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Human rights situations that require the Council's attention

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

Summary

In its resolution 21/25, the Human Rights Council renewed its request to the United Nations High Commissioner for Human Rights to submit, to its twenty-second session, a written report on the situation of human rights in Mali. For this purpose, from 11 to 20 November 2012, the Office of the United Nations High Commissioner for Human Rights (OHCHR) deployed a Mission to collect information in Mali, Burkina Faso, Mauritania and Niger. The Mission was assisted by two officials from the offices of the Special Representative of the Secretary-General on the fight against Sexual Violence in Conflict and the Special Representative of the Secretary-General for Children and Armed Conflict.

This report highlights the human rights violations that have been committed since the attacks against the Malian army carried out initially by the National Movement for the Liberation of Azawad (MNLA) and by Al-Qaida in the Islamic Maghreb (AQIM), Ansar Dine and the Movement for Unity and Jihad in West Africa (MUJAO) in January 2012. The three main regions of northern Mali — Kidal, Gao and Timbuktu — are under the control of extremist groups, which are imposing the strict application of sharia on the population. This leads to serious human rights violations, including summary executions, rape, torture, the recruitment of child soldiers, violations of freedom of expression and of right to information and violations of the right to education and health.

This report also shows that, in the territories under Government control, the situation with regard to the administration of justice, freedom of expression and the right to information remains a matter of concern. The report refers to cases of members of the military and police force who have allegedly been detained and tortured in Bamako, without any real judicial guarantees. Despite the good faith expressed by the authorities, alarmingly, judicial inquiries are at a standstill.

In view of the testimony received, the High Commissioner emphasizes the risk of reprisals and inter-ethnic conflicts in the event of military intervention in northern Mali. Lastly, the report makes a number of recommendations to the various actors involved in resolving the crisis with the aim of protecting the civilian population and promoting national reconciliation.

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Acronyms and abbreviations

AQMI	Al-Qaida in the Islamic Maghreb
ICRC	International Committee of the Red Cross
OHCHR	Office of the United Nations High Commissioner for Human Rights
MNLA	National Movement for the Liberation of Azawad
MUJAO	Movement for Unity and Jihad in West Africa
WFP	World Food Programme

I. Introduction

1. At its twenty-first session, the Human Rights Council adopted resolution 21/25, which “renews its urgent invitation to the United Nations High Commissioner for Human Rights to submit to the Council at its twenty-second session a written report on the situation of human rights in the Republic of Mali, particularly the northern part of the country”.¹

II. Data-collection method

2. In accordance with resolution 21/25, a team from the Office of the High Commissioner for Human Rights (hereinafter “the Mission”) visited Mali from 11 to 20 November 2012. The team consisted of two officials from the offices of the Special Representative of the Secretary-General on the fight against Sexual Violence in Conflict and the Special Representative of the Secretary-General for Children and Armed Conflict. Part of the team first visited Burkina Faso, Mauritania and Niger to gather information from refugees. The Mission was a follow-up to that of the Under-Secretary-General for Human Rights, Mr. Ivan Šimonović, from 4 to 8 October 2012. The Mission worked in close cooperation with the Resident Coordinator of the United Nations system. It held meetings, both in Mali and in the other countries visited, with the key State actors, several representatives of civil society organizations, victims, witnesses, of United Nations agencies and members of the diplomatic corps.

3. This report, which covers, inter alia, the period from 17 January² to 20 November 2012, includes a chapter on the Malian context, without which the situation cannot be analysed. The Mission collected information on the situation of human rights on the basis of around 250 interviews conducted in the four countries visited, and analysed many documents. Thanks to the Ministry of Justice, the Mission was able to visit detainees in the Gendarmerie’s Camp 1 in Bamako. However, despite repeated requests to the authorities, it was unable to enter the detention centre at the Kati military camp, or that of the State Security.³ The Mission went to Mopti, but could not gain access to the northern part of the country due to the security situation. However, it did collect enough information to assess the human rights situation in the country.

4. The Mission wishes to emphasize that the violations observed in the north differ in their form, intensity and duration according to when they were committed.

III. Legal framework applicable to the situation in Mali

5. Mali has ratified the nine core international human rights instruments and six additional protocols. The State is also party to the Rome Statute of the International Criminal Court, the Convention on the Prevention and Punishment of the Crime of Genocide and the Geneva Conventions of 1949 relating to the protection of victims of armed conflicts and their additional Protocols I and II. Mali has also ratified the core human rights conventions of the African Union and the Economic Community of West African States (ECOWAS).

¹ Resolution 21/25, para. 7.

² Marking the start of attacks by armed groups against the Malian army.

³ State intelligence service.

