



Malian children in a Burkina Faso refugee camp, 2012. © Vincent Tremeau / Oxfam

WHAT NEXT FOR MALI?

Four priorities for better governance

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The 2013 elections helped to restore constitutional order in Mali and marked the start of a period of hope for peace, stability and development. The challenge is now to respond to the Malian people's desire for improved governance.

The new government must, therefore, strive to ensure equitable development, increase citizen participation, in particular women's political participation, while improving access to justice and promoting reconciliation.



INTRODUCTION

Almost two years after the March 2012 coup d'état, the suspension of international aid that followed, and the occupation of northern Mali by armed groups, the Malian people now have a new hope for peace, development and stability. The recent presidential elections in July and August 2013 and parliamentary elections in November and December 2013 were a major step towards restoring constitutional order in Mali, with a democratically elected president and parliament.

However, these elections alone do not guarantee a return to good governance. Major reforms are required to ensure that the democratic process serves the country's citizens, in particular women and men living in poverty.

The Malian people expect to see changes in the way the country is governed; with measures taken against corruption and abuses of power by officials; citizens' rights upheld, including their right to hold the state accountable; and a fairer distribution of development aid throughout the country.

A new form of governance is needed in order to have a sustainable, positive impact on both the cyclical food crises that routinely affect the country and the consequences of the conflict in the north. This should be based on strong institutions, and transparent and inclusive decision making, which promotes citizen participation and leadership.

The government's Accelerated Development Programme for the Northern Regions (PDA/RN) and the Government Action Plan 2013-2018 address some of these issues by focusing on strengthening institutions and the rule of law, reconciliation, and development and recovery in the north. However, these policies and programmes must go further to ensure that state institutions and processes are accountable to citizens.

The United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) has a mandate to support government efforts to establish rule of law, improve the justice sector, and promote reconciliation. MINUSMA and donors are in the processes of developing their reconstruction and development plans and priorities for Mali. They must ensure that their initiatives support inclusion, transparency, and accountability, and strengthen the state's interactions with and responsiveness to citizens and their priorities.

This briefing note, based on the experiences of Oxfam and its Malian civil society partners,¹ highlights the importance of four key priorities for reconstruction and development programmes. These are: the need for the equitable and transparent distribution of resources; improved citizen participation, especially women's participation; access to justice; and national reconciliation.

PRIORITY 1

AN EQUITABLE AND TRANSPARENT ALLOCATION OF RESOURCES

The combined impact of weak decentralization, corruption, and a lack of transparency regarding budget allocation and the distribution of aid has led to a widely-held belief that the country's citizens are not receiving their fair share from the government.²

However, if funds are disbursed as promised, the aid pledged at the Brussels donor conference in May 2013 represents a golden opportunity for ensuring development throughout Mali. To this end, the government and donors must look beyond a basic humanitarian response to the situation in the north by also tackling the chronic poverty in this region, while not forgetting the considerable development needs in the south.

Monitoring the commitments made at the Together for a New Mali donor conference (Brussels, 15 May 2013)

This conference saw donors make an official combined commitment of €3.2bn, of which €2.2bn corresponds to additional funding and €1bn to aid already committed.³ This overall amount includes different types of commitments. Some donors made pledges for the region, others took into account projects which had started before the crisis, and others put forward pledges mostly made of loans (rather than grants).

Other donors made available additional funds, to be given as grants, as a response to the new situation which had unfolded in Mali. This makes it difficult to assess the real amount of aid genuinely available for stabilization and reconstruction of the country.

An inter-ministerial committee to monitor the commitments made at the Brussels conference was set up on 29 October 2013. One of its aims is to mobilize resources (internal and external) according to the priorities set out in the Plan for the Sustainable Recovery of Mali 2013-2014.⁴

In light of the corruption and patronage that has developed in Mali over the years, donors should increase their scrutiny over the use of funds and increase their transparency in aid commitments, disbursements, and project impacts.

