

A submission from Anti-Slavery International and Temedt to the List of Issues for the UN Human Rights Committee's examination of the third periodic report of Mali

Descent-based slavery (Article 8)

Submitted January 2024

As part of the third periodic review of Mali by the UN Human Rights Committee (hereafter 'the Committee'), Anti-Slavery International¹ and Temedt² would like to spotlight the continued practice of descent-based slavery in Mali, where people are still born into slavery, without civil status or rights, and where there is no law to specifically criminalise the practice.

Anti-Slavery International has worked with partners in Mali since 2019, partnering with organisations led by and comprising people formerly subject to slavery, and with the International Labour Organisation.

People in or formerly in descent-based slavery in Mali suffer extreme forms of exclusion, discrimination, violence, and forced displacement.³ No legislation yet exists in Mali that specifically criminalises slavery, the prohibition of which is *jus cogens* and is stipulated in Article 8 of the International Covenant on Civil and Political Rights (hereafter 'the Covenant'). The lack of domestic legislation criminalising slavery in Mali makes it extremely difficult to punish perpetrators and secure the release of, and redress for, people oppressed by it.

In the 2003 Concluding Observations of its examination of Mali's second report, the Committee regretted the lack of a clear response from the State party on reports of slavery-like practices and hereditary servitude in the north of the country. It further recommended that the Government: "*Conduct a careful study of the relations between the descendants of slaves and the descendants of slave-owners in the*

¹ Anti-Slavery International, founded in 1839 and in consultative status with ECOSOC since 1950, is the oldest international human rights organisation in the world. UK-based, and partnering globally, today Anti-Slavery International works to eradicate all forms of slavery: <https://www.antislavery.org/>.

² Temedt is a Malian organisation established by survivors of slavery in 2006 with the mission of promoting democracy and peace, with a focus on eradicating slavery and ending the marginalisation of people of slave descent: <https://www.facebook.com/people/Association-Temedt-Mali/100064787016559/>.

³ The Conversation, 'Mali fails to face up to the persistence of slavery' (15 February 2021), <https://theconversation.com/mali-fails-to-face-up-to-the-persistence-of-slavery-147636>.

north of the country, with a view to determining whether slavery-like practices and hereditary servitude still continue and, if so, to inform the Committee of measures taken in response.”⁴

Yet there remains no national data on the practice although systemic slavery has been indicated as taking place across the country, particularly widespread in the Kayes, and the central and northern regions of the country, including Timbuktu, Gao and Kidal.⁵ Some organisations estimate that at least 800,000 people are currently living who were born into slavery, of whom around 200,000 live under the direct control of their “masters,” yet recent data is, limited due to the nature of the practice, previous reluctance by governments to acknowledge and combat it, and other challenges in context; this includes two military coups since August 2020.⁶ Some data is available on serious incidences of violence against people living in slavery (see below), but it is *critical* for the Government and for human rights actors to respond to these as part of an enabling system of slavery in the country rather than individual cases of violence.

Significantly, and thanks to the untiring efforts of civil society led by our partner Temedt since 2015, we have been assured by the ILO that a draft law to criminalise slavery is now in the process of adoption, having been sent to the Minister of Justice and Human Rights, on 29 March 2023. The current draft is broadly consultative and draws on regional practices. At the time of submission, it is being reviewed at the level of the Law Commission of the National Transitional Council.

Questions for the Government

Anti-Slavery International and our partners ask the Committee’s support to urge the continued adoption of this bill at the level of the Council of Ministers, the National Transitional Council and the President, without further delay, and without weakening any provisions.

Both the adoption and implementation of the law will require vigilance and strong political will. As several UN experts, including the Independent Expert on the human rights situation in Mali and the Special Rapporteur on contemporary forms of slavery have stressed: “descent-based slavery is still socially accepted by some

⁴ UN Human Rights Committee, Concluding observations of the Human Rights Committee – Mali’, UN Doc CCPR/CO/77/MLI (16 April 2003); The National Human Rights Commission of Mali, ‘Study on the needs and expectations of victims of slavery by ancestry in Kayes’ (2021), <https://cndhmali.com/wp-content/uploads/2022/08/Rapport-de-la-CNDH-sur-lesclavage-VF-002-2.pdf>.

