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**Human Rights Council**

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Agenda items 2 and 10

**Annual report of the United Nations High Commissioner  
for Human Rights and reports of the Office of the High  
Commissioner and the Secretary-General**

**Technical assistance and capacity-building**

**Report of the United Nations High Commissioner  
for Human Rights on the human rights situation  
in Mali\***

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\* Late submission.

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## I. Introduction

1. The present report is submitted pursuant to resolution 22/28 by which the Human Rights Council invite the High Commissioner for human rights to present, at its twenty-third session, an update report on the situation of human rights in Mali. The report aims at providing information of the situation since the presentation of the last High Commissioner's report to the Council, on 12 March 2013, and covers the period until 20 May 2013.
2. On 25 February, the United Nations Security Council decided in its resolution 2100, to create the MINUSMA, with the following mandate ; (i) stabilization of the situation in the main areas and contribution to the re-establishment of the State authority in the whole country, (ii) contribution to the application of the roadmap for the transition, including national dialogue and the electoral process ; (iii) protection of civilians and the UN staff ; (iv) promotion and defence of human rights ; (v) support to humanitarian action ; (vi) support to the safeguard of the cultural heritage, and, action in favour of the national and international justice.
3. The report is based on investigations carried out by a mission deployed by OHCHR in Mali from 18 February to 22 March 2013 (the Mission), as well as by the human rights division of MINUSMA. The report also takes into account the conclusions of the missions undertaken in April and May 2013 by the MINUSMA Human Rights Division in Burkina Faso, Mauritania and Niger for collecting information on the situation of the Malian refugees and the human rights situation in their origins areas.
4. The progressive improvement of the situation of human rights in the North, following the Serval operation allowed our teams to go until the regions so far inaccessible, including Konna, Mopti, Sévaré, Tombouctou, Gao, Tessalit and Kidal. The human rights teams confirmed allegations of human rights violations reported in the previous report of the High Commissioner and confirmed the gravity of the human rights violations committed during the occupation of the armed groups since January 2012.
5. Major challenges persist and continue to compromise the ongoing investigations on human rights violations. The limited access to the North of the country, for security reasons, complicated the verification process of certain allegations. Furthermore, the human rights teams confirmed that some actors tried to manipulate the information, talking on behalf of the Northern community. Finally, the reluctance of some witnesses and victims to cooperate with the investigators by fear of reprisals remain a major issue.

6. The OHCHR team met with the Minister of Justice, seals keeper, the Minister of Defence and former combatants, the Minister of Territorial Administration and decentralisation, and the Minister of Family, on the promotion of woman and child, as well as the local authorities in the Northern region. The OHCHR team also met with the prosecutor of the Commune III, the National Human Rights Commission, members of the civil society as well as members of the diplomatic corps and of the United Nations Country Team.

## II. Context

### A. Security situation and military operations in the North

7. The security situation in the North remains fragile and has been characterised by a surge in military operations led by Malian security forces assisted by French troops and the African-led International Support Mission to Mali (AFISMA) in Sévaré, Mopti, Ber, Timbuktu and Gao. Since 12 March 2013, at least 13 terrorist attacks have occurred, confirming the prevalence of suicide and bombing attacks by armed groups such as Al-Qaida in the Islamic Maghreb (AQIM), the Movement for the Unity and the Jihad in West-Africa (MUJAO) and Ansar Dine.
8. These attacks have had grave consequences on the human rights situation in the North of Mali, causing *inter alia* the death of 24 people since February 2013, as well as the destruction of property. They have also contributed to a climate of suspicion in the population, leading to several denunciations, at times slanderous and increasingly based on the identification of some light skinned communities in the North with members of armed or rebel groups.
9. The main regions of the North are now partially secured by the Malian army which was preceded by preventive measures, as well as by the French army and AFISMA troops, except Kidal, which is still under the control of the National Movement for the Liberation of the Azawad (MNLA). On 11 April, four soldiers of the AFISMA were killed in a suicide attack that took place in the market square of Kidal. On 16 May 2013, fighting took place in Anefis, near Kidal between combatants of the MNLA and the rival faction of the Arab Movement of the Azawad (MAA). The number of victims resulting from these incidents has not been confirmed yet.
10. Many areas in the North remain unsecure, especially in the rural areas and areas far from regional capitals. The armed groups, in particular Ansar Dine, AQMI

and MUJAO, still have the ability to cause harm in the North and in the South of the country, as well as in the Sahel region. Attacks from armed groups have taken place in Gao, Menaka and Timbuktu.

