



MALI

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW 29TH SESSION OF THE UPR WORKING GROUP, JANUARY-FEBRUARY 2018

FOLLOW-UP TO THE PREVIOUS REVIEW

Mali accepted 111 recommendations during its 2013 UPR,¹ including to ban female genital mutilation (FGM),² protect children from recruitment by armed groups,³ and investigate extrajudicial executions.⁴ However, it rejected 14 recommendations, including to investigate allegations of extrajudicial executions of the Tuaregs and allegations of torture by state security services.⁵ Mali also accepted recommendations to put an end to human rights violations by armed groups,⁶ although killings are still being committed by armed groups. Recruitment of child soldiers by armed groups also remains a concern despite Mali's commitment to take measures to protect against this practice.⁷

Freedom of expression

Mali accepted a recommendation to continue efforts to protect freedom of expression⁸ and took a positive step in creating the High Authority of Communication (*Haute Autorité de la Communication*, HAC), in January 2014, to guarantee the freedom and protection of the press.⁹ Amnesty is concerned, however, about a modification of Article 16, in May 2015, to allow the HAC to conduct inspections of audiovisual and communications bodies, but to not offer these bodies the right to invoke professional confidentiality.¹⁰

In August 2016, blogger Mohamed Youssouf Bathily was arrested and charged with affront to public decency and demotivating troops. A demonstration in his support was stopped by the authorities, leaving one person dead and 18 wounded, including 14 civilians. Mohamed Youssouf Bathily was released and placed under judicial supervision on 18 August 2016.¹¹

¹ Report of the Working Group on the Universal Periodic Review, Mali (A/HRC/23/6), 12 March 2013 and the Addendum 1 (A/HRC/23/6/Add.1), 4 June 2013.

² A/HRC/23/6/Add.1, Accepted Recommendations: 112.6 (Switzerland), 112.7 (Germany), 112.13 (Holy See), 112.14 (Czech Republic), 112.15 (Hungary), 112.16 (Italy), 112.17 (Montenegro), 112.18 (Netherlands), 112.19 (Portugal).

³ A/HRC/23/6/Add.1, Accepted Recommendations: 112.20 (Ireland), 112.21 (Slovakia).

⁴ A/HRC/23/6/Add.1, Accepted Recommendation: 112.24 (Canada).

⁵ A/HRC/23/6/Add.1, Recommendation not accepted: 112.24 (Costa Rica).

⁶ A/HRC/23/6/Add.1, Accepted Recommendations: 112.13 (Holy See), 112.22 (Republic of Korea).

⁷ A/HRC/23/6, Accepted Recommendations: 111.39 (France), 111.40 (Italy), 111.41 (Belgium), 111.42 (Belgium); A/HRC/23/6/Add.1, Accepted Recommendation: 112.21 (Slovakia).

⁸ A/HRC/23/6, Accepted Recommendations: 111.67 (State of Palestine), 111.68 (Spain).

⁹ Ordonnance No 2014-006/P-RM du 21 janvier 2014 portant création de la Haute Autorité de la Communication.

¹⁰ Loi No 2015-18 du 4 juin 2015 portant modification et ratification de l'Ordonnance No 2014-006/P-RM du 21 janvier 2014 portant création de la Haute Autorité de la Communication.

¹¹ The Appeals court will hear the case on 26 July 2017.

In April 2017, journalist Ammy Baba Cisse was sentenced to six months' imprisonment for defamation in relation to an article he wrote about a parliamentary sex scandal. He has appealed the conviction.

Female genital mutilation

In 2013, Mali accepted recommendations to adopt legislation prohibiting FGM,¹² however, these have not been implemented. There was substantial pressure in 2016 from religious leaders not to adopt a bill to ban FGM.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

Criminal Code and Criminal Procedure Code

Article 10 of the law against terrorism allows for police searches at any time and without the presence of the suspect. Furthermore, the lack of clarity on police custody extension in Law N° 2013-016 could lead to arbitrary detention. The law appears to contain two contradictory provisions concerning police custody: Article 7 provides that alleged perpetrators of terrorist offenses or transnational organized crime and their accomplices may be placed in police custody for a period of 48 hours, extendable three times, while article 76 provides for 48-hour police custody extendable twice.

