



COUNTRIES AT THE CROSSROADS 2011:

MALI

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INTRODUCTION

Mali began its democratic transition in 1991, when thousands of demonstrators gathered in the streets to demand that President Moussa Traoré step down after more than two decades of military rule. On March 22 of that year, the Malian armed forces fired on demonstrators, killing hundreds. On March 26, then Lt. Colonel Amadou Toumani Touré launched a military coup d'état and arrested Traoré. With mounting popular pressure for democracy, Touré quickly established a transitional government composed of military and civilian leaders, which handed power to a democratically-elected government the following year.¹ The transitional government held an inclusive National Conference in the summer of 1991 to elicit ideas from diverse groups within civil society about the country's democratic transition. The National Conference and a subsequent constitutional referendum laid the foundation for a political tradition of dialogue and debate that continues today.²

In January 1992 Mali held municipal councils elections, followed by legislative and presidential elections in February and March. Alpha Konaré, a former educator and democracy activist, won the presidency with the support of the Alliance for Democracy in Mali African Party for Solidarity and Justice (ADEMA-PASJ). ADEMA-PASJ drew its strength from Konaré's base of teachers, medical professionals, and students across Mali.³ It won the majority of seats in the legislative contest.

In the 1997 elections, Konaré faced only one challenger and won a second term with almost 85 percent of the vote. ADEMA picked up the majority of the seats in the National Assembly.⁴ Many view this period as the beginning of the decline of a political opposition, which boycotted the second round of the legislative elections and the presidential race.⁵

The democratization process was plagued by the reemergence of the Tuareg rebellion in the north during the early 1990s.⁶ The Tuareg, ethnically related to Berbers or *Imazighen*, are a nomadic people that live in the northern desert region of Mali. When Mali gained independence in 1960, the Tuaregs felt marginalized and feared that the government might seize their land, which prompted them to launch a rebellion in 1963. The Malian military countered with a harsh suppression, which killed many and forced thousands more to migrate to Algeria, Mauritania,

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and Libya. Almost 30 years later, resentment fueled by the harsh repression, continued dissatisfaction with government policies, and perceived exclusion from political power led various Tuareg and Arab groups to begin a second rebellion against the Malian government. The rebels demanded greater autonomy and access to economic opportunities; they accused the Malian government of squandering development aid intended for the north. Increasing insecurity and banditry plagued the northern region, as a secondary conflict emerged between Tuareg factions and a Songhai militia led by a former Malian Army captain.⁷ The nascent government worked to accommodate northern grievances through the 1992 pact—which aimed to integrate northern soldiers into the Malian armed forces and promised greater economic integration/inclusion—but the initiative was unsuccessful.⁸ An estimated 6,000 to 8,000 people were killed before a final agreement was signed by all factions in 1996.

Konaré also embarked on political decentralization as a strategy to appease Tuareg groups, but the program later became a catalyst for national decentralization as other regions of the country demanded ownership of local resources. The entire country was incorporated into a decentralization scheme, which brought elected leaders to 703 rural communes in Mali. The first communal elections were held in 1999 and then again in 2005. These elections slowly transferred administrative and fiscal authority to elected mayors and other municipal officials.⁹

In accordance with the constitution, Konaré stepped down from office after two terms in 2002. Former coup leader Amadou Toumani Touré (ATT) ran for president as an independent with support from his apolitical association, Citizens Movement (MC). This strategy enabled him to court and appoint members of various political parties as well as MC members, running as independents. This strategy of consensual government limited the development of an opposition.¹⁰ He won in a second round run-off against ADEMA's Soumaila Cissé. ATT ran as an independent again in 2007. He was backed by a super-alliance of 43 parties, including ADEMA, called the Alliance for Democracy and Progress (ADP), which included all but two political parties. ATT was reelected with the majority of votes in the first round against challenger Ibrahim Boubacar Keita of Rally for Mali (RPM). Many have criticized ATT's nomination of MC members for appointed office and consensus government as weakening party institutions in Mali.

Mali was ranked the 10th poorest country in the world in the UN's 2010 Human Development Index, although it has improved by five places since 2009.¹¹ Over half of Malians live on a dollar a day or less,¹² and the UN estimates that over 70 percent of adults are illiterate in French, the official language.¹³ Despite its democratic progress and recent gains in school enrollment, infrastructure, and technology, Mali lacks the fiscal capacity to pay for its own development; donors fund approximately 80 percent of development projects.¹⁴ Because of Mali's dependence on aid, the public often accuses politicians of seeking the approval of donors and international financial institutions over the interest of the Malian people. Mali also receives considerable income from remittances from Malians abroad. The World Bank estimates that Mali received a little over \$10 billion from migrant workers between 2000 and 2007.

