

## **Note on the Status of the Judicial Response to Conflict-Related Sexual Violence**

### **Introduction**

Lawyers Without Borders Canada (LWBC) and the International Federation for Human Rights (FIDH) observe with great regret the persistence of conflict-related sexual violence in Mali and the absence of adequate judicial response to the magnitude of the scourge.

Our organizations reaffirm the need to track down and prosecute the authors of these crimes in accordance with the international commitments made by Mali with regard to the protection of human rights, especially in times of conflict.

### **A Resurgence in Conflict-Related Sexual Violence**

Quantifying the extent of the issue is not an easy task due to, among other factors, the security situation, obstruction of access to humanitarian aid, and stigmatization of survivors. That said, since 2012, it has been observed that conflict-related sexual violence has become rooted as a practice and strategy in Mali.

Conflict-related sexual violence encompasses several serious human rights violations, including:

*“rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity perpetrated against women, men, girls or boys that is directly or indirectly linked to a conflict”.*<sup>1</sup>

The link with conflict may be established based on several elements, including: the affiliation of the perpetrator with the parties to the conflict; actual or perceived affiliation

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<sup>1</sup> United Nations Secretary-General, *Report of the Secretary-General on conflict-related sexual violence*, S/2019/280, 29 March 2019, para. 4, quoted online at: <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/07/report/conflict-related-sexual-violence-report-of-the-united-nations-secretary-general/2019-SG-Report.pdf>. A broader definition of sexual violence is provided in a glossary developed by the FIDH: *Sexual and gender-based violence: A glossary from A to Z*, pp. 156-159, accessible online at: [https://www.fidh.org/IMG/pdf/atoz\\_en\\_book\\_screen.pdf](https://www.fidh.org/IMG/pdf/atoz_en_book_screen.pdf).

of survivors with a persecuted political, ethnic or religious minority; and the climate of impunity, which is generally associated with State collapse as a result of the conflict.<sup>2</sup>

Right from the beginning of the conflict (between January 2012 and June 2013) in the northern area of the country, combatants of the National Movement for the Liberation of Azawad (MNLA), of the Movement for Unity and Jihad in West Africa (MUJAO), of Ansar Eddine, and al-Qaida in the Islamic Maghreb (AQIM) regularly – even systematically – resorted to sexual violence.<sup>3</sup> Now that the conflict has spread to the rest of the country, conflict-related sexual violence persists at an even greater scale, as it is being committed by men belonging to extremist groups, local armed groups, militias, as well as national defence and security forces.<sup>4</sup> Depending on the context and armed organizations involved, conflict-related sexual violence in Mali has been used, among other things, as a means of strengthening internal cohesion between organization members, as a means of rewarding combatants, and also as a means of intimidating and submitting survivors and their entourage through coercion to a rigoristic form of Islam.<sup>5</sup> The increased prevalence of conflict-related sexual violence in Mali is observed in a context where sociocultural inequalities and discrimination against women and girls are relatively tolerated within Malian society, making armed conflict an aggravating contributor to sexual violence.<sup>6</sup>

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<sup>2</sup> United Nations Security Council, *Report of the Secretary-General on conflict-related sexual violence*, S/2022/272, 29 March 2022, para. 4, accessible online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/293/71/PDF/N2229371.pdf?OpenElement>.

<sup>3</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, paras. 737-748 accessible online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>; International Criminal Court, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, Public redacted version of Corrigendum of the decision on the amendment of confirmed charges, on 30 September 2019, against Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, 23 April 2020, ICC-01/12-01/18-767-Conf, 8 May 2020, ICC-01/12-01/18, paras. 142, 149, 158, 166, 169, 184, 190, 194, accessible online (in French) at: [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2020\\_01844.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2020_01844.PDF).

<sup>4</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, paras. 737-748 accessible online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>; *Report of the Secretary-General on Conflict-related sexual violence*, S/2022/272, 29 March 2022, para. 38, accessible online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/293/71/PDF/N2229371.pdf?OpenElement>.