IV. Context

A. Diversity of the population of Mali

6. Mali is very diverse in terms of its ethnic, racial and religious composition. It has 20 ethnic groups, the main ones being the Bambara, Malinke, Soninke or Sarakole. They are all part of the Mande language group and make up more than half of the population. The Peul, Dogon, Songhai, Bobo and Oulé, Toucouleur, Senufo, Diola, Tuaregs and Moors, and other ethnic groups that are smaller in size make up the rest of the population. The Constitution of Mali guarantees the secular nature of the State (arts. 18, 25, 28 and 118). The vast majority of Malians are Muslim. A small minority are Christian or animist.

B. Tuareg rebellions in northern Mali and waves of violence and impunity

7. At different times in the history of Mali, the Tuareg communities have claimed their independence in the area they call “Azawad”, which covers the three administrative regions of the north (Gao, Kidal and Timbuktu). They have bitter memories of the first armed rebellion that took place after the proclamation of independence between 1962 and 1963. A second wave of rebellions took place between 1990 and 1995, punctuated with the peace agreements of Tamanrasset in 1991 and the National Pact in 1992. In 1996, the conflict officially ended. Following the Tuareg uprising of May 2006, the Algiers Accords were signed with the Government on 4 July of the same year. Another rebellion took place between 2007 and 2009. After the fall of Muammar Gaddafi in Libya, many Tuareg mercenaries returned to Mali, between September and November 2011 with their weapons. They joined the armed Tuareg activists to found the National Movement for the Liberation of Azawad (MNLA) in October 2011. The aim of the Movement is the independence of “Azawad”; it condemns the Malian Government’s failure to comply with the peace accords it signed, which were often accompanied by amnesty laws thereby establishing a culture of impunity.

C. Crisis of 2012: control of the north by armed groups

8. Starting in January 2012, MNLA members allegedly attacked army bases in northern Mali, in Ménaka, Aguelhok and Tessalit, and in early February in Kidal. Since then, various attacks have been carried out by MNLA and three Islamist armed groups: Al-Qaida in the Islamic Maghreb (AQIM), Ansar Dine and the Movement for Unity and Jihad in West Africa (MUJAO).

9. Malian soldiers stationed in the north allegedly fled and officers of Tuareg and Arab origin deserted to join rebels taking with them the troops under their command, thereby greatly weakening the operating capability of the Malian army.⁴

10. On 6 April 2012, the unilateral declaration of the State of Azawad by MNLA was immediately rejected by ECOWAS and the African Union. Nevertheless, MNLA and Ansar Dine concluded an agreement on 26 May 2012 establishing a State of Azawad. However, the agreement was the subject of clashes between the two movements over the application of sharia. Following the death of the municipal councillor, Mr. Idrissa Oumarou, in Gao, a significant portion of the population rebelled, blaming the crime on MNLA. Taking

⁴ According to a military source, there were around 1,000 men.

advantage of this situation, on 27 June 2012, MUJAO drove MNLA out of the city. By 18 November, Islamist movements controlled the north of the country as far as Douentza.

D. Development of the political situation since 17 January 2012

11. After the defeat of the army in the north and frustration at the inability of the Government of President Amadou Toumani Touré (commonly known as “ATT”) to contain the rebellion, a group of soldiers staged a coup on the night of 21 and 22 March 2012, bringing an end to the democratic process, which included the presidential elections planned for 30 April 2012. The leaders of the coup, united under the name of the national committee for the recovery of democracy and the restoration of the State led by Captain Amadou Sanogo Haya, suspended the Constitution and postponed the elections indefinitely. The coup was unanimously condemned by the Security Council, ECOWAS and the African Union. Mali has since then been suspended from regional and subregional organizations, and bilateral partners have frozen their cooperation with the country.

12. On 6 April 2012, a framework agreement was concluded between ECOWAS, represented by the President of Burkina Faso, Mr. Blaise Compaoré, and the national committee that provided, *inter alia*, for the resignation of President Touré, the appointment of the current President of the National Assembly, Mr. Diounounda Traoré, as President of the Republic, of Mr. Cheick Modibo Diarra as Prime Minister, and the adoption of an amnesty law for perpetrators of the coup. A few weeks later, on the night of 30 April and 1 May 2012, soldiers loyal to former President Touré allegedly attempted a counter-coup, which, according to a Malian official, caused the death of several dozen people, including civilians.

13. Against this background of mistrust and division at the highest levels of the State, protests led to a physical assault on President Traoré, on 21 May 2012. After a long convalescence in France, he returned to Mali in August 2012, President Traoré appointed a Government of national unity whose basic tasks were to regain control of the north and to organize elections. On 10 December 2012, on the orders of the former junta, Prime Minister Diarra was arrested and forced to resign in the morning of 11 December. On 12 December, the President appointed the Ombudsman, Mr. Diango Sissoko, as Prime Minister.

