc.), or the death penalty in the event where death occurs (Art. 209).

104. As a result of this, any arrested or detained person should be treated in a manner that preserves his dignity and guarantees his physical or moral integrity.

#### **Right to the Security of the Person and Prohibition of Arbitrary Arrest and Detention (Article 6)**

105. The Constitution of 25 February, 1992 and the Criminal Procedure Code establish personal safety and security through various provisions. Under Article 1 of Title One of the Constitution on human rights, “the human being shall be sacred and inviolable. Any individual shall be entitled to life, freedom, security and integrity of his person.” Articles 2, 3, 4, 5, 9, 10 and 12 provide guarantees against arbitrary arrest and detention, acts of torture and other cruel, inhuman or degrading treatment.

106. The presumption of innocence and the right to a defence, including the right to be assisted by counsel of the accused person’s choice from the preliminary investigation, are guaranteed (Art. 9 of the Constitution). Furthermore, the new Criminal Procedure Code which establishes pre-trial custody in place of remand provides that in the case of offences, the duration of the committal order is six months with one renewal by a ruling justified by the examining magistrate. In the case of crimes, the duration of the said order is one year with a maximum of two renewals.

107. For minor or criminal offences, the examining magistrate may commit the accused into pre-trial custody following a justified ruling, or place him on probation, in which case, the ruling does not require justification and is not subject to appeal (Article 122 to 147 of the Criminal Procedure Code).

108. For all cases and at any stage of the procedure, release on probation or otherwise may be ordered by the judge either upon a request by the accused or his counsel, or upon a request by

the Public Prosecutor's Department, or upon a motion of the judge himself (Article 148 to 158).

109. It should be added that the law on the penal regime obliges prison personnel to treat persons who have been deprived of their freedom humanely and to respect their fundamental rights. That is why the Ministry of Justice has embarked upon a vast programme to reform the penal system which has given the prisons a human face and led to reintegration and rehabilitation. These are the main thrusts of the new penal policy.

110. As part of the implementation of the said policy, a more capable specialized corps of prison wardens has been established to implement the objective of humanizing the prisons. Remand prisoners and convicts are separated in the Malian prison system. The same goes for adults and minors because a specialized detention, rehabilitation and reintegration centre has been built for the latter.

111. Article 4 of Law No. 01-003 of 27 February, 2001 on the prison regime and correctional education made two adjustments in order to give detention a better human face. Henceforth, prison facilities have been classified into six groups:

- prisons: for remand cases, persons sentenced to short terms and imprisonment for debts;
- reformatories: for persons sentenced to long terms or who put up an aggressive behaviour;
- agricultural reformatories: provided for prisoners who accept rural activities;
- observation and rehabilitation centres: for minors in quest of educational assistance or who have been the subject of legal proceedings;
- vocational training centres: built for convicts who accept to undergo vocational training, and
- specialised centres: for minors and women in order to give them specific training for their rehabilitation and social reintegration.

112. As at 31 December, 2010, the prison population for the entire country was presented as follows:

- 4,772 men as against 177 women; minors numbered 57 and were made up of 35 girls and 22 boys;

- convicts : 2,250 men, 57 women, 2 minors made up of 1 girl and 1 boy, i.e. a total of 2,315;
- remand prisoners: 2,522 men, 120 women, 69 minors made up of 35 boys and 34 girls.

<b>Situation by Region : No.</b>	<b>Regions</b>	<b>Convicts</b>	<b>Remand Prisoners</b>
1 <sup>st</sup>	Kayes	212	335
2 <sup>nd</sup>	Koulikoro	492	322
3 <sup>rd</sup>	Sikasso	406	209
4 <sup>th</sup>	Segou	327	233
5 <sup>th</sup>	Mopti	150	161
6 <sup>th</sup>	Timbuktu	45	53
7 <sup>th</sup>	Gao	85	102
8 <sup>th</sup>	Kidal	02	15
District	Bamako	576	1,092
<b>TOTAL</b>		<b>2,295</b>	<b>2,522</b>

Annual Report 2010 : NHRC Report on the human rights situation in Mali.

