

AGENDA FOR HUMAN RIGHTS IN MALI

AMNESTY
INTERNATIONAL



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Cover photo: People queue to vote at a polling station in Gao during the presidential election in Mali on 28 July 2013.
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1. INTRODUCTION

For nearly two years now, Mali has been facing the most serious crisis in its recent history. The country has experienced in rapid succession an armed insurrection that has called into question the integrity of its territory followed by a military coup, which ended nearly two decades of institutional stability. This political crisis appears to be moving towards resolution with the recovery of almost all the north of the country by the Malian authorities and the democratic election of a new President, Ibrahim Boubacar Keita, in August 2013. Legislative elections, scheduled for late November 2013, should complete this process and bring back stable and democratic institutions. It is now time to resolve the human rights crisis resulting from the military conflict and political deadlock.

These two years of crisis have led to serious human rights violations and abuses committed by both Malian security forces and by the various armed groups that have controlled the northern half of the country for a period of over nine months. The army, the police and the Malian gendarmerie (military police) were responsible for extrajudicial executions, enforced disappearances, torture, and arbitrary arrests and detention. As with regards to the armed groups – including the *Mouvement national de libération de l'Azawad*, (MNLA, National Movement for the Liberation of Azawad, a Tuareg group advocating autonomy for the north of the country) and Al-Qaeda in the Islamic Maghreb (AQIM) - they have committed unlawful killings, sexual violence, mutilation and stoning. They have also resorted to the recruitment and use of child soldiers. Two of these groups, AQIM and the *Mouvement pour l'unicité et le jihad en Afrique de l'Ouest* (MUJAO, Movement for Oneness and Jihad in West Africa), have taken foreign nationals hostage.

Throughout this period, Amnesty International has been closely following the developments through five field missions, which led to the publication of several reports and press releases documenting human rights violations and abuses committed by all parties to the conflict (see Appendix I, for the non-exhaustive list of documents published by Amnesty International since the crisis began in January 2012). All the cases mentioned in this document have already been made public by Amnesty International or have been raised in official meetings with Malian authorities.

During these five missions, Amnesty International was able to investigate without restriction and was allowed to meet with prisoners in various detention centres. The delegates also met with the Malian authorities several times and raised with them all the issues of concern outlined in this Agenda, including cases of enforced disappearances, extrajudicial executions and torture committed by the security forces. The authorities have taken note of this information and have promised to investigate. Amnesty International also met with MNLA representatives in Paris and in Nouakchott (capital of Mauritania).

This document is primarily intended for the Malian authorities and aims to promote their implementation of international obligations regarding human rights. It is primarily the responsibility of the authorities to investigate all human rights violations and abuses committed by the Malian security forces and armed groups in order to ensure justice and reparation for victims and put an end to impunity.

The government is not the only actor in charge of rebuilding the rule of law. This Agenda also contains recommendations for partners in Mali, in particular the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and the regional bodies that are active in the resolution of the crisis in Mali, such as the African Union (AU), the Economic Community of West African States (ECOWAS) and the European Union (EU). The MINUSMA and AU have deployed observers in the field; this body of monitors must have the resources to monitor the human rights situation and to support the Malian authorities in their investigations of violations and abuses so that these investigations are thorough, exhaustive and impartial.

Furthermore, Amnesty International calls upon armed groups still present in the regions in the far north of the country to put an end to violations of international humanitarian law and to release the child soldiers they have recruited.

Malian authorities and the members of the international community present in Mali must respond to the need for truth and justice for all victims of violations and abuses of human rights targeted either by members of the Malian security forces or armed groups. The Arab and Tuareg populations in the north of the country must also be assured that they will be protected against any risk of retaliation, a precondition for the return of tens of thousands of refugees still in neighbouring countries. Finally, the public confidence in their security forces must be restored by sending a clear signal that the new authorities are determined to fight impunity. It is on this one condition that Mali can hopefully turn this painful page in its history.

2. BACKGROUND OF THE CRISIS

The outbreak of an armed insurrection in the north of Mali, in January 2012, occurred in a region marked for years by a feeble presence of administrative structures and by a certain neglect from the Malian government, particularly in terms of economic development.

Such neglect on a state level fuelled frustration amongst people in the north and has continued to motivate desires for rebellion and autonomy or independence amongst some Tuareg movements. In the early 1990s, the area was destabilised by a Tuareg armed rebellion that resulted in hundreds of civilian casualties.

This region was also weakened by the development of all kinds of trafficking (drugs, trafficking of transnational migrants, weapons, vehicles, cigarettes) and by the presence of AQIM, which has turned parts of the region into sanctuaries where these groups hold hostages.

It is against this backdrop that a new rebellion appeared in January 2012, under the leadership of two armed groups, the MNLA and Ansar Eddin (see the Section 4: Armed Groups in the north of the country). These groups were composed notably of Arab and Tuareg fighters who returned, heavily armed, from Libya after the fall of President Gaddafi.

This armed insurrection, benefiting from AQIM support, led to serious clashes with Malian soldiers, killing dozens of fighters on both sides. Some Malian soldiers were killed and murdered after being captured in clear violation of international humanitarian law. The conflict also led to serious human rights violations and breaches of international humanitarian law against civilians accused of supporting the opposing party.

The armed conflict in northern Mali has led to large population displacements both inside the country and to neighbouring countries (Algeria, Burkina Faso, Mauritania and Niger). In late July 2013, the UNHCR estimated the number of refugees to be 175,000 and the number of displaced persons to be nearly 340 000.¹

2.1 MILITARY COUP IN MARCH 2012

Very quickly the armed conflict was compounded by a challenge of the achievements of two decades of democratic institutions. Indeed, in March 2012, two months after the beginning of the uprising, a group of non-commissioned officers led by Captain Amadou Haya Sanogo overthrew the democratically elected president, Amadou Toumani Touré, and took power. The soldiers who staged the coup accused the Malian President of failing to provide the army with the means to fight the rebellion.² The coup took place one month before the presidential

election scheduled for late April 2012, for which the Malian President did not desire, nor was he eligible, to stand.

This military coup led by Captain Sanogo, has resulted in serious human rights violations. Many political and military leaders were arrested and arbitrarily detained and a number of soldiers and police officers have been subjected to enforced disappearance and torture.

2.2 TAKEOVER OF THE NORTH OF THE COUNTRY BY ARMED GROUPS

Taking advantage of the disorganisation created by this coup – that was opposed both inside and outside the country - armed groups captured, in the space of a few days, the three main towns in northern Mali (Kidal, Gao and Timbuktu) in late March - early April 2012.

A systematic looting and destruction of banks, shops, food depots and public buildings, hospitals and schools accompanied the capture of these cities.

During their occupation of the north, armed groups committed serious human rights abuses, including sexual violence and the recruitment and use of child soldiers. In addition, some of these groups used corporal punishment (stoning and amputations) in the name of their interpretation of Islam. Furthermore, Christian places of worship, mausoleums and ancient Muslim manuscripts were also destroyed.

In the South of the country, the military junta, completely isolated on the diplomatic front, was forced to sign, on 6 April 2012, a framework agreement concluded under the auspices of ECOWAS. This provided for a return to constitutional order and put in place a transitional civilian government pending presidential elections. But the agreement gave the junta leader, Captain Sanogo, an important role in key aspects of this process, notably appointing key positions in the transitional government.

Despite the appointment of a President and a Prime Minister, in mid-April 2012, the new government remained largely under the influence of the soldiers behind the coup.

2.3 THE INTERNATIONAL MILITARY INTERVENTION

After armed groups occupied and controlled the north for over nine months, the intervention of the French army alongside the Malian army in January 2013 completely reversed the balance of power. This intervention followed an offensive launched by armed groups against two cities, Konna and Diabaly, located not far from the front line. The French army led a counter offensive, alongside the Malian army and African troops deployed in January 2013 as part of the African-led International Support Mission to Mali (AFISMA). These operations have allowed the Malian authorities to regain control of almost all of the territory conquered

by armed groups. The latter have since retreated to the far north of the country.

In July 2013, a UN peacekeeping force, MINUSMA was deployed to Mali to replace AFISMA. The mandate of this UN mission is to ensure the “stabilization of key population centres and support for the reestablishment of State authority throughout the country” as well as the “promotion and protection of human rights.”³

2.4 POLITICAL DIALOGUE AND THE ELECTORAL PROCESS

Alongside the military operations, diplomatic efforts have also been made to resolve the political crisis. On 18 June 2013 in Ouagadougou (Burkina Faso), the Malian transition government and some armed groups in the north, including the MNLA, signed a “Preliminary Agreement for the presidential election and comprehensive peace talks in Mali”. This agreement, which did not include the three other principal armed groups (Ansar Eddin, AQIM and MUJAO), stipulated, in particular, the terms of the cessation of hostilities and the cantonment process of armed groups.

Furthermore, Article 18 of this agreement provides for “the establishment, as soon as possible, of an international commission of inquiry into war crimes, crimes against humanity, crimes of genocide, crimes of sexual violence, drug trafficking and other serious violations of international human rights law and international humanitarian law throughout the entire Malian territory”⁴.

This agreement also paved the way for a presidential election throughout Mali. In August 2013, a new President, Ibrahim Boubacar Keita, was elected. This process should be completed with the upcoming parliamentary elections scheduled for late November 2013.

The election of a democratically elected President did not, however, put an end to the troubles in the north. In late September and early October 2013, members of the armed groups launched several attacks against military and civilian targets, including a suicide attack against the Timbuktu military camp on 28 September 2013. Following these attacks, the Permanent Representative of Mali to the United Nations in New York sent a letter to the Secretary General of the UN in which he noted that “[the] proliferation of these terrorist attacks, which undermine the process of open and inclusive dialogue, to which the Government of the Republic of Mali has firmly committed itself since September 6 2013, sufficiently demonstrates that the fight against terrorism and organised crime in Mali is not over and that the security situation remains fragile in the Sahel region”⁵.

3. RECOMMENDATIONS TO MALIAN AUTHORITIES

In his inaugural speech, delivered on 4 September 2013, the new President of Mali, Ibrahim Boubacar Keita, pledged that he would fight against impunity and ensure equality of law for all.⁶ Amnesty International welcomes this commitment and addresses the following recommendations to the new Malian authorities so that the rule of law is genuinely restored in the country.

Malian authorities must investigate all allegations of human rights violations committed by security forces. They must also take all necessary measures to ensure that violations of humanitarian law and human rights abuses committed by armed groups are investigated and are the subject of legal proceedings, and that victims receive adequate and effective reparation.

3.1 DISCLOSE THE FATE AND WHEREABOUTS OF THE DISAPPEARED

Since the beginning of the crisis, more than 30 people have been arrested by Malian security forces and subjected to enforced disappearances (See a non-exhaustive list of these cases documented by Amnesty International in Appendix II). These acts targeted soldiers accused of being loyal to the ousted President and also civilians accused of supporting the armed groups.

3.1.1 ENFORCED DISAPPEARANCES OF SOLDIERS CONSIDERED AS OPPONENTS TO THE JUNTA

These enforced disappearances occurred within the context of incidents between paratroopers, known as the “red berets”, known to support the former President Touré and soldiers, known as the “Green Berets”, who supported the military coup of Captain Sanogo (For more information, see Amnesty International Mali: “We haven’t seen our cellmates since”: Enforced disappearances and torture of soldiers and police opposed to the junta, July 2012 Index: AFR 37/004/2012).