E. Displacement of persons

14. On 1 December 2012, the Office of the United Nations High Commissioner for Refugees (UNHCR) estimated that the total number of Malian refugees stood at 155,187, including 54,117 in Mauritania, 61,880 in Niger, 37,626 in Burkina Faso, 44 in Guinea and 20 in Togo. It is also estimated that 198,558 persons have been internally displaced.⁵ The refugee population of Burkina Faso, Niger and Mauritania is composed mainly of Tuaregs, Arabs, Peul and Bella people, from the regions of Timbuktu, Gao, Kidal and Mopti. Some people from the northern areas have also sought refuge in Algeria, but their exact number has yet to be determined.

F. Recurrent human rights violations problems

15. Since its independence, Mali has faced serious problems that must be taken into consideration in order to understand the current situation. These problems include a very

⁵ Ref. UNHCR, Mali Situation Update No. 13.

high level of poverty, the population's limited access to basic social services and the inequitable distribution of national wealth, particularly from natural resources.

16. Malian society is also characterized by a high level of corruption, lack of independence of the judiciary, and by a number of "discriminatory and harmful cultural practices"⁶ that are detrimental to the enjoyment of the rights of the child and women. Early marriages, unequal access to education for girls and boys, female genital mutilation and the taboo on sexual violence against women and girls are symptomatic of a society where women's rights remain largely ignored, especially in rural areas.

17. In addition, discrimination against certain ethnic and social groups continues, especially in some Tuareg communities that have a caste system and where slavery is still a widespread practice. This is particularly the case for the Bella people. Moreover, identity claims over the course of history have fostered intercommunity tensions.

V. Human rights situation in the north of the country following the events of 17 January 2012

A. The right to life: extrajudicial and summary executions

18. Numerous allegations of violations of the right to life have been reported, including extrajudicial killings and summary executions. Apparently such violations have been committed since the first attacks in January 2012 carried out by MNLA in the north of the country and subsequently by other armed groups.

19. The Mission was informed that in Aguelhok, armed combatants identified as belonging to MNLA, entered the town on 24 January 2012 and started firing at random. When they reached the Teacher Training Institute, they terrorized pupils and students and used them as human shields to attack the neighbouring military camp, forcing the soldiers to surrender. The assailants reportedly captured 153 soldiers and tied their arms behind their backs. Some 84 men (military estimate) had their throats slit or were executed with a bullet fired into the back of their head. Students at the Institute witnessed this massacre; the armed group Ansar Dine also claimed that it carried out the attack.

20. Reprisals against Tuareg soldiers in the national army and members of their families were carried out at the beginning of the conflict. In particular, an incident allegedly took place on 4 February 2012 in which nine Tuareg soldiers of the Timbuktu National Guard were hunted down. Seven of them were executed by soldiers in retaliation for the MNLA offensive. However, such information has not yet been confirmed by Malian military sources.

21. In Gao, in early April 2012, armed groups, including MNLA, looted the warehouses of the International Committee of the Red Cross (ICRC) and the World Food Programme (WFP), killing several people who refused to obey orders. On that occasion, a 70-year-old man and a 15-year-old child were killed by bullets. In a second ICRC warehouse, a woman was killed in the same conditions. The Mission was also apprised that during the looting of the WFP warehouses, a young Tamashek woman, who had resisted a rape attempt by armed men, was shot dead by her assailants. The Mission was also informed of the murder of Mr. Idrissa Oumarou, a municipal councillor in Gao, on the night of 25 June 2012.

⁶ A/HRC/8/50, recommendation No. 5.

22. Various sources have also reported the case of the stoning of a young unmarried couple by MUJAO and Ansar Dine in Aguelhok, on 29 July 2012. The couple, accused of having children out of wedlock, were tied together, buried in a pit up to their necks and stoned to death in front of about 300 people.

23. Mines were allegedly planted either by the Malian army before the crisis or armed groups after January 2012. In Gao, Ansongo and Niafunké, MUJAO apparently planted anti-personnel mines around the towns to protect itself better against possible attacks. Between March and August, 28 serious incidents were allegedly caused by mines and explosive remnants of war in the north, killing 43 people, including 24 children.

B. Torture and other cruel, inhuman or degrading treatment

24. At the start of the crisis, families linked to the Ganda Koy and Ganda Izo militias, as well as the immediate family of members of the army, were systematically targeted, beaten and subjected to various forms of violence and intimidation by MNLA.

25. Ten cases of amputations, in the name of a particular interpretation of sharia, have been recorded since the north was taken over by extremist armed groups: six in Gao, one in Ansongo and three in Timbuktu. The first case of amputation was carried out in Ansongo on 8 August 2012 on Al Hader Ag Al Mahmoud, aged 30, whose right hand was cut off by members of MUJAO after a summary trial for stealing cattle. The victim told the Mission:

“On 6 July 2012, I was returning from a weekly market in Ansongo, some people reported me to members of MUJAO who arrested me. After 14 days of imprisonment, I was referred to a committee of 10 people who convicted me after a summary trial. The head of MUJAO read out the sentence for the amputation of my right hand. They rounded up people on Independence Square to attend the event. I was securely tied to a chair, with my right hand on the armrest. Then a member of MUJAO cut off my right hand with a big kitchen knife. I was given treatment later by a first-aid worker.”