113. Article 71 of the Criminal Code punishes prisons officers who are guilty of arbitrary detention (six months to two years imprisonment and a fine of 20,000 to 240,000 Francs) and all those who, without an order from the public authorities, and except in cases where the law orders that accused persons should be taken into custody, arrest, detain and hold any person whatsoever in confinement (Art. 237).

114. The Criminal Procedure Code provides that the work of the Criminal Investigation Department, which is tasked with ascertaining breaches of the criminal law, collecting evidence thereon and looking for perpetrators, is performed by officers, civil servants and

agents authorized to that effect under the direction of the Attorney General, the supervision of the Director of Public Prosecution and the control of the Court of Criminal Appeal (Art. 31).

115. For the requirements of the investigation, Article 76 of the Code permits the criminal investigation officer to hold any person for 48 hours, with the exception of minors. This period of police custody may be extended by 24 hours upon a written authorization from the Attorney General. Whatever the case may be, any person who is a suspect, is undergoing trial or has charges preferred against him is presumed innocent as long as his guilt has not been established; he is entitled to know the charges preferred against him and to be assisted by counsel.

116. It should be stated that the Minister of Justice and Attorney General has expressly instructed state prosecutors and justices of the peace with extended powers “to systematically and rigorously monitor the services of the Police, Gendarmerie and the prisons in order to put an immediate end to all forms of human rights violation”.

117. It should finally be noted that the provisions of the Criminal Procedure Code on the rights of the defence (Art. 103 to 108, 110, 112, 128, 135 and 136) should be observed, failing which both the act itself and the subsequent procedure will be rendered null and void.

118. The above-mentioned measures constitute significant strides in the area of judicial procedures in Mali. However, it should be acknowledged that, in reality, their application poses serious problems due to the inadequacy of material and human resources.

#### **The right to a fair trial (Article 7)**

**119. The right to justice is one of the foremost human rights. It enables the citizen to be heard by the judge and to deduce his right. It equally prevents the individual from substituting his justice for that of laws. Consequently, access to justice is fundamental in the rule of law.**

**120. That is why the Ten-Year Justice Development Programme (PRODEJ) provides coverage of Mali's territory in all jurisdictions and their equipment with logistics as well as their provision with competent and efficient human resources.**

**121. According to the Constitution and international standards, justice is rendered in Mali based on the principles prescribed by international and regional legal instruments on human rights.**

**122. The right to an effective remedy and the right to a fair trial are complementary. In the absence of one, the individual cannot assert his fundamental rights and obtain redress for their violation.**

**123. There is a body of texts that establish the material framework for the exercise of this right, including the Criminal Procedure Code which regulates criminal**



proceedings; the Civil, Commercial and Social Procedure Code which defines the rules for conducting civil trials; the law on criminal minority which lists the courts for children.

124. The right to a fair trial includes several elements, particularly the right to respect the presumption of innocence, the right to refer one's dispute to an independent and impartial court and the right to have one's legal proceedings conducted fairly.

125. The right to respect the presumption of innocence is affirmed by the Constitution, which provides in Article 9 that "... every defendant is presumed innocent until proven guilty by the competent court. The right to defence, including the right to be assisted by a counsel of one's choice, is guaranteed from preliminary investigation."

126. Several measures have equally been adopted to limit the abuse of pre-trial detention.

127. Within the framework of strengthening the rule of law and enhancing the effectiveness of the judiciary, the PRODEJ Action Plan strengthened the principles of presumption of innocence and that of respecting human rights defence, which constituted major innovations in the New Criminal Procedure Code (Law No. 01-080 of 20 August 2001).

128. It appears that the judicial system is not sufficiently efficient and requires support in terms of capacity building and training. To reverse the trend, the Government has taken some steps with a view to enhancing the credibility of justice, the devolution of the judicial administration to ensure greater access to justice delivery services and establishing Centres for Access to Law and Justice (CADJ), as well as creating a legal assistance programme to ensure fair trials and improving access to justice for women and children. Government has initiated and implemented the Ten-Year Justice Development Programme (PRODEJ), which aims at facilitating access to justice for citizens, developing alternative methods of conflict resolution, ensuring that court rulings are more credible including the protection of public and individual freedoms. A policy was developed and launched in January 2009 with the view to improving services for litigants, which policy was accompanied by a 2009-2011 action plan.

