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Situation of human rights in Mali

Report of the Independent Expert on the situation of human rights in Mali, Alioune Tine*

Summary

The present report has been submitted in accordance with Human Rights Council resolution 46/28, adopted on 24 March 2021, and covers the period from 25 March to 31 December 2021. The report is based on information made available to the Independent Expert on the situation of human rights in Mali, Alioune Tine, during his sixth visit to Mali from July 26 to 5 August 2021. This information was provided by the Government of Mali, the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA), organizations of the United Nations system and other sources from civil society organizations.

* The present report was submitted after the deadline in order to reflect the most recent developments.



I. Introduction

1. The present report is submitted in accordance with Human Rights Council resolution 46/28, adopted on 24 March 2021, by which the Council extended the mandate of the Independent Expert on the situation of human rights in Mali for a period of one year in order to assist the Malian transitional authorities in their efforts to promote and protect human rights. In that resolution the Council also requested the Independent Expert to submit a report at its forty-ninth session.
2. In the present report, which covers the period from 25 March to 31 December 2021, the Independent Expert on the situation of human rights in Mali, Mr. Alioune Tine, gives an account of his sixth visit to Mali, which took place from 26 July to 5 August 2021. The report is based on information provided by government authorities, organizations of the United Nations system operating in the country and national and international organizations dealing with humanitarian issues and human rights, and on the statements made by associations and families of victims.
3. The Independent Expert wishes to thank the Government of Mali for facilitating his stay in the country and granting him access to all the national and local officials he requested to meet. During his sixth visit, the independent expert held meetings with, among others, the Prime Minister, the Minister for Foreign Affairs and International Cooperation, the Minister of Defence and Veterans Affairs, the Minister of Justice and Human Rights, the Minister for Rebuilding the State, with responsibility for relations with national institutions, the Minister for Reconciliation, Peace and National Cohesion, with responsibility for the Agreement on Peace and Reconciliation, the Chair of the National Human Rights Commission and representatives of the judicial authorities.
4. The Independent Expert also met with representatives of civil society organizations, including associations of victims of descent-based slavery and associations fighting against this practice, non-governmental organizations, representatives of the diplomatic corps and organizations of the United Nations system.
5. The Independent Expert wishes to thank the Special Representative of the Secretary-General for Mali and Head of the United Nations Multidimensional Integrated Stabilization Mission in Mali and the staff of the Human Rights and Protection Division of the Mission. The technical and logistical support provided by the United Nations system in Mali played an essential role in facilitating and ensuring the success of the Independent Expert's sixth visit.

II. General situation in the country

A. The political situation

6. One of the major political events that marked a decisive turning point in the Malian crisis was the second coup d'état on 24 May 2021, with the arrest and detention of Bah N'Daw and Moctar Ouane, then transitional President and Prime Minister, respectively, and other senior officials. With two coups in less than a year, the political crisis in Mali has taken a more complex turn, characterized by a geopolitical shift that has both accentuated the polarization of political leanings and positions on law and order and created renewed tensions in the difficult relations between Mali and the Economic Community of West African States (ECOWAS) over the controversial issue of the timetable for the organization of transparent elections that would allow for the restoration of constitutional order.
7. The Independent Expert therefore welcomes the fact that the Security Council has remained alert to the situation in Mali, having extended the mandate of MINUSMA for one year by its resolution 2584 (2021) adopted on 29 June 2021.
8. Members of the Council carried out a mission to Mali in October 2021 and, among other things, reaffirmed their strong commitment to the implementation of the 2015

Agreement on Peace and Reconciliation in Mali. This is particularly critical, as little progress on its implementation was made in 2021.

9. The Independent Expert also welcomes the commitment of regional and subregional forums. The President of Ghana, Nana Akufo-Addo, who is also the current Chair of ECOWAS, and the ECOWAS Special Envoy and Mediator for Mali, Goodluck Jonathan, have carried out several missions to Mali to help the various main players find a solution to the crisis. ECOWAS has also held several meetings on the situation.

10. The African Union has also held several meetings on the situation in Mali and deployed a needs assessment mission there from 19 to 25 September 2021 as part of the African support programme for the transition process in the country.

B. The security situation

11. While the first three quarters of 2021 had seen a continued deterioration in the security situation, a slight improvement was noted in the last quarter of 2021. However, this should not obscure the serious challenges that Mali and the international community must address to consolidate the progress made on the ground.

12. Indeed, as the Independent Expert pointed out after his visit to Mali in August 2021, violence is spreading so rapidly in the country that it is threatening the very survival of the State. In view of the completely new geopolitical and geostrategic issues at stake in Mali today, the Independent Expert is concerned about their pernicious effects on the political and security situation in Mali and in the subregion. The power play of the great powers and their geopolitical impact must not lead to the aggravation of the political situation and the exacerbation of the security crisis but rather to their resolution and the strengthening of peace, stability, the enjoyment of human rights and the preservation of security.

13. Indeed, the deterioration of the overall security situation has reached a tipping point, with the failure of State institutions or their complete absence in several towns increasing the threat, attacks on civilians by violent extremist groups such as the Jama'a Nusrat ul-Islam wa al-Muslimin (Group for the Support of Islam and Muslims), Islamic State in the Greater Sahara and other similar groups – and unidentified gunmen whose modus operandi is similar to that of violent extremist groups – who continue to strengthen their presence and control in several towns in the north and centre of the country and expand their activities into several towns in the southern regions of Mali, and acts of violence against a backdrop of tensions between different communities in the centre of the country. According to recent figures, more than 90 per cent of the rural population live in a conflict zone or fear that conflict will spread to their town. In several towns, Jama'a Nusrat ul-Islam wa al-Muslimin, Islamic State in the Greater Sahara and other similar groups form a "State within a State," exploit mineral resources, collect taxes and "ensure" security, justice and basic social services.

