

## Mali

Violations	International Data 2022	Outcomes of the research (2022-first months - May-of 2023)
Killings and maiming	245 children: killing (106) and maiming (139)	245 children
Recruitment	452 children (416 boys, 36 girls), between 10 and 17 recruited and used	452 children
Sexual violence	36 girls raped by unidentified perpetrators	32 girls raped
Abduction	109 children (90 boys, 19 girls)	100 children
Attacks against school	97 attacks (83 on schools and 14 on hospitals 3 schools militarily used)	1,726 schools closed, and 517,800 children out of school
Denial of humanitarian access	85 incidents	1 million children under the age of 5, with acute malnutrition. At least 200,000 facing imminent risk of succumbing to hunger-related mortality

## Challenges met during the research

Typology	Challenges	Comment
Quantitative	Data collection	Given the difficulties associated with obtaining local data, research efforts necessitate continuous and ongoing monitoring. This perpetual monitoring ensures that data collection processes remain active and responsive to changing circumstances, thereby enabling researchers to gather up-to-date and relevant information. By maintaining a vigilant approach to data collection, researchers can better capture shifts in trends, identify emerging patterns, and address evolving challenges within communities. This dynamic monitoring approach enhances the accuracy and comprehensiveness of research findings, ultimately contributing to more informed decision-making and targeted interventions in support of vulnerable populations.

Qualitative	Participants scared to take part in interviews	By cross-referencing testimony with other data sources, researchers can mitigate the risk of relying on potentially biased or unreliable information. Additionally, it promotes a more rigorous and objective analysis of complex issues, enhancing the credibility and validity of research findings. Ultimately, integrating multiple forms of data strengthens the evidence base and enhances the effectiveness of interventions aimed at addressing the needs of affected populations
Qualitative	Need for anonymity	Anonymity should be a standard in this kind of research

## 1. Country analysis

Mali is one of the largest countries in Africa, but it has a relatively small population, which is largely centred along the Niger River. The Bambara (Bamana) ethnic group and language predominate, with several other groups – including the Fulani (Fulbe), Dogon, and Tuareg – also present in the population. Agriculture is the dominant economic sector in the country, with cotton production,

cattle and camel herding, and fishing among the major activities. The area that is now Mali was once part of the three great precolonial Sudanic empires: Ghana, Mali, and Songhai. What is present-day Mali became a part of French West Africa, although its borders were modified repeatedly and its name was changed as well. For most of its existence, the territory was known as the French Sudan. In October 1958 the territory became known as the Sudanese Republic, and on 24 November 1958, it became an autonomous state within the French Community. In January 1959 Senegal and the Sudanese Republic joined to form the Mali Federation hoping that other francophone states would join the union. In August 1960 the federation broke up over major policy differences between the two countries. On 22 September 1960, Mali proclaimed its independence.

Mali deals with a low-income economy susceptible to commodity fluctuations and lacking diversification. The country faces challenges from rapid population growth, evident in a high fertility rate of 5.88 children per woman in 2018, and the adverse impacts of climate change on agriculture and food security (World Bank, 2023).<sup>9</sup>

### *1.1. Conflict*

The war between the northern and southern regions of Mali began with several insurgent groups launching a campaign on 16 January 2012 against the Malian government. Their objective was to

<sup>9</sup> For this section see also: Whitehouse, B.(2023)Enduring Polygamy: Plural Marriage and Social Change in an African Metropolis. Rutgers University Press; Shurkin,M., Pezard S. and Zimmerman, S.R: (2017) Mali's Next Battle: Improving Counterterrorism Capabilities. RAND Corporation; Ananyev, M. and Poyker, M. (2023) Identity and conflict: Evidence from Tuareg rebellion in Mali. World Development, Elsevier, vol. 161(C).

secure independence or increased autonomy for northern Mali, referred to as Azawad. By April 2012, the National Movement for the Liberation of Azawad (MNLA), an organization striving for an independent homeland for the Tuareg people, gained control of the region.

On 22 March 2012, President Amadou Toumani Touré was ousted in a *coup d'état*, a month before the scheduled presidential election, due to perceived mishandling of the crisis. Mutinous soldiers, identifying as the National Committee for the Restoration of Democracy and State (CNRDR), assumed control, suspending the constitution. The aftermath of the coup saw rebels overrunning Mali's three largest northern cities - Kidal, Gao, and Timbuktu—over three consecutive days. Following the capture of the town of Douentza on 5 April 2012, the MNLA declared the achievement of its goals proclaiming the independence of northern Mali as Azawad on the following day.

Initially supported by the Islamist group *Ansar Dine*, the MNLA faced internal conflicts as strict Sharia law was imposed after the Malian military was ousted from northern Mali. The MNLA and Islamists struggled to reconcile their differing visions for a new state. Subsequently, the MNLA engaged in conflict with Ansar Dine and other Islamist factions, leading to the loss of control over most northern Mali cities by 17 July 2012.

In response to the escalating crisis, the government of Mali sought foreign military assistance to regain the north. On 11 January 2013, the French military initiated operations against the Islamists, with support from African Union states. By 8 February 2013, the Malian military, assisted by the international coalition, successfully retook the Islamist-held territory. Despite this, Tuareg separatists, including the MNLA, continued fighting against the Islamists, with accusations of attacks against the Malian military.

Although a peace agreement between the government and Tuareg

rebels was signed on 18 June 2013, the rebels withdrew from the deal on 26 September 2013, referring to the government's failure to uphold its commitments. In mid-2014, the French military concluded Operation Serval, transitioning to the broader regional counterterrorist effort, Operation Barkhane. Despite ceasefire agreements, signed in Algiers (Algeria) on 19 February 2015, and a peace accord in the capital on 15 April 2015, hostilities persisted (Human Rights Watch, 2022).

