

PROMOTIONAL MISSION TO THE  
REPUBLIC OF MALI

REPORT

9-18 APRIL 2004

## **INTRODUCTION**

In accordance with the provisions of Article 30 of the African Charter on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights was established for the promotion and protection of Human and Peoples' Rights in Africa.

Pursuant to the provisions of Articles 30 and 45 of the said Charter, the African Commission is entrusted with the task of:

- Promoting Human and Peoples' Rights on the Continent;
- Ensuring the protection of Human and Peoples' Rights in conformity with the provisions of the Charter;
- Interpreting the provisions of the Charter at the request of a State Party, an organ of the AU or an African organization recognized by the AU.

It was within the framework of the execution of this mandate, among other things, that the Members of the African Commission carry out promotional Missions to the State Parties assigned to them. The 53 State Parties are divided between the Commissioners.

It is in this capacity that **Mr. Mohamed Abdellahi Ould Babana**, Member of the African Commission, responsible for human rights promotional activities in Mali, assisted by **Ahmed Tidiane Sakho**, Officer in charge of Policy, Planning and Projects at the Secretariat of the Commission, undertook a promotional Mission to Bamako from 9 to 18 April 2004.

The Republic of Mali is a State Party to the African Charter which it ratified on 21 December 1981. In application of Article 62 of the said Charter, Mali submitted in 1999 combined Periodic Reports up to 1988, and has, to-date, two (2) outstanding reports.

### **1. GENERAL INFORMATION ON MALI**

#### **1.1. Geographical Overview:**

Mali is one of the largest countries in West Africa with a surface area of 1,241,238 km<sup>2</sup>. It is located in the transitional zone between the forest region in the South and the desert in the North and is totally landlocked in the hinterland of the Dark Continent. It is bordered on the North by Algeria, on the East by Niger, on the South-East by Burkina Faso, on the South by Côte

d'Ivoire, on the South-West by Guinea, on the West by Senegal and on the North-West by Mauritania.

Due to its central location, the country is landlocked and is dependant on its neighbours for its external trade.

The country is divided into 8 Administrative Regions and a District, 49 Divisions comprising 703 Municipal Councils.

## **1.2. Demographic and Socio-economic Overview:**

According to the last census figures, Mali, a real melting pot of ethnic groups, has a population of 11,800,000 inhabitants. The population distribution shows an average density of 7.5 inhabitants per km<sup>2</sup>. The density varies from one region to another: it ranges from 4,032.9 inhabitants per km<sup>2</sup> in Bamako, the largest city in the country, to 18.2 inhabitants per km<sup>2</sup> in Sikasso and 0.40 inhabitants per km<sup>2</sup> in Kidal in the North of the country. This unequal distribution of the population is determined by natural conditions (climate, vegetation and relief). Population growth is estimated at 3%.

There are about twenty ethnic groups in Mali of which 90% are Muslim and 10% comprise Christians, Animists and others.

The general population and housing census showed the following demographic indicators:

- A predominance of women (50.5%);
- A very large number of young people (46.1% of Malians are less than 15 years old);
- Very limited development of the urban sector (about 27% of the population live in the urban areas);
- An illiteracy rate of 84.5%

Whereas during the Mission, the existence of indigenous populations or minority groups likely to constitute a matter of concern for the Malian Authorities was not at any moment pointed out, instead, there was the matter of vulnerable groups which are generally made up of women, children, the elderly and the physically handicapped.

To this group can be added orphans, widows and individuals infected by HIV/AIDS.

The Government has taken measures to assist the elderly by setting up facilities to care for them, by building a Home for the Elderly, and by the creation of a Ministry of Solidarity and the Elderly. For the physically handicapped, the Government embarked on the recruitment of young handicapped persons with diplomas into the Public Service and also organized

training sessions for job seekers in order to facilitate their socio-professional integration.

In spite of the efforts undertaken for the adequate protection of these vulnerable groups, their situation still remains one of concern, as a large number of the mentally handicapped persons continue to roam the streets without accommodation, food, or care. Several other physically handicapped persons are faced with the problem of unemployment. The elderly, generally respected in the country, increasingly face problems of care within their families as resources for this purpose are insufficient.

The economy of Mali is essentially based on agriculture which alone employs 83.4% of the working population. Next to agriculture are animal husbandry, fisheries, cottage industries and trade. The Gross Domestic Product is less than 300 dollars US. The primary sector accounts for 44.6% of GDP whilst the manufacturing sector only accounts for 16.7% and the tertiary sector 38.7%. The great majority of the population lives and works in the rural areas in the primary sector.

In the last 5 years, the economic growth rate of 3.3% has surpassed that of population growth. In spite of these encouraging results, most Malians live below the poverty line.

Despite marked improvements in the economic and financial situations, an ever increasingly difficult social situation has forced the Malian Government to initiate a National Poverty Alleviation Programme, which should subsequently graduate into a Strategic Poverty Alleviation Framework (SPAF). This has become the sole reference document for the country's development which registers all interventions within the framework of medium and long term strategies. These strategies offer the target populations the opportunity to be the architects of their own economic and social uplifting.