14. In the northern regions, particularly Gao, which the Independent Expert visited in August 2021, one of the most affected *cercles* is Ansongo. All of the actors we met in Gao, whether from the public services, civil society or the United Nations system, stated that the situation in the region had continued its dangerous downward spiral, with an increase in crime, violence, theft, rape, kidnapping and, worst of all, impunity for all of these crimes, which creates a vicious circle. The perpetrators of the crimes were often well known and identified; investigations had even been opened but were never completed because of the lack of safety, the absence of the State, the absence of investigating judges and, sometimes, the lack of genuine political will. The Independent Expert was informed that the public services and State representatives were absent from several towns and that basic social services were no longer provided to the population. Armed groups, including the signatories of the Agreement on Peace and Reconciliation in Mali, directly or indirectly controlled artisanal gold production in the regions of Kidal, Timbuktu and Gao, generating revenues to finance their activities and, above all, to buy weapons.

15. Violent extremist groups engaged in targeted killings, kidnappings, acts of intimidation and death threats, levied illegal taxes, carried out criminal activities involving illegal panning for gold and tried to impose their reading of sharia through violence,

particularly in the regions of Gao and Timbuktu. These groups killed civilians among populations who refused to pay the zakat or who were suspected of providing information to the armed forces, particularly in the regions of Gao and Ménaka. In the region of Ménaka, the security situation was also negatively affected by a sharp increase in acts of armed robbery, by the expansion of territorial control by violent extremist groups on the main roads and in some towns and by frequent clashes between these groups in their fight for territorial control.

16. The security environment in central Mali was negatively affected by the combination of activities by violent extremist groups and community-based militias and vigilante groups who, during their attacks, killed, injured and abducted civilians, destroyed homes, granaries and other property and stole livestock. The regions most affected by these attacks were Bandiagara, Douentza, Mopti and Ségou.

17. The Independent Expert learned that the collapse of law and order and the activities of violent extremist groups continued to expand in the south of the country, particularly in the regions of Kita, Koulikoro, Koutiala, San and Sikasso. On 25 June 2021, unidentified armed men abducted two adult male civilians in the village of Koumbia, located in the region of Koutiala. The victims were taken to an unknown destination. On 11 September 2021, unidentified gunmen killed two truck drivers and wounded another, all three adult male civilians of Moroccan nationality, in the town of Didiéni, located north of Bamako in the region of Koulikoro. On 29 December 2021, unidentified gunmen carried out several attacks in the region of Kita. First, at approximately 9 p.m., an unknown number of men attacked the Soribougou water and forestry station, located northwest of Bamako. During the attack, two civilians (a man and a woman) were killed and a third was injured. On the same day, at approximately 10 p.m., two civilians (a man and a woman) were injured following an attack on the Kita police checkpoint by a dozen unidentified gunmen.

18. In addition, the attacks on the Malian defence and security forces continued to exact a heavy human toll. According to United Nations figures, between 26 March and 31 December 2021, they underwent at least 84 attacks, in which 129 service personnel were killed and 179 were injured.

19. In the light of the above, the Independent Expert notes with satisfaction that, in its resolution 2584 (2021), the Security Council urges the Malian authorities to carry out three priority measures, one of which is to agree on and effectively implement a comprehensive politically led strategy guided by clear steps and indicators, to protect civilians, reduce intercommunal violence, restore the presence and authority of the State and re-establish basic social services in central Mali and another to disarm without delay all militias, reinforce reconciliation initiatives and advance community violence reduction efforts. The Independent Expert also notes that the first of the four focuses of the Government's Action Plan adopted by the National Transitional Council in August 2021 is the strengthening of security throughout the country. He further notes that, in its communiqué of 7 November 2021, ECOWAS called for, among other things, a more robust and offensive mandate and increased operational capacity for MINUSMA to address the challenges of terrorism in Mali and mentioned that it would request the Security Council to make the necessary changes to the MINUSMA mandate. The Independent Expert also welcomes the engagement of the Joint Force of the Group of Five for the Sahel.

C. The ongoing challenge of the fight against impunity

20. The Independent Expert recalls that, during the universal periodic review of 2018, Mali accepted several recommendations to the effect that the State should take appropriate measures to end impunity for perpetrators of violations and abuses of human rights and violations of international humanitarian law. He recalls that, in its resolution 46/28, the Human Rights Council urged the transitional authorities to intensify their efforts to end impunity and encouraged them to see through to completion the judicial investigations that have been opened and those that are forthcoming in order to bring to justice those responsible for these serious human rights violations. He notes that, in its resolution 2584 (2021), the Security Council identified the fight against impunity as one of the three priority measures

that the Malian authorities were called upon to implement by 30 June 2022, including bringing to justice the alleged perpetrators of the human rights violations and abuses that claimed the lives of hundreds of civilians in 2019 and 2020, holding the corresponding trials and keeping the Malian people, including the families of the victims, informed of the progress made in this area. This combination of steps taken by the Human Rights Council and the Security Council continues to show that the international community is concerned about the persistence of impunity in Mali.

21. The Independent Expert welcomes the fact that, on 30 June 2021, the Mopti Assize Court rendered its verdict against the perpetrators of the 1 January 2019 attack on the village of Koulogon-Peul, which claimed the lives of 37 civilians. He also welcomes the Malian Government's adoption of the National Policy on Reparation for Victims of Crises in Mali since 1960 and its Plan of Action 2021–2025, dated 23 July 2021, and bills setting out the general rules on reparation for harm caused by serious human rights violations, on 29 December 2021. He further welcomes the fact that one of the objectives of the Government's Action Plan adopted by the National Transitional Council in August 2021 is the fight against corruption and impunity, while stressing that anti-corruption efforts must comply with human rights standards, including those relating to the right to a fair trial if they are to be regarded at all as legitimate.