From 2018, the Sahel region experienced an uptick in rebel attacks, coinciding with a surge in French troop presence. Mali witnessed successful coups in 2020 and 2021, orchestrated by the Malian military. After the 2021 coup, tensions arose between the Malian government and French forces, leading to demands for the withdrawal of French troops. Amid anti-French protests in Mali and increased involvement by the Russian mercenary Wagner Group and Turkish forces, the French completely withdrew from the country on 15 August 2022, ending their military presence. The situation remains unstable, with over 30,000 individuals forced to relocate to Ménaka in eastern Mali in 2022 due to clashes between two non-state armed groups—Islamic State in the Greater Sahara and Jama'at Nasr al-Islam wal Muslimin (JNIM) (Human Rights Watch, 2022).

Incidents of violence against civilians in Mali have surged by 38% in 2023. The primary perpetrators include jihadist grouping, Jama'at Nusratul Islam wal Muslimin (JNIM), responsible for over 180 events (33%), Malian state forces and/or the Wagner Group, involved in nearly 160 events (29%), and IS Sahel, with almost 90 events (15%). Conflict has expanded to new northern Mali locations due to joint military and Wagner Group operations and renewed hostilities with armed groups aligned with the Algiers Accord. JNIM has initiated an offensive, launching large-scale attacks on military positions and enforcing blockades on towns

and major transit routes. Despite promises of improved security following successive military coups, political violence levels in Mali, Burkina Faso, and Niger have collectively risen by 5% compared to the same period last year and by 46% compared to 2021 (ACLED, 2023).

### *1.2. Post-conflict situation*

Extreme poverty - (90%) is concentrated in densely populated rural areas in the south - surged, reaching 15.9% in 2021 due to the compounding effects of a security crisis and the pandemic. By 2022, it escalated further to 19.1%, driven by the vulnerable population's weakened purchasing power amid soaring consumer prices and sluggish economic growth (World Bank 2023).

The political landscape has been marred by instability and conflict since the 2012 military coup and the subsequent occupation of northern regions by armed groups..

The government breakdown in August 2020 led to the installation of a transitional government and a National Transition Council, with Colonel Assimi Goïta declared Head of State on 28 May 2021.

At the Accra summit in July 2022, the Economic Community of West African States (ECOWAS) Heads of State lifted financial and economic sanctions on Mali, accepting the transition government's proposed timeline for a return to civilian rule in March 2024 but prohibited transition authorities from participating in future elections. Sanctions against certain regime members were maintained. However, the government, citing technical reasons, postponed the presidential election at February 2024.. A constitutional referendum held on 18 June 2023, resulted in a 97% approval for the new constitution, promulgated by the President of the Transition (World Bank, 2023).

In June 2023, the UN Security Council, responding to the Malian government's request, decided to terminate MINUSMA's mandate (operational since 2014) by 31 December 2023.

Economically, Mali experienced a modest rebound in 2021 with 3.1% GDP growth, driven by recovery in agriculture and services. Despite the challenges of ECOWAS sanctions and the Ukraine war, the economy demonstrated resilience with an estimated 3.7% GDP growth in 2022 (world Bank 2023). The favourable terms of trade, propelled by rising international gold prices since 2019, weakened in 2022 due to accelerated oil prices. However, this impact was partially offset by the effects of ECOWAS sanctions, resulting in a 7% GDP current account deficit reduction.

Budget expenditure continued to rise in 2022, propelled by pandemic responses and socio-economic crisis containment, with increased focus on the wage bill and security spending. Tax revenues fell due to inflation containment and ECOWAS sanctions, stabilizing the fiscal deficit at 4.8% of GDP. Short-term priorities involve adhering to the ECOWAS timetable for democratic governance return, organizing elections, and implementing reforms to enhance public expenditure management and tax administration performance (World Bank 2023).

Despite signing the 2015 Algiers Accord for Peace and Reconciliation, armed groups, including signatories, continue to commit severe human rights abuses such as summary executions, torture, and the recruitment of children. Ethnic militias engage in abuses, including executions, property destruction, and village burnings. Terrorist groups target and harm civilians, humanitarian workers, and military forces, with investigations and prosecutions rare due to the government's limited control in affected areas.

### 1.3. Implementation of human rights

Significant human rights issues include reports of unlawful or arbitrary killings, including extrajudicial killings; forced disappearance; torture or cruel, inhuman, or degrading treatment or punishment by government forces; harsh and life-threatening prison conditions; arbitrary arrest or detention; political prisoners or detainees; serious problems with the independence of the judiciary; arbitrary or unlawful interference with privacy; serious abuses in a conflict, including unlawful and widespread civilian deaths or harm, and unlawful recruitment and use of child soldiers by nonstate armed groups allied with the government; serious restrictions on free expression and media, including violence or threats of violence against journalists, unjustified arrests of journalists, censorship, and enforcement of criminal libel and slander laws; inability of citizens to change their government peacefully through free and fair elections; serious government corruption; lack of investigation of and accountability for gender-based violence, including domestic and intimate partner violence, sexual violence, child, early, and forced marriage, female genital mutilation/cutting, and other forms of such violence; crimes involving violence or threats of violence targeting members of national and ethnic groups; trafficking in persons; vaguely worded laws criminalizing consensual same-sex sexual conduct between adults, although not enforced; and existence of the worst forms of child labour.

With occasional notable exceptions, the transition government made little effort to investigate, prosecute, or punish government officials who committed abuses, whether in the security forces or elsewhere in the transition government. The transition government made some efforts to address corruption. Impunity for serious crimes committed in the country's northern and central

regions continued with few exceptions, in view of the transition government's lack of control of 80 percent of the national territory. The transition government rarely investigated cases related to killings, forced disappearances, or other serious human rights abuses, and those it did rarely moved beyond an investigative phase.

