

THE
CARTER CENTER



Report of the Independent Observer

Observations on the Implementation
of the Agreement on Peace
and Reconciliation in Mali,
Resulting from the Algiers Process

November 2022

This report presents the observations of The Carter Center in its role as the Independent Observer of the implementation of the Agreement on Peace and Reconciliation in Mali, Resulting from the Algiers Process, for the period between July and October 2022. The report focuses more broadly on progress achieved on Title V of the agreement, which is dedicated to “Reconciliation, Justice and Humanitarian Issues.” The Independent Observer carries out its mandate by observing meetings and activities related to the agreement’s implementation, including the Agreement Monitoring Committee (CSA) sessions, the CSA subcommittees, and the Technical Security Committee (CTS). The Independent Observer maintains ongoing contact with the key stakeholders involved in the agreement’s implementation and monitoring, as well as with members of civil society, researchers, nongovernmental organization representatives, and Mali’s international partners. The Independent Observer team also draws on official Malian documents and other materials pertaining to the situation in Mali and the agreement’s implementation. The Independent Observer thanks all Malian and international stakeholders for facilitating its work, meetings, and access to relevant information.

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ACRONYMS

AIGE	Autorité indépendante de gestion des élections Independent Authority for Election Management
CEI	Commission d'Enquête internationale International Commission of Inquiry for Mali
CMA	Coordination des mouvements de l'Azawad Coordination of Azawad Movements
CNDDR	Commission nationale de désarmement, démobilisation, réinsertion National Commission for Disarmament, Demobilization, Reintegration
CNDH	Commission nationale des droits de l'Homme National Human Rights Commission
CRNC	Commission en charge de la Rédaction de la Nouvelle Constitution The Committee Responsible for Drafting the New Constitution
CNT	Conseil National de Transition National Transitional Council
CSA	Comité de suivi de l'Accord Agreement Monitoring Committee
CTS	Commission technique de sécurité Technical Security Committee
CVJR	Commission vérité, justice et réconciliation Truth, Justice and Reconciliation Commission
DDR	Désarmement, démobilisation et réinsertion Disarmament, Demobilization, and Reintegration
ECOWAS	Communauté Économique des États d'Afrique de l'Ouest Economic Organization of West African States
ERAR	Équipes régionales d'appui à la réconciliation Regional Reconciliation Support Teams
FAMa	Forces armées maliennes Malian Armed Forces
IDPs	Personnes déplacées internes Internally Displaced Persons
MARN	Mission d'appui à la réconciliation nationale National Reconciliation Support Mission
MINUSMA	Mission multidimensionnelle intégrée des Nations Unies pour la stabilisation au Mali United Nations Multidimensional Integrated Stabilization Mission in Mali

TERMINOLOGY

Agreement	The Agreement on Peace and Reconciliation in Mali, Resulting from the Algiers Process
CSA	Created in July 2015, in accordance with Chapter 19 of the Agreement on Peace and Reconciliation in Mali, the CSA is responsible for monitoring, supervising, and coordinating the agreement's implementation. The CSA comprises the government, the Signatory Movements, and the Mediation Team; chaired by Algeria, the CSA includes Burkina Faso, Mauritania, Niger, Chad, ECOWAS, the United Nations, the Organization of Islamic Cooperation, the African Union, and the European Union. Permanent members of the UN Security Council are invited to participate in its work.
Integration	Refers to the process of integrating ex-combatants from the movements, once disarmed and demobilized, into government institutions, including the national defense and security forces. To be distinguished from socioeconomic reintegration for ex-combatants seeking to enter civilian life outside of the public sector, within DDR's socio-economic component.
International Mediation	Members of the international community referred to in Article 58 of the agreement.
Signatory Movements (Movements)	Coordination of Azawad Movements and the Platform of the Signatory Movements of the June 14, 2014, Algiers Declaration, the two coalitions of movements that signed the agreement in 2015.
Malian Parties (Parties)	Government of Mali, CMA and the Platform.
Platform	The Platform of movements signatories of the "Algiers Declaration" of June 14, 2014 of Algiers" of June 14, 2014, is a coalition of armed movements.
Transition	The governing framework established after the Aug. 18, 2020, coup, beginning with the inauguration of the Transition president on Sept. 25, 2020. Following the second coup on May 24, 2021, the governing bodies of the Transition include the president, the Cabinet, and the National Transitional Council.

EXECUTIVE SUMMARY

Given that the Truth, Justice, and Reconciliation Commission (CVJR) is about to end its mission, and that the Malian government launched a National Strategy for Reconciliation and Social Cohesion this year, **the Independent Observer focuses its 11th report on reconciliation, justice, and humanitarian issues** to which Title V of the Agreement on Peace and Reconciliation in Mali resulting from the Algiers Process is devoted. This report focuses on progress made, emphasizes several key remaining challenges, and provides recommendations to support the agreement's implementation and draw the attention of the parties, the Agreement Monitoring Committee (CSA), and the public to these crucial issues for the peace process.

While lasting peace remains a daunting challenge seven years into the implementation process, important actions have been undertaken and some progress has been made on several provisions of this pillar of the agreement, notably on **reconciliation and social cohesion**. In 2022, the government adopted a strategy and established an inaugural "National Reconciliation Week," held in September. Progress is also currently underway on strengthening the status of traditional authorities, including the enactment of a national day of traditional authorities. If enacted, the draft of the new constitution presented in October would also pave the way for the implementation of other provisions, as it enshrines the importance of the country's cultural diversity and the role of traditional authorities in contributing to social cohesion.

