



# General Assembly

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## Human Rights Council

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Agenda item 4

Human rights situations that require the Council's attention

### **Written statement\* submitted by Freemuse - The World Forum on Music and Censorship, a non-governmental organization in special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[8 February 2013]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

## **“If there is no music, there will be no Mali”: The violation of the human right to musical expression in northern Mali**

### **Freedom of musical expression: Legal framework**

The universal human right to freedom of musical expression is guaranteed by guarantees of the right to freedom of expression more broadly by, inter alia, Article 19(2) of the International Covenant on Civil and Political Rights (ICCPR), which states that the right to freedom of expression includes “freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media.” Article 15(3) of the International Covenant on Economic, Social and Cultural Rights (ICESCR), under which State Parties “undertake to respect the freedom indispensable for . . . creative activity”; as well as Article 13 of the Convention on the Rights of the Child.

The right to freedom of musical expression is further guaranteed wherever such expression constitutes an exercise of the right to take part in cultural life, as is provided by, inter alia, ICCPR Articles 1(1) and 27; Articles 1(1) and 15(1) of the ICESCR; and Article 31 of the Convention on the Rights of the Child.

Restrictions on the freedom of expression in particular are only subject to restrictions such as are provided by law and are necessary for respect of the rights or reputations of others, for the protection of national security or of public order (*ordre public*), or of public health or morals. Furthermore, restrictions on the freedom of musical expression must consistent with the principle of equality before the law and must not discriminate on grounds of race, colour, sex, language, religion, national or social origin, property or birth or other status, in accordance with ICCPR Article 26.

In recognition of the high importance of artistic freedom more generally, the Special Rapporteur in the field of cultural rights, Ms. Farida Shaheed, has selected artistic freedom as the subject of the Special Rapporteur’s annual report to the Human Rights Council, to be presented in June 2013.<sup>1</sup> The Office of the United Nations High Commissioner for Human Rights hosted a public consultation on “the right of artistic freedom” organized by the Special Rapporteur at the Palais des Nations on 6 December 2012.

### **Events in northern Mali**

Following the March 2013 military coup, jihadist groups and other Islamic extremists in northern Mali launched a campaign of intimidation and force to impose severe social restrictions with supposed grounding in religious law, according to the recent Report of the UN High Commissioner for Human Rights on the situation of human rights in Mali.<sup>2</sup>

Such actions by non-State actors have resulted in numerous violations of the right to freedom of expression generally and musical and artistic expression in particular. In the words of the High Commissioner, [a]vec l’arrivée des groupes armés au nord au début de l’année 2012, les populations locales ont vu leur liberté d’expression systématiquement limitée. . . . Selon des sources fiables, les droits culturels des habitants du nord ont été radicalement restreints par les groupes armés. La musique, la télévision et le sport ont été

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<sup>1</sup> United Nations Office of the High Commissioner for Human Rights website, <http://www.ohchr.org/EN/Issues/CulturalRights/Pages/ArtisticFreedom.aspx>; accessed 6 February 2013.

<sup>2</sup> Rapport de la Haut-Commissaire des Nations Unies aux droits de l’homme sur la situation des droits de l’homme au Mali, UN Doc. A/HRC/22/33, 7 Janvier 2013.

interdits au nom d’une interprétation fondamentaliste de la charia. . . . La police islamique veille à l’application de ces consignes rigoureuses dont le non-respect est puni de coups de fouet.”<sup>3</sup>

On 22 August 2012, the following announcement was made by Osama Ould Abdel Kader, a spokesperson for Movement for Unity and Jihad in West Africa (MUJAO) based in the city of Gao: “We, the mujahedeen of Gao, of Timbuktu and Kidal, henceforward forbid the broadcasting of any western music on all radios in this Islamic territory. This ban takes effect from today, Wednesday. We do not want Satan’s music. In its place, there will be Quranic verses. Sharia demands this. What God commands must be done.” This MUJAO declaration came several months after music had effectively been banned in the north. While it spoke of ‘western’ music, Satan’s music, in practice the restrictions were applied to a wide variety of forms: modern, traditional, electrified, acoustic, foreign and local.<sup>4</sup>

### Testimonies of Malian musicians

In late 2012, an independent researcher acting on behalf of the nongovernmental organization Freemuse conducted interviews with twenty-one Malian musicians, journalists, activists, and other citizens. The interviews form the basis of the forthcoming Freemuse report, *Music, Culture, and Conflict in Mali*. Some opinions and sentiments are included below.<sup>5</sup>

Vieux Farka Toure: “Really and truly, I don’t think those guys have anything to do with Islam. You can’t even call them Islamists. They’re jokers, you know. For them it’s all about weapons and drugs. They’re just opportunists, not Islamists. By trying to destroy music they want to break people’s spirits, so that they can control them better. But I don’t think it’s possible. Music is something very powerful in the human spirit, so it’s not just by shaking your finger than you can destroy it. Music has a big impact on all of use because it provides a place for us to come together. It’s our meeting place, where we’re happy, where there’s friendship and companionship. Everything happens around music. It’s life. It’s as if they’re attack part of our life.”

Nina Walet Intallou (Female member of the Transitional Council for the State of Azawad): “An attack on music is an attack on women in our society. Because music is so often a women’s affair. For Tamashek women, everything happens around music, the *tindé*, the violin, *iswat* [a form of sung poetry] at night. The young girls, when they perform *iswat*, that’s when the youth come and find their partners or their future fiancées. It’s an attack on the soul of our society. When the MUJAO declare that all music is forbidden except praise singing, it’s way to kill our culture. No one agrees with that. They’re killing our culture, they’re abusing us. The Arabs don’t want us to talk about that, saying that we’re racists, but we’ll do everything to keep the only real wealth that we possess, which is our culture. It’s an attempt to oppress Amazing culture. And all those Islamists, as they couldn’t do it by inter-marrying etc, they’re trying to do it with Islam. To kill our culture.”

Bassekou Kouyate: “If there is no music, there will be no Mali. Mali is known through its music. It’s a cradle for music. What are we going to do if there’s no music? Just sit here all day looking at people go by? In my opinion, those people want to destroy this country and

<sup>3</sup> Rapport de la Haut-Commissaire des Nations Unies aux droits de l’homme sur la situation des droits de l’homme au Mali, UN Doc. A/HRC/22/33, 7 Janvier 2013, paras. 37, 44.

<sup>4</sup> Andy Morgan, *Music, Culture, and Conflict in Mali: A report for Freemuse*. (Copenhagen, Freemuse 2013), p. 9; <http://www.freemuse.org>.

<sup>5</sup> Andy Morgan, *Music, Culture, and Conflict in Mali: A report for Freemuse*. (Copenhagen, Freemuse 2013); <http://www.freemuse.org>.

all that we have achieved since ages. They're bandits. Honestly, we can't go on like that. We have to find a solution. . . ."

### **Recommendations**

Freemuse joins the High Commissioner for Human Rights in her strong recommendations to the Government of Mali and to the international community, particularly the call to strengthen the capacity of the UN system in Mali in the following areas:

- prevention, surveillance and monitoring violations of human rights;
  - strengthening national capacities for the protection of the rights of rights, including support for the National Commission on Human Rights, the judiciary and the Ombudsman;
  - planning and implementing of humanitarian response that is based on a human rights perspective;
  - the promotion of tolerance and respect for cultural diversity; and
  - support to neighbouring countries in monitoring and responding to threats against refugees.
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