



**fidh**



**MALI**

# **Terrorism and Impunity Jeopardize the Fragile Peace Agreement**

Joint Position Paper



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# INTRODUCTION

Almost two years after its signature, the implementation of the Agreement for Peace and Reconciliation in Mali remains difficult. This considerable delay exacerbates frustration and tensions within the population, encourages the emergence of new divisions among the armed groups, and constitutes a major obstacle to peace. Indeed, even though the interim authorities have finally been established and the first joint patrols have been set up, neither the process of disarmament, demobilization and reintegration of combatants nor the numerous development projects in the North have yet begun.

Terrorist armed groups are instrumentalizing and encouraging these divisions, delays and tensions arising from delays in peace. After a strategic withdrawal that followed the recapture of the North by the Malian and French forces in 2013, terrorist armed groups have come back and are exerting their influence on large parts of the territory. From 2015, they even announced their new strategy: conquering the center of the country and spreading their influence into neighboring countries (Burkina Faso, Niger). 2016 and the beginning of 2017 saw the effective implementation of this strategy with the emergence of local terrorist organizations (the Macina Liberation Front of Amadou Kouffa in Mali, Ansaroul Islam by Ibrahim Malam Dicko in Burkina Faso, etc.), their growing influence on the population, and the increasingly challenged presence of the State (multiple attacks against FAMA, elites, etc.). The North of Burkina Faso and the border with Niger have also become areas of action for these groups. This regional strategy is fueled by the instrumentalization of local conflicts.

In Mali, that strategy has resulted in an unprecedented level of insecurity. FIDH and AMDH are concerned about the proliferation of increasingly sophisticated and devastating terrorist acts in the North and which zone of influence extends towards the center of the country. This has been accompanied by an increase in targeted assassinations, hostilities between armed groups, violent inter-community conflicts, arbitrary arrests and detentions, torture and summary executions in the hands of the armed forces of Mali, and acts of armed banditry and sexual violence.

In particular, our organizations wish to alert the Malian authorities and the international community on the situation of insecurity in the center of the country, which has become the epicenter of the conflict. In the regions of Ségou and Mopti, violent terrorist and extremist groups such as the Macina Liberation Front, linked to the terrorist movement Ansar Dine of Iyad Ag Ghali, have been conducting targeted attacks and actions against representatives of the State and local community leaders. This strategy of insecurity is increasing the disengagement of the State, which is no longer able to protect civilians or provide them with basic public services such as access to education or health care. This disengagement from the State in turn creates a favorable environment for these terrorist groups and, on the other hand, encourages the civilian populations to arm themselves in order to protect themselves.

At the same time, the Malian army's response to this new phenomenon of insecurity and terrorism in the central regions is accompanied by numerous human rights violations. Our organizations have documented dozens of cases of arbitrary arrests, detentions, torture and summary executions perpetrated in the context of counter-terrorism operations in 2016 and 2017. To date, nearly 200 people are detained on terrorism-related charges. In addition, some communities perceived to be affiliated with terrorist groups are particularly targeted not only by the Malian security and defense forces, but also by other communities living in these areas. For example, FIDH and AMDH note with concern the resurgence of violent inter-communal clashes resulting from the confusion between civilians and terrorists, which

resulted in the deaths of more than 117 people in the regions of Ségou and Mopti in 2016 and 2017<sup>1</sup>.

However, the cooperation and support of the civilian population with the Malian authorities and forces is crucial in order to combat terrorism. It is therefore urgent that the social contract and trust between the State and the people be restored. This can only be achieved through the protection of the population, including strict respect for the rights of persons suspected of terrorism, the restoration of State administration and services all over the territory and the fight against impunity for perpetrators of violence and serious human rights violations. Similarly, crimes committed by government forces must not go unpunished.

The fight against the impunity of those responsible for the most serious crimes must be intensified.

FIDH and AMDH welcome the progress made in the fight against impunity and transitional justice, such as the conviction of Ahmad Al-Faki Al-Mahdi by the International Criminal Court for his crimes of destruction of cultural heritage in Timbuktu in September 2016, the opening of the trial of the former coup leader Amadou Haya Sanogo before the Malian courts in November 2016, as well as the effective establishment of the Truth, Justice and Reconciliation Commission (TJRC). However, the judicial proceedings concerning the crimes committed in the North since 2012 have made little progress and are still limited to judicial proceedings before the anti-terrorist courts. For instance, complaints filed by FIDH, AMDH and other Malian organizations before the Malian courts on behalf of about a hundred victims of sexual crimes could lead to important and very symbolic results with a more assertive political will on these strategic issues.