The CVJR's work on **transitional justice** has had mixed success. The commission took major steps in favor of victims and reparations. It has collected victims' depositions, organized public hearings, and prepared a policy on material and symbolic reparation, which the National Transitional Council (CNT) endorsed and voted into law. Based on this work, two bodies will be created to further actions on transitional justice: the Agency for Reparations and the Center for the Promotion of Memory, Unity, and Peace. However, other critical aspects of transitional justice have not benefitted from the same attention, including support for victims seeking recourse through criminal courts. Moreover, it is unclear whether and how the mission of the CVJR will be followed up. Questions remain on the setup and operationalization of the two succeeding bodies, as they have not been created. The pursuit of collection of victims' depositions also remains in question. Malian associations are strongly advocating for it, as serious human rights violations persist.

The parties and the CSA are paying too little attention to **Title V's provision for justice system reforms and support of humanitarian actions**. The dedicated subcommittee's longstanding difficulties illustrate this situation. Most of the provisions addressing the judicial system's flaws are yet to be fulfilled, despite foreseeable progress on integrating the cadis in the administration of justice in order to bring justice closer to the population. Indeed, the draft of the new constitution enshrines articles that could remove existing constitutional obstacles to the cadis' involvement. But for now, victims who seek justice in the courts face common impediments such as geographical distance, long procedures, prohibitive costs, and lack of knowledge about how the judicial system works. Parties also have been slow to take effective implementation measures to implement their commitments on humanitarian issues, including facilitating humanitarian actors' work. In the meantime, humanitarian needs have increased, and the deteriorating security situation is making it

more difficult to keep people safe and for humanitarian organizations to access and serve internally displaced persons and refugees.

The Independent Observer emphasizes that **all provisions of Title V are essential to achieving the agreement's main objective to restore peace, stability, and unity in Mali.**

The Parties should therefore devote more effort to implementing this pillar, building on the recent positive relaunch of their dialogue since August.

To tackle the remaining challenges and to pursue progress on transitional justice in Mali, the Independent Observer recommends:

- Creating equal opportunities for victims seeking reparations and for those who are awaiting access to criminal justice.
- Establishing support mechanisms for victims seeking justice in overcoming the impediments to accessing the judicial system.
- Setting up and operationalizing the two CVJR-succeeding bodies and clarifying who will take over collecting victims' depositions in the future, if possible before the CVJR's mandate ends.
- Ensuring victim representation on the successor bodies to the CVJR.
- Intensifying work to ensure judicial reform is supported and monitored.

To encourage the parties and the CSA to further fulfill their commitments, the Independent Observer recommends:

- Operationalizing follow-up frameworks to implement the CEI's recommendations, as endorsed by the CSA.
- Increasing cooperation among the Signatory Parties to improve the security of humanitarian actors and to provide assistance and aid to populations in need.
- Solving longstanding issues of related to the functioning of the CSA subcommittee on reconciliation, justice, and humanitarian issues.

BACKGROUND

From July to October 2022, Mali has been slowly emerging from a socioeconomic and diplomatic crisis exacerbated by sanctions imposed by the Economic Community of West African States (ECOWAS). On July 3, 2022, at the ECOWAS extraordinary summit, the ECOWAS lifted some sanctions on Mali after the Transition authorities presented a new timetable. The government has subsequently been working intensively on the political and institutional reforms mentioned in the timetable. The commission in charge of drafting the new constitution (CRNC) submitted the preliminary draft to the Transition president on Oct. 11.¹ Following National Transitional Council's (CNT) June adoption of the Electoral Law, the Transition president appointed the 15 members of the Independent Election Management Authority (AIGE) on Oct. 12.²

The security situation remains grave. During this time period, at least 553 security incidents against civilians, the Malian armed forces (FAMA), and international forces were reported in country's southern, central, and northern regions.³

In Central Mali, the government has begun reinstating state officials. Additionally, the central regions' stabilization strategy as well as the action plan for the 2022-2024 period were adopted on Sept. 9.⁴ Nevertheless, blockades and attacks on individuals, localities and transportation routes have not decreased and the Bandiagara region remains one of the most affected areas of the country.⁵

In the north, the situation seriously deteriorated in the Ménaka and Gao regions, especially in the Anderamboukane, Inekar, Ansongo, and Gao *cercles*, because of repeated attacks by the Islamic State in the Greater Sahara (EIGS) against civilians, FAMA, and the signatory movements and confrontation between the EIGS and the Group for the Support of Islam and Muslims (JNIM). Between July and October, 253 incidents were reported in these two regions, resulting in more than 602 casualties.⁶ In August, some 29,500 IDPs were reported in the region of Ménaka.⁷ Several thousand forcibly displaced persons, particularly from the Talataye and Tessit sectors, as well as from almost all *cercles* of the region of Ménaka were also reported around Gao and Kidal.

¹ The CRNC was established in July 2022. It comprises 25 members appointed by presidential decree.

² The appointment of members was three months behind the Transition timetable due to the lack of consensus among the political parties when appointing their four representatives to the college, among other causes.

³ This number increases to 857 when incorporating attacks against other actors, including humanitarian actors and non-state armed groups. Mali Conflict Data Highlight, based on Armed Conflict Location and Event Data (ACLED) and other sources, The Carter Center, November 2022.

⁴ Twenty-six percent of state representatives were deployed by Aug. 31, in comparison with 19% deployed in April. United Nations Secretary General report on Mali, Oct. 3, 2022.

⁵ For instance, the blockade of Boni by terrorist groups has severely affected mobility of persons and goods between May and September 2022. Also see, in particular, Communiqué No. 32 of June 20, 2022, of the Transitional Government on the incidents that occurred in the Bankass *cercle* (Diallassagou, Diamweli, Deguessagou) during the night of June 18-19, resulting in 132 civilian victims.

