



BRIEFING PAPER

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THE SITUATION OF HUMAN RIGHTS DEFENDERS IN THE REPUBLIC OF MALI

Contact

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In its second Universal Periodic Review (UPR), in January 2013, Mali accepted 112 recommendations. Of those recommendations, two concerned civil society space, five the rights to freedom of opinion, expression and freedom of the press, and 21 concerned the judicial system and access to justice. Recommendations called on the government to: pursue efforts to submit reports due to Treaty Bodies, including the Human Rights Committee; ensure the safety of journalists and end threats against them by investigating and prosecuting all attacks; strengthen democratic institutions; and adopt all

necessary measures to guarantee the right to justice, truth and reparation for victims of serious human rights violations. Despite accepting these recommendations, in October 2015, the UN Independent Expert on the situation of human rights in Mali expressed deep concern about the time taken to investigate and bring cases of war crimes and human rights violations committed during the 2012 conflict to trial. Ongoing attacks by Islamist armed groups in the North and Centre of Mali have deteriorated security in the country, and compromised the enjoyment of human rights in Mali, as demonstrated by the killing of UN peacekeepers and journalists. The United Nations Multidimensional Integrated Stabilization Mission in Mali reported 75 cases of human rights violations and abuses between 1 January and 31 March 2017. At the date of this submission, the rights to freedom of expression and movement were limited as a result of the ongoing state of emergency in Mali.

A. STATE OF EMERGENCY RESTRICTS HUMAN RIGHTS DEFENDERS

- The Government declared a state of emergency in November 2015 after Islamist militants stormed the Radisson Blu hotel in Bamako, killing 20 people in an attack claimed by al-Qaeda's regional branch.¹
- In April 2017, Parliamentarians voted unanimously to extend the state of emergency by six months until 21 October 2017.²
- The April 2017 bill, extending the state of emergency, gives additional power to security forces. It also restricts public gatherings and demonstrations by civil society organisations.³
- According to the Coalition Malienne des Défenseurs des Droits Humains (COMADDH), despite the ongoing state of emergency, the trend of threats and attacks towards human rights defenders has generally been downward during the UPR reporting period.

B. TRENDS OF ATTACKS AGAINST JOURNALISTS

- Journalist Birama Touré has been missing since 29 January 2016, and is suspected to have been disappeared as a result of his investigative work.⁴ He went missing just after he had started working for Le Sphinx newspaper. While an investigation was opened, to date there is no information on his whereabouts.⁵
- On 15 August 2016, Mohamed Youssouf Bathily, known as Ras Bath, a radio presenter and host of the Maliba FM radio programme 'cards on table',

was arrested by Malian security forces, detained at Camp 1 of the Gendarmerie de Bamako and formally prosecuted for 'public indecency'. He was also accused of 'demoralising the troops' for criticising high-ranking officers of the Malian army. He was scheduled to appear before the Prosecutor of the Republic of Bamako in August 2016, however a number of demonstrators mobilised at the court demanding his release.⁶ This was the first major protest in Bamako since the military coup in 2012. The protest turned violent, resulting in the killing of one person and leaving at least 17 injured.⁷ Ras Bath was eventually released with no charges two days after the protests on 19 August 2016.⁸

- In April 2017, Adama Dramé, Publishing Director of the Le Sphinx newspaper, was charged with 'defamation' for exposing that Karim Kéïta, the son of the Malian President, bought a hotel in Mali for 4 billion West African francs (USD 6.9 million).⁹ The case of Dramé v Kéïta is currently before the courts. If found guilty Dramé will have to serve three months in prison and pay a fine of 100,000 West African francs (USD 170).¹⁰
- Ammy Baba Cissé, the editor of a private Malian newspaper called Le Figaro, was sentenced to six months in prison in April 2017 for defaming Issaka Sidibe, the President of the National Assembly. Cissé was also accused of 'assault on honour and dignity' in a complaint by the National Assembly President in connection with an article about a sexual scandal in parliament.¹¹