Women's and children's rights

Mali rejected recommendations in 2013 to amend the December 2011 Persons and Family Code despite its many discriminatory provisions,¹³ including those which stipulate that women must obey their husbands (Article 316), that the minimum age of marriage is 16 for girls and 18 for boys (Article 281), that the choice of residency is the right of the husband, and the wife is required to live with him (Article 319). Article 281 allows boys and girls aged at least 15 to marry with dispensation from the administrative authorities on "serious grounds".¹⁴ These provisions breach Mali's Constitution¹⁵ and its obligations under the Convention on the Elimination of All Forms of Discrimination against Women and the Maputo Protocol, ratified in 1985 and 2004 respectively. Early and forced marriage remains a concern in Mali, with 15% of women having been married under the age of 15 and 59.9% married under 18. These rates have risen over recent years.¹⁶

Over the past four years, Amnesty International and the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) have drawn the attention of the Malian authorities to the recruitment of child soldiers by armed groups.¹⁷ Several child soldiers have been arrested by the Malian authorities and held in detention, without adequate protection measures for children in custody, including being held together with adults and in the absence of rehabilitation safeguards.

Draft law on human rights defenders

In January 2017, Mali adopted a draft bill granting a number of rights to human rights defenders. If this is adopted in line with the Model Law for the Recognition and Protection of Human Rights Defenders, proposed by International Services

¹² A/HRC/23/6/Add.1, Accepted Recommendations: 112.6 (Switzerland), 112.7 (Germany), 112.13 (Holy See), 112.14 (Czech Republic), 112.15 (Hungary), 112.16 (Italy), 112.17 (Montenegro), 112.18 (Netherlands), 112.19 (Portugal).

¹³ A/HRC/23/6/Add.1, Recommendations not accepted: 112.5 (Hungary, Denmark, State of Palestine, Sweden, and Turkey).

¹⁴ Article 281: le chef de la circonscription administrative peut, par décision susceptible de recours devant le juge civil, accorder une dispense d'âge pour des motifs graves. Cette autorisation ne peut être délivrée que pour les futurs conjoints âgés d'au moins quinze ans.

¹⁵ The Constitution of Mali in its preamble proclaims the defence of the rights of women and children. Article 2 prohibits all gender-based discrimination: « Article 2: Tous les Maliens naissent et demeurent libres et égaux en droits et en devoirs. Toute discrimination fondée sur l'origine sociale, la couleur, la langue, la race, le sexe, la religion et l'opinion politique est prohibée ».

¹⁶ "The State of the World's Children 2016: A fair chance for every child", UNICEF, June 2016.

¹⁷ Reports of the Secretary-General on the situation in Mali, of 30 May 2016, 30 September 2016, and 30 December 2016, respectively; and Mali: All parties to the conflict must put an end to ongoing human rights violations, Amnesty International, AFR 37/001/2014.

for Human Rights,¹⁸ including providing a protection mechanism for human rights defenders and clearly defining their rights and responsibilities, it will constitute a major step towards the protection of human rights defenders in Mali.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Excessive use of force and extrajudicial executions

According to a report of the UN Secretary-General in 2016, Malian security forces and UN peacekeepers used excessive force and were accused of more than 37 instances of killings, summary executions or enforced disappearances in 2016.¹⁹ As of June 2017, the UN had reported four extrajudicial executions, one case of enforced disappearance, and seven cases of ill-treatment.²⁰

In April 2016, during a protest against alleged unlawful arrests and detentions by the French forces in *Operation Barkhane*, two demonstrators were shot dead and four others wounded at Kidal Airport. MINUSMA has established an inquiry into the incident.