129. The results of the PRODEJ show significant achievements including, inter alia, the adoption of the Charter of the values of justice and the signing of the justice renewal pact, the development and launch on 21 January 2008 of the men/women equality policy, the second reading of the Civil, Commercial and Social Procedure Code to improve the business environment and practice, the second reading of the judicial map which seeks to modernize the judicial system and bring justice closer to litigants; the results also show increased investments in infrastructure, equipment and logistics as well as a substantial rise in the budget for the judiciary.

#### **Freedom of thought, conscience and religion (Article 8)**

130. Under Article 4 of the Constitution: "Everyone has the right to freedom of thought, conscience, religion, worship, opinion, expression and creation in accordance with the law".

131. Law No. 61-86/AN-RM of 21 July 1961 on the organization of religious freedom and practice of religion provides in Article 1 that the secular Republic of Mali "shall provide freedom of conscience and freedom of religious opinion to all citizens. It shall guarantee everyone the freedom of worship, subject only to limitations imposed by the maintenance of public order."

132. This law prohibits the exercise of any worship with practices either contrary to morality or the respect and integrity of the human person, or stemming from an ideology that is based on racism or hatred. Article 3 of the Law emphasises the secular nature of the Republic of Mali.

133. Besides, the Criminal Code, in Article 58, punishes acts that constitute a violation of the freedom of thought, conscience and religion: "Any activity that runs counter to freedom of conscience and freedom of worship likely to pit citizens against other citizens shall be punishable by imprisonment of one (1) to five (5) years and, optionally, five (5) to ten (10) years of banishment."

134. The Republic of Mali is a secular State and grants every citizen the freedom to choose between unbelief and adherence to the religion of his choice. It also recognizes the freedom to change religion.

135. It should however be noted that Mali is one of the few countries on the continent that has not experienced sectarianism or tribalism; the various communities that make up the Nation live in perfect harmony and freely practice the religions in which they believe through various prayers, rituals and behaviours.

#### The right to information and freedom of expression (Article 9)

136. The Constitution in Article 4 provides for the principle of freedom of opinion and freedom of expression which is the foundation of any democracy. The national legislative framework poses no particular obstacle to the exercise of these freedoms, evidenced by the multiplicity and dynamism of the stakeholders in the cultural and artistic expression sector.

137. Furthermore, freedom of expression is reflected in Mali through the practice of multiparty politics (113 political parties are officially registered) and in the strengthening of the status of the opposition.

138. The exercise of freedom of expression in Mali is evidenced on the field by the institution in 1996, of a democratic expression and a human rights forum called "Democratic Expression Forum "(EID). This forum is the best expression of the effective exercise of this freedom. On 10 December each year, the date set aside for the commemoration of the Universal Declaration of Human Rights, the Government organizes a national forum on human rights wherein citizens can question ministers before a panel composed of national and foreign dignitaries, on cases of human rights violations they suffered during the year.

139. The event is broadcast live on radio and television. The ministers concerned provide on-the-spot answers to the various queries at the end of which the panel of citizens makes recommendations to the Government.

**140. The purpose of organizing the EID is to inform national and international communities about the human rights situation in Mali, to contribute actively and educationally to the achievement of a democratic culture of promoting and protecting the rights and freedoms of citizens. Thus, the institutionalisation of such a forum reflects the political will of the country's authorities and their commitment the promotion of the culture of human rights and democracy in the Republic of Mali.**

**141. Press freedom: Conscious of the importance of a free and independent press in a democracy, the Government adopted policies and measures that strengthened the freedom of the press and fostered the advent and operation of several print and electronic media. Among these measures, mention can be made of Law No. 00-046 of 7 July 2000 on press regime and press offences.**

**142. Indeed, this law no longer considers offending the Head of State as grounds for pre-trial detention. On the contrary, it promotes monetary penalties at the expense of custodial sentences for offences committed through the press; the law also provides State support to the press.**

**143. All these measures have encouraged the creation of print and electronic media. Currently in Mali, there are more than thirty independent print media organs and 300 legally-authorized radio stations.**

