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MALI

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Introduction

1. ADF International is a faith-based legal advocacy organisation that protects fundamental freedoms and promotes the inherent dignity of all people.
2. This report highlights the intense hostility and persecution suffered by religious minorities, particularly Christians, in Mali. Furthermore, it explains why Mali should resist calls to expand access to abortion and instead focus on safeguarding and improving access to maternal health-care within its borders.

(a) Freedom of Religion or Belief

Background

3. Mali's population is predominantly Sunni Muslim, with just over 9% identifying as members of an ethnic religion and less than 3% identifying as Christian.¹
4. Following a series of coups d'état, the most recent of which has occurred in 2021, a military-led transitional government is currently leading the country.² This transitional government is expected to remain in power until May 2024, when the holding of democratic elections is planned.³ Colonel Assimi Goïta, interim president of Mali, has established a committee charged with re-drafting Mali's constitution.⁴ Until a new constitution is written and ratified, Mali's 1992 Constitution remains in force.
5. Mali's 1992 Constitution declares the country a secular state.⁵ It states that 'every person shall have the right to freedom of thought, conscience, religion, cult, opinion, expression and creation within the law.'⁶ Furthermore, it prohibits discrimination on the basis of religion.⁷
6. According to Article 29 of Mali's Penal Code, any religiously motivated persecution of a group of persons constitutes a crime against humanity.⁸ The Penal Code also defines genocide as the intentional destruction – also partial – of a religious group through one of the following acts: murder, causing serious bodily or mental harm, deliberately subjecting a group to living conditions calculated to bring about its total or partial physical destruction, imposing measures intended to prevent births within the group, or forcibly transferring children of the group to another group.⁹
7. Additionally, Article 58 provides that any protest contrary to the freedom of conscience or the freedom of worship susceptible of pitting citizens against each other is punishable by one to five years imprisonment.¹⁰

¹ The Association of Religion Data Archives 'Mali: Major World Religions (1990-2050) (World Religion Database, 2020) < <https://www.thearda.com/world-religion/national-profiles?u=141c>>.

² The Washington Post 'Another coup in Mali? Here' what you need to know' (May 2021) <<https://www.washingtonpost.com/politics/2021/05/28/another-coup-mali-heres-what-you-need-know/>>.

³ Africa News 'Mali's junta creates a body in charge of suggesting a new Constitution' (2020) <<https://www.africanews.com/2022/06/12/mali-s-junta-creates-a-body-in-charge-of-suggesting-a-new-constitution/>>.

⁴ Ibid.

⁵ Constitution of Mali, 1992, art. 25 <https://www.constituteproject.org/constitution/Mali_1992.pdf>.

⁶ Ibid. at art. 4.

⁷ Ibid. at art. 2.

⁸ Criminal Code of Mali, 2001, art. 29 <<https://droit-afrique.com/uploads/Mali-Code-2001-penal-MAJ-2016.pdf>>.

⁹ Ibid. at art. 30.

¹⁰ Ibid. at art. 58.

Widespread violence against Christians

8. Extremist violence targeting Christians has remained pervasive in Mali over the reporting period. The deteriorating security situation has caused hundreds of Malian Christians to flee south as jihadist groups attempt to impose Shari'a in northern Mali.¹¹
9. In what has been described as the 'worst massacre in Mali since 1946', in June 2019 at least 100 men, women and children were slaughtered in Sobame Da, a mainly-Christian village in the Mopti region of central Mali, by heavily armed Islamist extremists. Jihadists circled the isolated village of ethnic Dogon people at night and set fire to 'everything that moved' in a targeted attack. Many of the victims' bodies were burnt, with some reportedly charred beyond recognition.¹²
10. On 26 May 2020, three terrorist attacks killed 27 people from the mainly Christian Dogon villages in central Mali. Extremist violence has not spared places of worship either, as the vast majority of Christian church buildings in the Dogon region have reportedly been destroyed.¹³
11. In September 2020, Swiss missionary Beatrice Stockli was killed by Islamist extremists after almost 5 years on captivity.¹⁴ A year later, in October 2021, Colombian nun Gloria Argoti was released from captivity, having been kidnapped by the same group in February 2017.¹⁵
12. On 21 June 2021, five Christians, including a Catholic priest, Fr. Léon Dognon, were kidnapped by an armed group in central Mali. While no group claimed responsibility for the attack, local sources suggest the abductors had been members of a militant Islamist group in the region. While the other captives were released only a few days later, Fr. Léon was only let free after three weeks on 13 July.¹⁶

Freedom of Religion or Belief under International Law

13. Mali is a State Party to the International Covenant on Civil and Political Rights (ICCPR). Article 18 of the ICCPR states, 'No one shall be subject to coercion which

¹¹ BARNABAS AID 'Heavily-Armed Jihadists Murder 27 People in Attacks on Christian Villages in Mali' (June 2020), <<https://www.barnabasfund.org/us/news/heavily-armed-jihadists-murder-27-people-in-attacks-on-christian-village/>>.

