

Observations on the State of Indigenous Human Rights in Mali

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Cultural Survival is an international Indigenous rights organization with a global Indigenous leadership and consultative status with ECOSOC. Cultural Survival is located in Cambridge, Massachusetts, and is registered as a 501(c)(3) non-profit organization in the United States. Cultural Survival monitors the protection of Indigenous peoples' rights in countries throughout the world and publishes its findings in its magazine, the Cultural Survival Quarterly; and on its website: www.cs.org

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I. Executive Summary

While the Constitution of Mali does recognize the cultural diversity of the country, and the National Pact recognizes that certain regions are predominantly inhabited by the Tuareg, Mali does not explicitly recognize Indigenous Peoples.¹ Mali voted to adopt the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) in 2007 and is also party to ICCPR, ICESCR, CERD, CEDAW, CRC, and CAT, among others.²

Years of fighting between Tuareg-led rebel groups, the government of Mali, the National Movement for the Liberation of the Azawad, and occasionally jihadist groups, as well as a history of failed ceasefires has left Mali, and its Indigenous population in particular, in a state of post-conflict insecurity.³

The ramifications of this insecurity are far-reaching, impacting access to education, food security, access to clean drinking water, and the livelihoods of many Indigenous Peoples. The conflict has also created over 135,000 refugees who now reside in neighboring countries.⁴

II. Background

Mali has a total population of approximately 17.8 million. The three groups most negatively impacted by geopolitical factors are the Tuareg, Fulani, and the Songhai. Occupying adjacent lands, they are traditional trading partners yet have also experienced periodic hostilities dating back centuries. The Tuareg, who live in a broad zone encompassing most of northern Mali, comprise about 8% of the population and are largely nomadic pastoralists, herding camels, sheep, and goats. They also engage in trade, often with international partners across Saharan nations and a continued resistance to national borders remains a friction point with the state. Traditionally, the Tuareg were divided into three political confederations, the Kel Tademekat, Iwellemeden, and Kel Adraar. Each confederation was sub-divided based on five classes: the *imazaghen* (nobility), *ineslimen* (religious experts), *imghad* (vassals), *inaden* (workers), and *iklan* (servants.) The Tuareg speak Tamashek and refer to themselves as Kel Tamachek, as “toureg” is a derogatory term assigned by Arabs long ago.⁵ Currently this feudal caste system is far less active and slavery has been discontinued. That said, resentment by southern Malians regarding the former enslavement of black people continues to fuel ethnic tensions and impede genuine development efforts controlled by a southern dominated government.

The Songhai are mostly subsistence farmers inhabiting north-east Mali, concentrated along the Niger River.⁶ They are descended from members of the Songhai Empire, which conquered the Mali Empire in 1375 and spread into modern-day Nigeria.⁷ As a sedentary people residing south of the Tuareg desert zone, the Songhai share more cultural similarities with the Bambara who dominate political control from the south.

Mali is almost entirely populated by peoples with tribal affiliation indigenous to the country as colonizing Europeans never fully settled. Other self-identifying Indigenous Peoples in Mali, who self-identity as Indigenous, include the Fulani, who are pastoralists, the Berabish Arabs, who are pastoralists, the Arabs, who are merchants, the Dogon, who are agriculturalists, the Bozo, who are fisher nomads, and the Bambara, who are agriculturalist and the largest and most politically powerful group in the country..⁸

III. Past UPR Recommendations

1. *Come up with sustainable and comprehensive measures to ensure lasting peace among tribal groups.* (Republic of Korea, Cycle 2)
2. *Take all necessary measures to avoid collective and arbitrary punishments of presumed rebels' collaborators, put an end to the abuses committed by security forces and to its practice of enforced disappearances, particularly of minorities and journalists.* (Germany, Cycle 2)
3. *Take further steps to ensure equal treatment and non-discrimination against women as well as to expand representation of women in decision-making positions.* (Thailand, Cycle 2)
4. *Adopt all necessary measures to combat effectively the child labour and trafficking of children.* (Slovenia, Cycle 2)
5. *Strengthen poverty reduction and access to education and health services programmes.* (Mexico, Cycle 2)
6. *Enhance its policies regarding access to education, in particular for girls.* (Portugal, Cycle 1)
7. *Investigate allegations of and bring to trial the perpetrators of extrajudicial executions taking place as part of the struggle with the Tuaregs, as well as the allegations of torture made in the cells of the State security services* (Costa Rica, Cycle 2)

IV. Continuing Violations of Indigenous Peoples' Rights

A. Constitutional Recognition (UNDRIP Articles 3, 4)

The preamble to the Malian Constitution commits the government to “defend the rights of women and children as well as the cultural and linguistic diversity of the national community.”⁹ It also commits itself to “assure improvement to the quality of life, the protection of the environment and of the cultural heritage.”¹⁰ The cultural heritage and diversity of Mali are acknowledged, but Indigenous Peoples, or even minorities, are not explicitly mentioned.