22. Nevertheless, the Independent Expert regrets that no significant progress has been made in the prosecution of alleged perpetrators of human rights violations and abuses. These violations and abuses include those committed in the context of intercommunal violence in central Mali¹ and those attributed to the national armed forces.² Several informants, including victims whom the Independent Expert met during his visit to Mali in August 2021, expressed their frustration and disappointment that the Malian authorities had on several occasions announced the opening of investigations but that these investigations never resulted in the prosecution of the alleged perpetrators of human rights violations and abuses. Because of the persistence of impunity and unfulfilled promises by Malian authorities, these informants expressed doubts about the existence of genuine political will on the part of Malian authorities to effectively fight impunity for violations of human rights and a sense of disillusion with the Malian justice system, which is perceived to be ineffective at best and non-existent in several regions of the country at worst. The judicial authorities reiterated that investigations were under way, some of which had even been completed, but that the

¹ These include the following: (a) the attack on the village of Ogossagou on 23 March 2019, in which at least 157 members of the Fulani community, including 46 children, were killed and 65 were injured; (b) the attack on the village of Sobane Da on 9 June 2019, in which 35 members of the Dogon community, including 22 children under 12 years old, were killed; (c) the attacks on 18 June 2019 against the villages of Yoro and Gangafani, during which at least 25 members of the Dogon community in Yoro and 27 in Gangafani were killed; and (d) the attack on the village of Ogossagou on 14 February 2020, in which at least 35 members of the Fulani community (including 1 woman, 3 boys and 2 girls) were killed, at least 3 people were injured and at least 19 people (including 5 children) went missing. The independent expert notes that, in correspondence addressed to him, the Ministry of Justice indicated that a judicial inquiry had been opened concerning the two attacks on the village of Ogossagou and those on the villages of Sobane Da, Yoro and Gangafani.

² These include extrajudicial, summary or arbitrary executions: (a) of 12 civilians by members of the Malian Armed Forces serving under the command of the Joint Force of the Group of Five for the Sahel in Boulikessi, Mopti Region, on 19 May 2018; (b) of 25 civilians by members of the Malian defence and security forces in the village of Nantaka, Mopti Region, on 13 June 2018; (c) of 6 civilians by members of the Malian Armed Forces in the village of Doma, Mopti Region, on 13 August 2018; (d) of 3 civilians by members of the Malian defence and security forces in Intahaka, Gao Region, on 24 April 2019; (e) of 26 Fulani men arrested by the Malian Armed Forces in Malémana, Mopti Region, on 19 December 2019; (f) of 3 men, and the enforced disappearance of 3 others, by the Malian Armed Forces in Diabali, after the attack on the gendarmerie camp in Sokolo, Ségou Region, on 26 January 2020; (g) of at least 15 civilians by the Malian defence and security forces in the village of Yangassadiou, Mopti Region, on 3 June 2020; (h) of at least 37 civilians, including 3 women and 3 children, by members of the Malian Armed Forces travelling in a convoy of 30 vehicles and a group of Dogon armed traditional hunters (Dozo) who were accompanying them, in Binédama, Mopti Region, on 5 June 2020; and (i) of 9 villagers, all members of the Fulani community, by the Malian Armed Forces in the village of Massabougou, Ségou Region, on 6 June 2020.

difficulty lay in arresting and prosecuting the alleged perpetrators of the crimes identified for lack of police, particularly in the many areas where the State was absent. The security threats caused by the absence of the State are therefore likely to continue to poison the atmosphere of impunity that prevails in Mali. While noting these challenges, the Independent Expert calls on the Malian authorities to redouble their efforts in the fight against impunity.

23. The Independent Expert notes with concern the promulgation of Act No. 2021-046 of 23 September 2021 on amnesty for the acts that had occurred and had led to the resignation of the President of the Republic on 18 August 2020 and Act No. 2021-047 of 24 September 2021 on amnesty for the acts that had occurred and had led to the resignation of the transitional President, Head of State, and of the Prime Minister, Head of Government, on 24 May 2021, and their repercussions up until 28 August 2021, both adopted by the National Transitional Council on 16 September 2021. The Independent Expert wishes to recall that, following the coup d'état on the night of 18–19 August 2020, MINUSMA documented the death of 5 civilians and the shooting of 18 others in communes III and IV of the district of Bamako and indicated that the victims had been killed or shot and injured by elements of the National Guard.

24. The Independent Expert commends the work of the Truth, Justice and Reconciliation Commission, whose mandate expired on 31 December 2021, and which has reportedly taken at least 23,600 statements from victims and witnesses since its establishment. He notes the efforts undertaken to consider the establishment of a body to succeed the Commission.

25. The Independent Expert is concerned, however, by reports that the Malian authorities have not yet begun the process of ensuring the implementation of the recommendations of the International Commission of Inquiry on Mali, which submitted its report to the Secretary-General of the United Nations on 26 June 2020. He would like to recall that, in its report, the Commission stressed, among other things, that the failure by the Government of Mali to establish the truth and render justice for abuses committed during the previous crises, regardless of the perpetrators involved, but especially for abuses directly attributable to the Government, triggered the 2012 crisis³ and that impunity in Mali was one of the factors fuelling the serious violence between communities that had affected the central part of Mali since 2015 and had escalated considerably since 2018.⁴ He would also like to recall that the Commission was created in accordance with article 46 of the Agreement on Peace and Reconciliation in Mali,⁵ in response to the aspirations of Malians. Failure to implement the Commission's recommendations would be to thwart these aspirations.

26. The Independent Expert notes that the Security Council, by its resolution 2590 (2021), renewed until 31 August 2022 the sanctions regime established by its resolution 2374 (2017). In addition, the mandate of the Panel of Experts established pursuant to resolution 2374 (2017) was extended by resolution 2590 (2021) until 30 September 2022. The Panel should produce a midterm report no later than 28 February 2022 and a final report no later than 15 August 2022 and it should provide the Security Council with periodic updates in between, as appropriate. The Independent Expert recalls that the sanctions regime established pursuant to resolution 2374 (2017) includes a travel ban and an asset freeze. These measures are targeted, in particular, at individuals and entities that have directly or indirectly engaged in planning, directing, or committing acts that violate international human rights law or international humanitarian law or that constitute human rights abuses or violations. The use and recruitment of children are among the acts mentioned. The Independent Expert regrets, however, that even though such acts are recurrent and the human rights situation in Mali has continued to deteriorate, as at 31 December 2021, only one of the eight persons subject to the sanctions regime was targeted for violations of international human rights law or international humanitarian law.