This program covers 8 strategic areas with well defined priority objectives and actions:

- To improve the economic, political, legal, social and cultural environment for the benefit of the poor;
- To promote income generating activities, in particular self-employment for the poor;
- To improve access to financial services and other factors of production for the poor;
- To promote the development and improve performance in agro-food networks which employ the majority of the poor;
- To improve access to Education and Training for the poor;
- To promote access by the poor to basic health services, nutrition, water and purification;
- To improve housing conditions for the poor;
- To guarantee effective coordination of the Poverty Alleviation Strategy

### **1.3. Historical, Political and Institutional Context**

From a historical perspective, the Republic of Mali attained nationhood on 22<sup>nd</sup> September 1960 following the break up of the short-lived Federation of Mali, a legal entity that comprised 2 former French colonies: Senegal and the French Sudan.

Quite early the Constitution of 22<sup>nd</sup> September 1960 had decreed in its Preamble: "the Republic of Mali solemnly reaffirms its attachment to human and civil rights and freedoms enshrined in the Universal Declaration of Human Rights of 10 December 1948..."

Article 3 of the said Constitution laid down the principle of the multiparty system in the following terms: "political parties and groupings compete for votes. They are formed and exercise their activities in accordance with democratic principles, interest, laws and State regulations".

But as the years went by, as a result of the socialist option adopted by the first regime, these declared major universal principles quickly crumbled under the pressure of economic and social realities. From that moment on, Mali was to witness a succession of regimes with a transition period after the 26 March 1991 coup d'état.

From 1960 to 1968, the then leaders instituted a de facto one party State under the Sudanese Union-Branch of African Democratic Rally (US-RDA). For the reasons cited above, this regime did not last beyond 19 November 1968 as it was overthrown by a military takeover on that date.

From 1968 to 1991, the military regime that assumed office following the coup d'état suspended the Constitution and all forms of political activity and subsequently instituted in 1979 the Democratic Union of Malian People as the only Party legally allowed to operate. Over the years, social and political unrest in turn led to the overthrow of the regime on 26 March 1991.

From 1991 to 1992, Mali was ruled by the Transitional People's Salvation Council. This transition rule ended on 8 June 1992 following the investiture of a democratically elected President of the Republic.

From then to date the country enjoys a fully fledged multiparty system and currently has at least 85 Political Parties.

## **2. Objectives of the Promotional Mission:**

### **2.1. General Objectives:**

- To promote the African Charter on Human and Peoples' Rights;
- To sensitize Malian authorities and members of the civil society on the activities of the African Commission on Human and Peoples' Rights;

- To obtain first hand information on the human rights situation in Mali.

## **2.2. Specific Objectives:**

- To remind Malian Authorities and the general public about the legal value of the African Charter in Africa in general and in Mali in particular;
- To define the mandate of the African Commission on Human and Peoples' Rights as stipulated in the African Charter on Human and Peoples' Rights;
- To introduce the African Commission in terms of its composition and its mode of election of Commissioners;
- To explain the procedure of seizure by the African Commission with regard to the Communications/Complaints submitted to it;
- To review the situation of the submission of Periodic Reports by Mali in conformity with the relevant provisions of the African Charter;
- To draw the attention of the Malian authorities on the need to establish a National Human Rights Institution in accordance with the provisions of the African Charter and the Paris' Principles;
- To inquire about the level of enjoyment of civil and political rights: the institutional framework, the functioning of republican institutions and the independence of the Malian judiciary;
- To inquire about the situation of economic, social and cultural rights: the poverty alleviation programme, the fight against corruption and impunity, food security, access to healthcare, access to drinking water, the percentage of children in school, rate of vaccine cover;
- To sensitize Malian authorities on the need to expeditiously ratify the additional Protocol to the African Charter on Women's Rights in Africa;
- To discuss ways and means of strengthening cooperation between the Malian authorities, members of the country's civil society and the African Commission;
- To discuss the necessary arrangements for hosting the 36<sup>th</sup> session of the African Commission.

## **3. Organization of the Promotional Mission:**

The Mission took place from 9 to 18 April 2004. It met with Government officials, top civil servants, representatives of NGOs and members of the civil society through the intervention of Mr. Abraham Bengaly, Desk Officer at the Ministry of Justice.

The list of personalities encountered is attached in Annex to this Report.

During the different meetings, the Mission introduced the African Commission, its composition, its mode of operation, its achievements as well as the new institutional framework resulting from the advent of the African Union and the entry into force of the African Court on Human and Peoples' Rights.

Furthermore, it discussed specific issues relating to:

- The establishment of a National Human Rights Institution in Mali;
- The creation of an executive body responsible for centralizing, coordinating and monitoring all human rights issues for which it would serve as a focal point;
- The preparation and submission of 2 overdue Periodic Reports by Mali;
- The expeditious ratification of the Protocol on Women's Rights;
- The declaration of competence for seizure by the African Court on Human and Peoples' Rights that recently entered into force;
- The increased participation of the Malian delegation in the sessions of the African Commission;
- The organization of the 36<sup>th</sup> session of the African Commission which Mali has offered to host.

#### **4. Meetings:**

##### **4.1. Office of the Prime Minister:**

The Mission was received in the office of the Prime Minister by the Permanent Secretary at the Prime Minister's Office assisted by his Legal Adviser.

Following the welcome remarks, the Permanent Secretary recalled the major role played by the late Alioune Blondin Beye in the African Commission on Human and Peoples' Rights which, to a large extent, explained the Malian Authorities' commitment to the ideals of the African Commission.