ACCOUNTABILITY AND PUBLIC VOICE

Most Malian elections have been considered free and fair by international observers. However, instances of electoral and voter fraud are still reported, including problems with voter IDs, registries, and ballots.¹⁵ Mali has one of the lowest voting rates on the continent due to outdated

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voter rolls, weak parties, the lack of ethnic/regional mobilization, and voter apathy. Only about 45 percent of registered voters participated in the 2009 municipal elections, which is slightly higher than national voting averages in the 2007 legislative and presidential elections at 33 percent and 36 percent turnout respectively. Voter turnout varies dramatically across regions; it is generally lowest in the capital and highest in the north of the country.¹⁶ Turnover of elected officials is high; less than 20 percent of incumbent officeholders were reelected in the 2009 municipal elections.¹⁷

Malian elections are run by three separate agencies: the Independent National Election Commission (CENI), the General Delegation to Elections (DGE), and the Territorial Administration. CENI is comprised of members from majority and opposition parties as well as representatives from religious and human rights organizations. It is responsible for monitoring and supervising elections. The DGE regulates voting lists, prints ballots, and finances political parties, while the Territorial Administration is responsible for the material and technical organization of elections.¹⁸ The 2008 Diawara report, which was mandated by ATT to evaluate and improve democratic institutions, recommended removing the partisan leadership of CENI to create a single independent body capable of both electoral management and vote tallying. In April 2010, ATT announced plans to hold a constitutional referendum on these and other recommendations, which could result in 33 modifications to existing law and nine new laws.¹⁹ The referendum, which was scheduled to be held by the end of 2010, has not taken place as of the spring of 2011.

Mali's current voter rolls are based on a census conducted prior to the 2002 presidential election; all adults over the age of 18 were automatically registered to vote. Voters who turned 18 after the census or who have moved were required to register in their area of residence. Registration can be cumbersome; many Malians reported difficulty in trying to obtain voter identification cards.²⁰ Mali embarked on a census in 2009, which will be used to update the voter rolls and to better align state development efforts with citizens' needs. Before the census, the Malian government initiated an extensive sensitization campaign so that Malians understood the census process and goals.

Parties in Mali are extremely weak. Currently, only 14 of 113 registered parties are represented in the National Assembly.²¹ Unlike in many African countries, Malian parties are not organized along ethnic lines.²² Party platforms are rarely programmatic and candidates regularly shift allegiance between parties. All parties have the legal ability to campaign, but they are practically constrained by their funding and level of organization. Although ADEMA has dominated most legislative and municipal races, it joined the alliance of parties backing ATT in 2007 rather than fielding its own presidential candidate. In addition, Malian political culture views political parties unfavorably. In the 2005 Afrobarometer survey, 40 percent of Malian respondents thought that parties were divisive, as compared to only 27 percent of respondents in Ghana.²³ ATT has capitalized on the culture of consensus to create a unity discourse around the political coalition of parties that stifles the formation of any real opposition. Debates between presidential and legislative candidates are televised, and all parties receive free broadcast time prior to elections.

ATT has declared that he will abide by constitutional term limits and step down at the end of his term in 2012. In 2010, CM formalized into a political party called the Party for Economic Development and Solidarity (PDES), borrowing its name from ATT's Project for Economic and Social Development. The nascent party, likely to be backed by ATT, is a favorite to challenge ADEMA in the 2012 presidential race. However, it is most likely that the strength of

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each presidential candidate, rather than his backing party, will carry the greatest weight at the polls.

The Malian Charter on Political Parties outlaws foreign funding of political parties and funding from commercial companies. All parties that participated in previous elections are eligible for public funding. Additional funding is awarded based on the number of assembly members and municipal officials and the number of female candidates elected. The Malian government will distribute approximately \$2,500,000 to 34 political parties as a result of their activity in 2010.²⁴ All parties must submit proof that they hold regular meetings and financial statements.

The executive exerts influence over members of the National Assembly. Parties in the president's ADP alliance won 90 of 147 assembly seats. Opposition parties RPM and PARENA won less than 13 percent of seats in the 2007 legislative race. However, the 2007 National Assembly was characterized by the reemergence of a formal, vocal opposition and improved accountability mechanisms.²⁵ In general, most legislation passes through the National Assembly with limited debate. The Diawara report recommended introducing proportional representation, which is currently used at the municipal level, and a senate to strengthen the legislative branch of government.

