

4. MALI: THE OVERLAP AND COMBINATION OF SEPARATIST, JIHADIST AND INTERCOMMUNAL CONFLICTS

Alessandro Mario Amoroso

Classification of the Conflict

Mali, supported by France, the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) and by militias of the Movement for the Salvation of Azawad (MSA) and the Imghad Tuareg Self-Defense Group and Allies (GATIA), continued to be involved in a non-international armed conflict (NIAC) on its territory against Jama'at Nusrat al-Islam wal-Muslimin (JNIM) and the Islamic State in the Greater Sahara (ISGS). According to the War Report, intercommunal clashes between Dan Nan Ambassagou and the Alliance for the Salvation of the Sahel also reached the threshold of a NIAC during the last year.

A. HISTORY OF THE CONFLICT

Mali has been plagued since 2012 by a series of consecutive and overlapping NIACs. Originally a Tuareg rebellion for the independence of the northern regions, the insurgency was quickly hijacked by Islamist groups aiming to impose Sharia law across the country. It recently unleashed a hitherto unknown level of community violence, which extended the fight to the central regions and contributed to keeping the conflict active in 2018. The Mali civil war was marked, in rapid progression, by a failed secession, a military coup, the emergence of Salafi jihadism, the destruction of a UNESCO World Heritage site, a foreign intervention, a regional peace enforcement operation, a robust UN peacekeeping mission, two war crimes trials before the International Criminal Court (ICC) and, eventually, the creation of a regional task force in the Sahel with a counter-terrorism mandate.

Despite repeated Tuareg uprisings, the unprecedented combination of separatist claims with jihadist extremism and intercommunal clashes represents a novelty in Mali and stands in stark contrast to the recent past of the country. The history of the conflict can be divided into four phases.⁴⁷⁷

1. The Tuareg Rebellion in Azawad and Military Coup in Bamako

The Mali civil war was triggered by a Tuareg insurgency in the north, the fourth in the country's history since its independence from France in 1960.⁴⁷⁸ Previous peace agreements led to the creation of a self-governing Kidal region in the northeast,

477 Unless otherwise indicated, background facts provided in this section are based on 'Mali', Uppsala Conflict Data Program, <http://ucdp.uu.se/#country/432> (last accessed 20 January 2019). A timeline of main events can be read (in French) in 'Mali Chronologie', *Jeune Afrique*, 16 January 2018, <https://www.jeuneafrique.com/pays/mali/chronologie/>, and 'Mali', RFI, August 2018, <http://www.rfi.fr/pays/mali-chronologie-demographie-chiffres-economie-geographie>.

478 For an account of previous rebellions, see G. Chauzal and T. van Damme, *The Roots of Mali's Conflict: Moving Beyond the 2012 Crisis*, Clingendael: Netherland Institute of International Relations, March 2015, pp 30–36, https://www.clingendael.org/sites/default/files/pdfs/The_roots_of_Malis_conflict.pdf (last accessed 20 January 2019).

populated primarily by Tuareg,⁴⁷⁹ and committed the central government to investing in the development of the new region.⁴⁸⁰ The inadequate implementation, however, failed to remove the root causes of Tuareg resentment towards Bamako, which lay largely in a feeling that the north was politically and economically marginalized to the benefit of southern dominance in the aftermath of decolonization.⁴⁸¹ In late 2011, political and economic factors combined with the return from Libya of well-equipped Tuareg fighters who had been trained in Gaddafi's Islamic Legion and/or fought on both sides of the Libyan civil war.⁴⁸² They coalesced in October 2011 with former separatist rebels to found the National Movement for the Liberation of Azawad (MNLA), claiming the independence of Azawad, the northern territory of Mali comprised of the regions of Gao, Timbuktu and Kidal.

The conflict in northern Mali started on 17 January 2012 when the MNLA attacked the small town and military garrison of Ménaka.⁴⁸³ During the following weeks, two Islamist groups known as al-Qaeda in the Islamic Maghreb (AQIM), already active in the region, and Ansar Dine, which appeared in late 2011, joined the conflict, conducting simultaneous attacks, sometimes in coordination with the MNLA.⁴⁸⁴ By the end of March 2012, the Malian Armed Forces (FAMA) were pushed out of key centres and lost control of nearly one-third of the country's territory. At this point in the conflict, the conditions for the applicability of the 1977 Additional Protocol II (AP II) to the 1949 Geneva Conventions seemed to be met.⁴⁸⁵

On 20 March, the African Union Peace and Security Council (PSC) held an emergency ministerial-level meeting in Bamako.⁴⁸⁶ The following night, a mutiny in the military barracks of Kati, outside the capital, turned into a military coup against President Amadou Toumani Touré, just one month before the scheduled presidential elections. On 22 March, it was announced that the armed forces, led by Captain Amadou Sanogo, had seized power, suspended the Constitution of 1992 and

479 Accord sur la cessation des hostilités (Accord de Tamanrasset), 6 January 1991, <https://peacemaker.un.org/mali-accordcessationhostilites91> (last accessed 20 January 2019).