In 2022, Civicus Monitor characterised Mali as "repressed", indicating that individuals and members of civil society who actively criticize those in power face risks such as surveillance, harassment, intimidation, imprisonment, injury, and even death. The Freedom House Index for 2022 goes further to classify Mali as "not free", attributing this designation to a notably low score in political rights (Amnesty International 2021). This situation raises concerns about the current state of freedom, political rights, and the overall human rights landscape in Mali, signalling a difficult environment for civil society and individuals critical towards those in power. In 2018, a Law was promulgated for the protection of human rights defenders (HRDs), marking it as the third African country, following Côte d'Ivoire and Burkina Faso, to adopt such a policy. While this represents a noteworthy initial stride towards safeguarding human rights defenders, Mali grapples with challenges related to effective governance, primarily due to the presence of various armed groups in the region and recent *coups d'état* that have resulted in the overthrow of the government. The process of formulating a draft law on human rights defenders commenced in 2014 under the leadership of the Malian Human Rights Defenders Coalition (COMADDH) and gained further momentum during a workshop organized by Protection International on 29 October 2015. Subsequently, on 12 January 2018, Law No. 2018-003 on Human Rights Defenders was officially adopted, complemented by a decree of implementation in 2020 (Republic of Mali, 2020). Discrimination rooted in caste and social status remains pervasive,

frequently resulting in violent clashes between individuals identified as "free born" and those labelled as "slave born".<sup>10</sup> The discrimination extends to various aspects of life, including restricted access to land, property, and religious positions for those considered as "slave born." This entrenched social hierarchy perpetuates inequality and social tension, contributing to ongoing challenges within the affected communities (Amnesty International 2021).

Corruption, is widespread in the country. There are strong indications that corruption has become so pervasive that it is ingrained in daily life, significantly eroding the morality and integrity of public service. Interestingly, when instances of corruption are exposed, there appears to be a lack of widespread public indignation, suggesting that corruption has become a normalized element of Malian society. Despite occasional efforts to address it, the government generally makes little attempt to investigate, prosecute, or punish officials for abuses. Impunity persists for serious crimes in the northern and central regions due to the government's lack of control over a significant portion of the national territory.

The human rights situation remains severe, marked by ongoing abuses perpetrated by armed Islamist groups, state security forces, and government-affiliated foreign fighters. Civilians continue to bear the brunt of violence from multiple sources. In March

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<sup>10</sup> In parts of Mali, some citizens' fates are decided before they are born. Babies born to slave mothers are destined themselves to become slaves. Society is stratified into castes, with slaves at the bottom. Slavery continues in Mali among certain ethnic groups because society is divided into hierarchical categories that are regarded as homogenous. The groups that practise this social stratification include the Soninké, Malinké and Peul, which are divided into nobles, artisans, griots and slaves. This form of slavery, organized today within ethnic groups, is essentially based on descent where servile status is transmitted from mother to child.

2022, Malian and allied security forces were accused of summarily executing over 300 men, including suspected Islamist fighters, in Moura, central Mali. Since 2022, the military junta has increasingly restricted freedom of expression and peaceful assembly.

Despite the government's professed dedication to implementing international treaties such as the Maputo Protocol and its previous commitments to combat discriminatory practices, women and girls persistently encounter discrimination and endure harmful cultural traditions.

The following factors are among the social barriers to the protection of children:

- **Cultural Practices:** Mali's diverse cultural landscape often intertwines with harmful practices, such as child marriage and female genital mutilation, further exposing children, particularly girls, to exploitation and violence.
- **Discrimination:** based on gender, caste, and social status contributes to the marginalization of certain groups of children, limiting their access to education, healthcare, and protection.
- **Displacement:** The ongoing conflict has resulted in the displacement of thousands of families, disrupting children's lives, and exposing them to heightened risks of abuse, recruitment by armed groups, and separation from their families.
- **Limited Awareness:** In some communities, there may be a lack of awareness regarding children's rights and protections, hindering efforts to prevent and respond to violations.

In June 2020, the Committee for the Elimination of Discrimination against Women (CEDAW) criticized the Malian authorities for their neglect in safeguarding women and girls. Specifically, the failure to criminalize the practice of female genital mutilation,

a commitment Mali had previously accepted, was highlighted as a concerning and unaddressed issue.

Children's rights are theoretically protected by various laws aimed at safeguarding their well-being, including an ordinance that establishes regional positions as "child delegates" to advocate for the rights and interests of children. However, the practical implementation of these laws is often lacking. A visit to any medium-sized town in Mali reveals numerous children living on the brink of starvation and facing maltreatment. Particularly vulnerable are the *talibe*, young boys entrusted to a 'marabout,' who are often subjected to neglect and inhumane treatment by their masters. Unfortunately, 'marabouts' tend to operate above the law, and despite widespread maltreatment, there is a notable absence of complaints filed against them. This gap between legal provisions and their enforcement raises significant concerns about the actual protection of children's rights.

Statistics on child abuse in Mali deem unreliable, and reported cases of abuse are infrequent, as per information from local human rights organizations. Girls aged 12 to 18 are engaged in street vending, domestic work, homelessness, or trafficking as particularly vulnerable to sexual exploitation. This exploitation is prevalent in areas experiencing demographic and economic shifts, such as border zones, transportation routes, and mining areas.

Female genital mutilation (FGM) is widespread, especially in rural areas, affecting girls between six months and six years. Around 95% of adult women had reportedly undergone FGM. Although there were no specific laws against FGM, government-funded health centres were prohibited from performing the practice. In terms of marriage, women could legally marry at 18 and men at 21. The marriage code allowed girls under 15 to marry with parental consent or judicial permission. Underage marriage is prevalent, with cases of girls as young as nine being married. Some

girls reportedly lost their lives due to medical complications resulting from early marriage, and child brides were often victims of FGM, increasing the risk of complications from infection and childbirth (Burril 2015).