Mali benefits from a strong political history of decentralized rule through consensual democracy, in which citizens meet together to deliberate over group decisions. Some argue that Mali's system of *cousinage* helps to mitigate potential conflict by creating a cross-cutting cleavage of joking relationships between families from different ethnic groups.²⁶ Malians often reference the historical foundations of the culture of tolerance and conflict mediation as rooted in the legacy of Malian kingdoms dating back to the 13th century. However, the tradition of democratic consensus, in which all players must agree on an outcome, stigmatizes dissent and mistrust of partisan politics in the current democratic era.²⁷ Malians prefer consensus more than most African citizens: 70 percent of Malian respondents to the 2005 Afrobarometer survey favored consensus, compared to only 40 percent of respondents in Namibia, Uganda, Kenya, and Botswana.²⁸ In rural areas, traditional leaders have tremendous influence over how their village population votes and in some regions, especially in the south, electoral outcomes are coordinated before voting takes place. The reluctance of voters or politicians to act in a divisive manner impedes Mali's complete democratic development.²⁹

There has been limited hiring of civil servants since structural adjustment in the 1980s, and current university graduates lament the lack of public sector jobs. In March 2009, the Malian government passed two ordinances to create a National Center for Public Administration and Personnel to assess human resource needs, organize recruitment, and test for job openings in public administration.³⁰ Recent Malian graduates perceive opportunities in government as very limited for young people. Some candidates have reported corruption and bribery linked to entry into the civil service.³¹ Efforts to expand access to government services, including education, have lowered qualifications for government employees with comparable deductions in pay. For instance, while all teachers used to be "civil servants," now only a minority of teachers holds that title; most educators are "contractual" teachers without the same training, pay, or benefits.

Mali boasts a vibrant civil society; 8,542 associations were registered in 2008, and 1,125 nongovernmental organizations (NGOs) registered in December 2009.³² However, many exist only on paper; an estimated 59 percent of all registered NGOs do not receive enough funding to function.³³ NGOs play an important role providing information, advocacy, and services to the Malian population. These organizations rely on international donors for 90 percent of their

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funding. Members of civil society, particularly religious leaders, play an important consultative role and bridge the gap between politicians and the electorate. They have been successful in promoting and blocking legislative projects including the abolition of the death penalty and the Family Code (see Civil Liberties). Donors operate freely in Mali; a 2008 report estimated that on average, 27.5 percent of the Malian state budget derives from foreign aid provided by approximately 40 donors.³⁴ Foreign infrastructure projects fuel popular support of these donors. The government provides NGOs and government institutions autonomy, which enables them to receive and distribute foreign assistance fairly.

Mali ranks very highly on press freedom due to a permissive media environment, which developed at the advent of multiparty elections in 1991. Reporters without Borders' 2010 Press Freedom Index ranked Mali in 26th place (tied with Ghana and Cape Verde) and the second highest in Africa, behind only Namibia. Mali has a vibrant network of more than 300 local radio stations, which operate across the country in more than 12 local languages and reach approximately 98 percent of the population.³⁵ While often small and underfunded, local stations do not require a license and operating fees are approximately \$20 a year.³⁶ There are over 40 private newspapers, but circulation of print and online media is limited due to prohibitive costs, high illiteracy rates, and lack of availability in rural areas. Internet access has increased dramatically in the last 10 years but its usage, estimated at less than 2 percent of the population in 2009, is limited by cost, illiteracy, and unavailability in rural areas. Most Malians only have television access to ORTM (L'office de Radiodiffusion Télévision du Mali), the state media channel, which predominantly features reporting on government and donor activities. Private television stations are legal, but only available to wealthy Malians with the means to access cable or satellite. There is no restriction on foreign television.

Mali still has criminal laws against libel, but no journalist has been punished since 2007.³⁷ The last notable exception took place in June of that year, when five journalists who reported on a high school essay assignment about the infidelity of a fictitious president were charged with insulting the president and jailed along with the teacher who created the assignment. The media actively pressures the government to be more transparent; in 2009, journalists succeeded in forcing the government to release information about the privatization of telecommunications company SOTELMA.³⁸

CIVIL LIBERTIES

There have been few reports of government authorities detaining or imprisoning political activists or of extrajudicial execution or torture by state authorities since 2001. Excessive detention for petty offenses and arbitrary arrest for extortion are common, but generally the police target less powerful actors rather than particular political figures or activists. The Malian constitution prohibits arbitrary arrest and detention and mandates that those arrested must be charged or released within 48 hours; however, this process generally takes longer due to lack of judicial personnel.

Prisons are overcrowded and provide poor healthcare and food. In January 2008, the central prison in Bamako housed 1,700 people despite being constructed for an occupancy limit of 400 to 500 people.³⁹ Due to insufficient staff and resources, prisoners can be held in prison for years awaiting their verdict. NGOs are allowed access to prisoners.

