



MALI: “WE HAVEN’T SEEN OUR CELLMATES SINCE”.

ENFORCED DISAPPEARANCES AND
TORTURE OF SOLDIERS AND POLICE
OFFICERS OPPOSED TO THE JUNTA.

**AMNESTY
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Cover photo: Spouses of Red Berets demonstrate to demand truth about the fate of their disappeared husbands, Bamako, 16th July 2012. © HABIBOU KOUYATÉ/AFP/Getty Images

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1. INTRODUCTION

Since the beginning of 2012, Mali has been caught in a turmoil which has shaken the very foundations of the state. Armed groups have conquered the north of the country and now share control of the main cities. These groups have committed crimes under international law and other serious human rights abuses, including rape and sexual violence against women and girls, the recruitment and use of child soldiers, violent attacks against anyone who does not respect their precepts and the destruction of cultural and religious sites (See Amnesty International's report, *Mali. Five months of crisis. Armed rebellion and military coup*, May 2012).¹

The south of the country is in the grip of political instability following a military coup that overthrew the democratically elected President, Amadou Toumani Touré, on 21 March 2012. This military coup led by Captain Amadou Aya Sanogo resulted in serious human rights violations. Many political and military leaders were arbitrarily arrested and detained. Press freedom was undermined following the arrest, kidnapping and threats made against Malian and foreign journalists from armed individuals, suspected supporters of the military junta.

Following pressure from the Economic Community of West African States (ECOWAS), the military junta agreed in April 2012 to the installation of a transitional government intended to organize a Presidential election. However, this government does not seem to hold the real power as demonstrated by the attack suffered by the interim Head of State, Diounounda Traoré in May 2012, and the repression and intimidation, in total impunity, of opponents of the military junta.

The most serious human rights violations committed by soldiers supporting the junta targeted military and police officers arrested after an attempted counter-coup which took place on 30 April 2012 in Bamako, the capital city. This coup opposed paratroopers, known as the "Red Berets", supporters of former President Touré, and soldiers known as the "Green Berets" supporting Captain Sanogo's coup.

These human rights violations include torture, extrajudicial executions and enforced disappearances. The repression following this counter-coup was all the more violent as the soldiers and police officers arrested were not held in an official place of detention but were taken to the Kati camp (20 km from Bamako), headquarters of the junta, where they found themselves for more than a month in the hands of the soldiers whom they had opposed.

This report is based on a ten days research mission conducted by an Amnesty International delegation in Bamako, in July 2012. Delegates were able to take testimonies from all the soldiers and police officers arrested following the counter-coup who are now being held in an official place of detention, camp I of the gendarmerie. This report documents the disappearances, extrajudicial executions and repeated cases of torture, all committed with impunity by soldiers loyal to Captain Sanogo's junta. This text contains a series of recommendations addressed to Malian authorities to be implemented immediately in order to stop the rule of law being undermined.

2. ENFORCED DISAPPEARANCES

Following the counter-coup of April 2012, dozens of soldiers were arrested and more than twenty have been the victims of enforced disappearance. Twenty-one of them were abducted from their cells during the night, early in May 2012. Amnesty International was able to establish the list of these persons (see box p. 8) and met 50 other prisoners (17 officers and 33 soldiers) at the camp I of the gendarmerie in Bamako in mid-July 2012.

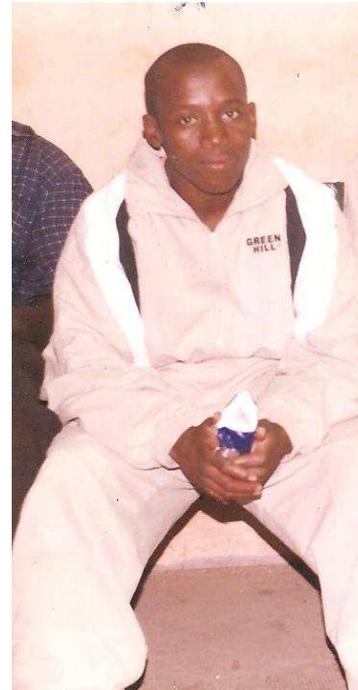
Several prisoners told the Amnesty International delegation how these disappeared persons were abducted from their shared cell at the Kati military camp during the night of 2 to 3 May 2012. One of these prisoners said:

"Around two in the morning, the door of our cell opened. Our wardens stood at the door and began to read a list. One by one, the soldiers called, went out. Amongst them were Samba Diarra, our chief and Youba Diarra, with whom I used to do boxing training. We haven't seen our cellmates since that date."

