



# Economic and Social Council

Distr.: General  
6 November 2018  
English  
Original: French

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the initial report of Mali\*

1. The Committee considered the initial report of Mali (E/C.12/MLI/1) at its 33rd and 34th meetings (see E/C.12/2018/SR.33 and E/C.12/2018/SR.34), held on 26 September 2018, and adopted the present concluding observations at its 58th meeting, held on 12 October 2018.

#### A. Introduction

2. The Committee welcomes the initial report of the State party despite the considerable delay in its submission. The Committee expresses appreciation for the constructive dialogue held with the delegation of the State party and the information provided during the exchange. The Committee also welcomes the State party's efforts to ensure the presence of a delegation and initiate a dialogue, especially given that, at its eleventh session in November 1994, the Committee had discussed the implementation of the Covenant by Mali in the absence of a report.

#### B. Positive aspects

3. The Committee welcomes the measures adopted that promote the rights contained in the Covenant, such as: (a) the creation of the new National Human Rights Commission, which has a broad mandate for the protection and promotion of human rights, in 2016; (b) the adoption of a law to combat illicit enrichment in 2014; (c) the adoption of the Framework for Economic Recovery and Sustainable Development and of a national human rights policy and an accompanying plan of action for the period 2017–2021 that focus on poverty alleviation and access to health care.

#### C. Principal subjects of concern and recommendations

##### Armed conflicts and the peace agreement

4. The Committee is concerned about the negative impact of the internal armed conflicts and confrontations in the northern and central areas of the country on the enjoyment of economic, social and cultural rights. The Committee is also concerned about the large number of persons who have been displaced by these conflicts. The Committee regrets that very little progress has been made in implementing the Agreement on Peace and Reconciliation in Mali signed in 2015.

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\* Adopted by the Committee at its sixty-fourth session (24 September–12 October 2018).



5. While recognizing the challenges faced by the State party, the Committee recommends that it:

(a) Redouble its efforts to ensure the enjoyment of the rights set out in the Covenant by the populations living in the regions affected by armed conflicts, particularly in the north and centre of the country;

(b) Ensure the effective implementation of the Agreement on Peace and Reconciliation signed in 2015 by ensuring the protection of the population and the active, open and transparent participation in its implementation by society, in particular the victims and groups most affected by the conflict, such as women;

(c) Adopt legislative and administrative measures that can reasonably be expected to prevent the forced displacement of population groups and afford effective protection for displaced persons by providing them with access to adequate housing, health care, education and social assistance;

(d) Ensure, insofar as possible, that internally displaced persons are able to return to their home region safely and with dignity or offer them appropriate alternatives.

#### **Applicability of the Covenant**

6. The Committee regrets that the provisions of the Covenant have never been invoked before domestic courts or applied by them, even though article 116 of the Constitution gives the Covenant precedence over national laws.

7. **The Committee recommends that the State party ensure that economic, social and cultural rights can be invoked at all levels of the judicial system and facilitate access to effective remedies for persons whose rights have been violated. It urges it to provide regular training, in particular for judges, lawyers, law enforcement officers, members of the National Assembly and other actors, on the rights referred to in the Covenant and the possibility of invoking them before the courts and to conduct awareness-raising campaigns among rights holders. In this regard, the Committee refers to its general comment No. 9 (1998) on the domestic application of the Covenant.**

#### **Human rights defenders**

8. The Committee welcomes the adoption of Act No. 2018-003 of 12 January 2018 concerning human rights defenders but regrets that its implementing decree has not yet been adopted and that the protection mechanism envisaged therein has not yet been put in place.

9. **The Committee recommends that the State party ensure the effective implementation of the human rights defenders law, in particular by adopting the decree setting out the procedures for its application and establishing the protection mechanism envisaged therein. The Committee encourages the State party to carry out information and awareness campaigns on the importance of the work of defenders of human rights, including economic, social, cultural rights, in order to create a climate of tolerance in which they can fulfil their mission, free of intimidation of any kind, and to prevent acts of violence against them. The Committee refers the State party to its statement on human rights defenders and economic, social and cultural rights, adopted in 2016 (E/C.12/2016/2).**

#### **Corruption**

10. While welcoming the adoption of the law on the prevention and punishment of illicit enrichment in 2014, the Committee is concerned about the persistence of corruption in the State party and notes with concern the lack of information on the effectiveness of the measures taken to combat corruption (art. 2 (1)).