## 2. Level of adequacy to international law

The level of adequacy of international law in Mali suggests a comprehensive framework for addressing human rights violations. Mali has signed and ratified the following international instruments:

- Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT);
- Optional Protocol of the Convention against Torture (CAT-OP);
- International Covenant on Civil and Political Rights (CCPR);
- Convention for the Protection of All Persons from Enforced Disappearance (CED);
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- International Convention on the Elimination of All Forms of Racial Discrimination (CERD);
- International Covenant on Economic, Social and Cultural Rights (CESCR);
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW);
- Convention on the Rights of the Child (CRC);
- Optional Protocol to the Convention on the Rights of the Child

on the involvement of children in armed conflict (CRC-OP-AC);

- Optional Protocol to the Convention on the Rights of the Child on the sale of children child prostitution and child pornography (CRC-OP-SC);
- Convention on the Rights of Persons with Disabilities (CRPD);
- African Chart on the Rights and Welfare of the Child;
- Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa

(U.N. Treaty Database, 2023).

While the accession to these international conventions indicates a comprehensive and multifaceted approach to addressing human rights concerns, the effectiveness ultimately depends on the implementation and enforcement of these agreements at the national level.

Mali ratified the Rome Statute of the International Criminal Court (ICC) on 16 August 2000 and referred the situation in its territory since January 2012 to the ICC. The ICC may exercise its jurisdiction over crimes listed in the Rome Statute committed on the territory of Mali or by its nationals from 1 July 2002 onwards. The ICC Prosecutor opened an investigation in January 2013 indicating that "In 2012, the Situation in Mali was marked by two main events: first, the emergence of a rebellion in the North on or around 17 January, which resulted in Northern Mali being seized by armed groups; and second a coup d'état by a military junta on 22 March, which led to the ousting of President TOURE shortly before Presidential elections could take place, originally scheduled for 29 April 2012". The rebellion in the north involved deliberate damaging of shrines of Muslim saints in the city of Timbuktu, attacks on a military bases in Gao, Kidal and Timbuktu,

alleged execution of between 70 and 153 detainees at Aguelhok, and incidents of looting and rape. Separately, incidents of torture and enforced disappearances were reported in the context of the military coup (ICC website).

On 22 August 2016, the trial in the case *Al Mahdi* opened before Trial Chamber VIII at ICC. Mr Al Mahdi (a member of Ansar Dine) admitted guilt as to the war crime consisting in the destruction of historical and religious monuments in Timbuktu, between around 30 June 2012 and 11 July 2012. This was the first international trial focusing on the destruction of historical and religious monuments, and the first ICC case where the defendant made an admission of guilt. A second trial involving another member of Ansar Eddine – Mr Al Hassan Ag Abdoul Aziz has concluded in May 2023 and the verdict is waited for the beginning of 2024. Mr Al Hassan is accused of crimes against humanity committed in Timbuktu, in the context of a widespread and systematic attack by armed groups Ansar Eddine / Al Qaeda in the Islamic Maghreb against the civilian population of Timbuktu and its region, between 1 April 2012 and 28 January 2013: Torture, rape, sexual slavery, other inhumane acts, including, inter alia, forced marriages, persecution; and of war crimes committed in Timbuktu, Mali, in the context of an armed conflict not of an international nature occurring in the same period between April 2012 and January 2013: Torture, cruel treatment, outrages upon personal dignity, passing of sentences without previous judgement pronounced by a regularly constituted court affording all judicial guarantees which are generally recognized as indispensable, intentionally directing attacks against buildings dedicated to religion and historic monuments, rape and sexual slavery (ICC website, 2023).



### 3. National legislation

Mali has adopted several laws aiming at promoting the rights of the child including the development of a Child Protection Code in 2002 (Child Law Resources, 2021). The Code provides for the appointment of child protection officers to intervene in all cases where the health, physical or moral integrity of the child is threatened or exposed to danger. The code also requires any person, including those bound by professional secrecy, to report any matter that may potentially threaten the health of a child (including exploitation and trafficking), their development, physical well-being, or moral integrity to the child protection officer.

Although education in Mali has been improving over the last decade, more than two million children aged between five to seventeen still do not attend school, and over half of young people aged between fifteen to twenty-four are illiterate (UNICEF Mali, 2021). The issues confronting the education sector are harsh environmental conditions, political unrest, child labour, child marriage, insecurity, and a lack of schools close to children's homes. All these factors contribute to the high dropout and out-of-school rate. In addition, nomadic populations, the perceived irrelevance of education, and severe shortages of schools and trained teachers, particularly in rural areas, create massive access barriers to education. Under Article 18 of the Constitution every citizen has a right to education. Public education is mandatory, free, and non-religious. Private education is recognized and must be carried out according to the conditions defined by law (Child Law Resources, 2021). Additionally, the Education Act 1999 guarantees the right to education for every citizen. It prohibits discrimination on the grounds of sex, social origin, race or religion (Child Law Resources, 2021).

Despite these clear obligations, Mali has struggled to meet them due to the ongoing conflict that has resulted in over 735 schools

being closed and 225,000 children being denied the right to education because of insecurity and displacement (Human Rights Watch, 2021). Numerous teachers were threatened, and schools vandalized, destroyed, or occupied by armed groups. Compounded with the outbreak of Coronavirus, most schools have been forced to remain closed and this has only served to the detriment of the children especially those living in the rural areas. In Mali, at least twenty-seven attacks on middle schools were recorded when schools reopened for children to take their exams in June 2020 (Human Rights Watch, 2020).

Moreover, access to and completion of schooling is inequitable, with girls and children from the poorest families at the highest risk of school dropouts: only 73.8% of girls are enrolled in primary basic education, compared to 85.8% of boys (UNICEF Mali, 2021). By the time they reach secondary education, the proportion of girls enrolled is only 15% compared with 21% of boys.