⁶ Mali Conflict Data Highlight, quarterly report June-August 2022, based on Armed Conflict Location and Event Data (ACLED) and other sources, The Carter Center, September 2022.

⁷ Briefing note on the humanitarian situation in the Ménaka region, Situation Report 9, OCHA, Oct. 12, 2022.

GENERAL OBSERVATIONS FOR THE JULY - OCTOBER 2022 PERIOD

From July to October, both the Malian parties and the monitoring bodies resumed their activities as part of the implementation process.

The meeting for the resolution of critical defense and security issues, expected since February 2021, was held from Aug. 1 to Aug. 5. The parties formalized their agreement regarding the integration of 26,000 ex-combatants and members of the movements into the defense and security forces and the civil service over the next two years. The government reiterated its willingness to promptly implement the political and institutional reforms provided for in the agreement, which do not depend on constitutional changes. The meeting, however, did not result in binding decisions. The meeting, however, did not result in binding decisions. The parties therefore agreed to set up an ad-hoc commission to make proposals on managing the movements' senior civilian and military staff integration. In October, the parties consensually adopted the terms of reference, allowing the creation of this commission to move forward. After delays caused by inter-party disagreements about the commission's creation process, on Oct. 18, the ministry of reconciliation formally created the commission, and its set-up is expected shortly.⁸

To further prepare for the comprehensive disarmament, demobilization, and reintegration (DDR) process, the Technical Security Committee (CTS) led joint missions to the northern regions in September and October to assess the status of cantonment sites progressively set up since 2016 by MINUSMA.⁹ The movements, in particular the Coordination of Azawad Movements (CMA), have however emphasized that they will only be ready to engage in comprehensive DDR if the ad hoc commission's results are satisfactory.

The CSA, which had not met since October 2021, resumed regular meetings, beginning with a ministerial session on Sept. 2. The members welcomed this high-level session, which also included 15 more women as subcommittee members, a strong signal of a new dynamic in the agreement's implementation. Since October, the subcommittees have also resumed meetings. The fourth subcommittee on reconciliation, justice, and humanitarian issues is an exception; since 2019, this committee has functionally struggled. Members have failed to complete follow-up work, and several of its members who were appointed to other official positions have not been replaced. Additionally, there has been a language discrepancy among several movements' representatives.¹⁰

⁸ Decision 000065/MRPCN-APR-SG.

⁹ The missions included members of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), the National Commission for Disarmament, Demobilization and Reintegration (CNDDR), the National Commission for Integration (CNI), the Joint Operational Mechanism (MOC) and the signatory movements.

¹⁰ Government representatives, who already rarely participated in the subcommittee, have not been replaced since their appointment elsewhere. Movement representatives are unable to participate fully due to language barriers in the absence of translation. Representatives of the parties, with the support of the Independent Observer and representatives of the Mediation, drafted concrete proposals to remedy this during the [Seminar on the Independent Observer's Observations and Recommendations held in February 2022](#) :

- Each participating member should designate a substitute who can contribute fully to discussions if the member is absent.
- The member and substitute should keep each other regularly informed to ensure continuity.
- An official correspondence from the Minister of National Reconciliation should establish members and substitutes' names and ensure the regular participation of representatives of the parties in the subcommittee meetings.

OBSERVATIONS ON THE IMPLEMENTATION OF THE PROVISIONS ON RECONCILIATION, JUSTICE, AND HUMANITARIAN ISSUES

The agreement's main objective is to restore peace, stability, and unity in the country. Title V sets the objective of promoting national reconciliation and social cohesion by implementing transitional justice mechanisms; consolidating the judicial system and facilitating people's access to justice; fighting corruption; strengthening the role of cadis in the administration of justice; enhancing the status of traditional authorities; and enabling the rapid return and reintegration of internally displaced persons (IDPs) and refugees.

Although crucial to the peace process, reconciliation, justice, and humanitarian issues to which Title V of the Agreement on Peace and Reconciliation in Mali, Resulting from the Algiers Process, appear to be regularly sidelined by the agreement's monitoring bodies. As early as 2019, the [Independent Observer dedicated a report to highlight this observation](#).¹¹ It remains true today: the issues related to this pillar have a minor place in the agendas, concluding statements, and communiqués of the Agreement Monitoring Committee (CSA); additionally, the CSA subcommittee responsible for this pillar still experiences operational difficulties.

However, seven years into the implementation of the agreement, some provisions of this pillar have been implemented; others are to be completed. For instance, The Law on National Understanding, which enshrines the imprescriptible nature of war crimes and crimes against humanity, was adopted in 2019.¹² The conference on national understanding took place from March 27 to April 2, 2017, but the Malian parties themselves – the government, the CMA, and the Platform – have since agreed that this process should continue in order to adopt a consensual National Charter for Peace, Unity and National Reconciliation.¹³ Developments are also taking place regarding other provisions, such as strengthening the role of cadis in the administration of justice or on the status of traditional authorities. Conversely, provisions on justice reform and support to humanitarian action are still lagging behind, due to the CSA and parties' lack of attention.

Against this backdrop, the Independent Observer presents its observations on the progress made in the areas of reconciliation, justice, and humanitarian issues. It considers the developments since the Independent Observer's October 2021 assessment report requested by the CSA, as well as the priorities set by the parties at the end of the [February 2022 Seminar on the Independent Observer's](#)

¹¹ [The Independent Observer's April 2019 Report](#).

¹² As provided for in Article 46, para. 5 of the agreement. The Law on National Understanding 2019-042 was adopted by the National Assembly on June 27, 2019, and promulgated by the president of the Republic of Mali on July 24, 2019. Human rights organizations voiced a critical analysis of it and of the CEI (see below in the report).

