



**September 2013**

**Refugee Documentation Centre**

**Country Marriage Pack**

**Mali**

**Disclaimer**

Country Marriage Packs (CMPs) are prepared by researching publicly accessible information currently available to the Refugee Documentation Centre within time constraints. CMPs contain a selection of representative links to and excerpts from sources under a number of categories for use as Country of Origin Information. Please note that CMPs are not, and do not purport to be, exhaustive with regard to conditions in the countries surveyed or conclusive as to the merit of any particular claim to refugee status or protection.

**1. Types of Marriage**

**Civil Marriages**

Article 1 in chapter one of the *Marriage and Guardianship Code* of the Republic of Mali states:

“Marriage is a secular act.” (Republic of Mali (February 1962) *Marriage and Guardianship Code*)

A page on the *Everyculture.com* website, in a section headed “Marriage, family, and Kinship”, states:

“Three different forms of marriage can be distinguished in Mali today: traditional (which varies greatly from region to region and across ethnic groups), civil, and religious (mostly Muslim). In the cities, many couples see the ideal marriage as one that has been legitimized traditionally, civilly, and religiously. Civil marriage is especially popular among wage workers, for without official sanction by the state, wives and children will not be entitled to social welfare benefits such as pensions. In the rural areas and to some extent in the urban areas, marriages are arranged. This practice reflects the importance of establishing alliances between families over individual preferences.” (Everyculture.com (2000?) *Countries and their Cultures: Culture of Mali*)

A country briefing document published by the *Population Council* states:

“For civil marriages, the law dictates that prospective spouses discuss and agree on whether their union will be polygynous or monogamous; however, a woman’s say in the matter is minimal given her limited options, and most women have only a religious marriage performed. Furthermore, most women in this overwhelmingly Muslim country accept polygyny as a practice sanctioned by Islam, which permits a man to have up to four wives. The payment of bride price is recognized by law, promoting the perception that wives are the property of husbands.” (Population Council (August 2004) *Child Marriage Briefing: Mali*)

A 2011 *Freedom House* report on Mali states:

“Mali's 1962 Marriage and Guardianship Code includes many regulations discriminatory toward women: for example, the minimum age of marriage is 15 for women and 18 for men, Malian women must seek their husband's permission before opening a business, and the husband is considered head of the family, which gives him control of finances and the choice of residence.<sup>49</sup> Men are allowed up to four wives if both partners opt for polygamy at the time of marriage; couples who choose monogamy can change to a polygamous option if all parties give consent.” (Freedom House (10 November 2011) *Countries at the Crossroads 2011 – Mali*)

This report also states:

“In August 2009, after years of deliberation, the National Assembly passed a new Family Code in a nearly unanimous vote, which was designed to improve women's legal position in Mali. However, the president later vetoed it in response to large-scale protests organized by religious associations in Bamako and regional capitals across the country. Many Malians objected to some of the proposed amendments as conflicting with their culture, including provisions to increase the minimum age of marriage for girls to 18, removing women's obligation to obey their husbands, exclusive recognition of civil marriage, and greater inheritance rights for women. A revised version of the code was proposed to the National Assembly in October 2010, which included provisions that religious associations lobbied for such as the recognition of religious marriage. However, civil society groups complained that they were not afforded sufficient opportunities to provide input, which further stalled the process. A new version of the code has not been passed to date.” (Ibid)

A *Social Institutions & Gender Index* document, in a section headed “Discriminatory Family Code”, states:

“A new Family Code was adopted by the National Assembly in August 2009, including provisions raising the age of marriage for women from 15 to 18, and equalising inheritance and parental rights.[12] But following protests from Islamic groups, President Amadou Toumani Toure refused to sign the new Code into law (despite supporting it himself).[13] As of mid 2010, the proposed legislation was being revised, in a move likely to weaken many of its provisions and reinforce many of the discriminatory practices it was designed to eradicate, such as early marriage and the stipulation that a wife should obey her husband.” (Social Institutions & Gender Index (2012) *Mali*)

A *BBC News* report refers to opposition to the proposed new code as follows:

“Tens of thousands of people in Mali's capital, Bamako, have been protesting against a new law which gives women equal rights in marriage. The law, passed earlier this month, also strengthens inheritance rights for women and children born out of wedlock. The head of a Muslim women's association says only a minority of Malian women – ‘the intellectuals’ as she put it - supports the law. Several other protests have taken place in other parts of the country. The law was adopted by the Malian parliament at the beginning of August, and has yet to be signed into force by the president. One of the most contentious issues in the new legislation is that women are no longer required to obey their husbands. Hadja Sapiato Dembele of the National Union of Muslim Women's Associations said the law goes against Islamic principles. ‘We have to stick to the Koran,’ Ms Dembele told the BBC's Focus on Africa programme. ‘A man must protect his wife, a wife must obey her husband.’ ‘It's a tiny minority of women here that wants this new law - the intellectuals. The poor and illiterate women of this country - the real Muslims - are against it,’ she added.” (BBC News (23 August 2009) *Mali protest against women's law*)

An *International Federation for Human Rights* report states:

“According to the new Code, « a woman must obey her husband » and men are considered « head of the family ». The legal age for marriage is 18 years for males and 16 for females. In certain cases, marriage can be authorised from 15 years. Religious marriages are legally recognised.” (International Federation for Human Rights (9 December 2011) *Mali's new Family Law: women's rights denied, discrimination upheld*)

## **Religious Marriages**

A *Social Institutions & Gender Index* document states:

“Polygamy is legal according to Mali's Marriage Code and under the teachings of Islam, the religion practised by nearly all of the population; men may marry up to four women. The husband must obtain the permission of the first wife before he marries again, although the authors of the 2004 report to the CEDAW committee remarked that this consent is often obtained through coercion and abuse. It is estimated that around 40% of women are in polygamous marriages, including 20% of married girls aged 15-19” (Social Institutions & Gender Index (2012) *Mali*)

A paper published by the *International Union for the Scientific Study of Population* states:

“Previous research argued that Islam has transformed marriage practices and wedding rituals (Cooper, 1995). Arranged marriages by parental authority are often associated to early ages at marriage of the bride and the groom. Moreover, they are generally concluded according to Muslim custom (De Munck, 1996) and the validity of an Islamic marriage depends on the consent of the bride and the groom or of their representatives, in the presence of witnesses and the *cadi* or the imam who recognize the existence of the marriage (Shaukat Ali, 1987). Abdul-Rauf (1995 [1972]) presents early marriage of Muslims as a protection against the risk of having sex before

marriage. The consummation of the union is supposed to occur when the bride is brought into her new household; it gives the woman the right to obtain the 'Mahr' (nuptial gift) and is interpreted in different ways depending on the Muslim schools. Shaukat Ali (1987) notes that the seclusion of the husband and the wife together with no one else may be interpreted as consummation since the conditions are favorable for sexual intercourse. A second way is by intimate acts such as embracing. But in most schools consummation corresponds to the actual coition." (International Union for the Scientific Study of Population (23 July 2005) *Islamic marriage and start of cohabitation in Mali*)

An *IRIN News* report states:

"The most controversial sticking points relate to shifts in marriage laws. Today in Mali traditional or 'religious marriages' as opposed to civil marriages, are legally accepted but the new code will cease to legally recognise religious marriages. 'Despite much opposition to this change, legalising religious marriages has been dropped from the bill altogether,' Kimbiri complained to IRIN. But Parliamentarian Mountaga Tall elected in Segou a town north of Bamako, said religious or 'traditional' marriages deny some women their basic rights. 'Widows who have only had a traditional marriage are legally excluded from any inheritance rights and their children must go through expensive, lengthy and often humiliating procedures to inherit the basic family allowances due to them.' In defiance of the soon-to-be-adopted law, Islamic groups are continuing to issue marriage certificates." (IRIN News (2 May 2008) *Mali: New family law faces opposition from Muslim organisations*)

A *Guardian* article states:

"In Mali 90% of the population is Muslim and certain aspects of family life, such as inheritance, divorce and marriage, are based on a mixture of local tradition and Islamic law and practice. One major point of contention between Muslim groups and women's activists is around religious and secular marriage. The 2009 bill would have made secular authorities the only ones allowed to perform marriages. Now religious ceremonies are also recognised as legally binding." (The Guardian (1 May 2012) *Women's rights in Mali 'set back 50 years' by new 'Family Code' law*)

## **Proxy Marriages**

No information on the above issue could be found among sources available.