<sup>5</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, paras. 723, 726, 729, 735, 743, accessible online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>; International Criminal Court, *The Prosecutor v. Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud, Public redacted version of Corrigendum of the decision on the amendment of confirmed charges, on 30 September 2019, against Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, 13 November 2019, ICC-01/12-01/18, paras. 167, 570-572, 703, accessible online (in French) at: [https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019\\_06927.PDF](https://www.icc-cpi.int/sites/default/files/CourtRecords/CR2019_06927.PDF).

<sup>6</sup> Incl. United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, para. 719, accessible online at:

## Gaps in the Legal Framework on Conflict-Related Sexual Violence

Conflict-related sexual violence constitutes a serious violation of international human rights law, international humanitarian law, and international criminal law. It runs counter to the international legal instruments ratified by Mali.<sup>7</sup>

Furthermore, although Mali has ratified the main international instruments relating to the issue, the integration of international provisions into domestic law and the effective application thereof (through the processing of these violations by members of the justice system) remain insufficient.<sup>8</sup>

Indeed, the legal framework in Mali with regard to sexual violence has several limits which negatively impact the effective suppression of these crimes. On the one hand, only rape and indecent assault are likely to be prosecuted as crimes.<sup>9</sup> This very limited list doesn't account for the wide range of different forms of conflict-related sexual violence,<sup>10</sup> and therefore doesn't allow for adequate prosecution of the authors of said violence. Furthermore, the definitions of these two crimes have shortcomings and don't seem to be fully aligned with the more progressive international law provisions in that regard. In Malian law, the definition of rape is somewhat restrictive with regard to both the types of behaviour that could constitute the crime and qualifying circumstances. Indeed, the definition of rape provided by Malian law excludes acts of sexual penetration committed against the authors themselves,<sup>11</sup> and seems to fail to account for specific

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<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>.

<sup>7</sup> Among others, the *Convention on the Elimination of all Forms of Discrimination against Women* of 18 December 1979 to which Mali adhered on 10 September 1985, and its *Protocol* of 6 October 1999 to which Mali adhered on 5 December 2000; the *African Charter on Human and Peoples' Rights* of 27 June 1981, ratified on 29 October 1981, and the *Maputo Protocol* of 11 July 2003 ratified on 13 January 2005.

<sup>8</sup> *Ibid.*

<sup>9</sup> International law considers conflict-related sexual violence (CRSV) as a crime whereas Malian law only considers two forms of sexual violence as crimes, relegating the remaining forms to offences. Among the sexual offences provided in the Criminal Code (under Section 7 on Gross Decency), only rape and sexual assault are sanctionable with criminal penalties (between 5 and 10 years of prison). Law No. 01-079 of 20 August 2001 on the Criminal Code, Article 4(3), 225-226, accessible online at: <https://www.droit-afrique.com/uploads/Mali-Code-2001-penal-MAJ-2016.pdf>.

<sup>10</sup> As previously mentioned, conflict-related sexual violence includes, among others: rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity. United Nations Secretary-General, *Report of the Secretary-General on conflict-related sexual violence*, S/2019/280, 29 March 2019, para. 4, quoted online in: <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2020/07/report/conflict-related-sexual-violence-report-of-the-united-nations-secretary-general/2019-SG-Report.pdf>.

<sup>11</sup> The definition of rape provided by Mali's Criminal Code is based on a very conventional approach to the crime by requiring that the author commit an act of sexual penetration on the body of the victim. The

contemporary circumstances in which the act of rape may be constituted, including: psychological violence, moral constraint, coercive environment, detention, young age, de facto or de jure authority over the victim.<sup>12</sup> Similarly, the definition of indecent assault is just as vague as to what constitutes the wrongful act, and requires that the act in question be “contrary to morality”, which limits the scope of the crime.<sup>13</sup>

