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-
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**NOTE ON THE HUMAN RIGHTS SITUATION IN THE CONTEXT OF THE CONFLICT AND
THE TRANSITION IN MALI**

Mr. Chairperson,

Ladies and gentlemen Commissioners,

The International Federation for Human Rights (FIDH), Lawyers without Borders Canada (LWBC) and Amnesty International (AI) are deeply concerned by the human rights situation in the context of the conflict and the Transition in Mali. Our organizations draw your attention particularly to the situation with respect to fighting impunity and civil and democratic space in the country.

1. Recurring crimes against the civilian population in all impunity

Since 2012 and the beginning of the ongoing multidimensional crisis in Mali, serious violations and abuse of human rights, including some that could be qualified as crimes that fall under international law, have been committed in the country. Since 2018, the civilian population of the central region of Mali has been a victim of recurring shootings and daily violations of its human rights, including sexual and gender-based violence, as it is increasingly ensnared in violence linked to terrorism and the fight against terrorism.¹ According to the United Nations, over 600 civilians were killed in 2021.² Atrocities are being committed by all parties to the conflict: Islamist armed groups, so-called self-defense groups and armed forces, and could be qualified in some cases as crimes under international law, especially war crimes.

An escalation of the violence in the center of Mali marked by the sway of the armed groups, the collapse of the State and atrocities committed during anti-terrorist operations of the Malian armed forces.

As the so-called jihadist groups have perceived the Center of Mali as a "zone to take" using terror since 2012, they have continually been destabilizing it, and have stepped up the intensity since 2015. Under the leadership of Amadou Koufa, head of the Katiba Macina affiliated with it, the Group for the Support of Islam and Muslims (JNIM) has targeted the military, State representatives, traditional and religious chiefs, and any person opposed to their rigorist vision of religion. Since 2018, several dozens of villages in the Center of Mali have been living under their yoke, characterized by the imposition of a totalitarian way of life, recurring atrocities (kidnapping, acts of torture, assassinations, sexual violence), and the closing of public schools. According to

¹ FIDH. (2018). *Center of Mali: the population caught between terrorism and counterterrorism*.
<https://www.fidh.org/fr/regions/afrique/mali/centre-mali-les-populations-prises-au-piege-du-terrorisme-et-du>

² https://minusma.unmissions.org/sites/default/files/note_tendances_rev_typo_juillet-dec_2021_final_220324.pdf

UNICEF, to date, over 1100 schools in Mali have been closed due to a lack of security, thereby affecting over 350 000 children, the majority of whom are situated in the central region of Mopti³.

In the center of Mali, the collapse of public services starting in 2012 led to a security and judicial vacuum. It has been filled by the mushrooming of self-defense militias, essentially formed on the basis of communities, ethnic groups and armies. Whether they are Pulaar, Bambaras, or Dogons, they fuel the vicious circles of attacks and reprisals. The passiveness of the State in the face of the atrocities committed by several militias makes one wonder about the political support that some of them enjoy.

The Malian Armed Forces (FAMA) were heavily impacted by the jihadist tsunami of 2012 in the North of Mali, then by the incessant attacks of Islamist groups. Starting in 2018, the Malian authorities launched a "Integrated Security Plan" of regions of the Center, calling for a reinforcement of 4000 military personnel and additional means. It was reflected in the launching of the anti-terrorist operation *Dambé* in February 2018, during which almost a hundred people were killed by summary and extrajudicial execution.⁴ Since late 2021, we have been seeing an intensification of Malian military operations within the framework of Operation *KélétiGUI*.

Massacres of the Civilian Population that Remain Unpunished

Since 2018, massacres of civilians have been regularly perpetrated: in **Nantaka** in June 2018 (at least 25 people killed), **Ogossagou** in March 2019 (at least 160 people killed), in **Sobane Da** in June 2019 (at least 35 people killed), in **Massabougou** in June 2020 (at least 9 people killed), and in **Bounty** in January 2021 (at least 22 people killed, including 3 presumed members of armed groups and 19 civilians)⁵. The presumed perpetrators of these killings are elements of armed groups, Malian armed forces and French forces concerning the bombing of a wedding ceremony in Bounty in January 2021.