⁵ OHCHR, ‘Mali: Slavery by descent must be criminalised, UN experts say’ (8 May 2023), <https://www.ohchr.org/en/press-releases/2023/05/mali-slavery-descent-must-be-criminalised-un-experts-say>.

⁶ Ibid.

influential politicians, traditional leaders, law enforcement officials and judicial authorities”.⁷

We respectfully ask that the Committee consider the following questions, for the Government of Mali, in its list of issues.

- **What is the timetable for the adoption of the law to criminalise slavery?**
- **What steps and measures are planned to ensure the timely implementation of this law in line with its obligations under the ICCPR, specifically:**
 - **To collect accurate, systematic and disaggregated data on the prevalence of slavery in Mali?**
 - **To identify people subjected to descent-based slavery, provide them with civil status and with comprehensive protection and support?**
 - **To prevent violence and reprisals against them and human rights defenders working to end this practice and ensure the protection of civic space?**
 - **To combat discriminatory attitudes towards people of slave descent?**

We welcome the military regime’s announcement on 6 June 2022 that it will bring forward the timeline for elections to February 2024, leading to the lifting of Economic Community of West African States (ECOWAS) sanctions.⁸ We call on the current regime to set the Committee’s recommendations in motion over the next two years in the lead up to civilian rule.

Background

DESCENT-BASED SLAVERY

Slavery was formally abolished in Mali in 1905 by the French colonial authorities, but

⁷ OHCHR, ‘Mali: End to impunity for barbaric attacks on “slaves” long overdue – UN experts’ (29 October 2021), <https://www.ohchr.org/en/press-releases/2021/11/mali-end-impunity-barbaric-attacks-slaves-long-overdue-un-experts>.

⁸ BBC News, ‘Mali coup: How junta got Ecowas economic sanctions lifted’ (6 July 2022), <https://www.bbc.co.uk/news/world-africa-62037317>.

a system of descent-based slavery persists, where slave status is ascribed to some people because their ancestors were allegedly enslaved by the families of so-called 'masters'.⁹ The practice of descent-based slavery is most prevalent among Mali's nomadic Tuareg and Fulani communities in Central and Northern Mali, but exists in every region of Mali.¹⁰ The 2023 Global Slavery Index estimated that there were 106,000 people living in slavery out of a population of 20,251,000.¹¹ However, there is an absence of comprehensive statistical data on the numbers of people who continue to live in descent-based slavery today, so numbers may be higher; the Malian Coalition of Human Rights Defenders (COMADDH) estimate that there are around 800,000 people in slavery in Mali.¹²

RELEVANT LEGAL CONTEXT

There is no specific national law criminalising slavery in Mali. Rather, a fragmentary legislative framework exists. Article 1 of Mali's 1992 Constitution¹³ guarantees the right to liberty. The 2001 Penal Code defines slavery as a crime against humanity and war crime (Articles 29 and 31)¹⁴ and criminalises the pledging of people (Article 243) and entering into an agreement to alienate the liberty of a third person (Article 242). Slavery may form an element of an offence of trafficking under article 7 of the Law on the Fight against Trafficking in Persons (2012), but it is not explicitly defined nor criminalised.¹⁵ Mali's 1992 Labour Code¹⁶, while prohibiting forced labour generally (Article L.6), also does not specifically prohibit descent-based slavery.

GOVERNMENT ACTION TO TACKLE DESCENT-BASED SLAVERY

1. Positive legal and policy developments

There has been some progress in advancing legal accountability for descent-based slavery since Mali's last review. In 2019, the previous government under President Ibrahim Boubacar Keïta's reported investigating 30 cases involving descent-based

⁹ OHCHR, 'Mali: UN experts condemn increased attacks on 'descent-based slaves', deplore government's failure to act' (19 July 2021), <https://www.ohchr.org/en/news/2021/07/mali-un-experts-condemn-increased-attacks-descent-based-slaves-deplore-governments>.