He disclosed that the Prime Minister had already given instructions for the setting up of the Human Rights Consultative Commission.

He assured that all arrangements would be made by the Government through the Ministry of Justice to ensure the preparation and early submission of the 2 outstanding Periodic Reports by Mali.

On the matter of the participation of the Malian delegation in the sessions of the African Commission, the Permanent Secretary said that Mali would do everything in its power to participate actively in these meetings each time it is so.

Concerning the additional Protocol to the African Charter on Women's Rights, the Permanent Secretary reassured the Mission that its ratification did not pose any problems for the simple reason that Mali had participated fully in its drafting.

Pertaining to seizure of the African Court, the Permanent Secretary acknowledged that it was a matter that concerned all African Governments. He went on to state that given Mali's attachment to human rights issues, it

would expeditiously take all necessary steps to make the declaration of competence.

In conclusion, the Permanent Secretary, on behalf of the Prime Minister, reiterated the Government of Mali's commitment to strengthen its relations with the African Commission on Human and Peoples' Rights which, according to him, was an irreplaceable instrument for the promotion and protection of human rights in Africa.

#### **4.2. Ministry of Justice:**

At the Ministry of Justice, the delegation from the African Commission on Human and Peoples' Rights began by discussing the Mission's terms of reference with the Secretary General, the Head of the Office and the Desk Officer at the Ministry before meeting with the Minister of Justice himself.

Speaking about the establishment of a structure responsible for human rights matters, the Minister of Justice revealed that the issue had been raised and discussed in Cabinet. He said that it had been accepted in principle and that it was only a matter of time before the actual establishment of the said structure.

With regard to the National Human Rights Institution, the Minister intimated that a structure had been put in place but unfortunately it had never been operationalized. There were plans to revisit the provisions of this structure by Cabinet with a view to setting up an appropriate institution which would conform to the provisions of the African Charter and the Paris' Principles.

Concerning the state of the Judiciary in Mali, the Minister of Justice said, in substance, that the existing number of Magistrates was clearly insufficient compared to the needs identified on the ground. He revealed that this was due to the difficult task of balancing quantity with quality during the recruitment of new Magistrates.

The Government of Mali has decided to recruit between 50 and 55 Magistrates a year in order to fill this gap. However, it was sometimes confronted with constraints in relation to the academic credentials of applicants. Thus, out of 55 posts of Magistrates to be filled in 2003, the Government only managed to recruit 28.

The Minister of Justice indicated that a lot of effort has been made, but the need for in depth reform remained a reality. He regretted the fact that the Judiciary in Mali was subjected to a lot criticism. The laws were well conceived but their enforcement left a lot to be desired. There were many areas of concern which naturally led to the dissatisfaction of those who seek redress in the courts.



The organization of the Judiciary in Mali is presented in the form of a pyramid with the County Courts in the major towns of the districts and regions at the bottom.

Appeal Courts which deliver second degree rulings on the judgments issued by the County Courts.

At the top of the pyramid is the Supreme Court which checks the legality of the rulings made by the grassroots Courts.

There were plans to initiate the necessary reforms with a view to improving the overall situation in the Malian Judiciary as justice is fundamental in a legally constituted State; it is for this reason that the Malian Government designed the Ten-Year Development Programme for the Judiciary (TYDPJ). One of the aspirations of this Programme was to increase the access to justice for all citizens and to ensure that all hearings are fair and are brought within reasonable limits before competent and impartial Courts.

#### **4.3. Ministry for Local Government:**

The Permanent Secretary at the Department introduced the Mission to the Minister for Local Government.

Sequel to the usual welcome remarks, the Minister for Local Government reassured them that Mali was ready to honour all its commitments made as a sovereign Nation in the area of human rights.

He supported the Mission's idea for the establishment of an executive body responsible for human rights issues.

Regarding the ratification of the additional Protocol to the African Charter on Women's Rights, the Minister for Local Government said that the Ministry of Foreign Affairs should make arrangements to submit the matter to Cabinet with a view to expediting the ratification process.

After having reiterated Mali's commitment to human rights issues, the Minister for Local Government asked why people only talked about human rights and forgot about the issue of obligations and duties. According to him this could only lead to more cacophony and chaos. Citizens needed to know their rights as well as their duties.

To these questions, the Mission responded that the African Charter meticulously takes into account the duties of human beings. To back it up, the Mission cited the provisions of Articles 27 and 28 of Chapter II of the said Charter.

These provisions particularly underscore the importance of the African Commission's promotional Missions, which clearly help to increase knowledge

of the African Charter in order to ensure the accurate implementation of its provisions.

#### **4.4. The Office of the Ombudsman of the Republic:**

The Mission, accompanied by the Desk Officer at the Ministry of Justice and the Coordinator of the Human Rights Promotion and Protection Support Project in Mali first discussed with the Ombudsman of the Republic issues relating to the African Charter and the role of the African Commission and then the areas of competence of the Ombudsman of the Republic.

The delegation from the ACHPR explained the provisions of the African Charter, the mode of election of Commissioners, its promotional activities, seizure by the Commission, the submission of Periodic Reports, relations between the African Commission and State Parties, National Human Rights Institutions as well as NGOs.

Following these explanations, the Ombudsman of the Republic, having welcomed it, thanked the delegation from the African Commission and wished it a pleasant stay in Mali.