**144. Moreover, the creation of the High Council of Communication and the National Committee on Equal Access to State Media also led to better regulation of the media space, balance and pluralism of information and a fair share of air time and editorial space allotted to candidates and political parties during election campaigns.**

**145. Despite the considerable progress made in the liberalisation and regulation of the media landscape, it should be noted that Law No. 00-046 of 7 July 2000 on Press Regime still contains the press offence. However, the trend is in favour of the decriminalisation of the offence.**

**Freedom of movement, association, demonstration and assembly (Articles 10, 11 and 12)**

**146. It is enshrined in Article 5 of the Constitution which stipulates that: "The State shall recognize and guarantee, under conditions laid down by law, the freedom to come and go, free choice of residence, freedom of association, assembly, procession and demonstration".**

**147. Freedom of movement: the Constitution guarantees the free movement of persons and goods, the free choice of residence and the right to asylum. To implement these freedoms, various laws and regulations have been enacted, and in this regard, some ECOWAS legal instruments have been ratified. Mention can be made especially of:**

**- Law No. 04-58 of 25 November 2004 on the conditions of entry, stay and establishment of foreigners in the Republic of Mali and its Implementing Decree;**

**- Protocol A/P1/5/79 on Free Movement of Persons, right of residence and establishment adopted in Dakar on 29 May 1979 between the ECOWAS Member States (Law 80-**

**3/AN-RM of 6 May 1980 on the ratification of the said Protocol);**

**- Protocol A/P3/5/82 on the Code of Community Citizenship, adopted in Cotonou, on 29 May 1982 (Ordinance 83-19/PG-RM of 19 May 1983 on the ratification of the said Protocol);**

**- Additional Protocol A/SP1/7/86 on the implementation of the 2<sup>nd</sup> stage (Right of Residence) of the Protocol on Free Movement of Persons, Right of Establishment, signed in Abuja on 1 July 1986 (Law No. 88-25 / AN-RM of 23 March 1988 on the ratification of the Protocol);**

**- Additional Protocol A/SP2/5/90 on the implementation of the 3<sup>rd</sup> stage (Right of Establishment) of the Protocol on Free Movement of Persons, Right of Residence and Establishment signed in Banjul on 29 May 1990.**

**148. Freedom of association. - Freedom of association is a reality in Mali. Association is defined as a group formed between persons who decide to pool their knowledge or activities for a purpose other than sharing of profits.**

**149. Associations are regulated in Mali by Law No. 04-038 of 5 August 2004. It is on the basis of this text, which enshrines freedom of association, that many associations were formed, especially in support of democratisation.**

**150. Also, in the respect of freedom of association which is recognized and guaranteed by the Constitution, it should be noted that associations are declared to the State representative in the District of Bamako or in the “Cercle”, in whose jurisdiction is located the head office.**

**151. However, political and humanitarian associations as well as foreign associations are required to make their declaration to the Ministry in charge of Territorial Administration.**

**152. A receipt is issued subject to two essential conditions only: the lawfulness of the purpose and the non-ethnic or non-regionalist character of the association. The receipt of declaration of association is issued in the name of the association itself, to avoid disputes about the paternity of the association.**

**153. Currently, approximately 12,000 registered associations have been declared to the Ministry in charge of Territorial Administration and Local Government (MATCL).**

**154. The adoption of this law has contributed to the development of associations and the strengthening of civil society and the democratic framework in our country.**

**155. Freedom of assembly and demonstration. - The rights to freedom of assembly, procession and demonstration are equally effective in Mali. They are primarily governed by Ordinance No. 36/PCG of 28 March 1959 and, secondly, by the Charter of political parties. The above-mentioned Ordinance lays down in Article 6 (1) and (2), the principle of prior declaration to the administrative authority (Mayor, Prefect and Sub-Prefect) by the organisers of the demonstration on a public highway (procession, march, gathering of people). This declaration signed by three organisers of the demonstration**

must be made at least 24 hours and at most 8 days, prior to the date of the gathering.