¹⁰ The Conversation, 'Mali fails to face up to the persistence of slavery' (15 February 2021).

¹¹ Walk Free, 'Global Slavery Index' (2023) <https://www.globalslaveryindex.org/2018/data/country-data/mali/>.

¹² Le Républicain via MaliWeb, 'Esclavage par ascendance : la COMADDH demande aux autorités de prendre une loi contre le phénomène' (28 March 2019) <https://www.maliweb.net/societe/esclavage-par-ascendance-la-comaddh-demande-aux-autorites-de-prendre-une-loi-contre-le-phenomene-2811552.html>.

¹³ Available at: <https://antislaverylaw.ac.uk/wp-content/uploads/2019/08/Mali-Constitution.pdf>.

¹⁴ Law no. 01-079 dated 20 August 2001 establishing the Penal Code, official gazette, 43rd year, February 2002).

¹⁵ University of Nottingham Rights Lab, 'Anti-Slavery in Domestic Legislation: Mali', <https://antislaverylaw.ac.uk/country/mali/>.

¹⁶ Loi n° 92-020 du 23 septembre 1992 portant Code du travail en République du Mali', available at: <https://www.ilo.org/dyn/travail/docs/1328/Mali%20-%20Code%20du%20Travail.pdf>.

slavery, of which there were two convictions involving two Malian slaveholders who each received two-year suspended sentences and 150,000 CFA¹⁷ (260 USD) fines.¹⁸ According to NGOs, this was the first time the government had prosecuted cases involving descent-based slavery.¹⁹

Between April 2020 and March 2021, the courts prosecuted 56 alleged slaveholders under Penal Code provisions, convicting 31 as misdemeanour offences and dismissing the remaining 25.²⁰ Prosecutors charging descent-based slavery cases as misdemeanour offences (on the grounds of discrimination, destruction of crops, or burglary) is common, and results in penalties which do not deter nor adequately reflect the nature of the crime.²¹

On 11 November 2020, current Minister of Justice Mamoudou Kassogue instructed all public prosecutors to prosecute descent-based slavery to the fullest extent of the law.²² He has also pledged to pass a law criminalising slavery.²³

In August 2020, the regional government in Kayes signed a draft charter to end descent-based slavery.²⁴

As of February 2023, the UN Independent Expert on the human rights situation in Mali commended efforts underway to prosecute around 100 persons involved in human rights abuses related to descent-based slavery.²⁵

OBSTACLES TO THE ERADICATION OF FORCED LABOUR

1. Lack of anti-slavery legislation

¹⁷ West African CFA franc.

¹⁸ US Department of State, '2020 Trafficking in Persons Report: Mali' (2020) <https://www.state.gov/reports/2020-trafficking-in-persons-report/mali/>.

¹⁹ Ibid.

²⁰ US Department of State, '2021 Trafficking in Persons Report: Mali' (2021) <https://www.state.gov/reports/2021-trafficking-in-persons-report/mali/>.

²¹ US Department of State, '2022 Trafficking in Persons Report' (2022), <https://www.state.gov/reports/2022-trafficking-in-persons-report/>, p. 372.

²² US Department of State, '2021 Country Reports on Human Rights Practices: Mali' (2021) <https://www.state.gov/reports/2021-country-reports-on-human-rights-practices/mali/>.

²³ Slavery and Forced Migration in Western Mali, 'Newsletter No.6' (17 December 2021), <https://www.slaveryforcedmigration.org/newsletter-n6-introduction/>.

²⁴ US Department of State, '2021 Country Reports on Human Rights Practices: Mali' (2021).