She then proceeded to explain that she was head of a structure that was young and little-known, which nonetheless provided citizens with supplementary guarantees for the enjoyment of their rights.

Established in 1997, the structure is not backed by the Malian Constitution. This in itself did not necessarily constitute a shortcoming even though such a backing would have given it greater clout. The example of some countries which were forced to reduce the number of institutions established under the Constitution was edifying in that respect. The important thing to note was the actual powers conferred on the Institution.

The Ombudsman of the Republic receives claims against the State, local governments, public enterprises and any other body in the public domain. In other words, any physical or moral person engaged in some activity within an institution of the public service which fails to perform its duty in accordance with the public service code, can seek redress, in writing, from the Ombudsman of the Republic.

The first report of Ombudsman of the Republic was recently submitted. This Report only registered 400 claims, which is very little compared to the situation on the ground. This is due to the fact that the Office of the Ombudsman has not yet embarked on the decentralization of its activities and structures to ensure that it gets closer to the population.

It was highly encouraging to note that this Report attracted a lot of interest from the Executive and the Legislature, whose highest Authorities, namely the President of the Republic and the Speaker of the National Assembly expressed

their satisfaction with the Office of the Ombudsman of the Republic. The latter is waiting to see the outcome of its recommendations.

#### **4.5. The President of the Supreme Court:**

The President of the Supreme Court began by expressing his regrets at not being able to come up with all the elements that would have enabled him to adequately discuss with the delegation from the African Commission due to the short notice.

He spoke about the debate on human rights issues that took centre stage during the legal year celebrations on the theme: "the Role of Justice in the Protection of Human Rights".

Regarding the international instruments such as the African Charter on Human and Peoples' Rights, the President of the Supreme Court believed that the matter of interpretation of laws should not be referred to the Ministry of Foreign Affairs but rather to the African Commission. This would preclude having an interpretation prejudiced by Government's position.

It was very important that Malian Magistrates study and understand the laws relating to the promotion and protection of human rights in order to guarantee the effective enjoyment of the latter by the population. Towards that end, he pursued, the independence of the judiciary should be sacrosanct. It is at this level that the real debate in Mali is situated since it was understood that the State would not easily abandon some of its practices nor facilitate the effective independence of the Judiciary. There were people who still felt that a Judge should not be independent since that would only make him/her fat headed. They needed to have a good interpretation of the independence of the Judiciary.

According to the President of the Supreme Court, the Judge represents the last resort for citizens. A Judge should therefore have the requisite qualifications and operate with full autonomy to enable him/her guarantee respect for and observance of human rights. Towards this end, there is need for increased sensitization, not to mention training in human rights. It was for this reason that the President of the Republic instructed the Minister of Justice to include human rights courses in the training programme for Magistrates.

By way of conclusion, the President of the Supreme Court disclosed that the Ten Year Development Plan for the Judiciary provided for the elimination of Judges operating singly in higher level courts and the establishment of administrative courts and new courts with a view to bringing justice closer to the citizenry.

#### **4.6. The Public Prosecutor at the Appeal Court of Bamako:**

The discussions between the Public Prosecutor at the Appeal Court of Bamako and the Mission revolved mainly around issues relating to judicial proceedings, prosecution, presumption of innocence, the right to defense and detention.

According to the State Prosecutor, the right to defense was guaranteed by the laws and was translated into reality almost daily. Lawyers were present from the very beginning of proceedings. Police custody was limited to 48 hours and should not in any case exceed 72 hours.

However, the insufficiency of Magistrates gives rise to a backlog of cases and slowness of proceedings, which results in the overcrowding in prisons. This is characterized by the numerous prolonged remand cases.

In Bamako, the simplest case can last up to 4 or 5 months and in the other regions, it may last 2 to 3 months.

In some instances, defendants placed on remand outnumber the convicted prisoners as cases of prolonged remand generally swell the prison population.

The trend was to limit remand cases to 6 months for offences and one year for crimes.

Thus, the judicial apparatus only covers a small portion of the country. The decentralization process will create many new legal entities for which the judiciary must find ways of getting closer to the citizenry for it to be effective.

There is no doubt that judicial reform needs to be pursued to ensure that the justice system adequately protects the rights of citizens.

It is for this reason that the Ten Year Programme for the Development of the Judiciary (TYPDJ) makes provision for the coverage of the entire territory with law Courts and equipping them with logistical means and competent and qualified human resources.

However, considering the vastness of the territory and the limitations in terms of the financial resources required to realize this objective, the Ten Year Programme provides for certain interim measures aimed at facilitating access to justice by citizens. These constitute the promotion of alternative methods of settling disputes: arbitration, reconciliation, negotiation, legal assistance. Besides these measures, others are envisaged, namely: the creation of Reception and Orientation Bureaux (ROBs), penal mediation, the elimination of legal costs.

The Ten Year Programme is also intended to reinforce the principles of the presumption of innocence and respect for the right to defense which have undergone major changes in the new Criminal Code.

According to the terms of Article 46 "During a preliminary inquiry, any individual who is implicated or is a victim of an offense has the right to be assisted, by one or several Counsels of his/her choice". Furthermore, "the Public Prosecutor can automatically or at the request of a member of the detainee's family, designate a Doctor to examine the latter at any time during the detention period".