26. The Mission was informed by various sources that the people living in the north of the country continue to be subjected to degrading treatment by armed groups which, because of their extreme interpretation of sharia, harass, flog and beat women who are not wearing the veil or are not properly veiled, as well as men involved in the sale or consumption of cigarettes and alcohol or any other practices or conduct that they consider as not in conformity with sharia.

C. Arbitrary arrests and detention

27. Since the withdrawal of Malian forces from the north of the country, the maintenance of order is ensured by armed groups through “Islamic police” that allegedly arrest, detain and ill-treat citizens, especially in the prisons of Gao, Timbuktu and Kidal, in flagrant violation of Malian law.

D. Recruitment of child soldiers

28. Although the exact number of children associated with armed groups could not be determined, the Mission collected credible information indicating that MNLA, AQIM, Ansar Dine and MUJAO recruit and train children in camps. Following the defeat of MNLA, most child soldiers reportedly joined other armed groups.

29. Children, sometimes aged between 10 and 12, recruited by MUJAO in Gao and by Ansar Dine in Niafunké were allegedly seen at checkpoints on the outskirts of towns controlled by these groups carrying out patrols on behalf of the “Islamic police”. While some children are handed over by their parents for religious reasons, most are apparently attracted by promises of receiving up to 350,000 CFA francs (CFAF).⁷ In Gao, MUJAO continues to actively recruit children in madrasas.⁸ These children receive religious instruction and learn to handle weapons. Parents reportedly receive CFAF 5,000 a month.

30. The Mission is also concerned about the recruitment of talibé children entrusted by their parents to marabouts to receive an Islamic education and, who, in return, are allegedly exploited as beggars. A good many marabouts, who are in fact responsible for these children, have fled the north, leaving their pupils at risk of recruitment.

E. Sexual abuse

31. The Mission collected a significant amount of information on alleged sexual abuse by all the armed groups in control of the north. However, the stigmatization of victims is a major obstacle to their care. Sexual abuse is viewed as shameful in Mali, because of the loss of dignity for the families concerned. According to a victim, “in Mali, if you say you have been raped, your life is over”. The girls and women affected are stigmatized and can no longer marry or remarry. Under the circumstances, most cases of sexual abuse are not reported. Medical sources have reported that, in Mali, women do not seek medical advice after being raped.

32. According to some testimony, rapes are committed on ethnic grounds, especially during the offensives of some armed groups. The victims are usually “dark-skinned” people, who are considered inferior by their “fair-skinned” assailants.

33. A second form of sexual abuse faced by women and girls in the north is punitive rape for failing to observe the norms imposed by the extremist rebels, such as dress code and the ban on riding motorcycles. The rape of women and girls in their homes, in the presence of their families, is a form of intimidation and torture. In April 2012, in Gao, there were several such cases carried out by MNLA members during operations to find the relatives of members of the army or pro-government militias. On 2 April, a Sonrhail woman aged 36 years was raped in her home by two men wearing turbans. Bella, a 22-year-old woman from Timbuktu told how, on Tuesday, 3 April, after being accused of not wearing the veil at home, six armed men under the command of Mohammed Ansar Dine Iguin raped her at their base for two hours.

34. In order to legitimize their acts under sharia, Ansar Dine, AQIM and MUJAO are forcing families to make money from marrying their daughters, the youngest of whom are 12 and 13 years old. These girls are often “married” to several rebels in camps, where they are gang-raped every night and then abandoned after a swift divorce.

35. The Mission also received allegations from multiple sources concerning the sexual abuse of women held in detention on the grounds of violating sharia, particularly in women’s prisons in Timbuktu and Gao.

⁷ Equivalent to US\$ 697.

⁸ Koranic school.

F. Attacks on property

36. Since the first attacks carried out by MNLA and subsequently Ansar Dine, MUJAO and AQIM, public property and infrastructure have been targeted and destroyed. Thus, the records of the civil registry, schools and hospitals have been systematically destroyed and burned. Numerous schools, hospitals, health centres and other Government buildings, private homes and shops have been looted, vandalized and sometimes occupied by armed groups.

G. Violations of freedom of expression and of the right to information

37. With the arrival of armed groups in the north at the beginning of 2012, local people have seen their freedom of expression systematically restricted. There are no longer any free media outlets in the region, which has been cut off from the press based in Bamako. The region, which before these events had a few radio stations, witnessed its best known radio station, Aadou Kouïma, in Gao, suspend broadcasting on 6 August 2012, after considerable intimidation and numerous death threats against its editor, Mr. Malik Akoumega. On two occasions, on 5 May and 6 August 2012, MUJAO rebels burst into the radio studio and allegedly took Mr. Akoumega outside the city to be subjected to severe torture. Since then, the station has been dismantled by the armed groups.