Our organizations urge the Malian authorities to step up their efforts to ensure that the perpetrators of abuses since the period of occupation from 2012-2013 to date are prosecuted and tried for their crimes, including authors of mass sexual crimes perpetrated in Northern Mali in 2012 and 2013. Our organizations also call on the International Criminal Court to continue its investigation into the situation in Mali and, more broadly, the international community to support these justice efforts.

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1. As of April 28th, 2017.

# I. SIGNIFICANT DELAYS IN THE IMPLEMENTATION OF THE PEACE AGREEMENT

On June 20, 2015, the government of Mali, the ex-rebel armed groups gathered within the Azawad Movement Coordination (AMC) and the armed groups close to the Malian government forming the Platform signed the **Agreement for Peace and reconciliation resulting from the Algiers process** (hereinafter “the Agreement”) in Bamako. This agreement brought hope and contains many provisions dealing with the development of northern regions, territorial organization, security sector reforms and defense and reintegration of combatants of various armed groups, human rights, and justice and reconciliation.

Almost two years after its signature, little progress has been made in the implementation of the Agreement.<sup>2</sup> In particular, the Agreement provided for a number of interim measures, which should have been implemented within two months after signing and terminated at the end of the interim period in July 2017. While some of these interim measures have been put in place very recently, others are still not effective, and today it looks like this interim period could now be extended.

Among the most important measures pertaining to defense and security issues, our organizations are concerned that despite the progress made on its funding, the disarmament, demobilization and reintegration (DDR) process<sup>3</sup> is struggling to be effective. This process is supposed to limit the number of armed actors on the ground, to identify refractory elements and reintegrate them either into the Malian army or into civilian activities. All eight cantonment camps built by the MINUSMA are still empty, and discussions continue as to which combatants are eligible to such a program. Indeed, the emergence of new armed groups that are non-signatories to the Agreement now wish to participate in this process whereas other signatory groups keep demonstrating their lack of sincere commitment.

Similarly, the redeployment of the armed forces and security forces across the northern regions under the Operational Coordination Mechanism (OCM)<sup>4</sup> are facing huge challenges. Mixed patrols (including combatants from the 3 signatory parties to the Agreement) should have started 60 days after the conclusion of the Agreement, yet it was only 18 months later that the first patrol was formed in Gao, and was immediately targeted by a unprecedented terrorist attack, killing over 70 people (see Part II below). The other joint patrols envisaged have not yet been launched.

Our organizations, on the other hand, notes with satisfaction the appointment of interim authorities in the 5 regions of Northern Mali as planned by the Agreement: in Kidal on 28 February 2017, in Gao and Ménaka on 2 March and in Timbuktu and Touadenit on 20 April. The appointment of these authorities had been the subject of intense protests and uprisings by the local population in some areas, which challenged their legitimacy. On the eve of the end of the interim period, our organizations are wondering

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2. This analysis is shared by the UN Independent expert on the situation of Mali Mr Suliman Baldo, see his press release dated 16 November 2016 (only in French): <http://www.ohchr.org/FR/NewsEvents/Pages/DisplayNews.aspx?NewsID=20874&LangID=F>

3. Chapter 8 of the Agreement.

4. Chapter 9 of the Agreement.

about the future of these authorities, all of which having been set up recently, and eventually about the likely postponement of the organization of local elections.

Finally, on issues of reconciliation and justice,<sup>5</sup> FIDH and AMDH welcome some noticeable progress, in particular the adoption of a national policy on transitional justice and the effectiveness of the Truth, Justice and Reconciliation Commission, which began to work in January 2017, notably by collecting testimonies from victims.<sup>6</sup> It is now crucial to support these efforts to ensure that the Commission has the means to fulfill its mandate,<sup>7</sup> including through the creation of mobile units and the supervision of security and confidentiality measures to ensure that victims and perpetrators testify under the best possible conditions, in the Commission's branches as well as in rural areas.

The organization of a Conference of National Understanding<sup>8</sup> is a step towards reconciliation in Mali, although our organizations regret that human rights organizations have not been invited to the debates.<sup>9</sup> FIDH and AMDH take note of the recommendations<sup>10</sup> made by the Malian authorities on this occasion, in particular the commitments of the Republic of Mali in the fight against impunity, the acceleration of the implementation of the provisions of the Agreement and measures for the recognition and reparation of the conflict's victims. In addition, our organizations call on the Malian authorities to translate these recommendations into concrete actions, and in particular to redouble their efforts to advance the proceedings before the Malian courts (see Part IV below).

In addition to supporting this progress at the national level, FIDH and AMDH call on the UN and the international community to respect their own commitments under the Agreement and to establish an International Commission of Inquiry,<sup>11</sup> in accordance with the Agreement and with the keen desire of the signatories.

