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## **Raising awareness among Malian MPs on the new law on small arms and light weapons in Mali**

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### **Note 2 - Characteristics and logic of civilian possession of SALW in Mali**

According to the *Small Arms Survey*, the volume of firearms in circulation in a given country is increasing by an average of 1% per year.<sup>1</sup> While belonging to different users, 85% of these weapons would be - legally or illegally- held by civilians.<sup>2</sup> Therefore, comprehensively regulating firearms acquisition, possession, carrying and use is an essential part of a State's public security.

In this regard, the Malian government has undertaken the review of the 2004 Arms and Ammunition Act with a view to transpose the relevant elements of the ECOWAS Convention on Small Arms and Light Weapons (SALW), which entered into force in 2006. This revision process, initiated by the government, reached the final stage of the inter-ministerial sequence in the first months of 2020. Once approved at the executive level, the draft law will be introduced at the National Assembly for

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<sup>1</sup> The term 'firearm' here has a similar meaning to that of small arms as defined in the [International Tracing Instrument](#), namely, all weapons capable of ejecting a projectile by means of an explosive mechanism and capable of being operated and carried by a single person.

<sup>2</sup> Aaron Karp, '[Estimating Global Civilian Held Firearms Numbers](#)', Briefing Paper du *Small Arms Survey*, juin 2018, p. 4.

consideration in specialized committees. It will then be submitted to the Malian lawmakers for a vote.

While armed violence has increased in recent months in several regions of the country, particularly in the Centre (Mopti and Ségou), the full and effective regulation of civilian possession of weapons is as essential as it is delicate. It requires efforts directed at the population in order to allay any misperceptions about the consequences of the new law, and thus promote its 'social acceptance', in other words the recognition of its legitimacy.<sup>3</sup> The development of such an awareness-raising strategy implies taking into account the main patterns of civilian possession of weapons. In this way, it will become easier to understand and anticipate possible resistances to the vote and enforcement of the new legislation.

This note aims to provide Malian lawmakers with key elements to understand civilian possession of weapons in Mali. This will serve as a basis for the workshop's reflections on how to draw support for the law among the Malian population. It proceeds in five stages:

- I) The legislation on SALW possession by civilians in Mali
- II) Typology of civilian possession of SALW in Mali
- III) Mapping the circulation of SALW
- IV) Typology of possible resistances to the acceptance of the new law
- V) Conclusion

## **I) The legislation on SALW possession by civilians**

At present, [Law 04-050 of 12 November 2004](#) and its implementing decree 05-441/P-RM of 13 October 2005 still govern the civilian possession of arms and ammunition in the Republic of Mali. Thus, firearms are classified into four main categories:

- Weapons of war are strictly prohibited for civilian possession; with active and reserve armed and security forces being their sole legal users (Article 2). This category includes, in particular, automatic small arms as well as light weapons.
- Smooth-bore weapons (long guns for hunting, referred to as 'second category' in the law, Article 3).
- Rifled barrel weapons (also long guns, known as 'third category' firearms, Article 3).

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3. To follow Herbert Hart's theory/philosophy of law, who insists on the 'voluntary cooperation' of legal subjects. Alain Strowel, 'Analyse et utilitarisme dans les pensées juridiques de Bentham et Hart', in Philippe Gérard, François Ost, and Michel van de Kerchove (eds.), *Actualité de la pensée juridique de Jeremy Bentham*, Brussels, Presses de l'Université de Saint-Louis, 1987, pp. 301-352.

- Self-defence weapons (handguns, so-called 'fourth category' weapons, Article 3).

Any acquisition of a second, third or fourth category weapon is subject to prior authorisation from the Ministry of Security and Civil Protection.

The applicant must submit a request to the national police, which conducts background checks and verifies that the applicant meets the required conditions. If satisfactory, the investigation leads to delivering a purchase permit, which allows the applicant to collect the weapon from the gunsmith. Once the weapon has been acquired, the applicant must present the purchase invoice and the weapon to the police in order to obtain a permit to carry. This is subject to payment of a fee (Articles 12 and 13).