Despite the inclusion in the Criminal Code in 2001 of a diverse list of sexual crimes that constitute international crimes<sup>14</sup> and the occurrence of violations which may constitute such crimes, Malian judges show reluctance on the matter.<sup>15</sup> As such, despite extending the field of competence of the Specialized Judicial Unit (PJS) to international crimes,<sup>16</sup> no case under review by the PJS has, to date, resulted in a trial for this category of criminal offences.<sup>17</sup> The vagueness in terms of distribution of competency between the PJS and prosecution and investigation bodies is such that it creates even more confusion among litigants. Action must be taken to remedy this situation. Punishing

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definition thus reduces the possibility of prosecuting for rape in cases where the author forces the victim to perform an act of sexual penetration on them. In contrast, the International Criminal Court’s definition of rape also includes acts of penetration of part of the author’s own body. See Article 226 of the Criminal Code (“Any act of sexual penetration, of any kind, committed on the body of another person through violence, coercion, threat or surprise, constitutes rape”, free translation); Assembly of the States Parties to the Rome Statute of the ICC, *Elements of Crimes*, 2002, Article 7 (1) (g) -1, accessible online at:

<https://www.icc-cpi.int/sites/default/files/ElementsOfCrimesEng.pdf>.

<sup>12</sup> See *ibid.*; Article 226 of the Criminal Code.

<sup>13</sup> According to Article 225, indecent assault refers to “any act of sexual nature and contrary to morality performed intentionally and directly against a person” (free translation). In light of this definition, the crime of indecent assault seems to be intended for a wide and vague range of acts of a sexual nature other than rape which do not involve an act of sexual penetration and generally do not involve force, coercion, threat, or surprise. As such, it’s not clear whether CRSV such as sexual slavery, forced prostitution, forced pregnancy, and forced sterilization may be included in the definition of the crime of indecent assault. Furthermore, the requirement that the act be “contrary to morality” limits the scope of the crime and validates the social and cultural tolerance with regard to certain forms of sexual assault within Malian society. See, for example, Noémie Blaise’s commentary (in French) on a constitutional court decision dated 4 June 2009, “*L’attentat à la pudeur ou la protection de l’intégrité sexuelle telle qu’elle est communément admise*”, JDJ No. 287, September 2009, accessible online at:

[http://www.jeunesseetdroit.be/jdj/documents/docs/L\\_attentat\\_a\\_la\\_pudeur\\_ou\\_la\\_protection\\_de\\_l\\_integrite\\_sexuelle\\_telle\\_qu\\_elle\\_est\\_communement\\_admise.pdf](http://www.jeunesseetdroit.be/jdj/documents/docs/L_attentat_a_la_pudeur_ou_la_protection_de_l_integrite_sexuelle_telle_qu_elle_est_communement_admise.pdf).

<sup>14</sup> Rape, sexual slavery, forced prostitution, forced pregnancy, forced abortion, enforced sterilization, forced marriage, and any other form of sexual violence of comparable gravity. Law No. 01-079 of 20 August 2001 on the Criminal Code, Article 4(3), 29-30, accessible online (in French) at: <https://www.droit-afrique.com/uploads/Mali-Code-2001-penal-MAJ-2016.pdf>.

<sup>15</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, para. 1001, accessible online at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>.

<sup>16</sup> Official Journal of the Republic of Mali, 16 August 2019, No. 26, pp. 988-989, Law No. 2019-050 of 24 July 2019 amending Law No. 01-080 of 20 August 2001, as amended, on the Code of Criminal Procedure, accessible online (in French) at:

<https://www.ilo.org/dyn/natllex/docs/ELECTRONIC/109847/136431/F-1557247235/MLI-109847.pdf>.

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sexual violence under counts of international crimes is an opportunity for judges to bring change to Mali's regulatory framework by referring to international law, and in particular applicable ICC law.<sup>18</sup>

### *Disproportionate Recourse to Military Justice Tribunals in Cases of Conflict-Related Sexual Violence*

The division of competences between ordinary law jurisdictions and military jurisdictions lacks clarity with regard to crimes committed by members of military forces. Article 16 of Law No. 95-042 of 20 April 1995 on the Military Justice Code provides that in times of conflict or peace, military tribunals are competent to prosecute ordinary offences involving members of the armed forces. As established by the now defunct United Nations Commission on Human Rights and the African Commission on Human and Peoples' Rights, by definition, military tribunals are special courts with competence for offences of a military nature.<sup>19</sup> Exerting military functions does not provide a derogation to commit human rights violations, especially sex-based violence, which is why resorting to military justice cannot be justified.