The signatory parties to the Agreement should demonstrate their willingness to work for a lasting peace in Mali by agreeing to a binding short-term agenda on the remaining measures to be put in place. Our organizations also call on the UN Security Council to take targeted individual sanctions against individuals who oppose the implementation of the peace agreement and against those who sponsor or order violence and human rights violations.

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5. Article 46 of the Agreement provides for : the establishment of transitional justice mechanisms, the creation of an international commission of inquiry to look into war crimes, crimes against humanity, crimes of genocide, sexual and gender-based violence and other serious human rights violations, the imprescriptibility of international crimes, and a broad reform of justice.

6. More than 2,000 people have already testified before the Truth, Justice and Reconciliation Commission since January 2017.

7. The Truth, Justice and Reconciliation Commission has a two-year mandate, from hearings to the final report.

8. The organization of a National Understanding Conference took place from March 27 to April 2, 2017, in Bamako, in the presence of the signatories to the Agreement, the parties to the international mediation, local and national authorities, traditional authorities, diplomats, civil society organizations, etc.

9. See the interview of AMDH President Moctar Mariko (only in French): [http://malijet.com/a\\_la\\_une\\_du\\_mali/181379-conference\\_dentente\\_nationale\\_organisations\\_defense.html](http://malijet.com/a_la_une_du_mali/181379-conference_dentente_nationale_organisations_defense.html)

10. Section 7 of the report of the Conference of National Understanding.

11. In a letter addressed to FIDH on November 23, 2016, the UN High Commissioner on Human Rights wrote *"all the preparatory work for the establishment of such a commission has been completed. A final decision regarding the establishment of the Commission will be taken by the UN Secretary General."*

## II. UPSURGE OF TERRORISM AND VIOLENCE IN THE CENTER AND THE NORTH

2016 was a dark year for human rights in Mali. FIDH and AMDH accounted for **at least 385 attacks (double the number since 2015) that cost the lives of at least 332 people, including 207 civilians in the North and center of the country**. Torture, kidnappings, arbitrary detentions and all forms of extortion, totaled at least 621 listed cases, 67 involved minors, for which armed groups, the Armed Forces of Mali (FAMA), and international forces (MINUSMA and Force Barkhane) were all responsible.

*“In the absence of concrete progress in the implementation of the Peace Agreement, there has been a proliferation and fragmentation of armed groups, accompanied by violence that persists in the North and develops in the center of the country. More than 200 civilians have lost their lives in attacks in 2016. There is an urgent need to protect civilians and prosecute and condemn the perpetrators”* said Drissa Traore, FIDH Vice-President.

In the North, the proliferation of armed groups and their complex links make the situation unstable and unpredictable, including a resumption of hostilities between certain parties to the Peace Agreement – in particular between the Azawad Coordination Movement (CMA) and GATIA (Tuaregs Imghads self-defense group and allies – Platform entity, pro-government groups) in the summer of 2016. Despite the presence of about 10,000 UN peace-keepers and 1,500 French soldiers from Operation Barkhane, terrorism does not abate, on the contrary, its zone of influence extends from the North to the center of the country.

In the center of the country, violent terrorist and extremist groups have been conducting targeted attacks and actions against State officials and local communities for more than a year. This strategy of insecurity is increasing the disengagement of the State in certain areas, which is no longer able to guarantee basic public services (schools, health center, etc.). This, in turn, favors the establishment of terrorist groups,<sup>12</sup> but also the exacerbation of violent inter-communal clashes and a sharp increase in acts of armed banditry.

The first quarter of 2017 confirms the trend already observed in 2015 and 2016 of a continuous and unprecedented increase in the level of violence in Mali. On January 18, 2017, a suicide attack claimed by Al-Mourabitoun, a terrorist entity affiliated with Al-Qaeda in the Islamic Maghreb (AQIM), hit the camp of Gao's Operational Coordination Mechanism (MOC), which housed troops made up of elements of the Armed Forces of Mali, the Azawad Coordination Movement (CMA) and the Platform, which were to be part of the first joint patrols provided for in the Algiers Agreement. The attack killed at least 77 people and injured nearly 100 people, making it the deadliest attack since the conflict began in Mali, symbolizing the implementation of peace agreements and cooperation with international forces. This attack caused a shock wave in the country.