C. RESTRICTIONS ON THE SPACE FOR HUMAN RIGHTS DEFENDERS

- The Constitution of Mali came into force in 1992, and contains expansive protections for fundamental rights. It enshrines the rights to freedom of assembly, expression, the media and freedom of movement, as well as political rights.¹² However, due to the on-going state of emergency,¹³ most freedoms – such as movement, expression and assembly – have been repressed.
- Freedom of speech is guaranteed under Article 4 of the Constitution. According to Freedom House, press law 00-046 AN RM of 7 July 2000¹⁴ imposes fines and prison sentences for defamation. It also criminalises offenses such as undermining state security, demoralising the armed forces, offending the head of state and consorting with the enemy. This has hampered the work and activities of journalists in Mali.
- The 1992 Constitution is undergoing revisions which are the subject of discontent among civil society organisations, human rights defenders and opposition parties.¹⁵ Draft amendments concentrate on the reinforcement of presidential powers over the justice system. Proposed amendments include the appointment of Supreme Court members and the Supreme Court Prosecutor's Office by Presidential decree. Consequently, only the members of the Court of Auditors must be appointed under Article 47 by decree of the Council of Ministers.¹⁶ The Supreme Court gave notice approving¹⁷ the holding of the Constitution referendum on 9 July 2017.¹⁸ Fortunately, due to the mounting pressure from civil society organisations, as of 21 June 2017 the referendum was postponed until an indefinite date.¹⁹

D. REPRISALS AGAINST HUMAN RIGHTS DEFENDERS ACCESSING INTERNATIONAL HUMAN RIGHTS MECHANISMS

- At the date of this submission, COMADDH and Femmes et Droits Humains (FDH) Mali have not registered or heard of reports of defenders suffering intimidation or reprisal for accessing and engaging regional or international human rights mechanisms.

E. THE RESPONSE FROM THE STATE REGARDING THE PROTECTION OF HUMAN RIGHTS DEFENDERS

- In March 2014, the National Assembly established the Truth, Justice and Reconciliation Commission. It has a broad mandate including: examining the 2012 coup and investigating human rights violence in the north from 1960 onwards. It aims to understand the root causes of violence and its perpetrators. However, according to Amnesty International, it was still not operational at the end of 2016.²⁰ Further, concerns have been raised about the composition of appointed commissioners. Victims fear that perpetrators of war crimes have been appointed, which will deter them from testifying and ultimately complicate reconciliation.²¹
- On 7 July 2016, the parliament of Mali adopted Law No. 2016-036²² establishing the National Human Rights Commission. It is composed of nine members, including a human rights organisation representative.²³ As on 24 January 2017, the Commission had a B Status and was not fully compliant with the Paris Principles.²⁴
- In June 2016, the Malian Council of Ministers approved a specific law on the protection of human rights defenders. The Minister for Justice and Human Rights pledged to forward a draft law prepared by civil society to the National Assembly for debate and adoption.²⁵
- NGOs have cautioned that the protection mechanism in the law should be open for civil society's participation at all stages of its implementation and have the political support of the authorities and benefit from the resources necessary for its functioning.
- In September 2016, the Council of Ministers adopted the National Human Rights Policy 2017-2021. The Policy provides a framework for State and non-State actors in the protection and promotion of human rights. To operationalise the Policy, the government has also adopted an action plan and devoted at least 3 billion West African francs (USD 5.2 million) to its implementation.²⁶

RECOMMENDATIONS TO THE GOVERNMENT OF THE REPUBLIC OF MALI:

- Protect fundamental human rights and ensure safety for journalists and refrain from criminalising their legitimate activities by revising the press *Law 00-046 AN RM* of 7 July 2000.
- Investigate and prosecute all attacks and false accusations against journalists.
- Ensure the proposed law on the protection of human rights defenders adopted by Mali complies with the UN Declaration on Human Rights Defenders and mandate and adequately resource an effective protection mechanism to monitor and operationalise the law.
- Review the composition of the members represented in the Truth Justice and Reconciliation Commission by ensuring that armed groups are not over represented and ensure equal gender representation in the Commission.
- Operationalise and give the necessary resources to ensure the effective functioning of the Truth Justice and Reconciliation Commission to ensure the prompt, thorough and transparent investigation of all violations against defenders, the prosecution of perpetrators, and access to effective remedies for victims.
- Develop and support with the Mali National Human Rights Commission a two year strategic plan aiming to build the Commission's institutional capacity and independence so it is fully compliant with the Paris Principles.
- Guarantee the active involvement and participation of the Mali National Human Rights Commission in the adopted activities of the National Human Rights Policy 2017-2021.
- Guarantee that the constitution reform process is open, consultative and that the proposed amendments are in line with international standards, ultimately resulting in the promotion and protection of human rights.
- Take all measures to promote and protect human rights and their defenders while countering terrorism in Mali by referring to best practices such as the African Commission on Human and Peoples' Rights', '*Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa.*'²⁷

ABOUT THIS BRIEFING PAPER

ISHR, Coalition Malienne des Défenseurs des Droits Humains (COMADDH) and Femmes et Droits Humains (FDH) Mali encourage States to consult UPR submissions by local activists and make recommendations to Mali regarding the protection of HRDs. This paper is a result of compiling public information and direct contact and experience of Coalition Malienne des Défenseurs des Droits Humains (COMADDH) and Femmes et Droits Humains (FDH) Mali in the protection of HRDs. Readers should consult sources cited for additional information.