According to a recent Amnesty International report, the attack on the village of **Ogossagou-Peul** on 23 March 2019 attributed to Dozo fighters, affiliated with the group Dan na Ambassagou (DNA) marks, for the United Nations, the "growing *ethnicization of the conflict in the center of Mali, causing stigmatization of entire communities as affiliated with terrorists or armed groups.*" The MINUSMA report⁶ on this attack specifies, moreover, that some of these hunters, DNA members, were wearing military uniforms. This same village of Ogossagou-Peul was attacked once again on 14 February 2020 by people suspected of being members of Dan na Ambassagou, while the deployment of a contingent of the army and efforts to defuse tensions initiated by the government had led to the return to the village of Pulaar people following the first massacre. According to the report of the United Nations panel of experts, the second attack

³ <https://www.unicef.org/mali/les-enfants-au-mali>

⁴ See the report of the FIDH investigation, "In the center of Mali, the population trapped between terrorism and counterterrorism," November 2018:
https://www.fidh.org/IMG/pdf/fidh_centre_du_mali_les_populations_prises_au_pie_ge_du_terrorisme_et_contre_terrorisme.pdf

⁵ See the MINUSMA report on the Bounty incident:
https://minusma.unmissions.org/sites/default/files/rapport_final_bounty_bounty9.pdf

⁶ See the MINUSMA website page on the events of Ogossagou:
<https://minusma.unmissions.org/ogossagou-r%C3%A9cit-d%E2%80%99un-retour-%C3%A0-la-paix>

aimed at the Pulaar neighborhood of Ogossagou could have been prevented; apart from the responsibility of the perpetrators of the attack, the negligence of the Malian army unit stationed in the village contributed to this massacre carried out according to the same modus operandi as the first. The number of casualties from these two attacks stands at 157 in March 2019 and 35 in February 2020.⁷

On 3 January 2021, according to a MINUSMA report, several strikes killed 3 presumed members of armed groups and 19 civilians attending a wedding ceremony in **Bounti**. While welcoming the MINUSMA report, the Malian League of Human Rights (AMDH), Lawyers without Borders Canada (LWBC), the International Federation for Human Rights (FIDH) and Amnesty International (AI) reiterated their call for in-depth criminal investigations by the Malian and the French authorities on these events, which could constitute crimes that fall under international law.⁸ Despite the number of casualties, the French justice system, the one with the most direct jurisdiction, has not begun an investigation on these incidents⁹.

According to an AMDH press release, on 3 December 2021, a vehicle leaving the village of **Songho** to go to the Bandiagara Fair was the target of an attack carried out by unidentified armed individuals causing at least 31 people to burn to death and injuring 17 people, including women and children.

Between 27 and 31 March 2022, operations conducted by the FAMA targeting armed groups would have led to the death of many civilians in **Moura**, in the region of Mopti. The Chief of Staff of the Armies mentioned in a press release dated 1 April 2022 "air-land actions" conducted namely by the special forces and announced an outcome of 203 members of the "armed terrorist groups" have been killed and 51 arrested. In a second press release circulated on 5 April 2022, the Malian military authorities declared that "unfounded allegations [were] made against the FAMA of atrocities on the civilian population" and reiterated that "respect for human rights as well as international humanitarian law [remained] a priority when carrying out [their] operations." According to the testimonies gathered by our organizations, many civilians, namely fair workers and village residents would have been killed during this operation, which took place during and after the weekly fair in Moura, and while the FAMA would have proceeded to create a blockage around the village for five days. Our organizations believe that the gravity of the allegations could, if verified, constitute war crimes, require in-depth and independent judicial investigations in order to shed all possible light on these events.¹⁰ Our organizations took note that the Malian military justice system began an investigation on the 6th of April. However, our organizations remain concerned about the fact that MINUSMA has not been authorized to access Moura and

⁷ <https://www.amnesty.org/fr/latest/news/2022/04/mali-une-justice-en-peine-face-aux-crimes-contre-les-civils-dans-le-centre-du-pays/>

⁸ <https://www.fidh.org/fr/regions/afrique/mali/mali-il-est-urgent-de-mener-une-enquete-judiciaire-independante-sur>

⁹ « The cooperation treaty between Mali and France provides that, in theory, the French judicial authorities have direct jurisdiction to investigate and prosecute crimes committed by the French military, however, the Malian judicial authorities can have that jurisdiction if the French authorities waive their priority for jurisdiction," read the Mali report, of crimes with guilty parties, of Amnesty International (p.63).

¹⁰ Read the joint press release of AMDH, the FIDH, LWB Canada and Amnesty International "Allegation of crimes against civilians in Moura, Mali: an independent must take place. Online: <https://www.fidh.org/fr/regions/afrique/mali/crimes-civils-moura-mali-enquete-independante>

conduct its investigations there in keeping with its mandate to protect and monitor the human rights situation in Mali.