### **B. Specificity of Kidal**

11. Kidal, the third city in the North and the cradle of the successive Tuareg rebellions since the independence of Mali, has not enjoyed liberation in the same manner as other localities in the North such as Gao and Timbuktu. Although French and AFISMA troops are present, the town of Kidal remains under the control of the MNLA that administers it autonomously through a governor. Testimonies also confirm the delivery of administrative documents marked “State of Azawad” by the *de facto* authorities, and the presence of flags of the Azawad throughout the region, including in Tessalit and in Kidal. This information was confirmed by the multidisciplinary AFISMA team, comprising a member of the Human Rights Division, that visited Kidal, Tessalit, Timbuktu and Gao from 29 to 31 March 2013.
12. The continuous control by MNLA over the Kidal region constitutes in itself a break in the constitutional order. It also represents a major obstacle to the enjoyment of human rights in the region since MNLA was associated in the past with armed groups such as AQIM, MUJAO and Ansar Dine, which controlled the North of the country before the intervention of Malian and French troops. Testimonies point to the fact that a great number of human rights violations attributable to MNLA took place in Kidal, especially cases of bodily integrity, as well as arbitrary arrests and detentions targeting Tuaregs who are perceived to be close to the factions opposed to the MNLA and favourable to the unity of Mali and power in Bamako.
13. The absence of effective sovereignty of the Malian State in the Kidal region is also likely to compromise the right of citizens to participate in public affairs, notably through elections. If Malian authorities do not have access to Kidal, there are serious risks that elections will not take place in Kidal. If elections are organised, they are likely to be characterised by irregularities compromising the freedom of expression amongst the populations.
14. Taking into account the symbolic nature of Kidal and the tense prevailing security context, it is critical to ensure that the possible presence of Malian security forces in Kidal, is well supervised and monitored to prevent risks associated with misconduct and human rights violations that may be committed against individuals suspected of having supported the MNLA and the secession of the North of Mali.

### **C. Extension of the state of emergency**

15. In order to conduct military operations in the North, the Government of Mali declared a state of emergency on 13 January 2013 for a period of ten days. This declaration was then extended until 22 April 2013, in conformity with article 72 of the Constitution. The Government later requested the National Assembly to prolong the state of emergency again, until 6 June 2013 at midnight, because the objectives identified in the first declaration had not been met yet.
16. The state of emergency as stipulated in the 1992 Constitution and detailed in the 4 July 1987 legislation no. 87-49 responds to “an imminent threat resulting from grave attempts to the public order”, as well as to “subversive actions compromising national security” or “events presenting by their nature and gravity a character of absolute calamity.” The state of emergency leads to extraordinary measures likely to limit the respect for human rights and public liberties. Thus, for example, the administrative authority is empowered to control or restrict the movement of people and vehicles in certain places; can place individuals under house arrest, whose activities are deemed dangerous for security and public order; and to order the temporary closing of public places.
17. In the current context, which is characterised by military operations in the North, the weakening of the political situation and the imminence of elections, it is critical to remain vigilant on the use by political, administrative and military powers in relation to the state of emergency. During meetings with human rights observers, some authorities have asserted that what can be written in “normal time” could be forbidden and punished during a state of emergency. Some officials have also justified arrest without warrant and the arrest of a journalist by intelligence services during the state of emergency<sup>1</sup>. Freedom of expression and association are also threatened.
18. In light of these risks, it is essential that the authorities take appropriate measures to comply with Article 4 of the International Covenant on Civil and Political Rights, which specifies the lawful conditions when rights may be infringed in exceptional circumstances.

### **D. The electoral process**

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<sup>1</sup> Meeting between the AFISMA Human Rights Division and Government officials, Bamako, 8 March 2013.