²⁵ OHCHR, 'Mali: Transitional authorities must protect civic space, respect freedom of expression and association says UN expert' (20 February 2023), <https://www.ohchr.org/en/press-releases/2023/02/mali-transitional-authorities-must-protect-civic-space-respect-freedom>

There is no specific national law criminalising slavery in Mali,²⁶ which makes it extremely difficult to punish perpetrators or secure the release of, and redress for, those in slavery.²⁷ Between 2013 and 2016, the Ministry of Justice supported draft legislation criminalising the practice of slavery and brought it before the necessary legislative bodies,²⁸ and as above, efforts were recently renewed by the Transitional Government in collaboration with civil society. As of December 2023, a draft law is being reviewed at the level of the Law Commission of the National Transitional Council.

Slavery may form an element of an offence of trafficking under Article 7 of the Law on the Fight against Trafficking in Persons (2012).²⁹ However, the law does not criminalise the act of slavery more broadly; transitional government officials and civil society recently reported that the law could not be effectively implemented to prosecute trafficking cases involving descent-based slavery as it does not define the latter term.³⁰ In July 2019, the government drafted legislation to revise the law to explicitly define descent-based slavery as a form of human trafficking, but the legislation remained pending before the Ministry of Justice as of 2022 for the third consecutive year.³¹

Mali's 1992 Labour Code³², while prohibiting forced labour generally (Article L.6), also does not specifically prohibit descent-based slavery.

This piecemeal approach to criminalising slavery has resulted in a highly challenging environment for victims to attain justice. There have been reports that civil court orders are difficult to enforce in cases of descent-based slavery³³ and, as mentioned above, prosecutors charge most descent-based slavery cases as misdemeanour offences, leading to low penalties that are not commensurate. Those working in the justice sector have reported government interference in descent-based slavery cases to have charges dismissed³⁴, including through threats and intimidation towards claimants.³⁵

²⁶ University of Nottingham Rights Lab, 'Anti-Slavery in Domestic Legislation: Mali'.

²⁷ Bakary Camara et al., 'The fight against descent-based slavery in Mali', *Africa is a Country* (2021), <https://africasacountry.com/2021/03/the-fight-against-descent-based-slavery-in-mali>.

²⁸ Anti-Slavery International, 'The difficult path to freedom: 10 years of work to eradicate slavery in West Africa' (2019) <https://www.antislavery.org/wp-content/uploads/2019/09/AntiSlavery-Report-english.pdf>, p. 26.

²⁹ University of Nottingham Rights Lab, 'Anti-Slavery in Domestic Legislation: Mali'.

³⁰ US Department of State, '2022 Trafficking in Persons Report', p. 371.

³¹ Ibid.

³² Loi n° 92-020 du 23 septembre 1992 portant Code du travail en République du Mali.

³³ US Department of State, '2021 Trafficking in Persons Report: Mali'.

³⁴ US Department of Labor, 'Child Labor and Forced Labor Reports: Mali' (2020) https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/Mali.pdf, p. 7.

³⁵ US Department of State, '2020 Country Reports on Human Rights Practices: Mali' (2020), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/mali/>.

2. Lack of protection and support

Research conducted by Anti-Slavery International in 2021³⁶ shows that victims and actors in the justice system alike agree that a legal approach to combating descent-based slavery is not sufficient on its own but must be combined with practical support and education campaigns to change discriminatory attitudes at all levels.

Since 2018³⁷, an upsurge in community-level violence against people of slave descent in Kayes (West Mali) has been reported. This includes the destruction of property and homes, physical violence resulting in deaths, and forced displacement. Twice as many people had been injured in such attacks by July 2021 as had been in the entirety of 2020.³⁸ The situation is unsafe for anti-slavery human rights defenders, with risks of community attacks.

The response from the transitional government has been inadequate. Those who have been forcibly evicted from their homes and land receive little state support. The transitional government has also been responsible for the arbitrary arrest and detention of anti-slavery activists.³⁹ It is essential that those who have experienced slavery are provided with protection and assistance, including rehabilitation, compensation, and restitution, and that human rights defenders can operate freely and safely.