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Mali has limited crime in urban areas, but the government's inability to police its own territory has created a lawless environment in the sparsely populated north. The smuggling of humans, drugs, and cigarettes, banditry, and kidnappings have drawn the attention of Western nations. The U.S. government has provided more than US\$500 million in military support to the countries in the Sahel, including Mali, since 2003 to combat trafficking and terrorism. In the last few years, the terrorist and trafficking group Al Qaida of the Islamic Maghreb (AQIM) has developed out of the Algerian Salafist Group for Preaching and Combat (GSPC), which earned international media attention in 2003 after holding 32 Europeans hostage in southern Algeria. AQIM is largely based in Algeria, but operates in sparsely-populated neighboring countries, including Mali. Since 2008 AQIM has increasingly targeted foreigners for kidnapping, and the Malian government has played a central, often controversial, role in negotiating the release of hostages. In 2009 AQIM made its first strike against the Malian government, killing 28 in an attack on a military convoy.⁴⁰ Mokhtar Belmokhtar, who is affiliated with AQIM, has strengthened links between the group and local northern communities and existing smuggling routes by courting local leaders, including by marrying the daughter of prominent leaders of Arab and Tuareg communities.⁴¹ This integration strategy has blurred the lines between AQIM activities, traditional smuggling networks, local conflicts, and northern rebel groups despite the disparate goals and motivations of each.

Following severe droughts in 2005, Tuareg grievances rematerialized as conflict in 2006. Despite an initial peace accord in July 2006 and another in 2008, Tuareg rebel factions including the Tuareg Alliance of North Mali for Change (ATNMC) continued to launch attacks on military facilities and kidnap soldiers in the northern regions of Gao, Timbuktu, and Kidal in 2007 and 2008. The Malian authorities accused the Ganda Izo militia of targeting Tuareg civilians in response to the unrest.^{42,43} Intercommunity disputes and banditry displaced thousands of families in the Gao and Kidal regions in 2008.

The Malian government was hesitant to launch large-scale military action and attempted to use dialogue to end the conflict, but ultimately the government began to launch strong attacks in early 2009, which forced hundreds of rebels to lay down their arms. In October 2009, Libyan president Muammar al-Qadhafi announced a complete end to the Tuareg rebellions in Niger and Mali in the presence of rebel leader Ibrahim Banga.⁴⁴ The accord promised development resources for the northern region and funding for an antiterrorism patrol made up of regional nomads.⁴⁵ By 2010, Banga's rebel group, ATNM, was working cooperatively with government troops to police drug smuggling networks with links to AQIM. In December 2010, the Malian government announced that a joint operation with Mauritanian forces dismantled the largest drug trafficking network in the Sahel.⁴⁶

The Nigerian National Agency for the Prohibition of Traffic in Persons (NAPTIP) reported as many as 20,000 Nigerian women trafficked to work as prostitutes in the Malian cities of Bamako, Mopti, and Kayes during a mission in September 2010.⁴⁷ Some rural youth leave home with the promise of work and are then trafficked to work in mines or agriculture, or to beg on the streets. Many children in southern Mali are trafficked to work on cocoa farms in neighboring Cote d'Ivoire.

Malian women are at a disadvantage in most socioeconomic and political realms. Mali has one of the highest gender gaps in the world; it ranked 131 of 134 countries in the 2010 World Economic Forum Global Gender Gap Index.⁴⁸ Mali's 1962 Marriage and Guardianship Code includes many regulations discriminatory toward women: for example, the minimum age of marriage is 15 for women and 18 for men, Malian women must seek their husband's permission

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before opening a business, and the husband is considered head of the family, which gives him control of finances and the choice of residence.⁴⁹ Men are allowed up to four wives if both partners opt for polygamy at the time of marriage; couples who choose monogamy can change to a polygamous option if all parties give consent.

In August 2009, after years of deliberation, the National Assembly passed a new Family Code in a nearly unanimous vote, which was designed to improve women's legal position in Mali. However, the president later vetoed it in response to large-scale protests organized by religious associations in Bamako and regional capitals across the country. Many Malians objected to some of the proposed amendments as conflicting with their culture, including provisions to increase the minimum age of marriage for girls to 18, removing women's obligation to obey their husbands, exclusive recognition of civil marriage, and greater inheritance rights for women. A revised version of the code was proposed to the National Assembly in October 2010, which included provisions that religious associations lobbied for such as the recognition of religious marriage. However, civil society groups complained that they were not afforded sufficient opportunities to provide input, which further stalled the process.⁵⁰ A new version of the code has not been passed to date.