In July 2016, Malian forces fired live ammunition at participants in a march in Gao, organized by the Civil Resistance Movement, killing Mahamane Housseini, Seydou Douka Maiga and Abdoulaye Idrissa and wounding more than 40 others.

Impunity and accountability

In the 2013 review, Mali accepted a recommendation to hold armed groups accountable for serious human rights abuses.²¹ However, impunity persists for such abuses, especially when committed in the context of the conflict. As a result, victims and their families are deprived of truth, justice and reparation. In 2016, the UN Independent Expert on Mali highlighted the lack of progress, especially regarding access to justice for women who had experienced violence.²²

In 2012 and 2013, the Supreme Court transferred the competencies of the courts in the north, including Kidal and Timbuktu, to the courts in Bamako, due to security concerns. Despite the continuing instability in the two regions, the decision was reversed in 2015, which may impact on access to justice.

The Algiers Peace Agreement – brokered between several armed groups and the Malian authorities and signed in Algeria in June 2015 – recommended the establishment of an international commission of inquiry to investigate war crimes, crimes against humanity, genocide, sexual crimes and other serious violations of international law, human rights and international humanitarian law in all of the territory. However, such a commission has yet to be set up.

In July and August 2014, in the run up to the Algiers Peace Agreement, more than 40 prisoners, including high-ranking members of armed groups charged with serious crimes, were released without trial. Most of them had been arrested in connection with crimes under international law and human rights abuses carried out by armed groups in the northern regions in 2012 and 2013, including rape, torture, amputations, deliberate and arbitrary killings and the use of child soldiers. Four others, previously charged with terrorism, conspiracy, hostage-taking and illegal confinement, were later released without trial in exchange for a French hostage.²³

¹⁸ "Model Law for the Recognition and Protection of Human Rights Defenders", ISHR, January 2017: https://www.ishr.ch/sites/default/files/documents/model_law_english_january2017_screenversion.pdf

¹⁹ Report[s] of the Secretary-General on the situation in Mali 30 March 2017, 30 May 2016, 30 December 2016, 30 March 2017.

²⁰ Report of the Secretary General on the situation in Mali, 30 March 2017.

²¹ A/HRC/23/6/Add.1 Accepted Recommendations: 112.22 (Republic of Korea).

²² Report of the Independent Expert on the situation of human rights in Mali, 21 January 2016 (A/HRC/31/76).

²³ "Release of Mohamed Aly Ag Wadoussène: peace and reconciliation cannot be achieved through impunity", press release by FIDH 16 December 2014. <https://www.fidh.org/en/region/Africa/mali/16657-mali-release-of-mohamed-aly-ag-wadoussene-peace-and-reconciliation-cannot>.

The cases of 11 people, who disappeared after their arrest by the Malian forces in Timbuktu in February 2013, have yet to be thoroughly investigated.²⁴

The trial of former Junta leader Amadou Haya Sanogo, in relation to the abduction and murder of 21 soldiers close to ousted President Amadou Toumani Touré, which began on 30 November 2016,²⁵ was postponed after DNA tests were held inadmissible by the court because they had been carried out by experts who had not taken the prerequisite legal oath.

Conditions of detention and detention in non-official places.

In the 2013 UPR, Mali sought the support of the international community to build capacity for the prison administration in order to improve prison conditions and to train prison guards.²⁶

Prison conditions and security remain poor in Bamako Central Prison and other prisons outside the capital. In December 2016, the National Commission for Human Rights (*Commission nationale des droits de l'homme* - CNDH) raised concerns about over-crowding in prisons and the number of inmates suffering from mental health concerns at the Bamako Central prison. During a visit to the prison in April 2017, the prison authorities told Amnesty International that 1,200 detainees were held in the prison which has a capacity for only 400 inmates. This was confirmed by a senior prison authority in an interview, in which he mentioned that prisoners had to take turns to sleep due to the limited space.²⁷

In reports published in June 2013,²⁸ December 2013,²⁹ and August 2014,³⁰ Amnesty International raised concerns about deaths in custody of people suspected of being members of armed groups; however, the Malian government has yet to address these concerns.

