



How Mali Is Pursuing Justice for a War That Never Really Ended

Anna Pujol-Mazzini | Tuesday, Jan. 29, 2019

BAMAKO—On a Monday morning last June, toward the end of the fasting month of Ramadan, Amadou Barry, a 55-year-old cattle herder and member of the Fulani ethnic group, noticed smoke coming out of a nearby village. It wasn't long before he registered the sound of gunshots—a telltale sign that a militia attack was underway. In a matter of hours, the village, Gueourou, had been turned to ashes, like so many others in the region of Mopti, in central Mali.

After the bloodshed ended, Amadou and other residents of his village went to bury the bodies; there were 16 of them, he remembers. It wasn't the first time he had buried his neighbors. Just a few days before, he had performed the same service when a different village a few kilometers north had been attacked, leaving three people dead.

Fearing that his own village would be next and that his family was no longer safe, Amadou decided to leave. A few days after the attack on Gueourou, he traveled with his wife and children in a shared taxi to Bankass, a town about an hour's drive to the southwest.

Though the family was forced to rely on help from aid organizations to get by, for several months Amadou took comfort in the feeling that they were safe from harm. Toward the end of last year, however, the violence found them again. On a bustling market day, assailants targeted the chief of a nearby village, striking his head with a machete and then carrying his lifeless body away on a motorbike.

Amadou fled yet again, heading farther south. By the time I met him in November, he had just arrived at a makeshift camp in Dialakorougou, on the outskirts of Mali's capital, Bamako, where around 200 people were sleeping under tarpaulin tents. Most of them were, like Amadou, members of the Fulani ethnic group, who make up around 15 percent of Mali's population and are concentrated in the Mopti region. All of them had been displaced by the spiraling violence in the center of the country.



Malian troops stand with former rebels before a joint patrol in Gao, Mali, Feb. 23, 2017 (AP photo by Baba Ahmed).

Since the beginning of 2017, more than 1,200 civilians, mostly Fulanis, have been killed in clashes in central Mali, according to the Malian Association for Human Rights, an independent rights group.

Much of the violence has resembled the attack on Gueourou: lethal raids by armed men who burn down villages and steal whatever cattle they can. The perpetrators in many cases are believed to be members of so-called self-defense militias created by the Dogon and Bambara ethnic groups, though jihadists and soldiers with the Malian army have also carried out killings. In response, the Fulanis have created their own self-defense groups, which have been implicated in the deaths of dozens of Dogon villagers.

There have long been tensions between different communities in central Mali over access to land and water—tensions that are being exacerbated by climate change. But the ethnic self-defense militias are a relatively new phenomenon. Many of them have formed in the context of the conflict that began in northern Mali in 2012, the year jihadist groups took over half the country. The ranks of the self-defense militias have continued to swell in response to extrajudicial killings by Malian security forces and the relative absence of the state in the region. A December report (<https://www.hrw.org/report/2018/12/07/we-used-be-brothers/self-defense-group-abuses-central-mali>) by Human Rights Watch documented 26 attacks predominantly targeting the Fulani community, all of them occurring in 2018.

In the case of the June attack on Gueourou, Human Rights Watch determined that the Dogon self-defense militia known as Dan Na Ambassagou had opened fire on dozens of villagers as they gathered for a baptism at the village chief's house. Among the dead were a newborn baby boy—so young he hadn't been given a name—and his grandfather, who was shot in the chest. While the precise motive for the attack is unclear, Human Rights Watch noted in its report that Gueourou was “known for its abundance of livestock, and that after the attack, the militiamen pillaged several thousand animals, as well as food stocks and jewelry.”

This type of violence represents the latest manifestation of the chronic insecurity that has afflicted parts of Mali for the better part of a decade. And it is not the only security challenge facing the government of President Ibrahim Boubacar Keita, who came to power in 2013 and was re-elected last year. In addition to the ethnic violence in central Mali, Keita's administration is grappling with a long-running Tuareg rebellion in the north and a growing web of jihadist groups that can stage attacks anywhere in the country.