¹³ As provided for in the updated priority actions Roadmap regarding the implementation of the Agreement on Peace and Reconciliation in Mali, Resulting from the Algiers Process, during the transition, adopted by the Parties on Dec. 18, 2020 (action 28). The Charter submitted to the president on June 20, 2017, was not consensual among the parties.

[Observations and Recommendations](#) linked to Title V of the agreement.¹⁴ Finally, it provides recommendations to bolster the implementation of outstanding commitments.

I. National reconciliation and social cohesion: measures and actions taken

Even though Title V of the agreement does not provide much detail on how to achieve reconciliation (Article 46), since 2013, successive governments have devoted efforts to developing concrete instruments to foster reconciliation and social cohesion:¹⁵

- As early as September 2013, the president of the republic, considering that "national reconciliation [was] the pressing priority of [his] mandate," created a minister dedicated to national reconciliation.¹⁶
- From Nov. 1 to Nov. 3, 2013, the national conference on the north, devoted primarily to reconciliation and the search for lasting peace, was held in Bamako.
- In 2014, the CVJR was created. Its mission is to "contribute to the establishment of lasting peace through the search for truth, reconciliation, and the consolidation of national unity and democratic values".¹⁷
- In 2014 and 2015, the Azalai Kayes-Kidal caravan for peace and reconciliation was organized throughout the national territory for the first time since 2012, the beginning of the crisis.
- In 2017, the government set up the National Reconciliation Support Mission (*Mission d'appui à la réconciliation nationale*, MARN); the same year, it created branches in all regions through regional reconciliation support teams (*Équipes régionales d'appui à la réconciliation nationale*, ERAR).¹⁸
- From March 27 to April 2, 2017, the Conference for National Understanding, as provisioned by the agreement, was held.

Between 2018-2021, reconciliation efforts focused on the CVJR's work and the establishment of the MARN, as well as the presence of the ERAR in all regions.¹⁹ As the crisis in the central regions intensified, government activities expanded there. Several development partners, nongovernmental organizations (NGOs), and associations also dedicated efforts to national reconciliation.

During the Transition, the government took several steps related to Title V of the agreement on national reconciliation. These include but are not limited to:

¹⁴ In October 2021, at the CSA's request, the Independent Observer produced a report assessing the execution level of the measures provided by the agreement, as well as a summary of its observations and recommendations to support the Malian parties' efforts. These two documents have not been made public.

¹⁵ As a reminder, in the Ouagadougou Agreement, signed in June 2013, the parties recognize the need to promote national reconciliation as the foundation for lasting peace in Mali.

¹⁶ Inaugural speech of the President of the Republic, Ibrahim Boubacar Keïta, Sept. 4, 2013.

¹⁷ Order 2014-003/P-RM of Jan. 15, 2014.

¹⁸ Decree 2017/0367/PM-RM of April 28, 2017, of the prime minister.

¹⁹ Their set-up was finalized in 2022. It is now planned to establish some in the 10 new regions.

- a. On May 27, 2022, the Council of Ministers adopted the National Strategy for Reconciliation and Social Cohesion with a master plan and its action plan for the period 2022-26. The strategy is structured around six axes:
- Outreach campaigns on the peace agreement and coordination of its implementation
 - Promoting a culture of peace and human rights
 - Strengthening mechanisms and methods to prevent and manage conflicts
 - Promoting integrative projects
 - Building capacity of reconciliation actors,
 - Strengthening capacities to steer and monitor the strategy's implementation process.

The national reconciliation strategy aims to establish more formal, institutionalized mechanisms adaptable to the Malian context. To implement this strategy, the government plans to strengthen the capacities of the ERAR and communal reconciliation committees, extending their operations in the 10 new regions. Education campaigns will be focused on the achievements of the agreement.

- b. The minister of national reconciliation declared the week of Sept.15- 21 as annual "National Reconciliation Week", in application of Article 7 of the law on national understanding, and as recommended in the conclusions of the National Conference of Understanding, organized in 2017.²⁰ The theme for this year was "making the country's diversity an asset for social cohesion." Celebrated throughout the country and including Malians living abroad, the week involved sociocultural, educational, and awareness activities, and solidarity text-messaging.
- c. The preamble to the draft constitution recognizes "the need to promote the ability to coexist and national reconciliation while respecting identities and cultural diversity" and is deemed sufficient to meet Title V requirements.²¹

II. Strengthening of the status of traditional authorities and integration of cadis' role in the administration of justice

The agreement provides for "the strengthening of the status of traditional authorities by taking them into account in the rules of protocol and precedence" (Article 46, alinea 12).

The parties seem to be moving beyond the agreement's simple protocol aspects and are taking into account the recommendations to strengthen the role of traditional authorities as expressed in different national fora.

On Nov.12, 2021, the president of the Transition brought together in Bamako the traditional, customary, and religious authorities from all over the country. On this occasion, he recognized "the important role of traditional authorities in the regulation of social life." After this meeting, which

²⁰ Order 2021-5480/MRPCN-SG of Dec. 27, 2021.

²¹ Draft Constitution of the Republic of Mali, officially submitted to the Transition president on Oct. 11, 2022, by the CRNC.

was hailed as a first since the country's independence, the same traditional authorities met on Oct. 8 and Oct. 9, 2022, and recommended the following:²²

- The new constitution recognizes traditional chieftaincies
- The decrees abolishing traditional chieftaincies be repealed²³
- The agreement, particularly the points relating to traditional chieftaincies and cadis, be implemented

In addition, by decree of March 4, 2022, the date of Nov. 11 was established as "National Day of Traditional Authorities."²⁴

The Independent Observer notes that they also supported the draft of the new constitution, which includes Title VIII "Traditional Authorities", of which Article 185 stipulates: "Traditional authorities, as guardians of societal values, contribute to strengthening social cohesion and managing conflicts; The different categories of traditional authorities, their roles and the procedures for their intervention are determined by law." This article takes into account their diverse nature and function throughout the country. Additionally, traditional authorities would be represented in a second parliamentary chamber, called the High Council of the Nation.