19. The offensive launched by armed groups on 17 January 2012 and the military coup of 21 March 2012 plunged Mali into an unprecedented security, political, institutional, social and economic crisis. The presidential elections scheduled on 28 July 2013 should allow Malians to exert their right to participate in the conduct of public affairs.
20. Many voices, notably within civil society, have voiced concern about against the hasty organisation of elections, considering that technical and political conditions have not met. Furthermore, there are a number of practical obstacles that prevent the participation of all Malians in the elections that are provided for in article 25 of the International Covenant of Civil and Political Rights. This problem affects the populations of Kidal, who will find it difficult to exert their right to vote until the region is controlled by the Government of Mali.
21. Moreover, the full exercise of the right to vote requires the effective enjoyment of related rights such as freedom of expression and association, free press, the rights to freedom of peaceful assembly and of association, freedom of movement, and the right to security of person. To that extent, the situation remains fragile and deserves special attention in order to ensure that elections are inclusive, free and transparent and take place peacefully, in the respect of human rights and public liberties.

### **III. The human rights situation**

#### **A. Summary executions and extra-judicial killings**

22. Since the beginning of military operations in the North of the country, Malian soldiers were reportedly involved in summary executions of persons who were allegedly members of armed groups or who had collaborated with them. The mission collected credible information regarding the killing of 10 people from the Tuareg community on 15 February 2013. These people were reportedly killed by members of the Malian defence and security forces, whilst they were attempting to cross the border into Mauritania in Leré. The mission was unable to visit Leré to conduct further investigations due to the volatile security situation in the area.
23. In January and February 2013, the Mission received information regarding the killing by unidentified members of the Malian defence and security forces, in Timbuktu, of four males (the personal details are known) of Tuareg origin and four males of Arab origin. The dead bodies were buried, but were later discovered by the civilian population. In addition, information was gathered in

the case of a male Tuareg who was allegedly abducted and killed by unidentified members of the Malian defence and security forces, on 4 February 2013, in Timbuktu. The body was recovered at the outskirts of the city.

24. On 11 January 2013, in the morning, soldiers of the Malian Army reportedly arrested five persons belonging to Peul and Tuareg communities, including two *gendarmes*. The victims were reportedly arrested for being traitors and were taken to Sévaré's military camp. They were reportedly killed the same day. The Mission met with the wife of one of the victims who reported that she had been unable to identify the site where the body of her husband was buried. The Mission held a meeting with the Head of the *Gendarmerie* in Sévaré, and provided him with the names of the two *gendarmes* victims.
25. During the Mission's stay in Sévaré, the team investigated the case of bodies that were thrown into nine wells located near a bus station. Two witnesses in Bamako informed the Mission that the Malian army had thrown the bodies of these victims into these wells. A passer-by indicated that the wells contained at least ten bodies. The Mission found traces that resembled dried blood on the edge of three wells and earth that had been recently thrown into the wells.
26. The Mission interviewed three eyewitnesses who recounted killings carried out by armed groups, two in Sévaré and one in Timbuktu. In addition, the Mission received information that the bodies of several other victims were taken to the hospital in Sévaré, indicating that greater numbers of civilians may have been killed as a result of fighting during the liberation of Konna in January 2013, although it was not possible to identify how many of the bodies were those of former fighters or civilian victims. The Mission interviewed the mother of a 35-year old male victim who was shot by members of AQMI in Timbuktu as he was trying to flee.
27. Several witnesses have accused MNLA and MJAQ fighters of violating the right to life. For example, on 20 March 2013, the village of Bougoumi, located in the town of Ténenkou, was reportedly attacked by armed men belonging to MNLA, killing 20 persons. On 11 May 2013, a member of the MUJAO reportedly opened fire on a peaceful crowd gathered at a humanitarian distribution spot in Ménaka, killing 2 civilians. These violations of the right to life committed by armed groups in the North of Mali were also confirmed during interviews conducted by the MINUSMA Human Rights Team in refugee camps in Mauritania, Niger and Burkina Faso.