Title I, Article 2 states that “All Malians are born and live free and equal in their rights and duties. Any discrimination based on social origin, color, language, race, sex, religion, or political opinion is prohibited.”¹¹ Ethnicity is not listed as a protected category, denying the existence of multiple ethnic groups within Mali and defining them outside of the sphere of obligation and protection of the government of Mali.

Without explicit constitutional recognition, the Indigenous Peoples living in Mali may be more easily denied the basic human rights guaranteed to Malian citizens, such as the right to life, to health, to property, and to education.

B. Post-Conflict Insecurity (UNDRIP Articles 7, 14(2), 22(1), 24(2))

The conflict in Mali has been going on for years. In June 2013, a ceasefire was signed between the government of Mali and representatives of the groups involved in the Tuareg-led rebellion. An Algerian-led mediation mission was appointed by the United Nations in July of 2014 to meet with the Malian government, pro-Azawad armed groups, and pro-government armed groups. Despite these meetings, disputes over land in northern Mali were not solved.

A new ceasefire was signed in February 2015, but was broken shortly after by the GATIA (a pro-government militia group of *imghad* Tuareg and their allies.) They broke the ceasefire by capturing Menaka, a city in the north previously controlled by the MLNA (National Movement for the Liberation of Azawad.)

In fall of 2015, a peace agreement was signed by Tuareg rebel leaders, as well as an intercommunal agreement between the Tuareg and Arabs, with the intention of settling the conflict in the Kidal region. There are many barriers to implementing this peace, however. First, the agreement mentions security but does not address reconstruction, which is vital for northern Mali. Much of this part of the country has been torn apart by the war and by slews of suicide bombings and criminal activities.

As of late 2015, many schools in the north were closed, and over 54,000 people did not have adequate access to clean drinking water. Approximately 2 million people were food insecure. A large percentage of these people were Indigenous Peoples, namely Tuareg civilians. Almost 140,000 refugees displaced by the conflict resided in Burkina Faso, Mauritania, Cote d'Ivoire, Algeria, and Niger. Many of those were Tuareg civilians who were forced to leave their homeland when the conflict (namely looting and revenge attacks) destroyed their crops, livestock, and livelihoods.¹²

In February 2017 the UNHCR released a regional update on refugees in Mali. They identified 244,624 persons of concern, 45,766 of which were internally displaced people within Mali, 60,154 of which were refugees in Niger, 48,798 of which were refugees in Mauritania, and 32,798 of which were refugees in Burkina Faso. There were also 57,408 refugee returnees in need of cash grants and assistance to rebuild their lives. The situation for refugees, and Indigenous refugees in particular, continues to be dire. In addition to limited access to healthcare, clean water, and education, refugees also face physical and sexual violence within refugee

camps, and stigmatization for representing the security risks facing Mali as a whole.¹³

Terrorism, drug trafficking, and corruption continue to complicate and exacerbate this conflict, and distract from the plight of the Tuareg which dates back to colonialism.¹⁴ However, these facets of the conflict did create a situation around which the signatories of the 2015 peace agreement could rally and work together. In February of 2017, a group of former Tuareg rebels partnered with the Malian army to stage a joint anti-extremist patrol in northern Mali. The goal of this patrol is “building confidence and curtailing insecurity in northern Mali pending the full restoration of state authority.”¹⁵ While this, once again, does not directly address the grievances of the Tuareg, it may signify a trend toward a more cooperative relationship between the Tuareg and the government of Mali. Extremists in the north have threatened and attacked those Tuareg who have sided with the Malian government, so this patrol is also a sign of defiance in the face of an extremist common enemy.

C. Children and Education (UNDRIP Articles 7(1), 14(1) & (2), 22(1))

Mali is ranked in the bottom five of Save the Children’s “End of Childhood” Index. Conflict and poverty are two of the leading causes, but Save the Children notes that “many also suffer because of discrimination, with girls, child refugees and those from ethnic or religious minorities among the most vulnerable.”¹⁶ For children living in conflict, such as those living in northern Mali, their likelihood of dying before the age of five is twice as high as nations experiencing peace. In Mali, more than 10% of children die before their fifth birthday. However, this is due to the poor infrastructure that results from conflict, not from the conflict itself. Disease and malnutrition are the leading causes of death among children, even those living in conflict zones.¹⁷

With food, clean water, and physical safety as priorities, education typically becomes an afterthought for these children. According to UNESCO, over half of children worldwide who are out of school live in 12 countries, including Mali, and several of its neighbors (Nigeria, Burkina Faso, and Cote d’Ivoire.)¹⁸

The state of education in Mali prior to the crisis was far from ideal. Primary school enrollment was 71% and secondary school enrollment was 34%. 1.2 million children were already out of school, and the literacy rate among adults was 33.4%.¹⁹