27. The Independent Expert recalls the statement of the Prosecutor of the International Criminal Court concerning the Ogossagou massacre of 23 March 2019. She noted that any person who incited or engaged in acts of violence, including by ordering, requesting,

³ S/2020/1332, annex, executive summary, para. 13.

⁴ *Ibid.*, executive summary, para. 15.

⁵ *Ibid.*, executive summary, para. 1, and report, para. 1.

encouraging or contributing in any other manner to the commission of crimes within the Court's jurisdiction, was liable to prosecution before the Court, with full respect for the principle of complementarity, and that the Office of the Prosecutor remained seized of the situation in Mali and would continue to follow closely the events in central Mali and other parts of the country. The Independent Expert would like to point out that crimes that may fall within the jurisdiction of the International Criminal Court continue to be committed with complete impunity in Mali. According to the information received, impunity for these crimes appears to be the result of a lack of real political will or the inability of the State to carry out effective prosecutions.

III. Situation of human rights

A. Civil and political rights

28. The human rights situation remained a matter of concern during the reporting period. Between 1 April and 31 December 2021, MINUSMA documented at least 1,554 human rights violations and abuses. These numbers represent a 21.21 percent increase over the previous three quarters (1 July 2020 to 31 March 2021), during which MINUSMA documented 1,282 violations and abuses. These violations included extrajudicial, summary or arbitrary executions and other killings, injuries, abductions, enforced disappearances, arbitrary arrests or detentions, including prolonged detentions and violations of due process, torture or other cruel, inhuman, or degrading treatment, death threats and acts of intimidation, looting and destruction of property. These violations and abuses were committed by the Malian defence and security forces, international forces, regional forces, the judicial authorities, community-based militias and vigilante groups, the armed groups that are signatories to the Agreement on Peace and Reconciliation in Mali, Jama'a Nusrat ul-Islam wa al-Muslimin, Islamic State in the Greater Sahara and similar groups.⁶ In view of this situation, which remains alarming, the Independent Expert welcomes the information received, which suggested that the number of human rights violations and abuses documented during the last quarter of 2021 by MINUSMA has decreased by 27.10 per cent, from 594 to 433 cases. He also welcomes the fact that, according to the protection cluster, the situation analysis in December 2021 indicated that 373 protection incidents were recorded by the monitoring system, compared to 531 in November 2021 (or a 29.75 per cent decrease). The protection cluster noted a significant decrease in human rights violations recorded at the end of 2021 in general, with the exception of violations of the right to life, where the largest number was recorded in the last quarter of 2021, with 31 in October, 23 in November and 61 in December.⁷ However, these improvements should not obscure the serious human rights challenges that Mali must address to consolidate the progress made on the ground.

1. Human rights violations attributed to national authorities, including Malian defence and security forces

29. Civilians continue to suffer violence from the Malian defence and security forces who are supposed to protect them. These violations, and especially the fact that they go unpunished, are exploited by armed groups, presenting themselves as a credible alternative to the failure of the State. The impunity enjoyed by alleged perpetrators of human rights violations attributed to the Malian defence and security forces could undermine the confidence of the population in these forces, which could lead to temptations of armed adventure. Such impunity is also liable to undermine efforts at national reconciliation and the restoration of State authority throughout the country.

30. In several situations, Malian defence and security forces engage in retaliation and combing operations in the immediate vicinity of attacks, often without regard for the applicable standards in this area. These operations often result in extrajudicial, summary or arbitrary executions, enforced or involuntary disappearances, arbitrary arrests, violations of

⁶ S/2021/519, paras. 64–68; S/2021/844, para. 63; and S/2021/1117, para. 50.

⁷ Office of the United Nations High Commissioner for Refugees (UNHCR) Mali, Factsheet, December 2021, 2 February 2022, p. 2.

physical integrity, arson and destruction of private property. For example, between April and June 2021, MINUSMA documented cases of executions, deaths in custody and enforced disappearances involving at least 12 civilians in and around the town of Boni, Douentza Region, alone. Investigations conducted by MINUSMA established the command responsibility of two Malian Armed Forces officers.⁸ For example, on 31 July 2021, members of the Malian Armed Forces, reportedly accompanied by elements of the Dan Nan Ambassagou militia, summarily executed two male shepherds from the Fulani community in Goro village, in the region of Bandiagara.⁹ Between 2 and 5 October 2021, Malian defence and security forces reportedly arrested at least 22 men, all civilians, in and around the village of Sofara and summarily executed 5 of them, while at least 5 others were reported missing.¹⁰ On 25 October 2021, elements of the Malian Armed Forces summarily executed at least eight members of the Fulani community in the village of Ndola in the region of Ségou.¹¹

31. The Independent Expert is also concerned about arbitrary arrests and detentions, including incommunicado detentions, attributed in particular to the Malian intelligence services. For example, in September and October 2021, officers of the Directorate General of State Security, the Malian State security service, arrested six individuals, some of whom were close associates of former transitional President Bah N'Daw and Prime Minister Moctar Ouane. These officers allegedly tortured these individuals during their incommunicado detention, which lasted until early November 2021, at which time the Directorate General of State Security referred their case to the competent judicial authorities. On 5 November 2021, the prosecutor of the *tribunal de grande instance* (court of major jurisdiction) for commune VI in Bamako announced the opening of proceedings against the six individuals for “criminal association and attempted assault and conspiracy against the Government”. In view of the foregoing, the Independent Expert therefore shares the concerns expressed in particular by the President of the National Human Rights Commission following the establishment, by ordinance of 1 October 2021, of the National State Security Agency. This agency, placed under the direct authority of the President of the Republic,¹² replaces the Directorate General of State Security.¹³ The ordinance gives the Agency an extremely broad mandate¹⁴ without subjecting it to the external and independent oversight mechanism needed to prevent or respond to potential human rights violations by the Agency. Such lopsidedness risks entrenching a culture of impunity for such violations. Indeed, article 8 of the ordinance provides that, “unless they have committed a serious offence because of negligence or in gross violation of procedures, officers of the National State Security Agency may not be prosecuted within the framework of the performance of their duties” and that “any prosecution of an officer of the National State Security Agency is to be carried out under the condition of being placed at the disposal of the justice system as decided by the Director General of the Agency, in accordance with the statutory provisions”.