Terrorist attacks, acts of armed banditry and violent incidents between communities have continued. Indeed, in the central part of the country in particular, some communities are perceived as affiliated

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12. Namely the Macina Liberation Front, established by Amadou Kouffa in January 2015 and affiliated to Ansar Dine since May 2016.



with the terrorist movement because of the ethnicity of their leaders<sup>13</sup> and are therefore targeted by other communities which are themselves suspected of acting in impunity with support from the Malian army.<sup>14</sup>

On February 11, 2017 in Ké-Macina,<sup>15</sup> a bambara shopkeeper was assassinated, promptly rumored that he was suspected of being an informant of the army. Pehl villages were then attacked by Dozos (mostly bambara) in retaliation for this assassination. Our organizations accounted for 22 people who died during the clashes, including a pregnant woman, four people burned alive and the others killed by gunfire, as well as two missing persons and hundreds displaced during the weekend. This incident is emblematic of the tensions and violent clashes that have taken place in central Mali for more than a year. **In total, FIDH and AMDH have identified at least 117 deceased and 87 wounded in inter-communal clashes in the Mopti and Ségou regions in 2016 and 2017.**<sup>16</sup> These violent incidents are accompanied by waves of displacement of people fleeing violence. There are about 10,000 internally displaced persons in the center of the country to date.<sup>17</sup>

The trifecta of the disengagement of the State in the center of the country (see Part III below), the establishment of terrorist groups in this area, and finally the resulting inter-communal clashes, contribute to encouraging civilians to arm themselves to protect their families and property from various attacks and, for some, to take advantage of this context in order to commit acts of opportunistic banditry such as looting of cattle and houses. Our organizations have identified at least 43 terrorist attacks during the first quarter of 2017, and estimate that **at least 151 people have died since the beginning of the year in terrorist attacks, targeted assassinations or inter-communal violence.**<sup>18</sup>

On the other hand, our organizations warn the Malian authorities and the international community of the under-documentation of rape and sexual violence, due to the sensitivity of the subject. This is all the more accentuated when victims fear retaliation if they testify, especially when the State is not able to protect its civilian populations, and when NGOs are limited in their ability to access areas where such violence is committed to meet with victims. FIDH and AMDH have documented several cases of gang rape and other forms of sexual violence; on 18 April 2017, for instance, in a locality close to Goundam (Timbuktu region), 10 young women, including a 12-year-old minor, were abducted by armed elements and subjected to gang rape. Our organizations are aware that this means that more of these crimes are being perpetrated at the moment.

Finally, on 1 March 2017, the representatives of the main terrorist movements<sup>19</sup> in the Sahelo-Saharan band announced their alliance by forming a new group, Nusrat al-Islam wal-Mouslimin ("Support Group for Islam and Muslims"), under the authority of Iyad Ag Ghali. This development is also cause for concern and demonstrates that these groups persist, recompose themselves, and manage to set up coordination mechanisms, despite the counter-terrorism efforts that have been going on for several years.

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13. The Pehl community in particular is perceived as being affiliated with the terrorist movement of the preacher Pehu Amou Kouffa. Although some of the leaders of this group are actually Pehls, the Macina / Ansar Dine Liberation front is not a popular movement within the Pehl community. The amalgam between peoples and terrorists, however, is increasing, both within the local population and within the Malian army.

14. Namely the Dozos, among the Bambara community.

15. Located in the Macina area, in the region of Segou.

16. As of April 28th, 2017. These figures include clashes between the Bambara and Pehl communities, but also between the Bambara and the Markha, or the Dogon and the Pehl. They took place mainly in the circles of Tenenkou, Ké-Macina, Djenne and Bankass in the regions of Ségou and Mopti.

17. UN OCHA estimates around 44 000 internally displaced persons on the Malian territory: <https://www.unocha.org/mali>

18. As of April 28th, 2017.

19. Ansar Dine, Al Qaeda in Islamic Maghreb, Macina Liberation Front, Al Mourabitoune.

In addition, our organizations note with concern that international forces remain the main targets of violent terrorist and extremist groups and are struggling to ensure their own security. MINUSMA remains the deadliest peacekeeping mission in the world. In 2016, 187 attacks targeted MINUSMA, international forces or Malian armed forces, killing 35 peacekeepers, 3 French soldiers and at least 84 soldiers of the Malian army. **In the first quarter of 2017, acts against the international forces and the Malian army killed at least 110 people, among whom two peacekeepers and one French soldier.**<sup>20</sup>

FIDH and AMDH are therefore witnessing an increasing number of terrorist acts that are more sophisticated and devastating and which area of influence is expanding. This is accompanied by an increase in other forms of violence such as killings, acts of torture, looting, rape and threats perpetrated by armed groups (some of the signatories of the Agreement,<sup>21</sup> as well as other newly formed armed groups), by the Malian armed and security forces (see Part III below), and by armed civilians. Our organizations are deeply concerned about this unprecedented level of violence and the associated human rights violations in the central and northern parts of the country, which have never been more difficult to access since the occupation by the rebel and terrorist groups back in 2012-2013.

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20. As of April 28th, 2017. Since the drafting of the present paper, other attacks have taken place, including an attack against the MINUSMA camp in Timbuktu on May 2nd that caused at least 1 killed and 9 wounded.