H. Violations of the right to education

38. Access to education in northern Mali is being undermined by the presence of armed groups, in particular because of the attacks against, destruction and looting of at least 115 schools between April and May 2012, and the departure of 85 per cent of teachers. Only a small number of schools continue to function at a very basic level. Vocational colleges are also closed. Some children, who fled to the south, have not been able to enrol in new schools, because they do not have the necessary documents.

39. According to many sources, Ansar Dine has been unable to insist on separate facilities for boys and girls owing to the limited number of teachers available. In the schools that are still operating, some courses, such as art, music and sports have been banned, and some schools now offer a programme that is based exclusively on the Koran, which is detrimental to children who later will want to follow the official curriculum.

I. Violations of the right to health

40. According to official and medical sources, the occupation of the north by armed groups has led to the mass exodus of medical personnel and the destruction of health facilities. The two referral hospitals in Gao and Timbuktu and the Kidal clinic have been looted, resulting in a shortage of basic health services. Medical records have been completely destroyed in many places, including Gondam. Under such circumstances, it has become virtually impossible to deal with acute chronic diseases and medical emergencies.

41. Well before the onset of the crisis, there were around 950 HIV-positive persons in the three northern regions. Following the events in question, and with the tracking of previously identified cases interrupted, the risk that the condition of such persons will deteriorate, as well as the increased risk of contamination of HIV-negative persons is growing. In addition, the incidence of rape, including collective rape is increasing the risk of HIV prevalence in the region.

42. In response, since August 2012, the College of Physicians of Mali, supported by the World Health Organization and the United Nations system has organized several “care caravans” for the people in the north, with the help of volunteer doctors.

43. Some sources have reported that medical staff in Gao, Timbuktu and Kidal work in conditions that are difficult and stressful owing to the presence of armed combatants in hospitals and health centres. The situation is particularly difficult for female employees and patients, including the victims of sexual abuse. It has also been reported that in some centres armed men often interrupt childbirth or surgery and brutalize midwives or nurses not wearing the veil or not wearing a proper veil. For example, in the Timbuktu hospital, men are normally present to make sure that women coming in and out of the building are properly veiled. On several occasions, employees and patients could not gain access to the hospital. In September 2012, a nurse was allegedly abducted from the hospital by armed combatants and forcibly taken to the Islamic police station on the grounds that she was not properly veiled.

J. Violations of cultural rights

44. According to reliable sources, the cultural rights of the inhabitants of the north have been radically restricted by armed groups. Music, television and sport have been banned because of a fundamentalist interpretation of sharia. Bars in Gao and in other cities have been closed. Children bathing naked in rivers and women going to the river to wash have been beaten in Timbuktu and Niafunké. A strict dress code has been imposed, requiring girls (from the age of 5) and women to be covered from head to toe. On buses connecting major cities, men and women are now segregated, sometimes by a curtain. Boys and men must roll their trousers up to their ankles. Boys and girls and men and women no longer have the right to appear in public together unless they are married or are members of the same family. Girls and women can no longer ride with men on motorcycles. Islamic police monitor the application of these strict rules and the punishment for non-compliance is flogging. Faced with this situation, many women prefer not to go out.

45. In addition, two days after the city of Timbuktu was inscribed on the List of World Heritage in Danger by the United Nations Educational, Scientific and Cultural Organization, on 28 June 2012, Ansar Dine destroyed several cultural and religious sites in the city, including the mausoleum of Sidi Mahmoud Ben Amar, Alpha Moya, Sidi Mokhtar and Cheikh el-Kebir.

K. Violation of the right to freedom of religion

46. The Mission was informed by various sources that Christian places of worship in the north, including the Church in Gao, have all been ransacked and looted. Following threats, Christian and animist populations, fearing for their lives, apparently fled upon the arrival of armed groups.

VI. Situation of human rights in the territories under the control of the Malian Government

A. Violations of the right to life, extrajudicial and summary executions

47. At the Gendarmerie’s Camp No. 1 in Bamako, a soldier who survived the counter-coup said:

“The morning after 30 April, a manhunt began among the members of the thirty-third regiment of paratroopers who were taken to the headquarters of Captain Sanogo in Kati where they received death threats, were then filmed at ORTM⁹ and subsequently severely beaten. Two of my brothers in arms died instantly. On 1 May, at around 2 a.m., a detachment of soldiers arrived. They did the roll call of 20 soldiers and a non-commissioned officer, all of whom were red beret soldiers. They were tied up in pairs and then taken away in a truck. Since then, we have had no news of them. I was saved following a conversation about what to do with me between a captain and a sergeant-major who thought I was dying, as I had been severely tortured and had head wounds.”