## II) Typology of civilian possession of SALW in Mali

It is possible to classify the motives for civilian possession of SALW in Mali into four main categories, two of which can be considered legal and two illegal:<sup>4</sup>

Cultural: the practice of hunting by civilians, on the one hand, and the practice of ceremonial rites, on the other, are a primary reason for the possession of one or more firearms (hunting rifles). This is particularly common in the southern and central areas of the country. Whether the weapon is manufactured industrially or handcrafted, the hunter is particularly attached to his gun (and its ornaments). They often have a strong emotional value.<sup>5</sup> Moreover, possessing and, even more so, carrying a firearm may indicate, in some communities, notoriety and recognition.<sup>6</sup>

Security: this motive includes both, self-defence and the protection of livelihood activities. For example, self-defence can prove necessary in areas where State services are limited or absent (centre and north) or in specific environments where there is a risk of aggression (school teachers in Koulikoro). The protection of economic or livelihood activities may also justify acquiring weapons for a wide range of professionals, such as farmers, landowners, transhumant herders, road carriers or gold miners. This individual self-defence can become collective when the population sets up or asks for militias to protect a village, a locality or a community.<sup>7</sup>

Economic crime: this covers the possession and/or use of weapons in criminal activities aimed at economic gain, such as robberies, cattle theft, vehicle abduction,

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4. CNLPAL, [Plan d'action national de lutte contre la prolifération des armes légères et de petit calibre au Mali 2019-2023](#), March 2019, p. 14.

5. Vladimir Arseniev, 'Les chasseurs Donso du Mali à l'épreuve du temps', in *Afrique contemporaine*, n°223-224, 2007, p. 341-361.

6. CNLPAL, [Plan d'action national de lutte contre la prolifération des armes légères et de petit calibre au Mali 2014-2018](#), p. 9.

7. William Ansovo, Baba Dakono et al., '[Violent extremism, organised crime and local conflicts in Liptako-Gourma](#)', *Institute for Security Studies*, December 2019, p. 9.

arms trafficking for the benefit of armed groups, or illicit acquisition of weapons to take advantage of disarmament, demobilisation and reintegration (DDR) programmes.

Subversion (terrorism, secessionism): Islamist armed groups, secessionist armed groups.

Generally speaking, civilian possession of weapons in Mali presents several cross-cutting characteristics:

- It affects all socio-professional strata.
- Civilians may combine or switch between different rationales of possession: the detention of a hunting rifle may well serve to protect the cattle; while occasional participation in a self-defence militia can prove necessary to fight an external threat.
- Civilian owners of firearms are concerned differently by the law, depending on whether their firearms were acquired legally or illegally. For example, the National Commission for the Fight against the Proliferation of Light Weapons (CNLPAL), under the authority of the Ministry of Security and Civil Protection, lists no less than thirteen means of weapons acquisition, but none of them refers to the legal purchase of a weapon from approved arms dealers.<sup>8</sup> During a field study conducted by GRIP and the *Small Arms Survey* in 2015, the proportion of legally-held weapons by civilians was estimated at 10% of the volume of SALW in circulation in the country.<sup>9</sup> This means that a significant number of arms owners must, or will have to, register with the authorities, all the more so after the entry into force of the new law on SALW. However, one should bear in mind that a weapon may be acquired illegally while the motive for acquiring it was not illegal. For example, civilians may have acquired a weapon for self-defence or hunting through illegal channels (black market, weapons abandoned by the Malian Armed Forces (FAMA) or armed groups, etc.).
- Civilian gun owners in Mali seem to be aware of the dangers of owning a firearm, even a legal and legitimate one.<sup>10</sup> Indeed, civilians interviewed by the CNLPAL during surveys recognise that the possession of a weapon leads to the temptation to use it to solve all the problems encountered (*'Every problem looks like a nail to those who have a hammer'*<sup>11</sup>). This civic reflection may help to explain why, in some regions particularly affected by armed

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8. CNLPAL, *National Action Plan 2019-2023* (op. cit.), p. 14.