Accused of plotting a counter-coup, soldiers were arrested by security forces close to the putschists. Twenty-one of them have disappeared after being abducted from their cells at the Kati military camp – the military junta’s headquarters- on the night of 2 to 3 May 2012 (see the list of these 21 missing in Appendix II).

Two of the missing, Abdul Karim Keita and Youba Diarra, were shown on Malian television, on 30 April 2012, two days before their abduction. A cameraman filmed them whilst a soldier asked them questions relating to the counter-coup.

In addition, a number of soldiers wounded during the counter-coup also disappeared after

being taken on 1 May 2012, by members of the military junta, to the Gabriel Touré Hospital in Bamako (the capital) where they were treated. Despite its requests, Amnesty International did not obtain the list of soldiers and could not determine their whereabouts.

The enforced disappearances of all of these soldiers have caused great suffering to their friends and families who are looking for them. Wives have visited various detention centres without receiving any answer about the fate of their husbands.

The family member of a missing soldier told Amnesty International in October 2013: “After his arrest, we were able to visit him two or three times in the Kati camp. Then we didn’t hear from him again. The family filed a complaint with a judge who said he would make inquiries to trace missing persons. To date, family members are going back and forth without any results.”

More recently, in October 2013, a number of soldiers were either extrajudicially executed or disappeared in a purge conducted within the army by some soldiers loyal to General Amadou Haya Sanogo, who staged a coup in March 2012.

These soldiers were targeted after a mutiny broke out on 30 September 2013 in a military barracks outside Bamako: they had rebelled against some members of the former junta who they accused of not having promoted them.

The bodies of four soldiers were discovered in early October near the capital and several others, including Colonel Youssouf Traoré, have been reported missing.

The wife of Colonel Traoré told Amnesty International in October 2013: “On the night of 30 September, three soldiers from the Kati military camp came for my husband. One of them used to come to the house often. They asked him to follow them to be a mediator after the mutiny at Kati. He has not returned home since. I contacted the military authorities and they came to see me. They promised they would investigate the disappearance of my husband. “

In October 2013, the Malian courts filed a lawsuit against three members of the security forces and issued arrest warrants against 17 others for their alleged role in enforced disappearances in May 2012. The three suspects, a police captain and two lower rank soldiers, were arrested on 23 and 30 October 2013. Amnesty International welcomes this decision and calls upon the Malian authorities to ensure that judges can pursue this investigation to its completion and try alleged perpetrators without being subjected to threats or intimidation.

3.1.2 ENFORCED DISAPPEARANCES OF CIVILIANS FOLLOWING THE COUNTER-OFFENSIVE IN JANUARY 2013

In addition, in January 2013, Malian security forces also carried out enforced disappearances during and after the French army’s intervention in the regions close to frontline areas and then in the areas captured by armed groups.

During a research mission in June 2013, Amnesty International collected information on more than a dozen people subjected to enforced disappearances as they were apparently

suspected of being supporters of armed groups (For more information, see Amnesty International Report, “Mali: First assessment of the human rights situation after three week conflict, February 2013” Index: AFR 37/004/2013).

Eleven people, including several Arab traders, arrested by the Malian Army in Timbuktu, were reportedly subjected to extrajudicial executions and enforced disappearances. The bodies of some of them were found a few days after their arrest.

The military officials responsible for enforced disappearances appear to have acted in broad daylight without fear of being held accountable for their actions. Thus, on 14 February 2013, Malian soldiers arrested 70-year-old Arab trader, Ali Kabad, (from the Arabadjou area – a predominately Arab neighbourhood) and took him to an unknown location. This man had not left the city during the occupation of Timbuktu by armed groups. According to his family, following the arrival of the French and Malian armies in the city, he sacrificed a bull as a sign of gratitude to the Malian army. His arrest took place before a crowd of witnesses. One of them, Maouloud Fassoukoye, a radio repairman, who worked in a shop not far from there, went to see the soldiers and told them he knew Ali Kabad. He was also arrested. Nobody has seen these two men since.

Enforced disappearances constitute serious crimes under international law. The International Convention for the Protection of All Persons from Enforced Disappearance (Convention on Enforced Disappearances) was ratified by Mali on 1 July 2009 but has not yet been incorporated into national law. It 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 of the missing person or the place where it is located, a person outside the protection of the law.”(Article 2) The convention imposes many obligations on state parties to take effective measures in terms of national legislation/policy and practice in order to prevent enforced disappearances, to bring the perpetrators to justice and to ensure full reparation for victims.⁷

Enforced disappearances are also considered to violate the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishments by many international human rights bodies.⁸ Moreover, enforced disappearance causes suffering to the families of missing persons who are uncertain about the fate of their relatives. The Convention on Enforced Disappearance defines as “victims”, within the meaning of this international treaty, not only as persons subjected to enforced disappearances, but also “any individual who has suffered harm as the direct result of an enforced disappearance.” In addition, many international human rights bodies, including the Committee of Human Rights of the United Nations, argued on several occasions that the authorities' refusal to grant the relatives of those disappeared for months or even years, the right to know what happened to their relatives was a violation of the prohibition of torture and other ill-treatment.⁹

Amnesty International recommends that the Malian authorities:

- Open prompt, thorough, independent and impartial inquiries in all cases where there are reasonable grounds to believe that a person has been subjected to enforced disappearance; take all possible steps to establish the fate of the disappeared and, if

possible, find them alive.

- Relieve from duty anyone reasonably suspected of having been responsible for enforced disappearances, or having participated therein, until the allegations relating to him or her are the object of a prompt, thorough, independent and impartial inquiry in accordance with international law.
- Begin without delay, wherever there is sufficient admissible evidence, prosecution against all persons suspected of having committed or participated in enforced disappearances.
- Ensure that the direct victims of enforced disappearances and/or their families can benefit from all forms of adequate and effective remedies, including measures of restitution, reparation, rehabilitation, satisfaction and guarantees of non-repetition. These remedies should include an explanation of the events so that families can know what happened to their relatives.
- Take the necessary measures, particularly in terms of legislation, to implement the provisions of the International Convention for the Protection of All Persons from Enforced Disappearances.

3.2 INVESTIGATE AND PUT AN END TO EXTRAJUDICIAL EXECUTIONS

Malian security forces also reportedly extrajudicially executed at least 40 civilians accused of having links to the armed groups. Amnesty International has documented such cases, particularly in Bamako, Diabaly, Sévaré, Niono, Gao and Timbuktu.

Amnesty International has thus documented six cases of extrajudicial executions reportedly committed by the Malian army in Sévaré (630 km north of Bamako) in April 2012, some few days or weeks after the takeover of the north by armed groups. Those executed include three unarmed people accused of spying for the MNLA in Sévaré. They were arrested on 17 April 2012 by a military patrol after being denounced by residents. The three people, including two Tuaregs, were detained and beaten with sticks and were executed the following day.

In the same town, in April 2012, three other extrajudicial executions were reported: Malian soldiers stopped a bus and told an Arab and a Tuareg to get out. A Tuareg member of the Malian army, Rouma Ag Boba Ahmed, protested against this measure, which he judged to be discriminatory. He was executed alongside two passengers who were forcibly removed from the bus.

3.2.1 EXTRAJUDICIAL EXECUTIONS IN DIABALY

The takeover of the north by armed groups has also led government forces to increase their monitoring of some Muslim movements suspected of having links with armed groups.

It is in this context that, on the night of 8 to 9 September 2012, 16 members of the Dawa, a movement of Muslim preachers, were arrested in a vehicle by Malian soldiers in Diabaly while heading to a religious meeting at the Markaz Centre, in Bamako. A few hours later, the group, made up of Malian and Mauritanian nationals was extrajudicially executed. They had come from Mauritania and were on their way to a Dawa gathering in Bamako.

Amnesty International brought up this incident on two occasions with the Malian authorities in Bamako in September 2012 and January 2013. Three months later, on 23 May 2013, the Malian government set up a commission of inquiry into the incidents. The duration of this Committee's mandate was set at three months. At the end of its work the commission, composed of 10 permanent Malian members and three associate members of Mauritanian nationality, "is required to submit to the Minister of Justice and Attorney General, a detailed report with its findings"¹⁰. To Amnesty International's knowledge, the results of this investigation have not been made public and have not led to any prosecutions.

3.2.2 EXTRAJUDICIAL EXECUTIONS AFTER THE COUNTER-OFFENSIVE IN JANUARY 2013

In the days and weeks following the intervention of the French army, in January 2013, the Malian security forces committed, sometimes in broad daylight and in front of many witnesses, extrajudicial executions of people accused of collaborating with armed groups.

During a research mission conducted in late January 2013, an Amnesty International delegation was able to speak with witnesses of extrajudicial executions committed by the Malian army in the town of Sévaré (some 630 km northeast of Bamako) on 10 January 2013. A witness, who had learned that some of these people were taken to a place not far from the town's cemetery, visited the site and saw 12 bodies lain out in front of a well, in the Waïludé neighbourhood. Shortly after, he saw soldiers throwing bodies into the well. A few days later, an Amnesty International delegation was able to visit the well and detected a stench emanating from it. The Sévaré Prosecutor told an Amnesty International delegation twice, in January and in June 2013, that he had ordered an investigation. At the time of writing this document, Amnesty International has not received information regarding the results of this investigation. (For further information, see Amnesty International, Mali: First assessment of the human rights situation after three week conflict, February 2013. Index: AFR 37/003/2013).

Some people were reportedly arrested for wearing outfits that soldiers perceived made them look like Tuaregs. Others were targeted in Sévaré because, according to a witness, they "wore clothes, boubous, which could be similar to those worn by jihadists [name given by the Malian authorities and the Malian population to certain armed groups, notably Ansar Eddin,

AQIM and MUJAO]”.

Amnesty International has also received information relating to the case of three Talibés (students of Koranic school) who were shot at the Sévaré military camp on 11 January 2013. These Talibés, Youssouf Abourou, Ouamarou Sayaow and Soumaïla Amadou were passing by the military camp on motorbikes when Malian soldiers killed them.

The Amnesty International delegation also visited the Niono region (340 km from Bamako) where Malian soldiers executed two people in Ceribala (40 km from Niono), on 18 January 2013. They were two cousins, Aboubakrim Ag Mohamed, a Marabout farmer of thirty-seven years, and Samba Ag Ibrahim, a fifty year-old shepherd.

Malian security forces also executed several civilians suspected of being members or supporters of armed groups in Timbuktu and Gao. These executions took place after members of MUJAO, driven out from Timbuktu and Gao, carried out several bombings and attacks on primarily military targets. Following this, the Malian army launched major research operations, which led to the extrajudicial execution of several civilians suspected of being members or supporters of armed groups. This was the case of a gardener, Idwal Diallo, and four others who were killed a few days after a MUJAO raid in Timbuktu in late March 2013.