¹ <http://www.france24.com/fr/20151222-mali-etat-durgence-bamako-mali-jihadistes>.

² <http://www.jeuneafrique.com/433980/politique/mali-letat-durgence-proroge-de-six-mois-jusqua-fin-octobre>.

³ <http://mali7.net/2017/04/29/mali-letat-durgence-proroge-de-six-mois-jusqua-fin-octobre>.

⁴ <http://www.jeuneafrique.com/302583/politique/mali-le-journaliste-birama-toure-porte-disparu-depuis-le-29-janvier>.

⁵ <http://www.rfi.fr/afrique/20170129-mali-journaliste-birama-toure-sphinx-disparition-bamako>.

⁶ <http://www.newsweek.com/bamako-protest-ras-bath-mali-491344>.

⁷ <http://www.dailymail.co.uk/wires/afp/article-3745648/One-dead-protest-detained-Mali-radio-presenter.html>.

⁸ <https://www.apnews.com/2c7d4c644c9e4e098106183d7a62c79e>.

⁹ <http://maliactu.net/mali-affaire-karim-keita-contre-adama-drame-le-proces-renvoye-au-14-juin-2017/>.

¹⁰ <https://africareportonbusiness.com/2017/06/15/mali-trois-mois-de-prison-requis-pour-un-journaliste-accuse-de-diffamation-envers-le-fils-dibk/>.

¹¹ <http://www.africanews.com/2017/04/05/malian-journalist-sentenced-for-defaming-national-assembly-president/>.

¹² <http://democratie.francophonie.org/IMG/pdf/Mali-2.pdf>.

¹³ <http://www.dailymail.co.uk/wires/afp/article-4458788/Mali-state-emergency-extended-6-months.html>.

¹⁴ <https://www.rwi.uzh.ch/dam/jcr:00000000-0c04-fd04-0000-00002a968c2f/loi-00-046-an-rm-regime-de-la-presse-et-delit-de-presse.pdf>.

¹⁵ <http://fr.africatime.com/mali/articles/mali-des-milliers-de-manifestants-contre-un-referendum-constitutionnel> and

http://www.jeuneafrique.com/448452/politique/mali-tiebile-drame-reclamons-retrait-projet-de-revision-constitutionnelle/?utm_source=Twitter&utm_medium=JeuneAfrique&utm_campaign=Tweet_16062017.

¹⁶ <http://www.financialafrik.com/2017/06/14/changement-de-constitution-au-mali-la-cour-supreme-bat-un-record-de-vitesse/#.WUgJN-vyipp>.

¹⁷ Pursuant to notice no. 2017-01/CCM/REF of 6 June 2017.

¹⁸ Above n, 19.

¹⁹ <https://www.nytimes.com/reuters/2017/06/21/world/africa/21reuters-mali-politics.html>.

²⁰ <https://www.amnesty.org/en/countries/africa/mali/report-mali/>.

²¹ <http://www.justiceinfo.net/en/component/k2/mali%E2%80%99s-truth-commission-facing-delays.html>.

²² <http://juriafrique.com/blog/2016/07/29/mali-jo-n31-29-juillet-2016-sommaire/>.

²³ <http://juriafrique.com/eng/2017/03/19/the-human-rights-commission-was-established-in-mali/>.

²⁴ <http://www.ohchr.org/Documents/Issues/HRIndicators/NHRI.pdf>.

²⁵ <http://www.ishr.ch/news/mali-significant-step-towards-legal-recognition-and-protection-human-rights-defenders>.

²⁶ <http://www.maliweb.net/contributions/mali-se-dote-dune-politique-nationale-droits-de-lhomme-1783532.html>.

²⁷ http://www.achpr.org/files/instruments/principles-guidelines-countering-terrorism/principles_and_guidelines_on_human_and_peoples_rights_while_countering_terrorism_in_africa.pdf.