21. For example clashes between elements of the GATIA and the CMA in Northern Mali during the summer 2016, in violation of the ceasefire.

# III. HUMAN RIGHTS VIOLATIONS PERPETRATED AGAINST THE CONTEXT OF COUNTER-TERRORISM

The response of the Malian army to this new phenomenon of insecurity and terrorism in the center of the country has also been accompanied by numerous human rights violations, including dozens of arbitrary arrests, cases of torture and summary executions. More than 300 people were arrested in 2016 for reasons related to the conflict, and our organizations estimate that at least several dozens of them are being illegally detained (no arrest warrant or expired arrest warrant).

FIDH and AMDH documented several cases of people arrested and detained for up to several months, in the Ségou region, without apparent motive and without being informed of the charges they were charged with; those people have been subjected to torture, fatal for some of them at the hands of the Malian army.

*“Soldiers tied our hands and feet and covered our faces. We could not see anything and it was difficult to breathe. Then they took us to the bush. They beat us for hours, the blows rained. I tried to move to protect myself, but I could not. They also burned plastic that they spilled on my back. They asked me if I was a jihadist, if I knew jihadists, and I tirelessly replied that no, I was only looking for daily bread for my family, but they did not hear anything”* a victim testified.

These human rights violations are perpetrated against local populations, particularly against some communities perceived as affiliated to the Macina Liberation Front, whose cooperation is nevertheless crucial for the Malian authorities to collect intelligence in order to combat both terrorist and new armed self-defense groups. Such acts seem to contradict the overall objective of those counter-terrorism operations, in particular with regards to ensuring “the security of persons and their property.”

On the other hand, local elected officials and individuals perceived as cooperating with the Malian army or the international forces are also subject to reprisals by terrorist or armed groups, which can be observed through the multiple assassinations of mayors and prominent members of the community, and many cases of threats and intimidation. It is up to the State to protect these people effectively in order to fight against terrorism together.

*“Without the support of the population, the fight against terrorism can not progress effectively. It is therefore crucial to re-establish trust between local communities and the security forces, which requires the protection of civilian populations and strict respect for the rights of persons, including those arrested in the fight against terrorism. To date, there are nearly 200 detainees in Malian prisons for terrorism-related charges”* said Moctar Mariko, AMDH President.

FIDH and AMDH therefore urge the Malian authorities to assume all their responsibilities to uphold human rights in their counter-terrorism operations and to investigate and prosecute those responsible for such serious violations.

FIDH and AMDH are concerned about the disengagement of the State in the center and the North of the country, particularly in the regions of Mopti and Ségou. The security situation and inefficiency of the State

in dealing with this unprecedented level of violence has had dramatic consequences on the population.

In particular, our organizations have listed at least 500 closed schools in areas affected by insecurity. A growing number of health centers are also closing their doors. Moreover, measures to limit the expansion of terrorism, such as the prohibition of driving a motorcycle, affect first and foremost the civilian populations whose freedom of movement is restricted and opportunities to carry out their professional activities compromised. In addition, that makes existing basic public services hard to reach.

Worse still, the United Nations reports that this security situation has also resulted in a dramatic increase in the number of people food insecure, totaling more than 3.8 million people as of March 2017.<sup>22</sup>

The obstacles to peace in Mali are numerous, but the State's response should not be limited to security and the fight against terrorist groups and other militias. It should also include the restoration of basic social services such as education and health, the restoration of trust between the State and the civilian population and the protection of State agents, the fight against the radicalization of young people, the fight against illicit trafficking in arms, drugs and individuals, and, of course, the fight against impunity for all perpetrators of serious human rights violations.

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22. See Statement by UN OCHA : <http://www.unmultimedia.org/radio/french/2017/04/mali-les-gens-souffrent-enormement-en-ce-moment/#.WP6J4BmnzqB>

# IV. JUSTICE AND FIGHT AGAINST IMPUNITY AS A WIN-WIN STRATEGY

The new political and security situation in Mali calls for a response that should include justice and the fight against impunity as a priority. In this context, the fight against impunity for the perpetrators of the most serious crimes must go beyond the framework of only a counter-terrorism justice system. The justice effort should also focus on perpetrators of war crimes, crimes against humanity, and other gross human rights violations.

*“The fight against impunity is a winning strategy for peace and security. It provides both truth, justice and reparations for the victims of the most serious crimes, restoring the confidence of the population in the Malian State and, above all, it takes people away from violence”* summarizes Dimitris Christopoulos, FIDH President.