156. The limits imposed on freedom of demonstration seek mainly to ensure the preservation of public order. Indeed, the mayor, representatives of the State (prefect, sub-prefect, Governor) and, in the last resort, the Minister in charge of Territorial Administration and Local Government may ban demonstrations when they are likely to disturb public order. The organizers are immediately notified of the prohibition decision. Also, the administrative authority has the power to stop any procession, march or gathering on a public highway and in public places, if the maintenance of public order so requires. It may, after warning, intervene to disperse and ban any demonstration which degenerates. The summations are however not required "if violence or assault are exercised against the security forces or if the latter cannot properly defend the land they occupy or the positions they are bound to defend."

The right to participate in public affairs (Article 13)

157. Mali has ratified various international human rights conventions including the International Covenant on Civil and Political Rights.

158. The Constitution of Mali does not discriminate between men and women with regard to their participation in political and public life.

159. Political pluralism and the full exercise of civil liberties are two key indicators of the rule of law and democratic dispensation. In this respect, in terms of civil and political rights, we can say that the regulatory and institutional framework in Mali offers all the guarantees for the exercise of individual and collective freedoms, evidenced in the existence of a large number of political parties (over one hundred), non-governmental associations and organizations fighting for human rights.

160. Mali, an independent, sovereign, indivisible, democratic, secular and social Republic, has as principle, government of the people, by the people and for the people. Thus, Article 26 of the Constitution states that "national sovereignty shall belong to the whole people, who exercise it through their representatives or by referendum. No faction or any individual may arrogate the exercise thereof."

161. Article 27 determines the universal, equal and secret character of ballot, while Article 28 insists on the role of political parties which contribute to the exercise of suffrage while respecting national sovereignty, democracy, territorial integrity, national unity and the secular nature of the State.

162. Mali has an electoral law (Law No. 02-007 of 12 February 2002), adopted in the spirit of consensus by the entire political class, including the majority and the opposition. The requirements for voting are mainly nationality, age (18 years), the enjoyment of civil and political rights and residence. To become a member of the National Assembly, a communal council or "Cercle" or the Regional Assembly, the same conditions apply. As for the candidate for the presidency of the Republic, he must, in addition to the condition of residence, be of Malian origin, be 35 years of age; he must also enjoy his civil and political rights. No condition of race, colour, sex or religion is required to qualify for an elective position or public office.

**163. The electoral law also prescribes a number of rules that are examined below.**

**164. Equality between political parties in electoral competitions. - Candidates, political parties and groups of political parties can use the State media (radio, TV, print) for their campaign. The National Committee on Equal Access to State Media ensures among other things, the management of air time and editorial space allotted to candidates, political parties and groups of political parties contesting.**

**165. The transparency of electoral procedures. - The electoral law contains a number of provisions whose implementation contributes to the transparency of election procedures. These include:**

- The Independent National Electoral Commission (CENI), an independent structure tasked with the supervision of elections and referendums through its regional and local offices;**
- General Delegation for Elections which is responsible for managing the electoral register and public assistance to political parties;**
- The Inter-ministerial Committee responsible for preparing and organising the elections;**
- The competent courts when there are electoral disputes.**

#### **The right to property (Article 14)**

**166. The Malian Constitution of 25 February 1992 recognizes and guarantees the right to property, which remains a major concern and a major economic and social challenge for both the State and the people.**

**167. This guarantee is enshrined in Article 13 of the Constitution which provides that "the right to own property shall be guaranteed. No one may be expropriated except for public interest and shall be subject to prior and fair compensation."**

**168. This constitutional provision is repeated in Article 225 of the Land Code.**

**169. For the realisation of this right, the Government of Mali set up a department in charge of State Property and Land Affairs and adopted a number of land-related laws and regulations.**

**170. The Land Code as amended by Ordinance No. 99-027/P-RM of 22 March 2000, itself amended and ratified by Law No. 02-008/ANRM of 12 February 2002, recognizes customary land rights, takes into account decentralization, establishes land registry and lays down conditions and procedures for the registration, acquisition and expropriation of buildings.**

**171. Compensation is still paid for damages incurred in case of expropriation for public interest. One's property can be seized only on the basis of a court decision taken by a competent judicial authority.**

**172. Several other texts have been prepared to improve land management: texts on the management of forest resources, wildlife and fisheries, Pastoral Charter, the Mining Code and the Agricultural Orientation Law.**