In addition, an over-representation of military judges on the judges' panel is such that the composition of military instances does not satisfy the independence and impartiality safeguards required for a fair trial.<sup>20</sup> That said, Article 65 of the Military Justice Code (MJC) provides the possibility to challenge the legality of military tribunal decisions before the Supreme Court's judicial division. The initiation of proceedings as provided by the MJC also violates the principle of separation of powers. Indeed, the prosecutorial discretion conferred upon the Minister of Armed Forces<sup>21</sup> runs counter to litigants' right to

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<sup>18</sup> Although international crimes have been incorporated into national law, the vast majority of sexual crimes provided as underlying offences of those international crimes are not defined in Mali's Criminal Code. As such, resorting to international law is essential for enforcing these offences because these sexual crimes are the result of developments in international law, including the Rome Statute and case law produced by international criminal tribunals.

<sup>19</sup> African Commission on Human and Peoples' Rights, *Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa*, DOC/OS/(XXX)247, 2003, Principle L, accessible online at: <https://www.achpr.org/legalinstruments/detail?id=38>; Human Rights Commission, Report by former Special Rapporteur Emmanuel Decaux, *Issue of the administration of justice through military tribunals*, 13 January 2006, Principles 8-9 (paras. 29-35), accessible online here: <https://digitallibrary.un.org/record/571377?ln=en>.

<sup>20</sup> Furthermore, military authorities can be tempted to sweep these matters under the rug on grounds of prosecutorial discretion by declaring cases closed or leveraging plea bargains to the detriment of the victims. See *ibid.*, Principle 9 (paras. 32-35).

See also: Official Journal of the Republic of Mali, Law No. 95042/ANRM on the Military Justice Code of 20 April 1995, Articles 5-10, accessible online (in French) at:

[http://perso.unifr.ch/derechopenal/assets/files/legislacion/l\\_20080616\\_61.pdf](http://perso.unifr.ch/derechopenal/assets/files/legislacion/l_20080616_61.pdf).

<sup>21</sup> *Ibid.*, Articles 32, 34.

a fair trial. On human rights violations matters, military tribunals should, in effect, be set aside in favour of ordinary courts in order to uphold impartial and independent proceedings. As demonstrated by the investigation launched by the Mopti military tribunal into the allegations of crimes committed against civilians during a military operation in Moura in March 2022, the precedence of ordinary justice over military justice still isn't recognized in Mali despite requests submitted by civil society organizations and international partners.<sup>22</sup>

And finally, the absence of any law providing protection for victims and witnesses in Mali has a greater impact on victims of sexual violence committed by members of the military in that their participation in proceedings brought by military justice tribunals exposes them to reprisals from members of the armed forces. If Mali adopted such legislation, victims and witnesses would benefit from adequate conditions in which to report authors of sexual violence, in particular in the context of military justice tribunals.

### **Lack of Reporting on and Insufficient Judicial Treatment of Conflict-Related Sexual Violence Cases**

As the crisis in Mali has intensified, the country's justice system has fallen into a state of paralysis, including as a result of members of the justice system in zones outside State control no longer performing their functions. Even where these actors have stayed in function, the security situation has prevented any investigation work from taking place regarding allegations of crimes and other offences.