RECOMMENDATIONS

The delicate balance within the distribution of aid and domestic revenues requires an in-depth assessment of needs across the country, prioritizing sectors, and a good communications strategy informing citizens on how the budget is to be allocated and spent.

The Malian government should:

- Make clear budget allocations for recovery in the north and development in the south. The government and donors have a shared responsibility to respond to needs across the country;
- Ensure a smooth transition between emergency humanitarian programmes and development programmes by providing funds aimed at improving the resilience of poor women and men to cope with crises;
- Develop a communications strategy explaining budget allocations and expenditures to communities, using traditional communication channels such as village storytellers and radio and television broadcasts;
- Improve transparency and citizens' involvement in resource allocation and budget processes, and provide more information on the expected results of budget spending and the resources mobilized. This should apply also to current projects already being implemented.

Donors should:

- Ensure the transparency and accountability of all aid-related expenditure, based on consultations with civil society and Malian communities;
- Establish a multi-donor website, consistent with International Aid Transparency Initiative standards, aimed at consolidating information on all development projects and international aid flows, monitoring disbursements, and tracking results.

MINUSMA should:

- Ensure that its work on stabilization and recovery supports the principles of good governance – transparency, accountability, inclusion, and citizen participation – in the development of all frameworks and programmes;
- Encourage the government to systematically consult with civil society organizations throughout the process of reconstruction, development, and re-establishing state institutions.

PRIORITY 2

ENCOURAGE THE POLITICAL PARTICIPATION OF CITIZENS, ESPECIALLY WOMEN

The active participation of citizens in political processes is a vital component of an effective democracy. This goes beyond the right to vote. Citizens must be able to communicate with politicians and decision makers about issues that affect their lives. As things stand, there are very few means by which Malian citizens can express what they see as their priorities and directly influence decision makers.

The Malian constitution guarantees protection from gender discrimination and the National Gender Policy promotes women's participation in decision making. However, the reality is that the level of women's participation remains low. Cultural norms and fear of social stigma often prevent women from taking on public leadership roles.

For example, despite the high turnout of female voters for the presidential elections, there was only one female candidate.⁵ Out of a total of 34 government ministers, only four are women. Political parties standing in the recent parliamentary elections were reticent about putting forward female candidates. Furthermore, at a local level, just 1.14 per cent of mayors⁶ and 8.6 per cent of local councillors⁷ are women.

The African Union's gender policy requires all governance systems to ensure gender parity. This was reinforced by the Rio +20 United Nations Conference on Sustainable Development and supported by the Committee on the Elimination of Discrimination against Women. Despite these, Mali has not implemented quotas or any other temporary measures, which might encourage women's political participation, in parliament or in the government. The Ministry of the Family and Promotion of Women and Children has developed a 2013-2015 strategy which aims to increase the levels of women's participation to 20 per cent female members of parliament, 20 per cent female mayors, and at least 30 per cent female local councillors. However, it remains unclear whether these targets will be met.⁸

The National Gender Policy does not specifically address the rights of women in conflict situations, nor their participation in peace, security, and reconciliation processes. Given the crisis/post-crisis context in Mali, this is a significant omission which needs to be addressed in order to guarantee women's inclusion in reconstruction processes.

RECOMMENDATIONS:

In order to encourage a deep-rooted renewal of Malian democracy, improve governance, consolidate the state, and win back citizens' trust:

The Malian government should:

- Reinforce inclusion and citizen participation in political and decision-making processes, in particular for vulnerable women and men, by establishing mechanisms for citizen oversight, such as citizen juries, budget monitoring and analysis, and gender-sensitive participatory budgeting;
- Provide the human and financial resources to implement the Ministry of the Family and the Promotion of Women and Children's strategy for promoting the political participation of women;
- Update the National Gender Policy to take into account the measures contained in the United Nations Security Council resolution 1325 on women and peace and security,⁹ or draw up a separate action plan on women, peace and security;
- Put into place temporary measures aimed at progressively achieving gender parity in institutions, for example by adopting a quota of 30 per cent women employees.