¹² Eternity News 'Christians Massacred in Mali by Extremists' (July 2019) <<https://www.eternitynews.com.au/world/christians-massacred-in-mali-by-extremists/>>.

¹³ BARNABAS AID 'Heavily-Armed Jihadists Murder 27 People in Attacks on Christian Villages in Mali' (June 2020), <<https://www.barnabasfund.org/us/news/heavily-armed-jihadists-murder-27-people-in-attacks-on-christian-village/>>.

¹⁴ World Watch Monitor 'Swiss woman, hostage almost 5 years, killed by Islamist extremists in Mali' (10 October 2020) <<https://www.worldwatchmonitor.org/2020/10/swiss-woman-hostage-almost-5-years-killed-by-islamist-extremists-in-mali/>>.

¹⁵ World Watch Monitor 'Her co-hostage freed a year before; nun meets Pope after Islamists let her leave Mali' (12 October 2021) <<https://www.worldwatchmonitor.org/2021/10/her-co-hostage-freed-a-year-before-nun-meets-pope-after-islamists-let-her-leave-mali/>>.

¹⁶ ACI Africa 'Contrary to Earlier Reports of Being Freed, Catholic Priest in Mali Gains "real" Freedom' (15 July 2021) <<https://www.aciafrica.org/news/3878/contrary-to-earlier-reports-of-being-freed-catholic-priest-in-mali-gains-real-freedom/>>.

would impair his freedom to have or to adopt a religion or belief of his choice,' and that 'freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health, or morals or the fundamental rights and freedoms of others'.¹⁷

14. Article 26 of the ICCPR mandates States to 'prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination,' including on the basis of religion.¹⁸ Further, Article 27 of the ICCPR guarantees that '[i]n those States in which religious minorities exist, persons belonging to such minorities shall not be denied the right, in community, with the other members of their own group [...] to profess and practise their own religion'.¹⁹

15. The Malian authorities' failure to effectively protect persons belonging to religious minorities is a matter of urgent concern, requiring urgent scrutiny by the international community. Mali is under an obligation to take all necessary measures to guarantee that everyone can fully enjoy the right to freedom of religion without fear of violence, harassment, or discrimination.

(b) Right to Life and Maternal Health

16. Mali's Constitution guarantees all Malians the 'right to life, liberty, security and personal integrity'.²⁰

17. Mali's Criminal Code prohibits abortion except when it is performed to protect the pregnant mother's life.²¹ Mali's Reproductive Health Act establishes further exceptions for pregnancies resulting from rape or incest.²² The law punishes any medical professional who engages in encouraging or providing the means for performing an illegal abortion, including through the suspension of their medical license.²³

18. Mali has recently come under pressure to liberalize its abortion laws, based primarily on concerns for women and girls' health, including maternal and newborn health as well as the health consequences of "unsafe abortions".²⁴

19. In 2017, Mali had a maternal mortality rate of 562 deaths per 100,000 live births, the 13th worst in the world.²⁵

¹⁷ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 3 January 1976) 999 UNTS 171 (ICCPR), art.18.

¹⁸ Ibid. at art. 26.

¹⁹ Ibid. at art. 27.

²⁰ Constitution of Mali, 1992, art. 1 <https://www.constituteproject.org/constitution/Mali_1992.pdf>.

²¹ Criminal Code of Mali, 2001, art. 211 <<https://droit-afrique.com/uploads/Mali-Code-2001-penal-MAJ-2016.pdf>>.

²² Reproductive Health Act of Mali, 2002, art. 13 <<https://abortion-policies.srhr.org/documents/countries/02-Mali-Reproductive-Health-Law-2002.pdf>>.

²³ Criminal Code of Mali, 2001, art. 212 <<https://droit-afrique.com/uploads/Mali-Code-2001-penal-MAJ-2016.pdf>>.

²⁴ Ipas, Partners for Reproductive Justice 'After a national assessment, Mali develops plan for expanding access to abortion and contraception' (April 2022) <<https://www.ipas.org/news/after-a-national-assessment-mali-develops-plan-for-expanding-access-to-abortion-and-contraception/>>.

²⁵ Institute for Security Studies, 'Maternal mortality in Mali: a forgotten tragedy' <<https://issafrica.org/iss-today/maternal-mortality-in-mali-a-forgotten-tragedy>>.