Even as bullets continue to fly, Malian officials have backed a range of initiatives intended to help the country move on from the conflict.

In this delicate security environment, officials are attempting to strike a balance between reconciliation and justice. Even as bullets continue to fly and armed groups and self-defense militias multiply, the government, backed by the United Nations and international donors, has initiated a range of initiatives to move on from the conflict. These include disarmament, a truth commission and efforts to bring perpetrators to court to break the cycle of impunity that is widely blamed for bouts of instability that have plagued Mali since its independence from France in 1960.

Yet justice is a remote concern for those who, like Amadou, are merely hoping for security to be restored. Rather than pushing for the perpetrators of violence to be prosecuted, Amadou wants only for relations between the various groups in central Mali to revert to the habits of a more harmonious, pre-conflict era. “Dogons and Fulanis, we should go back to the way we used to be,” he says. “We can’t live without one another. We want all this to stop so we can go home.”

Others, though, fully support the pursuit of justice; their main concern is that it won’t go far enough. In recent years, they have made their wishes clear by testifying before the country’s truth commission, which was set up in 2015, and forming their own grassroots advocacy organizations. At the same time, they have watched warily as officials have granted concessions to their one-time enemies—for example, by freeing from prison (<https://www.fidh.org/en/region/Africa/mali/15931-mali-release-of-ag-alfousseyni-houka-houka-d-ancardine-true-attack-against>) rebel leaders suspected of committing war crimes. Such moves make it increasingly doubtful that victims will ever get their day in court.

“Justice has not done anything for now. The perpetrators carry on killing people,” says Hamadou Dicko, the youth delegate of Mali’s biggest Fulani association, Tabital Pulaaku, who works with displaced people like Amadou. “We don’t trust Mali’s justice system.”



An Islamic Police officer walks through the square where members of the group Ansar Dine were preparing to publicly lash a person found guilty of adultery, Timbuktu, Mali, Aug. 31, 2012 (AP photo).

Bringing Armed Groups Under Control

The Malian conflict, which for many people has never really ended, began in the early months of 2012, when ethnic Tuaregs in the north, who have long felt marginalized, launched an uprising and declared their own independent state of Azawad, which covered all of northern Mali. The rebels advanced quickly, driving out a poorly equipped and disorganized Malian army. Angry about then-President Amadou Toumani Toure's handling of the crisis, a group of soldiers in Bamako staged what some have described as an "accidental coup," (<https://www.dailyherald.com/article/20120705/news/707059611/>) marching on the presidential palace and prompting Toure to flee.

During the ensuing confusion, the conflict escalated further, with the Tuaregs taking over nearly two-thirds of the country, only to have their rebellion hijacked by armed Islamist groups. As the Islamists took control of the cities of Kidal, Gao and Timbuktu, Sharia law was imposed in much of the north. Music and football were banned. Women in Timbuktu had to sit down to browse goods at the market rather than lean over and risk exposing their backs. If they failed to comply, they faced prison time.

When the militants threatened to advance on Bamako in early 2013, France sent in troops who, with the help of African allies, quickly reclaimed control over the northern cities. But jihadist groups merely retreated to rural areas, where they still have a presence, and they have since migrated to parts of central Mali.

In 2015, peace talks in Algiers yielded an agreement between the three main parties: the Malian government; Arab and Tuareg pro-independence armed groups falling under the umbrella of the Coordination of Azawad Movements, or CMA; and pro-government armed groups that operate independently of the Malian armed forces. The agreement envisioned the use of two main tools to bring the conflict to an end: disarmament and transitional justice.

The disarmament component involved allowing members of armed groups to surrender their weapons and be integrated into the Malian army or return to civilian life. One goal of this integration effort has been to create a national army that is more representative of Malian society, meaning less dominated by southerners.

A total of 36,000 fighters from various armed groups registered for disarmament in the north. Of these, only 15,000 were deemed eligible to be part of the process because they registered with a weapon; the others had shown up with only ammunition.

