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**SUMMARY PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER
FOR HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15 (C) OF
THE ANNEX TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

Mali*

The present report is a summary of two stakeholders' submissions¹ to the universal periodic review. It follows the structure of the general guidelines adopted by the Human Rights Council. It does not contain any opinions, views or suggestions on the part of the Office of the High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. Lack of information or focus on specific issues may be due to the absence of submissions by stakeholders regarding these particular issues. The full texts of all submissions received are available on the OHCHR website. The periodicity of the review for the first cycle being four years, the information reflected in this report mainly relates to events that occurred after 1 January 2004.

* The present document was not edited before being sent to the United Nations translation services.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. The International Federation for Human Rights (FIDH) mentioned that Mali has ratified the seven principal international human rights instruments.²

B. Constitutional and legislative framework

2. FIDH noted that, since its adoption of a Constitution by referendum, Mali has followed the path of democracy. The President of the Republic and the deputies of the National Assembly are elected by universal ballot, and rights and liberties, as well as the separation and diversification of powers, are guaranteed under the Malian Constitution.³

C. Institutional and human rights infrastructure

3. FIDH reported that Mali has recently established a National Commission for Human Rights, instituted by a decree of 16 March 2006. While this initiative is to be welcomed, it should be pointed out that by instituting the National Commission for Human Rights by a decree and not by a law and by attaching it to the Ministry of Justice, the Malian Government has not complied with the international rules established by the United Nations in the Paris Principles. It may therefore be doubted whether the Commission will be able effectively to fulfill its mandate. FIDH recommended that the Malian Government comply with the Paris Principles relating to the status and functioning of national institutions for protection and promotion of human rights.⁴

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

4. FIDH mentioned that Mali has still not reported to the Committee responsible for the implementation of the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁵

B. Implementation of international human rights obligations

5. FIDH maintained that despite the political will in favour of respect for human rights and good governance, violations of the rights guaranteed by international instruments continue, particularly violations of the rights of women and of economic and social rights.⁶

1. Equality and non-discrimination

6. FIDH reported that the Malian Government has still not adopted a new Family Code and that the code is not really being debated in Malian society at present. Yet many provisions of the Code on Marriage and Custody, which has been in effect since 1962, violate women's rights as enshrined in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). For example, the legal age for marriage, which is 18 for boys and 15 for girls, establishes de jure inequality, even though this is followed by a provision stipulating the need for consent (article 10 ff.). According to FIDH, however, it is found that arranged marriages are still taking place without the consent of future spouses. Moreover repudiation, though forbidden by

the Criminal Code, continues to be practiced. Lastly FIDH considered that polygamy, which is allowed in Mali (article 7 of the Code on Marriage and Custody) and is very widespread, violates the dignity of women and constitutes unacceptable discrimination against them, especially since article 16.1a of CEDAW gives men and women the same right to enter into marriage. FIDH reported that the Committee on the Elimination of Discrimination against Women (CEDAW Committee) expressed concern at the persistence of such discriminations and at the lack of progress achieved with discriminatory legislation. The Committee further expressed its concern regarding the proposed reform of legislation applicable to marriage, insofar as it does not do away either with polygamy or with the notion that the man should be the head of the family. According to FIDH, the Committee urged the Malian Government to complete the process of adopting the draft Individuals and Family Code by the first quarter of 2006.⁷ In December 2007, that is, almost two years after the date indicated by the Committee, FIDH observed that the draft reform had still not been adopted despite the declared intentions of the Malian authorities.⁸

7. FIDH recommended that the Malian authorities adopt the draft reform of the Individuals and Family Code in order to comply with the provisions of CEDAW and introduce legislation to forbid early civil marriage. FIDH also recommended undertaking awareness campaigns with a view to changing attitudes to polygamy, and eventually abolishing that practice in accordance with general recommendation No. 23 on marriage and family relations.⁹

8. Regarding the transfer of nationality to children, FIDH indicated that the provisions of the Malian Nationality Code, particularly its article 8 on Malian nationality of origin, are contrary to CEDAW, whose article 9 grants women equal rights with men with respect to the transfer of nationality. Under Malian law, men, unlike women, ipso facto transfer their nationality to their children.¹⁰ FIDH noted that the CEDAW Committee expressed concern at those discriminatory measures and urged the Government to give high priority to reforming the Nationality Code in line with CEDAW provisions.¹¹