The Malian political and judicial authorities have repeatedly affirmed their commitment to bring justice to victims of the most serious crimes committed since 2012 in Mali. In addition, the International Criminal Court has opened an investigation into the situation in Mali since January 2013, leading to the trial and conviction of Ahmad Al-Faki Al-Mahdi, in September 2016, for his responsibility in destroying the mausoleums of Timbuktu.<sup>23</sup> However, the fight against impunity makes very little progress at the national level, even though our organizations welcome the proceedings against the former coup leader Amadou Haya Sanogo and against the Former Islamic commissioner of Gao, Aliou Mahamane Touré (see below).

## • The crimes of the former military junta of Amadou Haya Sanogo

The opening of the trial of the former coup leader Amadou Haya Sanogo and his 16 co-defendants<sup>24</sup> on 30 November 2016 before the Criminal Court of Bamako (in Sikasso) concerning the “Red Berets” case<sup>25</sup> is an important step for justice in Mali. FIDH and AMDH who represent the families of 24 military soldiers executed by the former junta have welcomed this historic event. The opening of the trial is a renewed hope to obtain justice and reparations, and show that the Malian justice system is actually able to conduct such proceedings.

However, on 8 December 2016 the Criminal Court decided<sup>26</sup> to order a new medical examination of the bodies found in the Diago mass grave, because the first one had not been conducted in accordance with the procedures provided for under Malian law; the trial is now in recess.

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23. See FIDH press release: <https://www.fidh.org/en/region/Africa/mali/first-step-on-the-path-to-justice-icc-sentences-al-mahdi-to-9-years>

24. See FIDH press release: <https://www.fidh.org/en/region/Africa/mali/the-trial-of-amadou-haya-sanogo-opens-in-mali-a-crucial-step-forward>

25. On 21 and 22 March 2012, as Mali was under attack by Tuareg pro-independence armed groups and djihadi armed groups, a group of officers led by Captain Amadou Haya Sanogo took power in Bamako and overthrew President Amadou Toumani Touré. On April 30, 2012, an attempted coup against the coup led by the army’s parachutist unit called “Red Berets” was defeated and violently repressed. Several dozen red berets were captured and executed.

26. See FIDH press release (only in French): <https://www.fidh.org/fr/regions/afrique/mali/renvoi-a-debut-2017-du-proces-d-amadou-haya-sanogo-les-autorites>

*“The victims have been waiting for this trial for over 3 years and want truth to be told without any further delay. But we remain committed to the fairness of this trial and, in particular, to the respect of defense rights. We hope that clear indications on the date and conditions of resumption of the trial will be communicated quickly”* said Moctar Mariko, AMDH President and civil party lawyer in this trial, last December.

Five months later, the new examination is still underway<sup>27</sup> and our organizations and the victims we accompany do not have more information as to when the trial will resume. FIDH and AMDH therefore urge the Malian authorities to ensure that the trial is resumed within a reasonable time, in accordance with the judges’ decision.

### • The crimes perpetrated in the context of the conflict in the North

On the other hand, cases related to the most serious crimes committed in the North in 2012-2013<sup>28</sup> have not progressed significantly, with the exception of the proceedings against the former head of the Islamic police of Gao, Aliou Mahamane Touré. Apart from around 120 counter-terrorism judicial proceedings that resulted in almost no trials, and a dozen sentences released by the Mopti Criminal Court in April 2016 expeditiously and in the absence of the accused, the most important cases are still under investigation.

On 12 November 2014, FIDH and AMDH filed a complaint<sup>29</sup> for crimes against humanity and war crimes on behalf of 80 women and girls victims of rape and other forms of sexual violence committed during the occupation of Northern Mali in 2012 and 2013. Despite the goodwill of the investigative judge, the investigation is stalled because of the lack of cooperation from the authorities and the difficulty in accessing the areas and individuals at stake.

On 6 March 2015, following investigations in Timbuktu region, our organizations filed a new complaint<sup>30</sup> on behalf of 33 victims of international crimes committed during the occupation of Timbuktu and its region by armed groups in 2012 and 2013. This complaint concerns 15 alleged perpetrators of crimes against humanity and war crimes. Despite the hearing of certain civil parties by the investigative judge, no investigation has been carried out for more than six months and the proceeding is currently suspended due to the lack of political and judicial will.

In addition, several proceedings have been opened by Mali’s Public Prosecutor concerning the crimes committed during the occupation of the North in 2012-2013, including a procedure against the leader of the terrorist movement Ansar Dine, Iyad Ag Ghali and 28 others, and another one against the former president of the Islamic court in Timbuktu, Alfousseyni Ag aka “Houka Houka.” These cases are currently under investigation and have not made any significant progress.

In all these cases, a large number of people allegedly responsible for international crimes and other serious human rights violations are not being prosecuted, have been released or are currently abroad. According to our organizations, at least 50 alleged perpetrators of crimes against humanity or war crimes who had been arrested were released for political reasons or within the framework of negotiations with

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27. The Criminal Court ordered a new medical expertise within 45 days.