"In any case, the legal police officer who decides to detain an individual is under the obligation of informing that individual of his/her right to be examined by a Doctor of his/her choice".

The measures outlined above and many others represent the significant progress made in the area of improving legal procedures in Mali. But it has to be admitted that in reality their enforcement poses enormous problems due to the lack of material and human resources. Thus in defiance of the new rules, the old practices continue to prevail.

#### **4.7. Ministry of Education:**

At the Ministry of Education, the Mission met with the Secretary General of the Department assisted by his main advisers.

Following the introductory remarks by the delegation of the African Commission, the Secretary General requested clarification on the relations between the African Commission and the African Court that recently entered into force.

The Mission explained that the African Commission was mandated to ensure the promotion and protection of Human and Peoples' Rights in Africa. To that end, it has quasi jurisdictional powers. The African Court makes rulings like a normal Court to either condemn or dismiss a case. It thereby strengthens the human rights protection aspect of the African Commission's role and also somehow complements its responsibilities.

Following these clarifications, the Secretary General of the Ministry of Education acknowledged that the right to Education was a fundamental one even before speaking about the Ten Year Programme of "Education for all by the Year 2015".

The illiteracy rate remains high in Mali since it is pegged at 84.5%. For this reason the Government has, in the Educational Sector, fixed priority areas to focus on the following points:

- The drafting and implementation of the National Action Plan (Education for all by the Year 2015);
- The Development of a policy for the implementation of a community pre-schooling system;
- The strengthening of:

- i. Educational facilities by increasing the reception centres and the number of trained teachers;
  - ii. The policy of initial training of teachers.
- The Development of high quality schools which are child friendly and has respect for the rights of the Child (trained teachers, adapted pedagogic material, availability of school manuals, participation and self expression by the children, elimination of all forms of discrimination, integrative schooling, schools without violence, good hygienic and sanitary conditions, community participation in school matters).
  - Strengthening of the most appropriate educational formulas;
  - Building the management capacity of the administrative and technical personnel of the Ministry of Education;
  - The drafting and promotion of preventive educational strategies in the framework of the control of STDs/AIDS.

The Secretary General highlighted some results registered in the area of Education and school infrastructure. In this context, he revealed that there was a marked increase in the number of schools as the figure rose from 6,977 schools in 2001/2002 to 7,922 in 2002/2003, representing an increase of 13.5%. In the case of classrooms, there was an increase of 5.9% which had a positive impact on student enrollment. As such, the percentage of school-going children increased from 64.3% in 2001/2002 to 67.0% in 2002/2003.

Despite these efforts, the requirements were far from being met since in many parts of Mali, people were demanding more classes, teachers, books, educational materials. There were complaints about overcrowding in some schools where one can find 150 to 160 pupils per classroom. In order to remedy this situation, it was necessary to organize multigrade classes to cater for a group of pupils in the morning and another in the afternoon.

There is also an Adult Education Programme for which Mali was cited as a shining example in the area of Adult Literacy.

#### **4.8. Ministry for the Promotion of Women, Children and Family Affairs:**

In the absence of the Minister who was out of the office at the time, the Mission was received in audience at the Ministry for the Promotion of Women, Children and Family Affairs by the Secretary General. The Secretary General was assisted in the meeting by the Technical Adviser at the Ministry.

In his remarks, the Secretary General deplored the cumbersome administrative procedures which underlie the preparation of Periodic Reports. According to him, this situation was due to disputes relating to the allocation of roles between the Sectoral Departments and the Ministry of Foreign Affairs in the preparation and follow up of the said Reports.

Reacting to the matter of the establishment of a structure responsible for human rights, he said that it was a case of political convenience because he could recall that there used to be a Ministry for Human Rights in 1991/1992. Today, the responsibilities of that Office fell under the purview of the Ministry of Justice. Due to its concern on the need to streamline structures, Cabinet was yet to adopt a final decision on the issue.

He wondered about the kind of mechanism that could be put in place to look after human rights issues. According to him, establishing a public service structure should not be initiated without taking on board the concerns of the civil society. A study was currently underway and its findings were to be submitted before July 2004.

Pertaining to the Protocol on Women's Rights, the Secretary General admitted that its ratification was a matter of real concern to the Department. However, since Mali had ratified all the International Conventions on Women and Children, it was unlikely that problems would arise in the ratification of the additional Protocol to the African Charter on Women's Rights.

On the matter of the situation of women in Mali, the Secretary General of the Department intimated that there was not a single law in the country which discriminated against women. However, in practice, women were deprived of the enjoyment of their rights through various forms of violence to which they were subjected.

This deprivation took the form of physical, sexual, psychological, institutional and economic violence.

Physical violence varies from assault and battery, forced-feeding of young girls to accelerate their growth with a view to marrying them off early, female genital mutilation which undoubtedly violates the physical integrity of the woman.

Sexual aggression takes the form of forced sexual relationships without the woman's consent. They relate in particular to rape, sexual abuse as well as sexual harassment.

Psychological aggression ranges from sexist expressions and abuse, lack of respect and attempts to arouse an inferiority complex in herself, belittlement, humiliation and demeaning the woman. These forms of violence may take the form of threats, imposing one's point of view, tastes, values, beliefs, desires.....