2. Right to life, liberty and security of the person

9. Regarding female genital mutilations, FIDH reported that in Mali practices such as clitoridectomy, excision and infibulation existed, although they were contrary to the provisions of CEDAW, in particular article 3, insofar as they violated both women's physical integrity and their privacy. At present, according to FIDH, it is estimated that 9 out of 10 women are excised, from the age of 4 in all regions, and even earlier in urban areas, the average age for excision in the capital, Bamako, being one year. The consequences of this practice for women's health are very serious (such as gynaeco-obstetric and biological problems, or psychosomatic disorders). FIDH reported that the CEDAW Committee expressed concern at the fact that this harmful traditional practice was very widespread and at the Government's clear reluctance to speed up the adoption of legislation to eliminate this violation of women's fundamental rights. According to FIDH, the Committee urged Mali as soon as possible to adopt legislation prohibiting excision and all forms of female genital mutilation and to ensure that perpetrators of excision are duly prosecuted and punished, and recommended the implementation of awareness campaigns. FIDH noted that despite those recommendations Mali has still not adopted legislation outlawing female genital mutilation. While the Government has already introduced several measures to combat these practices, they are still inadequate, according to FIDH.¹² FIDH recommended that the

Malian authorities confirm the total ban on female genital mutilation by introducing penalties for the practice of excision and all practices detrimental to women's health, and conduct awareness campaigns against such practices.¹³

10. Regarding domestic violence, FIDH reported that neither marital violence nor marital rape is incriminated as such in Mali. While victims can lodge complaints in court on charges of assault and battery or rape (articles 207 and 226 of the Penal Code), such practices are very often tolerated by society and in many cases, under social pressure, proceedings lead to negotiation, which often ends with the return of the woman concerned to the matrimonial home. FIDH reported that the CEDAW Committee has expressed concern at the perpetration of acts of family violence against women and girls and at the lack of legislation dealing specifically with domestic violence. According to FIDH, the Committee has urged the Malian Government to adopt a set of measures to combat such violence, by enacting punitive legislation, by training magistrates and officials and by creating awareness in society as a whole.¹⁴ FIDH recommended that the Malian authorities penalize domestic violence and introduce institutional support for women who are victims of domestic violence, as well as a system of legal aid.¹⁵

11. The Global Initiative to End All Corporal Punishment of Children (GIEACP) pointed out that corporal punishment is lawful in the home. Article 84 of the Family Relations Code (1973) states that "the authority of the father comprises a right to custody, of management, surveillance and correction". Children are given limited protection from violence by the Code on the Protection of the Child (2002), which includes provisions against repeated violations of their integrity and all acts of brutality likely to harm their emotional, psychological or physical balance (article 56). GIEACP noted that as at February 2007, a draft Individuals and Family Code was under discussion. Under examination by the Committee on the Rights of the Child in January 2007, the Government delegation stated its commitment to implementation of all the recommendations of the UN Secretary-General's Study on Violence against Children. GIEACP added that corporal punishment is prohibited in schools, under internal regulations of 8 April 1994 (fundamental schools) and of 15 April 1994 (special education institutions and kindergartens). According to GIEACP, it is reportedly practised in coranic schools and in the "medersas" (Moslem Theology Schools).¹⁶

12. GIEACP further mentioned that in the penal system, corporal punishment is unlawful as a sentence for crime. It is considered unlawful as a disciplinary measure in penal institutions, but there is no explicit prohibition. The Constitution (article 3) prohibits "torture or inhuman, degrading or humiliating treatment or punishment". A decree (1988) governing the penitentiary system forbids staff from using acts of violence on convicts (article 105) and does not include corporal punishment among permitted punishments for disciplinary offences (article 112), do not include corporal punishment. Article 14 of the Code on the Protection of the Child states that a child placed in a protective educational or rehabilitative institution, or in a place of detention, has the right to physical and moral protection. In alternative care settings, corporal punishment is prohibited in some institutions and childcare settings, but there is no explicit prohibition in legislation, as noted by GIEACP.¹⁷ GIEACP strongly recommended that Mali introduce legislation as a matter of urgency to prohibit corporal punishment of children in all settings, including in the home.¹⁸

13. Regarding trafficking in and prostitution of women, FIDH reported that, even though no statistics are available in that respect, Mali is used as a transit country for the trafficking of

women and children. A great many women leave countries in the region to come to Europe, where they join prostitution networks. Those who do not manage to reach Europe engage in prostitution in Bamako or in the gold-mining regions from which many workers and unskilled labourers originate. According to FIDH, there is no institutional facility available to shelter, offer guidance to or assist women who have been the victims of trafficking or sexual exploitation. Moreover, many young children from neighbouring countries are made to work on plantations, and young girls are employed as domestic servants. FIDH welcomes the adoption by Mali of significant legal, administrative and preventive measures, through the establishment of a national plan of action, and cooperation agreements with neighbouring countries. FIDH noted that the CEDAW Committee has expressed concern regarding the practice of procuring and the lack of information regarding the efforts made to combat it. Moreover, according to FIDH, the Committee has urged the Malian Government to adopt an integrated approach in order to ensure that women and girls receive education that will enable them to earn a living by other means than prostitution, and to introduce resettlement and self-sufficiency programmes in order to facilitate their social reintegration.¹⁹