28. Between January 2012 and March 2013, Tuareg independence rebel groups and jihadi armed groups (including AQIM, MUJAO, Ansar Dine) had seized power in Northern Mali. During this period of occupation, the territory was the scene of the most serious crimes: mass rapes, torture, amputations, flagellations, summary executions, destruction of the cultural heritage.

29. See FIDH press release: <https://www.fidh.org/en/region/Africa/mali/16455-mali-complaint-filed-on-behalf-of-80-victims-of-rape-and-sexual-violence>

30. See FIDH press release (only in French): <https://www.fidh.org/fr/regions/afrique/mali/mali-33-victimes-de-tombouctou-et-7-associations-portent-plainte>

armed groups. The example of Houka Houka is emblematic, since he still lives in the region of Timbuktu and teaches in a Koranic school, to the knowledge of everyone, including his victims.

FIDH and AMDH however welcome the decision of the Court of Appeals of Bamako on 28 March 2017<sup>31</sup> to refer the case of Aliou Mahamane Touré, ex-officer of the Islamic police in Gao, to the Criminal court for trial.<sup>32</sup>

*“Almost five years after the capture of Gao by rebel and terrorist groups, this decision marks an important step in the fight against impunity for the heinous crimes committed against civilians during the occupation of the city”* said Drissa Traoré, FIDH Vice-President.

It is now up to the General Prosecutor’s Office to decide when the trial before the Criminal Court will start. This decisive step will pave the way for the first trial, in the presence of victims, for crimes committed against the civil populations in the North of the country in 2012 and 2013. Our organizations therefore call on the Malian authorities to speed up the opening of this trial, in accordance with their commitments.<sup>33</sup>

### • **The crimes perpetrated by the Malian armed and security forces**

FIDH and AMDH are not aware of any proceedings to date concerning serious crimes or human rights violations committed by elements of the Malian defense and security forces, with the exception of certain disciplinary procedures within the army.

However, our organizations have documented dozens of cases of serious violations of humanitarian law or human rights perpetrated by suspected members of the Malian army during the “recapture of the North” in 2013 and, more recently, in the counter-terrorism context (see Part III above). Unfortunately, victims are often too afraid of retaliation to file a complaint against the alleged perpetrators.

We urge the Malian authorities to send a strong signal to fight against impunity by effectively investigating these allegations and prosecuting the perpetrators of these serious crimes. It is crucial, particularly in the current context in the center of the country, to show that such crimes will not go unpunished to prevent the repetition of serious human rights violations in the future and to restore trust between the State and the population.

### • **The administration of justice**

Despite the partial return of the State to the northern regions, the judicial system in these areas is not yet fully functional. Courts in Timbuktu or Gao regions rehabilitated after the occupation are not currently able to handle sensitive cases relating to the crimes perpetrated in the conflict, especially given the insecurity and threats faced by judicial personnel. The same applies to Kidal, where the Malian State remains absent.

FIDH and AMDH welcome the decision of the Malian political authorities to extend the competence of

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31. See FIDH press release (only in French): <https://www.fidh.org/fr/regions/afrique/mali/l-ancien-chef-de-la-police-islamique-de-gao-sera-juge-par-la-cour-d>

32. Our organizations represent several victims (parties civiles) in the proceedings.

33. See the Malian ministry of Justice press release: [https://m.facebook.com/story.php?story\\_fbid=1474261195979156&id=855449061193709](https://m.facebook.com/story.php?story_fbid=1474261195979156&id=855449061193709)

the special counter-terrorism judicial unit created by the law of 21 May 2013<sup>34</sup> to war crimes, crimes against humanity, genocide and torture.<sup>35</sup> As this specialized center has jurisdiction over the entire national territory, and is enjoying strengthened capacities, it is in the best position to deal with cases related to international crimes and serious human rights violations committed in the northern and central regions since 2012.<sup>36</sup>

Our organizations call on the Malian authorities to sign the decree and implement this decision in order to allow better administration of justice and carry out the ongoing proceedings.

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34. Law N°2013-016 of 21 May, 2013 modifying Law N° 01-080 of 20 August, 2001 establishing the code of criminal procedure, Article 610-1.

35. This decision is now part of the transitional justice policy adopted by the Government of Mali.

36. Most of the cases mentioned in the previous sections are being investigated in the Bamako Municipal Court III, which had jurisdiction when the northern provinces of Mali were occupied. However, the Supreme Court has since issued a new ruling (dated February 2015) restoring jurisdiction to the northern courts.