Institutionally inspired forms of violence include religious standards, customs and practices that violate Women's Rights namely, wife inheritance (marriage between a widow and the brother of her deceased husband), sororate (marriage between a widower and the sister of his deceased wife), forced or

early marriages, repudiation, certain forms of widowhood, religious confinement.....

Forms of economic violence include discrimination in the access to factors of production and to positions of responsibility, discrimination in wages, exclusion from the decision-making process within the Community and at the national level, exclusion from inheritance.....

Other forms of economic violence include denying women income generating activities, denying them access to information or control over economic activities of interest to them or their social milieu.

Since the advent of the 3rd Republic in 1992, some forms of injustice affecting Women have been remedied.

In addition, the Government needs to take all the necessary steps in order to translate into reality the provisions of international instruments to which Mali is signatory. These relate specifically to the Department responsible for the promotion of Women's, Children's and Family Affairs, to the International Convention on the Elimination of all forms of Discrimination against Women, to the International Convention on the Rights of the Child and the African Charter on Human and Peoples' Rights.

#### **4.9. Ministry of Health:**

At the Ministry of Health, the delegation from the Commission was received by the Permanent Secretary of the Department.

After having described the African Commission's work as very important, Madame the Permanent Secretary of the Department affirmed that "health is life and as a result every one has a right to it". The Ministry of Health is doing its utmost to ensure that the population enjoys good health in a healthy environment. This is the basis for the major efforts being deployed to decentralize health services up to the Municipal Provinces. There are over 600 fully staffed Health Centres to cover 702 councils.

The vaccine cover for pregnant women and children is fully assured. For children, 10 vaccines are guaranteed on condition that mothers observe adequate follow up. The mortality rate has thus been significantly reduced.

As regards HIV/AIDS, Madame the Permanent Secretary disclosed that the prevalence rate of this pandemic is 1.7% in Mali. The Ministry has put in place an IEC (Information, Education, Communication) Programme with a view to encouraging behavioral change. The case management of AIDS patients is assured through the provision of anti-retro-viral drugs.

However, a lot remains to be done in order to guarantee the effective enjoyment of the right to good health by the Malian population. It is with this



in view that the Government established a National Programme which, among other things, makes provision for the following activities:

- ✓ The construction of sanitary infrastructures;
- ✓ The improvement of the quality of services provided;
- ✓ The extension of the sanitary cover;
- ✓ The improvement of the nutritional situation of women and children (food for pregnant women and the promotion of exclusive maternal breastfeeding, effecting of proper weaning);
- ✓ The control of STDs and HIV/AIDS and practices which are detrimental to the health of women and children in particular;
- ✓ The development of human resources in the health sector;
- ✓ The improvement of hygiene and healthiness of the environment.

Before concluding Madame the Permanent Secretary bemoaned harmful practices such as excision which is highly detrimental to the health of Women. However, thanks to a series of sensitization programs, this practice which was being performed by some midwives in health centres has been significantly reduced.

#### **4.10. National Directorate of Prisons and Rehabilitation Centres:**

The Mission held discussions with the Director of Prisons and Rehabilitation Centres in his Offices.

The Director started by intimating that he agreed with the delegation from the African Commission that one cannot talk about human rights without considering the prison dimension of the matter.

He proceeded to inform the Mission that detention centres were closed down on the advent of democracy. It was in that respect that the infamous Kidal prison was closed down.

In Mali today there are only 52 detention and correction centres.

There were also 4 agricultural penitentiaries called open prisons because the prisoners there were not locked up, they worked in the fields whilst their produce was consumed within the centres. Some prisoners found it difficult to leave upon their discharge as they were at a loss as to what to make of their new found freedom. Many of them made arrangements to work as security guards in companies or educational institutions.

There are also specialized centres for detention, rehabilitation and reintegration of women and children. The Heads of these facilities prefer not to call them prisons since in them various trades are taught to facilitate their social reintegration at the end of detention period.

There are also observation and orientation centres located midway between prison and society. These are observation centres for children in difficulty and who are not in conflict with the law but need some form of guidance to find their bearings in life.

Speaking about the prison population, the Director of Prisons said that the figures range from 3,500 to 4000 prisoners in the entire country. In March 2004, the prison population in Mali totaled 4,327 inmates.

A lot of effort has been made to humanize prison conditions as the most basic standards relating to the rights of detainees were not being adhered to in some prisons which date back to the colonial period. There was no separation of men, women and minors. The overcrowding in certain detention centres is deplorable.

As from 1991, the State built 15 new prisons with separate quarters for women and children. There are plans to build 2 this year. These prisons respect the necessary conditions of hygiene with individual cells, in-built cupboards, and decent toilets.

The daily food ration for each inmate was increased from 85 FCFA per day in 1991 to 350 FCFA by day in 2004. Inmates were entitled to up 3 meals per day and should not in any case obtain less than 2 per day. According to the Director of Prisons, the humanization of prison conditions begins with the food.

Within the framework of this humanization drive, some prisons were renovated and even equipped with television sets to avoid depriving prisoners of current affairs and educational and entertainment programs.

Regarding the health of prisoners, there are no Infirmaries in the prisons. Doctors and nurses visit inmates in prison and provide them with free drugs.

In order to ensure that inmates are kept busy, work in prison was regulated to carefully avoid falling into the domain of chores or forced labor. The volume and quality of the products made by the inmates led us to organize "a prisoners' week" which allows rural people to meet with prisoners. During this meeting, products made by prisoners are exhibited.