Amnesty International spoke with a soldier whose name was on that list and who narrowly escaped abduction.

"I was lucky. I was among the last of the people on the list to be called. I was ordered to kneel. They blindfolded me and tied my hands behind my back. I was put in the truck. Someone then said that they had enough people and I was brought back down."

Samba Diarra, "Red Beret". First class soldier, reported missing during the night of 2nd to 3rd May 2012. © Amnesty International.



Before being abducted, some of these soldiers received death threats in front of their comrades. Such is the case of Baba Lamine Kalouchi who, on 1 May 2012 – the day before his disappearance - , was singled out by a junta official in the courtyard of the Kati military camp. An eyewitness told Amnesty International:

"His hands were tied behind his back and his eye was injured. He was squatting on the ground. An officer kicked him in the face and he fell. The officer said to him in Bambara: 'M'bé yélé, ni né djiguina m'bé aw bé kan tigué' (I am going upstairs [to my office], when I come back down, I will slit all your throats)."

Two of those disappeared, Adboul Karim Keita, and Youba Diarra were shown on Malian television on 30 April 2012. A cameraman filmed them while a soldier was asking them to

state their names and military grades in order to involve him in the attempted counter-coup.

The organization is also concerned about the fate of a number of soldiers who were wounded during the counter-coup and who were abducted on 1 May 2012, by members of the military junta at the Gabriel Touré Hospital in Bamako, where they were being treated. Despite its requests, Amnesty International could not obtain the list of these soldiers and has not been able to establish their whereabouts.

Furthermore, Amnesty International has not been able to determine where three other soldiers, arrested during the month of July 2012, are being held. Namely, Lieutenant Moussa Traoré, known as "Four", the former commander of the Red Berets, Colonel Abidine Guindo accused of being one of the leaders of the counter-coup and Chief Warrant Officer Boubou Sidibé. These soldiers were arrested respectively on 10, 11 and 15 July 2012.

The enforced disappearance of all these soldiers has caused great suffering to their loved ones who have started searching for their parents. Some wives have visited various places of detention without receiving any answer about the fate of their husbands. The uncle of a missing person told the Amnesty International delegation on 21 July 2012:

"I spoke to soldiers who told me that my nephew was in Kati. I was dangled the hope that he would soon be charged and that I could see him. I often go to the gendarmerie's Camp I but as for now I still have not got any news."

Enforced disappearances are one of the most serious crimes under international law. The International Convention for the Protection of All Persons against Enforced Disappearances (Disappearance Convention) has been ratified by Mali on 1 July 2009, but is not yet implemented in national law. This instrument defines enforced disappearance as "the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law" (Article 2). The Convention imposes a broad range of obligations on states parties to take effective steps in national law and practice to prevent enforced disappearances, bring those responsible to justice and provide full reparation to victims.²

Moreover, enforced disappearances cause suffering to the families of missing persons who are uncertain of the fate of their loved one. In this regard, international human rights treaty bodies, including the United Nations Human Rights Committee, have stated on several occasions that the willingness of the authorities to let months and even years go by without granting the families of the disappeared the right to know what happened to their families is a violation of the prohibition of torture and other ill-treatment.³

LIST OF PRISONERS REPORTED MISSING DURING THE NIGHT OF 2ND TO 3RD MAY 2012 AROUND 2 AM:

- (1) 2nd class Adama Bakayoko.
- (2) 2nd class Youssouf Bamba.
- (3) Second Lieutenant Aboubacar Kola Cissé.
- (4) 2nd class Brehima Coulibali.
- (5) 1st class Mamadou Dembelé.
- (6) 2nd class Bouillé Diallo.
- (7) 1st class Ba Mory Diarra.
- (8) 1st class Samba Diarra.
- (9) Chief Sergeant Youba Diarra.
- (10) 2nd class Baba Lamine Doumbia.
- (11) 2nd class Baba Lamine Kalouchi.
- (12) 2nd class Mama aka Bakoroba Kane.
- (13) 1st class Abdoul Karim Keita.
- (14) 2nd class Kabiné Keita.
- (15) 2nd class Aliou Bongana Maïga.
- (16) 1st class Ibrim Maïga.
- (17) 2nd class Bourama Niaré
- (18) 2nd class Cléné Niaré.
- (19) 1st class Aboubacar Poudjougou.
- (20) 1st class Pakole Sagara.
- (21) 1st class Yeba Traoré.

3. TORTURE AND EXTRAJUDICIAL EXECUTIONS

The detained soldiers and police officers with whom Amnesty International spoke also reported instances of torture, sexual abuse and inhumane and degrading conditions of detention during their interrogation and detention at the Mobile Security Group (*Groupement mobile de sécurité*, GMS) in Bamako and in the Kati military camp.

A police officer, arrested on 7 May 2012, told of the torture sessions, during several days, which took place at the Mobile Security Group (*Groupement mobile de sécurité*, GMS) in Bamako:

"I was accused of participating in the 30 April coup. I received death threats and they struck me with machine guns, I was also accused of shooting at police officers. In the evening, around midnight, I was handcuffed and dragged a short distance. I was sprayed with water and beaten with sticks, batons and gun butts. I was also kicked and punched. This torture session lasted a long time. Five to six people continued to torture me from 7 to 10 May. Those beating me told me that they had drunk alcohol beforehand, you could smell it."

Four days later, this man was taken, with three other officers, to the Kati military camp where he was sexually abused. One of the inmates told Amnesty International:

"Before entering the cell, we were put at the disposal of a non-commissioned officer who was with the soldiers of the National Guard. They were threatening and pointed their guns at us. We were four, they asked us to undress completely, we were ordered to sodomize each other otherwise they would execute us. They pointed their guns at us. They said, 'Go on, do each other now'. X. was my partner, he bent over, I sodomized him, he did the same to me. The police officer Y. had the police officer Z. as a partner. During the act, our guards shouted at us to do it harder."

A witness also told Amnesty International how two of his fellow inmates were killed extrajudicially upon their arrival to Camp Kati:

"On May 1st, around 5 or 6 am, we were transferred to Kati. When we arrived at the camp, a crowd of soldiers surrounded us. We were tied up in pairs. The prisoners were following one behind the other. At one point, a group of soldiers turned on two of us walking slowly. They were beaten with rifle butts. One of the soldiers stabbed them with his bayonet. They collapsed. We didn't see them again. I do not know their names because they are not in my class."

Many prisoners confirmed they had received cigarettes burns on various parts of their bodies and showed their resulting scars to the Amnesty International delegation. One prisoner told the Amnesty International delegation:

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"They beat me and then took a packet of Dunhill cigarettes. They started smoking, they then put these out twelve times on my body. They even put out a cigarette in my left ear. They then threw me, my hands and feet tied, into a cell with other prisoners."

The torture was primarily designed to extract confessions. One prisoner told Amnesty International:

"They asked us to confess that we had wanted to carry out a coup. They made us lie face down, they tied our hands behind our backs and then tied them to our feet. One of the soldiers forced a cloth in our mouths using a stick. We couldn't talk let alone scream. They put out cigarettes on our bodies, one of them put out his cigarette in my ear. From time to time, a soldier would pull on the cord that bound the handcuffs to our feet, it's the position known as '*négèsoni*', the bike, by pulling on the rope, the feet go back and forth like when you pedal."



At the Kati military camp, the rank-and-file were separated from the officers and were detained in inhuman and degrading conditions. They were all locked in a cell of five square meters, some for 46 days. They were denied access to the outside world, without any possibility of moving around the cell that contained more than 80 people. Kept in their underwear, the prisoners were forced to relieve themselves in a plastic bag and were deprived of food during the first days of their detention. Some detainees were regularly taken from the cell to be beaten.