## **B. Enforced disappearances**

28. The Mission investigated the alleged enforced disappearance of nine males on 14 February 2013. The Mission interviewed three witnesses who provided credible information about the enforced disappearance of a respected merchant of Arab origin who was arrested by several unidentified male soldiers. Interviews with these direct witnesses and follow-up interviews with other credible sources in Bamako and Sévaré revealed that members of the Malian army arbitrarily arrested a total of nine male individuals (the names of seven male individuals are known) – eight of Arab origin and one of Songhay origin.
29. Many people have asked for the support of the MINUSMA Human Rights Team to find members of their families who disappeared after the launch of military operations in the North of the country. Malian refugees in various camps in Niger, Mauritania and Burkina Faso provided information on alleged enforced disappearances and abductions by armed groups and Malian forces.
30. Moreover, human rights observers collected testimonies indicating that members of armed groups, including the MAA, MIA, MNLA and MUJAO - who are still active in Kidal, Gao and Timbuktu - are still abducting people. For example, on 5 May 2013, the son of a marabou of Ber, a locality 60km from Timbuktu, was reportedly kidnapped by members of the MAA during inter-ethnic fighting between Arabs and Tuaregs.
31. The MNLA, that controls the Kidal region, still detains more than 30 persons in the city police station, which is used as a detention centre. For security reasons, it is difficult to check whether, the people detained by the MNLA, include those who have allegedly disappeared. On 18 May 2013, during a meeting with the MINUSMA Human Rights team in Ouagadougou, the MNLA commandment acknowledged detaining 47 persons, all presumably Jihadists, including foreign fighters from Algeria, Burkina Faso, Niger, Mauritania, as well as Malians. The MNLA has invited the MINUSMA Human Rights team to visit Kidal in order to meet the detainees arrested during the fighting in the North of the country.

### **C. Torture and ill-treatments**

32. According to many witnesses and human rights NGOs, confirmed by investigations carried out by the MINUSMA, current military operations have sometimes been accompanied by violations committed by Malian soldiers targeting people suspected of being Jihadists or active members of armed groups, or having collaborated with these groups. The cases documented by the MINUSMA have been reported to the Malian authorities, which promised that

alleged perpetrators of human rights violations would be placed before judicial authorities.

33. In general, fighters from the various armed groups have committed torture or ill-treatments against civilian populations or people suspected of being linked to the Malian Government. The OHCHR Mission received information about cases in Timbuktu related to the beating of five couples by members of the Islamic Police on grounds that they were living in an extra-marital relationship. Women have also been arrested and whipped by armed groups for behaving in a way that is considered contrary to the Sharia Law.
34. The mission interviewed a man who was receiving medical care at the Sévaré hospital who confirmed that on 29 January 2013, he and his family (wife and daughter) were beaten and shot at in Boni by six armed individual who belonged to the MUJAO. A medical source confirmed that the victim had received three bullets in his body.
35. The Mission also interviewed a 22-year old male victim of Songhay origin who was amputated in public ceremony held in Timbuktu in March 2012. He was accused of stealing a matras during the mass looting that had taken place when the armed groups entered Timbuktu. The ceremony that preceded the amputation was presided over by a judge from Ansar Dine with the participation of members of other armed groups such as MUJAO, MNLA, AQMI and Ansar Dine. According to witnesses, the public amputations were conducted to discourage theft, and each amputee was sent to hospital for treatment after amputation by members of Ansar Dine.
36. The MINUSMA Human Rights Division established contact with local NGOs to identify victims of amputations, evaluate the extent of the phenomenon, and develop, in cooperation with various stakeholders, concrete projects, including in the context of the 2013 Special Appeal of the United Nations Voluntary Fund for Victims of Torture.

#### **D. Violations of freedom of expression**

37. Among the cases reported to the human rights observers, the most emblematic attempt to the freedom of expression was the case of Mr. Boukary Daou, Director of the daily newspaper *Le Républicain*. He was arrested on 18 March 2013 and detained in the building of the *Sécurité d'Etat* for eight days. He was then transferred to the First Instance Tribunal of Bamako and charged with incitement to violence and dissemination of false information following the

publication of a letter to the President attributed to soldiers denouncing benefits accorded to Captain Sanogo, the leader of the 21 March 2012 coup.