Open, but obstructed judicial proceedings

Despite repeated commitments of the Malian authorities and several open judicial investigations, the proceedings have not made much headway or are at a standstill, while the victims continue to demand justice, while fearing reprisals in the absence of protective measures of protection.¹¹

The judicial proceedings initiated by the Malian authorities are obstructed by the lack of access to the center of the country that hinders the investigation. The logistical support of the MINUSMA mission is not sufficient to allow the investigation of the zones. The requests for the execution of arrest warrants are not available to the justice system of suspects – in particular, the personnel, are not being out.

One of the factors favoring impunity for crimes linked to armed conflict is the imperfection of the legal framework. The law on national understanding, passed in the wake of the 2015 peace agreement, amnestying several "events that could be qualified as crimes or offences (...)" is ambiguous with respect to the exact temporal and material scope of application of these amnesties.

Other provisions such as the Defense Agreement of July 2014 between Mali and France granting French courts the primacy of jurisdiction concerning "any act or negligence of a member of its staff in the exercise of official functions," may obstruct action of Malian justice on the allegations of crimes committed by the French military on mission in Mali. This was namely the case in Bounti (region of Mopti).

Several other obstacles are preventing proper administration of justice, namely: an imperfect definition of crimes falling under international law in the Malian criminal code; the competition of jurisdictions to rule on crimes within the remit of international law; dependence of investigators on the support of the army and MINUSMA to conduct their investigations on the crimes due to insecurity; the insufficiency of the technical and financial means to conduct investigations; the lack of legal and practical measures to protect victims and witnesses; the lack of execution of arrest warrants, etc.

Thus, the lack of judicial response in the face of the many massacres perpetrated over a period of almost four years in the region of the Center of Mali, is conducive to the recurrence of crimes and fuels the cycle of impunity.

Our organizations urge the African Commission to do its utmost to remind the Malian transition authorities of their commitments and to take concrete action to make the fight against impunity a priority.

2. Restrictions of Civil Space

¹¹ Amnesty International Report, "Crimes without guilty parties," 13 April 2022, Mali. A justice in trouble faced with crimes against civilians in the center of the country - Amnesty International

The International Federation for Human Rights (FIDH), Lawyers without Borders Canada (LWBC) and Amnesty International (AI) are also worried about the shrinking of civil space, characterized by violations of freedom of expression, freedom of the press, the right to information as well as the right of peaceful assembly. The report of the Independent Expert of the UN on the human rights situation in Mali, Alioune Tine, made public in March 2022, reflects our organizations' fears, recommending namely that the Malian authorities "guarantee civil space by promoting full enjoyment of fundamental freedoms [...] without obstruction, intimidation, reprisals or harassment."¹²

Our organizations call for respect and protection of these fundamental rights and freedoms, guaranteed by the Malian Constitution of 25 February 1992, the Charter of the Transition and the regional and international legal instruments ratified by Mali, and reiterate the need to make respect for Rule of law and human rights a priority of Mali.

With Respect to Freedom of Expression

Our organizations are alarmed by the gradual disappearance of spaces of free expression in Mali.

Freedom of expression is specifically threatened by Law N°2019-056 pertaining to punishment of cybercrime. Articles 20 and 21 of this law punish the authors of "threats" or "insults" (without the elements constituting these offences being defined) through an information system of sanctions going from 6 months to 10 years of imprisonment, and/or fines from 1 000 000 to 10 000 000 CFA francs.

Our organizations are worried about the misuse of this law by the current authorities, who, in some ways, are violating freedom of opinion, expression and access to information.

For several months, known figures who publicly expressed their disagreement with the decisions taken by the Transition authorities were arrested, detained and prosecuted on obviously political motives.

On 16 January 2022, economist Etienne Fakaba Sissoko was arrested by the prosecutorial office of the District Court of Commune 4 of Bamako for words tending toward stigmatization or regionalist, ethnic or religious discrimination with the purpose of pitting peoples against each other using ICTs," without them having been specified by the prosecutorial office, after interventions covered by the media and critical of the Transition following sanctions imposed by ECOWAS on Mali.¹³ He appeared in court on 13 April and the deliberations were postponed until 11 May next. As paper is being drafted, he is still being detained at the Central Remand Prison of Bamako.

On 26 October 2021, Issa Kaou Djim, then the fourth vice-president of the National Transition Council (NTC) was detained, then imprisoned at the Remand Prison of Bamako for "public unrest" after having openly criticized the policy of Prime Minister Choguel Maïga. Mr. Djim was released on 9 November 2021 and relieved of his duties within the NTC and then ultimately given a suspended sentence of six months on 3 December 2021 and a 500 000 CFA francs fine

¹² HCDH (2022), Human Rights situation in Mali: Report of the Independent Expert on the Human Rights Situation in Mali, Alioune Tine.