The Amnesty International delegation also heard testimonies of extrajudicial killings and enforced disappearances in the Gao region where Tuareg civilians have been targeted by some Malian soldiers who reportedly suspected them of having links with armed groups. This was the case for four Tuareg shepherds, Akiline Ag Mossa, Aljounagha Ag Bilal, Ghissa Ag Algateck Ag Mohamedou and Oumar Ag Algateck, who were killed in early March 2013 by Malian forces in the town of Anhwadji, 180 km to the east of Gao, during and after armed clashes between the Malian army and MUJAO.

Amnesty International has also documented the case of a person executed after being handed over to the army by civilians. This occurred in early February 2013, a few days after the first bombings were carried out by members of MUJAO in Gao. Bashir Ag Ishmael, a Tuareg farmer was drinking tea in the market with friends when the Malian army surrounded the hut wherein they were sitting. Seized with fear and panic, he fled but was caught by some of the people in the market who handed him over to the army. An eyewitness told Amnesty International: “The soldiers asked people to let him go. Then, suddenly, a soldier shot him in the back.”

Amnesty International calls upon the Malian authorities to:

- Carry out investigations into all allegations of extrajudicial executions. These investigations must be prompt, thorough, independent and impartial, in accordance with international standards, including the Principles on the Effective Prevention and Investigation of Extralegal, Arbitrary and Summary Executions, recommended by the Economic and Social Council in the resolution 1989/65 of 24 May 1989.¹¹
- Exercise strict hierarchical control over the armed forces and hold any soldier accountable for committing, or allowing others to commit, acts constituting extrajudicial executions.

3.3 INVESTIGATE AND PUT AN END TO TORTURE

Security forces loyal to the military junta have been responsible for the torture and other cruel, inhuman or degrading treatment of soldiers and police officers accused of supporting the former ousted President and of participating in the counter-coup of April 2012.

During a research mission, in July 2012, an Amnesty International delegation met with soldiers and police officers who reported instances of torture and sexual abuse as well as inhumane and degrading conditions of detention during interrogation at the *Groupement mobile de sécurité* (GMS, Group Mobile Security) in Bamako and at the Kati military camp. (For more regarding the testimony of these detainees, see Amnesty International, Mali: “We haven’t seen our cellmates since”, op.cit.)

The prisoners also reported the following torture techniques and ill-treatment:

- Receiving blows in contorted positions, especially in the position known as the “nègèsoni” (bicycle). This position was described by a prisoner, “Sometimes a soldier pulled on the rope that bound the handcuffs to our feet, it is the “nègèsoni” position, the bicycle, pulling on the rope, the feet move back and forth like when you pedal.”
- Cigarette burns (on the body and in the ear);
- Death threats and food and water deprivation;
- Electric shocks, particularly at the State Security offices, an unofficial place of detention (see Section 3.5: Put an end to detention in unofficial places).
- Sexual violence. Several detainees said they were forced to “sodomise each other.”

This torture and ill-treatment were principally used to extract confessions and to force detainees to admit their participation in the counter-coup.

These acts of torture and other cruel, inhuman or degrading treatment were committed over a period of several days in the Kati military camp, the headquarters of Captain Sanogo’s military junta. The information gathered by Amnesty International indicates that officers participated in and/or witnessed these acts. In one case, a prisoner Baba Lamine Kalouchi was struck on 1 May 2012 whilst sitting on the ground with his hands tied behind his back. An officer kicked him in the face and he fell. A witness said: “The officer said in Bambara ‘M’bé yélé, ni né djiguina m’bé aw bé kan tigué’ (I am going up [to my office], when I come down, I’ll slit all of your throats).” The prisoner was one of 21 people taken from their cells the following day and who have since disappeared.

In addition, people who have been detained for their known or suspected ties to the groups have reported being tortured and abused during and after arrest or after their arrival at the *Maison centrale d’arrêt* (main prison in Bamako).

Other individuals have been tortured at the *Direction générale de la sécurité d'État* (DGSE Directorate of State Security, also known as SE), which is an unofficial place of detention. This is the case for a mechanic and farmer who was arrested in late March 2013 with a group of 11 other people in Taglalte (100 km east of Gao). When Amnesty International delegates met him at Camp I of the Bamako gendarmerie in June 2013, he said that he had been detained for more than fifteen days at the DGSE. "They tied my hands behind my back and stripped me totally naked. They wanted to know if I was with MUJAO or Al Qaeda. They poured water on my body– and gave me electric shocks – all over my body, even on my penis. At one point I fainted and they poured water on me to wake me up. They held me for 21 days at the DGSE and sometimes I heard other people screaming in their cells."

3.3.1 CONDITIONS OF DETENTION AND DEATHS IN CUSTODY

Information gathered by Amnesty International also indicated the poor conditions of detention, non-compliant with international standards, in the *Maison centrale d'arrêt*.

During several visits to the *Maison centrale d'arrêt* in May and June 2013, Amnesty International documented testimonies from several prisoners who reported having been kept in deplorable conditions at the beginning of their detention. Some said that they were held eight to a cell of around 3.6 meters long and 2.07 meters wide. The prisoners were kept in their cells 24 hours a day and had to relieve themselves in a bucket. This situation improved following the death of five prisoners in April 2013.

The five people, Akassane Ag Hanina, Al Hassane Mahamedou, Inha Ag El Mehdi, Dakane Jolal and Houceiny Traoré, were arrested in the north of the country as part of the counter-offensive to regain control of the region. They died in detention between 11 and 14 April 2013. Some of these people had told fellow inmates and relatives about being beaten during their arrest and transfer to Bamako. Some of them were also reportedly denied access to medical care in prison.

Since their death, conditions of detention have improved somewhat, and prisoners have been allowed out of their cells during the day and to go into a ventilated shed. (See Amnesty International, Mali: Preliminary findings of a four-week mission: Serious human rights violations of, June 2013 Index: AFR 37/004/2013).

Poor conditions of detention were also highlighted in the report of the Secretary-General of the United Nations regarding the situation in Mali, published on 1 October 2013. This paper notes that the "conditions of detention of prisoners following the conflict in the north [...] remains a concern," adding that in "Bamako, though some prisoners were released for lack of evidence, on 17 September, more than 200 people are still in detention in harsh conditions and without medical care"¹².

3.3.2 THE PROHIBITION OF TORTURE UNDER NATIONAL AND INTERNATIONAL LAW

Torture and other cruel, inhuman or degrading treatment are expressly prohibited by international law and the Malian legislation. Mali's constitution provides in Article 3 that:

"No one shall be subjected to torture, or to inhuman, cruel, neither degrading,

humiliating nor ill-treatment. Any individual or government official who is found guilty of such acts, either on his or her own initiative or acting upon orders shall be punished according to law.”

Article 209 of the Malian Penal Code prohibits and also criminalises torture using, verbatim, the definition of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), ratified by Mali in 1999.¹³ This article of the Malian Penal Code also includes the wording of Article 2 (3) of the Convention against Torture, stating that:

“An order from a superior officer or public authority may not be invoked as justification of torture”.¹⁴

In addition, any state party to the Convention against Torture must investigate whenever there are reasonable grounds to believe that acts of torture and other ill treatment have been committed, even in the absence of complaints¹⁵. Article 12 of this convention and article 16 concerning other cruel, inhuman or degrading treatment or punishments provide that:

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

Furthermore, Article 13 of this convention and article 16 concerning other cruel, inhuman or degrading treatment or punishment, oblige Mali to investigate if allegations have been submitted or if a formal complaint has been filed:

“Each State Party shall ensure that any individual who alleges to have been subjected to torture in any territory under its jurisdiction has the right to complain to the competent authorities of that State, who will proceed promptly and impartially to the investigation of that complaint. Measures will be taken to ensure that the plaintiff and witnesses are protected against all ill treatment or intimidation as a consequence of his or her complaint, or any evidence given.”

If the results of the inquiry provide admissible and sufficient evidence, then Malian authorities must submit the case to the prosecutor for the purposes of prosecution pursuant to Article 7 (1) of the Convention against Torture. In addition, the convention prohibits the use of “confessions” extracted under torture to convict defendants. Article 15 of this convention states that:

“Each State Party shall ensure that any statement which is established to have been obtained by torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that a statement was made.”¹⁶

According to the Human Rights Committee of the United Nations, similar obligations stem from Article 7 of the International Covenant on Civil and Political Rights (ICCPR), which prohibits torture and other cruel, inhuman or degrading treatment or punishment.

Malian authorities must take the following measures, without delay, to prevent and fight against torture and other cruel, inhuman or degrading treatment or punishment:

- Provide clear instructions to the police and gendarmerie so that they always act in accordance with international human rights law. They must, in particular, respect the right to life and the absolute prohibition of torture and other ill-treatment in accordance with international standards.
- Remind magistrates that any statement which is established to have been obtained through torture or other ill-treatment cannot be invoked as evidence in any legal proceedings, except against a person accused of committing these acts as evidence in order to establish that such a statement was made. Judges have the duty to determine whether or not a statement was extracted under torture or other ill-treatment and to establish an independent, impartial, prompt and thorough investigation if there is reasonable grounds to suggest that the statement was obtained by such acts. The burden of proof is on the prosecutor who must prove beyond a reasonable doubt that the statement is not the result of such acts.
- Dismiss anyone from their post who is reasonably suspected of having committed, or participated in, acts of torture or other ill-treatment until the allegations relating to him or her are investigated.
- Conduct investigations into all allegations of torture or other ill-treatment. These investigations must be prompt, thorough, independent and impartial, in accordance with international standards, notably the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁷
- Begin legal proceedings without delay against those suspected of committing serious human rights violations, including torture and other ill-treatment, whenever there is sufficient admissible evidence.

3.4 ENSURE THE REHABILITATION OF ALL CHILD SOLDIERS

Amnesty International met with child soldiers being detained by the Malian security forces. These children told the delegation of how they had been recruited by armed groups, including MUJAO and AQIM (see Section 4.1: The recruitment and use of child soldiers and the Amnesty International document, Mali: First assessment of the situation of human rights after three week conflict, February 2013. Index: AFR 37/003/2013).

On 30 January 2013, delegates were able to meet with two child soldiers held at the gendarmerie in Segou. One of them seemed to have mental health issues and for this reason, the delegation refrained from taking his testimony. Malian authorities told Amnesty International that the Prosecutor of Segou would hand over these child soldiers to the Department of Social Affairs.

In late May 2013, an Amnesty International delegation was able to meet nine child soldiers who had been captured or had surrendered to the Malian authorities at the *Maison centrale d'arrêt* and at Camp I of the Bamako Gendarmerie. These children were being detained with adults.

When in June 2013, Amnesty International revealed that child soldiers, some of whom were aged thirteen, were detained with adults in *Maison centrale d'arrêt*; the authorities opened an investigation whilst claiming not to be aware of these facts. A month later, the Minister of Justice publicly stated that the investigation confirmed the detention of child soldiers with adults and that they had been handed over to UNICEF.

The Malian government has also signed a protocol with the United Nations for the release, transfer and protection of children associated with armed forces and groups. The Protocol, signed on 1 July 2013, provides a legal framework for the release and reintegration of these children.