In October 2021, in response to ongoing attacks in the Kayes region, several UN Special Procedures highlighted that the continuing nature of the attacks “shows that descent-based slavery is still socially accepted by some influential politicians, traditional leaders, law enforcement officials and judicial authorities”.⁴⁰ Similar concerns were raised by various UN Special Procedures concerning this issue throughout 2020 and 2021.⁴¹

The following is a non-exhaustive list of violent incidences towards those experiencing descent-based slavery since Mali’s last review:

³⁶ New research from four areas across Mali (Gossi, Menaka, Anderambourkane, and Kayes) draws upon testimony from 576 individuals affected by descent-based slavery.

³⁷ John Kalapo, ‘Hors radar : L’esclavage par ascendance, une forme d’esclavage contemporain - article dans ‘The Republic’ (24 June 2021) <https://www.slaveryforcedmigration.org/article-dans-the-republic-hors-champ-lesclavage-par-ascendance-une-forme-desclavage-contemporain-en-anglais/>.

³⁸ OHCHR, ‘Mali: UN experts condemn increased attacks on ‘descent-based slaves’, deplore government’s failure to act’ (19 July 2021).

³⁹ US Department of State, ‘2022 Trafficking in Persons Report’, p. 373.

⁴⁰ OHCHR, ‘Mali: End to impunity for barbaric attacks on “slaves” long overdue – UN experts’ (29 October 2021), <https://www.ohchr.org/en/press-releases/2021/11/mali-end-impunity-barbaric-attacks-slaves-long-overdue-un-experts>.

⁴¹ OHCHR, ‘Mali: UN experts condemn increased attacks on ‘descent-based slaves’ (19 July 2021); Human Rights Council, ‘Situation of human rights in Mali: Report of the Independent Expert on the situation of human rights in Mali’, UN Doc A/HRC/43/76 (15 January 2020).

- Between 28-29 September 2021, pro-slavery assailants attacked a group of people considered 'slaves' who were celebrating Independence Day, killing one man and injuring at least 12 people.⁴² This was the eighth such attack in the region in 2021, with at least 77 injured and more than 3,000 "slaves" displaced in that period.⁴³ 36 suspects were arrested.⁴⁴
- On 4 July 2021, people from Makhadougou village in the eastern Kayes region tried to prevent people they considered 'slaves' from working their fields by attacking them with machetes and rifles, injuring 12 people.⁴⁵
- On 1 September 2020, four anti-slavery activists were murdered in Djandjourné (Kayes).⁴⁶ One of the activists had won a court ruling against the village imam over farmland; in response, members of the community launched an attack, killing him and three other men considered 'slaves'.⁴⁷ Eleven people were arrested.⁴⁸
- On 17 September 2019, a member of the anti-slavery organization Rassemblement Malien pour la Fraternité et le Progrès was expelled from his village in the Kayes region on the orders of the village chief - he had been reportedly forbidden to use the village well or to obtain food in the village, and his wife had reportedly been beaten.⁴⁹ 40 members of his family had to flee the area.⁵⁰
- In September 2019, human rights organisations reported that four people in Djandjourné had been bound, beaten, and drowned for refusing the practice of descent-based slavery.⁵¹ At least 95 of their family members fled or were

⁴² OHCHR, 'Mali: End to impunity for barbaric attacks on "slaves" long overdue – UN experts' (29 October 2021).

⁴³ Ibid.

⁴⁴ US Department of State, '2021 Country Reports on Human Rights Practices: Mali' (2021).

⁴⁵ OHCHR, 'Mali: UN experts condemn increased attacks on 'descent-based slaves' (19 July 2021).

⁴⁶ Bamada.net, 'Pour avoir refusé de conserver le statut d'esclavage : 4 Hommes ont été battus à mort dans le village de Djandjourné, région de Kayes' (10 September 2020), <http://bamada.net/pour-avoir-refuse-de-conserver-le-statut-desclavage-4-hommes-ont-ete-battus-a-mort-dans-le-village-de-djandjame-region-de-kayes>.

⁴⁷ OHCHR, 'UN human rights experts urge Mali to end slavery once and for all' (8 September 2020), <https://www.ohchr.org/en/press-releases/2020/09/un-human-rights-experts-urge-mali-end-slavery-once-and-all?LangID=E&NewsID=26219>.