Donors should:

- Fund programmes that aim to increase women's political participation and their involvement in justice and reconciliation processes. This should include training in negotiation, mediation, awareness raising, and advocacy and campaigning skills.

MINUSMA should:

- Consult communities, in particular women and men living in poverty, when designing, implementing, and assessing programmes.

PRIORITY 3

MAKE JUSTICE MORE EFFECTIVE FOR CITIZENS

For victims of the conflict

The conflict has been marked by numerous abuses, the scale of which remains unknown.¹⁰ To date, very few trials have been held in national courts for the crimes committed during the conflict. The weakness of judicial institutions outside of the capital, Bamako, was all too keenly felt even before the start of the crisis, and is now even more pronounced.¹¹

The Malian government's stated intention to rapidly rehabilitate the justice sector's infrastructure in conflict zones is positive.¹² Going forward, it will also need to restore the population's faith in the legal system, notably in the north of the country. This will require an overhaul of the justice system, as well as regular consultations with communities, particularly the victims of abuses, in order to understand their experiences and expectations of the system. This is vital to ensure that the judicial system is effective, and that it is perceived as fair by the country's citizens.

Justice for all

According to a study funded by Oxfam in 2011, there are only 270 lawyers in Mali among a total population of 15 million inhabitants.¹³ The majority are located in Bamako, while most of the country's population lives in rural areas with very limited access to legal services. Despite the right to legal aid, thousands of Malians cannot access these services due to a lack of financial resources, and because they cannot afford to pay bribes to corrupt officials.

Some women, including the victims of gender-based violence, are so afraid of being stigmatized that they are unable to seek any form of justice, whether through traditional or modern legal systems. The lack of legal protections ensuring women's access to land and to resources, or in the event of divorce, makes women even more vulnerable and may exacerbate their already difficult situation.

'Justice is first and foremost about the victims. Today we talk more about the perpetrators of human rights violations than the victims. We can build infrastructure and state institutions. If we do not take into account the victims' needs and rights, that is not justice and there will be no peace.'

Bouaré Bintou Founé Samaké,
President, WILDAAF/Mali

RECOMMENDATIONS:

The Malian government, supported by international donors and MINUSMA, should undertake an in-depth reform of the justice system, in line with the commitments made under the Government Action Plan 2013-2018,¹⁴ focusing on:

- Applying a zero tolerance policy to corruption within the legal system and establishing an effective mechanism for processing complaints from citizens;
- Setting up mobile legal clinics and deploying legal assistants, trained in women's rights and responding to sexual and gender-based violence, to rural and conflict-affected areas;
- Establishing mechanisms for regular consultations on the types of justice services needed by citizens and people's experiences using the justice system. This should , guarantee effective protection of victim's rights, and empower citizens to file complaints;
- Conducting investigations, setting up courts for the victims of the conflict, and launching a national justice and reconciliation programme;
- Developing an amply-financed legal aid fund targeting women and men living in poverty and providing free access to lawyers and courts;
- Training religious and community leaders on human and women's rights, Malian and international law, and how these laws and norms can be integrated into traditional methods of conflict resolution.

'A young boy aged 18 years old was imprisoned for petty theft. He remained in prison for over 10 years without trial, before being freed. Following a fire in the Bamako central prison archives, the legal system had lost his file. His case therefore never went to trial and he remained behind bars. When he was finally freed, Bamako had changed so much that he was incapable of finding his way home. His mother was surprised to see her son again because the uncle he had been living with had had to lie to her.'