9. GRIP and Small Arms Survey, *Small Arms Assessment for Sahelian States and Neighbouring Countries: Mali*, funded by UNREC, 2015, p. 10.

10. CNLPAL, *National Action Plan 2019-2023*, *ibid*, p. 16.

11. Quote generally attributed to the American psychologist Abraham Maslow.

violence and the absence of the State, only a minority of civilians say they acquire a weapon to combat insecurity.<sup>12</sup> Moreover, civilians are aware of the need to respect the acquisition procedures provided for by law. This recognition reflects acceptance of the fact that the State legislates on civilian possession of weapon.

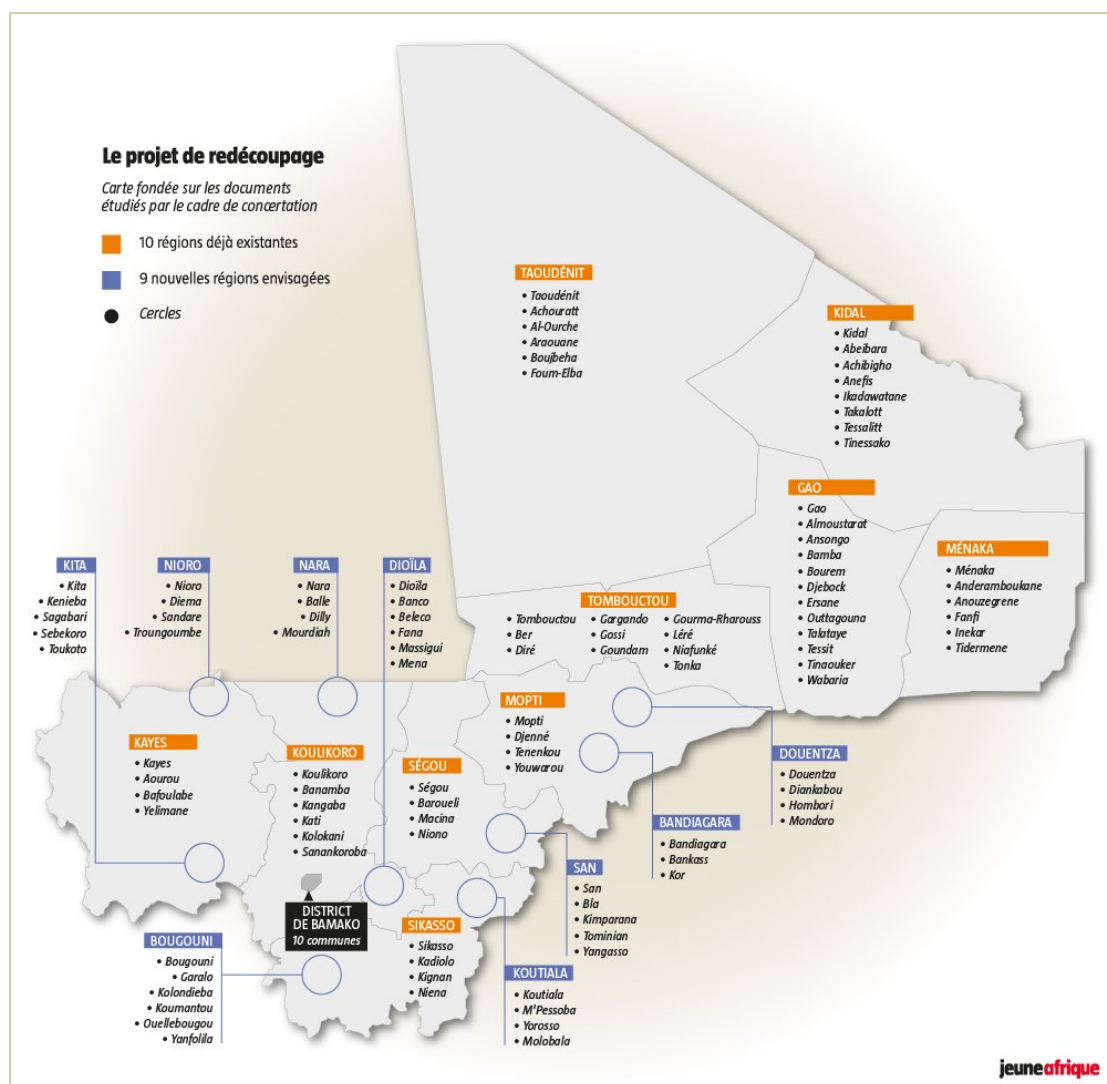
### III) Mapping the circulation of SALW