Aboubacar Kola Cissé, "Red Beret". Second Lieutenant reported missing during the night of 2nd to 3rd May 2012. © Amnesty International.

One prisoner told Amnesty International:

"The night of May 1st, we were 37. The following day other prisoners, some of whom foreigners, joined us. During the first 72 hours, we had nothing to eat or drink. We were forced to drink our own urine, we had no choice. On May 1st, three Kati soldiers took ten prisoners at random, who, like the others, had their hands tied behind their backs. Taking turns, their guards tied a rope around their necks, then one of them put his shoe on the rope and pressed hard to strangle them."

Torture is specifically prohibited by international law and the Malian legislation. The Constitution of Mali states in Article 3:

"No one will be put to torture, nor to inhumane, cruel, degrading, or humiliating treatment. Each individual, each agent of the State who is found guilty of such acts,

either on his own initiative, or by another's command, will be punished at law."

Article 209 of the Malian Penal Code also prohibits and punishes torture, repeating verbatim the definition of the United Nations' Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), to which Mali acceded in 1999.⁴ This article also of the Malian Penal Code specifies that: "An order from a superior officer or a public authority may not be invoked to justify torture."

Moreover, any state party to the Convention against Torture must investigate whenever there are reasonable grounds to believe that torture has been committed, even if there have been no complaints of torture. Article 12 of this instrument provides:

"Each State Party shall ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction."

Mali also has an obligation under Article 13 to investigate whenever a complaint has been made:

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

If the investigation results in sufficient admissible evidence of torture, then, under Article 7 (1) of the Convention against Torture, Mali must submit the case to the prosecutor for the purpose of prosecution. In addition, the Convention prohibits the use of "confessions" extracted under torture to convict defendants. Article 15 of the Convention states that:

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

4. ILLEGAL DETENTION

The soldiers and police officers arrested following the counter-coup were detained for over a month in an unrecognized detention facility in violation of the legal limit on the duration of custody (*garde à vue*) under national law and under international law and standards.

REGULATIONS OF CUSTODY

Custody is a period of deprivation of liberty strictly limited by law and during which the members of the security forces can hold suspects for interrogation before referring them to the public prosecutor. In Mali, persons held in custody have no access to their family, to a doctor of their choice or to a lawyer.

Officially justified on grounds of "requirements for the investigation", this period of detention is conducive to the perpetration of torture and ill-treatment with the aim of extracting confessions from suspects.

The limit for custody is regulated by the Malian Code of Criminal Procedure. Article 76 of this text specifies that: "the investigating officer may find it necessary to hold one or more persons [...] for forty eight hours".

Article 76 of the Code of Criminal Procedure specifies that this period may be extended "by 24 hours on the written authorization of the public prosecutor or examining magistrate" if there is strong corroborating evidence sufficient to charge the person.

Strict limitation of custody is also contained in Mali's Constitution, which specifies in article 10 that "no one may be detained for more than forty-eight hours without the reasoned decision of a magistrate of the judiciary".

Under the terms of article 121 of the Code of Criminal Procedure "any person charged under a warrant to appear, who has been held at a remand center for more than twenty-four hours without having been interrogated, is deemed to have been arbitrarily detained".

Furthermore, article 10 of Mali's Constitution which provides that "anyone deprived of his liberty is entitled to be examined by a doctor of his choice". The right to be seen by a doctor is also guaranteed by Principle 24 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.⁵

International standards moreover condemn the principle of incommunicado detention. The Commission on Human Rights, in its Resolution 1997/38 (paragraph 20), considered that long periods of incommunicado detention constituted a form of cruel, inhuman and degrading treatment.

In 1995, the United Nations Special Rapporteur on Torture has called for a total ban on incommunicado detention. He stated: "Torture is most frequently practised during incommunicado detention. Incommunicado detention should be made illegal and persons held incommunicado should be released without delay. Legal provisions should ensure that detainees be given access to legal counsel within 24 hours of detention."⁶

While many soldiers and police officers were arrested on 1 May 2012, the detainees were

only interviewed on 12 May 2012, for some two weeks after their arrest. These hearings were conducted by gendarmes at the Kati military camp in conditions violating all established rules of interrogation in the presence of soldiers who threatened the detainees.