48. The Mission was unable to determine the whereabouts of 21 soldiers who went missing in Kati. The military authorities questioned confirmed that the soldiers had in fact disappeared, but that did not mean that they were dead. The Mission was also informed that, on 2 May 2012, members of the army allegedly entered the Gabriel Touré Hospital in Bamako where they abducted a dozen seriously injured soldiers and took them to an unknown destination.

49. According to several corroborating sources, on 9 September 2012, in the municipality of Diabali, a detachment of the Malian army allegedly executed a group of 16 pilgrims of the Dawa brotherhood, some of whom were Mauritanian nationals. According to the Ministry of Justice, this case is being handled by the military authorities. However, the authorities referred the Mission to the civil justice system. The Mission has been unable to determine what progress has been made with the investigation into these incidents or whether any court (civil or military) is dealing with the matter. Mauritania apparently announced that three experts have been dispatched to investigate the incident, together with the Malian authorities. Similarly, the Mission has been unable to obtain reliable information on the alleged execution by the military of at least six Tuareg civilians in a village near Diabali on 21 October 2012.

B. Torture and other cruel, inhuman or degrading treatment

50. In the aftermath of the counter-coup, on 30 April 2012, members of the police force were subjected to ill-treatment on the premises of the Mobile Security Unit of the police force. Police officers and military personnel were transferred and incarcerated at the Kati military camp, where they were subjected to death threats, beatings and serious injuries. Some were hurled onto their stomach, with their hands and feet handcuffed behind them in what is often referred to as the “bicycle position”, and kicked hard in their genitals in order to extract information.

51. At the Kati military camp, 83 soldiers and members of the military — the alleged perpetrators of the counter-coup — were crammed into the underground cell known as “the Pit”, “the Fall” and “the Hole”, in sweltering heat, without any light or contact with the outside world, in unsanitary conditions, with two toilets overflowing with excrement and worms. The Mission was informed that some soldiers held at the military camp in Kati were apparently forced by the camp leaders to have sex with each other while their captors filmed the scene with amusement. The same soldiers stubbed cigarettes on different parts of their victims’ bodies. During the initial days of imprisonment, all 83 prisoners were allowed only one can of water and one portion of rice. On certain days they were obliged to choose between eating and drinking. Others had no choice but to drink their own urine or that of other fellow prisoners.

⁹ Office de Radiodiffusion-Télévision du Mali (Malian Television Broadcasting Office).

C. Arbitrary arrests and detention

52. The legal grounds for the arrest and detention of the 83 members of the military and police force imprisoned at Kati between 22 March and 6 September 2012 and subsequently transferred to the Gendarmerie's Camp No. 1 have yet to be explained. The detainees included Brigadier General Hamidou Sissoko, ex Chief of Staff to former President Touré, Colonel Abdoulaye Cissé, Lieutenant Colonel Yacouba Traoré and Commander Konaré. Some of the police officers held said that they were reported, arrested and detained by policemen, who were members of a rival group that supports the military junta in power and compared their arrest to a settling of scores.

53. However, the Mission established that the officers and non-commissioned officers of Camp No. 1 were held in generally acceptable conditions. Although, seven of them did not have the services of a lawyer; soldiers and police were in the same situation. The Mission was apprised that 17 Malian civilians and 30 foreigners, including Cameroonians, Nigerians, Chadians and citizens of Burkina Faso were held during the counter-coup in similar conditions. They were released between 7 and 8 May 2012.

54. The Mission also received a report that Mr. Diouara Mahamadou, a young man aged 28 years, the BBH¹⁰ militia leader, was allegedly kidnapped and held incommunicado at the State Security headquarters, without judicial guarantees, for several weeks before being transferred to the prison in Kati.

55. Checks and searches at road checkpoints manned by the military in Sévaré¹¹ allegedly targeted "fair-skinned" people,¹² and certain travellers who looked like members of armed groups were reportedly arrested, ill-treated and even detained, without legal grounds, simply because of their appearance. The military authorities informed the Mission that Sévaré has become a strategic and sensitive location because, since the arrest of a young French jihadi of Malian origin, on 6 November 2012, the military has been homing in on certain travellers. According to them, this is all being done within the law. On account of this ethnic monitoring, the Tuareg and Arab populations in the north have repeatedly told the Mission that they no longer dare take this route and are obliged most of the time to make detours through neighbouring countries to reach Bamako, which constitutes an infringement of their freedom of movement.