During interviews in April 2017 with detainees in Bamako Central Prison, Amnesty was able to confirm that conditions had not improved since its last visits in 2013 and 2014.³¹ For example, none of those arrested and charged for terrorist acts since 2013 has been allowed to exercise outside the prison cells, which are cramped and poorly ventilated.

In April 2017, Amnesty International documented the cases of four prisoners held in an unofficial detention centre in Bamako known as the "Sécurité d'Etat", run by the "Direction Générale de la Sécurité d'Etat" (an army unit). The prison is not subject to inspection because it is not officially recognized, and lawyers and family members are denied access to inmates in violation of Article 17 of the International Convention for the Protection of All Persons from Enforced

²⁴ Preliminary Findings of a Four-Week Mission, Amnesty International, June 2013.

<https://www.amnesty.ch/de/themen/weitere/kindersoldaten/dok/2013/kinder-im-buergerkrieg/mali-preliminary-findings-of-four-week-mission-serious-human-rights-abuses-continue>

²⁵ Mali: Trial of former junta leader must bring justice for abductions, torture and murder, Amnesty International, 28 November 2016:

<https://www.amnesty.org/en/latest/news/2016/11/mali-junta-leader/>.

²⁶ Summary of the proceedings of the review process: A. Presentation by the State under review, paragraph 17.

²⁷ See: "L'engorgement dans les prisons maliennes", interview by Anthony Fouchard for RFI, 9th June 2017.

<http://www.rfi.fr/emission/20170609-engorgement-prisons-malienne>

²⁸ Mali. Preliminary findings of a four-week mission: serious human rights abuses continue, Amnesty International, 7 June 2013, (AFR 37/004/2013). <https://www.amnesty.org/en/documents/afr37/004/2013/en/>

²⁹ Mali Must Urgently Identify Bodies Found in Mass Grave, Amnesty International, 5 December 2013 (PRE 01/638/2013):

<https://www.amnesty.org/en/documents/pre01/638/2013/en/>

³⁰ Mali: All Parties to the Conflict Must Put an End to Ongoing Human Rights Violations, Amnesty International, 21 August 2014 (AFR 37/001/2014):

<https://www.amnesty.org/en/documents/afr37/001/2014/en/>

³¹ Mali. Preliminary findings of a four-week mission: serious human rights abuses continue, Amnesty International, 7 June 2013, (AFR 37/004/2013):

<https://www.amnesty.org/en/documents/afr37/004/2013/en/>

Disappearance.³² Some of those detained are accused of carrying out terrorist acts or are suspected supporters or members of armed groups. Amnesty International has not received a response to its request to visit detainees held at the "Sécurité d'Etat".

The death penalty

Amnesty International considers Mali as abolitionist in practice; however, during the last review Mali rejected recommendations to consider ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights.³³ Amnesty International remains concerned about a law, adopted in July 2008, to combat terrorism which in Article 13 allows for the death penalty for terrorist offences that have led to one or more deaths.³⁴

Although the last known execution in Mali took place in 1980, and the recently appointed Minister of Human Rights has expressed his support for abolishing the death penalty,³⁵ a proposed bill for the abolition of the death penalty has been repeatedly postponed and the courts continue to impose death sentences. In 2016, 30 people were sentenced to death.³⁶ At least 70 people are currently charged with conspiracy, rebellion, undermining the internal and external security of the state, crimes and offences of a racial, regionalist and religious nature and terrorist acts, all of which are punishable by death under the above-mentioned law.