Article 46, paragraph 11 of the agreement also provides for "strengthening the role of the cadis in the administration of justice, in particular with regard to civil mediation, so as to take into account cultural, religious and customary specificities." The draft also provides that "alternative and traditional modes of dispute resolution are authorized under the conditions determined by law (Article 138, paragraph 2)." These provisions would lift constitutional obstacles that have prevented the adoption of the 2018 draft law on the role of cadis in the administration of justice.

²² General report of the General Meeting of the Kel Ansar tribe in collaboration with the traditional chieftaincies, Bamako, Oct. 8-9, 2022.

²³ The Constitution of Sept. 22, 1960, (Article 41) already sets out the new territorial structuring of the country: "The territorial authorities of the Republic of Mali are: the regions, the circles, the arrondissements, the nomadic tribes, the communes, the villages and the nomadic fractions." By Law 60.3 A.L.-R S of June 7, 1960, on territorial organization and Law 669/ANRM of March 2, 1966, on the municipal code in Mali, the first republic proceeded to a renewal of the political-administrative elite in reaction to the colonial policy of races, which had privileged traditional leaders. (B. Bérédogo, S. Koné, Y.F. Koné and B. Kassibo, GREDEF, 2015). Decree N310-D-I of May 14, 1968, abolished the chieftaincy of the Kel Ansar tribe, which had continued to exercise its functions. By Article 60 of Law 95-034 of Jan. 27, 1995, on the Code of Territorial Authorities, "The village is the basic community in a sedentary rural environment. The village, the district, and the fraction are administered by a village, district, or fraction chief invested by the council of the community concerned. The village, district, and fraction are administered by a village, district, or fraction chief invested by the council of the community concerned. Many roles have been assigned to the district, village, and fraction chiefs and their advisors by the government through the code of local government (*code des collectivités territoriales*), which governs the new administrative system."

²⁴ Decree 2022-0128/PT-RM of March 04, 2022.

III. Transitional justice mechanisms at the end of the mandate of the Truth, Justice and Reconciliation Commission (CVJR)

In December 2022, the Truth, Justice, and Reconciliation Commission (CVJR) will reach the end of its mandate. It is now in its closing phase and is focusing on a final report to be submitted to the president of the Transition, on an education campaign, and on the conservation and archiving of its documentation. In its final report, the CVJR will include key recommendations for the creation of two structures (which could be called “Agency for Reparations” and “Center for the Promotion of Memory, Unity, and Peace”), including concrete suggestions on the mandate and functioning of both bodies.²⁵

In this context, the Independent Observer presents observations on the major work done by the CVJR, the next steps, and the remaining challenges. Its overall observations draw on information gathered from the parties, CVJR members, victims who participated in the public hearings, and other civil society actors, as well as on the findings of the International Commission of Inquiry (CEI).

The Independent Observer noted the ambivalence surrounding the CVJR's mandate and outcomes. Based on the interlocutors and documents consulted, the work accomplished has been greatly appreciated, but certain aspects of its mission are deemed incomplete. Nevertheless, most victims contacted want the CVJR to pursue its work.

Set up in 2014, the CVJR was restructured in 2015 to adapt to a new vision and include representatives of the Signatory Movements following the agreement's Article 46, which provides for "establishing transitional justice mechanisms, in particular through the stand-up of the CVJR."²⁶ The CVJR had then set clear guidelines to fulfill its mandate in an intervention strategy and action plan (2016-18), based on the recognition of four fundamental rights for the victims: the right to truth, the right to justice, the right to reparation, and the guaranty of non-repetition of human rights violations.

During its mandate, the CVJR has:

- Set up branches throughout Mali in order to reach out to the population, gather victims' depositions, and seek truth

²⁵ According to the CVJR, the reparation agency could manage reparations (both financial and symbolic), collect victims' depositions, manage the victims' database, and oversee the qualification of violations to categorize and allocate compensation accordingly. The Center for the Promotion of Memory, Unity and Peace will be responsible for promoting education on the history of the crises and their causes; identifying emblematic events of serious human rights violations and erecting symbolic places of remembrance (monuments, squares, museums, etc.); and continuing the search for missing persons. For its part, the CNDH believes that it could be entrusted with the collection of victims' statements.

²⁶ Transitional justice mechanisms refer to a range of judicial and non-judicial approaches by which societies address the legacy of widespread human rights abuses in the transition from conflict and violence to peace, democracy, and the rule of law (Bastick et al. 2007; UNFPA 2012). The main objectives of transitional justice are: i) to implement accountability and recognition processes that can reconcile all parties to the conflict and affected populations; and ii) to deter the recurrence of conflict by working to create a climate conducive to sustainable peace (Mobekk, 2006 cited by Bastick et al., 2007). Transitional justice therefore involves criminal prosecutions, reparations, institutional reforms, truth commissions, or other means of investigating and reporting on patterns of systematic abuse, recommending changes, and addressing the underlying causes of serious human rights violations.