14. FIDH recommended that the Malian authorities strictly apply articles 220, 240 ff. of the Criminal Code penalizing the abduction, trafficking, bonding, enslaving and trafficking of children, and improve the assistance given to children who have been the victims of trafficking. FIDH also recommended setting up care and guidance facilities and providing assistance for the return of women and girls victims of trafficking or sexual exploitation.²⁰

3. Right to work and to just and favourable conditions of work

15. FIDH recommended that the Malian Government facilitate the adoption of a collective agreement offering extended protection of the rights of workers in the mining sector.²¹

4. Right to social security and to an adequate standard of living

16. FIDH reported that Mali is still one of the poorest countries in the world. Moreover, according to FIDH, 90 per cent of the population live off less than two dollars a day, while nearly a third of the population go hungry and less than half have access to drinking water.²²

17. FIDH reported that while gold mining since the 1990s has become one of Mali's major economic activities, it has given rise to large-scale violations of human rights, particularly economic and social. According to FIDH, many environmental problems follow the opening of new mines. Regarding the Syama mine, FIDH mentioned that its installations were deserted after its closure in 2001, and waterways became contaminated when a badly built mud reservoir began to leak.²³ FIDH recommended that the Malian Government fully assume its role as a public authority, especially in order to enforce its own regulations (Mining Code, social legislation, tax laws) and to monitor the activities of enterprises. FIDH also recommended ensuring that social and environmental obligations are fully taken into account in the course of the negotiation and implementation of investment agreements and in the Mining Code under review, and that they are duly enforced. According to FIDH, the Malian Government should also give effect to its commitments under the Extractive Industries Transparency Initiative.²⁴

18. FIDH mentioned that even where mining companies have built care centres near their mining sites the exercise of the right to health has not benefited. In fact these centres are reserved

for mine workers and their families, so that the families of the unemployed have no access to them, unless they pay for treatment, which they cannot afford owing to their insufficient employment. Furthermore, a mission sent by FIDH found that some former workers of the Morilla mine who had lost their jobs as a result of incapacitating accidents at work could not afford the treatment they needed. That sort of practice was contrary to every person's right to good health. In addition, the large intake of migrant workers had led to an increase in prostitution and a massive increase in sexually transmitted diseases. FIDH reported that the spread of HIV/AIDS has increased considerably on mining sites. Yet the FIDH mission found that very little was being done to tackle the pandemic.²⁵

5. Right to education and to participate in the cultural life of the community

19. According to FIDH, the illiteracy rate is as high as 70 per cent.²⁶ FIDH also noted that while inequality in education has been substantially reduced thanks to government measures, it is still very high, especially in rural areas. It appears that there are fewer girls and young women than men in schools and universities, because families consider that male children constitute a "better investment".

20. FIDH mentioned that the CEDAW Committee has expressed concern at the situation, recalling that education is vital for the promotion of women. According to FIDH, the Committee has urged the Malian Government to make public opinion more aware of the importance of public education and has asked it to take steps to change the traditional attitudes that hinder progress in this respect. Lastly it has called on the Government to take the necessary measures to increase the proportion of girls admitted to school.²⁷

21. FIDH recommended that the Malian authorities prepare and implement a real strategy in favour of girls' schooling, especially in rural areas, and that they reform the school guidance system in order to improve girls' access to general higher education.²⁸

III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS

22. FIDH and its member organization, the Malian Association for Human Rights (AMDH), welcome the recent pledge by the President of the Republic, on the occasion of the 47th anniversary of independence, to table two bills, one to abolish the death penalty and one to adopt a new Individuals and Family Code.²⁹

IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS

N/A

V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

N/A

Notes

¹ The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org. (One asterisk denotes a non-governmental organization in consultative status with the Economic and Social Council.)

Civil society

GIEACP Global Initiative to End All of Corporal Punishment of Children, London, United Kingdom, UPR submission, February 2008

FIDH Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008*

² Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 1.

³ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 1.

⁴ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 5.

⁵ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

⁶ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 1.

⁷ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 3.

⁸ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 3.

⁹ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

¹⁰ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 2.

¹¹ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

¹² Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 2.

¹³ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

¹⁴ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 2.

¹⁵ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

¹⁶ Global Initiative to End All of Corporal Punishment of Children, London, United Kingdom, UPR submission, February 2008, p. 2.

¹⁷ Global Initiative to End All of Corporal Punishment of Children, London, United Kingdom, UPR submission, February 2008, p. 2.

¹⁸ Global Initiative to End All of Corporal Punishment of Children, London, United Kingdom, UPR submission, February 2008, p. 1.

¹⁹ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 3.

²⁰ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

²¹ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 5.

²² Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

²³ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

²⁴ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 5.

²⁵ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 5.

²⁶ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

²⁷ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 3.

²⁸ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 4.

²⁹ Fédération internationale des ligues des droits de l'homme, Geneva, Switzerland, UPR submission, February 2008), p. 1.