20. According to the 2018 Demographic and Health Survey, only 43 percent of pregnant women in Mali received at least four prenatal visits.²⁶ The World Health Organization (WHO) recommends a minimum of eight contacts with a health provider during pregnancy to screen for potential complications and treat problems as they arise including prevention of antepartum stillbirths.²⁷
21. Mali's already fragile healthcare system has only weakened over the last years, resulting in further restrictions on access to quality health-care. The WHO reported that 116 healthcare centres have closed because of the ongoing militant attacks ravaging the country. The availability of healthcare is particularly reduced in the southern regions of Mali. Additionally, in 2018 there were only 71 obstetrician-gynecologists in the country, half of whom located in the capital city, Bamako. Not a single specialist is available in certain regions of the country.²⁸
22. It must be stressed that almost all maternal deaths are preventable, particularly when skilled birth attendants are present to manage complications and the necessary medication is available, such as oxytocin (to prevent haemorrhage) and magnesium sulphate (to treat pre-eclampsia). Other key factors include poverty, accessibility of health-care facilities and lack of information, all of which represent critical challenges for Mali.²⁹
23. Liberalizing abortion will not make it safer. Women who receive abortions will still face poor conditions, the same ones faced by women who give birth and deal with similar complications, such as bleeding and infection. Thus, providing increased access to abortion will only result in more women suffering from complications. Furthermore, abortion can never be safe because it takes the life of an unborn child and harms the mother through the loss of her child.
24. Mali must focus on helping women get through pregnancy and childbirth safely, rather than facilitating the termination of their pregnancies. Given the maternal health crisis in Mali, resources must focus on improving conditions for pregnant women, women undergoing childbirth, and postpartum women.

The Right to Life in International Law

25. A so-called international 'right to abortion' is incompatible with various provisions of international human rights treaties, particularly the right to life. Article 6(1) of the ICCPR states, 'Every human being has the inherent right to life'.³⁰
26. The ICCPR's prohibition of the death penalty for pregnant women implicitly recognizes the right to life of the unborn. Article 6(5) states that 'the sentence of death shall not be imposed for crimes committed by persons below eighteen years of

²⁶ Institute National de la Statistique 'Demographic and Health Survey - Mali' (2018), p.8, <<https://dhsprogram.com/pubs/pdf/SR261/SR261.E.pdf>>.

²⁷ World Health Organization 'WHO recommendations on antenatal care for a positive pregnancy experience' (28 November 2016), p.101, <<https://www.who.int/publications/i/item/9789241549912>>.

²⁸ Institute for Security Studies, 'Maternal mortality in Mali: a forgotten tragedy' <<https://issafrica.org/iss-today/maternal-mortality-in-mali-a-forgotten-tragedy>>.

²⁹ World Health Organization 'Fact Sheet No. 348: Maternal mortality' (September 2019) <<https://www.who.int/en/news-room/fact-sheets/detail/maternal-mortality>>.

³⁰ International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 3 January 1976) 999 UNTS 171 (ICCPR), art. 6.

age and shall not be carried out on pregnant women'.³¹ This clause must be understood as recognizing the unborn child's distinct identity from the mother and protecting the unborn child's right to life.

27. The travaux préparatoires of the ICCPR explicitly state, 'the principal reason for providing in paragraph 4 [now Article 6(5)] of the original text that the death sentence should not be carried out on pregnant women was to save the life of an innocent unborn child'.³² Similarly, other early UN texts note that the intention of the paragraph 'was inspired by humanitarian considerations and by consideration for the interests of the unborn child'.³³
28. The protection of unborn life is also found through an ordinary reading of the preamble of the CRC. The preamble states that 'the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, *before* as well as after birth'.³⁴
29. Article 1 of the CRC defines a child as 'every human being below the age of eighteen years.' This provides an upper limit as to who is a child but does not provide a lower limit on when the status of 'child' attaches.³⁵ Moreover, Article 6 of the CRC holds that 'States Parties recognize that every child has the inherent right to life. States Parties shall ensure to the maximum extent possible the survival and development of the child'.³⁶ Viewed in the context of the preamble, both Articles 1 and 6 of the CRC indicate recognition and protection of unborn life.

(c) Recommendations

30. In light of the aforementioned, ADF International suggests the following recommendations be made to Mali:
 - a. Ensure the full and equal enjoyment of the right to freedom of religion or belief of all persons without discrimination of any kind;
 - b. Increase efforts to protect Christians and other religious minorities from all forms of violence, harassment and discrimination;
 - c. Ensure the prompt and effective investigation of all violent attacks perpetrated against persons belonging to religious minorities, and ensure full accountability for perpetrators and justice for victims;
 - d. Resist pressures to further liberalize abortion, and instead implement laws aimed at protecting the right to life of the unborn;
 - e. Improve health care infrastructure, access to emergency obstetric care, midwife training, and resources devoted to maternal health, with a focus on safely getting mothers and babies through pregnancy and childbirth;

³¹ Ibid.

³² Report of the Third Committee to the 12th Session of the General Assembly, A/3764 § 18. (5 December 1957).

³³ Report of the Secretary-General to the 10th Session of the General Assembly, A/2929, Chapter VI, §10 (1 July 1955).

³⁴ Convention on the Rights of the Child (CRC), opened for signature Nov. 20, 1989, 1577 U.N.T.S. 3, Preamble.

³⁵ Ibid at art. 1.

³⁶ Ibid at art. 6.



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