

Mali: The situation of sexual minorities and their treatment by society and the authorities, including in Bamako; protection provided by the state and support services (2015-July 2017)

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1. Legislation

Sources indicate that same-sex sexual acts are legal in Mali (ILGA May 2017, 148; Freedom House 2016). However, *Country Reports on Human Rights Practices for 2016* of the US Department of State indicates that, with regard to sexual identity and orientation, "the law prohibits association 'for an immoral purpose'" (US 3 Mar. 2017, 26).

Article 224 of the Malian Penal Code (*Code pénal*) states the following:

[translation]

Any act committed in public that offends the decency and the moral feelings of the persons who are involuntarily witness to it, and that is capable of disturbing public order and of causing a manifest social prejudice, is a public outrage against decency.

Outrage against decency, committed publicly and intentionally, is punished by three months to two years imprisonment and a fine of 20,000 to 200,000 FCFA [CFA franc, about C\$46 to \$460] or by only one of these two punishments. (Mali 2001)

Article 225 of the same code states the following:

[translation]

Any sexually immoral act committed intentionally and directly against a person is an indecent act.

Any nonviolent indecent assault or attempted assault against a child of either sex under the age of fifteen is punished by five to ten years imprisonment with the possibility of banishment for one to twenty years.

The same punishment applies to any violent indecent assault or attempted indecent assault against individuals of either sex over the age of fifteen.

If the crime described in the previous paragraph is committed against a child under the age of fifteen, the guilty party is punished by five to twenty years imprisonment with the possibility of banishment for one to twenty years.

If the assault was committed with the assistance of a third party or a number of people, the punishment is five to twenty years imprisonment with the possibility of banishment for the same duration in the situations set out in the paragraphs 2 and 3 of this article, and life imprisonment in the situation set out in paragraph 4 above.

The guilty parties of a nonviolent assault on a minor over the age of fifteen but under the age of twentyone, if they are the ascendants of the victim, if they are in a position of authority over the victim or are responsible for the victim's education, care, or if they are employees of the people described above, are punished in accordance with article 224 of this Code. (Mali 2001, art. 225)

According to the Rights in Exile Programme, a notforprofit organization that encourages the sharing of information throughout the world in the field of refugee legal aid (Rights in Exile Programme n.d.a), "laws against public indecency may be used against LGBTI [lesbian, gay, bisexual, transgender and intersex] persons" (Rights in Exile Programme n.d.b). Information on the application of these laws could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Sources indicate that there are no antidiscrimination laws to protect sexual minorities in Mali (US 3 Mar. 2017, 26; Rights in Exile Programme n.d.b). *Country Reports 2016* indicates the following: "The constitution provides for freedom of association, although the law prohibits associations deemed immoral. The government generally respected freedom of association except for members of the [LGBTI] community" (US 3 Mar. 2017, 15).

2. Treatment by Society and the Authorities

Information on the treatment of sexual minorities by the authorities could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

According to sources, discrimination based on sexual orientation exists in Mali (US 3 Mar. 2017, 2; Freedom House 2016). Without providing any details, *Country Reports 2016* reports that there is discrimination in employment and occupation (US 3 Mar. 2017, 31). *Country Reports 2016* also reports that, in Mali, "[m]ost LGBTI individuals isolated themselves and kept their sexual identity hidden," adding that "[a]n NGO reported that LGBTI individuals frequently dropped out of school, left their places of employment, and did not seek medical treatment to hide their sexual identity and avoid social stigmatization" (US 3 Mar. 2017, 26). Similarly, an article published in 2016 by the Malian news Internet site Mali Actu states that no one [translation] "is courageous enough to take ownership of their homosexuality because it would be seen as supremely humiliating for the family and everyone close to them" (Mali Actu 25 Feb. 2016).

Sources report that the head of Mali's High Islamic Council, Imam Mahmoud Dicko, stated following the attack [in November 2015] against the Radisson Blu [a hotel in Bamako] that [translation] "[t]he terrorists were sent to us by God to punish us for encouraging homosexuality, imported from the West, which is flourishing in our society" (Times24 14 May 2017; *Le Monde* 16 Dec. 2015). According to *Le Monde*, Imam Dicko is [translation] "the leader of Muslims in Mali" and his words "have an immediate ripple effect: in one week, homophobia was present in sermons in the mosques of the capital" (*Le Monde* 16 Dec. 2015). However, *Le Monde* indicates that [translation] "human rights activists and other supporters of individual freedoms immediately protested via open letters and onair statements to the media" denouncing the imam's declaration (*Le Monde* 16 Dec. 2015). According to the same source, the country's public prosecutor, close to the Bamako court of appeal, described the imam's statement as praise for terrorism (*Le Monde* 16 Dec. 2015). Further information on the statement of Imam Mahmoud Dicko could not be found among the sources consulted by the Research Directorate within the time constraints of this response.

2.1 Cases of Violence

According to Freedom House, there were cases of violence with the aim of changing the sexual orientation or gender identity of members of sexual minorities (Freedom House 2016). Similarly, *Country Reports 2016* states that "NGOs reported LGBTI individuals experienced physical, psychological, and sexual violence, which society viewed as corrective punishment" (US 3 Mar. 2017, 26). The same source adds that family members, neighbours and groups of strangers in public places committed the majority of violent acts (US 3 Mar. 2017, 26). An article published on the African news website Cotedivoire.News (CINEWS) indicates that, in May 2017, two homosexual men were beaten by a crowd and received death threats after being discovered in a hotel in Bamako (CINEWS 16 May 2015). According to the same source, the two men [translation] "escaped the worst" because hotel security guards intervened (CINEWS 16 May 2015).

2.2 Situation in Bamako

Information on the situation and treatment of sexual minorities in Bamako could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

3. Protection Provided by the State and Support Services

Information on the protection provided by the state and the support services provided to sexual minorities was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to *Country Reports 2016*, police frequently refuse to intervene in cases of violence directed at members of sexual minorities (US 3 Mar. 2017, 26). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

Country Reports 2016 indicates that there are no NGOs for sexual minorities in Mali, but that some NGOs have medical and support programs focusing specifically on men having sex with men (US 3 Mar. 2017, 26). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

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Internet sites, including: 28 Too Many; The Advocates for Human Rights; Afrikinfos.net; ARC International; Bamada.net; Bamako.com; ecoi.net; Factiva; Fahamu Network for International Justice; France - Cour nationale du droit d'asile, Office français de protection des réfugiés et apatrides; Germany - Federal Office for Migration and Asylum; GlobalGayz; Human Rights Campaign Foundation; International Federation for Human Rights; Koaci.com; Mali.direct.news; Malinet; Niarela.net; OutRight Action International; Pew Research Center; Pink News; Quebec - ministère de l'Immigration, de la Diversité et de l'Inclusion; United Kingdom - Home Office; United Nations - Refworld.