The entire territory of Mali is affected by the legal and illegal possession of SALW by civilians. However, the dynamics vary from one region to another depending on the local security, economic and cultural context. The CNLPAL produces a short analysis of the circulation of SALW by region in its National Action Plans to combat SALW proliferation, which helps to understand the recurrent and specific characteristics of the territories.



Source : Administrative map of Mali with 8 regions, [MINUSMA](#).

12. In Mopti and Ségou, for example, only 10% of residents surveyed in February 2019 said they had acquired a firearm to cope with insecurity. SIPRI, [the Challenges Of Governance, Development And Security In The Central Regions Of Mali](#), March 2020, p. 14.



Administrative map of Mali featuring the new regions of 2016 (Taoudénit and Ménaka) as well as the ongoing project of 9 new regions. Source : [Jeune Afrique](#)

In the south-west, the regions of Kayes, Sikasso as well as south-west Koulikoro are reported to be particularly affected by the proliferation of small arms. Craft hunting weapons predominate, held in particular to participate in hunting festivities.<sup>13</sup> Few weapons of war (light weapons and certain small arms) are believed to circulate there, with the exception of populations settled on the Mauritanian, Guinean and Ivorian borders, who arm themselves to deal with cross-border criminal groups. The acquisition of these weapons of war would have been facilitated by the existence of trafficking networks originating in Guinea, passing through the border post of Kourémalé (Koulikoro) and Côte d'Ivoire.<sup>14</sup>

<sup>13</sup> CNLPAL, *National Action Plan 2019-2023*, *ibid*, p. 13.

<sup>14</sup> Where some Malian traffickers have bought small arms from former Ivorian fighters to send them to the North of Mali. See Georges Berghézan, *Côte d'Ivoire and Mali, at the heart of arms trafficking in West Africa*, GRIP Report, 11 February 2013, p. 32.

Some weapons of war are also said to be held by civilians working in the gold zones of Sikasso and Kayes.

In the Bamako district, large numbers of firearms are circulating both in old neighbourhoods hosting crowded places (bus stations and markets) and in peripheral areas. In particular, the district is said to be home to a high concentration of small arms.<sup>15</sup>

The central regions, namely Mopti and Ségou, are particularly exposed to the proliferation of weapons of war and small arms among civilian for three reasons: the lack of presence of State services, the lack of confidence of the population in law enforcement services and the persistent activity of armed jihadist and separatist groups. The latter, which use weapons of war against both the armed forces and civilians, also exploit and take advantage of inter-community conflicts to gain a foothold.

The north of Mali is also heavily affected by the proliferation of weapons of war.<sup>16</sup> Several factors contribute to this: the presence of criminal groups involved in the transport of drugs and illicit goods requiring armed protection;<sup>17</sup> the recurrence of rebellions in the second half of the 20th century; the looting of Muammar Gaddafi's huge stockpiles; and the abandonment by the FAMA of arms depots in 2012.<sup>18</sup> Some non-state armed groups have also established links with local trafficking networks in order to procure weapons.<sup>19</sup> In the Timbuktu and Gao regions, localities in Gourma and Haoussa are reported to have high levels of civilian possession of arms. In Kidal, weapons of war are said to circulate among civilians in several localities, but especially in the gold zones. Large quantities of illicit SALW are reportedly circulating among civilians in Ménaka region, as well as in the border areas of Niger, where armed herders are used to transit.<sup>20</sup>

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15. CNLPAL, National Action Plan 2014-2018, *op. cit.*

16. For example, secessionist and jihadist armed groups quickly acquired an assortment of small arms such as AK-pattern assault rifles, FN-FAL, G-3 rifles, and French MAT submachine guns, *Small Arms Survey and Conflict Armament Research, Rebel Forces in Northern Mali*, April 2013.