The process was to begin with the creation of a special unit called the Operational Mechanism of Cooperation, known by its French acronym MOC, which was to be composed of three battalions: one in Timbuktu, one in Gao and one in Kidal. According to the original plan, these battalions would help secure the re-establishment of the state's presence in the north as well as the rest of the disarmament process, in which other combatants would be integrated into the regular army.

In late 2016, the first MOC battalion was formed in Gao. This battalion was to be composed of 200 soldiers from the Malian army and nearly 600 fighters from other armed groups. But in early January 2017, as some 600 members of the battalion were on standby awaiting their first deployment as a joint patrol, jihadists blew up their barracks, killing 77 people in the deadliest terror attack ever to occur on Malian soil. The attack, which was claimed by the al-Qaida-linked group al-Mourabitoun, underscored one of the biggest threats to the peace deal: the fact that jihadist groups, responsible for so much of the violence in Mali, are not party to it. Today, these groups remain the biggest challenge to improved security and disarmament, says Zahabi Ould Sidi Mohamed, the head of the national disarmament, demobilization and reintegration commission, based in Bamako.

Nevertheless, officials have continued to forge ahead with disarmament, though they have run into additional roadblocks. In November, officials in Gao organized a ceremony to mark the beginning of a

new, accelerated phase of the disarmament process. On a sweltering afternoon, Lassine Bouare, Mali's minister of national reconciliation, and leaders of various armed groups gathered at Gao's police headquarters.

Because of the threat that the event could come under attack, the headquarters was heavily guarded by soldiers from the French and Malian armies and the U.N. peacekeeping mission. White tents were set up for the various steps of the program, including the surrendering of weapons, medical checks and military skills exams.

On the first day, however, one thing was missing: the hundreds of former rebels who were supposed to take part. In a letter written to a committee tasked with ensuring the Algiers peace deal's implementation, the rebels had sought guarantees about the ranks they would receive once they joined the Malian armed forces and the compensation that would be awarded to their families if they were injured or killed in combat. The letter had gone unanswered.

To officials' relief, the boycott did not last long. The following day, the rebels, having demonstrated their discontent, started the process as planned, even though they had received no concessions from the government. As of December, around 1,500 recruits had begun the latest phase of the disarmament process.

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Officials are optimistic that establishing the MOC battalions in Gao, Kidal and Timbuktu will go ahead unimpeded. But even if that's the case, the 2015 peace deal only concerns armed groups that have been active in northern Mali, meaning none of these efforts are likely to affect Amadou or otherwise improve security in the increasingly violent center of the country. It was only in December that Prime Minister Soumeylou Maiga, on a state visit to Mopti, announced a disarmament program for that region.

A Beleaguered Justice System

The jihadist takeover prompted many judges to flee northern Mali. Others were attacked before they could leave, and some were kidnapped and assassinated. In their stead, the extremists established a parallel justice system that destroyed the region's already fragile law enforcement infrastructure.

Despite the signing of the Algiers deal, persistent insecurity has had serious consequences for the effort to establish law and order in the north. Judges are scared of conducting investigations, having seen what the jihadists did to their colleagues. As of last September, one-third of justice officials in the north were not in their posts, according to the U.N. peacekeeping mission, while those who were deployed reported having to miss workdays and relocate often due to security concerns.

“We’re told to go back to working in the north. Who is going to risk going out bare-faced and getting killed over there?” says Moctar Mariko, a lawyer and president of the Malian Association for Human Rights, which has initiated many lawsuits related to crimes committed during the conflict. “Judges can’t protect themselves. Even soldiers can’t protect themselves. And you want victims to come before a judge and say, ‘He’s the one who raped me’?”

Security fears among the judiciary are not limited to the north. In Bamako—where high-end bars and restaurants are often fronted by metal doors, and security guards search guests as they enter—visitors are free to come and go undisturbed at one tribunal where some conflict-related cases are handled.

“There’s no one with a uniform here!” exclaimed a judge at the tribunal during a recent interview, pointing outside his office window. “Look at the wall here: It would take minimal effort to climb over this fence and come attack us.” A few meters away, dozens of people walked by a busy main street separated from the building by a meter-high wall.