Gender-based inequality is also extremely high. Mali is ranked 155 out of the 170 countries included in the 2021 UNDP Gender Inequality Index. Women and girls in Mali continue to experience disadvantages in many aspects of life, including health, justice, and education.

In 1997 the Ministry for the Promotion of Women, Children, and Families (MPFEF) was created to address longstanding systemic biases. These aims were further supported by the National Policy on Promotion and Protection of Children (PNPPE) in 2014 and the National Family Policy (PNF) in 2015. A National Gender Policy was also introduced in 2015 with the aim of improving the representation of women in appointed and elected bodies, including a requirement that the share of either gender in public agencies should not be lower than 30 percent. In 2017, the Ministry for the Promotion of Women, Children, and Families launched the Emergence of Women's Capacities (PRECOFEM) as a forum for

information exchange on these topics (IMF, 2023).

The struggle for greater gender equality in Mali traces back to 1962 with the passage of the Family Code (*Code de la Famille*), which reinforced the traditional power of men over women. In 2009, the National Assembly drafted a new Code of Persons and the Family with the aim of modernizing its legislation. The law, while welcomed by human rights defenders, was strongly opposed by Islamic organizations. Under this pressure, a new version was drafted and was adopted by the National Assembly and then promulgated by the President of Mali in 2011. This 2011 law allows marriage for girls from the age of 16, and in certain circumstances, from the age of 15. In addition, the law recognizes the validity of religious marriages which can be conducted between non-consenting people, who are sometimes minors, and in some cases are not even present at their own wedding. The law states that Islamic law and custom apply in matters of inheritance, which means that women receive half of what male heirs receive, and children who are born out of wedlock do not receive inheritance only if the parents decided so before they died. The Association for the Progress and Defense of Women's Rights (APDF), a Malian NGO, as well as the Institute for Human Rights and Development in Africa (IHRDA), a pan-African NGO, alarmed by the 2011 law, looked for ways to challenge it. However, there is no recourse in Mali against laws adopted in parliament, even if these are contrary to the constitution or to the treaties that the country has ratified. These two NGOs then directly submitted a complaint to the African Court on Human and Peoples' Rights to denounce the violations of the rights of women and children in Mali through this law. In its judgment of 11 May 2018, the African Court concluded that the minimum age of marriage must be 18 for both men and women, that the free consent of those concerned must be compulsory, and that the right of women and all children to

receive an inheritance indiscriminately should be protected. The judges reminded Mali that, by ratifying the Maputo Protocol, the country has undertaken an obligation to eliminate practices and traditions that undermine the rights of women and children – and this law, on the contrary, perpetuates them. The African Court thus ordered Mali to modify its law within 2 years to bring it into line with its international obligations, as well as to take measures to inform, teach, educate, and sensitize the populations to these issues. Such a judgment has the potential to change the lives of thousands of women, girls and boys in Mali so that everyone can enjoy their right to wait until they are adults before marrying, freely choose their partner and receive an inheritance in a fair way. Unfortunately, as of 2023, the law remains unchanged.

In November 2015, the National Assembly adopted a historic gender quota bill requiring that at least 30 % of elected or appointed officials be women. As of February 2021, 27.3% of seats in parliament were held by women. However, work still needs to be done to achieve gender equality. 53.7% of women aged 20–24 years old who were married or in a union before age 18. The adolescent birth rate is 164 per 1,000 women aged 15-19 as of 2017, down from 174 per 1,000 in 2014. In 2018, 18.4% of women aged 15-49 years reported that they had been subject to physical and/or sexual violence by a current or former intimate partner in the previous 12 months. Also, women and girls aged 15+ spend 20.4% of their time on unpaid care and domestic work, compared to 2.5% spent by men. Moreover, women of reproductive age (15-49 years) often face barriers with respect to their sexual and reproductive health and rights: in 2018, 41.2% of women had their need for family planning satisfied with modern methods (UN Women, 2023).

Mali adopted its most recent National Action Plan (NAP) in 2019 for the period 2019-2023. The NAP's theory of change (pgs. 22-23) centres women's participation in peacebuilding, reconcilia-

tion processes, and in post-conflict governance and identifies concrete outcomes and associated actions. Mali's third NAP builds on lessons learned from the previous plan, consultations at all levels, and research on Women, Peace and Security agenda implementation. It has several key changes from the previous plan (pgs. 20-21), which include: updated contextual analysis; alignment with international, regional, and national instruments; two results frameworks (a strategic framework and an operational plan); longer duration; ownership and broad leadership; improved coordination, monitoring, and budgetary mechanism; and Localization.

The 2019-2023 NAP includes emerging issues including radicalization and violent extremism; displacement; the role of men in advancing gender equality, and climate change. The NAP includes an operational plan, to be updated yearly and as required (pg. 6). There is a national budget for implementation, which is supplemented by another fund to finance stakeholder implementation. Mali's third NAP is preceded by two other NAPs, adopted in 2012 and 2015 and implemented for the period 2012-2014 and 2015-2017, respectively.

#### 4. Judicial System

Justice in Mali is characterized by what is known as "legal pluralism", where multiple legal systems coexist to address both civil and criminal cases. Significant changes were introduced in the justice system with the establishment of a multi-party democratic government in 1992. It closely resembles a former version of the French civil law system.