To address this standstill, all sorts of litigation, including cases involving serious offences, are mostly resolved by armed groups<sup>23</sup> or traditional or religious authorities<sup>24</sup> present in these zones. Although alternative methods of dispute resolution may be used under certain circumstances, they pose significant problems in sexual violence cases.<sup>25</sup>

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<sup>22</sup> The Association malienne des droits de l'Homme, Lawyers Without Borders Canada, the International Federation for Human Rights, and Amnesty International, *Allégations de crimes contre des civils à Moura au Mali : une enquête indépendante doit avoir lieu*, 6 April 2022, accessible online (in French) at: <https://www.asfcanada.ca/medias/nouvelles/allegations-de-crimes-contre-des-civils-a-moura-au-mali-une-enquete-independante-doit-avoir-lieu/>; TV5 Monde, *Mali : Que s'est-il passé à Moura ?*, 5 April 2022, accessible online (in French) at: <https://information.tv5monde.com/afrique/mali-que-s-est-il-passe-moura-451740>.

<sup>23</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, para. 987, accessible online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>.

<sup>24</sup> Lawyers Without Borders Canada, *Vers un accès à la justice au Mali – Avancées et défis* (in French), January 2020, p.11; *Ibid.*, para.983.

<sup>25</sup> African Commission on Human and Peoples' Rights, *The Guidelines on Combating Sexual Violence and its Consequences in Africa*, 13 November 2017, Guideline 9.4, accessible online at:

Not only does mediation fail to remove the suffering of the survivors, it also fails to bring justice. Victims are often pushed into accepting an amicable solution which can involve the release of the perpetrator in exchange for financial compensation or forced marriage with him<sup>26</sup> in order to preserve family reputation as well as peace within the community, to the detriment of appropriate reparation.<sup>27</sup>

Other challenges exist in the fight to prosecute authors of sexual violence crimes. The absence of legal consequences, which is sometimes facilitated by the negotiating processes between the State and armed groups, contributes to the perpetuation of sexual crimes by creating the perception that they will go unpunished anyway. Furthermore, taking legal measures in matters of sexual violence is often met with difficulty in obtaining evidence due to the lapse of time passed since the offence was committed, safety conditions, and attempts by authors to conceal evidence. These challenges highlight the importance of testimonial evidence and therefore the need to provide adequate conditions to gather this evidence. Among other things, this would improve assistance and support provided to survivors throughout the whole procedure.

Structural shortcomings must also be taken into account. Reporting on cases of conflict-related sexual violence and recourse to legal intervention cannot be achieved without providing actual support that is adapted to the needs of the survivors of these crimes. But in Mali, this support is greatly lacking due, in part, to an insufficient number of lawyers,<sup>28</sup> psychologists, and psychiatrists, who are mostly based in Bamako. The insufficiency of qualified and available human resources means survivors have to travel far in order to seek judicial assistance. Furthermore, the cost of formal justice mechanisms is high due to lack of enforcement of the 2001 law on judicial assistance.<sup>29</sup> As such, litigants often abandon prospects of initiating legal proceedings.<sup>30</sup>

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<https://www.achpr.org/legalinstruments/detail?id=4>.

<sup>26</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, paras. 746, 767, accessible online at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>.

<sup>27</sup> *Ibid.*, para. 767.

<sup>28</sup> 329 lawyers were registered with Mali's bar association over 2020-2021. See table of members of the bar council in Mali for 2020-2021, 30 October 2021, accessible online (in French) at:

[https://malijet.com/a\\_la\\_une\\_du\\_mali/263295-annee-judiciaire-2021-2022-tableau-de-l-ordre-des-avocats-d-u-mal.html](https://malijet.com/a_la_une_du_mali/263295-annee-judiciaire-2021-2022-tableau-de-l-ordre-des-avocats-d-u-mal.html).

<sup>29</sup> See Law No. 01-082 of 24 August 2001 on judicial assistance, Official Journal, 31 October 2002, No. 30, 1162; Decree No. 06-426/P-RM of 6 October 2006 establishing the modalities for implementation of Law No. 01-082 of 24 August 2001 on judicial assistance, 6 October 2006; Lawyers Without Borders Canada, *Vers un accès à la justice au Mali – Avancées et défis* (in French), January 2020, p. 15.