The judge, who spoke to WPR on condition of anonymity out of fear for his safety, recalled a day when a man he had helped convict walked into his office shortly after being released from prison. “I just came to say hello,” he remembered the ex-convict saying. “This man could have just stabbed me and left.”



Malian President Ibrahim Boubacar Keita arrives to cast his ballot during the presidential runoff election, Bamako, Mali, Aug. 12, 2018 (AP photo by Annie Risenberg).

Last August, in an effort to press their demands for better security and higher salaries, civil servants working in the judiciary across the country went on strike, paralyzing the courts for over 100 days. The strike ended after the government agreed to hire more security staff for courtrooms.

Now back at work, those officials who want to prosecute conflict-related crimes report being weighed down by bureaucracy. To keep the justice system functioning during the conflict, the Supreme Court transferred jurisdiction for certain crimes committed in the north to two tribunals in Bamako—one focused on sexual violence and the other on terrorism-related offenses. In 2015, the Supreme Court restored the northern courts' jurisdiction, but the courts in the region weren't operational. As a result, many case files are still sitting in Bamako courtrooms that don't have the legal authority to pursue them.

Separate from the courts, the Algiers deal called for the creation of a Truth, Justice and Reconciliation Commission to shed light on human rights abuses committed since 1960, when nearly seven decades of French colonial rule ended. The commission was meant to come up with a reparations policy and explore the root causes of the current conflict.

The commission began taking testimonies in 2016, and it has collected over 10,000 allegations of violations from all over the country. But it has yet to start investigating the claims in order to produce a report advising the authorities on how to move forward.

As it has with the courts, insecurity has bedeviled the commission's operations. The opening of the Kidal office didn't happen until last month, and commission staff members are reluctant to go up north where they might be targeted by jihadists.

Critics of the commission decry the fact that the group of 25 commissioners includes representatives of all the warring factions, who might be reluctant to investigate incidents that could incriminate them and their allies. Victims' groups, which are not part of the commission but have partnered with it, say they were not granted enough say in its organization.

Victims might be excused for thinking they have little to gain from telling their stories. Reparations are a long way off, assuming they are ever administered, and for victims of sexual violence in particular, the shame of coming forward can outweigh the potential benefits. "The absence of justice stops women from coming forward," says Bernadette Sene, head of the gender unit at Mali's U.N. peacekeeping mission.

Recounting violent experiences can also be traumatizing, and Ousmane Oumarou Sidibe, the commission's president, acknowledges that the country does not have the resources to help participants cope. "There are no psychologists outside of the capital. For victims in the regions, it really is basic support," he says. "There is nothing in place for people in serious need."

Domestic institutions like the courts and the commission aren't the only bodies investigating crimes in Mali. An international investigatory commission, mandated by the U.N., is also supposed to probe human rights abuses. Now in the planning stages, it will investigate war crimes, crimes against humanity and sexual violence linked to the most recent conflict in order to produce a report for the U.N. secretary-general by October of this year.

As these various justice initiatives play out, some observers in Mali are worried about a new bill that, for certain crimes, could take justice off the table completely. The bill, championed by President Keita, calls for amnesty for those who took part in the 2012 rebellion. This amnesty would apply to all but the most serious crimes: war crimes, crimes against humanity and rape. Under the terms of the bill, former fighters would have six months to admit to their crimes and surrender their weapons to judges, mayors or police commissioners.

As word of the bill spread after it was introduced in early 2018, critics expressed alarm that rebels responsible for crimes like torture and murder might end up walking free. Women's rights groups expressed doubt as to whether, with an amnesty law in place, men responsible for mass rapes and forced

marriages would really face prosecution.

President Keita's commitment to justice has been called into question by his decision to champion a partial amnesty bill.

Diplomats and human rights activists said the law was coming too soon, and that lawmakers should wait for recommendations from the truth commission and the U.N.'s investigatory commission regarding reparations and prosecutions before proceeding.