The Supreme Court (in the capital, Bamako) has both judicial and administrative powers. It is made up of 19 members, nom-

inated for five years. The judicial section has three civil chambers and one criminal chamber. It has both judicial and administrative powers. The administrative section deals with appeals and fundamental rulings. The Court of Appeal is also in Bamako. There are two magistrate courts of first instance, courts for labour disputes, and a special court of state security. The 1992 constitution established a separate Constitutional Court and a High Court of Justice charged with responsibility for trying senior government officials accused of treason. The Constitution guarantees independence of the judiciary, and constitutional provisions for freedom of speech, press, assembly, association, and religion are generally respected. Nonetheless, the executive has considerable influence over the judiciary. The president heads the Superior Judicial, the body that supervises judicial activity, and the Ministry of Justice appoints judges and oversees law enforcement. Trials are public, defendants have the right to an attorney of their choice, and court-appointed attorneys are available to indigent defendants in criminal cases. However, the judicial system has a large case backlog resulting in long periods of pre-trial detention.

Despite recognizing that some judicial officials make genuine efforts to perform well and instigate reforms from within, it is fair to acknowledge that the Malian justice system faces challenges.

The country has experienced an escalation in war crimes and violence against civilians since 2018, particularly in the central regions of Mopti and Segou. Despite commitments and investigations, justice for the victims and their families has been slow to materialize, and impunity continues to prevail. The ongoing conflict has severely impacted the already fragile justice system. The war, coupled with various institutional and legal barriers, contributes to a denial of justice and truth for the victims.

Despite assurances from the Malian authorities, several judicial

investigations, including those into the Ogossagou<sup>11</sup> and Sobane Da<sup>12</sup> killings, have shown little to no progress. Victims are left demanding justice while living in fear of reprisals due to the absence of protective measures. The challenging circumstances, including the ongoing conflict and institutional constraints, have created significant hurdles in delivering justice and accountability for the atrocities committed.

One of the factors contributing to the impunity for crimes related to the armed conflict is the weakness of the legal framework. The National Concord Law, enacted following the 2015 Peace Agree-

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11 The events of 23 March 2019, marked a tragic incident in central Mali, where several attacks by gunmen resulted in the reported killing of 160 Fulani herders. These violent acts occurred in the aftermath of the Malian government's efforts to crack down on Islamic terror cells within the country. The villages of Ogossagou and Welingara were notably affected by the attacks. The severity of the massacre prompted significant protests in Mali, reflecting public discontent with the perceived inaction of the government. The outrage and public pressure led to the resignation of Prime Minister Soumeylou Boubèye Maïga and his ruling council. The incident highlighted the complex challenges facing Mali, including intercommunal tensions, ethnic conflicts, and the broader issue of combating terrorism within the region.

12 On 10 June 2019, the village of Sobane Da in Mali, inhabited by the Dogon community, experienced a devastating attack. The mayor of the neighboring town of Bankass, Moulaye Guindo, attributed the assault to a Fulani militia group. Initially reported to have claimed the lives of 95 individuals with 19 missing, the death toll was later revised to 35. According to a survivor's account, approximately 50 attackers, armed with motorbikes and pickup trucks, carried out the assault. The government of Mali expressed suspicion that terrorists were responsible for the attack. This tragic incident is indicative of the ongoing intercommunal tensions and violence that have plagued Mali, particularly involving clashes between different ethnic groups.

ment, introduces amnesties for "acts that may be qualified as crimes or offences". However, the law is ambiguous regarding the precise temporal or material scope of these amnesties. The lack of clarity raises concerns and underscores the need for clarification to ensure, among other things, that amnesties are not granted for serious human rights violations committed in the context of the armed conflict. Addressing these ambiguities is crucial for establishing accountability and preventing impunity for such egregious offenses.

In 2019, the jurisdiction of the Specialized Judicial Unit responsible for combating terrorism and crimes under international law (PJS) was expanded to cover the entire national territory and all crimes of international law. However, in practice, the military justice system still maintains jurisdiction over crimes committed against civilians by military personnel during operations. This contradicts the African Commission on Human and Peoples' Rights' Guidelines and Principles on the Right to a Fair Trial and Legal Assistance in Africa (2003), which stipulate that military courts should only handle cases related to purely military offenses and not crimes committed against civilians.

Additionally, certain provisions, like the July 2014 Defence Agreement between Mali and France, give French courts primacy of jurisdiction over "any act or negligence of a member of its personnel in the performance of official duties". This may impede the national justice system from addressing allegations of crimes committed by French military personnel operating in Mali. A notable example is the French army's bombing of a wedding ceremony in Bounti (Mopti region) on 3 January 2021, where 19 civilians and three suspected members of armed groups were killed, according to an investigation by the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) (Amnesty International, 2021).

Unfortunately, not many progresses have been achieved. Judicial proceedings initiated by the Malian judiciary face obstacles due to insecurity in the central part of the country, limiting access to crime scenes for investigators and examining magistrates. Judicial personnel rely on logistical support from the Malian army and MINUSMA to access certain areas. Implementation of judges' requests to execute arrest warrants or surrender suspects to the courts, especially in the case of military personnel, often goes unheeded. Investigations into significant cases involving crimes since 2018, such as the unlawful killings and extrajudicial executions in Ogossagou, Sobane Da, Massabougou<sup>13</sup> have made little to no progress.

The absence of a state presence in certain areas takes precedence over access to justice. Investigations have been initiated, but the process is time-consuming and, in many instances, conducting investigations is currently impractical.

The lack of protection for victims and witnesses further hampers ongoing investigations, as there is a genuine risk of reprisals. In small villages, where everyone knows each other, the risk is particularly acute.

While investigations into crimes against the population in the central region languish, the national authorities expedite legal proceedings for alleged "terrorism" acts in the same regions, which do not involve crimes against civilians. In October 2021, a special trial session addressed 47 cases.