17. International Crisis Group, *Drug Trafficking, Violence and Politics in Northern Mali*, Africa Report n°267, 13 décembre 2018, p. 4-6.

18. Between 60 and 80 per cent of the weapons in circulation in northern Mali are believed to originate in the diversion of national stockpiles. Fiona Mangan and Matthias Nowak, *The Sahel-West Africa Connection*, Small Arms Survey, 2020, p. 11.

<sup>19</sup> International Crisis Group, *op. cit.*

<sup>20</sup> CNLPAL, National Action Plan 2019-2023, p. 13.



## IV) Typology of possible resistances to the new law on SALW

The adoption of the new law on SALW will take place in a very different context from that which prevailed when the previous version was adopted in 2004. Indeed, the political and security context of 2020 is marked by the violent action of armed groups, particularly in the centre of the country, the resurgence of community clashes and political tension relating to the implementation of the Peace and Reconciliation Agreement resulting from the Algiers process. Without claiming to be exhaustive, this note identifies six possible resistances or ‘stumbling blocks’ to the acceptance of the new law by the population.<sup>21</sup>

### A) Perception of the law as an attack on the culture of arms owners.

Avenues for resolution: Raise awareness among professional groups and traditional arms owners (hunters) that the law does not prevent practices associated with the possession of a weapon as long as they comply with the requirements of the said law. The legislation simply maintains a procedure for acquiring and carrying a weapon that is common to all citizens, with no special rights for hunters or other traditional arms owners.

### B) Fear that the right to self-defence will be eroded, especially in areas where insecurity has worsened.

Avenues for resolution: Awareness-raising activities could emphasise that the right to possess weapons on the grounds of self-defence is enshrined in the new law, as it is in the ECOWAS Convention. In terms of implementation, the identification and registration of weapons illegally possessed by civilians (excluding weapons of war) could, as a first step, take precedence over the administration of the sanction in areas where security is only marginally provided by the Security Forces (FDS). The priority would be to obtain the most exhaustive view of the number and type of weapons held by civilians, before moving forward to handle unlawful cases. Similarly, the implementation of the new law SALW could initially focus on collecting weapons prohibited from possession (certain small arms and light weapons) rather than weapons authorised for possession but acquired illegally.

### C) Belief in manipulation from foreign actors to ‘disarm’ Malian citizens. The fact that the new law is essentially transposing the ECOWAS Convention may feed the belief in an encroachment of the regional organisation on Malian sovereignty. During an awareness-raising workshop on arms transfers, GRIP was able to note the apprehensions of certain elements of civil society with

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21. The identification of these six ‘stumbling blocks’ derives from the abovementioned characteristics of firearms ownership in Mali. It also benefitted from GRIP’s direct observations at a workshop on the Arms Trade Treaty and the ECOWAS Convention on SALW, held in Bamako in February 2020.



regard to the said Convention, as well as ECOWAS itself, perceived in this area as a threat to the right to possess arms.

Avenues for resolution: Develop a communication strategy recalling that 1) Mali was a driving force in the development of the regional Moratorium on SALW and then of the ECOWAS Convention on SALW. To this respect, it should be noted that Mali has had strict legislation in this area (2004) even before the Convention entered into force (2006). 2) Mali was sovereign in ratifying the Convention as well as in its implementation (the transposition period of nearly fifteen years is proof of this). In addition, this strategy should aim to depoliticise the issue of SALW control, focusing instead on its tangible security benefits. It may recall, as an example, that the new law will primarily contribute to the achievement of national security objectives, such as the *Plan de sécurisation intégrée des régions du Centre* (Integrated Security Plan for the Centre's regions) which specifically identifies the proliferation of weapons of war as a national vulnerability.<sup>22</sup>

- D) Sense of injustice: Communities particularly affected by the activity of armed groups could perceive the new law as an injustice that would deprive them of their means of self-defence in the face of criminal entities that have weapons of war at their disposal.