<sup>30</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, paras. 1007-1008, accessible online at:

Moreover, organizing training for justice actors on the specificities of investigating and prosecuting sexual violence cases is essential for providing an effective and structured response to this widespread issue. In addition to reducing the risk of impunity, training improves support for survivors and witnesses while guaranteeing their safety – fundamental prerequisites for their participation in the judicial process.<sup>31</sup> The lack of training opportunities for judges, prosecutors, clerks, bailiffs, and lawyers on international law and in particular on conflict-related sexual violence affects the way survivors of these violations are received and heard by justice workers.<sup>32</sup> There have been efforts to strengthen the capacities of justice actors,<sup>33</sup> but turnover among legal staff is preventing long-term knowledge consolidation within legal instances.

When national judicial action *is* taken in spite of these shortcomings, sexual violence survivors are met with yet another hurdle: delays in processing their cases brought before national jurisdictions. To date, 8 cases involving a total of 197 survivors of conflict-related sexual violence committed between 2012 and 2013 are still pending due to a considerable procedural backlog.<sup>34</sup> Furthermore, resorting to extrajudicial dispute settlement mechanisms is often the first option in cases of conflict-related sexual violence.<sup>35</sup>

In an effort to address this violence, the Government of Mali has developed “One Stop Centres”, integrated support centres aimed at offering survivors better medical, psychosocial and legal support. The initiative was developed as part of the Spotlight project, which will receive funding from the European Union and support from

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<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>; Lawyers Without Borders Canada, *Vers un accès à la justice au Mali – Avancées et défis* (in French), January 2020, p. 14-16.

<sup>31</sup> Lawyers Without Borders Canada, *Violences sexuelles : Standards internationaux et bonnes pratiques pour l'accompagnement des victimes au Mali* (in French), p. 55.

<sup>32</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, para. 1001, accessible online at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>.

<sup>33</sup> Lawyers Without Borders Canada, *Vers un accès à la justice au Mali – Avancées et défis*, January 2020, p. 31, accessible online (in French) at:

<https://www.asfcanada.ca/site/assets/files/7367/acces-justice-mali-femmes-victimes-2020.pdf>.

<sup>34</sup> United Nations Security Council, *Report of the Secretary-General on conflict-related sexual violence*, 29 March 2022, para. 39, accessible online at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/293/71/PDF/N2229371.pdf?OpenElement>.

<sup>35</sup> United Nations Security Council, *Report of the International Commission of Inquiry on Mali*, S/2020/1332, 2 February 2021, paras. 746, 767, accessible online at:

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/024/68/PDF/N2102468.pdf?OpenElement>.



five United Nations bodies<sup>36</sup> until 2023. Ten One Stop Centres have since opened in the regions of Kayes, Koulikoro, Sikasso, Ségou, Mopti, and Gao, and Bamako District, totalling an intake capacity of 480 people<sup>37</sup>. In addition to the support provided by these One Stop Centres, a hotline to encourage reporting on sexual violence against women and girls was also set up in 2014 in a joint effort between the Malian Police Directorate-General and UN Women. It is however currently only operational in Bamako.<sup>38</sup>

In a demonstration of commitment towards fighting conflict-related sexual violence, on 1 March 2019 Malian authorities signed a joint statement with the UN aimed at developing a plan to respond to and prevent conflict-related sexual violence.<sup>39</sup> The statement led to the adoption on 24 October 2021 of an action plan for 2022-2024.<sup>40</sup> The action plan consecrates the signing parties' commitment to take action for "*the protection of access to multisectoral services; the fight against impunity; monitoring & evaluation and coordination; and community engagement and prevention*"<sup>41</sup> in relation to conflict-related sexual violence.

## Conclusion and Recommendations

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<sup>36</sup> UNHCR, UN Women, UNDP, UNFPA, and UNICEF. Spotlight Initiative, *Mali pursues its efforts to eliminate gender-based violence*, 5 December 2019, accessible online at: <https://www.spotlightinitiative.org/press/mali-pursue-its-efforts-eliminate-gender-based-violence> ("The Spotlight Initiative will build on the complementarities of the different actors involved to implement sustainable solutions across five UN agencies: UNHCR, UN Women, UNDP, UNFPA, and UNICEF").