Ibrahima Koreissi, National Co-ordinator, Association Deme So

PRIORITY 4

SUPPORT AN INCLUSIVE RECONCILIATION PROCESS, IN CLOSE COLLABORATION WITH COMMUNITIES

In 2013, Oxfam and Women in Law and Development in Africa (WILDAF-Mali) carried out a study on the impact of the conflict on social relationships in northern Mali.¹⁵ One of the main conclusions was that repairing the social fabric of Malian society by means of an effective, inclusive reconciliation process¹⁶ should be a top priority. The communities interviewed by Oxfam clearly stated that any such process should start at community level and be based on traditional conflict resolution methods, as well as more formal legal proceedings. Communities identified women and young people as potentially effective mediators in the reconciliation process, but this potential has so far been under-used.

More than 474,000 people were displaced within Mali and as refugees in Mauritania, Burkina Faso, and Niger as a result of the conflict. Many refugees and internally displaced persons were not able to cast their vote in either the presidential or legislative elections. Special care should be taken in reconciliation processes to take into account the perceptions of internally displaced persons and refugees who are, generally speaking, more fearful and mistrustful due to their experience with the conflict.¹⁷

At present the Truth, Justice and Reconciliation Commission is in its very early stages without clear criteria for the selection of Commissioners. In order for the reconciliation process to succeed, it is essential communities view the Commissioners as representative and able to tackle the difficult issues related to justice and reconciliation.

RECOMMENDATIONS

The Truth, Justice and Reconciliation Commission, with support from the highest levels of government, MINUSMA, and the international community should:

- Ensure the independence and transparency of the Commission by determining Commissioners based on clear criteria, such as the inclusion of all ethnic groups, as well as women, youth, and civil society.

- Establish an inclusive vision, strategy and action plan for national reconciliation, which will make it possible to co-ordinate the actions of the different actors and implement reconciliation activities at community level;
- Recognize the added value of traditional conflict prevention, management, and resolution mechanisms in supporting reconciliation. These can be used alongside formal justice processes;
- Support a national reconciliation programme and ensure all voices are heard, with a specific focus on the participation of women, young people, civil society, and those displaced by the conflict.
- Regularly consult with conflict-affected communities to better understand and respond to their priorities for justice and reconciliation.

NOTES

- 1 ACOD, Femmes et Droits Humaines, GSBM, Deme So, and WILDAF.
- 2 The total number of people living in poverty is higher in the south due to a higher population density, yet the incidence or severity of poverty is often higher among the 10 per cent of the population living in northern Mali. For example, in 2001 the incidence of poverty in the north was 68.5 per cent compared to 55.9 per cent for the country as a whole. In 2006, it was 56.3 per cent compared to a 50.7 per cent average across Mali. Accelerated Development Programme for the Northern Regions, 2013.
- 3 According to Pascal Canfin, French Minister for Development, 22 May 2013, <http://www.assemblee-nationale.fr/14/pdf/cr-cafe/12-13/c1213062.pdf>
- 4 Plan for the Sustainable Recovery of Mali 2013-2014, http://www.maliapd.org/IMG/file/pdf/DOCUMENTS_CLES/12.%20PRED/Plan_pour_la_Relance_Durable_du_Mali_VF.pdf

See Also: Decree n°2013-836/PM-RM, 29 October 2013, http://www.maliapd.org/IMG/file/pdf/Actu/2013_10_Decret_portant_creation_du_comite_interministeriel_de_suivi_des_engagements_conference_de_Bruxelles.pdf
- 5 Final Report of the EU Election Observation Mission in Mali on the 2013 Presidential Elections, http://www.eueom.eu/files/pressreleases/other/RAPPORT-FINALANNEXESA-F_MOE-UE-MALI-2013-lection-prsidentielle_fr2.pdf
- 6 Eight women out of 703 mayors (2009 elections). '2013 Elections: Women candidates trained by NDI', Maliactu, 25 October 2013, <http://maliactu.net/elections-legislatives-2013-les-femmes-candidates-formees-par-le-ndi/>
- 7 Final Report of the EU Election Observation Mission Mali, 2013, http://www.eueom.eu/files/pressreleases/other/RAPPORT-FINALANNEXESA-F_MOE-UE-MALI-2013-lection-prsidentielle_fr2.pdf
- 8 Ibid.
- 9 United Nations Security Council Resolution 1325 on women, peace and security (2000), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N00/720/18/PDF/N0072018.pdf?OpenElement>
- 10 Human Rights Watch has recorded that at least 30 young girls and women were the victims of sexual assaults including gang rapes, mainly in the region of Gao during the period in which the north of the country was occupied by armed groups in 2012. Human Rights Watch reported abuses and extrajudicial executions of people suspected of collaborating with the armed groups, carried out by the Malian army. Human Rights Watch (2013) 'World Report 2013: Mali', <http://www.hrw.org/world-report/2013/country-chapters/mali>