¹³ Sangaré, B. (2022, 19 January). *Mali: what do we know about the arrest of economist Étienne Fakaba Sissoko?* JeuneAfrique.com. <https://www.jeuneafrique.com/1297660/politique/mali-que-sait-on-de-larrestation-de-leconomiste-etienne-fakaba-sissoko/>

for "harming the reputation of the State committed through social networks." On 14 February 2022, the air and border police prevented Issa Kaou Djim from travelling to the Bamako airport, without formal notification.

On 7 December 2021, politician Oumar Mariko from the party African Solidarity for Democracy and Independence (ASDI), was detained for "insults committed through an information and communication system," at the same time as Bakary Camara and the activist Boubacar Soumaoro known as "Bouba Fané" following the broadcasting on social networks of a discussion among three men, during which Mariko called the current Malian Prime Minister a "liar." Bouba Fané was released on 28 December 2021. Mariko and Camara were released temporarily on 4 January 2022. Their trial is slated for 18 May 2022. Since 4 April 2022, Oumar Mariko has once again been accused for defamation subsequent to his statements accusing the Malian army of being responsible for the recent killing in the country, in a context of allegations of atrocities committed against civilians in Moura during a military operation conducted between 21 and 27 March 2022.¹⁴ He is currently wanted by the Malian authorities.

Our organizations recall that freedom of opinion and expression is guaranteed by Article 4 of the Constitution of Mali, as well as Articles 2 and 9 of the African Charter of Human and Peoples' Rights (African Charter), and Articles 2, 6 and 19 of the International Covenant on Civil and Political Rights (ICCPR). Pursuant to these treaties that Mali has officially committed to complying with, the Malian authorities must immediately put an end to arbitrary arrests and detentions, as well as judicial harassment of persons who are merely expressing their opinion.

On Freedom of the Press and the Right to Information

Our organizations are also worried about the increased pressure on the media exerted by the Transition authorities. This control, initially justified according to the authorities by the security situation,¹⁵ is leading to a gradual practice of self-censorship by journalists, researchers and the media in Mali.

Our organizations, moreover, deplore the suspension of RFI on shortwave and FM and of the television channel France 24, as well as their digital platforms that had, up to that point, been accessible throughout the country.¹⁶ The decision that became known through a press release of the Malian government's spokesperson on 14 March 2022, follows on the publication of the Human Rights Watch report attributing the responsibility "for a new wave of execution of civilians" to the Malian defense forces and armed groups.¹⁷

On 17 March, Maison de la Presse had "[taken] note" of the decision to suspend these foreign media and "unreservedly [denounced] the relentlessness of the foreign media in criticizing the

¹⁴ Allegations of crimes committed against civilians in Moura, Mali: an independent investigation must take place, [Press release], 7 April 2022.

¹⁵ In 2021, Reporters without Borders ranked Mali 99th out of 180 in the world with respect to freedom of the press. RWB regretted that the "Malian media [are being] subjected to official pressure on security matters. Criticism of the army [can] lead to arrests and indictment for "words that demoralize the troops."

¹⁶ (Amnesty International), Mali. The suspension procedure against RFI and France 24 must be lifted, 18 March 2022, Amnesty International, <https://www.amnesty.org/fr/latest/news/2022/03/la-procedure-de-suspension-de-rfi-et-france-24-doit-etre-levee/>

¹⁷ (Human Rights Watch), Mali: New Wave of executions of civilians, 15 March 2022, <https://www.hrw.org/fr/news/2022/03/15/mali-nouvelle-vague-dexecutions-de-civils>

national army in [a] very difficult context [for Mali]." ¹⁸ However, on 8 April 2022, the media umbrella organization ended up speaking of the impact of this decision, reporting "the dread of not being able to practice their profession according to ethical principles of journalism sensitive to conflict," and "the general uneasiness within the corporation."¹⁹

In February 2022, accreditation of foreign journalists had been suspended and Benjamin Roger, a journalist at Jeune Afrique, was expelled for not having accreditation on 8 February 2022. A few days earlier, correspondents from the foreign press in Mali had been summoned to an "information meeting" by the Minister of Communication, who urged them "to convey positive messages and calm things down" in a tense context where these journalists had called out the delay in issuing accreditation cards and the personal attacks on some correspondents by some groups close to the Transition authorities who were accusing them of spreading "misinformation and intoxication."²⁰

Lastly, Law N° 00-046 from the year 2000 pertaining to press legislation and press offences²¹ continues to loom over the media and journalists as a threat as it provides for prison sentences and heavy fines for various offences such as offense against the authorities and the State, spreading fake news or even defamation.