38. On 2 April 2013, Mr. Daou was temporarily released. On 30 April 2013, the First Instance Tribunal of Bamako acquitted him of all charges. The MINUSMA Human Rights Division, along with human rights NGOs, monitored his trial.

#### **E. Conditions of detainees arrested in the North**

39. In the frame of its mandate, the MINUSMA Human Rights Division continued to regularly visit, without restriction, Camp I of the Gendarmerie of Bamako to evaluate the conditions of detention of persons held in custody in relation with military operations in the North. The Division also accessed the ten alleged armed groups fighters arrested in the region of Ber and Boureim and detained in the military camp of Timbuktu, before their transfer to Bamako.
40. On 9 May 2013, more than 295 alleged elements or collaborators of armed groups arrested in various localities in the North in the frame of military operations, were detained in Bamako. Among the detained, the majority were Malian between the ages of 20 and 76 years old (of which 80% are of Songhay or Peul origins, the others were Arabs and Tuaregs) as well as people originally from Algeria, Burkina Faso, France, Morocco, Niger, Nigeria, Somalia and Tunisia. Three detainees of French nationality were extradited to France.
41. Some detainees interviewed by the MINUSMA Human Rights Division declared having been tortured by members of the Malian Army during their arrest in the North. Some had visible marks on their bodies that they described as consequences of acts of torture. All credible testimonies, corroborated by the declarations made by detainees, indicate that the acts of torture ceased once the detainees were made available to the Gendarmerie and transferred to Bamako. However, the commitment of the Government to conduct investigations concerning the involvement of members of Malian security forces in those human rights violations has not yet been followed by concrete actions.
42. On 11 April 2013, MINUSMA human rights observers received confirmation of the death of four alleged members of armed groups at the Bamako Central Prison during the night of 6 to 7 April 2013. Judicial authorities opened an administrative investigation to identify the exact causes of the death. According to them, three detainees were sick at the time of their transfer to Bamako. It should be noted that, following a visit to the Bamako Central Prison, the MINUSMA human rights monitors drew attention to the judicial authorities on the need to improve the conditions of detention for alleged members of armed

groups. During the visit, detainees had in fact complained about the narrow and dark cells, as well as the lack of ventilation and high temperatures.<sup>2</sup>

#### **F. Sexual violence**

43. The progressive improvement of security conditions in the North of the country, followed by a better access to victims, has facilitated the checking of the allegations of sexual violence by armed groups mentioned in my last report. The Mission conducted 19 interviews detailing sexual violence against women and girls allegedly committed by members of the armed groups, including the MNLA, AQIM, MUJAO and Ansar Dine, between January and December 2012.
44. The information collected by the Mission suggests that the members of the armed groups either abducted rape victims before sexually assaulting them or assaulted them in their homes. An account describes a rape committed while the members of one of the armed groups held the victim in detention. Information analysed by the Mission suggests that in most cases, the alleged perpetrators were members of the MNLA. One interviewee stated that she and her sister were raped in front of their mother by four men in uniform in Gao, in early June 2012 and that she fell pregnant as a result of the rape.. She stated that her aggressors were members of the MNLA and that they were wearing a military uniform and a turban. Another victim described how she was harassed for months by members of one of the armed groups until she was captured by them and they took her to the Banque Malienne de Solidarité (BMS) in Timbuktu, where she was raped by five men, in December 2012. It should be noted that, according to various testimonies collected by the Mission, the BMS served as a detention centre for women during the occupation of Timbuktu by armed groups.
45. The information collected by the Mission suggests that most of the rape victims were Songhay and Bella women. However, it is difficult to ascertain whether women from a specific ethnic group were specifically targeted due to their role in the conflict. For example, it appears that in Ménaka, Bella women were particularly affected by rape, while in Gao Songhay women were the main victims. However, this could be also related to the composition of the population in those two regions.
46. The Mission received allegations from several sources, including in some cases from family members of victims, indicating that girls were forcibly married with members of the armed groups in Gao and Timbuktu in 2012. Members of the armed groups threatened and/or offered money to families to marry their

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<sup>2</sup> During the month of April, the average temperature in Bamako varied between 38 to 44 degrees.

daughters. On many occasions, these forced marriages reportedly resulted in multiple rapes in the camp of the armed group, and the marriages lasted no more than two or three weeks, with the girls sent back to their families.