**173. Among the actions taken by the Government, mention can be made of:**

**- The setting up of Mali's Equipment Company (SEMA) in 1961; under the first Republic the National Housing Fund (FNL) was established in 1967 within the SEMA, an institution to which all employers had to pay 1% of the wage bill paid to employees. This measure was intended to generate resources to subsidize the SEMA programmes in order to make them accessible to target populations.**

**- The Ministry in charge of Housing designed the National Strategy for Housing in Mali, which was adopted by the Government in October 1995 and which recommended the establishment of a housing bank and the transformation of the National Housing Fund into Malian Housing Office. These Housing funding structures were set up in 1996.**

**174. As part of the implementation of the National Strategy for Housing, the following texts were prepared:**

**- Law No. 99-040/AN of 10 August 1999 governing property development;**

**- Decree No. 00-274/P-RM of 23 June 2000 laying down the modalities for allocating benefits to real-estate developers;**

**- Decree No. 00-275/P-RM of 23 June 2000 on the creation, responsibilities and operating modalities of the National Commission on Eligibility for Housing Programmes regarding the benefits provided for by the law governing estate development.**

**175. During this period, the following are worth noting:**

**-the creation of Mortgage Guarantee Fund - a tool for the management of risks relating to estate financing which enabled banks, financial institutions and credit initiatives to offer real-estate loans. This institution was set up within the framework of the Mali Housing Financing Support Project (PAFHAM);**

**-the creation of numerous real-estate companies that have carried a large number of housing programmes;**

**- the creation of the Property Transfer Agency (ACI), initially created for the sale of Baco-Djikoroni plots within the framework of the second urban project in Mali. Currently, this institution has become real-estate developers dealing in auction of plots especially in Bamako;**

**- Urban Development and Decentralization Project (PDUP) jointly financed by Mali and multilateral partners (World Bank) and bilateral partners whose main objective is to sustainably improve the provision of urban infrastructure by municipalities, in partnership with the Government, the private sector and communities.**

176. In the area of housing and land issues, in order to improve access to decent housing, Government built 6,792 social housing units nationwide, between 2002 and 2009.

177. Despite efforts by the State to facilitate access to property and housing, difficulties exist and are attributed, inter alia to:

- Ignorance and disrespect of laws, regulations and procedures by the stakeholders of the sector;
- Poor keeping of land register thereby rendering the consultation of land records difficult;
- Inadequate land management tools.

178. The most notable consequences of this situation include:

- land insecurity that has reached alarming proportions (duplication of titles, indiscriminate occupation of lands coupled with low investment incentive in the absence of secure and guaranteed rights over land);
- the existence of numerous disputes, land disputes and underlying tensions resulting from conflicts over rights, land boundaries, sometimes accompanied by a worsening of the social environment.

179. To address this situation, the Government, through the Ministry of Housing, Land and Urban Development, held from 30 June 2008 to 11 December 2009, general forums on land, which brought together 4,618 representatives of all stakeholders involved in land issues, with the aim of preparing and implementing an appropriate land policy arrived at by consensus..

180. The forums therefore reflected a political will to prioritize and strengthen the democratic debate on this very sensitive issue. These meetings led to the identification of four strategic areas: the adaptation of land laws and regulations to the country's socio-economic context; the harmonization of the national land management with sectoral development policies; the establishment of appropriate tools for the said management and lastly, the capacity building of services and other institutions in charge of land.

181. The national housing strategy also estimated the housing needs to be 440,000 housing units by 2015. That is why the highest authorities in Mali decided to continue and even intensify the construction of social housing units. Hence, more than 20 000 housing units were developed during the period 2007 to 2012 all over the country in line with the Economic and Social Development Project (PDES), 5 400 units were developed by the State and the rest by real-estate developers within the framework of Public-Private Partnership (PPP).

## **PART II: ECONOMIC, SOCIAL AND CULTURAL RIGHTS**

**The right to work under fair and favourable conditions (Article 15)**

182. Article 19 of the Constitution stipulates: "*The right to work and to rest shall be recognized. It shall be equal for all. Work is a duty of every citizen, but no one may be forced to do a particular work except within the framework of rendering an exceptional*