32. The independent expert also notes that some persons, including political actors, have been prosecuted, detained, tried and/or convicted for offences such as “damage to the credibility of the State and insults committed via social networks”, or “offensive remarks” about public figures such as the Prime Minister. While stressing the importance of a calm

⁸ The Independent Expert notes that, in correspondence addressed to him, the Ministry of Defence indicated that the gendarmerie had conducted investigations, that the preliminary investigation report had been transmitted to the judicial authorities and that at no time was there any mention of deaths attributable to the Malian Armed Forces.

⁹ The Independent Expert notes that, in correspondence addressed to him, the Ministry of Defence indicated that the Malian Armed Forces operated in units often formed with partners, but never with militias, and that the Dan Nan Ambassagou militia had been disbanded by the Malian Government in March 2019.

¹⁰ The Independent Expert notes that, in correspondence addressed to him, the Ministry of Defence refuted these allegations.

¹¹ The Independent Expert notes that, in a letter addressed to him, the Ministry of Defence indicated that investigations by the gendarmerie were under way to shed light on this situation and establish responsibility.

¹² Mali, Ordinance No. 2021-013/PT-RM of 1 October 2021 establishing the National State Security Agency, *Journal officiel de la République du Mali*, vol. 62, No. 30, art. 9.

¹³ *Ibid.*, art. 11.

¹⁴ *Ibid.*, art. 3.

climate and political discourse, the Independent Expert also wishes to recall the human rights obligations of Mali, particularly those arising from article 19 of the International Covenant on Civil and Political Rights, to which Mali acceded on 16 July 1974, which enshrines freedom of opinion and expression. As he has already done in a joint communication sent to the Government of Mali on 31 March 2021,¹⁵ the Independent Expert wishes to recall the Human Rights Committee's general comment No. 34 (2011), which states in paragraph 11 that the scope of article 19 (2) embraces even expression that may be regarded as deeply offensive. Furthermore, concerning the content of political discourse, the Committee mentions in paragraph 38 of the general comment that, in circumstances of public debate concerning public figures in the political domain and public institutions, the value placed by the Covenant upon uninhibited expression is particularly high. Thus, the mere fact that forms of expression are considered to be insulting to a public figure is not sufficient to justify the imposition of penalties.

2. Human rights abuses attributed to armed groups

33. The Independent Expert is also concerned about the human rights abuses that continue to be committed with impunity by violent extremist groups, including Jama'a Nusrat ul-Islam wa al-Muslimin, Islamic State in the Greater Sahara and other similar groups. For example, from 1 April to 31 December 2021, of the 1,554 human rights violations and abuses documented by MINUSMA, 889 cases were perpetrated by these groups, or 57.20 per cent.

34. These groups have killed or injured civilians in the regions of Gao, Ménaka and Timbuktu in the north of the country, Bandiagara, Douentza, Mopti and Ségou in the centre of the country and Koulikoro, Koutiala and San in the south of the country. Thus, on 8 August 2021, alleged elements of Islamic State in the Greater Sahara conducted simultaneous attacks on at least two villages in Ouatagouna commune, Gao Region, close to the border with the Niger. According to a MINUSMA investigation, at least 42 civilians, including a 10-year-old child, were killed and 11 others injured in the attack. On 4 December 2021, at least 32 civilians were killed and 18 others, including at least 12 women, were injured in an attack on a public transport vehicle by suspected elements of the Jama'a Nusrat ul-Islam wa al-Muslimin on the road between Songho and Bandiagara. All the victims were members of the Dogon community. Violent extremist groups also abducted or issued death threats to civilians and laid siege to villages, preventing people from moving freely or access basic social services.

35. Improvised explosive device and mine attacks attributed to violent extremist groups have also caused civilian casualties. According to United Nations figures, between 7 June and 1 October 2021, 23 civilians were killed and 13 were injured in six incidents involving improvised explosive devices in the regions of Koulikoro, Mopti and Gao, marking an increase in fatalities, while the number of incidents remained similar to the previous reporting period.

36. In addition, violent extremist groups – and in some cases unidentified armed individuals – also carried out attacks targeting protected personnel, including humanitarian and medical personnel, along with medical vehicles such as ambulances, notably in the northern regions of Gao (particularly the Ansongo *cercle*), Ménaka and Timbuktu and the central regions of Bandiagara, Douentza, and Mopti.

37. Lastly, in some towns under their control or influence, which have continued to increase in size (notably in the regions of Gao, Ménaka and Timbuktu), violent extremist groups have imposed on the local population, following verbal “peace” agreements signed under duress, a set of rules to be observed on pain of reprisals or punishment. Among these rules was the obligation to pay a tax on livestock, trade and crops (*zakat*), the separation of girls and boys, the compulsory veiling (black veils) for girls and the use of Arabic as the language of instruction in schools and the prohibition of alcohol, tobacco or music (see also section C below on the situation of women). In the *cercle* of Ansongo in the region of Gao, these groups amputated the limbs of suspected thieves as punishment for their actions. Thus, on 2 May 2021, in the town of Tin-Hama, elements of Islamic State in the Greater Sahara

¹⁵ <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=26333>.

amputated the right hand and left foot of three suspected thieves. On 1 October 2021, in the village of Lelehoie-Gourma, elements of the same group amputated the right arm of a suspected cattle rustler.

38. Violent extremist groups have also carried out attacks on peacekeepers. Thus, according to United Nations figures, between 26 March and 31 December 2021, MINUSMA underwent at least 87 attacks, which claimed the lives of 13 and injured 114.

39. The Independent Expert received reports of human rights abuses committed by armed groups, including groups that were signatories to the Agreement on Peace and Reconciliation in Mali. These include killings, abductions, assaults causing bodily harm, arbitrary arrest and detention and the recruitment and use of children in armed conflict.