D. Attacks on property

56. On 1 February 2012, on the sidelines of the event for the families of Malian soldiers, there were reprisals and violence against Arabs and Tuaregs in Bamako and Kati by angry young protesters. The Mission was apprised that the pharmacy and clinic of a Tuareg doctor originally from Timbuktu were vandalized in Kati. The house of the former Minister of Arts and Crafts and Tourism, Mr. Zakiatou Oualett Halatine, who is of Tuareg origin, suffered the same fate. Without the intervention of the police, the Tuaregs would have been lynched.

¹⁰ BBH: *Bouyan Ba Hawi* "Better to be dead than ashamed" in the Songhai language.

¹¹ Region situated between the north and the south.

¹² Terminology used by the people interviewed.

E. Violations of freedom of expression and of the right to information

57. The Mission found that in Bamako and Mopti freedom of expression and information are becoming increasingly restricted. Many people living in these two cities who were interviewed said that they were afraid to speak freely, especially to criticize the army or the Government.

58. Some serious incidents demonstrate the precarious nature of the freedom of the press, even if independent newspapers still regularly criticize State institutions, including the army. In this connection, on 2 July 2012, Mr. Abderrahmane Keïta, editor of the biweekly *l'Aurore* was abducted at night by armed and hooded men, taken by car from the centre of Bamako and beaten up. His captors reportedly told him: "It is men like you who are causing trouble in the country!" Prior to the attack, Mr. Keïta had received death threats. Ten days later, Mr. Saouti Haïdara, editor of the newspaper *l'Indépendant*, was beaten up by masked men who threatened him with a gun and broke one of his arms.

59. The Mission was also informed, by many sources, of acts of persecution and death threats carried out in early November 2012 against a rapper from Bamako called Roberto Magic Sapper. He allegedly received death threats after a song criticizing the military. Unidentified armed men reportedly went to his home several times.

F. Deterioration of the socioeconomic situation

60. The crisis in Mali has a considerable impact on the economic situation. The suspension of direct international development aid to the Malian Government following the coup of 22 March has further reduced the meagre resources of the country, whose budget has been reduced by one third. The withdrawal of major donors and investors has led to the closure of major public works, exacerbating unemployment. Tourism has come to a standstill. In addition, families displaced from northern Mali are putting considerable pressure on the diminished resources of households and social institutions in the south. Well before the onset of the crisis, about 43 per cent of the population lived below the absolute poverty line (less than US\$ 1.25 per day). Since the crisis, the rate has risen to 50 per cent.

VII. Fragility of the security sector and active tolerance of certain vigilante groups

61. The Mission noted with deep concern the current fragility of Malian institutions. Security forces are heavily polarized between supporters of the leaders of the coup (military green berets and the Siméon Keita police association) and their opponents (military red berets and the Tidjani Coulibaly police association). This situation generates a profound instability that does not encourage respect for human rights.

62. The Mission is deeply concerned about the existence of vigilante groups, in violation of Malian law. Pro-government militias such as Ganda Koy (estimated to have 1,842 men) enjoyed the complicity of successive governments and were deployed alongside the national army in strategic towns in the north until they fell under the control of rebel groups. The militia withdrew to Sévaré in Mopti between April and May 2012. Since then, several other militias, such as Ganda Izo (estimated to have 1,337 men) and Forces de Libération des Régions Nord du Mali (FLN) (estimated to have 847 men), have been established in the south for deployment in the north to protect vulnerable populations and fight against insurgent rebel groups. A senior military official told the Mission "with a failed State and in view of the emergency situation in the country people are organizing

themselves however they can to regain control of the north”. These militias, though poorly equipped, are very organized. They distribute their own membership cards to national troops. The Mission has also received information about radio broadcasts mobilizing young people to join the militias. The presence of children under 18 years of age enlisted in Ganda Izo and the FLN has been reported.

VIII. Ethnic dimension of the crisis and attendant risks

63. The Mission was alarmed by the growing ethnic dimension of the crisis. Although for a long time, life in Mali was apparently harmonious, many stories have highlighted the strong ethnic ramifications of the current crisis that seem to stem from uneven development among the regions, the persistence of impunity, discrimination on ethnic and racial grounds as well as past conflicts and violence, including the Tuareg rebellions that were very much concealed, repressed and denied. The strongest ethnic tensions were observed between the Arab and Tuareg communities on the one hand, and other ethnic groups in Mali, on the other hand. The Mission received testimony from all sides concerning discriminatory and humiliating acts, abuse and violence (sometimes resulting in death) motivated by ethnic considerations. The Mission also heard similar statements of incitement to racial hatred from the persons interviewed. The Mission observed a deep sense of frustration and desire for revenge among many of the people it met. Although the ethnic issue remains taboo in Mali, it is insidiously leading to the polarization of society, divisions and potential reprisals.