In addition to formal regulations, there are societal limitations on women's ability to exercise their rights. Women are allowed to divorce, but this occurs rarely due to fear of stigma and legal costs. Female circumcision affects as much as 90 percent of the female population. To date the government has focused on sensitization campaigns against the practice rather than formal legislation and enforcement. Domestic violence is illegal but widespread and socially accepted, and therefore rarely prosecuted. Some regions of the country continue to practice levirate, in which a widow is married off to the younger brother of her spouse. Many families, especially in rural areas, pressure their daughters to marry in their early teens. An estimated 22 percent of all women are married before the age of 15.⁵¹ Women are generally hesitant to approach political authorities without their husband, a male relative, or the support of an association.

Women's political representation, while still low, has increased over the last 10 years. The number of female members of the National Assembly rose from 3 in 2000 to 15 of 147 in 2009, while the number of female communal counselors increased from 6.53 percent of all elected in 2004 to 8.66 percent in 2009.⁵² In 2007, the Malian government tried and failed to introduce a quota for women's representation in parliament. Only seven of Mali's 703 mayors are women. During the period from 2002 to 2005, women made up less than 9 percent of all administrative posts in the Malian government.⁵³ Women hold 22 percent of ministry posts, including the minister of education and the minister of fishing and livestock.⁵⁴ In April 2011, Madame Cissé Mariam Kaïdama Sidibé became Mali's first female prime minister. The government provides supplementary campaign financing for parties that elect female candidates.

Article 2 of the Malian Constitution outlaws discrimination based on "social origin, color, language, race, sex, religion, or political opinion." Article 12 grants asylum for those "persecuted because of their political or religious beliefs, or their ethnic membership." Tuareg rebel groups claim their grievances stem from lack of jobs and socioeconomic integration in their region. The Agency for the Development of Northern Mali says it has invested more than \$3.6 million for infrastructure, water, and access to microcredit since its creation in 2006. It pledges to invest an additional \$1.5 billion in the north.⁵⁵

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Handicap International reports a little over 1 million Malians living with disabilities. There are very few opportunities for schooling, health care, or employment for those Malians with physical or learning disabilities. In December 2010, the Malian government announced that it would adopt a law for the social protection of disabled people. The government actively recruits and hires those living with disabilities: in 2009, the civil service accepted 241 disabled university graduates.⁵⁶

Homosexuality is legal, but not accepted within greater Malian society. In a 2007 Pew Survey, 98 percent of Malian respondents said homosexuality should be rejected, which was the highest negative response in any country.⁵⁷ Sexual minorities in Mali are often forced to hide their sexuality or face being ostracized by their families. In April 2009, religious leaders attempted to prevent a conference on AIDS and homosexuality that was held at a Bamako hotel.

Historical caste systems persist within certain groups in Malian society. The Malian labor code outlaws forced labor, but Mali has no laws outlawing slavery. The Malian NGO Temedt estimates that thousands of Malians in the north still participate in a traditional form of slavery,⁵⁸ in which a family of lower-caste Malians works for a richer master with limited pay and limited rights. The cohabitation between different ethnic groups has existed for generations, making it difficult to distinguish between forced enslavement and instances where servants choose to stay under the protection and control of their employers. The 2010 State Department Trafficking in Persons Report records six cases of traditional enslavement pending in Malian court.⁵⁹

The Malian population is nearly 90 percent Muslim, but the government remains strongly secular. Article 4 of the constitution recognizes all Malians' right to "freedom of thought, conscience, religion, worship, opinion, expression, and creation in respect to the law." Mali has a high degree of religious tolerance and integration. Christians and Christian institutions, such as the Catholic Church, are respected. It is not uncommon for Muslims to celebrate holidays with their Christian friends. Five members of the National Assembly identify as Christian.⁶⁰ Animist practices still exist, particularly in the south and east of the country.

Religious organizations have flourished in the post-transition environment, aided by the dissolution of the ruling party's ban on non-state religious groups. Democracy has facilitated vibrant public debate about religion and the development of a multitude of religious associations in civil society.⁶¹ Mali's government policies are consistent with the French legacy of *laïcité*; religious parties are banned by the constitution and religious actors tend to stay outside of formal electoral politics. The state provides religious institutions with autonomy and works in partnership with both Christian and Muslim organizations. The High Council of Islam, made up of leaders elected from the wider Islamic community, has officially advised the state on matters related to Islam since its creation in 2002. Historically, the state partnered with the Catholic Church to provide education, but since the democratic transition, the government has expanded its partnership to include Islamic schools, where students receive accredited government diplomas.