3. Contemporary forms of slavery

40. The Independent Expert is gravely concerned about the increase in attacks on persons considered “slaves,” which continued to be committed with impunity, particularly in the region of Kayes. Between 1 January and 31 December 2021, MINUSMA documented at least nine incidents resulting in at least one death and 81 injuries, including seven women. Twice as many people, mostly considered slaves, were injured in 2021 than in 2020. The most recent incident, which took place in the village of Souroubiré in the region of Kayes on 28 and 29 September 2021, left one person dead and at least 12 injured among those considered to be slaves. The Independent Expert was informed that, on 1 November 2021, an investigating judge ordered the arrest and transfer of 21 men to the central prison in the city of Kayes for their alleged role in the attacks of 28 and 29 September 2021.

41. During his visit to Mali in August 2021, the Independent Expert met with some of the people who had fled the region of Kayes, who shared with him powerful testimonies of the violence they had suffered, with the full knowledge of the Malian authorities. In short, those considered slaves continue to be treated with contempt.

42. The Minister of Justice stressed the importance of finding a comprehensive solution to this problem and informed the Independent Expert that his department had begun discussions on the drafting of a specific law on the fight against slavery in all its forms and that, pending the adoption of this law, the current revision of the Criminal Code already included offences relating to the practice of slavery. The Independent Expert notes that, on 11 November 2021, the Minister of Justice sent a letter to all the public prosecutors at the courts of appeal in Mali asking them: (a) to take all necessary steps to initiate criminal proceedings against any person involved in acts related to descent-based slavery and to consider the possibility of pursuing certain cases in other locations in order to ensure the effectiveness of the proceedings; (b) to make optimal use of the existing legal framework, particularly the Criminal Code, to effectively crack down on offences related to the practice of descent-based slavery; and (c) to place special emphasis on the protection of the victims of this practice.

B. Intercommunal and intracommunal conflict

43. The Independent Expert is very concerned about the violence against a backdrop of intercommunal and/or intracommunal tensions that continues to devastate the centre of the country, particularly in the regions of Bandiagara, Douentza, Mopti and Ségou. From 1 April to 31 December 2021, of the 1,554 human rights violations and abuses documented by MINUSMA, 422 cases were perpetrated by community-based militias and vigilante groups (27.15 per cent).

44. With respect to Dogon community-based militias and vigilante groups, the Dan Nan Ambassagou group carried out attacks in which it killed, injured or abducted civilians, burned down homes and stole livestock, particularly in villages and towns in the regions of Bandiagara, Douentza and Mopti. Dan Nan Ambassagou also carried out retaliatory attacks against towns inhabited mainly by the Dogon community that had been involved in reconciliation initiatives with the Fulani community. The militia also abducted dozens of civilians from Dogon villages that refused to or did not contribute the requested amount for

its “war efforts” in place of the forced conscription of the villagers. For example, on 16 July 2021, elements of Dan Nan Ambassagou from the town of Bandiagara attacked the village of Welingara, Bandiagara Region, which is inhabited mainly by the Fulani community. The attack resulted in the death of four civilians (two women and two men), all members of the Fulani community. During the attack, the assailants also burned down several houses and stole livestock.

45. Fulani community-based militias and vigilante groups carried out attacks on villages in which they killed or injured civilians, destroyed homes, granaries and other property, including by burning them, and looted livestock, particularly in the region of Bandiagara Region. For example, on 29 March 2021, they carried out an attack that killed an older woman and her grandson in the Dogon hamlet of Oritouno, near the village of Anakanda in the region of Bandiagara. The attackers also destroyed houses, granaries and other property, and looted livestock.

46. Lastly, the Dozo, traditional hunters, also killed, injured, or abducted civilians, particularly in the regions of Mopti and Ségou.

47. In view of this alarming situation, the Independent Expert wishes to commend the various initiatives and domestic efforts for peace and reconciliation that have been undertaken by the Malian authorities and civil society and MINUSMA. Some of these initiatives, including the organization of intercommunal dialogues, reportedly led to peace agreements between communities, which no doubt contributed to the improved security situation observed in the last quarter of 2021. Other encouraging initiatives include the establishment of reconciliation committees for the peaceful settlement of disputes and the strengthening of the capacity of land commissions. These initiatives must be welcomed, encouraged, supported and strengthened.

C. Situation of women

48. The Independent Expert is extremely concerned about the situation of women and girls in Mali. The continued deterioration of the security situation has a considerable impact on the situation of the fundamental rights of women, with the disturbing recurrence of cases of gender-based violence. According to the Global Protection Cluster, of the 3,744 incidents of gender-based violence reported by the Gender-based Violence Information Management System, between January and July 2021, sexual violence (rape, sexual assault) was the most reported incident, accounting for 44 per cent of cases.¹⁶ Actors working in the area of gender-based violence have documented the following: (a) rapes of women and girls, including gang rapes and other forms of sexual violence, some of which were committed during the collection of water or search for fuel or armed hold-ups on weekly market days; (b) the unlawful detention of girls and young women; and (c) cases of pregnancies resulting from rape. The alleged perpetrators include unidentified gunmen, members of non-State armed groups, community-based militias and vigilante groups and Malian defence and security forces.

49. In addition, in several towns under their control or influence, violent extremist groups have imposed a set of rules on the local population, including through coerced verbal “peace” agreements, or have engaged in actions that violate the rights of women and girls. The rules imposed included requiring women and girls to wear the veil, occasionally including the obligation to wear the full-face black veils without undergarments, or prohibiting women and girls from participating in learning activities. Some women were whipped as punishment for not wearing the veil or for wearing a veil that members of violent extremist groups deemed “inappropriate”. Between January and August 2021, for example, MINUSMA documented at least five incidents of flogging of women for not wearing a veil or wearing an inappropriate veil, attributed to members of Jama’a Nusrat ul-Islam wa al-Muslimin in the regions of Douentza, Mopti and Ségou and one case of flogging of 11 women in the region of Timbuktu. In addition, in some locations, violent extremist groups reportedly forced families to give up

¹⁶ Global Protection Cluster, “Mali: Analyse de protection” (Mali Protection Analysis Update), July 2021, p. 13.

their daughters (children or adults) in forced marriages in exchange for protection, “to have peace,” or as a substitute for the zakat demanded by these groups when the families could not afford to pay it. Lastly, these groups also reportedly abducted girls during wedding ceremonies and raped them, particularly in the region of Gao.

