

Mali: Choosing Justice in the Face of Crisis

Friday 8 December 2017

(Bamako) In anticipation of the universal periodic review of Mali before the United Nations, FIDH and AMDH today published a new report analysing the resources and actions deployed by the Malian judicial system to combat the most serious crimes. By re-examining several emblematic cases, the report shows that significant advances have been made in some cases, thanks to the will of the authorities and the positions taken by them. Other cases, however, remain in suspense, obstructed by a fragile security situation or a lack of resources, or because they are politically sensitive. In order to effectively combat terrorism and insecurity, FIDH and AMDH call on the Malian authorities and international forces to put justice, dialogue and respect for human rights at the centre of their actions, and thereby to avoid repeating past errors of strategies “all about security”.

Since 2012 Northern and Central Mali have been troubled by a conflict that has created many thousands of victims. The conflict has pitted the Malian State against armed terrorist groups and degenerated into intercommunal clashes. The last two years have seen a resurgence of violence and attacks [1] and the perpetration of serious new crimes.

The extent and gravity of the crimes under investigation and at trial are unprecedented in the recent history of Mali. Our organisations have met over 500 victims and witnesses in recent years. They have initiated or participated in a dozen judicial proceedings, supporting over 180 civil parties before the courts. The report published today revisits the status of several emblematic cases.

The last twelve months have enabled considerable advances, with the opening of the trial of former President and coup leader Amadou Haya Sanogo and his accomplices, who are being prosecuted for the summary execution of over twenty “red berets”, and the conviction by Malian courts of the former Chief of Islamic Police of Gao, Aliou Mahamane Touré. Furthermore, a judicial unit specialising in the fight against terrorism and a truth justice and reconciliation commission were created and then assumed their duties in 2015.

“In recent months we may have achieved more through the justice system than has been accomplished with weapons : the recognition of the crimes of the putsch leaders and armed groups. Peace will be won both by re-establishing security and by meeting the needs of truth, justice and reconciliation,”

Maître Moctar Mariko, President of AMDH

[The report also describes, however, how other cases still have not gone to trial](#), such as crimes of sexual violence perpetrated systematically by jihadist groups in Northern Mali in 2012-2013. Although arrest warrants were filed and dozens of people arrested and charged in 2013, none of them has since been apprehended, although those crimes constitute war crimes and crimes against humanity. In 2014 and 2015 our organisations filed two complaints [2] as civil parties, representing over one hundred victims. Several other proceedings await resumption, notably those concerning the Agueloc massacre (153 Malian soldiers executed); the Kati mutiny; the “Missing Persons of Timbuktu [Tombouctou]”; and other crimes committed by all the forces involved in the “reconquest of Northern Mali” in 2013.

[The report also argues that anti-terrorism investigations should include serious human rights violations committed against civilian populations.](#)

The ambivalent security and political context continues to hang over the judicial proceedings.

The escalation of violence and attacks is having negative consequences. It is preventing the return of a functioning judicial system in Northern and Central Mali [3] and pushing the State to concentrate its resources on security and military responses. Furthermore, agreements that have been reached for political resolution of the conflict - or for the release of hostages - have led to the release of or dismissal of charges against individuals suspected of serious crimes [4]. As for the Sanogo trial, it has still not resumed, a year to the day after it was suspended for procedural error in the conduct of the forensic medical examinations.

Finally, while the June 2015 Peace Agreement enshrines the imprescriptible nature of war crimes and crimes against humanity and the position of “no amnesty” for the perpetrators of those crimes, its implementation remains stalled [5].

“Although the fight against impunity is not the only possible solution to the conflict, there can be no peace without a modicum of justice. Malians expect their courts to settle disputes and protect them from the arbitrary actions of armed men, and thereby to help their country emerge from the crisis that it has suffered since 2012,”

FIDH Vice President Maître Drissa Traoré

[Read the report : Mali: Choosing Justice in the Face of Crisis](#)

P.S.

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Footnotes

[1] The year 2016 saw a resurgence of violence and attacks by various armed groups against civilians and against Malian and MINUSMA soldiers. Our organisations counted at least 385 attacks resulting in at least 332 deaths, among them of 207 civilians in Northern and Central Mali. Added to this were acts of torture, abduction, arbitrary detention and extortion of all types, with at least 621 reported cases.

[2] On 12 November 2014 our organisations filed a complaint with the Tribunal de grande instance of Commune III of Bamako for crimes against humanity and war crimes as a civil party on behalf of eighty women and girls who were victims of rape and other forms of sexual violence. That act induced the Malian courts to open a first judicial proceeding concerning sex crimes. On 6 March 2015, following investigations carried out in Timbuktu and the Timbuktu Region, our organizations filed a new complaint as a civil party on behalf of thirty-three victims of international crimes, including sex crimes, committed during the occupation of Timbuktu and the Timbuktu Region by armed groups in 2012 and 2013. That complaint specifically targeted fifteen alleged perpetrators of crimes against humanity and war crimes.

[3] Although the courts of the Timbuktu and Gao regions were rehabilitated after the occupation, they remain barely functional. Due to the security situation and threats faced by the administrators of justice, those courts are incapable of handling cases investigating individuals who are affiliated with armed groups, among other things. The Prosecutor of Gao escaped an attack on his home in January 2015. The Court of Kidal is still not open despite the appointment of a new prosecutor presiding in Gao.

[4] For example, the release in August 2014 of Ag Alfousseyni Houka Houka, the former Islamic judge of Timbuktu, who had been charged for his alleged role in the commission of serious human rights violations; or the release on 9 December 2014 of Mohamed Aly Ag Wadoussène, Haïba Ag Acherif, Oussama Ben Gouzzi and Habib Ould Mahouloud, who were exchanged as part of negotiations for the release of the French hostage Serge Lazarevic, among other things.

[5] Similarly, the international commission of inquiry stipulated in the Ouagadougou Agreement and the June 2015 Peace Agreement has yet to be established by the United Nations.