# RECOMMENDATIONS

## 1. To the UN Security Council:

Given the renewal of the mandate of the UN Integrated Multidimensional Mission for Stabilization in Mali (MINUSMA) on 30 June 2017, FIDH and AMDH call on the UN Security Council to adopt a resolution providing:

### On the implementation of the Peace Agreement:

- Greater involvement of the MINUSMA's civilian component in the effective and accelerated implementation of the Peace Agreement, notably by supporting the Government in the effective implementation of the DDR process (including the integration of armed groups in the existing cantonment sites);
- The effective establishment of a sanctions regime, as already foreseen in Resolution 2295 of 2016, against individuals or groups of individuals that constitute an obstacle or a threat to the implementation of the Agreement, as well as those responsible for attacks and threats against MINUSMA;
- To this end, it is essential that MINUSMA strengthens its effective cooperation with the Monitoring Team of the 1267 Sanctions Committee (Al Qaeda/Da'esh);

### On the security situation:

- The effective and immediate redeployment of the additional forces and equipment provided for by Resolution 2295 of 30 June 2016, including the immediate strengthening of the presence of mission troops in the center of the country, which has become the epicenter of the conflict, due to the multiplicity of terrorist acts and increase of inter-communal violence;
- An increased and sustained effort in the protection of civilians by strengthening the presence of the Human Rights Division of MINUSMA throughout Mali, giving priority to the central region, by allocating more resources so the division can better carry out its mission of monitoring and documenting human rights violations;
- To ensure strict respect for human rights in counter-terrorism operations carried out by the Malian army, in particular by strengthening investigations and documentation of human rights violations and publish, on a regular basis, reports on counter-terrorism operations and the security and political situation across the country;
- Give MINUSMA the necessary mandate to document the phenomenon of "migration in relation to arms trafficking, narco traffic and traffic in persons,"
- Ensure that the modalities of cooperation and coordination with the counter-terrorism military force envisaged by the G5-Sahel and a fortiori with all the regional and international forces present on the territory of Mali and at its borders are functioning, in order to guarantee a reinforced and effective fight against criminal groups operating there.

### **On justice/fight against impunity:**

- Continue and strengthen support to the Malian justice system in the fight against the impunity of the perpetrators and for assistance to the victims of the most serious crimes committed since 2012, notably the victims of sexual violence;
- Continue to support the transitional justice process by establishing the International Commission of Inquiry and further strengthening the Truth, Justice and Reconciliation Commission;
- In the follow-up to the observations of the Informal Expert Group on Women, Peace and Security, it is urgent that the MINUSMA recruits a new Senior Gender Adviser as soon as possible. In addition, the gender division of the MINUSMA should publish, without prejudice to the safety of victims, reports on the violations that they document and the indicators they use.

### **2. To the Malian Authorities:**

- Take all necessary measures in view of the implementation of the Peace Agreement by all signatory parties within the time limit;
- Fight impunity by investigating, prosecuting and, where appropriate, condemning alleged perpetrators of serious violations of human rights and international humanitarian law, including elements of the FAMA;
- Establish appropriate and inclusive monitoring mechanisms for counter-terrorism operations to prevent and monitor human rights violations;
- Restore State administration in the affected areas in the North and Center, including schools and public hospitals, with the support of the international community;
- Strengthen the trust between the local populations and the State through actions to raise awareness and strengthen the security of people and their property;
- Initiate activities to implement inter-community conflict resolution;
- Strengthen the fight against terrorism in coordination with the MINUSMA and the French forces and in strict compliance with international human rights law and international humanitarian law.



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First organization for the defense of human rights in Mali, the *Association malienne des droits de l'Homme* (AMDH) was created on 11 November 1988.

It is composed by volunteers and activists from various backgrounds, each of them contributing to the promotion and protection of human rights through his or her own expertise. AMDH members include lawyers, magistrates, other public officers of the judiciary, civil administrators, professors and academics, elementary and secondary school teachers, physicians and health sector employees, sociologists, journalists, accounting experts, playwrights and other actors of the cultural sector, etc.

Member of the FIDH and the UIDH, the AMDH represents a strength of civil society in Mali. Its main office is located in Bamako, but is also represented by local sections in 8 regions of Mali: Kayes, Koulikoro, Sikasso, Segou, Mopti, Timbuktu, Gao and Kidal.

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The Worldwide movement for human rights acts at national, regional and international levels in support of its member and partner organisations to address human rights abuses and consolidate democratic processes. Its work is directed at States and those in power, such as armed opposition groups and multinational corporations.

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## ABOUT FIDH

FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.

### **A broad mandate**

FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights: civil and political rights, as well as economic, social and cultural rights.

### **A universal movement**

FIDH was established in 1922, and today unites 184 member organisations in 120 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.

### **An independent organisation**

Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

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