According to the testimonies received, the hearings were held in a rushed manner and without any legal process. The accused were kept sitting on the floor, handcuffed, surrounded by military or gendarmes holding them at gunpoint. Moreover, they were not allowed to read the *procès verbal* (official statement) provided by the investigating gendarmes.

One prisoner told Amnesty International:

"During my interrogation, the investigating gendarme sat on a chair, me, I was sitting on the ground, hands handcuffed behind my back, in boxer shorts. I was surrounded by soldiers who were pointing their guns at me. The investigator told me: 'You said ...', 'according to the information we have ...'. A soldier then gave his version of events that was untrue and when I mentioned the abuse I had suffered the investigating gendarme replied in a threatening tone that this was not true."

Another prisoner said:

"During my hearing before the gendarmes, my hands were handcuffed behind my back. I was tired and I sat on the floor to stretch my legs. One of the soldiers ordered me to stay on tiptoe in a squatting position. He gave me a kick and I was forced to obey."

To date, most of these soldiers and police officers detained have been charged with undermining state security or for complicity in undermining the state's authority but ten of them are still being detained without charge.

The military and police officers were detained at Kati Camp, some for 46 days without access to relatives or lawyers. Following the mobilization of some lawyers, contacted by the families of detainees, the soldiers had access to their lawyers and to their families in late May 2012. Their situation has improved following the referral of this case by their lawyers to the Minister of Justice who went several times to the Kati camp, from June 4, 2012 onwards, and gave instructions that prison conditions be improved.

However, arrests and detentions continued outside of legal procedures after the transfer of these soldiers and police officers to Camp I of the gendarmerie. On June 15, two soldiers, Chief Warrant Officer Essai Dognon and Warrant Officer Karfa Keita were arrested at the Bamako paratrooper camp and are currently being held at camp I of the gendarmerie.

On 22 June 2012, Amnesty International called on the Malian authorities to immediately transfer the soldiers and police officers to a recognized place of detention.⁷ Indeed, Article 31, paragraph 2, of law number 055 of 16 December 2002 on the general status of the armed forces makes clear that in case of prosecution, all soldiers must be kept on gendarme premises. In the days that followed, Kati detainees were indeed transferred to Camp I of the gendarmerie.

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Though the conditions of detention in the gendarmerie camp have improved, they are still of concern. Inmates are kept 24 hours a day in their cells. Visiting relatives can see them twice a week but for only 10 minutes and in the presence of three gendarmes. Moreover, the ten soldiers who have not yet been charged have not been allowed visits from their relatives.

5. OFFICIAL MEETINGS

The Amnesty International delegation met with officials of the Malian judiciary. In a meeting with the Minister of Justice, Malick Coulibaly, on 20 July 2012, representatives of the organization expressed their concerns about the disappearances, torture and conditions of detention of soldiers and police officers arrested following the counter-coup at the end of April 2012. The Minister of Justice said that during his visits to the Kati Camp, beginning of June 2012, he had "found that conditions were sub-human" and had demanded the transfer of detainees to Camp I of the gendarmerie. However, he was not *au courant* of torture and other ill-treatment of the detainees at Kati. Regarding the allegations of extrajudicial executions and disappearances, he said that if relatives filed a complaint then an investigation would be opened into the case.

The Minister of Justice did not mention his obligation under Article 12 of the Convention against Torture to open an investigation whenever there were reasonable grounds to believe that torture had been committed. He also did not mention similar obligations with regard to enforced disappearances under Article 12 of the Disappearance Convention and Principles 6 to 17 of the UN Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions. To Amnesty International's knowledge, as of 26 July 2012, it appears that no investigation had yet been opened into any of these cases.

The Amnesty International delegation also met with the Attorney General (procureur général), Souleymane Coulibaly on 18 July 2012. He said that he had "himself noted cases of torture" and added that these sometimes stemmed from the "settling of scores between police officers". He said: "It is not the investigators who are guilty of these acts of torture. The guilty will answer for their actions. No guilty person will remain unpunished." The state prosecutor did not indicate what steps he would take to prosecute suspects where there was sufficient admissible evidence and, to Amnesty International's knowledge, as of 26 July 2012, no prosecution had yet been initiated.