47. The Mission was able to acknowledge the efforts made by organisations in view of documenting cases of sexual and gender based violence, in particular rapes linked to the conflict in the North in 2012. The Minister of family, gender and children indicated on 6 March 2013 that 200 cases of rape by various armed groups were documented. The age of victims varied from 9 to 60 years old.
48. It is however difficult to assess with precision the scale of sexual violence committed in the North of Mali since the occupation by armed groups in January 2012 because the criteria applied to register these violence are not standardised. Moreover, victims are reluctant to report their cases because of their traumatism and the fear to be stigmatised. A person interviewed mentioned that women and girls, victims of rape, do not report incidents because “they know that if they do it, they will be no future for them.” In an interview, the Mission was informed of the suicide at the end of February 2013 of a victim of rape after several attempts.

#### **G. Violations of the rights of the child**

49. The Mission received information on the enrolment and the use of children by armed groups. The Mission held meetings with representatives of UNICEF and Malian authorities on the transfer on 8 and 9 March 2013 of six child soldiers captured in Tessalit by the French army and returned to Malian authorities and UNICEF.
50. The Malian authorities assured the Mission that, in cooperation with the international community, they were addressing the reintegration of children associated with armed groups. On 28 January 2013, Malian authorities released an inter-ministerial circular stating that child soldiers who had been captured or had escaped were considered as victims and should be treated as such. It also requested that all relevant authorities work together towards the reintegration of these children.
51. The education system of some 700'000 children in Mali has been disrupted due to the violence in the country and the ruling of by some armed groups. Today, there is a need to rebuild schools, send back teachers to the North, train additional teachers and provide learning supplies. Since the violence began, at least 115 schools in the north were closed, destroyed, looted and sometimes contaminated with unexploded ordinance. Of the 700'000 children affected,

200'000 still had no access to school as of April 2013. Many teachers were among those displaced and had not returned to the Northern provinces.

#### **H. Inter-community tensions and risks of reprisals**

52. The relationship between communities in the North remains characterised by the prevalence of tensions involving *inter alia* the Songhays, the Peuls, the Arabs and the Tuaregs. These tensions convey high risks of violence. Incidents, such as the clash between Arabs and Tuaregs in Ber on 5 May 2013, are precursory signs of it. The existence of militias of ethnical composition increases these risks. It is critical that the coming political dialogue be inclusive and allow the effective participation of all communities to strengthen the importance and the virtues of the living-together in this region.
53. Although the number of violations against members of the Arab and Tuareg communities, mainly reported during the liberation of northern cities between January and March 2013, has decreased, risks of reprisals remain high. For example, during a mission to Timbuktu from 8 to 12 May 2013, the team deployed by the MINUSMA Human Rights Division witnessed that members of the Tuareg and Arab communities, aged from 15 to 50 years old, had left the city. The remaining members of these communities, composed of elderly and sick persons, as well as children, lived hidden in their houses, fearing reprisals and stigmatisation. The refugees based in various camps in Burkina Faso have confirmed as well that young people from 15 to 40 years old had fled the region. Some would be in refugee camps, other hidden in villages in Mali where their conditions of living would be difficult.
54. Inter-communities tensions remain a serious obstacle to the return of refugees and persons suspected of having collaborated with armed groups. The complex nature of reported inter-communities incidents does not permit to distinguish clearly between violence of criminal nature and reprisals based on ethnic and identity criterion. The efforts made by local authorities, notably in Timbuktu, to launch awareness raising campaign on the living-together in view of preventing reprisals and promote tolerance and respect for human rights should be appraised. In this context, the situation of Bella communities, highlighted in my previous report, deserve special attention since they continue suffering stigma and discriminations. Some of their members are used as slaves by some Tuaregs.