- Gathered to date 31,872 depositions from victims and witnesses
- Mapped serious and emblematic violations of human rights and humanitarian law committed since 1960
- Prepared a reparation policy for victims of crises in Mali since 1960 and its action plan for 2021-25, which were adopted by law No. 2022/041 of Sept. 15, 2022; and initiated outreach on the reparation policy in the regions²⁷
- Organized five public hearings, which allowed victims and witnesses to share their suffering. Furthermore, those hearings were aimed at raising national awareness, seeking shared forgiveness, and promoting collective and symbolic forgiveness. The media relayed those hearings throughout the country.

Considering these results, the Independent Observer acknowledges that the CVJR gave priority to hearing victims and to material and symbolic reparations. However, it undermined other pillars of transitional justice, such as the pursuit of truth and the recognition of perpetrators' responsibilities, which are conditions for forgiveness and true reconciliation, and could have led to legal proceedings.²⁸ Considering that reparations include both financial and symbolic compensation as well as criminal justice proceedings, the Independent Observer notes that these transitional justice mechanisms have not received the same attention.

Most of the victims who have chosen material and symbolic reparations have expressed disappointment at the end of the CVJR's mandate because it may occur before the bodies responsible for implementing the reparations policy are set up and functioning. They ask that the CVJR continue to function in the meantime. The victims' associations have also insisted that victims must be represented in these future bodies. The CVJR also believes that it is important for victims to be represented on the board of directors of the Agency for Reparations and as commissioners for the Center for the Promotion of Memory, Unity, and Peace. The victims' associations also want the management of these bodies to be non-political. Accordingly, they even propose criteria for the appointment of members.²⁹

In addition, questions remain about ensuring that victims' depositions continue to be collected since the CVJR's mandate is ending while crises and violations continue to be perpetrated. The CVJR and the National Human Rights Commission (CNDH) formulated two different proposals to transfer this important responsibility either to the Agency for Reparations or to the CNDH.

Beyond material and symbolic reparations, many of the victims and witnesses who testified during the five public hearings also concluded their testimony with an express demand for justice and for

²⁷ Based on this law and the final report of the CVJR, which recommends the creation of the reparations fund, its management body, and a center for memory, peace, and reconciliation, the president of the Transition could create these instruments by ordinance.

²⁸ The CVJR itself has considered that "reconciliation implies forgiveness (...) not to forget, but in order to overcome and make possible a shared and less painful present and future." CVJR, Intervention Strategy, 2016-2018. In addition, despite the existence of a sub-commission of the CVJR dedicated to the search for the truth, this aspect of the mission mentioned in its intervention strategy has experienced difficulties. In practice, here too, the work of listening and remembering has been privileged. [See also the Independent Observer report, April 2019.](#)

²⁹ Advocacy document for the participation of victims of human rights violations in the transitional justice process in Mali, May 2022, AND-Mali and ATJLF.

the truth. These demands need to be heard. The CVJR, which has consistently stated it is not a court of law, hopes that at minimum the victims who wish to do so will be able to use their depositions gathered by the CVJR to seek justice.³⁰ In a memorandum presented to the government, the CNT, associations, and technical and financial partners, the Association Noyau Dur for the Promotion of Transitional Justice (AND-Mali), and the Africa Transitional Justice Legacy Fund (ATJLF) formulated a series of recommendations to respond to those victims who want to access criminal justice.³¹

On this last point, the International Commission of Inquiry (CEI), provided by the agreement and created by the United Nations at the request of the Malian government, also expressed concern in its report about the judicial system's current state and its ability to attain this objective. The CEI recommends establishing an entity within the Malian judiciary that specializes in the fight against international crimes, with the support of the international community. Modeled after the Specialized Judicial Pole, this specialized pole would investigate and judge war crimes and crimes against humanity.³² In its report, the CEI also assessed the work of the CVJR and particularly considered that the CVJR had chosen to focus on the victims' fate, leaving aside the perpetrators' responsibility.³³ It insists: "By virtue of the mandate it has been given and the victim-centered objectives it has set for itself, the CVJR will not be able to meet expectations of justice and attend to the rights of the victims of the abuses committed during the previous crises and rebellions, particularly with regard to the identification and responsibility of the perpetrators." The Commission believes that, even when the CVJR completes its work and accomplishes all set objectives, it will not be able to meet the expectations of criminal or transitional justice and the rights of victims of abuse, violations, and crimes committed during the previous crises.

The Independent Observer emphasizes that support systems must also be organized for victims who wish to seek justice in overcoming the impediments to access to justice, such as geographical

³⁰ "We deplore the lack of support for victims who face a judicial system that does not protect them. From its inception to the present day, the Truth, Justice, and Reconciliation Commission (CVJR) estimates that it has received 30,000 statements from victims. The CEI report confronts us with the reality that most of these victims are still waiting for justice, in vain," Association Malienne de Droits de l'Homme (AMDH), quoted in the CEI report, June 2020. Recalling that the application of the victims' right to truth, justice, a fair trial and reparation measures must be ensured by the State of Mali in all circumstances, ASFC, AMDH and the International Federation for Human Rights (FIDH) invite the international community and Mali's partners to support the Malian government's efforts to implement the CEI's recommendations and reiterate their full readiness to support the State's initiatives to improve respect for human rights and the rule of law.

³¹ Advocacy document cited above. Recommendations include informing, sensitizing, and orienting victims; ensuring the safety of victims; bringing justice closer to those subject to trial, including by providing the means for victims to travel; putting in place mechanisms for orienting victims; speeding up the adoption of the law on the protection of victims and their witnesses; setting up legal clinics by CSOs/NGOs; and associating traditional justice mechanisms with transitional justice mechanisms.

³² Report of the International Commission of Inquiry for Mali submitted on June 19, 2020, to the UN Secretary General, in accordance with their mandate. See <https://www.un.org/fr/our-work/commission-of-inquiry-for-mali>.