11. **The Committee recommends that the State party should, as a matter of priority, tackle the root causes of corruption, adopt all necessary legislative and administrative**

**measures to ensure transparency in public administration, both in law and in practice, and effectively combat corruption and impunity of offenders.**

#### **Adoption of steps to the maximum of its available resources**

12. While acknowledging the security, climatic and poverty-related challenges facing the State party, the Committee is concerned about the limited mobilization of domestic resources to finance programmes aimed at realizing economic, social and cultural rights (art. 2 (1)).

**13. The Committee recommends that the State party increase the availability of domestic resources, including by continuing to review tax exemptions such as those granted for the exploitation of natural resources, and particularly mineral resources, with a view to raising the level of public spending for the progressive realization of economic, social and cultural rights. The Committee also recommends that the State party ensure that all budget proposals are prepared in a transparent and participatory manner with a view to the progressive realization of the rights enshrined in the Covenant.**

#### **Non-discrimination**

14. The Committee is concerned about the lack of a comprehensive anti-discrimination law applying to all the areas covered by the Covenant (art. 2 (2)).

**15. The Committee recommends that the State party:**

(a) **Adopt a comprehensive anti-discrimination law in accordance with article 2 (2) of the Covenant which takes account of general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights and which prohibits direct and indirect discrimination on any grounds in all the areas covered by the Covenant;**

(b) **Ensure effective remedies for victims of discrimination, including the possibility of obtaining compensation;**

(c) **Effectively prevent and combat discrimination against disadvantaged or marginalized persons or groups, such as ethnic minorities and persons with disabilities, including through awareness-raising campaigns and special temporary measures, in order to ensure their effective enjoyment of all the rights recognized in the Covenant.**

#### **Equality between men and women**

16. The Committee regrets that, despite the fact that the Constitution of the State party establishes the equality of men and women, there are still a number of legislative provisions that are discriminatory against women. The Committee is concerned about the persistence of stereotypes and customary and traditional practices that reinforce such discrimination in all areas, in particular with regard to women's access to land and resources (art. 3).

**17. The Committee recommends that the State party review provisions in legislation that discriminate against women and strengthen the implementation of measures to combat such discrimination. It also recommends that the State party take the necessary legislative and other measures to eliminate the persistent inequality between men and women and to promote women's full and equal access to education, employment, health care and social security. The Committee also recommends that the State party promote equal access for women to land and resources.**

#### **Right to work**

18. The Committee notes with concern that, despite the State party's efforts, the unemployment rate remains high, particularly among young people and women, and even more so among highly educated young people and women (arts. 3 and 6).

**19. The Committee recommends that the State party strengthen the implementation of its national employment policy by introducing specific targets, focusing its efforts on young people and women, in particular, and allocating the**

necessary financial and technical resources to ensure its effective implementation and sustainability. It also recommends that the State party increase the quality of school curricula and technical and vocational training programmes and adapt them so that they will provide access to employment. In this regard, the Committee refers to its general comment No. 18 (2005) on the right to work.

#### **Informal sector**

20. The Committee notes with concern that approximately 96 per cent of workers are employed in the informal sector of the economy and are not covered by labour laws or the social protection system (arts. 6, 7 and 9).

21. **The Committee recommends that the State party ensure that workers in the informal economy enjoy the protection of labour laws and have access to social protection. It also recommends that the State party continue its efforts to progressively reduce the number of workers in this sector of the economy by integrating them into the formal economy.**

#### **Minimum wage**

22. The Committee is concerned about the fact that the minimum wage is insufficient to ensure a decent standard of living for workers and their families and regrets that no information has been provided on any existing or prospective mechanisms for its review and updating (art. 7).

