

Report of the Independent Observer

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

April 2019

THE
EUROPEAN UNION



This report presents the observations of The Carter Center as the **Inde**

PERSONNEL OF THE INDEPENDENT OBSERVER

BAMAKO

SPECIAL ADVISOR

AMBASSADOR (RET.) BISA WILLIAMS¹

DEPUTY SPECIAL ADVISOR

JEAN NTOLE KAZADI

COORDINATOR

LAURENCE BARROS

ANALYST

CLAUDIO FERRANTE

ACCOUNTANT

BAKARY DIARRA

ATLANTA

CEO, THE CARTER CENTER

AMBASSADOR (RET.) MARY ANN PETERS

VICE PRESIDENT, PEACE PROGRAMS (*interim*)

CRAIG WITHERS

DIRECTOR, CONFLICT RESOLUTION PROGRAM

HRAIR BALIAN

ASSOCIATE DIRECTOR, CONFLICT RESOLUTION PROGRAM

JOHN GOODMAN

ASSOCIATE DIRECTOR, COMMUNICATIONS

SOYIA ELLISON

ASSOCIATE DIRECTOR, OFFICE OF INTERNATIONAL SUPPORT

JAYANTHI NARAIN

SENIOR ASSOCIATE DIRECTOR, DEVELOPMENT

JANET SHIN

PROGRAM ASSOCIATE

KATE KNAPP

PROGRAM ASSISTANT

CASSANDRA THOMAS

FINANCIAL ANALYST

RUBY JUDIT-KOCHENDERFER

TABLE OF CONTENTS

SUMMARY	1
OBSERVATIONS AND RECOMMENDATIONS	4
A. Principal Blockages Impeding Implementation and Recommendations.....	4
B. Observations and Recommendations on Title V of the Agreement.....	7
1. Reconciliation and Transitional Justice	7
2. Reform of the Justice System	10
3. Refugees and Internally Displaced Persons	11
4. Humanitarian Questions	12
CONCLUSIONS	13

SUMMARY

In the first trimester

On March 8, the government in turn issued two decrees on military affairs.⁵ The decrees created special operations units and announced *Operation Dambé*, an effort designed to reassert military presence in the Ségou, Mopti, Timbuktu, Gao, Kidal, Taoudéni, and Ménaka regions.⁶ The government's unilateral measures, like those of the CMA (which contravened the principle of national unity), constituted a violation of the agreement, namely the articles concerning the reconstituted army and its redeployment to the north (e.g., articles 21, 22 and Annex 2). Following the announcement of *Operation Dambé*, the CMA declared its temporary withdrawal from the tripartite consultation framework (*cadre de concertation*), currently the main intra-Malian forum to advance implementation. The divisions within the Platform of Movements

integration of movement ex-combatants into government administration, including the army and security forces.

Despite these constructive measures, the authority of the Ministry of Social Cohesion, Peace, and National Reconciliation, which is responsible for coordinating the government's implementation effort, appears ambiguous. This ambiguity manifests itself in the ministry's apparent lack of influence on the decision-making of sibling ministries responsible for implementing aspects of the agreement and in its inability to implement effectively agreements on specific issues reached by the Malian parties in the *cadre de consultation*. The disagreements over *Operation Dambé*, or in late 2018 over the process of re-districting, illustrate that the Ministry of National Reconciliation is not empowered to decide key issues and that the *cadre de concertation*

OBSERVATIONS AND RECOMMENDATIONS

A. Principal Blockages Impeding Implementation and Recommendations

The Independent Observer considers the following to be key impediments to the implementation of the agreement:

Ø WEAKNESS OF DECISION-MAKING MECHANISMS

The president of the republic, as well as the former prime minister, have repeatedly reiterated the high priority of the implementation of the agreement. The designation of a ministry (i.e., the Ministry of National Reconciliation) to coordinate the government's action and funding for implementation, in combination with the establishment of the tripartite *cadre de concertation* under its auspices, were welcomed enthusiastically by the accompanying parties. Yet, as implementation

As accelerated DDR resumes, it is important to recall that it concerns roughly 1,500 combatants who, once engaged in the integration process, will still have to be trained, equipped, and deployed, a process likely to absorb most of 2019. In addition, the Independent Observer notes that the question of the future of the MOC as an entity, once its members have been integrated in the national army and security forces, has been raised several times in the CSA without the emergence of a clear consensus or decision.

- *DDR Process*

The Independent Observer is concerned that the registration of eligible combatants in the overall DDR process, which under the March 2018 Roadmap was scheduled to close in April 2018 but remains in progress, appears to be endless. As the CN-DDR announced at the March meeting of the CSA, the current total is 63,000 eligible combatants, with the prospect of more to come. Four years after the signing of the agreement, on a matter of critical importance and a key test

advanced through a host of services/F2 12 Tf1 0 0 1 179.78 708.46 Tm0.129 g0.129 G3 nBT/F1 11.04 T726

RECOMMENDATION:

That the Monitoring Committee, which in January began to modify its working procedures, deepen its deliberations about the responsibilities of guaranteeing the agreement, drawing on the agreement itself, the "Pact for Peace," and the recommendations of the Independent Observer.