IX. Humanitarian access in the north

64. Following the extreme violence carried out by armed groups at the beginning of 2012 and the massive destruction of basic infrastructures, the State and its agents swiftly withdrew from the northern territories. The vast majority of humanitarian and development organizations have left the area; only a minority has stayed there and is generally operating with local staff. The effective delivery and distribution of humanitarian aid in the north has often proved problematic and difficult to monitor. With one or two exceptions, there was no reliable, independent system for monitoring distribution of humanitarian aid at the time of the Mission’s visit.

65. For the most part, the humanitarian actors in the area have had to negotiate with armed groups the strategies and methods for distributing aid, without necessarily organizing the whole process. The Mission has heard of cases where aid is entirely under the unilateral control of armed groups, without any guarantee that it has been distributed to recipients. Some leaders of armed groups and local public figures allegedly distribute humanitarian aid received based on ethnic or religious grounds. The Mission also learned that aid has sometimes been distributed in mosques and, in such cases, not given directly to women.

X. Conclusions and recommendations

66. **Against a background of the increasing polarization of Malian society, it has been difficult to verify all information received. In this connection, given the limited time available to carry out the Mission and, considering the seriousness of the allegations reported, there is an urgent need for further study of the facts that can only be done by a United Nations commission of inquiry, in order to pave the way for a meaningful process of truth, justice and reconciliation.**

67. **The Mission wishes to point out that a possible military intervention by ECOWAS to help the Malian army regain control of the north could have major**

human rights implications. Some members of the armed groups are from the local population and have the support of certain local public figures. The ethnic dimension, including the fact that one sector of the population and members of the military are confusing civilians from Tamashek and Arab groups with armed groups, and the distress of the Malian army at the setback it suffered point to the risk of reprisals against the civilian population in the event of a military intervention. The fact that many militias are driven by revenge, and, sometimes, a sense of identity is also a matter of concern. The fragile state of the institutions described in this report makes the situation even more precarious.

68. On the humanitarian front, specialized staff fear a massive flux of displaced persons and refugees, currently estimated at more than 300,000 persons, in the event of a military intervention. Such a scenario would put considerable pressure on the national humanitarian system, as well as on other States in the region and humanitarian agencies to absorb the additional mass of displaced persons and refugees. The situation also risks creating some instability in the subregion.

69. Finally, it should be noted that increasing ethnic tensions in Mali foster a climate that is not favourable to national unity. If nothing is done about it and if these tensions are, in addition, manipulated for political purposes, Mali is likely to experience violence on an unprecedented scale.

70. In view of the foregoing, the High Commissioner makes the following recommendations:

Recommendations to the Government of Mali:

- (a) Ensure that all perpetrators of human rights violations committed during the crisis are brought to justice;
- (b) Ensure that the rights of all Malians are observed, including the prompt organization of fair trials or release of those who are unlawfully detained;
- (c) Ensure that all security forces receive training on the principles of international law, human rights law and humanitarian law;
- (d) Put in place a process of inclusive dialogue for the establishment of a transitional justice mechanism covering the violations committed in connection with the 2012 crisis and during previous waves of violence;
- (e) Organize campaigns to raise awareness of human rights, in particular against: (i) ethnic and religious intolerance, (ii) exploitation and abuse of and violence against children and women;
- (f) As part of the reform of the security sector, adopt measures: (i) to conduct a certification process for the defence and security forces; (ii) to establish, with the support of the United Nations system, disarmament, demobilization and community reintegration programmes; (iii) to prohibit the operations of the militias;
- (g) Enhance the participation of women and young people in mediation and negotiation processes, and in decision-making, as well as in the global humanitarian response and the electoral process.

Recommendations to the international community:

- (a) Strengthen the capacity of the United Nations system in Mali in the following areas: (i) the prevention, monitoring and follow-up of human rights violations; (ii) national capacity-building for the protection of human rights, including support for the National Human Rights Commission, the judiciary and the

Ombudsman; (iii) a human rights-based approach in the planning and implementation of the humanitarian response; (iv) the promotion of tolerance and respect for intercommunity diversity; and (v) support to neighbouring countries in monitoring and responding to threats against civilian refugees;

(b) Establish a mechanism for monitoring, analysing and reporting sexual violence related to conflict, and deploy specialists to protect women and children, as prescribed by Security Council resolutions 1612 (2005) and 1960 (2010);

(c) Ensure that a human rights-based approach is incorporated in all stages of the planning and implementation of a possible military intervention in northern Mali, as well as in the event of possible sanctions against protagonists, particularly by ensuring that civilian rights are fully upheld. Implement the human rights due diligence policy, in particular, by conducting risk assessments before providing any United Nations support to non-United Nations forces and by establishing monitoring and action mechanisms in the event of allegations of serious violations by the armed forces involved in the military intervention; strengthen the capacity of national security forces for the greater protection of civilians. Establish a United Nations mission with a strong human rights component to support the efforts of the Malian authorities;

(d) Establish without delay an international commission of inquiry or fact-finding mission into human rights violations that have occurred in Mali since January 2012.