23. **The Committee recommends that the State party raise the national minimum wage in consultation with management and labour and that it index the wage to the cost of living in order to progressively guarantee a decent standard of living for all workers and members of their families.**

#### **Gender pay gap**

24. The Committee notes with concern the significant pay gap existing between men and women in the State party. Although the Labour Code of Mali fully establishes the principle of equal pay for women and men for work of equal value, the Committee notes with concern that the principle is not effectively applied (art. 7).

25. **The Committee recommends that the State party take steps to eliminate the persistent gender wage gap by combating occupational segregation that results in women working in low-paid jobs and encountering obstacles that prevent them from having the same career opportunities as men. It also recommends that the State party promote the effective application of the principles of equal pay for men and women and of equal pay for work of equal value, in particular in respect of employers, labour inspection services and judges.**

#### **Forced labour**

26. The Committee takes note with concern of reports regarding the persistence of the use of forced labour, despite its prohibition by law. It is concerned that, in some areas in the north of the country, debt bondage is still practised (art. 7).

27. **The Committee urges the State party to take immediate and concrete measures to eradicate forced labour and debt bondage by, inter alia, conducting awareness campaigns. The Committee requests the State party to ensure that the perpetrators of these practices are brought to justice and given sentences commensurate with the gravity of their acts and requests it to provide effective protection and rehabilitation services for victims.**

#### **Trade union rights**

28. The Committee notes with concern that the exercise of trade union rights, including the right to engage in collective bargaining and the right to strike, are not fully guaranteed by law or in practice. The Committee is concerned about reports of unfair dismissals of

workers who have engaged in trade union activities and of the failure to enforce court decisions ordering their reinstatement (art. 8).

29. **The Committee urges the State party to bring its legislation on trade union rights into line with article 8 of the Covenant, while taking into account the International Labour Organization (ILO) Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87), and the ILO Right to Organize and Collective Bargaining Convention, 1949 (No. 98). In particular, it encourages it to establish the list of services, jobs and categories of personnel that are strictly necessary for the performance of a minimum level of service in the event of a strike in public service activities and to clearly lay down the necessary criteria for the establishment of a union. The Committee further recommends that the State party ensure that the exercise of trade union rights is fully respected, that it conduct a thorough and independent investigation into allegations of unfair dismissals related to trade union activities and that it enforce judicial decisions concerning the reinstatement of dismissed workers.**

### **Social security**

30. The Committee is concerned that the State party's social protection system covers only those workers who are employed in the formal sector, which means that a significant number of persons, such as informal workers and disadvantaged and marginalized individuals and groups, are excluded from the system. Furthermore, although a law establishing a universal health insurance scheme is in the process of being adopted, the Committee is concerned about reports of shortcomings in the compulsory health insurance (AMO) and medical assistance schemes (RAMED) of the current social security system in terms of access, coverage and medical care that leave many people, especially the most disadvantaged persons, without protection (art. 9).

31. **The Committee recommends that the State party expand the coverage of the social security system with a view to providing universal social protection coverage and that it offer sufficient benefits to all, in particular the most disadvantaged and marginalized groups, in order to guarantee them decent living conditions. It urges the State party to redouble its efforts to establish a social protection floor that offers basic universal social guarantees for all persons, including workers in the informal sector. The Committee also invites the State party to expedite the adoption of the law that would establish a universal health insurance scheme and that would remedy the shortcomings of the current system. In that connection, it draws the State party's attention to its general comment No. 19 (2008) on the right to social security and its statement, adopted in 2015, entitled "Social protection floors: an essential element of the right to social security and of the sustainable development goals" (E/C.12/2015/1).**

### **Harmful practices against women and girls**

32. The Committee notes with concern that practices that are harmful to women and girls, such as polygamy, early and forced marriage and female genital mutilation, remain widespread in the State party. The Committee also notes with concern that these practices are not prohibited by law and that the efforts made by the State party to combat them remain insufficient (arts. 3 and 10).