Avenues for resolution: Raise awareness among communities in the areas most affected by armed violence, by terrorist groups or militias, that the law will not restrict the right to detention in self-defence, on the one hand, and that its full and effective implementation will depend on the evolution of the redeployment of the FAMA, on the other hand.

In order to build confidence with these communities, Mali's political and military authorities could ensure that FAMA's deployments and patrols are planned in a way that 'rewards' those playing along the rules of SALW legislation.<sup>23</sup> Finally, awareness-raising activities could recall that the law is part of a broader approach to security issues in Mali. As demonstrated by the existing synergies with the objectives of the *Plan de sécurisation intégrée des régions du Centre* (Integrated Security Plan for the Centre's regions), the law is not disconnected from the security situation on the ground.

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22. Ministère de la Sécurité et de la Protection civile, [\*Plan de sécurisation intégrée des régions du centre\*](#), February 2017, Security component.

23. As to the North, and in accordance with the interim arrangements stipulated by the Reconciliation and Peace Agreement, the Technical Security Commission, on behalf of the Defence and Security Sub-Committee of the Agreement's Monitoring Committee, oversees the redeployment of the FAMA and the integration of ex-rebel fighters into the new units. [\*Agreement for Peace and Reconciliation in Mali\*](#), signed on 15 May and finalized on 20 June 2015, Annex 2, point IV.

- E) Sense of injustice linked to the risk of economic harm: the possession of weapons makes it possible to protect one's economic activity or livelihood against theft or attacks.

Avenues for resolution: the continued redeployment of law enforcement services remains essential for the creation of a favourable environment for economic activities, coupled with investment in local conflict resolution mechanisms.

- F) Mistrust of the State's laws. For a variety of reasons, some communities turn primarily to the customary authorities to settle minor disputes or crimes and express more confidence in the customary justice system than in the State system. For example, a study conducted by SIPRI in February 2019 showed that 53% of respondents in the Mopti and Segou regions sought the help of customary authorities in cases of serious conflict, while only 24% reported to the FAMA or security forces.<sup>24</sup>

Avenues for resolution: organise awareness-raising activities with non-state judicial authorities to anchor the provisions of the law on SALW in the logic of customary law and habits, where possible and desirable.<sup>25</sup> Work with these authorities to consider how to administer the penalties provided for breaches of the law in accordance with the local prison capacities and security context.<sup>26</sup>

The *Comités consultatifs locaux de sécurité* (Local Security Advisory Committees), established by the Peace and Reconciliation Agreement at the regional and communal levels, and including '*traditional, religious and customary authorities*', could serve as a forum for these discussions in the North. In the same vein, the establishment of hybrid conflict resolution and prevention mechanisms, combining customary elements and positive law, will contribute to the proper administration of justice.

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24. SIPRI, [the Challenges Of Governance, Development And Security In The Central Regions Of Mali](#), *op. cit.*

25. As suggested for different issues by Aurélien Tobie and Boukary Sangaré, [Impacts of armed groups on populations in northern Mali](#), SIPRI, October 2019, p. 30. However, the area of competence of these judicial authorities, such as the *cadi* in the North, does not necessarily encompass arms trafficking.

26. As the existence of a functioning prison or court. Voir Fransje Molenaar *et al.*, '[The status-quo defied: the legitimacy of traditional authorities in areas of limited statehood in Mali, Niger, and Libya](#)', CRU Report, *Clingendael*, septembre 2019, p. 105.

## V) Conclusion

The adoption of a new law SALW, incorporating the components of the ECOWAS Convention on SALW, is a necessity in view of the proliferation of weapons in the country. However, the legislative component must be coupled with an awareness campaign among civilians to garner support. Lawmakers, as legislators but also as guarantors of territorial representation, have a crucial role to play in achieving collective acceptance of the law. The evolution of local security dynamics, the gradual redeployment of armed and security forces in the area, the progress of DDR programmes and the collective psychology of arms owners are all elements that need to be taken into account in the drafting, implementation and promotion of the future law.