The state grants citizens the right to join associations and freedom of assembly. Most members of Malian society are active in an association, or *ton*, organized around a common interest, occupation, or joint credit-savings program. Government development grants are awarded through associations, which further incentivizes group formation. Strikes, protests, and demonstrations are frequent and tolerated by the political authorities as part of the continued legacy of consensual governance. Strikes among educators and students often paralyze the public university system. Workers aged 16 and older have the right to form trade unions and to bargain except for members of the military or National Guard.

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RULE OF LAW

The judiciary has limited independence. The Minister of Justice, chosen by the president, appoints and supervises judges and law enforcement. The Supreme Court is appointed by the Council of Ministers and its president is selected by the Malian president. The president also appoints three members of the Constitutional Court; the National Assembly and the Superior Council of the Magistracy appoint the additional six. Judicial decisions rarely contradict the opinion of the government. The justice system does not publish decisions, and the absence of jurisprudence creates problems with equal application of the law and high rates of appeals.⁶²

In rural areas, it is common for traditional or religious authorities to resolve disputes. Mali has an ombudsman, the mediator of the republic, named by the president. However, high illiteracy rates in French, poverty, costs of transport and lost labor, and fear of political authority inhibit Malians from approaching authorities to resolve problems. When Malians do contact government officials they often go in groups.⁶³ The 2004 Afrobarometer survey revealed that citizens were more likely to turn to a religious or traditional official than a government representative if they had a problem.⁶⁴ In a 2009 survey of 1,000 citizens, less than 10 percent of respondents said that they would contact a police officer in case of a crime or problem.⁶⁵ In a 2010 survey, 65 percent of all Malians were dissatisfied or highly dissatisfied with administration of the police and gendarmes, and 66 percent of all respondents were dissatisfied with the justice system.⁶⁶ The traditional justice system is characterized by Mali's culture of tolerance, which is often forgiving of perpetrators.

In 1999, the Malian government embarked on a 10-year judicial reform program called PRODEJ (Decennial Program for the Development of the Judiciary) aimed at improving judicial accessibility and efficiency, but many challenges remain. The judiciary is plagued by lack of resources, training, and personnel.⁶⁷ There is one judge for every 25,000 Malians, while the international standard is closer to one for every 8,000.⁶⁸ Courts are chronically underfunded. The 2009 Annual Report by the Auditor General revealed that an International Penal Tribunal in Bamako that processes approximately 3,500 cases a year received a trimester budget of less than \$600.⁶⁹

Most Malians view the judicial system as the most corrupt government institution. In the 2005 Afrobarometer survey, 56 percent of respondents thought that the majority or all lawyers and judges were corrupt.⁷⁰ In the constitution, all accused persons are innocent until proven guilty and have the right to a lawyer. However, access to the judicial system is difficult due to the lack of infrastructure, high costs, and lack of citizen information about the judicial process. Few citizens understand their legal rights or can understand courtroom proceedings without translation from French to a local language. Only two courts, in Segou and Commune II in Bamako, have offices for operational assistance. Public prosecutors are less independent than judges. They are appointed by the Ministry of Justice and can be transferred or removed without justification.⁷¹

There is a tendency to protect officials except in the gravest cases of corruption or abuse of power. In 1999, former president Moussa Traoré, his wife, and brother-in-law were sentenced to death for economic crimes, but the sentence was later reduced to life in prison.⁷² Traoré and his affiliates were granted a presidential pardon by ATT in 2002, a move largely supported by the Malian public. Most often, officials voluntarily resign in the face of controversy. In 2008,

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former minister of energy Hamed Sow resigned in the wake of a scandal in which it was alleged that while serving as the director of the European Center for the Development of Enterprise he obtained a \$4.8 million loan for a Malian textile company in which he had a 20 percent stake.⁷³ Sow was later cleared of all charges.

The government controls the police and armed services. Members of the military are not permitted to run for legislative office, but many military officials remain connected to the president, a former lieutenant colonel. Former military officers serve as minister of the interior and minister of security and defense.

Low-level corruption is pervasive throughout the police and gendarmes. For example, in 2008 Niame Keita, the newly-appointed director of national police, removed senior police official Boubacar Diouf from his post due to allegations that he had embezzled almost \$1 million in pension funds.⁷⁴ Diouf was demoted but never prosecuted and died of a heart attack in 2009. Police and military have been accused of using excessive force, but are rarely prosecuted in face of these allegations. On February 23, 2010, the Malian press reported that police opened fire on a transport van, in Bamako, killing its driver.⁷⁵ Police claim that the shooting happened during an altercation with the driver, but the drivers' union claims that the police fired after the driver tried to avoid a police inspection. Transport drivers in Bamako responded with a 48-hour public transport strike.