33. **The Committee recommends that the State party endeavour, as a matter of priority, to take comprehensive measures to eliminate all practices that are harmful to women and girls. To this end, it encourages the State party to:**

(a) **Introduce legislation that would explicitly prohibit female genital mutilation and establish effective enforcement mechanisms in order to ensure that perpetrators are brought to justice and given sentences commensurate with the seriousness of their acts and that victims have access to effective remedies and compensation;**

(b) **Take effective measures to put an end to the practice of polygamy by, inter alia, organizing national awareness-raising campaigns in collaboration with civil society that target all segments of society and that promote a culture of equality**

between men and women which can lay the foundations for the adoption of a legal instrument that prohibits polygamy;

(c) **Raise the minimum legal age of marriage to 18 years for boys and girls alike, ensure that all laws, including customary laws, are in conformity with these requirements and ensure their effective implementation;**

(d) **Take effective measures to prevent early marriage, forced marriage and female genital mutilation by, inter alia, organizing large-scale campaigns to educate the population about their harmful effects.**

#### **Protection of children**

34. The Committee is concerned about the large number of children between the ages of 5 and 14 who are working in the State party. The Committee is further concerned that, despite the measures taken by the State party, children continue to be used and recruited by armed groups in conflict areas in the northern and central parts of the country. The Committee also notes with concern that approximately 15 per cent of the children under 5 years of age do not have a birth certificate (art. 10).

35. **The Committee recommends that the State party:**

(a) **Establish a system to provide comprehensive protection for children, especially those in particularly vulnerable situations;**

(b) **Strengthen the effective implementation of the 2011–2020 National Plan of Action on the Elimination of Child Labour in Mali by ensuring that child labour legislation is rigorously enforced, strengthening labour inspection mechanisms and providing support to poor families so that their children can stay in school;**

(c) **Step up its efforts to effectively prevent children from being used by illegal armed groups and take the necessary measures to ensure that all demobilized children are treated as victims and have access to education, health services, social security and psychosocial care;**

(d) **Ensure that all cases of economic exploitation of children and the recruitment of children by illegal armed groups are thoroughly investigated and that those responsible are duly punished;**

(e) **Intensify its efforts to ensure universal birth registration, including through the adoption of a national strategy for the modernization of the civil registry, and to facilitate the registration of children, especially in areas affected by internal armed conflicts.**

#### **Poverty**

36. The Committee is concerned that, despite the implementation of strategic frameworks for poverty reduction, poverty rates remain very high and are disproportionately high in rural and remote areas, particularly those most affected by armed conflicts (art. 11).

37. **The Committee recommends that the State party redouble its efforts to combat poverty, in particular extreme poverty, including through the development and implementation of a new strategic framework to combat poverty, with clear and measurable goals and the necessary resources, and that it envisage effective mechanisms for coordinating the efforts of the various agencies involved in the new context of decentralization. The Committee encourages the State party to ensure that this strategic framework is in accordance with human rights standards and principles and to take due account of existing regional disparities and the real needs of the population, particularly the most disadvantaged and marginalized groups and victims of armed conflicts. The Committee refers the State party to the statement on poverty and the International Covenant on Economic, Social and Cultural Rights that it adopted in 2001 (E/C.12/2001/10).**

### Right to food

38. The Committee notes that, despite the adoption of the Agricultural Land Policy Act and measures taken in that regard, food insecurity and the nutritional status of the State party's population continue to be the cause of great concern. Since, according to the February 2017 national survey on food and nutrition security, 25.6 per cent of households are in a state of food insecurity, with 3.6 per cent in a state of very severe food insecurity, and the national chronic malnutrition rate is approximately 38 per cent (art. 11).

