

AFRICAN UNION
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AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS
COUR AFRICAINE DES DROITS DE L'HOMME ET DES PEUPLES

**ASSOCIATION POUR LE PROGRÈS ET LA DÉFENSE DES DROITS
DES FEMMES MALIENNES (APDF) AND THE INSTITUTE FOR
HUMAN RIGHTS AND DEVELOPMENT IN AFRICA (IHRDA)**

V.

REPUBLIC OF MALI

APPLICATION 046/2016

I. THE PARTIES

1. APDF presents itself as a Malian Association with observer status before the African Commission on Human and Peoples' Rights (herein after referred to as "the Commission", with the mission to encourage women's groups to defend their rights and interests against all forms of violence and discrimination.
2. The IHRDA, for its part, presents itself as a pan-African non-governmental organization based in Banjul, The Gambia, with the mission to assist victims of human rights violations in their quest for justice using national, African and international instruments. It declares that it also has observer status before the Commission.
3. The Respondent State is the Republic of Mali which became a Party to the African Charter on Human and Peoples' Rights (herein after referred to as "the Charter") on 22 January, 1982; the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (herein after referred to as "the Protocol") on 20 June, 2000; the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women (herein after referred to as the "Maputo Protocol") on 3 February, 2005; and to the African Charter on the Rights and Welfare of the Child (herein after referred to as "the Charter on the Rights and Welfare of the Child" on 14 August, 1998; and also deposited the special declaration allowing individuals and NGOs to directly access the Court, on 19 February, 2010.

II. CONTEXT OF THE APPLICATION AS DESCRIBED BY THE APPLICANTS

4. On 3 August 2009, the National Assembly of Mali, by majority, passed Act No 2011-087 establishing the Draft Persons on Family Code (PFC). This draft was the outcome of lengthy review of the former Marriage and Guardianship Code 1962 which contained substantial gaps, and several provisions of which had become obsolete.
5. This Draft Code, welcomed by a broad section of the population as well as human rights advocacy organizations, was however rejected by another important segment of the population, particularly the mainstream Islamic organizations in the country.

6. The Draft Code was thus referred back to the Parliament for a second reading so as to enlist broader support from amongst the communities that came up against the adoption of this bill.
7. The amended law was then promulgated on 30 December 2011 by the President of the Republic.
8. The Applicants submit that the enacted law violates the relevant provisions of several aforementioned international human rights instruments ratified by Mali.
9. It is for these reasons that the Applicants brought this Application before this Honorable Court on 26 July 2016.

III. THE COMPLAINTS

10. The Applicants allege the following violations by the Respondent State:

- i) Violation of the minimum age of marriage for girls (Article 6.b of the Maputo Protocol and Articles 1(3), 2 and 21 of the African Charter on the Rights and Welfare of the Child (ACRWC);
- ii) Violation of the right to consent to marriage (Article of the Maputo Protocol and Article 16(a) and (b) of the Convention on the Elimination of All Forms of Discrimination Against Women CEDAW);
- iii) Violation of the right to inheritance (Article 21(2) of the Maputo Protocol and Articles 3 and 4 of ACRWC);
- iv) Violation of the obligation to eliminate traditional practices and attitudes that undermine the rights of women and children (Article 2(2) of the Maputo Protocol, 5(a) of the CEDAW and 1 (3) of the ACRWC).