## **Traditional/Other Marriages**

A report published by the *Center for Reproductive Law and Policy* states:

"Customary marriage itself has no legal standing. In urban areas, most customary marriages are conducted to circumvent the provisions in the marriage laws that pose an obstacle. In rural areas, the community is often not fully aware of the content of the marriage law, which requires a civil ceremony to validate a marriage. Socially, a customary marriage is still viewed as legitimizing the union, and the couple may begin their wedded life immediately after this celebration." (Center for Reproductive Law and Policy

(1999) *Reproductive Rights of Young Girls and Adolescents in Mali: A Shadow Report*)

## **2. Formalities of Marriage (Consent, Minimum Age and Registration of Marriage)**

Article 4 of the *Marriage and Guardianship Code* of the Republic of Mali states:

“A man under eighteen or a woman not having completed fifteen years can not contract a marriage. Nevertheless, the minister of Justice can grant dispensation of age for serious reasons, decision not susceptible to appeal. A copy of this decision will be attached to the marriage certificate.” (Republic of Mali (February 1962) *Marriage and Guardianship Code*)

Article 7 states:

“A woman cannot contract a second marriage prior to the dissolution of the first. The same is true for a man who has opted for a monogamous marriage. The man having opted for a monogamous marriage may rev his contract with the express consent of his spouse.” (Ibid)

Article 10 states:

“There is no marriage with out consent. The consent must be pronounced orally in person before the registrar of vital statistics by each of the future spouses. It is evidenced by signature or otherwise affixing the fingerprints at the foot of the act.” (Ibid)

Regarding the formalities relating to the celebration of a marriage, Article 16 states:

“The marriage will be celebrated publicly before the registrar of vital statistics closest to the residence of one of the parties.” (Ibid)

See also Article 17 which states:

“Fifteen days prior to the celebration, the publication with be made at the home s of the future spouses and at the place of the marriage celebration. This publication will be done either by posting a notice on the door of the communal home, or the offices of the chief place of the administrative district, or by any other appropriate means of publicity. The family names, first names, addresses, professions, ages of the futures spouses and the date of the marriage celebration will be announced.” (Ibid)

Article 22 states:

“Each of the future spouses must, if it has not already been done, deliver to the registrar of vital statistics a copy of their birth certificates or court ruling or any other legal documents.” (Ibid)

Article 24 states:

“The marriage certificate will state:

1. The surnames, names, ages, professions, homes or residences or the spouses.
2. The surnames, names, professions, homes, or residences of the mother and father of the spouses;
3. The consent of the mothers and fathers or legal representatives in the case where such consent is required;
4. The surnames, names of the witnesses and indications that they have reached majority.
5. The declaration of the contractees to become espoused and the pronouncement of their union by the registrar of civil status;
6. The declaration about the marriage contract;
7. First and last names of any previous spouses;
8. The total, partial or non- payment of the dowry as well as any deadline to this effect;
9. The engagement of monogamy provided for in article 43 below (law no 63-19 of 25 January 1963) or the deed by which one of the parties hindered has given consent.” (Ibid)

The 2012 *US Department of State* country report on Mali, in a paragraph headed “Child Marriage”, states:

“The marriage code allows girls under the age of 15 to marry if they have parental consent and special permission from a judge. The minimum age for girls to marry without such consent is 15. Underage marriage was a problem throughout the country. The legal age of marriage is 18 for boys. In some regions of the country, girls are married as young as age 10. It is common practice in the country for a girl who is 14 to marry a man twice her age. According to local human rights organizations, judicial officials frequently accepted false birth certificates or other documents claiming that girls under the age of 15 were old enough to marry. The revised Family Code was the primary way the government combated early marriage, although during the year NGOs also implemented awareness campaigns aimed to abate child marriages. According to UNFPA, 55 percent of women between the ages of 20 and 24 were married by the age of 18. There were widespread reports of forced marriage of girls under the age of 14 by extremists in the North.” (US Department of State (19 April 2013) *2012 Country Reports on Human Rights Practices: Mali*, p.19)

See also 2013 US Department of State report on human trafficking in Mali which states:

“In areas occupied by armed groups, women and girls were also subjected to forced marriage to members of armed groups who forced parents to relinquish their daughters, sometimes paying a sum of money, and subsequently taking the women to be raped by fellow combatants.” (US Department of State (19 June 2013) *2013 Trafficking in Persons Report – Mali*)

A report published by *UN Women* states:

“Throughout the occupied regions, girls are forced into marriage. When an Islamist marries you, you can be sure that, at night, you will be visited by at least four or five people, and that every night, you’ll receive a visit from a different man, a “new husband”. One girl told me: ‘it was by the smell that I knew that it was a different man coming to me every time. Every time, I was aware of a different smell than the last time.’ The Islamists perform religious marriages in order to escape the clutches of international criminal justice. They carry out a form of ‘marriage’ so that, at night, you can be treated as a sexual slave.” (UN Women (14 May 2013) *Girls receive a visit from a different man every night, a ‘new husband’*: In the words of Saran Keïta Diakitè)

An *Immigration and Refugee Board of Canada* response to a request for information on the prevalence of forced marriage in Mali, published in 2007, states:

“In 22 February 2007 correspondence sent to the Research Directorate, the President of the Malian Human Rights Association (Association malienne des droits de l’homme, AMDH), an organization affiliated with the International Federation for Human Rights (Fédération internationale des ligues des droits de l’homme, FIDH), indicated that forced marriages occur in Mali although they are prohibited under Malian law. He added, however, that they are not common practice, rather they are exceptions and do not represent even one percent of all marriages celebrated each year.” (Immigration and Refugee Board of Canada (12 March 2007) *MLI102425.FE – Mali: Prevalence of forced marriages and the consequences of refusing*)

This response contradicts the above statement by quoting from other sources as follows:

“However, in 23 February 2007 correspondence sent to the Research Directorate, the acting president of the Association for the Progress and Defence of the Rights of Malian Women (Association pour le progrès et la défense des droits et des femmes maliennes, APDF) stated that [translation] ‘forced marriage is commonplace in Mali even though it is prohibited under the Malian marriage and guardianship code’. In addition, in 14 February 2007 correspondence, the President of the Sahel Association for Assistance for Women and Children (Association du Sahel d’aide à la femme et à l’enfance, ASSAFE), based in Bamako, stated that [translation] ‘Malian women get married very young and very often without their consent.’ He added that [translation] ‘they are often married at 12 years of age’. Two other sources consulted by the Research Directorate indicate that early marriages, which are analogous to forced marriages, are widespread in Mali, despite being prohibited by law and punishable by one to five years imprisonment, or up to twenty years’ imprisonment with ten years’ hard labour if the girl is younger than 15. Forced marriages are arranged [translation] ‘outside of the civil status system, in the form of customary or religious marriages’ and, ‘very often, officials have no idea that the marriage is taking place without consent’. According to the acting president of the APDF, forced marriage is a [translation] ‘hidden practice,’ which is why there is little data on its prevalence.” (Ibid)

### 3. Divorce

Article 59 of the *Marriage and Guardianship Code* of the Republic of Mali states:

“Either spouse can request a divorce in case of:  
1. adultery by the spouse;  
2. excesses, ruthlessness, and serious insults or abuse, making conjugal life impossible;  
3. conviction of one of the spouses to ignominious or corporal punishment;  
4. inveterate alcoholism;  
5. impossibility of the spouse to satisfy conjugal obligations.” (Republic of Mali (February 1962) *Marriage and Guardianship Code*)

Article 60 states:

“The woman may seek a divorce if her husband refuses:  
1. to meet her essential needs: food, clothing, shelter;  
2. to pay the dowry at the end of the allotted time limit granted in the marriage certificate.  
Concerning this last reason, the husband can be considered in bad faith of article 211 of the penal code.” (Ibid)

Regarding the procedure for divorce Article 61 states:

“The spouse who wishes to ask for a divorce will present a written request in person or a verbal request to the chief of the administrative district of the legal residence who, after having heard the applicant and having made the observations that he believes appropriate, will summon the parties to appear before him at the day and time which he will fix. He will listen to them and attempt to reconcile them; The file will then be transmitted to the presiding judge or a competent magistrate.” (Ibid)

The 2011 *Freedom House* report on Mali states:

“In addition to formal regulations, there are societal limitations on women's ability to exercise their rights. Women are allowed to divorce, but this occurs rarely due to fear of stigma and legal costs.” (Freedom House (10 November 2011) *Countries at the Crossroads 2011 – Mali*)

#### **4. Marriage between Non Nationals and Nationals**

The *Code of Malian Nationality*, in “Section II. Acquisition of Malian nationality by marriage” (Article 23) states:

“A foreign woman marrying a Malian national shall acquire Malian nationality. Provided that, if her national law permits her to retain her nationality of origin, she may declare, prior to the celebration of the marriage, that she declines Malian nationality. She may exercise that right without authorisation even if a minor.” (Republic of Mali (3 February 1962) *Act No. 1962.18 AN.RM of 3 February 1962, Code of Malian Nationality (amended 1995)*)

An *Immigration and Refugee Board of Canada* response refers to the obtaining of citizenship through marriage as follows:

“Law No. 95-098 of 1995 is the legislation currently in effect concerning Malian citizenship. It specifies that a foreign man who marries a Malian woman may acquire Malian citizenship after three years of marriage. To do this, the applicant must provide the following documents: application for naturalization along with a CFAF100 stamp, birth certificate, residence certificate, police record, certificate of good conduct and behaviour, certificate of non-conviction, judicial guarantee, affidavit signed by two Malian citizens, and police investigation report.” (Immigration and Refugee Board of Canada (18 September 2003) *MLI41993.FE – Mali: Whether foreign men who marry Malian women may obtain Malian citizenship by virtue of their marriage; if so, the applicable terms and conditions* (September 2003))

## References

BBC News (23 August 2009) *Mali protest against women's law*  
<http://news.bbc.co.uk/2/hi/africa/8216568.stm>

Center for Reproductive Law and Policy (1999) *Reproductive Rights of Young Girls and Adolescents in Mali: A Shadow Report*  
[http://reproductiverights.org/sites/default/files/documents/sr\\_mali\\_0999\\_eng.pdf](http://reproductiverights.org/sites/default/files/documents/sr_mali_0999_eng.pdf)

Everyculture.com (2000?) *Countries and their Cultures: Culture of Mali*  
<http://www.everyculture.com/Ja-Ma/Mali.html>

Freedom House (10 November 2011) *Countries at the Crossroads 2011 – Mali*  
<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=4ecba6492f>

The Guardian (1 May 2012) *Women's rights in Mali 'set back 50 years' by new 'Family Code' law*  
<http://www.guardian.co.uk/global-development/2012/may/01/womens-rights-mali-50-years/print>

Immigration and Refugee Board of Canada (12 March 2007) *MLI102425.FE – Mali: Prevalence of forced marriages and the consequences of refusing*  
<http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=451160&pls=1>

Immigration and Refugee Board of Canada (18 September 2003) *MLI41993.FE – Mali: Whether foreign men who marry Malian women may obtain Malian citizenship by virtue of their marriage; if so, the applicable terms and conditions* (September 2003)  
<http://www.unhcr.org/cgi-bin/texis/vtx/refworld/rwmain?page=printdoc&docid=403dd2068>

International Federation for Human Rights (9 December 2011) *Mali's new Family Law: women's rights denied, discrimination upheld*  
[http://www.fidh.org/IMG/article\\_PDF/article\\_a11044.pdf](http://www.fidh.org/IMG/article_PDF/article_a11044.pdf)

International Union for the Scientific Study of Population (23 July 2005) *Islamic marriage and start of cohabitation in Mali*  
<http://iussp2005.princeton.edu/papers/52209>

IRIN News (2 May 2008) *Mali: New family law faces opposition from Muslim organisations*  
<http://www.irinnews.org/printreport.aspx?reportid=78034>

Population Council (August 2004) *Child Marriage Briefing: Mali*  
<http://www.popcouncil.org/pdfs/briefingsheets/MALI.pdf>

Republic of Mali (February 1962) *Marriage and Guardianship Code*  
[http://www.exploretimbuktu.com/Blog/mali%20laws/marriage\\_code.html](http://www.exploretimbuktu.com/Blog/mali%20laws/marriage_code.html)

Social Institutions & Gender Index (2012) *Mali*  
<http://genderindex.org/country/mali>

UN Women (14 May 2013) *Girls receive a visit from a different man every night, a 'new husband': In the words of Saran Keïta Diakité*  
<http://www.unwomen.org/en/news/stories/2013/5/girls-receive-a-visit-from-a-different-man-every-night-a-new-husband/>

US Department of State (19 June 2013) *2013 Trafficking in Persons Report – Mali*  
<http://www.refworld.org/docid/51c2f3a5d4.html>

US Department of State (19 April 2013) *2012 Country Reports on Human Rights Practices: Mali*  
<http://www.state.gov/documents/organization/204352.pdf>