39. **The Committee calls upon the State party, as a matter of urgency, to:**

(a) **Adopt a comprehensive strategy to guarantee the right to adequate food and to combat hunger and chronic malnutrition, particularly in rural areas, by, inter alia, envisaging the incorporation of the right to food in the Constitution and ensuring the effective functioning of the National Agricultural Risk and Disaster Fund;**

(b) **Step up its efforts to improve the productivity of small agricultural producers by facilitating their access to appropriate technologies, in accordance with their right to enjoy the benefits of scientific progress, and to local markets with a view to boosting incomes in rural areas;**

(c) **Consider mounting campaigns to raise awareness about the need to prevent the use of pesticides and chemicals in agriculture that are hazardous to health.**

40. The Committee refers the State party to its general comment No. 12 (1999) on the right to adequate food and to the Voluntary Guidelines on the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted by the Council of the Food and Agriculture Organization of the United Nations in 2004.

### Right to housing

41. The Committee notes with concern that a large proportion of the population lives in substandard housing in inadequate living conditions, without access to electricity, safe drinking water or sanitation. The Committee notes the efforts made by the State party to increase the supply of social housing; it is nonetheless concerned at the fact that, according to information received by the Committee, such housing is often unaffordable for the most disadvantaged and marginalized persons and families (art. 11).

42. **The Committee recommends that the State party adopt a comprehensive national housing strategy aimed at improving the supply of affordable housing, particularly for disadvantaged and marginalized persons and families. It also recommends that the State party ensure that everyone is provided with safe and affordable electricity, drinking water and sanitation services. The Committee refers the State party to its general comments Nos. 4 (1991) on the right to adequate housing and 15 (2002) on the right to water and to its statement on the right to sanitation (2010).**

### Mining operations

43. The Committee takes note with concern of the information it has received about the negative impacts of mining operations that cause irreversible damage to the environment and infringe the right to health and the right to an adequate standard of living of affected communities (arts. 11 and 12).

44. **The Committee recommends that the State party:**

(a) **Develop clear guidelines and rules for assessing the impact that mining projects may have in terms of human rights and on the environment throughout the State party's territory;**

(b) **Ensure that communities affected by mining activities receive compensation for damage or loss suffered and benefit from a portion of the revenues derived from such activities;**

(c) **Demand that mining companies take effective steps to prevent the water and air pollution and soil degradation resulting from their activities and to reclaim the areas that have been damaged by those activities.**

#### **Right to health**

45. While acknowledging the State party's efforts to improve access to health care, the Committee remains concerned by the fact that many people do not have access to affordable health services. It is also concerned about the significant limitations that exist in terms of the accessibility, availability and quality of physical and mental health-care services in the State party owing, in particular, to a lack of adequate medical equipment and infrastructure and shortages of medicines and medical personnel. The Committee notes that these problems are becoming more serious in remote rural areas and areas affected by armed conflicts (art. 12).

46. **The Committee recommends that the State party:**

(a) **Take the necessary steps to introduce universal health insurance;**

(b) **Allocate sufficient resources to the health sector for the implementation of its national health promotion policy;**

(c) **Continue its efforts to ensure the accessibility, availability and quality of health care in all regions, in particular in rural and remote areas, by, inter alia, improving the infrastructure of the primary health-care system, and to ensure that hospitals have an adequate level in quantitative terms of suitable medical infrastructure, equipment and staffing and a regular supply of medicines;**

(d) **Adopt legislation and an overarching policy on mental health and take steps to bolster the supply of mental health services, including community services, and to increase the number of qualified professional staff working in this field.**

47. **The Committee draws the State party's attention to its general comment No. 14 (2000) on the right to the highest attainable standard of health.**

#### **Sexual and reproductive health**

48. The Committee is concerned that:

(a) Maternal and infant mortality rates remain very high in the State party;

(b) Appropriate sexual and reproductive health services are very often inaccessible and unavailable;

(c) Access to contraceptives and information on sexual and reproductive health, including family planning, is very limited (art. 12).