Under this agreement, the Malian government agrees to transfer immediately, to the *Direction nationale pour la promotion de l'enfant et de la famille* (DNPEF, National Directorate for the Promotion of Children and Family) and to UNICEF, any child that has been transferred to them by Mali defence and security forces and / or from its allies. Moreover, the protocol states that “[i]n cases of child custody by the Malian forces of defence and security and until they are handed over to the DNPEF and UNICEF, they undertake to separate children from adults and boys from girls, and to show them special attention: food, shelter, basic health care and protection from all forms of violence, abuse and neglect.”¹⁸

Furthermore, the detention of children with adults is contrary to Article 37 of the Convention on the Rights of the Child, which states: “In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.”

Malian authorities should therefore always ensure that children are not detained with adults. In addition, Article 37 (b) of the Convention on the Rights of the Child provides that: “No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time.” The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, ratified by Mali on 16 May 2002, provides that, “[the] Armed groups that are distinct from the armed forces of a State should not, under any circumstances, recruit or use in hostilities persons under the age of 18 years” and thus requires that, “[the] States Parties shall take all feasible measures to prevent such recruitment and use, including the adoption of legal measures necessary to prohibit and criminalize such practices.”¹⁹ It also provides that, “[the] State Parties shall take all feasible measures to ensure that persons within their jurisdiction recruited or used in hostilities contrary to the present Protocol are demobilized or otherwise released from service. States Parties shall, when necessary, accord to such persons all appropriate assistance for their physical and psychological recovery and their social reintegration.”²⁰ All necessary measures must be taken by the Malian authorities to hand

over, children detained solely for being child soldiers, to UNICEF or to Malian social services for rehabilitation and reintegration.

In addition, Amnesty International is concerned that self-defence militias, established in 2012 in order to recapture the north, have recruited child soldiers. These militias²¹ were supported and equipped by the Malian security forces. Amnesty International was able to meet with members of the militia during a research mission in September 2012. Having established the presence of teenagers in these militias, delegates asked for access to the camp's recruitment register. This indicated that more than 40 children, born between 1995 and 1997, of whom at least two female minors, had been recruited by the militia.

Though it appears that these militias are no longer active, Amnesty International calls upon the authorities to ensure that all child soldiers recruited by these groups have been demobilised and also to ensure their rehabilitation and reintegration.

Amnesty International calls upon the Malian authorities to:

- Ensure that no child soldier is detained with adults and to ensure that, if appropriate, the children are transferred to UNICEF and the Malian social services, for the purpose of rehabilitation and reintegration.
- Apply the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, as well as the African Charter on the Rights and Welfare of the Child.
- Truly engage in the demobilisation of child soldiers, facilitating their reintegration into society and establishing well-funded rehabilitation programs that allow a return to civilian life and a sustainable future for former child soldiers, and which also meet the specific needs of girls.

3.5 PUT AN END TO DETENTION IN UNOFFICIAL PLACES

During various field missions, Amnesty International has collected information on people held in unofficial places of detention, in violation of international law. Amongst these people there were soldiers accused of being close to the ousted President, Amadou Toumani Touré, or known or suspected supporters and members of armed groups who took control of the north of the country.

During its April 2012 mission, Amnesty International learned that nineteen people were detained, apparently in secret, in a cell at the *Service national des jeunes* (National Youth Service).

During this mission, Amnesty International asked to visit places of detention located at the DGSE and the National Youth Service, though did not obtain such authorization. Officials from the Department of Justice told the delegates that these places were not within their jurisdiction, but that of the Presidency of the Republic. Delegates made a request to meet

with the Head of the DGSE, who had just been appointed by Captain Sanogo, but to no avail.

In addition, a number of people were detained and tortured at the DGDSE. This was the case of a shepherd who was arrested in April 2013 by the Malian army one hundred miles from Gao. This man, who Amnesty International met with at the gendarmerie of Camp I at Bamako in June 2013, described being detained for ten days at the DGSE. He said: "I was interrogated, they wanted to know if I was a member of MUJAO. They hung me from the ceiling; they threatened to kill me and to give me electric shocks. "

These places are unmonitored, even by the *Commission nationale des droits de l'homme* (CNDH, National Commission of Human Rights) whose mandate is to visit all places of detention in the country. In its 2012 annual report, the CNDH noted this fact by stating that: "There are, nevertheless, certain places like those used by State Security, which have not been visited. These places not only escape inspection but they also do not fall within ordinary judicial procedures to the extent that lawyers do not have access to their clients who have been arrested by these structures."²²

International law prohibits the detention of persons in unofficial places and this cannot be justified under any circumstances, including in the context of armed conflict or state of emergency. This practice notably encourages the police's use of incommunicado detention, beyond the legal time limits of detention and also facilitates the use of torture and enforced disappearances.

The Malian government must ensure that no one is held in an unofficial place of detention, particularly at the National Youth Service and the DGSE.

Amnesty International calls upon the Malian authorities to:

- Put an immediate end to arbitrary arrests and illegal detention in unofficial places of detention.
- Allow the National Commission of Human Rights (CNDH) in Mali to visit all places of detention, as specified in its mandate.
- Ensure that all detainees have access to lawyers, in accordance with international standards, including Article 14 of the International Covenant on Civil and Political Rights (ICCPR), Article 17 of the Convention on Enforced Disappearances, principles 17 and 18 of the United Nation's Body of Principles for the Protection of All persons under any Form of Detention or Imprisonment²³ and Articles 93 and 95 of the Standard Minimum Rules for the Treatment of Prisoners²⁴.
- Ensure that all prisoners have access to an independent doctor and medical care, in accordance with international standards, including Principles 24 to 26 of the United Nation's Body of Principles for the Protection of All persons under any Form of Detention or Imprisonment and Articles 24 and 95 of the United Nation's Standard Minimum Rules for the Treatment of Prisoners.

- Ensure that all prisoners can contact their families, in accordance with international standards, including Article 17 of the Convention on Enforced Disappearances, to Principle 15 and 19 of the United Nation's Body of Principles for the Protection of All persons under any Form of Detention or Imprisonment and Articles 37, 92 and 95 of the United Nation's Standard Minimum Rules for the Treatment of Prisoners.
- Ensure that, in law and in practice, all prisoners have prompt access to a judge who is able to determine the lawfulness of his or her detention and also to order his or her release if the detention is unlawful, and to supervise such a detention, in accordance with international standards, including Article 9 of the ICCPR, Article 17 of the Convention on Enforced Disappearances and principles 4, 9, 11, 32 and 37 of the United Nation's Body of Principles for the Protection of All persons under any Form of Detention or Imprisonment.
- Charge prisoners suspected of having committed recognised criminal offences or release them.

3.6 PURSUE AND COMPLETE INVESTIGATIONS OF ALLEGATIONS OF HUMAN RIGHTS VIOLATIONS AND VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

Since the beginning of the crisis, the Malian authorities have repeatedly stated their commitment to the fight against impunity and to investigate all allegations of human rights violations brought to their attention.

The authorities have taken note of the information published by Amnesty International and allowed complete freedom of inquiry to Amnesty International, in particular, by allowing delegates to visit some of these places of detention. The delegates were also able to meet several times with the Ministers of Justice and Defence and several officials of the prosecution, including the Public Prosecutor and the Attorney General.

The authorities have opened investigations into several cases of disappearances and extrajudicial executions including those committed in Niono in January 2013 and Diabaly in September 2012 (see Section 3.2.1 Extrajudicial Executions in Diabaly).

Moreover, in a letter to Amnesty International, on 16 April 2013, the Minister of Defence at the time, General Yamoussa Camara, stated that following the information provided to Malian authorities by the organisation, "instructions have been given to military authorities for the strict compliance with the principles of international humanitarian law." The Minister added that an investigation had been "opened by the competent national courts regarding the reports of extrajudicial executions of civilians and soldiers. Those indicted have been removed from the theatre [of operations] and have been made available to technical services for the investigation."

However, to Amnesty International's knowledge, these investigations have not as yet been completed. The organisation calls upon the judicial authorities to pursue their work comprehensively and independently and to publish the findings of their investigations which

should, where appropriate, lead to the prosecution of the alleged perpetrators in fair trials, which exclude the death penalty.

3.6.1 ALLEGATIONS OF INTERNATIONAL HUMANITARIAN LAW VIOLATIONS

Amnesty International has investigated several serious allegations of violations of international humanitarian law committed by parties to the conflict.

In January 2012, Malian soldiers, taken prisoner by members of armed groups, were summarily executed, and some of them were ill-treated, in particular after the capture of the town of Aguelhoc (1 500 km to the east of Bamako).

During a mission in April 2012, the Amnesty International delegation met two Malian soldiers who had been captured by the Ansar Eddin group in January 2012, before being released as part of an exchange. They told how some soldiers were tortured and abused, others killed and some had their throats slit. (See Amnesty International, Mali: Five months of crisis: Armed rebellion and military coup, May 2012, Index: AFR 37/001/2012).

Pictures of the soldiers held captive and slaughtered in Aguelhoc were then posted on the Internet to the outrage of the soldiers' families. Malian authorities accused the MNLA who denied any responsibility in this act and called it manipulation. A special commission of inquiry, composed of senior officers of the armed and security forces, was established. It submitted its report to the President of the Republic, Amadou Toumani Touré, on 22 February 2012. The Commission of Inquiry concluded that "disarmed soldiers of the Malian army were apprehended, their hands were tied behind their backs and then they were shot in cold blood"²⁵. During its mission, Amnesty International made a request to the Ministry of Justice to have a copy of the enquiry report, but there was no response.

The Malian army, for its part, is reportedly responsible for violations of international humanitarian law, as their attacks have caused civilian casualties and hit civilian property. In retaliation for MNLA attacks in the northeast, helicopters bombed the Kidal region (1600 km northeast of Bamako) several times from 11 February 2012, decimating herds of cattle, camels and goats, which are the livelihood of the Tuareg people. Moreover, during a bombing on 22 February 2012, a military helicopter targeted the Kel Essouck camp near Kidal, injuring at least twelve people. Amongst them was a four-year-old girl, Fata Walette Ahmedou, who was hit by a shell and died of her wounds the next day. Two women were also seriously injured: Khawlata Walette Alladi who was hit in the pelvis and had her leg amputated and another woman who had recently given birth and was wounded in the head.

Amnesty International calls upon the Malian authorities to:

- Conduct ongoing investigations and open new investigations into all allegations of violations of human rights and international humanitarian law, where the latter is applicable, committed since the beginning of the crisis in January 2012. These investigations should be thorough, independent and impartial in accordance with international law. In the event of sufficient evidence, the alleged perpetrators must be brought to justice in fair trials without the death penalty.

- Provide reparation to victims (including measures to ensure reparation, rehabilitation and restitution).

3.6.1.1. THE BOMBING OF KONNA (January 2013)

Amnesty International has also investigated another serious allegation of violations of international humanitarian law during the offensive launched by the French and Malian army in January 2013 to recover the northern areas of the country controlled by armed groups. During an air raid, five civilians, including a mother and her three young children were killed in their homes on the morning of 11 January 2013, during the French and Malian co-offensive to recapture the town of Konna.

Amnesty International went to this site two weeks after the attack and met with witnesses. These people said that there were no members of armed groups or military objectives in the home or the mosque that were hit during the attack. They said that there were members of a “jihadist” group (the name usually given to armed groups in Mali who act in the name of Islam) who were stationed at a crossroads some 150 meters from the area that was attacked.