Deprived of their freedom of movement, detainees preserve their freedom of worship. Religious leaders are consequently identified to lead prayers in prison on Fridays for Muslims and on Sundays for Christians.

#### **4.11. Visit to the Koulikoro Prison:**

The Mission, accompanied by the Director of Prisons and Rehabilitation Centres and the desk officer at the Ministry of justice, visited the prison in Koulikoro on the outskirts of Bamako.

The Mission met the Director of the prison and held discussions with the prisoners.

The prisoners unanimously admitted that they were being well treated since the new Director assumed office. It is worthy of note here that it was as a result of an unannounced visit by the prison administration staff that the former Director was relieved of his duties for dereliction of duty relating to prisoners food.

Before this visit, the former Director did not provide the detainees with the food rations intended for them and did not pay adequate attention to the problems of health and drinking water supplies.

The prisoners confirmed that they now receive 3 meals per day and are treated in prison through the intervention of an NGO which provides consultations and drugs in collaboration with the Koulikoro Health Centre.

The Mission expressed satisfaction with the fact that some inmates are able to exercise a profession in prison whilst others attend literacy classes with a view facilitating their social reintegration on their discharge from prison. The quality of bags and other items produced by prisoners in Koulikoro are highly appreciable.

At the Koulikoro prison, prisoners have access to running water but complain about the lack of electricity. The Prisons Administration staff explained that arrangements had been made to provide electricity and promised to take the necessary steps to finalize the said arrangements.

#### **4.12. Meeting with NGOs and other members of the civil society:**

The Mission met representatives of many NGOs and other members of the civil society. The list of people encountered is attached in Annex to this Report.

The NGOs unanimously acknowledged the efforts being deployed since 1991 for the promotion of human rights in Mali. However, they denounced the wrongs affecting the young Malian democracy:

- Lack of synergy between the actions undertaken by different members of the civil society;
- The un-involvement of the civil society actors in certain aspects of the decision-making process;
- The lack of information;
- Difficulties of access to fair justice;
- The insufficiency of Magistrates leading to a backlog of cases, slowness of proceedings and overcrowding in prisons;
- Difficulties of access to education and healthcare;
- Corruption and impunity;

- Insecurity;
- Degradation of the environment;
- Poverty and social inertia.

The Mission applauded the work of NGOs and other civil society actors on the ground and urged them to build networks with a view to building synergies which presently lack among them.

It also urged them to familiarize themselves with the provisions of the African Charter with a view to their greater involvement in the activities of the African Commission.

In the same vein, it encouraged them to submit their request for Observer Status with the African Commission.

## **5. Assessment of the Mission:**

From its meetings and consultations the Mission observed that the human rights situation in Mali is characterized by two phenomena:

- i. Existence of an institutional framework favorable to human rights and
- ii. The persistence of numerous obstacles to the effective enjoyment of civil and political rights as well as economic, social and cultural ones and to the operations of different national institutions working in the field of human rights.

### **5.1. Institutional Framework:**

At the national level, Mali has made important headway in the adoption of laws for the promotion of democracy in general and human rights in particular. In that respect, the following institutions can be cited here:

- The Constitutional Court;
- The Judiciary;
- The Ombudsman of the Republic;
- The National Human Rights Consultative Commission;
- The Children's Parliament;
- The Democratic Forum (forum organized once every year during which the governed and other stakeholders can publicly pronounce their grievances against the administration in particular in the presence international observers);
- The National Commission for equal access to State media;
- The House of the Elders;
- The High Council on Communication
- The Code of Conduct for the Army and the Security Forces.

At the international level, Mali has ratified the principal International Human Rights Instruments:

- The International Convention on Economic, Social and Cultural Rights;
- The International Convention on Civil and Political Rights;
- The International Convention on the Elimination of all forms of Racial Discrimination;
- The International Convention on the Elimination of all forms of Discrimination against Women;
- The Convention against Torture and other Cruel, Inhuman or Degrading treatment or punishment;
- The International Convention on the Rights of the Child;
- The African Charter on Human and Peoples' Rights;
- The African Charter on the Rights and Welfare of the Child;
- The Protocol establishing the African Court of Human and Peoples' Rights.

## **5.2. Obstacles to the effective observance and enjoyment of Human Rights :**

The main obstacles to the effective enjoyment of human rights are:

- Limited understanding of the institutional framework regarding human rights matters;
- Lack of knowledge about the provisions of the African human rights promotion and protection mechanism that the African Commission epitomizes;
- Non observance of the procedures defined by International Conventions;
- Lack of Magistrates and the malfunctioning that is corrupting this profession entrusted with the task of guaranteeing the enjoyment of human rights;
- Weakness of local structures working in the area of human rights;
- Lack of coordination in the implementation of human rights activities and programs;
- Lack of harmonization between domestic laws and international instruments;
- Socio-cultural inertia linked to remnants of former traditional practices;
- Absence of a National Human Rights Institution;
- Absence of an executive body responsible for the coordination and monitoring of all human rights issues and also for the promotion and protection of these rights;
- The predominance of poverty, in spite of all the efforts deployed to combat it.