However, the conflict in northern Mali between the government and the Tuareg-led rebellion has had devastating consequences for the education system in the north, and on the children, many of whom are Indigenous. Post-conflict, 800,000 more children dropped out of school, and approximately 80% of teachers other education professionals fled the area. In March 2013 alone, 130 schools were looted and destroyed by armed forces. Tuareg and Arab ethnic groups alone makeup 60% of the refugees from Mali in Niger.²⁰

D. Sexual Violence and Women's Rights (UNDRIP Articles 7(1), 22(1), 24(2))

Another product of conflict is all too often sexual and physical violence against women and girls. Indigenous women and girls are especially vulnerable as they bear double discrimination at being Indigenous and female. In 2014 the UN Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict reported 90 allegations of sexual violence by members of armed forces. 52 of the survivors were women and 38 were girls.²¹ However, these numbers are surely a small fraction of actual cases of sexual assault and violence, as the insecurity and prevalence of revenge attacks in northern Mali has limited reporting, and rates of reporting on sexual assault is well known to be underreported. Women and girls in refugee camps are especially vulnerable. "Displaced women face an elevated risk of sexual violence owing to the lack of community-based protection mechanisms and the proximity of armed groups to population centers, making it particularly dangerous to access isolated water points and forests, reported the Secretary-General."²²

V. Questions

1. What initiatives are currently underway to prolong peace in the north in a way that does not disadvantage Indigenous Peoples?
2. What measures are being taken to protect Indigenous women from sexual assault, both inside and outside conflict zones?

VI. Recommendations

Cultural Survival urges the government of Mali to:

1. Adopt ILO Convention No. 169
2. Ensure Indigenous participation in decision-making at all levels in all matters affecting them, especially in decisions regarding peace negotiations in the north.
3. Ensure equal access to education, including for children in refugee camps.
4. Include Indigenous communities in developing policies for improved food sovereignty.
5. Ensure access to clean water for all, especially children.
6. Include Indigenous women in developing measures to reduce the stigma of women who have been sexually assaulted or have borne children from sexual assault.
7. Work to prevent sexual assault against Indigenous women and girls and to end impunity for perpetrators.
8. Recognize Indigenous Peoples officially in its constitution.
9. Invite the UN Special Rapporteur on the Rights of Indigenous Peoples to visit Mali.
10. Create a National Action plan on implementing the rights of Indigenous Peoples based on the World Conference on Indigenous Peoples' Outcome Document.

¹ "Indigenous Peoples in Mali." International Work Group for Indigenous Affairs, n.d. Web. 08 June 2017.

² "Ratification of International Human Rights Treaties - Mali." *University of Minnesota Human Rights Library*. University of Minnesota, n.d. Web. 08 June 2017.

³ Ingrid Poulsen. "Mali." *The Indigenous World 2016*. By Diana Vinding and Caecilie Mikkelsen. Copenhagen: International Working Group for Indigenous Affairs, 2016. 358-63. Print.

⁴ Ibid.

⁵ "Indigenous Peoples in Mali."

⁶ "World Directory of Minorities and Indigenous Peoples - Mali."

⁷ "Mali." *Minority Rights Group*. N.p., n.d. Web. 08 June 2017.

⁸ "Indigenous Peoples in Mali."

⁹ "The Constitution of the Republic of Mali." The University of Richmond School of Law, n.d. Web. 08 June 2017. <<http://confinder.richmond.edu/admin/docs/Mali.pdf>>.

¹⁰ Ibid.

¹¹ "The Constitution of the Republic of Mali."

¹² Ingrid Poulsen. "Mali."

¹³ UNHCR. *Mali Situation: UNHCR Regional Update*. United Nations, Feb. 2017. Web. 08 June 2017.

¹⁴ Washington, Adolphus. "Malian Blues: the Issue of the Tuareg." *Global Risk Insights*. 20 Jan. 2016. Web. 08 June 2017.

¹⁵ Associated Press. "Tuareg Rebels Join Mali Army in Operation Against Extremists." *Voa*. 28 Feb. 2017. Web. 08 June 2017.

¹⁶ Guilbert, Kieran. "War, Marriage and Hunger: One in Four Childhoods Cut Short." *Reuters*. Thomson Reuters, 21 May 2017. Web. 08 June 2017.

¹⁷ Ibid.

¹⁸ Interagency Support Group on Indigenous Peoples' Issues. "Education and Indigenous Peoples: Priorities for Inclusive Education." June 2014. Web. 08 June 2017. 4.

¹⁹ Sorrentino, Emilia. "Impact of the conflict on children's education in Mali." *Education in Emergency Specialist Plan Ireland*. Web. 08 June 2017.

²⁰ Ibid.

²¹ "Mali." *Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict*. United Nations, n.d. Web. 08 June 2017.

²² Ibid.