All witnesses that Amnesty International interviewed indicated that the population had received no forewarning before the launch of this air attack.

Amnesty International asked the French and Malian authorities to immediately initiate an independent, thorough and impartial investigation and to ensure that the results of this investigation be made public.

Contacted several times by Amnesty International, the French army has categorically denied any involvement in the attack. On 21 February 2013, the French Minister of Defence stated in a letter sent to the organisation:

“As far as testimonies of civilian casualties from air strikes in Konna on the morning of 11 January 2013 are concerned, I can confirm that after an internal investigation, there can be no question that these are a consequence of the French armed forces’ attack.”

The Malian Minister of Defence, during a meeting with an Amnesty International delegation in Bamako on 31 May 2013, stressed that:

“On 11 January the two forces - Malian and French - acted together in the morning at Konna. I recognize that there has been collateral damage, but in military action, we weigh up immediate military advantage and incidental effects before acting. “

In July 2013, Amnesty International subsequently spoke with representatives of the French Ministry of Foreign Affairs and Defence in Paris. The French authorities maintained their version of events whilst expressing willingness to cooperate with an investigation opened by the Independent Expert on Mali who was appointed by the Council of Human Rights of the United Nations in March 2013.²⁶

Amnesty International calls upon the Malian and French authorities to:

- Open an investigation to determine if their forces actually carried out the attack, and if so, disclose information relating to the circumstances of the attack to assess if this is in accordance with international humanitarian law.

3.7 ENSURE JUSTICE AND REPARATION FOR VICTIMS OF RAPE AND OTHER SEXUAL VIOLENCE

During their occupation of the north of the country, members of armed groups, particularly the MNLA, were responsible for rape and sexual violence against women and girls (See documents Amnesty International Mali: Mali: Five months of crisis: Armed rebellion and military coup, May 2012, (Index: AFR 37/001/2012) and Mali: Preliminary findings of a four-week mission: Serious human rights abuses continue, in June 2013 Index: (AFR 37/004/2013)

Though authorities have denounced these acts, they have not, to Amnesty International's knowledge and contrary to their obligations, opened investigations to shed light on these serious matters and guarantee the right to justice and reparations for survivors of rape and sexual violence.

The authorities have not undertaken large-scale action to ensure adequate and effective reparation for victims, notably including medical and psychological support.

In addition to the physical effects, there are numerous psychological consequences that are devastating for victims of sexual violence: these include emotional disorders such as depression, post-traumatic stress syndrome, shock, and intense feelings of terror, rage, shame, loss of self-esteem, guilt, memory loss, nightmares or flashbacks of the attack during the day. These problems manifest themselves in physical symptoms such as headaches, nausea, abdominal pain, rashes, sexual dysfunction, insomnia or fatigue. These effects normally last for years.

These physical and psychological effects have been treated by some doctors and hospital staff and human rights NGOs. However, the magnitude of this problem requires a rapid and coordinated response from the Malian authorities.

Amnesty International calls upon the Malian authorities to:

- Investigate all allegations of sexual abuse, prosecute those responsible when there is sufficient admissible evidence and provide victims with adequate and effective reparation;
- Establish aid programs for victims of rape and other forms of violence against women, including programs for emergency medical assistance and rehabilitation, with the help of MINUSMA, donors, and national and international NGOs;

- Ensure that women who are victims of rape and other forms of sexual violence have access to appropriate medical care, including financing the provision of care, and ensuring the financing of adequate health care, including those concerning women and girls with HIV / AIDS, in particular for those victims who have been raped in the context of the current political and military crisis.
- Launch public awareness campaigns, in cooperation with the UN and national and international NGOs to fight against the feeling of shame that affects people who have suffered rape and other forms of violence against women.

3.8 ABOLISH THE DEATH PENALTY

The death penalty is intended for various offenses in the penal code, including, since 2007, those concerning terrorism. No executions have taken place since 1980, but the courts continue to impose death sentences. The most recent were passed by the Assizes Court of Bamako in September 2013.

The question concerning the death penalty is all the more important given that more than 120 people are currently being prosecuted for “conspiracy, rebellion, undermining the internal and external security of the state, crimes and offences of a racial, regionalist and religious nature and terrorist acts.” Threatening the internal and external security of the state and terrorist acts are punishable by death under the Penal Code and Law No. 08-025 of 23 July 2008 regarding the suppression of terrorism in Mali.

Since 2002, when the government adopted a decree proclaiming a moratorium, several initiatives have been taken regarding the abolition of the death penalty. In October 2007, a bill to abolish the death penalty was adopted by the government. In a statement made by the cabinet, the government explained its approach:

“The abolition of the death penalty, which transforms into law what before was merely practice, complies with the respect for life and the sacred values of humanism, mercy, compassion and forgiveness which are also those of our society. In addition, by removing the death penalty, our country reconciles its principles and rules, on the one hand, with the provisions of its Basic Law, of which Article 1 states, “The human person is sacred and inviolable. Every individual has the right to life, liberty, security and the integrity of his or her person”, and also with the international commitments that it has signed”²⁷.

This bill, which was presented to the National Assembly in 2007, has generated much debate in society. The examination of this text has repeatedly been postponed, and to date, this bill has still not been voted upon.

Despite this delay, the government has indicated its willingness to fight against the application of the death penalty by voting several times in favour of the UN resolution calling upon states to adopt a universal moratorium.

The newly elected officials have the opportunity to send an even clearer and unambiguous

message to Malian society and to the international community demonstrating its willingness to join the community of states that have abolished the death penalty.

The abolition of the death penalty would be in line with the step taken by Mali as of 2000 when it ratified the Rome Statute establishing the International Criminal Court. By this treaty, the international community decided to exclude the use of capital punishment for the perpetrators of genocide, crimes against humanity or war crimes. It would be therefore be inconsistent that Malian courts could impose heavier sentences than those envisaged in this treaty.

Amnesty International calls upon the authorities to:

- Commute all death sentences, gradually reduce the number of crimes punishable by the death penalty and then take action in favour of total abolition;
- Review and adopt the draft law abolishing the death penalty, which was submitted to the National Assembly in 2007;
- Ratify without reservations the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

4. RECOMMENDATIONS TO ARMED GROUPS

Armed groups must respect the fundamental principles of humanity as reflected in international humanitarian law at all times. Armed groups in northern Mali have absolutely not met these standards. They have unlawfully killed civilian and military prisoners. Members of these armed groups have raped women and girls, others have beaten, tortured and mutilated people accused of theft or of not respecting the behaviours they tried to impose on the population in the name of their interpretation of Islam. They have also recruited and used a large number of child soldiers.

When committed in a situation of armed conflict, such abuses, as well as similar acts of other cruel, inhuman or degrading treatment, also violate international humanitarian law and constitute war crimes.²⁸

It is the responsibility of the Malian authorities to open thorough, independent and impartial investigations into these serious allegations, to bring to justice the perpetrators and to provide reparation for these acts to the victims and their families.

In addition, Amnesty International calls upon these groups to end their violations of international humanitarian law and human rights abuses committed in areas that remain under their control.

ARMED GROUPS IN THE NORTH OF THE COUNTRY

The absence of effective state structures and development during the last decade has fostered the emergence of demands for autonomy and the emergence of armed groups and militias in northern Mali. The origin of these groups and their relationships - amongst themselves and with the Malian government and other states - are not always clearly defined and have led to differing interpretations.

The National Movement for the Liberation of Azawad (MNLA)

The MNLA was created in October 2011 by the merger of several previous Tuareg groups. It is comprised in particular of Tuaregs who had taken refuge in Libya and returned to Mali after the fall of Muammar Gaddafi. The MNLA describes itself as “a revolutionary movement fighting for the right to self-determination for Azawad²⁹” and is led by Mohammed Ag Najim, a former colonel in the Libyan army. The MNLA claims to be a secular movement. On 6 April 2012, the MNLA proclaimed the independence of Azawad, which has not been recognized to date by any state.

Ansar Eddin

Ansar Eddin (which in Arabic means “Defenders of the religion”) was established in December 2011. It is led by Iyad Ag Ghaly, a former leader of the Tuareg rebellions of the 1990s. Unlike the MNLA, the Ansar Eddin group has no territorial claims, yet its declared intention is to impose Sharia law on the entire country.

Al Qaeda in the Islamic Maghreb (AQIM)

Deriving from the Algerian *Groupe salafiste pour la prédication et le combat* (GSPC, Salafist Group for Preaching and Combat), Al Qaeda in the Islamic Maghreb (AQIM) was established on 24 January 2007 after having sworn allegiance to Osama bin Laden. This group settled in the north of the country finding no resistance from the Malian government. This passivity of the Malian authorities allowed AQIM to build a sanctuary in the Sahel region, where it has held and still holds many hostages. Some were exchanged for ransom through the mediation of the Malian state and/or Burkina Faso. AQIM has combatants of various nationalities in its ranks, including from Algeria, Mauritania, Senegal and Mali. In addition, reports indicate the presence of self-proclaimed Boko Haram (active armed group in Nigeria) in the region, a group which has established links with AQIM members.

Mouvement pour l'unicité et le jihad en Afrique de l'Ouest (MUJAO, Movement for Oneness and Jihad in West Africa)

MUJAO was established in late 2011. The movement claimed responsibility for the kidnapping, at the end of October 2011, in the Tindouf region (south-western Algeria) of three aid workers (two Spaniards and one Italian), and the kidnapping of seven Algerian diplomats on 5 April 2012 in Gao.

Coexistence despite different objectives

Although they have different objectives, these armed groups have found a *modus vivendi* that has allowed them to share power following their conquest of the north. This was confirmed to Amnesty International by numerous testimonies collected in the course of their various missions in the field. One person who fled Timbuktu following the capture of the city, told Amnesty International delegates: “Before the MNLA arrived in March [2012], the Arab militia had taken control after the departure of the soldiers who left behind weapons and ammunition. This militia went into their barracks. Then the MNLA took control of several parts of the city. When Ansar Eddin arrived the next day, the Arab militia and the MNLA left. It was like a handover of power. All of these groups say they have different goals, but in reality, on the ground, there is a distribution of duties; the inside of the city is controlled by Ansar Eddin and the airport is in the hands of the MNLA.”

The links between these groups were also highlighted in the “AQIM Roadmap for Azawad”, a document signed by the leader of AQIM, Abdelmalek Droukdel. This document was found in Timbuktu on 16 February 2013, by two French journalists from the daily newspaper *Libération*, a daily French newspaper, and from *Radio France Internationale*. In this text, AQIM has developed its strategy for taking control of Mali and distributed, in this context, functions to the various armed groups, including to the MNLA and Ansar Eddin.³⁰

4.1 THE RECRUITMENT AND USE OF CHILD SOLDIERS

Armed groups, throughout the conflict, have been recruiting and using child soldiers between the ages of twelve and seventeen. Some children carried weapons, others were stationed at checkpoints, and others had to cook. Some children were also sent to the front line. After the withdrawal of the armed groups in major northern cities in January 2013, some of these children were arrested and detained by the Malian authorities.