Legal proceedings related to "terrorism" under Malian law have been flawed by significant violations of the rights of the suspects and defendants, including illegal detention and incommunicado detention; torture and ill-treatment (indicating a serious breach of human rights standards during the interrogation and detention);

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13 In Massabougou in June 2020 at least 9 people were killed.

lack of assistance by a lawyer during investigation and pre-trial detention; inability to appeal to a judge before being referred to the Court of Assizes; hasty trials or trials in absentia. Such practices compromise the thorough examination of evidence and undermine the right to a fair and impartial trial and the lack of procedural safeguards raises concerns about the fairness of the proceedings. Efforts are needed to address these issues, uphold the rule of law, and ensure that individuals accused of terrorism are afforded their fundamental rights throughout the legal proceedings (Amnesty International, 2021).

The system is characterized by corruption, and there are substantial shortcomings in terms of competence and capacity. Although there have been courageous attempts at reform, the overall effectiveness of the justice system remains constrained by these issues. Addressing corruption, enhancing competence, and building capacity are crucial aspects of any comprehensive effort to strengthen the state justice system and ensure its ability to deliver fair and effective justice. However, over 80% of family and land disputes in impoverished and rural communities in Mali are reportedly resolved through customary justice systems.

The perception of the state judiciary as one of the most corrupt government institutions is widespread among Malians. This sentiment is supported by a leaked report from the United States' Embassy in Bamako in 2009, which described the judicial system as highly corrupt, with under-the-table payoffs being an accepted method of influencing case outcomes.

#### *4.1. Customary justice*

Customary mechanisms are favoured for their accessibility to the average citizen in the broadest sense. They are convenient, as all parties involved are typically in close proximity; cost-effective, as

there are no court fees or travel expenses; and familiar, as the mediators in dispute resolutions are often known by the community. The customary judicial system also faces challenges. Firstly, some aspects of customary law and its enforcement conflict with the constitutional rights granted to Malian citizens. These customs often reflect rural, patriarchal value systems that are more conservative than Mali's relatively progressive Constitution and positive laws. For instance, marriage practices in the Buwa community involve the man abducting the woman he intends to marry. Additionally, the generally lower status of women in Malian families and communities hampers their ability to negotiate on equal terms, especially in rural areas where women and children often lack recognized status and are thus vulnerable in customary justice processes.

Moreover, customary justice is susceptible to corruption and politicization, like state courts, albeit to a lesser extent. Customary justice proceedings are primarily oral, lacking accountability or codification, allowing 'judges' to ignore precedents and create new ones at their discretion. The enforcement of customary 'judgments' relies heavily on the willingness of parties to adhere to them. While moral pressure within the community often encourages compliance, there are cases where agreements are not respected, and previous disputes re-emerge. Notably, as Malian society modernizes, respect for informal authorities is on the decline, particularly in urban areas where traditional family and cultural relationships hold diminishing value. Consequently, the use of customary justice mechanisms and the implementation rates of their judgments may experience a relative decline in the future, despite their continued prominence overall.

A notable challenge in customary justice landscape is the diversity of mechanisms and providers, encompassing family or community heads, religious leaders, and specific caste members. This diversity

extends across regions, ethnicities, and religions, exhibiting significant variation that remains inadequately researched and understood. These actors often lack a common customary or legal basis for their judgments, resulting in a situation of genuine legal pluralism. Consequently, legal outcomes in similar cases can differ substantially, and establishing precedence and jurisprudence may prove challenging. However, this flexibility can be perceived as an advantage since it allows decision-making to be more context specific.

Moreover, parties involved in a dispute may adhere to different customary traditions, requiring them to select a third customary tradition to resolve their conflict and establish neutral ground. This complexity further underscores the intricate nature of Mali's legal pluralism within the customary justice system.

Despite the challenges faced by customary justice providers in Mali, it is evident that their relevance underscores the importance of enhancing their capacity rather than side-lining them in favour of the state judiciary. One avenue for improvement involves fostering connections between customary justice providers and state justice providers to facilitate mutual learning and practical collaboration. However, this approach is likely to encounter at least two obstacles.

Firstly, there is a general lack of recognition by administrative authorities regarding the decisions made by religious and customary authorities. Formally, their judgments hold little or no legal standing, although the recent peace agreement suggests a potential shift in addressing this situation.

Secondly, administrative authorities may not hold high regard for customary and religious rules. Overcoming these obstacles would require concerted efforts to bridge the gap between customary and state justice systems, acknowledging the valuable role of customary providers while working towards a more harmonized and inclusive approach to justice in Mali.

Figure 1 - Entities playing crucial roles in resolving disputes

**1. Family Elders:**

- As the fundamental unit of Malian society, families serve as the primary level for conflict resolution.
- Disputes are often mediated by the head of the family, typically the eldest male in the extended family. Mediation may occur either at the initiative of the family head or in response to a request from another family member.

**2. Religious Leaders:**

- Religious leaders contribute to conflict resolution within their congregations.
- In the event of a conflict, the involved parties are summoned before a committee of elders responsible for overseeing the institution's activities in the community. This committee endeavours to mediate the dispute.
- In the northern regions of Mali, religious judges, known as Cadi's, commonly play a role in settling disputes.

**3. Traditional Communicators:**

- Traditional communicators, referred to as griots in the southern regions, hold the responsibility of recording and communicating the tradition and history of a family or community.
- Their role may extend to mediating conflicts, although the extent of their involvement varies across communities.

**4. Local Government Actors:**

- Neighbourhood, village, and fraction heads possess legal authority to mediate civil or commercial disputes among citizens.
- Conflicts are typically referred to these local government authorities when resolution within the family is unattainable or when the disputes pose a threat to community stability.

*The involvement of these diverse entities highlights the multifaceted nature of dispute resolution in Mali, where traditional, familial, religious, and local government structures all contribute to maintaining social order and resolving conflicts.*

## 5. Crimes against and affecting children: quantitative and qualitative results

In 2023, the UN verified 1,024 grave violations against 757 children (606 boys, 137 girls, 14 sex unknown), with 88 children experiencing multiple violations, underscores the dire situation faced by children in Mali (UNSG Report 2023). Additionally, 271 grave violations were verified in 2022 against 249 children (189 boys, 60 girls) from previous years highlighting the persistent and ongoing challenges in protecting the rights and well-being of children in the country. These grave violations encompass a range of offenses, further emphasizing the urgent need for concerted efforts to address and prevent the various forms of harm inflicted upon children in the context of armed conflict in Mali. The data collected for this research at the national level confirm the international data available.