<sup>37</sup> UNFPA Mali, *Dix One Stop Center offerts au Mali par le Programme Spotlight Initiative et les Nations Unies pour la prise en charge des survivantes des violences*, 14 July 2021, accessible online (in French) at: <https://mali.unfpa.org/fr/news/dix-one-stop-center-offerts-au-mali-par-le-programme-spotlight-initiative-et-les-nations-unies>.

<sup>38</sup> UN Women, *Global Database on Violence against Women: Ligne verte VBG*, 2014, accessible online (in French) at: <https://evaw-global-database.unwomen.org/en/countries/africa/mali/2014/ligne-verte-vbg>; Lawyers Without Borders Canada, *Vers un accès à la justice au Mali – Avancées et défis* (in French), January 2020, p. 32.

<sup>39</sup> MINUSMA, *Signature du communiqué conjoint entre la République du Mali et l'Organisation des Nations unies sur la lutte contre les violences sexuelles au conflit*, 1 March 2019, accessible online (in French) at: <https://minusma.unmissions.org/signature-du-communiqu%C3%A9-conjoint-entre-la-r%C3%A9publique-du-mali-et-l'organisation-des-nations-unies-sur>.

<sup>40</sup> United Nations Security Council, *Report of the Secretary-General on the situation in Mali*, S/2021/1117, 4 January 2022, para. 53, accessible online at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/410/17/PDF/N2141017.pdf?OpenElement>.

<sup>41</sup> MINUSMA, *Le Gouvernement malien et la MINUSMA valident un plan d'action afin de lutter contre les violences sexuelles en temps de conflit*, 29 October 2021, accessible online (in French) at: <https://minusma.unmissions.org/le-gouvernement-malien-et-la-minusma-valident-un-plan-d%E2%80%99action-afin-de-lutter-contre-les-violences>.

The high number of acts of conflict-related sexual violence requires an urgent and rigorous response on the part of the State of Mali to prevent and sanction these serious human rights violations. By virtue of its international commitments, Mali has the responsibility to investigate conflict-related sexual violence and prosecute authors thereof. Although intervention on the part of the International Criminal Court in the situation in Mali is allowing some survivors to access judicial remedy, it is only meant to intervene as a court of last resort, in accordance with the principle of complementarity. The obligation to investigate and prosecute is first and foremost one for the Malian State by way of its national institutions.

In light of the above, LWBC and the FIDH call upon:

- The Government of Mali to:

**COMMIT** openly to making sure that Malian armed forces and security forces cease committing conflict-related sexual violence;

**IMPLEMENT** a mechanism for the judicial protection of victims and witnesses of conflict-related sexual violence;

**IMPROVE** collaboration with civil society organizations, the International Criminal Court, and any other relevant international partner to facilitate access to and gathering of evidence, and take all necessary measures to ensure continuous and appropriate support for survivors of conflict-related sexual violence, including through the implementation of a judicial assistance fund as part of the One Stop Centres initiative;

**STRENGTHEN** the capacities of all actors of the criminal justice system in receiving and processing cases of conflict-related sexual violence, and provide them with the necessary human and material resources to do so; and

**FACILITATE** free access to legal information and support for victims of sexual violence provided by qualified lawyers, including by enforcing the legal provisions relating to judicial assistance (2001 law).

- The judicial authorities to:

**CONTINUE** processing conflict-related sexual violence cases brought before them; and

**EXCLUDE** the possibility of resorting to military justice in cases involving human rights violations, and especially cases of conflict-related sexual violence.

- The National Transition Council to:

**STRENGTHEN** Mali's criminal regulatory framework in order to comply with international standards with regard to the definition, qualification, investigation, and prosecution of sexual violence, including by prohibiting the use of alternative methods of dispute resolution when they are intended to bring authors closer to their victims.