50. In the light of the above, the Independent Expert is concerned that, according to the information that he received, many survivors of gender-based violence do not have access to comprehensive support, including legal, psychosocial, health and protection services. According to the Global Protection Cluster, during the period covered by this report, support services for survivors of gender-based violence were available in only 48 per cent of crisis-affected areas, 30 per cent of survivors did not have access to health care, 57 per cent could not access shelters, and 78 per cent were unable to receive legal services.¹⁷

51. The Independent Expert therefore welcomes the endorsement in October 2021 of an action plan covering the period 2022–2024 following the joint communiqué between the United Nations and Mali on prevention of and response to conflict-related sexual violence. He calls on organizations of the United Nations system, the Government of Mali and all stakeholders to allocate sufficient resources for its practical implementation.

D. Situation of children

52. The Malian crisis and persistent insecurity have continued to have a devastating impact on children and have led to serious violations of their fundamental rights. The real social time bomb on the horizon in Mali is the threat of the collapse of schools, which would deprive hundreds of thousands of children of their right to education. According to United Nations figures, between 26 March and 31 December 2021, at least 650 grave violations were committed against 424 children. At least 112 children, including at least 20 girls, were killed (47) or maimed (65), and 255 children, including at least 19 girls, were recruited by armed groups. The majority of these violations occurred in the central region (201), followed by the regions of Kidal (62), Gao (60), Timbuktu (52), Ménaka (19), Koulikoro (3), Sikasso (2) and Bamako (1).¹⁸

53. In addition, according to United Nations figures, the number of schools closed owing to a lack of security increased significantly, from 1,344 in January 2021, with 403,000 students affected, to 1,664 in December 2021, with 499,200 students affected (or an increase of 23.80 per cent). This problem, initially limited to the central and northern regions of Mali, has gradually spread to some southern regions, notably Sikasso (115 schools closed and 34,500 students affected) and Koulikoro (92 schools closed and 27,600 students affected). In addition, the closure of schools has reportedly contributed to an increase in early marriages and the rural-urban migration of girls, a phenomenon that increases the risk of sexual exploitation and abuse for these girls.

54. Lastly, according to United Nations figures, as of 31 December 2021, 64 per cent of internally displaced persons were children.

E. Refugees and internally displaced persons

55. The Independent Expert notes that, as of 30 September 2021, there were 47,824 refugees and asylum seekers in Mali. He also notes that, according to the December 2021 Displacement Tracking Matrix report, the number of internally displaced persons decreased from 401,736 in September 2021 to 350,110 in December 2021, a decrease of 51,626 internally displaced persons (13 per cent).¹⁹ This decrease can be explained by the gradual pacification of certain towns and villages in the centre and north of the country, updates in various towns and villages of the country and door-to-door visits that have made it possible to verify the physical presence of displaced persons who had previously been registered. In

¹⁷ Ibid.

¹⁸ S/2021/519, paras. 69 and 70; S/2021/844, para. 69; and S/2021/1117, para. 51.

¹⁹ National Directorate of Social Development of Mali, Displacement Tracking Matrix report, December 2021, pp. 5–6.

the region of Gao, the number of displaced persons decreased by almost half (49 per cent) between September and December 2021.²⁰ The Independent Expert welcomes this progress given that, as of 30 September 2021, the number of internally displaced persons had more than doubled in two years, surpassing the peak of 353,455 displaced persons in 2013 at the height of the armed conflict in Mali. In December 2021, the region of Mopti had the largest number of displaced persons (163,496), followed by Ségou (56,481), Gao (49,803), Timbuktu (48,529), Ménaka (12,995), Koulikoro (6,783), Sikasso (5,833), Bamako (3,585), Kayes (2,188) and Kidal (417).

F. Economic, social and cultural rights

56. Crises and armed conflict have exacerbated the precarity in which people live and are preventing the full enjoyment of economic, social and cultural rights. In 2021, the situation has worsened owing to increasing insecurity, droughts and the coronavirus disease (COVID-19) pandemic.

57. Indeed, because of increasing insecurity, many families have been forced to leave their homes and have lost their livelihoods, including their fields, grazing lands for their livestock or markets around their villages. Others have had their livestock stolen during attacks. In addition, drought has hit the country hard, resulting in the loss of more than 225,000 ha of fields and affecting more than 3 million people, mainly in the regions of Mopti, Ségou and Timbuktu. As a result, in 2021, 1.3 million people experienced acute food insecurity, the highest level since 2015, and 3 million people were affected by low rainfall and a prolonged lean season.

58. Furthermore, as in the rest of the world, the COVID-19 pandemic and its socioeconomic consequences have further aggravated problems. The Independent Expert is also concerned that, as of 26 December 2021, out of a population of approximately 20.2 million, only 390,874 people were fully vaccinated (or 1.93 per cent) and 477,813 partially vaccinated (or 2.36 per cent) against COVID-19.

59. In view of the above, the Independent Expert stresses the importance of adequate funding for the humanitarian response plan.

IV. Conclusions and recommendations

A. Conclusions

60. **The Independent Expert notes that the multidimensional crisis facing Mali continues to worsen.**

61. **At the political level, this situation is illustrated by the two coups d'état that the country has experienced in less than a year, the delays in the implementation of the Agreement on Peace and Reconciliation in Mali and the uncertainties regarding the organization of the elections that should put an end to the transition.**

62. **With respect to security, one of the most troubling indicators is the fact that that violence is spreading so rapidly in the country that it threatens the very survival of the State. Given the strategic position of Mali, the future of the entire Sahel region and beyond is at stake. As experience elsewhere has shown, the consequences of destabilization in Mali will not be contained at the borders of the country or the Sahel region. This continued and disturbing deterioration of the situation requires the international community, in cooperation with Mali and all actors involved in the Malian crisis, including the United Nations, the African Union and ECOWAS, to rethink the responses to the security and political challenges facing Mali and to adopt more appropriate measures to assist the Malian authorities in restoring security throughout the country. The current responses to insecurity in Mali are no longer adequate,**

²⁰ Ibid.

particularly in terms of guaranteeing the security of civilians and their fundamental rights, which must be the backbone of security strategies implemented in Mali and the Sahel. It must be recognized that there is a need to find more appropriate alternative solutions in a climate of dialogue among all stakeholders and serenity in order to further improve security and avoid any isolation that could have a negative impact on the Malian crisis.