Regarding disappearances, the Attorney General maintained that he was not aware of these cases and said he could order an investigation if evidence was brought to his attention. He added: "If Amnesty provides evidence in writing, I can open an investigation." This interpretation of his obligations does not correspond to the provisions of international law. As soon as there were reasonable grounds to believe that enforced disappearances might have been committed, which could include reports in the press or by non-governmental organizations weeks earlier, the obligation under Article 12 (2) of the Disappearance Convention to investigate was triggered.

Amnesty International hopes that this report will encourage Malian judicial officials to launch an immediate investigation into these very serious events and shed light on the fate of the disappeared soldiers and police officers. These enquiries must respect the international standards regulating such crimes, including articles 12 and 13 of the Convention Against Torture, the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Other Degrading Treatment or Punishment⁸ and the Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary and Summary Executions.⁹

6. CONCLUSION AND RECOMMENDATIONS

In this period of transition and political instability, Mali's application of national and international human rights standards has shown serious flaws. Indeed, not only do the transitional authorities not fully respect their obligations under international human rights treaties but, moreover, they are not applying the essential guarantees of protection of human rights explicitly granted by national legislation.

The legal safeguards of the rule of law enshrined in Malian legislation were fundamentally undermined by the March 2012 military coup. The soldiers supporting the military junta have committed human rights violations marginalizing the judicial system in total impunity. This system was left largely powerless against this new composition of power, to the benefit of the coup leaders.

Amnesty International calls upon the Malian authorities to investigate promptly the enforced disappearances, extrajudicial executions and torture cases mentioned in this report.

The Malian authorities must also make known immediately the fate, and place of detention, of the disappeared soldiers in accordance with the International Convention for the Protection of All Persons against Enforced Disappearance ratified by Mali in 2009 and the basic norms of international human rights law.

For all these violations of human rights, whenever the investigation results in sufficient admissible evidence, the persons suspected of having committed such acts must be prosecuted in fair trials without the death penalty and victims and their families provided with full reparation.

RECOMMENDATIONS

Amnesty International calls upon the Malian authorities to:

A. Put an end to enforced disappearances and extrajudicial executions

- Condemn enforced disappearances and extrajudicial executions, officially, publicly and at the highest level of the state, and to notify the security forces that these practices are in flagrant violation of human rights and will not be tolerated under any circumstances.
- Open prompt, thorough, independent and impartial inquiries into all allegations of enforced disappearances and extrajudicial executions and bring to trial those responsible for these acts.

- Ensure that state officials suspected of involvement in extrajudicial executions and "disappearances" are immediately relieved of their functions for the duration of the inquiry.
- Ensure that the relatives of the victim have prompt, frequent and regular access to all information concerning the inquiry, and are authorized to provide evidence. Plaintiffs, witnesses and lawyers, as well as every other person linked with the inquiry should be protected against any act of intimidation or reprisal.
- Continue the inquiry until the fate of the victims of enforced disappearances has been officially clarified.
- Invite the UN Working Group on Enforced or Involuntary Disappearances to visit Mali; to cooperate with the Working Group by providing it with specific information regarding the grounds to believe that disappearances took place and the allegations (including information on the measures taken to discover the whereabouts of people who have disappeared); to investigate the facts; and to bring those responsible to justice.
- Implement the Disappearance Convention in law and practice, as indicated in Amnesty International's *Checklist for effective implementation of the Convention on disappearance*.
- Recognize the competence of the Committee on Disappearance pursuant to Articles 31 and 32 of the Disappearance Convention to consider communications by states parties and individuals concerning violations of the Convention.
- Invite the Committee on Enforced Disappearances pursuant to Article 33 of the Disappearance Convention to visit Mali; to cooperate with the Committee by providing it with specific information regarding the grounds to believe that disappearances took place and the allegations (including information on the measures taken to discover the whereabouts of people who have disappeared); to investigate the facts; and to bring those responsible to justice.