## **6. Recommendations:**

After reviewing the findings of different meetings and observations on the ground, the Mission recommends to the Government of Mali as follows:

- 1) Establish and operationalize an executive structure for the coordination and monitoring of all human rights issues;

- 2) Establish a National Human Rights Institution in accordance with the relevant provisions of the African Charter and the Paris' Principles;
- 3) Confer on the Office of the Ombudsman of the Republic the status of a constitutional institution so as to grant it greater power and authority;
- 4) Refer to the African Commission all matters of interpretation of the African Charter in conformity with the provisions of Article 45 of the said Charter;
- 5) Put in place the necessary measures to curb the administrative bottlenecks which dog the preparation of States' Periodic Reports by eliminating the conflict of roles which give rise to these bottlenecks;
- 6) Pursue and intensify the fight against poverty with a view to guaranteeing the enjoyment of economic, social and cultural rights;
- 7) Pursue the fight against corruption and impunity with a view to consolidating the poverty alleviation program;
- 8) Deploy extra efforts to satisfy the requirements in the education sector: classrooms, teachers, books, teaching aids...
- 9) Intensify the IEC Programme (Information, Education, Communication) put in place by the Ministry of Health so as to put into effect the behavioral changes necessary for the preservation of the good health of the populations, notably against STDs and HIV/AIDS;
- 10) Take steps to strengthen education on human rights and democracy;
- 11) Use all available channels to sensitize the population on human rights promotion and protection instruments with special emphasis on the provisions of the African Charter;
- 12) Proceed with the reform of the Justice System;
- 13) Put in place a sound policy for the recruitment of new talents into the Magistracy, which should be combined with an on-going skills development programme for Magistrates;
- 14) Harmonize its national laws with International Human Rights Conventions;
- 15) Put in place the requisite measures to translate into action the provisions of international instruments to which the country is signatory;
- 16) Pursue and intensify the process of humanization of prison conditions, by facilitating notably, access to drinking water and electricity in prisons that do not have such facilities;
- 17) Explore ways and means of actively involving NGOs and other civil society actors in the promotion and protection of human rights;
- 18) Make a Declaration of competence with a view to facilitating seizure of the African Court on Human and Peoples' Rights which is soon to be established;
- 19) Ensure that it sends delegations regularly to the different sessions of the African Commission;

To the African Commission as follows:

20) To send to the Malian side other documents, notably its various publications as well as all other information likely to strengthen the visibility of the institution;

**Conclusion:**

The Mission applauds the efforts deployed by Mali in the area of promotion and protection of human rights. It urges Mali to deploy greater efforts in translating into reality the provisions contained in the institutional mechanisms that govern the rule of law, democracy and respect for human rights.

The delegation of the African Commission wishes to express its profound gratitude to the Malian Government, in particular the Ministry of Justice, for all the facilities placed at its disposal during this visit.

It also wishes to express special thanks to Mr. Abraham Bengaly, Desk officer at the Ministry of Justice, who organized the different meetings and provided the Mission with all the support necessary during its entire stay.

It further wishes to extend its sincere expression of appreciation to Dr. Mamadou Diakité, National Coordinator of the Human Rights Promotion and Protection Support Project for his availability and personal involvement in the Mission's work.

It finally wishes to express gratitude to the support staff of the Ministry of Justice for their significant contribution to the success of this Mission.

The Mission is convinced that with the commitment and support of all and sundry, relations between the African Commission and the Republic of Mali will be further strengthened in the interest of promoting and protecting human rights in Africa.

### List of Personalities encountered:

1. **Mr. Diango Cissoko**, Permanent Secretary, Office of the Prime Minister
2. **Me Adboulaye Garba Tapo**, Minister of Justice, Guardian of the Seals
3. **Mr. Kafougouna Koné**, Minister for Local Government and Local Councils
4. **Mme. Diakité Fatoumatal Diaye**, Ombudsman of the Republic
5. **Mr. Barakou Touré**, President of the Supreme Court
6. **Mr. Mamadou klazie Cissouma**, Public Prosecutor at the Bamako Court of Appeal
7. **Mr. Daniel Tessougue**, Solicitor General, Ministry of Justice
8. **Mr. Kénékowo known as Barthélémy Togo**, Secretary General, Ministry of Education
9. **Mr. Youssouf Sangaré**, Secretary General, Ministry for the Promotion of Women, Children and Family Affairs
10. **Mrs. Togo Marie Yagalé Togo**, Permanent Secretary, Ministry of Health
11. **Mr. Alou Nampe**, Permanent Secretary, Ministry of Justice
12. **Mr. Mamadou Dipa Fane**, Legal Counsel, Office of the Prime Minister
13. **Mr. Amadou Cissé**, Technical Adviser, Ministry for the Promotion of Women, Children and Family Affairs
14. **Mr. Moussa Diakité**, Director of Legal Affairs, Ministry of Foreign Affairs
15. **Mr. Bourama Sidibé**, National Director of Prisons
16. **Mr. Mamadou Diakité**, National Coordinator, Human Rights Promotion and Protection Support Project
17. **Mr. Abraham Bengaly**, Program Officer, Ministry of Justice, responsible for programmes, human rights issues, vulnerable groups, civil society.
18. The Director of Koulikoro prison



**List of NGOs and Associations met:**

1. Malian Human Rights Association
2. CEPROCIDE
3. Lawyers without borders
4. COFEM
5. AMUPI
6. PDHRE/DPEDH- Mali
7. CAFO
8. Catholic Church