⁴⁸ Ibid.

⁴⁹ UN Human Rights Council, 'Situation of human rights in Mali: Report of the Independent Expert on the situation of human rights in Mali', UN Doc A/HRC/43/76 (15 January 2020), para 41.

⁵⁰ Ibid.

⁵¹ US Department of State, '2020 Country Reports on Human Rights Practices: Mali' (2020).

displaced. Mali's National Human Rights Commission⁵² and other human rights organisations condemned the situation and called on the government to take action. At least 30 people were reportedly arrested as a result.

- In July 2019, around 50 people were forced by local traditional figures to flee from their village after contesting their status as slaves.⁵³

However it is critical for the Government and human rights actors to focus on the systemic nature of slavery – the prohibition of which is *jus cogens* under international law – that enabled these incidents rather than mainly focus on cases of violence.

3. No accurate data on the scale of slavery

There is no robust statistical data on the numbers of people affected by descent-based slavery in Mali. The 2023 Global Slavery Index estimated that there were 106,000 people living in slavery out of a population of 20,251,000.⁵⁴ However, numbers may be higher. A roundtable discussion on descent-based slavery, held in 2019 in Bamako by civil society organisations and chaired by the Minister of Justice, led to a public announcement that an estimated 800,000 people were affected by this phenomenon in Mali.⁵⁵

Births are often unregistered in communities experiencing descent-based slavery. This problem is twofold. Firstly, without recognition of their civil status and in the absence of identity papers such as a birth certificate, it is impossible to gain access to civil, political, economic, social or cultural rights – such as political participation and education. This is a major factor in preventing people from fleeing slavery and perpetuating the discrimination and subordination they face even if they do escape.⁵⁶ Secondly, the lack of data makes it challenging for government agencies and other stakeholders to identify victims and to design and provide the necessary targeted and systematic support.

This problem was recognised by the Committee in its 2003 recommendation, and as far as we are aware, no research has been conducted by the Government in the intervening two decades. Any research undertaken should be nation-wide.

⁵² La Commission Nationale des Droits de l'Homme (CNDH) was created by the Law No. 2016- 036 of 7 July 2016.

⁵³ UN Human Rights Council, 'Situation of human rights in Mali: Report of the Independent Expert on the situation of human rights in Mali', UN Doc A/HRC/43/76 (15 January 2020), para 41.

⁵⁴ Walk Free, 'Global Slavery Index' (2023).

⁵⁵ See Le Républicain via MaliWeb, 'Esclavage par ascendance : la COMADDH demande aux autorités de prendre une loi contre le phénomène' (28 March 2019), <https://www.maliweb.net/societe/esclavage-par-ascendance-la-comaddh-demande-aux-autorites-de-prendre-une-loi-contre-le-phenomene-2811552.html>.

⁵⁶ Anti-Slavery International, 'The difficult path to freedom: 10 years of work to eradicate slavery in West Africa' (2019), p. 12.

4. Instability a contributing factor to inaction

The ongoing conflict in northern Mali⁵⁷ has hampered already limited government efforts to address descent-based slavery, and has likely even increased its prevalence.⁵⁸ The conflict has made it difficult to travel and reach the regions traditionally affected by slavery, making it extremely challenging to confirm the extent to which slavery continues to be practised and to provide the necessary support.⁵⁹

⁵⁷ The current crisis was sparked in 2012 when a northern Tuareg separatist group, backed by several Islamist militant groups (including Ansar Dine, al-Qaeda in the Islamic Maghreb (AQIM)) launched a military coup and insurgent advance.

⁵⁸ Reports indicate that the prevalence of descent-based slavery has increased since the conflict began in 2012 due political instability hindering law enforcement. US Department of Labor, 'Child Labor and Forced Labor Reports: Mali' (2020), https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2020/Mali.pdf.

⁵⁹ Anti-Slavery International, 'The difficult path to freedom: 10 years of work to eradicate slavery in West Africa' (2019), p. 27.