A vote on the bill was scheduled for December, and it appeared to have enough support to pass, according to a judicial source and a diplomatic source, both of whom spoke on condition of anonymity because of the sensitivity of the issue. But debate was delayed until April after Malian and international NGOs staged a protest campaign that included letters to lawmakers and a planned protest, which was banned. "For us victims, there can be no reconciliation or peace without justice," Haidara Aminai Maiga, president of the National Council of Victims, an umbrella group of over 200 associations across the country, told a press conference in November.

Steps Toward Accountability

So far, victims in Mali have only found justice through two routes: a tribunal in Bamako devoted to terrorism cases that was created in January 2015, and the International Criminal Court.

The tribunal, located just south of the Niger river, has brought charges against dozens of people for terror-related offenses such as kidnapping, illegally carrying weapons and breaching national security. But while there has been a push by human rights groups to widen the remit of the tribunal to include severe abuses such as war crimes and sexual violence, it would take a new law or a Supreme Court ruling to make this possible. The fact that President Keita has gone through six justice ministers during his time in power has hindered such reforms, as victims, women's rights groups and international organizations need to start lobbying from scratch each time a new minister is appointed.

Two cases pertaining to the Malian conflict have made it to the ICC. Ahmad al-Faqi al-Mahdi, a member the Islamist extremist group Ansar Dine, which controlled Timbuktu prior to the French-led invasion, was arrested in September 2015 and charged with destroying sacred mausoleums in the city. A year later, judges found him guilty in a landmark ruling (<https://www.worldpoliticsreview.com/articles/20190/the-limits-of-the-icc->

ruling-on-cultural-destruction-as-a-war-crime) over the destruction of cultural heritage as a war crime and sentenced him to nine years in prison.

A second case involves Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, who was the de facto Islamic police chief in Timbuktu during the Islamist takeover. An alleged member of Ansar Dine, he has been in custody in The Hague since last April for crimes including torture and participating (<https://www.icc-cpi.int/Pages/item.aspx?name=pr1377>) “in the policy of forced marriages which victimized the female inhabitants of Timbuktu and led to repeated rapes and sexual enslavement of women and girls.” In May, the court will hold a hearing to determine whether there is enough evidence to go to trial. If it goes ahead, the case would represent the first time victims of sexual violence in the Mali conflict are heard in any court. It would also be the ICC’s first successful prosecution for persecution on the grounds of gender.

‘They Will Grow Up and Want Revenge’

Every one of these initiatives, from disarmament to the truth commission to criminal trials, is complicated by the fact that the fighting in Mali is ongoing, with a death toll that continues to climb. “We are one of the only commissions who has started working in the middle of a crisis,” Sidibe, the president of the truth commission, told me. “Violations are happening in the north and center as we speak. Every day there is a new number of victims. Their treatment will be a lot more complicated.”



A boy refills a water bucket in a makeshift camp for ethnic Fulanis displaced by the conflict in central Mali, Dialakorobougou, Nov. 24, 2018 (Photo by Anna Pujol-Mazzini).

Those displaced by the fighting, including Amadou and his family, are stuck in limbo. During my visit in November to the camp in Dialakorobougou, older men sat near the gate at the entrance, one of the few spots that offers shade, surrounded by prayer mats and metal chairs. They talked about how they had escaped central Mali, and they asked new arrivals about loved ones who had stayed behind.

Children spend their days playing with pots and pans in a sandy courtyard. Hamadou Dicko, the Fulani youth representative, pointed out that a few of the youngest children were born in the camp.

The lives of many of the children, he said, have already been defined by their displacement, and they are surrounded by stories of violence and death. That's why he is so alarmed that there is no end in sight to the unrest. Without justice, he warned, the violence will keep repeating itself. "These children you see here, they will grow up and want revenge."

Anna Pujol-Mazzini is a freelance journalist based in Dakar who focuses on conflict, migration and women's rights. Her work has been published by The Washington Post, The Times of London, Reuters, AFP and Vice News, among other outlets. Follow her on Twitter @annapmzn (<https://twitter.com/annapmzn?lang=en>).

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