#### **I. Internally displaced persons and refugees**

55. The protection of civilian populations by Malian security forces remains a challenge in many northern localities where the Government does not have yet

the means to protect all populations, including internally displaced persons (IDPs). According to the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), between January and 23 May 2013, the number of IDPs amounted to 301,027. During the same period, the number of refugees in neighbouring countries is estimated at 174,129, dispatched as follows: 74,108 in Mauritania; 50,000 in Niger and 49,975 in Burkina Faso. Some Malians continue to flee their countries to find refuge in neighbouring countries.

56. Between 9 and 20 May 2013, three teams of the MINUSMA Human Rights Division went to Burkina Faso, Niger and Mauritania, on one hand to assess the human rights situation of Malian refugees previous to their flight from their places of origin, and, on the other hand, to discuss with them impunity and national reconciliation as well as their participation in the July 2013 presidential elections.
57. The refugees, mainly coming from the north of Mali, fear the insecurity and disorder due to the absence of the Malian administration, as well as reprisals from members of the Malian Army and/or armed groups, notably the MNLA and the MUJAO. In particular, they are scared of the risks of abduction, enforced disappearances, summary and extra-judicial executions, looting, which constituted the main reasons of their flight, in addition to the increasingly difficult living conditions due to the default of public services. Most of the refugees have indicated their willingness to return to their regions of origin, should peace and security be restored. They have also highlighted that the fight against impunity was a precondition to national reconciliation.

#### **IV. Measures undertaken by the government**

58. So far, the government's responses on the situation of human rights are articulated on political measures and judicial actions. On the political side, on 7 February 2013, the government adopted the Declaration of Bamako, expressing its commitment in favour of human rights and the fight against impunity. This commitment, the sensitization activities, and the establishment of the "prévoisés" in the areas of deployment of the Malian forces allowed to prevent human rights violations and to reduce acts of reprisals against Arabs and Tuaregs communities.
59. The authorities stated that they sent circulars recalling all the components of the army engaged in the military operations to respect human rights and the international humanitarian law. The government also deployed in the North, in

particular in Timbuktu and Gao, an important mission of gendarmes tasked to obtain information from individuals arrested during the military operations, and to take measures on possible human rights abuses committed during the military operations.

60. The government also established a Commission of inquiry on human rights violations committed throughout the country. Furthermore, a mixed Commission with Malians and Mauritians has been put in place in September 2012, concerning the killing of 13 Malian and Mauritanian preachers by the Malian army in Diabali. However, these initiatives have not yet had a judiciary follow-up.
61. In reaction to the necessity of inclusive dialogue on the way out of the crisis, the government has put in place, by decree no. 212/P-RM of 6 March 2013, a National Commission on Dialogue and Reconciliation (NCDR). With a two-year mandate, the NCDR has the following missions : (i) gather information on the political and social forces concerned by the dialogue and reconciliation process, (ii) identify the armed groups eligible to take part in the dialogue pursuant to the Roadmap for the Transition ; (iii) register the cases of human rights violations committed in the country from the beginning of the hostilities to the recovery of the whole country ; (iv) suggest different ways which could contribute to overcome the traumas of the victims ; (v) identify and advise on the realization of actions devoted to strengthen the social cohesion and the national unity ; (vi) emphasize the importance of dialogue and peace ; (vii) contribute to the emergence of a national conscience and the commitment of all the Malian citizens to the general interest and ; (viii) promote the democratic, social and cultural values of the country and, in particular the respect to the right to difference.
62. The members of the Commission have been appointed by the interim President of the Republic through decree N°2013 - 325 P-RM of 10 April 2013, and have taken their functions on 25 April 2013. Despite the fact that the mandate of the Commission seems not to be in compliance with the pillar of the transitional justice process, its composition has been criticized by a certain political and civil society groups. The Commission comprises of 33 members and its size could paralyze its efficiency. De facto, at this stage, the Commission looks like a political organ aiming at finding the way for reconciliation through an inclusive dialogue between all the Malian communities. The functions related to human rights and transitional justice seem to be limited.
63. It is important to have more clarity on the vision of the Malian authorities on transitional justice in order to facilitate the cooperation with technical and financial partners on the way to support in this process, which, if carried out in

compliance with the international standards and the best practices in this field, could contribute to investigate the human rights violations, and to reinforce the social cohesion.