Land regulation and distribution in rural Mali relies on customary law. Traditionally women are ineligible to own land individually and often form associations in order to access rural land. Pastoralists' inability to access land through customary law has led to clashes with settled populations. Inheritance rules and shrinking availability of land often make it difficult for younger siblings, youth, and migrants to access land. Land reform in 2000 and 2002 devolved control of land ownership to decentralized municipalities, but the government has continued to govern with a mix of legal and customary law. Groups representing agricultural and rural interests have lobbied for greater clarity on rural land tenure, motivating a current initiative to develop an agricultural lands policy and law, the Agricultural Orientation Law, which will address issues related to agricultural land ownership including access to land for vulnerable populations.⁷⁶

In urban areas, land distribution is governed primarily by the Land Registry Law. Transfers are extremely expensive. Mali has passed laws to reduce the cost of property registration, but it still has the fourth most expensive property registration in the world at 21.3 percent of the property's value.⁷⁷ Corruption creates additional transaction costs that favor powerful interests. Attempts to expedite ownership and find shortcuts within the maze of property registration have resulted in multiple titles issued for the same plot of land.⁷⁸

According to the constitution, the Malian government has the right to claim land for the public good, and this justification can be loosely interpreted. In June 2009, the government signed a contract to lease 100,000 hectares of land to the MaliLibya Corporation for agricultural production and export to Libya. A USAID Land Tenure Assessment report cites "generous terms" for the contract, including unrestricted access to water, all surface sand, gravel, and ordinary stone, no land taxes or other payments, and no obligation to hire local employees or to sell produce locally.⁷⁹ Under the contract, the government of Mali is required to compensate those harmed by the activities. Several villages and communal properties have been expropriated. The USAID assessment found that in the village of Korotongo only 50 of 158 affected families had been compensated. In addition, other villages have been flooded or complained of dust pollution caused by construction.

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ANTICORRUPTION AND TRANSPARENCY

The constitution condemns corruption, but it is nevertheless widespread and systemic. Transparency International ranked Mali 116 of 178 countries in 2010, which was a slight improvement from 118th place in 2007. Corruption plagues the highest levels of government, and extensive petty corruption affects daily users' interactions with the police, utilities companies, and administrative offices, where users' illiteracy can be exploited and facilitation payments are common. The 2009 Auditor General's report recorded a \$224.7-million loss in the 22 institutions it monitored. Of this, 17 percent was due to fraud (the majority was due to mismanagement).

In 2003, Mali created the Office of the Auditor General, which is charged with evaluating government programs and services, auditing the government's receipts and expenses, and offering recommendations to improve the efficiency and general operations of government structures. The office issues public annual reports and recommendations about government corruption and it details agency efforts to act on its recommendations. Prosecutions are to be carried out by a wing of the Supreme Court. Many recommendations go unaddressed, but government agencies have taken some steps to incorporate suggestions. While there have been minimal prosecutions in response to the reports, they have been successful in triggering public debate and greater transparency from ministries. The Diawara report recommended creating a judicial arm of the Auditor General to prosecute findings from its reports.⁸⁰

The IMF reports reductions in corruption through computerization, modernization, and the implementation of anticorruption instruments.⁸¹ Still, Mali suffers from a lack of coordination and replication of work among ministries and donors as individual government agencies and donors often engage in bilateral projects.

Despite economic liberalization in the 1990s, the state retains control over two of the economy's major exports, cotton and gold. In 2009, gold represented 70 percent of export revenue and 20 percent of government revenue.⁸² Foreign companies, who work with the Malian government as a minority share partner, control mining. Critics of the current mining code question the Malian government's ability to play simultaneous roles of shareholder and regulator. Despite the tremendous revenue from mining, the sector employs few Malians.⁸³ In 2007, the government created a Supervision Committee, a Pilot Committee, and a Permanent Secretary in an effort to increase transparency in mineral extraction through the Extractive Industries Transparency Initiative (EITI). EITI ranked Mali as "close to compliant" in 2010.

Privatization in Mali has been slow and politically sensitive. Mali has tried to privatize the cotton parastatal for years, but debt and low cotton prices coupled with tremendous popular resistance slowed the process.⁸⁴ In early 2011, five groups were bidding on the cotton contract, which will award 61 percent of the company. Much of Malian public opinion remains against privatization; many of these transfers are perceived as lacking transparency and favoring powerful foreign actors over the welfare of Malians. Critics also stress that privatization has failed to improve the performance of other former parastatals. The 2003 privatization of the rail system resulted in restricted passenger service, which upset Malian constituencies along the railroad. Privatization of EDM, the water and electric company, failed in 2005. In contrast, the second largest Malian bank, the International Bank of Mali, was privatized in 2008, and the

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national telecommunications company, SOTELMA, was sold to Maroc Telecom in July 2010. Privatization of the state-owned Housing Bank (BHM) is planned by 2012.