B. Put an end to torture

- Implement all obligations under the Convention against Torture in law and practice.
- Give clear instructions to security forces to ensure that they always act in respect of international human rights law and standards, as required by Article 10 of the Convention against Torture; security forces must, in particular, respect the right to life and the absolute prohibition of torture and other ill-treatment, in accordance with international treaties.
- Promptly open thorough, independent and impartial investigations, in accordance with the UN Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, recommended by General Assembly resolution 55/89 of 4 December 2000, whenever there are reasonable grounds to believe that torture may have been committed by members of the security forces and, where there is sufficient admissible evidence, prosecute those suspected of responsibility for these acts.

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- Give clear instructions to judges reminding them of their obligations pursuant to the Convention against Torture, which provides that any statement which is established to be obtained by torture cannot be invoked as evidence in proceedings, except against those accused of committing acts of torture. This means that judges have the duty to determine whether a statement was obtained under torture and to open a prompt, thorough, independent and impartial investigation if there are reasonable grounds to suggest that the statement was obtained through torture. The onus of proof rests on the Prosecutor who must prove beyond reasonable doubt that the declaration is not a result of torture.
- Provide promptly to all detainees the required medical care.

C. Put an end to arbitrary detentions

- Charge those detained with recognized criminal offenses or release them. All prisoners should have prompt access with a matter of hours to a lawyer and to the doctor of their choice and also be able to contact their relatives. They must also be promptly brought before an independent judge capable of ruling upon the legality of their detention and ordering their release if that detention is unlawful.

D. Reparation for victims of human rights violations

- Ensure that all victims of human rights violations can benefit from all forms of reparation, including measures of restitution, compensation, rehabilitation, satisfaction and guarantees that these violations will not be repeated. Reparation must include a full explanation of the events and identify those responsible so that families can know what happened to their family member.

E. Put an end to impunity

- Carry out investigations in accordance with international standards on all cases where people have died in custody and all cases of torture allegations or other ill-treatment during detention in accordance with the Convention against Torture.
- Remove from office any person who may be suspected of having committed, or participated in, serious human rights violations, until the allegations against them are subject to a prompt, in-depth, independent and impartial investigation, in a fair procedure, in accordance with international treaties, particularly, with regards to the Principles of effective investigation of torture and other cruel, inhuman or degrading treatment or punishment to establish the true facts, and with regard to the Principles on the Effective Prevention and Investigation of Extrajudicial, Arbitrary and Summary Executions and to the means needed to investigate these executions.

- Prosecute, without any further delay, whenever there is sufficient admissible evidence, all persons suspected of committing serious human rights violations, particularly torture and other ill-treatment of persons held in police custody or in preventive detention.

ENDNOTES

¹ Amnesty International, *Mali. Five months of crisis. Armed rebellion and military coup*, May 2012, Index: AFR 37/001/2012.

² Amnesty International, *No impunity for enforced disappearances: Checklist for effective implementation of the International Convention for the Protection of All Persons from Enforced Disappearance*, November 2011, Index: IOR 53/006/2001.

³ See the case law of the Human Rights Committee, referred to by the European and Inter-American Human Rights Courts, notably *Quinteros v. Uruguay* (Communication No. 107/1981: Uruguay, 21 July 1983, CCPR/C/19/D/107/1981, paragraph 14).

⁴ See Article 209 of the Malian Penal code and Article 1 of Convention against Torture. "The term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions."

⁵ For a comprehensive discussion of the prohibition of incommunicado detention and the right to prompt access to counsel, family, medical attention and a judge, see Amnesty International, *Fair Trials Manual*, Chapters 4 and 5, December 1998, Index: POL 30/02/98,.

⁶ Report of the Special Rapporteur on Torture, UN Doc.E/CN.4/1995/434, paragraph 926(d).

⁷ Amnesty International, *Mali: The military junta continues to impose the law*, 22 June 2012, Index AI: AFR 37/003/2012.

⁸ These principles are available at <http://www2.ohchr.org/english/law/investigation.htm> (consulted on 25 July 2012).

⁹ These principles are available at <http://www2.ohchr.org/english/law/executions.htm> (consulted on 25 July 2012).

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