Ø CRISIS IN CENTRAL MALI

The crisis in central Mali began in 2015 and continued to intensify in the first quarter of 2019, marked on the one hand by the terrorist attacks on the FAMa camps in Dioura and Guiré and on the other by the upsurge in inter-communal conflict, such as the massacre of 160 civilians, including women and children, in Ogo

amnesty enshrined in Article 46, the approach to personal and legal accountability for war crimes and crimes against humanity remains ambiguous; to date, no individual has been identified or brought to justice.

In the course of its field missions, the Independent Observer has found that the establishment and initial activities of the CVJR – the body primarily responsible for transitional justice, and thus for laying the foundation for reconciliation – created hope and expectations. Yet over time, because of the limited objectives set by the CVJR, victims are increasingly voicing disappointment and frustration, which could potentially lead to loss of credibility for the CVJR.

The following obstacles must be overcome to advance national reconciliation through transitional justice focused on victims and their communities:

As its mandate makes clear, the CVJR is not a judicial institution. Yet its relatively circumscribed objectives, combined with the persistent weakness of the judicial system, particularly in the north, mean that the commission is unlikely to be able to meet victims' expectations or address reconciliation more broadly. Indeed, it is important to note that the provisions of the agreement concerning traditional justice mechanisms, which are indispensable to the process of national reconciliation, are yet to be fully implemented.

Ø DISPARATE, UNCOORDINATED RECONCILIATION EFFORTS

The implementation of the Article 46 commitments concerning national reconciliation requires the same attention as that applied to other provisions of the agreement. The Independent Observer notes that the multiple ongoing reconciliation efforts are often uncoordinated.

The draft Law on National Understanding, which was adopted by the council of ministers and reached the National Assembly in December 2018, was strongly contested by human rights organizations and by the signatory movements and parts of the political class. The National Assembly subsequently engaged in in-depth consultations with these groups, and a new law is scheduled to be examined during the assembly's current session. Separately, the International Commission of Inquiry (CEI), begun in October 2018, will present its report to the U.N. secretary-general in October 2019. Yet the CEI has faced difficulties in gathering information, both because of its only periodic presence on the ground and because of resistance from some interlocutors.

Starting in 2017, the Ministry of National Reconciliation established regional reconciliation support teams (ERAP), led by local religious and customary notables, with the aim of resolving outstanding issues and restoring social cohesion. While effective, the ERAPs suffer from lack of resources and are themselves victims of the general climate of violence and impunity in central and northern Mali.

The signatory movements are also involved in reconciliation. The "Anéfis 1" agreement in 2015 and "Anéfis 2" in 2017 illustrate their efforts not only to end armed clashes but also to advance reconciliation between communities. Yet the results of these reconciliation efforts, which were assigned to *cadis*, remain largely unknown. Moreover, given the absence of robust transitional justice mechanisms and the undetermined status of traditional justice, the impact of the *cadis* efforts will remain uncertain. Without an engagement between the *cadis*-led process and other mechanisms of transitional justice, the rebuilding of trust and lasting reconciliation between communities will likely be difficult.

RECOMMENDATIONS:

1. *That the Malian parties and the international mediation dedicate themselves to reinvigorating the process of reconciliation and transitional justice.*

Given that the Conference on National Understanding failed to meet its ultimate objectives, the parties should create a new general framework for reconciliation and transitional justice, which would encompass the CVJR,

traditional justice mechanisms, and the ERAPs, as well as formal legislation, such as the Law of National Understanding and the Reparations Act. It will be critical to clearly define the treatment of individual responsibility for crimes and the implementation of the "non-amnesty" provision in Article 46.

2. That the CVJR clarify the anticipated next steps for victims' depositions and share the policy with the public. The CVJR's mandate, which has expired, should be renewed



AMBIGUOUS STATUS



(

(

/

forum or systematic dialogue, the Malian parties' and communities

statements and the adoption of a meaningful, binding calendar, robustly enforced by the international mediation, the U.N. Security Council, and the agreement's guarantors.

To recover lost ground, the leadership of the government and the signatory movements will need to act boldly. They will have to work more closely and regularly together while demonstrating the resolve needed to break longstanding impasses. For their part, the international guarantors and accompanying parties must clarify the scale and parameters of their commitments, particularly regarding DDR, and devote focused attention to implementation as Mali enters an extremely difficult period.

ENDNOTES

¹ Based in Washington, D.C.

² Some acronyms are sed