³³ The [Independent Observer had also highlighted this in its April 2019 report](#).

distance, long procedures, prohibitive costs, and ignorance of the judicial system, as described by the CNDH in its study on the "state of affairs and impediments to have access to justice."³⁴

IV. International Commission of Inquiry (CEI) and follow-up recommendations

The International Commission of Inquiry for Mali (CEI) was created by the agreement's Article 46 and established by the United Nations Secretary-General on Jan. 19, 2018, at the request of the signatory parties.³⁵ It was tasked with investigating allegations of abuses and serious violations of international human rights law and international humanitarian law, including allegations of conflict-related sexual violence, committed throughout the territory of Mali between the beginning of the crisis in January 2012 and the beginning of its mandate on Jan. 19, 2018. During more than 20 months of work, the commission benefited from the cooperation of various organizations and institutions, including the government, the signatory movements, some members of the United Nations, MINUSMA, and numerous governmental and nongovernmental organizations.³⁶ The commission submitted its report to the UN secretary general on June 26, 2020. The report was made public and presented by MINUSMA to the CSA in June 2021.

The commission conducted investigations on the main armed actors present in Mali since the 2012 crisis (armed movements, extremist groups, Malian defense and security forces, and foreign and international forces). It established the facts, circumstances, and physical or moral responsibility. It also focused on conflict-related sexual violence and violations of children's rights. The commission primarily focused on fighting against impunity and evoked the challenges related to the risks for victims, the impediments to having access to justice, the corruption of the judicial system and the lack of means, and the population's distrust of the judicial system in favor of customary justice. The AND-Mali and ATJLF organizations agreed and listed "difficulties faced by victims in accessing justice in Mali."³⁷ The CEI also provided a critical analysis of the law on national understanding, aimed at supporting the fight against impunity and creating conditions for national reconciliation.

The commission developed a series of recommendations, including a mechanism to implement its main conclusions.³⁸ The CSA recognized the need for a structured monitoring of the CEI's recommendations in collaboration with the CVJR and with the support of the MINUSMA in order to fight impunity and promote national reconciliation.³⁹ The prime minister subsequently announced the creation of an inter-ministerial commission attached to the prime minister's office

³⁴ Study Report on Cases of Human Rights Violations Perpetrated against the Civilian Population in Central Mali, CNDH, September 2022.

³⁵ Government letter of July 14, 2016, addressed to the UN secretary general requesting the establishment of an international commission of inquiry; reiterated request to the president of the Security Council on April 5, 2016.

³⁶ Press Release 001/2020 of June 26, 2020, Bamako-New York.

³⁷ AND-Mali and ATJLF advocacy document cited above, p. 16.

³⁸ i. Try without delay the perpetrators of serious violations and crimes based on the emblematic cases documented by the Commission; ii. Adopt measures demonstrating a strong and proactive strategy to fight impunity, including guaranteeing the imprescriptibility and non-amnesty of the most serious crimes and violations; iii. Develop an operational and institutional normative framework for the protection of victims and witnesses and ensure adequate implementation of the Rome Statute; iv. Establish a mechanism to monitor the implementation of the Commission's recommendations.

³⁹ CSA Communiqué at its 43rd session, Bamako, June 29, 2021.

to study ways and means of implementing the CEI's recommendations. Since no progress has been made, MINUSMA has initiated discussions with the minister of justice to establish an appropriate framework.

V. Humanitarian issues

In chapter 15 of the agreement dedicated to humanitarian issues, Articles 47, 48 and 49 establish the parties' commitment to work together to create the necessary conditions and facilitate the return and reintegration of internally displaced persons (IDPs) and refugees, respect and promote the principles guiding humanitarian action, facilitate humanitarian access to populations, and ensure their security.

In October 2021, the Independent Observer reported to the CSA that access to populations outside of major cities was difficult and limited for humanitarian stakeholders because of security risks and incidents (vehicle theft, robberies, and looting of warehouses). While acknowledging the challenges and impediments that the parties also face in this area, the Independent Observer recognizes that the parties have been too slow to take effective measures to implement their commitments, both individually and collectively. Moreover, the parties do not adequately disclose the measures implemented, for example, the actual role played by the interim authorities in facilitating and preparing for the return of refugees and internally displaced people (IDPs).⁴⁰ Recommendations were also made to create better conditions for dialogue between humanitarian organizations and the parties, while respecting the principles of neutrality and independence of humanitarian action.

The overall humanitarian situation remains critical.⁴¹ Severe food insecurity affects more than 1.8 million people.⁴² 422,620 people are internally displaced, and 18,126 Malians are refugees in neighboring countries.⁴³ Despite ECOWAS lifting economic and financial sanctions on Mali, overall tensions on the import market pose significant risks. In the northern regions in particular, the situation has worsened considerably since March 2022 with the explosion of violence related to Islamic State in Greater Sahara (ISGS) attacks and clashes between armed groups. Challenges related

⁴⁰ According to the entente specifying the practical guidelines for setting up interim authorities, redeploying state services, and setting up heads of administrative districts and the joint operational mechanism in the regions of Timbuktu, Gao, Kidal, Taoudenni, and Menaka (more commonly known as the "Agreement on Interim Authorities") signed between the Malian parties on June 19, 2016, the interim authorities are, among other things, "responsible for facilitating and preparing the return, resettlement, and reintegration of refugees, displaced persons and the rehabilitation of disaster victims."

⁴¹ Interview International Committee of the Red Cross (ICRC), Oct. 6, 2022, <https://reliefweb.int/report/mali/mali-pour-les-populations-dans-le-besoin-tout-devient-un-combat>. The assistance needs of the 2022 Humanitarian Response Plan have been estimated at \$686 million in order to provide assistance to 5.3 million people. OCHA website, accessed Oct. 21, 2022, <https://www.unocha.org/mali/>.