A United Nations Human Rights Council report conducted in November 2012 revealed cases of amputations, cruel and inhumane treatment, and torture by armed groups. 'Report of the United Nations High Commissioner for Human Rights on the situation of human rights in Mali', Human Rights Council, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-33_en.pdf
- 11 For example, the Court of Appeal in Mopti covers the whole of the northern region. In 2011, additional Courts of Appeal were supposed to be set up in Segou, Gao and Sikasso, but to date this has not occurred. Oxfam internal assessment on access to justice in Mali, 2011.
- 12 The Malian government plans to develop the PDA/RN (Accelerated Development Programme for the Regions of the North) [Programme de Développement Accéléré des Régions du Nord]. The plan will invest 1.570bn CFA Francs over five years, of which 61.94 per cent (971bn CFA Francs) are actively being sought. The cost of rehabilitating the legal system and the judicial infrastructure, including the country's prisons, is estimated at 14.184bn CFA Francs.
- 13 Internal assessment on access to justice in Mali, conducted by Oxfam Novib in 2011. Current population estimates are closer to 17 million people according to the United Nations Office for the Coordination of Humanitarian Affairs. See the 2014 Consolidated Appeals, <http://www.unocha.org/cap/appeals/by-country/results/taxonomy%3A71> (available from February 2014).
- 14 Government Action Plan 2013-2018 [Programme D'actions Du gouvernement 2013-2018]: 'As regards the legal system, its rehabilitation aims to consolidate democracy by restoring the Malian people's faith in the legal system and by guaranteeing the security of domestic and international private investment. The rule of law can only be strengthened by implementing a transparent and fair system of justice. The measures to be implemented will include the creation of a professional training programme for magistrates, the introduction of the use of ICT into the legal system (transparency and access), the strengthening of civil society organisations (CSO) specialized in offering legal assistance to citizens, the publication of verdicts, the increase in the number of commercial and labour courts, more severe sanctions for magistrates convicted of corruption or prevarication and the strengthening of the bodies responsible for overseeing magistrates', http://www.primature.gov.ml/images/PAG_2013-2018.pdf
- 15 See: I. Allegrozzi and E. Ford (2013) 'Piecing Together the Jigsaw: Prospects for improved social relations after the armed conflict in northern Mali', Oxfam, <http://policy-practice.oxfam.org.uk/publications/piecing-together-the-jigsaw-prospects-for-improved-social-relations-after-the-a-303030>
- 16 See the PAG commitments on reconciliation: 'the setting up of a Truth, Justice and Reconciliation Commission, within which all the communities of the north will be fairly represented: the drawing up and implementation of a PDA/RN (Accelerated Development Programme for the Northern Regions) and the setting up a Cohesion and Solidarity Fund (FCS), the financial instrument of the aforementioned programme; the implementation of transitional justice (national and international); the launch of negotiations with the stakeholders in the rebellion; the reinforcing of social cohesion between all members of society; the redeployment of legal staff; the creation of new administration region; the classification of the regions of the north as special economic development zones', http://www.primature.gov.ml/images/PAG_2013-2018.pdf
- 17 I. Allegrozzi and E. Ford (2013) op. cit.

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