Right to education

The security situation in regions with a high presence of armed groups often has a negative impact on the realization of the right to education. By June 2017, more than 500 schools had been closed in regions affected by the crisis, including Gao, Kidal, Ségou, Mopti and Timbuktu, and more than 150,000 children are out of school due to lack of security.³⁷ Despite Article 39 of the Algiers Peace Agreement committing all signatories to pay particular attention to ensuring education for all, armed groups still occupy some schools. In some districts, including Diafarabe, Togue Mourardi and Sarro, people representing themselves as jihadists have threatened staff at schools, demanding that the schools are closed or converted to madrassas or koranic teaching.³⁸ In most of the cases, those schools have closed.

Crimes under international law and human rights abuses by armed groups

Crimes under international law and human rights abuses, including unlawful killings, suicide bombings, abductions, looting and destruction of property, continue to be perpetrated by armed groups, including the newest Jamâ'ah Nusrat al-Islâm Wal-Muslimîm (JNIM), Group for the Support of Islam and Muslims (*Groupe de Soutien à l'islam et aux musulmans*, GSIM).³⁹

In May 2014, members of armed groups killed eight civilians, including six government officials, at the Governor's office in

³² International Convention for the Protection of All Persons From Enforced Disappearance, article 17.1 "No one shall be held in secret detention."; 2 "each State Party shall, in its legislation: [...] (c) Guarantee that any person deprived of liberty shall be held solely in officially recognized and supervised places of deprivation of liberty"

³³ A/HRC/23/6/Add.1, Recommendations not accepted: 112.2 (State of Palestine, Slovenia, and Switzerland).

³⁴ Loi n° 2008-025, 23 juillet 2008 portant répression du terrorisme au Mali.

³⁵ See: interview with Me Tapo, Minister for Human Rights and State Reform published by Mali Jet 5 May 2017: http://malijet.com/la_societe_malienne_aujourd'hui/interview_mali/184654-me-tapo%2C-ministre-des-droits-de-l%E2%80%99homme-et-de-la-r%C3%A9forme-de-l%E2%80%99%C3%Agt.html

³⁶ Death sentences and executions in 2016, Amnesty International, April 2017 (50/5740/2017): <https://www.amnesty.org/download/Documents/ACT5057402017ENGLISH.PDF>

³⁷ Report of the Secretary-General on the situation in Mali, United Nations Security Council, 6 June 2017, S/2017/478.

³⁸ "Mali Education Cluster Snapshot", Humanitarian Response (United Nations Office for the Coordination of Humanitarian Affairs, May 2015).

³⁹ "Mali's jihadist merger: desperate or dangerous? A new merger of al-Qaeda-linked groups in Mali might pose serious risks for regional security", Institute for Security Studies, 3 April 2017, <https://issafrica.org/iss-today/malis-jihadist-merger-desperate-or-dangerous>

Kidal, northern Mali.⁴⁰

In March 2015, a masked gunman opened fire in a restaurant in Bamako, killing three Malians and two foreign nationals. The armed group Al-Mourabitoun claimed responsibility for the attack. In May 2015, at least six persons, including Ousmane Ag Taglift, a minor, were extrajudicially executed by an armed group in Tin Hamma. In August 2015, an armed group attacked a residence for UN subcontractors in Sévaré, killing over 10 people, including foreign nationals. In October 2015, six civilians were killed and two injured when armed men used landmines and rocket launchers to attack a convoy of vehicles between Gossi and Gao. Vehicles belonging to MINUSMA subcontractors were the main targets. In November 2015, armed groups killed 19 civilians during a siege at the Radisson Hotel in Bamako in which more than 150 people were taken hostage. They were later released when the security forces intervened. Both Al-Mourabitoun and the Massina Liberation Front claimed responsibility for the attack.

Amnesty International has learnt that at least 15 persons, including both foreigners and Malians, are currently being held hostage by armed groups. Two women, Beatrice Stockly, a Swiss missionary, and Sophie Petronim, a French national working for a humanitarian organization, remain in captivity following their abduction by armed groups in Timbuktu and Gao in 2016.