### 5.1. Killing and maiming

The UN confirmed the death (106) and injury (139) of a total of 245 children (172 boys, 59 girls, and 14 cases with unknown gender) through its verification process (2023). The current research has reached the same number of cases. This distressing information underscores the tragic impact of armed conflict on the lives of innocent children. The numbers emphasize the urgent necessity for international efforts to protect children from the harrowing consequences of conflict and to hold perpetrators accountable for their actions.

### 5.2. Recruitment and Use of Children

According to the UN, 452 children, comprising 416 boys and 36 girls, aged between 10 and 17, were enlisted and employed. The

current research found the same number of cases, but it was not able to define the sex and the age of victims. What was clear during the research activity is that this alarming statistic highlights the deeply concerning exploitation of children in armed conflict situations, emphasizing the urgent need for effective measures to protect and safeguard their rights.

### *5.3. Sexual Violence*

36 cases of sexual assault of girls were confirmed, with unidentified perpetrators accounting for 28 cases. Additionally, in 2022, the United Nations verified instances of sexual violence against seven girls, with unidentified perpetrators responsible for six cases and the Malian armed forces implicated in one case. The research could ascertain 32 cases so confirming the trend registered by the UN. These grave crimes underscore the urgent need for comprehensive efforts to address and prevent sexual violence against children in conflict zones, ensuring accountability for those responsible.

### *5.4. Abduction*

A distressing total of 109 children (90 boys, 19 girls) fell victim to abduction, predominantly for purposes of recruitment and use, as well as for sexual violence (54 cases) and as a form of punishment for non-compliance with rules imposed by armed groups (33 cases). Fortunately, 96 children managed to escape or were released from captivity. Additionally, the United Nations verified 20 cases of child abduction (15 boys, 5 girls) by unidentified perpetrators in 2022, shedding light on the persistent challenges faced by children caught in the throes of armed conflict in Mali. The research could ascertain 100 children abducted so confirming the trend

registered by the UN. The patterns of abduction have undergone notable changes over the years. Since the early 2000s, the northern desert region, historically challenging for the central state to control, gained infamy as a sanctuary for hostages. Jihadist groups operating in this area would abduct foreign hostages from Mali or neighbouring countries, holding them captive while awaiting ransom payments. The funds obtained through these ransom transactions played a crucial role in financing violent insurrections, particularly supporting the jihadist movement in the region.

### *5.5. Attacks against schools and hospitals*

UN ascertained that unidentified perpetrators were responsible for a total of 97 attacks on schools (83 cases) and hospitals (14 cases), which also included attacks on protected persons associated with these educational and healthcare facilities. These incidents highlight the alarming and widespread threats faced by essential institutions during armed conflict, underscoring the critical importance of safeguarding educational and medical environments from violence to ensure the well-being and safety of children and vulnerable populations. The research conducted on the impact of armed conflict on education in Mali revealed a stark reality – a staggering 1,726 schools were forced to close their doors, resulting in an alarming 517,800 children being deprived of their right to education. This disheartening situation underscores the devastating consequences of the conflict on the educational landscape, leaving many children without access to essential learning opportunities and jeopardizing their future prospects. The closure of schools not only disrupts the immediate academic progress of these children but also poses a significant challenge to the overall development and well-being of the affected communities.



### 5.6. Denial of humanitarian access

A total of 85 incidents of denial of humanitarian access were reported, with unidentified perpetrators accounting for 71 incidents. T9 incidents were attributed Malian forces, 3 incidents to JNIM (Jama'at Nasr al-Islam wal Muslimin) (FLM 1, Katiba Serma 1, unidentified JNIM 1), and 2 incidents to ISGS (Islamic State in Greater Sahara). These incidents involved robberies, killings, abductions, detentions, and intimidation of humanitarian personnel. The research conducted emphasizes a perilous convergence of protracted armed conflict, internal displacement, and limited humanitarian access in Mali. This alarming combination poses a severe threat to the well-being of nearly one million children under the age of 5, pushing them toward acute malnutrition by December 2023. Disturbingly, at least 200,000 of these children face the imminent risk of succumbing to hunger-related mortality if urgent and life-saving aid does not reach them in a timely manner. The findings underscore the urgent need for concerted efforts to address the humanitarian crisis, ensuring that vital assistance reaches vulnerable populations, particularly young children, to avert a catastrophic outcome.

## 6. Conclusion and Recommendations

The research shows that the situation of children in Mali is deeply concerning and multifaceted. The presence of various armed groups, coupled with political instability and weak governance, has led to widespread human rights violations, impacting children across the country. The unreliable statistics and underreported cases of child abuse underscore the challenges in accurately assessing the extent of the problem.

Despite the adoption of several laws aimed at promoting the rights of the child, the implementation and enforcement of legal provisions is an issue and the overall effectiveness of the justice system remains constrained by corruption. Access to justice for children and women is impeded by several factors, including cultural practices, discrimination and lack of awareness about rights.

### *Recommendations*

- Strengthen the legal framework to address violations against children and address the deeply rooted social issues.
- Raise awareness on children rights promoting inclusivity and ensuring accountability in order to create a protective environment for children. International cooperation and support are crucial to overcoming these challenges and safeguarding the rights and well-being of children.
- Reinforce the justice system promoting investigations into crimes against and affecting children and women.
- Strengthen legal protections, enhance the enforcement of existing laws, and address the root causes of abuse and exploitation to improve the well-being of children.

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