Our organizations recall that freedom of the press and the right to information are protected by Articles 4 and 7 of the Constitution of Mali, as well as Article 9 of the African Charter of Human and Peoples' Rights, the Declaration of Principles on Freedom of Expression and Access to Information in Africa from 2019, Article 27 of the African Charter on Democracy, Elections and Governance and Article 19 of the International Covenant on Civil and Political Rights (ICCPR).

Regarding Freedom of Assembly and Association

Our organizations have observed violations of freedom of peaceful assembly, namely characterized by selective and discriminatory treatment of requests for authorization to march subject to the relevant administrative authorities.

Thus, requests from supporting Transition initiatives or perceived as such are regularly granted, whereas those from other groups that are dissenters or perceived as such are regularly rejected. So, on 25 June,²² 22 September, 29 October and 6 December 2021, the Yerewolo movement "Standing on the ramparts" was able to hold major rallies at the Independence Monument, whether they were held to ask that the French troops leave, protest against the sanctions imposed by ECOWAS or welcome Prime Minister Choguel Kokalla Maïga at the Bamako-Sénou Airport. During that same period, movements such as the Block of People's and

¹⁸ Press release of the Maison de la Presse of Mali, 17 March 2022, Bamako : <https://www.maliweb.net/communiquer/communiquer-de-la-maison-de-la-presse-du-mali-suite-a-la-suspension-de-la-diffusion-de-rfi-et-de-france-24-par-le-gouvernement-de-transition-du-mali-2969234.html>

¹⁹ Press release from the Maison de la Presse of Mali, N*/0045/MP-CP 2022, 8 April 2022, Bamako

²⁰ Correspondence with a journalist who had participated in the meeting, February 2022.

²¹ Law 00-046 AN RM, press legislation and press offences (uzh.ch)

²² Letter N°0230 GDB-CAB dated 24 June 2021 from the Governor of the District of Bamako authorizing the Yerewolo march.

Peaceful Intervention for Complete Reunification of Mali (BIPREM),²³ ASMA-Mali (party of the former Prime Minister Soumeylou Boubeye Maïga)²⁴ had their requests for peaceful demonstrations refused by the Governor of the District of Bamako due to the application the state of the health emergency. These marches aimed respectively at supporting victims of the violent crackdown on demonstrations in July 2020 and requesting the release of Soumeylou Boubeye Maïga, former Prime Minister detained from 26 August 2021 within the context of the case concerning alleged misappropriation of the "Procurement of the presidential plane and military equipment."²⁵ Soumeylou Boubeye Maïga passed away in preventive detention on 21 March 2022, following the refusal of multiple requests for medical evacuation abroad made by his lawyers and family.²⁶

Possible limitations to the right to freedom of peaceful assembly must comply with the Law, pursue a legitimate aim, and be necessary and proportionate to reach that aim. In this case, we see that the arbitrary granting of authorization to demonstrate did not show an imperative to protect public health. It becomes all the more problematic because if the organization of peaceful assembly can be subjected to the obligation to notify the authorities, it should not be obliged to request the authorities' authorization.

Our organizations recall that such decisions, which hinder citizens' capacity to express themselves, breach the Malian Constitution, and particularly its Articles 2 and 5 that protect freedom of association, assembly, procession and demonstration, as does Article 1.j of ECOWAS's Additional Protocol, Article 11 of the African Charter of Human and Peoples' Rights and Articles 19 and 21 of the International Covenant on Civil and Political Rights (ICCPR) that enshrined these rights and to which Mali is a party.

²³ Letter N°0333 GDB-CAB dated 20 August 2021 from the Governor of the District of Bamako refusing authorization to march.

²⁴ Letter N°0371 GDB-CAB dated 10 September 2021 from the Governor of the District of Bamako refusing the ASMA authorization to march.

²⁵ In 2014, when Soumeylou Boubèye Maïga was Minister of Defense, the procurement of a presidential plane and military equipment from a Malian company for a total of 40 million dollars, without a tender, involved overcharging, fraud, misappropriation, influence peddling and favoritism, according to a report of the Bureau of the Auditor General. Subsequently, the International Monetary Fund (IMF) had sanctioned Mali by freezing its financial aid for six months.

²⁶ Roger, B. (2022, 21 March). *Mali: former Prime Minister Soumeylou Boubèye Maïga is dead*. JeuneAfrique.com. <https://www.jeuneafrique.com/1332378/politique/mali-lancien-premier-ministre-soumeylou-boubeye-maiga-est-mort/>