Since the beginning of 2017, the number of attacks by armed groups in the centre and the north of the country has increased, including targeted armed attacks on imams, village chiefs and state representatives. Responsibility for the majority of these attacks has not been claimed by a specific group.⁴¹

On 18 January 2017, Al Qaeda in the Islamic Magreb (AQMI) attacked the Operational Mechanism of Coordination (*Mouvement Opérationnel de Coordination-MOC*) camp in Gao, and more than 70 people were killed, including civilians.

On 18 June 2017, four civilians were killed during an attack on a hotel on the outskirts of Bamako by the armed group GSIM.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Mali to:

Excessive use of force, enforced disappearances and extrajudicial executions

- Carry out prompt, thorough, independent and impartial investigations into all allegations of extrajudicial executions, enforced disappearance or any other crime under international law;
- Exercise strict command control over the armed forces and hold any superior officer accountable for allowing others to commit acts constituting extrajudicial executions, enforced disappearance or any other crime under international law.

⁴⁰ The Human rights situation one year after the signing of the Ougadougou agreement, Amnesty International, July 2014.

⁴¹ "Centre du Mali: Enjeux et Dangers d'une Crise Négligée" Adam Thiam, Centre pour le Dialogue Humanitaire, March 2017.

Impunity and accountability

- Open prompt, thorough, impartial and effective investigations by civilian authorities into all allegations of crimes under international law and human rights violations, in order to identify those suspected of criminal responsibility and ensure prosecution in fair trials without recourse to death penalty;
- Ensure that the Bamako courts are competent to receive and investigate all cases of serious crimes under international law committed in the north of Mali in 2012 and 2013;
- Set up the international commission of inquiry as provided in the Algiers Peace Agreement.

Prison conditions, security and detention in non-official places

- Put an immediate end to arbitrary arrests and illegal detention in non-official places of detention;
- Allow the National Commission of Human Rights (CNDH) to visit all places of detention as specified in its mandate;
- Ensure that all detainees have the right to legal counsel and to challenge the lawfulness of their detention, in accordance with international law and standards.⁴²

The death penalty

- Abolish the death penalty for all crimes, and ensure that all those arrested or detained on suspicion of 'terrorist acts' have immediate and unrestricted access to legal counsel;
- Review and adopt the draft law abolishing the death penalty, which was submitted to the National Assembly in 2007;
- Pending the total abolition of the death penalty, commute all death sentences;
- Ratify without reservations the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

Right to education

- Endorse the Safe School Declaration and commit to implement the Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict;⁴³
- Take all necessary measures, including in collaboration with MINUSMA, to prevent the occupation of schools by armed groups.

Women's and children's rights

- Undertake, without delay, the reform necessary to eliminate all discriminatory provisions and practices against women and girls contained in the Persons and Family Code;
- Adopt legislation to prohibit all forms of female genital mutilation and cutting;
- Raise the minimum age of marriage for girls to 18 years of age.

⁴² Relevant standards include: Article 14 of the International Covenant on Civil and Political Rights, Article 17 of the Convention on Enforced Disappearances, Principles 17 and 18 of the United Nation's Body of Principles for the Protection of All persons under any Form of Detention or Imprisonment, and Articles 93 and 95 of the Standard Minimum Rules for the Treatment of Prisoners.

⁴³ See : Safe Schools Declaration and Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict <http://www.protectingeducation.org/draft-lucens-guidelines-protecting-schools-and-universities-military-use-during-armed-conflict>

Draft law on human rights defenders

- Ensure that the draft law on human rights defenders is adopted in line with the Model Law for the Recognition and Protection of Human Rights Defenders, including providing a protection mechanism for human rights defenders and clearly defining their rights and responsibilities.

Armed conflict and crimes under international law by armed groups

- Take measures to bring an end to abduction, hostage-taking and unlawful killings of civilians by armed groups;
- Take all necessary measures to prevent the recruitment and use of child soldiers;
- Ensure that all children arrested on suspicion of association with armed groups receive special attention and set up a programme to facilitate their rehabilitation in their community and families.