Amnesty International was able to document the method of recruitment and use of children by talking with local people and some child soldiers who were arrested by the Malian authorities. (For more details on this recruitment, see Amnesty International's report, Mali: Preliminary findings of a four-week mission: Serious human rights abuses continue, June 2013 Index: (AFR 37/004/2013).

During a mission in June 2013, Amnesty International delegates met with people from Kadji, a village of 6000 residents located on the banks of the Niger River, a few kilometres south of Gao. At least 40 children from the village, some as young as twelve years old, had been recruited by MUJAO or had joined their ranks, since the beginning of the armed rebellion in the north. According to several Kadji residents, some MUJAO members had also come to the village to recruit children and advertisements were broadcast on radio urging people to join MUJAO.

In January and in June 2013, Amnesty International also met child soldiers who were arrested by the Malian army or who had surrendered to the authorities and had been detained. One of them told the Amnesty International delegation that he was studying with 23 other students with a Koranic teacher. In November 2012, these children were sold to "jihadists" by the grandson of his teacher. The child soldier also explained how he was prepared to fight and was forced to ingest certain substances (For further details on these modes of recruitment, see Amnesty International, Mali: Preliminary findings of a four-week mission: Serious human rights abuses continue, June 2013 Index: (AFR 37/004/2013).

Moreover, a prisoner that Amnesty International met in Bamako prison in May 2013 said that the recruited child soldiers were trained to use weapons. Another prisoner added: "Sometimes when they did not obey orders or they were unable to do the assigned exercises, they received threats. MUJAO Members pretended to shoot them; the bullet went right by them. This happened several times. Some of these children left to fight in Konna and Diabaly."

Some of these children returned home after the departure of MUJAO from the Gao region and many of them, who were held by the Malian army, have been handed over to Malian social services or UNICEF; however others remained unaccounted for. Amnesty International is concerned that some children are still serving in the ranks of armed groups operating in the extreme north of the country and that others run the risk of being recruited or re-recruited.

In his October 2013 report, the Secretary-General of the United Nations echoed this serious situation by stating that: “Armed groups allegedly perpetrated rape and other incidents of grave sexual violence against children. Cases of the recruitment and use of children, as well as of killing and maiming, have been recorded, including the killing of eight children in incidents involving explosive remnants of war”.³¹

The MINUSMA also sought to obtain the release of child soldiers held by armed groups. In his October 2013 report, the UN Secretary-General stated that, “negotiations between the MNLA and the United Nations led to the release of three out of eight children formerly associated with armed groups and detained in an MNLA jail in Kidal. The released children were sent to a UNICEF-supported transit centre for psychosocial care and reintegration. Advocacy is ongoing for the release of the remaining five children”³².

The recruitment and use of child soldiers constitutes a violation of children's rights and a war crime if the children are under the age of fifteen. All armed groups and self-defence militias should immediately stop the recruitment, the re-recruitment and the use of children under eighteen years of age, and they must release all children serving in their ranks.

Amnesty International calls upon the armed groups to:

- Immediately stop recruitment, re-recruitment and the use of children under 18 years; release all children who serve in their ranks.

4.2 UNLAWFUL KILLINGS, TORTURE AND ABDUCTION

At least 14 civilians were unlawfully killed by armed groups who suspected them of being supporters of the government or of being in favour of the French army's intervention.

Amnesty International has collected information on the execution of five civilians by an armed group on 2 April 2012, a few days after armed groups took control of the north of the country. The executions took place not far from the Takalot camp [50 km south of Kidal]. One witness stated that this same group shot at people living in a camp on the road from Tidjidar to Habrek. Residents fled but a pregnant woman was hit by a bullet and died on the spot.

Civilians were also killed in the days that followed the launch of the counter-offensive by the French and Malian armies in January 2013. Cheickna Kandako, a civilian, who was returning home was executed by members of MUJAO and AQIM on 14 January 2013. A relative of Cheickna told Amnesty International that his relative, seeing that members of MUJAO were looking for him, tried to flee. “The Jihadists followed him and killed him with a bullet that went through his head. A woman who prevented the Jihadists entering the housing compound to protect Cheickna was wounded in the arm.”

The Amnesty International delegation also collected information on a number of civilians, including Tuaregs, who were subjects of unlawful killings, torture resulting in death or kidnapping by members of MUJAO because they had publicly expressed support for the

intervention of the French and Malian armies.

Around 10 February 2013, Al Wata Ould Badi returned home lauding the merits of the French and Malian armies and carrying the French and Malian flags on his shoulders. MUJAO members went to his home and asked him to follow them. He was not seen for a week. Unidentified persons brought him home in a sheet. His body was covered with cigarette burns and he was unable to speak. He died a day later at the Gao Hospital.

After the recapture of Gao by the French and Malian armies at the end of January 2013, a Tuareg butcher, Bouba Ag Abdoulaye, was wearing a Malian and a French flag. Around 3 February, members of MUJAO went looking for him in several houses in Djibock (40 km from Gao). They finally found him at home and took him away. He has not reappeared since. After his abduction, his family found traces of blood in his house.

4.3 SEXUAL VIOLENCE

Some members of armed groups, particularly the MNLA, are responsible for sexual violence against women and girls.

During its April 2012 mission, Amnesty International was able to collect information on a number of cases of sexual violence, including rape, in the Gao region³³, by meeting with some of the survivors who had taken refuge in Bamako.

A young 16 year old girl, who was raped in Gao shortly after the capture of the city beginning of April 2012, told Amnesty International delegates: "Five rebels came to get me by force, they spoke Tamasheq [language spoken by Tuaregs] and some spoke Songhay. They took me into the bush and raped me. I stayed there two days. During this period, I was repeatedly raped."

Other girls were abducted in groups and were gang raped.

Three young girls from the Bella ethnic group (Malian ethnic group) were kidnapped at night by armed men in Gao. They were brought back home the next day and had bruises on their lower backs.

It is difficult to measure the extent of this phenomenon, but a Malian NGO working in the region of Gao, the *Groupe de recherche, d'étude et de formation femme - action* (GREFFA Group of research, study and training woman-action) told Amnesty International in June 2013, that they had documented 83 cases of rape of women and girls in Gao and Menaka. The rapes were committed between March 2012 and January 2013 during the occupation of the north of the country by the MNLA and other armed groups. The victims were aged fifteen to sixty years. In most cases, the victims said that members of the MNLA had raped them. Members of MUJAO are also reportedly responsible for two cases of rape in Gao.

In late January and during February 2013, the same organization documented eleven new cases of rape in Gao. Amongst them, six girls aged six to 13 years were reportedly raped by a

young man of Bella ethnicity in March and April 2013. This man is being detained in Sévaré and investigations are underway to determine whether he had links with MUJAO.

Around the first week of May, ten cases of rape perpetrated in Menaka were treated at Mopti hospital treated. In addition, there were three other cases of gang rape (two cases perpetrated in Gao and one in Timbuktu). According to the same medical source, members of the MNLA committed rape in Menaka, while MUJAO and AQIM were reportedly responsible for three cases of gang rape in Gao and Timbuktu.

The UN Secretary-General said in his October 2013 report that, “Allegations of sexual violence have declined significantly since 2012. However, incidents of sexual violence perpetrated by armed groups continued to be reported in the northern regions and particularly in Gao and around the town”³⁴.

4.4 OTHER ABUSE AGAINST CIVILIANS

Upon taking control of the north of the country, at the beginning of April 2012, some groups, such as Ansar Eddin, AQIM and MUJAO announced their intention to apply their interpretation of Sharia to any person accused of a crime or who refused to comply with the norms and behaviours required by them. Thus people accused of theft had limbs amputated and others suspected of having sexual relations outside of marriage were stoned or beaten.

4.4.1 AMPUTATIONS AND STONING

Between August and December 2012, at least eight people accused of theft had limbs amputated by members of armed groups.

Amnesty International met one of the victims, in September 2012, in Bamako where the person had taken refuge. This Tuareg cattle herder, accused of stealing cattle, had his right hand amputated on 8 August 2012, following a mock trial which was contemptuous of essential guarantees provided by international law. He told Amnesty International how he had been “tried” and “convicted” (To read his testimony, see Mali Amnesty International: Civilians bear the brunt of the conflict, September 2012 Index: AFR 37/001/2012).

Amnesty International also received information on six other amputation cases, which were committed in Gao and Timbuktu. These people had their right hand and right foot amputated by members of MUJAO on 10 September at around 1.30 pm in the Place de l’Indépendance, in front of a crowd in Gao. One of the witnesses told Amnesty International that the amputated hands and feet were exhibited at the police station.

Amnesty International has also received evidence concerning the ill-treatment of people accused of not complying with the dress and lifestyle requirements imposed by certain armed groups, in the name of their interpretation of Islam (including the prohibition to play non-religious music, to smoke tobacco and consume alcohol and also for un-related members of the opposite sex to go out together).

On 14 and 15 June 2012, members of MUJAO whipped smokers in public in Bourem (locality in the Gao region, 1 287 km from Bamako). A month later, on 16 July, a resident of Timbuktu, accused of drinking alcohol, received 40 lashes given by members of the Ansar Eddin group.

People were beaten for having sex outside of marriage. On 20 June 2012, the Ansar Eddin group flogged an unmarried couple who had a child, in Timbuktu.

One month later, on 29 July in Aguelhok, Ansar Eddin members stoned to death another couple in the same situation in front of some 200 people. A witness said the man and woman had been “put into two holes and the jihadists stoned them to death.”

These stonings, amputations and floggings are corporal punishments, which constitute torture.

Amnesty International calls upon the armed groups to:

- Cease immediately all abuses of human rights and violations of international humanitarian law, including in particular, attacks targeting civilians as well as any other attacks that are indiscriminate or otherwise fail to give due respect to the lives or safety of civilians.
- Remove any members suspected of abuses of human rights from positions and situations where they might continue to perpetrate abuses.

4.5 RELEASE ALL HOSTAGES

Amnesty International is also concerned about the regular hostage taking perpetrated by some armed northern groups, notably AQIM and, more recently, MUJAO.

Since its in 2007³⁵, AQIM has claimed responsibility for the abduction of forty hostages the majority of whom were of European origin (Swiss, German, British, Spanish, French, Austrian, Italian), two were Canadian diplomats and the others came from Africa (Togo, Madagascar, Niger, Algeria, Mali). Nine of them were executed during their captivity.

Though a certain number of hostages were not kidnapped in Mali but in other countries in the sub-region (Tunisia, Mauritania, Niger), consistent reports indicate that most or all of those captured were held by AQIM in northern Mali, in an area that had become a kind of sanctuary for the armed group over the years. In addition, Malians, including politicians, have played an important role in the release of some hostages for ransom.

AQIM also kidnapped and killed a Malian customs officer called Merzouk, in Tegharghar (area in the Tessalit region, about 1700 km northeast of Bamako) in August 2010. This man was apparently targeted because he was accused of being a Malian intelligence agent.