64. On the justice side, in reaction to the human rights violations committed by the armed groups, in taking into account the material unavailability for the justice machinery to be deployed in the North, the judicial competences previously under the control of Gao, Kidal and Timbuktu have been transferred to the Prosecutor of the Commune III of Bamako in accordance to a decision of the Supreme Court of 21 January 2013. Until the submission of this report, there are no credible investigations on the allegations of rapes, despite a circular of the government in October 2012 encouraging the prosecutors and the judges to prioritize rape case –law committed in the North in 2012.
65. Furthermore, following several allegations of killings whose bodies have been thrown into wells, prosecutor in charge opened and investigation on this case. The government also opened investigations on other emblematic human rights violations allegedly committed by the Malian army, in particular on the abduction and the enforced disappearances of 9 Arab and one Songhay merchants in Timbuktu, on 14 February 2013. In this regard, 5 Malian elements, including one captain, have been transferred to Timbuktu and brought to justice because of their involvement in this incident.
66. On 29 March, 27 individuals detained regarding investigations on the situation in the North since the beginning of the crisis have been freed by the Prosecutor because of lack of evidence. Further to the death of 4 detainees, in April 2013, the Ministry of Justice undertaken efforts to improve the detention conditions in the central prison of Bamako.

## **V. Conclusions et recommendations**

67. Despite the progress linked to the following the liberation of the North in the aftermath of the military operations carried out by the Malian army with the support of France and the African forces, the human rights situation remains precarious given the significant challenges in the field of security, restoration of the State authority, on the construction of the rule of law, of the political dialogue and the national reconciliation. In this context, the protection of human rights remains one of the main challenges on the research of solutions in the Malian crisis.

68. The Malian authorities have taken certain measures aiming at fighting against impunity and to engage legal actions against the alleged perpetrators of international human rights law and international humanitarian law. These efforts deserve to be supported by the international community in order to allow the country to face the numerous challenges in relation to security, restoration of the rule of law, the democratic and economic reconstruction as well as the respect for human rights.

69. Based on the above, I wish to formulate the following recommendations:

**To the government of Mali:**

- a) Ensure that the relevant services open deep, independent and impartial investigations, on all the allegations of all violations of international human rights law and international humanitarian law committed by the Malian defence and security forces and by the armed groups ;
- b) Take urgent measures to organize fair trials of arrested people in relation to the crisis, or of all other people involved in human rights violations ;
- c) Ensure an effective control of the Malian administration in the Northern region in order to re-establish the rule of law and social peace ;
- d) Dismantle the different militias and other parallel armed forces whose activities continue to compromise the security of people and goods ;
- e) Continue, in cooperation with the MINUSMA and the European Union Training Mission (EUTM), the training of the Malian security and defence forces on international human rights principles and international humanitarian law, as well as on the Human Rights Due Diligence Policy (HRDDP);
- f) Establish a transitional justice mechanism in conformity with the norms and practices of the international human rights law with the technical support of the Office of the High Commissioner for Human Rights ;
- g) Ensure that the needs and the opinions of the IDPs and the refugees are taken into account in the on-going reconciliation process, and that appropriate measures be taken to guarantee the participation of the entire Malian population in the electoral process ;

- h) Take urgent measures to create the necessary conditions for the return of the refugees, to the participation of all the Malian in the political processes, and to organize sensitization campaigns in favour of human rights, tolerance and the vivre ensemble.

**To the international community:**

- a) Provide technical and financial assistance to the different actors to initiate or to continue national capacity building, including the reform of the justice system towards the protection of human rights ;
  - b) Continue the support to the capacity building of the Malian army in the field of human rights and the protection of civilians ;
  - c) Given the impact of the crisis on the social cohesion, support programmes on promotion of tolerance and respect for diversity.
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