49. **The Committee recommends that the State party:**

(a) **Intensify its efforts to reduce maternal and infant mortality rates by improving the standard of care provided to women throughout pregnancy and during childbirth in primary health-care facilities and by following the technical guidance on the application of a human rights-based approach to the implementation of policies and programmes to reduce preventable maternal mortality and morbidity (A/HRC/21/22);**

(b) **Redouble its efforts to ensure, on the basis of equality between men and women, the availability and accessibility of sexual and reproductive health services, including, in particular, access to affordable, safe and effective contraceptives and to emergency contraceptives, including for adolescents, particularly in rural areas;**

(c) **Improve access to information on sexual and reproductive health, including family planning, and develop age-appropriate sexual and reproductive health education programmes for boys and girls.**

50. **The Committee draws the State party's attention to its general comment No. 22 (2016) on the right to sexual and reproductive health.**

### Right to education

51. The Committee takes note of the State party's efforts to raise enrolment rates and promote gender parity in primary schools. However, it remains concerned about:

(a) The large number of children who do not have access to education, particularly in the north and centre of the country because of the instability and lack of security in those regions;

(b) The low quality of the education provided in public schools, lack of sufficient resources and insufficient number of teachers;

(c) The growing disparities in access to a quality education, which are partly the consequence of hidden costs and the high tuition fees charged by private schools, which create a situation that disproportionately affects children from low-income families;

(d) The high dropout rates found in primary and secondary schools, in particular among girls;

(e) The large number of madrasas or Koranic schools that are beyond the control of the Ministry of Education and outside the scope of its guidelines;

(f) The lack of access for children with disabilities to inclusive education (arts. 13 and 14).

**52. The Committee recommends that the State party take primary responsibility for providing a quality education to all children and, to that end:**

**(a) Take measures, as a matter of urgency, to ensure that children in the north and centre of the country have access to education;**

**(b) Improve the quality of education by, inter alia, allocating sufficient resources, increasing the number of qualified teachers and their salaries and improving infrastructure and teaching materials;**

**(c) Ensure the effective implementation of free primary education and reinforce the rules and the mechanisms for monitoring and supervising private educational institutions;**

**(d) Develop and implement effective measures to discourage children, particularly girls, from dropping out of school;**

**(e) Place madrasas or Koranic schools under the authority of the Ministry of Education;**

**(f) Ensure that children with disabilities are integrated into the mainstream education system.**

### Cultural rights

53. The Committee notes with concern the lack of sufficient measures to promote cultural diversity and the dissemination of the culture, languages and traditions of the different ethnic groups in the State party. The Committee regrets that the legal framework has not yet been revised with a view to affording greater protection to victims of attacks targeting their cultural heritage and modes of cultural expression (art. 15).

**54. The Committee recommends that the State party promote awareness of the cultural heritage of the various ethnic minorities and create a climate conducive to the protection, development, expression and dissemination of their histories, cultures, languages, traditions and customs. The Committee encourages the State party to strengthen its legal framework with a view to providing greater protection to victims of attacks targeting their cultural heritage and modes of cultural expression.**

## **D. Other recommendations**

55. The Committee encourages the State party to ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.

56. The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein as it works to implement the 2030 Agenda for Sustainable Development at the national level, with support in the form of international assistance and cooperation when needed. The achievement of the Sustainable Development Goals would be significantly facilitated if the State party establishes independent mechanisms for monitoring progress in that connection and regards the beneficiaries of public programmes as rights holders who have established entitlements. Achieving the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind.

57. The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators for the implementation of economic, social and cultural rights in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant with respect to various segments of the population. In that context, the Committee refers the State party to the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).

58. The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, including at the national and regional levels, in particular among members of the National Assembly, public officials and judicial authorities, and to inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with the national human rights institution, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in its consultations at the national level prior to the submission of its next periodic report.

59. In accordance with the procedure for follow-up to concluding observations adopted by the Committee, the State party is requested to provide information within 24 months of the adoption of the present concluding observations on the action taken pursuant to the recommendations made by the Committee in paragraphs 5 (armed conflicts and the peace agreement), 9 (human rights defenders) and 44 (mining operations) above.

63. The Committee requests the State party to submit its second periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 October 2023. It also invites the State party to update, as appropriate, its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. 1).