Since the beginning of the crisis in Mali, a new armed group, MUJAO, claimed responsibility for hostage takings, including that of the Algerian consul in Gao, Tahar Touati, and six Algerian nationals working in the consulate. These people were kidnapped on 5 April 2012, a few days after the capture of the city by armed groups from the north of the country. MUJAO demanded a ransom of 15 million euros and the release of 'Islamist' prisoners held in Algeria. When Algeria refused to comply with the group's demands, MUJAO claimed responsibility for the execution of the Algerian consul in early September 2012. Subsequently, three consular officers were released and three others remain in captivity at the time of writing this report.

On 2 November 2013, Ghislaine Dupont and Claude Verlon, journalists at *Radio France Internationale* (RFI) were abducted by armed individuals in Kidal (1 500 km northeast of Bamako) and shot in cold blood shortly after their abduction. This double murder shows just how insecure this region of the country remains. AQIM claimed responsibility for this abduction and killings a few days later.

International law specifically prohibits hostage taking. Amnesty International calls upon AQIM and MUJAO to end this practice and to immediately and unconditionally release all hostages, without endangering their safety and wellbeing. Failure to treat all persons captured humanely or to inflict, or threaten to inflict, torture and other cruel, inhuman or degrading treatment demonstrates a fundamental disrespect of human rights by AQIM and MUJAO.

Amnesty International calls upon the armed groups to:

- Immediately release hostages in northern Mali and not subject them to torture or other ill-treatment during their captivity.

5. RECOMMENDATIONS TO THE INTERNATIONAL COMMUNITY

The international community reacted very quickly to the crisis in Mali by condemning the military coup in March 2012 and imposing sanctions on Mali. The African Union and the *Organisation internationale de la Francophonie* (OIF) have suspended Mali while ECOWAS was involved in a peaceful resolution of the political deadlock, which arose from the coup. This regional organization has promoted a framework agreement, which was concluded in April 2012 in Ouagadougou, providing for a transition period led by a civilian government pending a presidential election.

In December 2012, the UN Security Council adopted the Resolution 2085 calling for the deployment of an African-led International Support Mission to Mali (AFISMA), led by ECOWAS, and to which, a contingent of Chadian soldiers is also attached. After the intervention of the French army and the recovery of the north, AFISMA was transformed, in July 2013, into a United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA).

5.1 ENSURE AN EFFECTIVE MONITORING OF THE HUMAN RIGHTS SITUATION

The Malian crisis gave rise to violations and abuses committed by both armed groups and security forces. It is therefore essential to ensure an independent monitoring of the human rights situation.

5.1.1 RECOMMENDATIONS TO THE UNITED NATIONS AND THE MINUSMA

From the outset Amnesty International has underlined the need to include sufficient numbers of monitors, amongst any force to be deployed in Mali, to be able to monitor the human rights situation independently and efficiently, and report publicly and periodically on its findings. It has also asked that this presence be in sufficient numbers and well resourced in order to investigate all credible allegations of violations and abuses of international human rights and humanitarian law committed by all parties, including the international forces themselves. Given the nature of the conflict in Mali, the human rights presence should include expertise in gender and children rights. The human rights presence should be also able to provide appropriate human rights training to international contingents as well as the Malian security forces.

Five months after the MINUSMA's deployment, it is clear that the number of human right monitors falls far short of the required needs of the mission in Mali. Amnesty International calls upon the United Nations to increase the presence of human rights observers in the field. This should allow for these observers not only to monitor the situation in the north of the country but also in Bamako where Malian security forces have committed serious human

rights violations against civilians and military personnel opposed to the junta.

In addition, Amnesty International calls upon the United Nations to ensure that its presence in Mali is in accordance with strict vetting procedures as prescribed in the UN Human Rights Screening of United Nations Personnel Policy. The MINUSMA should also make sure that mechanisms are in place to screen out, and suspend or remove individuals reasonably suspected of having committed crimes under international law or other human rights violations from all Malian security forces.

Moreover, Amnesty International is concerned by recent information published by the UN on 23 September 2013 regarding “serious misconduct by its peacekeeping troops [...], including an alleged incident of sexual abuse”. The incidents allegedly “occurred in the north-eastern town of Gao on 19 and 20 September.” Amnesty International welcomes the UN announcement that the Mission has acted “immediately to determine the facts being alleged and to preserve evidence and provided assistance to the alleged victim”. The organization asks that the perpetrators of such acts are brought to justice in fair proceedings

Amnesty International calls upon the UN and MINUSMA to:

- Ensure that its body of human rights monitors be equipped with all necessary resources, including strong gender expertise, to independently monitor in respect of international human rights and humanitarian law; these human rights monitors should submit public and regular reports to the Security Council on their findings.
- Provide support to investigations led by the Malian authorities on human rights violations and abuses committed by both security forces and armed groups.
- Assist in the establishment of an international commission of inquiry as provided in the Ouagadougou Peace Agreement of 18 June 2013.
- Keep the public informed about this investigation on serious misconduct by its blue helmets troops and ensure that persons who are found responsible are immediately removed of their functions and the victims are able to get justice and reparations.

5.1.2 RECOMMENDATIONS TO THE AFRICAN UNION

The African Union (AU) has been involved in the resolution of this conflict since the beginning of the crisis in Mali. As part of the implementation of the decisions of the AU Peace and Security Council and the ECOWAS, the AU has deployed human rights observers in Mali, as part of AFISMA, as of June 2013.

The observer team's mission is to “observe and [...] to submit reports on the status of the implementation of humanitarian law and the international law of human rights; to monitor and report on violations of human rights in northern Mali, to advise and maintain close collaboration with local authorities for the promotion of human rights, national reconciliation and peace”³⁶.

In June 2013, this organization also sent a fact-finding mission led by Reine Alapini Gansou, the UN Special Rapporteur on Human Rights Defenders in Africa from the African Commission on Human and Peoples' Rights and Head of the team of observers from the AU. The delegation has also visited the detention centre at Camp I of the National Gendarmerie, where they met the soldiers detained following the April 2012 coup.

After this mission, the delegation declared that there had been many serious human rights violations in the north, especially in Gao, Timbuktu and Kidal at a press conference held in Bamako on 7 June. In this press conference, the delegation said that the goal of this mission is to “prove the guilt of the perpetrators of human rights violations and then bring them in front of national courts, or where appropriate, subnational and international courts”³⁷.

A full report of the mission followed by recommendations is to be submitted to the Conference of Heads of State and Government of the African Union (AU) in January 2014.

In July 2013, the Bureau of the African Union in Mali was set up to work with the Human Rights Unit of the MINUSMA. That same month, 13 new human rights observers from the AU and ECOWAS in Bamako were trained before joining the other nine observers already deployed in the north.³⁸

Amnesty International calls upon the AU and ECOWAS to:

- Make public the report of the AU’s fact-finding mission to be submitted to the Conference of Heads of State and Government of the African Union in January 2014.
- Strengthen their human rights observation body and deploy it in all areas of the country affected by the human rights crisis, which sprang from the armed uprising and military coup, ensuring equal attention is given to human rights and international humanitarian law violations committed by the armed groups and the Malian security forces.
- Make public the reports of the AU team of human rights monitors.

5.1.3 RECOMMENDATIONS TO THE EUROPEAN UNION

The European Union is currently extensively engaged in Mali with a comprehensive response to the fragile political, security, humanitarian and human rights situation as per the 2011 Strategy for Security and Development in the Sahel. The EU is challenged to ensure that human rights are foregrounded in all aspects of its action in Mali, translating its legal and policy commitments on human rights, including multiple EU guidelines, the Strategic Framework and Action Plan on Human Rights and the UN SC Resolutions 1325, 1820 into concrete, coherent action.

In February 2013, the European Union responded to a request made by the Malian authorities to launch a training program for the Malian armed forces, which became the European Union Training Mission in Mali (EUTM Mali).

The mandate and objectives of the EUTM do not specifically refer to human rights, its mandate is “to allow the Malian authorities to: (a) fully restore constitutional and democratic

order through the implementation of the road-map adopted on 29 January by the National Assembly; (b) help the Malian authorities to exercise fully their sovereignty over the whole of the country; (c) neutralise organised crime and terrorist threats”³⁹.

The objective of this mission is “to support the rebuilding of the Malian armed forces and to meet their operational needs by: - providing expertise and advice, in particular with regards to command and control, logistical chains, human resources and international humanitarian law”. The EUTM provides also training to combat units but is not involved in combat operations.⁴⁰ By September 2013, the EUTM had already trained two Malian battalions.

Amnesty International calls upon the EU to:

- Ensure that those responsible for the EUTM stress the importance of respecting human rights and humanitarian law in their training.
- Ensure that the Malian armed forces are alerted in particular to the absolute prohibition of torture and other ill-treatment.

5.1.4 RECOMMENDATIONS TO THE PROSECUTOR OF THE INTERNATIONAL CRIMINAL COURT

In July 2012, the Malian authorities delivered a letter to the Prosecutor of the International Criminal Court, referring to the situation in Mali on the basis that national judicial authorities were unable to investigate and prosecute those suspected of criminal responsibility for crimes against humanity and war crimes committed in the north of the country.⁴¹

In January 2013, the ICC Prosecutor Fatou Bensouda announced that her office would open an investigation into war crimes committed over the past year of the conflict, adding that the Office of the Prosecutor had found “reasonable basis” to believe that the following crimes had been committed: murder; mutilation, cruel treatment and torture; intentionally directing attacks against protected property; the passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court; pillaging, and rape.⁴²

Amnesty International welcomes this decision but calls upon the Prosecutor to look at the full scope of alleged crimes across the country, including those carried out by Malian security forces or those committed by persons acting with the authorization, support or acquiescence of the state and not only focus on the serious human rights violations and abuses committed in the north.

APPENDIX I

Reports

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

Amnesty International, Mali. Civilians bear the brunt of the conflict, September 2012. Index: AFR 37/007/2012.

Amnesty International, Mali. "We haven't seen our cellmates since": Enforced disappearances and torture of soldiers and police officers opposed to the junta, July 2013, Index: AFR37/004/2012.

Amnesty International, Mali. First assessment of the human rights situation after three week conflict, February 2013, Index: AFR 37/003/2013.

Amnesty International, Mali. Preliminary findings of a four-week mission: Serious human rights abuses continue, June 2013, Index: AFR 37/004/2013.

Press releases and public statements :

Amnesty International, Mali. Government must stop bombing civilians, 23 February 2012, Index AI: PRE01/101/2012.

Amnesty International, Mali. Coup heralds period of uncertainty on human rights, 22 March 2012, Index AI: PRE01/151/2012.

Amnesty International, Mali. Urgent action needed to protect civilians, 2 April 2012, Index AI: PRE01/174/2012.

Amnesty International, Mali urged to release top officials arbitrarily detained, 18 April 2012. Index AI : PRE01/210/2012.

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

Amnesty International, Armed intervention in Mali risks worsening the crisis, 21 December

2012, Index AI: PRE01/635/2012.

Amnesty International, Mali. ICC investigation of conflict crimes a key step towards justice, 16 January 2013, Index AI: PRE01/021/2013.

Amnesty International, Mali. African Union Summit: Human rights must be protected during armed conflicts, 26 January 2013, Index AI: IOR63/001/2013.

Amnesty International, Mali. Amnesty International welcomes investigation into human rights violations by Malian soldiers, 13 June 2013, Index AI: AFR 37/005/2013.