⁴² Report of the UN secretary general on the situation in Mali, Oct. 3, 2022.

⁴³ Displacement Tracking Matrix (DTM) report, August 2022, a joint report by the Ministry of Health and Social Development, the International Organization for Migration (IOM), the World Food Programme (WFP), and the Office of the United Nations High Commissioner for Refugees (UNHCR). The report also states that 68,559 IDPs returned between July 2013 and August 2022 and estimates the number of returnees at 84,806. The UN secretary general's report of Oct. 3, 2022 reports an increase in IDPs from 350,000 in June to 397,000 in the country's central and northern regions as of the date of the report, and more than 175,000 refugees in neighboring countries.

to mobility, access to water, and basic services have multiplied due to targeted attacks on villages and hamlets and frequent attacks on transportation routes and in rural areas.⁴⁴ Most of the victims are civilians in the Ménaka and Gao regions and thousands of people have been forced to move.⁴⁵

Today, internal populations movements from rural areas to large cities in the northern regions have increased considerably. Thousands of displaced people have gathered in the towns of Kidal, Gao, and Ménaka. This unprecedented concentration poses huge challenges to the authorities and the movements in terms of security and access to water, health care, and basic services, particularly in Kidal and Ménaka.

Prior to March 2022 ISGS offensive on Ménaka region, the Independent Observer had highlighted that dialogue and cooperation were difficult between humanitarian actors and movements in this region. Currently, improvements seem to be underway. Given the sharp increase in needs and the intensity of the current humanitarian crisis, measures have been taken to support humanitarian access:

- In June and August, the defense and security forces and the signatory movements organized operations to facilitate access for forced IDPs originating from the Ménaka region to Gao and Kidal.
- Since June, the signatory movements organized operations in the Kidal region to secure IDP sites, provide first aid, and deliver food and basic necessities to IDPs originating from the Ménaka region.⁴⁶
- The minister of national reconciliation, during an August visit to Ménaka, inquired about the social, security, and humanitarian situation, particularly for IDPs, and delivered several tons of food.
- The minister delegate for humanitarian action, solidarity, refugees, and displaced persons chaired a coordination meeting on the humanitarian situation in the Ménaka region on Sept. 12.
- The FAMA and the movements increased their patrols in and around Ménaka against risks of ISGS attacks.
- The minister delegate in charge of humanitarian action, solidarity, refugees, and IDPs urged the UNHCR on Oct. 11 to strengthen their support of Mali's humanitarian challenges.

The situation of displaced persons and host populations remains critical in these regions as well as in other parts of Mali, notably in Central Mali and the tri-border area.

⁴⁴ Situation report on the region of Ménaka, OCHA, October 12, 2022.

⁴⁵ Mali Conflict Data Highlight, quarterly report June-August 2022, based on Armed Conflict Location and Event Data (ACLED) and other sources, The Carter Center, September 2022.

⁴⁶ For instance, CMA organized first aid delivered on June 26, 2022 to IDPs originating from the Ménaka region who found refuge in Tineze, district of Tin-Essako.

CONCLUSION

Despite a certain lack of visibility, progress has been made in implementing some of the provisions of Title V of the agreement. Two concerns prevail, however. First, some provisions are yet to be implemented as underlined in the Independent Observer's October 2021 report to the CSA. Second, actions already undertaken are not enough to achieve the overall objectives of the agreement. To have meaningful impact, they need to be supplemented.

In the assessment report presented to the CSA in October 2021, the Independent Observer mentioned several pending measures and actions concerning justice and the fight against impunity. Examples include the adoption of the decree implementing the law on national understanding and the need to adopt and effectively implement a national legal and judicial assistance strategy. The Independent Observer reiterates its recommendation that the government present to the CSA an assessment of the provisions for which there is a lack of information on measures taken, such as the implementation of the emergency program to strengthen the judicial system. In addition, the Independent Observer reiterates that it would be very useful to have the Central Office for the Fight against Illicit Enrichment (OCLEI) present its activities before the CSA.

Beyond the achievements of the CVJR, and noting that the International Commission of Inquiry's recommendations have not yet been implemented, much remains to be done to fulfill the agreement's objectives of national reconciliation and peace. To support the parties' and CSA's efforts, the Independent Observer makes eight recommendations below.

RECOMMENDATIONS

- In terms of transitional justice, the same opportunities should be given both to victims who have opted for material and symbolic reparations and victims who are waiting to access criminal justice.
- Support mechanisms should be created for those who want to seek justice in the courts, just as a body will be set up to guarantee material or symbolic reparations to the victims waiting for them.
- Victims should be represented in the two bodies succeeding the CVJR, and the composition of these bodies should consider the geographical and cultural diversity of the country.
- The two future bodies for reparations and justice should be established before the end of the CVJR's mandate, in accordance with the demands of the victims' associations and the CVJR's proposals.
- A framework should be set up to implement the CEI's recommendations to support the fight against impunity, as endorsed by CSA.

- The CSA should take up the issue of the chronic dysfunction of the subcommittee on justice, reconciliation, and humanitarian affairs and bring sustainable solutions based on the joint proposals made at the [February 2022 Seminar on the Independent Observer's Observations and Recommendations](#).
- The CSA and the parties should include in the next sessions' agenda specific actions to address the issues related to the reform of the justice system, the generalization of legal aid, and the fight against corruption and financial delinquency, as provided by the agreement.
- The parties should cooperate and concentrate their efforts to ensure the security of humanitarian actors and assistance and access to aid by the populations, as provided by the agreement.