An estimated 90 percent of private sector activity takes place outside the formal economy, making it difficult for the government to levy taxes. Mali's 2008 tax revenue made up only 16.1 percent of GDP.⁸⁵ Mali concentrates its taxation in imports and exports, creating many nontariff barriers to trade. Importing and exporting merchandise from landlocked Mali is particularly difficult due to import licenses, bribes at check points, and the costs of shipping from regional ports. A study conducted between July and September 2010 found an average of 2.2 checkpoints, US\$8.15 in bribes, and 12 minutes lost for each 100 kilometers traveled in Mali.⁸⁶ Customs officers' jobs are viewed by Malian society as the most lucrative opportunities for personal rent extraction.

The constitution requires the president and ministers to provide a public declaration of their assets to the Supreme Court shortly after assuming office. However, in practice the court rarely enforces this law.⁸⁷ No other elected officials are required to declare their assets. Some officials, such as Moussa Mara, an independent candidate for the mayor of Commune IV, have voluntarily declared their assets.⁸⁸

Article 35 of the constitution includes provisions to prevent the president from buying or leasing anything that belongs to the state without authorization of the Supreme Court. However, some government officials solicit bribes to complete tasks, expect payoffs for the award of contracts, or use their positions to evade taxes or customs duties. In 2010, several Ministry of Health officials, including the director of the National Fight against Tuberculosis and the Ministry of Health's financial and administrative director, were among 15 individuals arrested and imprisoned for suspected embezzlement of more than \$4 million from the Global Fund to Fight AIDS, Tuberculosis and Malaria.⁸⁹ The Minister of Health, Oumar Ibrahim Touré, resigned from his position as a result of the scandal, but he has not been charged with any crime.

Individual citizens and victims have little recourse against systemic corruption. The print and radio media frequently cover corruption and have publicized the findings of the Auditor General's reports. However, the Malian government is generally hesitant to punish perpetrators.

Public schools teachers accuse private schools of grade inflation to bolster passage rates on exams.⁹⁰ In a 2009 survey of university students in Bamako, 57 percent of 204 respondents felt that exam grades could be manipulated at schools (36 percent of students declined to respond); 54 percent of students believed that grades could be falsified (31 percent did not provide a response).⁹¹

The government has worked with the Carter Center to improve access to information through the creation of six pilot government organizations in the Strategy for Access to Information, which is part of Mali's larger Institutional Development Program (CDI). The CDI maintains a website with current events information and reports. However, illiteracy in the French language and lack of internet access are serious obstacles to citizens' ability to access the information online.

The World Bank's International Development Association notes the government's progress in developing and executing budgets through the introduction of a midterm expenditure framework and decentralization of financial responsibilities.⁹² There are still problems with the initial figures entered into budgets. Expenditure accounting remains weak due to multiple ledgers, weak management and accounting of expenditures, embezzlement, and lack of coordination between different levels of government.⁹³

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Government procurement remains one of the most problematic sectors for government corruption. The government requires all contracts to be inspected by the General Directorate of Public Procurement. However, the government frequently usurps bidding regulations and awards public contracts without competition. A 2009 survey reported that 66 percent of all companies surveyed expected to pay a bribe worth 5 percent of the total government contract.⁹⁴

RECOMMENDATIONS

- In preparation for the constitutional referendum, the Malian government should conduct an awareness campaign to educate Malian voters on the implications of the proposed changes to their lives and to the quality of democracy in Mali.
- As recommended in the Diawara Commission, the Malian government should create a single, independent electoral body that can manage all aspects of preparation and execution of elections before 2012.
- Given high rates of illiteracy, the Malian government should conduct an extensive campaign to educate citizens, particularly women, about their rights and duties as Malian citizens. Citizens should also be made aware of what they should expect and can demand from state institutions.
- The Malian government should strengthen its efforts to protect and promote women's rights. The government should make citizens aware of the legal recourse against domestic violence. The government should continue the conversation around the proposed Family Code, using it as a point of departure to encourage society-wide discussion about the role of women and women's rights in contemporary Malian society.
- The Malian government should increase funding to judicial staffing and the translation of legal information, including land reform laws, into local languages to overcome the population's distrust of the judicial branch. Malian courts, especially the Supreme Court, should publish all final decisions in order to establish jurisprudence.
- In accordance with the Diawara Commission's recommendations, the Malian government should create a special judicial body capable of prosecuting corruption identified by the Auditor General. The government must be willing to overcome the widespread culture of impunity to reduce corruption.

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