Amnesty International, Children in Mali conflict forced to fight, detained with adults and tortured, 14 June 2013, Index AI: PRE01/286/2013.

Amnesty International, Mali. Mutinous soldiers captured and killed in purge, 23 October 2013, Index AI: PRE01/559/2013.

Amnesty International, Mali. Amnesty International condemns the murder of two RFI journalists, 4 November 2013, Index AI: AFR 37/007/2013.

APPENDIX II

List of 32 people reported missing after being arrested by Malian security forces and whose case Amnesty International has investigated.

(A) List of prisoners abducted from their cells at the **Kati** military camp (near **Bamako**) and reported missing on the night of 2 to 3 May at around 2am.

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

(B) List of people arrested by the Malian army in January and February 2013 and who have since been reported missing.

- (22) Moustapha Ag Mahama, disappeared in January 2013 in **Sévaré**.

Persons abducted in **Timbuktu** on 14 February 2013

- (23) Ali Ould Mohamed Kabad, 70 years.
- (24) Maouloud Fassoukoye
- (25) Hama Ould Dahama
- (26) Dana Ould Dahama
- (27) Mohamed Ould Sidy Lamine,
- (28) Hama Ould Mahmoud, known as Koroukorou
- (29) Tidjani Ould Mahmoud
- (30) Youba Ould Ahmet
- (31) Sidy Ahmed Ould Ahmet

(C) Person reported missing after being arrested following the 30 September 2013 mutiny

- (32) Colonel Youssouf Traoré

NOTES

1 UNCHR, Mali, Situation Update, No 20, June –July 2013, available at: <http://reliefweb.int/report/mali/mali-situation-update-n%C2%B0-20-june-july-2013>.

2 The putschists justified their coup by "the failure of the government to provide adequate resources to armed and security forces for them to accomplish their missions of defending the integrity of the national territory," Public statement of the National Committee for the Recovery, Democracy and the Restoration of the State (CNRDR) of 22 March 2012.

3 The MINUSMA's mandate is available at the following address:
<http://www.un.org/en/peacekeeping/missions/minusma/mandate.shtml>

4 The full text of the agreement is available at the following address: <http://www.tamoudre.org/opinions/accord-preliminaire-a-lelection-presidentielle-et-aux-pourparlers-inclusifs-de-paix-au-mali.html>.

5 Letter dated 2 October 2013, addressed to the Secretary-General by the Permanent Representative of Mali (S/2013/586), available at the following address:
http://www.un.org/ga/search/view_doc.asp?symbol=S/2013/586&referer=http://reliefweb.int/report/mali/letter-dated-2-october-2013-permanent-representative-mali-united-nations-addressed&Lang=E

6 In his speech, the new President notably declared: "No one will be above the law. It applies equally to all. I will put an end to impunity, and to the privileges which are the cause of the perversion of judicial and state institutions". For his full speech see, http://www.malijet.com/a_la_une_du_mali/80900-voici-le-discours-d%E2%80%99investiture-du-nouveau-pr%C3%A9sident-ibrahim-bou.html.

7 See 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

8 See Human Rights Committee, General Comment 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13, para. 18; Human Rights Committee, Chihoub v Algeria, Communication No. 1811/2008, para. 8.5; Human Rights Committee, Aboufaied v Libya, Communication No. 1782/2008, para. 7.4; Human Rights Committee, Berzig v Algeria, Communication No. 1781/2008, para. 8.5;

9 See the jurisprudence of the Committee of Human Rights, repeated in the European and Inter-American Courts of Human Rights, notably in Quinteros v.. Uruguay case (Communication No. 107/1981 : Uruguay, 21 July 1983, Doc. ONU CCPR/C/19/D/107/1981, paragraph 14).

10 Department of Justice, Order No. 2013-2064/MJ-SG of 23 May 2013 establishing a commission of inquiry into the circumstances of the death of Malian and Mauritanian preachers, which occurred at Diabaly on the night of 8 to 9 September 2012.

11 Principles on the Effective Prevention and Investigation of Extra-legal, Arbitrary and Summary Executions, recommended by the Economic and Social Council in its resolution 1989/65 of 24 May 1989, available at the following address:
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/ArbitraryAndSummaryExecutions.aspx>

12 Report of the Secretary-General on the situation in Mali, paragraph 38, Doc. ONU S/2013/582, 1 October 2013, available at the following address:

http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/582&referer=http://www.un.org/en/sc/documents/sgreports/2013.shtml&Lang=E

13 See Article 209 of the Penal Code and Malian Article I of the 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."

14 Report of the Secretary-General on the situation in Mali, op. cit. paragraph 38.

15 Regarding the criminalisation of other cruel, inhuman or degrading treatment, the Committee against Torture considers, "The failure of States parties to enact legislation that clearly incorporates their obligations under the Convention and criminalizes torture and ill-treatment, and the resulting absences of torture and ill-treatment as criminal offences, obstructs the victim's capacity to access and enjoy his or her rights guaranteed under article 14", Committee against Torture, General Comment No. 3, Application of Article 14 by the States Parties, paragraph 19, available at the following address:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=1&DocTypeID=11.

16 On the application of these provisions to cases of cruel, inhuman or degrading treatment, see Committee against Torture, General Comment No. 2, Implementation of Article 2-by States Parties, paragraph 6.

17 Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, available at the following address:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/EffectiveInvestigationAndDocumentationOfTorture.aspx>

18 Protocol of Agreement between the Government of the Republic of Mali and the United Nations system in Mali on the transfer of children associated with armed forces or groups, July 1, 2013.

19 Article 4 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict.

20 Article 6 of the Optional Protocol to the Convention on the Rights of the Child Protocol on the involvement of children in armed conflict.

21 Ganda Izo militia and Ganda Koy (present for years in Mali and to which have joined least three other militias: Ganda Lassalzei (Authentic son of the soil in Songhai), the Forces for the Liberation of the North (FLN) and the Armed Forces against the occupation (FACO). Ganda Izo means "son of the country" and Songhai Ganda Koy "masters of the earth." The patriotic movement Ganda Koy was created by former members of the Malian army in the Tuareg rebellions of the 1990s. After the peaceful settlement of the Tuareg rebellion in the mid-1990s, most members of the Ganda Koy have been integrated into the Malian army and administration or are converted into civilian life but groups have continued to harass Tuareg populations.

22 Mali National Committee, Annual report 2012, p. 42, available at:

http://www.apt.ch/content/files/npm/africa/Mali_CNDH_Annual%20Report%202012.pdf.

23 Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173 of 9 December 1988, available at:

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/DetentionOrImprisonment.aspx>

24 Standard Minimum Rules for the Treatment of Prisoners, adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, available at :

<http://www.ohchr.org/EN/ProfessionalInterest/Pages/TreatmentOfPrisoners.aspx>

25 Conclusions of the Special Commission of Inquiry chaired by the Inspector General of Police, Alioune Badara Diamoutene and composed of senior officers of the armed and security forces, made public on 22 February 2012, consulted 10 May 2012.

26 In March 2013, the Human Rights Council decided, "to establish a one-year mandate for an independent expert on the situation of human rights in Mali with a view to assisting the Government of Mali in its efforts to promote and protect human rights". See Human Rights Council, Twenty-second session, Agenda item 10, Technical assistance and capacity-building, Doc ONU A/HRC/22/L.5, 15 March 2013

27 Press release from the Council of Ministers Wednesday, 17 October 2007, available at <http://www.maliweb.net/news/politique/conseil-des-ministres/2007/10/17/article.5233.html>.

28 As recognised for instance by the Rome Statute of the International Criminal Court, which Mali ratified on 16 August 2000 and entered into force on 1 July 2002, and in the conclusions of the International Committee of the Red Cross study of Customary International Humanitarian Law: see Henckaerts, J-M and L Doswald-Beck, Customary International Humanitarian Law: Volume I, Rules (International Committee of the Red Cross / Cambridge University Press 2005).

29 Official MNLA website: <http://www.mnlamov.net/actualites/34-actualites/109-une-semaine-dans-lazawad-.html>, consulted on 10 May 2012.

30 This AQIM document thus states: *" The criteria to be adopted in the definition of responsibilities and the attribution of Departments must respect the jurisdiction, the representation of tribes and the loyalty to Islam and Sharia law. Competence is an key criteria, but tribal affiliation is not less important. We must recruit as possible, some of the great personalities ... fidelity to Islam and the acceptance of Sharia are essential for the Departments and responsibilities attributed to Ansar Eddin.*

The Departments that we must keep to ourselves are the Army, the Media, Justice, Preaching and Islamic Affairs, and Education. Departments that can be left to MNLA are the Ministries of Foreign Affairs, Finance, Public Works, etc.

As for the Ministry of Defence, we propose to create a command in which participate all the movements who are signatories to the agreement and to distribute security missions, guard and protection to all factions".

The translation in French of the full document is available at the following address: <http://www.rfi.fr/afrique/20131006-mali-vade-mecum-droukdel-mali-aqmi-terrorisme-al-qaida-sanguinaire>.

31 Report of the Secretary-General on the situation in Mali, op. cit. paragraph 45.

32 Report of the Secretary-General on the situation in Mali, op. cit. paragraph 47.

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

34 Ibid, paragraph 43.

35 On 24 January 2007, the Salafist Group for Preaching and Combat (GSPC) – an Algerian armed opposition group - announced it was changing its name and became "Al-Qaeda in the Islamic Maghreb" (AQIM). Its affiliation with Al-Qaeda network has been approved by Osama Bin Laden.

36 African Union deployment in northern Mali Observers of Human Rights of MISMA, June 8, 2013, available at : <http://www.peaceau.org/uploads/dy-ploiement-au-nord-mali-des-observateurs-des-droits-de-l-homme-de-la-misma-08-juin-2013.pdf>.

37 L'indicateur du Renouveau, Malian Crisis: Serious human rights violations reported by the AU, 10 June 2013, available at the following address: <http://www.maliweb.net/news/societe/2013/06/10/article.151747.html>.

38 African Press Organization, Training of 13 New Observers rights of the AU and ECOWAS in Bamako, Addis Ababa, 16 July 2013, available at the following address: <http://appablog.wordpress.com/2013/07/16/formation-a-bamako-de-13-nouveaux-observateurs-des-droits-de-l-homme-de-lua-et-de-la-cedeao/>

39 Security policy and common defence, EU training mission in Mali, September 2013, available at the following address : http://consilium.europa.eu/media/1892460/factsheet_eutm_mali_fr.pdf.

40 Ibid.

41 The letter sent by the Minister of Justice states, "These are serious and massive violations of human rights and International humanitarian law committed particularly in the northern part of territory (...) These facts constitute crimes against humanity and war crimes that fall under the jurisdiction of the International Criminal Court (ICC) under Articles 7 and 8 of its Statute." available at : <http://www.icc-cpi.int/iccdocs/doc/doc1442398.pdf>.

42 International Criminal Court, The Prosecutor opens investigation into war crimes in Mali: "The legal requirements have been met. We will investigate", 16 January 2013, available at : http://www.icc-cpi.int/EN_Menus/icc/press%20and%20media/press%20releases/news%20and%20highlights/pages/pr869.aspx.

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