63. The human rights situation is bleak, with violations and abuses of human rights and international humanitarian law continuing to be committed with impunity. This impunity continues to fuel the vicious cycle of violence.

64. On the socioeconomic level, the precarious conditions in which the population lives continue to worsen.

B. Recommendations

65. The Independent Expert reiterates his previous recommendations and makes the additional recommendations set out below.

66. The Independent Expert recommends that the Malian authorities:

(a) Support actors working to promote and protect human rights, particularly the National Human Rights Commission and civil society, including organizations working to combat descent-based slavery;

(b) Continue to support local initiatives and efforts for peace, prevention, mediation and conflict resolution, dialogue and reconciliation, including through the use of traditional peacebuilding mechanisms in order to enable Mali to emerge from the vicious cycle of intercommunal conflicts and achieve a just and lasting peace in the country;

(c) Show their real and effective willingness to combat impunity by taking specific measures and actively implement the relevant recommendations accepted by Mali during the universal periodic review of 2018, including those urging them to:

(i) Ensure that all perpetrators of violations and abuses are held accountable by bringing them to justice;

(ii) Put an end to violations of human rights and international humanitarian law committed by the defence and security forces by consistently investigating such violations and punishing the perpetrators;

(iii) Ensure access to justice and reparation for victims of the above-mentioned violations and abuses;

(iv) Take all appropriate and effective measures to prevent, investigate and punish acts of violence against women, in particular sexual violence;

(d) Step up efforts to eliminate all forms of discrimination against women in law and in practice, including by urgently adopting the bill on gender-based violence, and take specific measures to prevent and combat such violence;

(e) Ensure the participation of women in decision-making, in accordance with Act No. 2015-052 of 18 December 2015, which establishes a 30 per cent quota for women in appointed and elected office, and in all initiatives on peace and security, including the ongoing peace process in the country, in accordance with the provisions of Security Council resolution 1325 (2000);

(f) Fulfil their commitment to advancing the process of criminalizing slavery in Mali;

(g) Take all appropriate and effective measures to ensure that the intelligence services respect Mali's international human rights obligations, including:

- (i) **By giving the National Human Rights Commission and other independent mechanisms unrestricted access to places of detention run by intelligence services and any other detention facilities still inaccessible to outside observers;**
- (ii) **By ensuring independent, effective and impartial investigations into all allegations of human rights violations involving members of the intelligence services, seeing to it that perpetrators are prosecuted and that victims have access to justice and redress;**
- (iii) **By revising ordinance No. 2021-013/PT-RM of 1 October 2021 establishing the National State Security Agency to bring it into compliance with relevant international instruments and standards;**
- (h) **Guarantee civic space by promoting the full enjoyment of fundamental freedoms, notably the freedoms of opinion, expression, peaceful assembly and association for all, in particular civil society, rights defenders, journalists and political parties or groups, including opposition parties, while ensuring that the parties or groups can carry out their activities freely, without hindrance, intimidation, reprisals or harassment, and by removing from the legislation all provisions that infringe on the freedom of opinion, expression, peaceful assembly and association;**
- (i) **Ensure that all persons prosecuted, including for corruption, enjoy their right to a fair trial as guaranteed by the relevant international legal instruments;**
- (j) **Use the political transition to write a new chapter in the history of Mali and, in particular, to undertake reforms relating to the promotion and protection of human rights, good governance and the rule of law in general.**

67. **The Independent Expert recommends that the armed groups:**

- (a) **Cease all hostilities and attacks against civilians immediately and respect the human rights and fundamental freedoms of the civilian population;**
- (b) **Cease immediately all attacks on civilian infrastructure and property such as schools, hospitals and health centres, ambulances and other vehicles used to transport sick persons, and facilities considered essential to the survival of the civilian population;**
- (c) **Respect personnel who are protected by international law, such as peacekeepers and humanitarian personnel, and the property of humanitarian organizations, and refrain from obstructing the delivery of humanitarian assistance.**

68. **The Independent Expert recommends that the international community:**

- (a) **Rethink, with Mali and all relevant actors, including the African Union and ECOWAS, the responses to the multidimensional crisis facing Mali, with an emphasis on integrated strategies that guarantee as a matter of priority security and the basic human rights of civilians;**
- (b) **Provide Mali with the logistic and financial resources and assistance that it needs to be able to gradually re-establish the presence and authority of the State, and basic social services, throughout the country;**
- (c) **Provide the Joint Force of the Group of Five for the Sahel with the resources that it needs to properly fulfil its mandate;**
- (d) **Ensure that the humanitarian response plan is adequately funded;**
- (e) **Remain seized of the situation of human rights in Mali.**

69. **The Independent Expert recommends that the partners of Mali act in such a way that the geopolitical and geostrategic shift under way does not contribute to the increase in political tensions and insecurity but rather contributes to the strengthening of peace, stability and security in Mali.**

70. **The Independent Expert recommends that MINUSMA:**

(a) Respond proactively to threats against civilians and, in particular, continue to increase its presence in all sensitive areas, including those where attacks on the civilian population are most recurrent and threatening;

(b) Continue documenting violations and abuses of human rights and violations of international humanitarian law and step up its efforts to identify the main perpetrators in order to be able to notify the relevant national and international courts.

71. The Independent Expert recommends that the International Criminal Court open investigations as soon as possible in order to establish criminal liability for the crimes under the Rome Statute that have been and continue to be committed in Mali.

72. The Independent Expert recommends that the Security Council apply paragraph 8 (f) and (g) of resolution 2374 (2017) more consistently by imposing individual sanctions on the persons and entities that continue to commit violations and abuses of international human rights law and violations of international humanitarian law with impunity in Mali.