480 Accord d'Alger pour la Restauration de la Paix, de la Sécurité et du Développement dans la région de Kidal (Accord d'Alger), 4 July 2006, <https://peacemaker.un.org/mali-accordalger2006> (last accessed 20 January 2019).

481 Chauzal and van Damme, *The Roots of Mali's Conflict*, pp 17–29.

482 Ibid, p 45. See also O. Ba, *Tuareg Nationalism and Cyclical Pattern of Rebellions: How the Past and Present Explain Each Other*, Sahel Research Group Working Paper no 007, University of Florida Center for African Studies, March 2014, p 7, https://sites.clas.ufl.edu/sahelresearch/files/Ba_Tuareg-Nationalism_final.pdf (last accessed 20 January 2019).

483 P.-F. Naudé, 'Nord-Mali: «plusieurs morts» dans des affrontements avec des rebelles Touaregs', *Jeune Afrique*, 18 January 2012, <https://www.jeuneafrique.com/177681/politique/nord-mali-plusieurs-morts-dans-des-affrontements-avec-des-rebelles-touaregs/>.

484 T. Oberlé, 'AQMI épaulé les rebelles Touaregs', *Le Figaro*, 14 March 2012, <http://www.lefigaro.fr/international/2012/03/14/01003-20120314ARTFIG00773-att-aqmi-epaule-les-rebelles-touaregs.php>.

485 Art 1, Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (AP II), 8 June 1977.

486 African Union Peace and Security Council (PSC), Communiqué of the 314th Meeting of the Peace and Security Council at Ministerial Level, 20 March 2012, PSC/MIN/COMM.(CCCIV), <http://www.peaceau.org/uploads/psc.mali.20-03-2012.pdf> (last accessed 20 January 2019).

established a National Committee for the Restoration of Democracy and State. The declared remit of the junta was to remedy the government's incapacity to tackle the conflict in the north and save the country from dissolution before handing over power to new democratically elected institutions.⁴⁸⁷

The coup immediately revealed 'a spectacular own-goal'.⁴⁸⁸ Besides being unanimously condemned at the international level, leading to the suspension of Mali from the African Union (AU)⁴⁸⁹ and the imposition of sanctions and an embargo by the Economic Community of West African States (ECOWAS),⁴⁹⁰ the putsch provoked the final collapse of the FAMA, who abandoned all the main centres in the north. On three consecutive days (30 March–1 April 2012), the rebels entered Kidal, Gao and Timbuktu, the three regional capitals and biggest cities of Azawad. The balance of power on the ground at that moment appears blurred, with the Islamists of AQIM and Ansar Dine, joined by a splinter faction of AQIM known as the Movement for Oneness and Jihad in West Africa (MUJAO), in control of the main centres, where they started to impose Sharia law.

On 6 April 2012, a Framework Agreement was brokered with the mediation of ECOWAS, achieving a political transition in Bamako. Captain Sanogo and President Touré agreed to resign and transfer power to the National Assembly's Speaker, Diounounda Traoré, appointed interim President.⁴⁹¹ On that same day, in an interview with France 24, an MNLA spokesman declared the entire north liberated and proclaimed the independence of Azawad.⁴⁹²

2. The Jihadist Takeover and Planned Regional Operation

The proclaimed independence of Azawad and the power transition in the capital could have reasonably led to a resurgence of violence between Bamako and the MNLA. However, the following months were marked by internal chaos on both fronts.

In the aftermath of the declaration of independence, a new Arab militia, the National Liberation Front of Azawad (FNLA), was formed in Timbuktu to fight the MNLA and oppose the secession. On 26 May 2012, however, the MNLA and Ansar Dine announced a Memorandum of Understanding, according to which both

487 'Communiqué du Comité National pour le Redressement, la Démocratie et la Restauration de l'État', *MaliJet*, 22 March 2012, <http://malijet.com/actualite-politique-au-mali/40599-communique-du-comite-national-pour-le-redressement%2C-la-democrati.html> (last accessed 20 January 2019).

488 C. Dioura and A. Diarra, 'Mali Rebels Assault Gao, Northern Garrison', *HuffPost*, 31 March 2012, https://www.huffingtonpost.com/2012/03/31/mali-rebels-assault_n_1393415.html.

489 PSC, Communiqué of the 315th Meeting of the Peace and Security Council, PSC/PR/COMM.(CCCXV), 23 March 2012, <http://www.peaceau.org/uploads/psc-comm-mali-23-03-2012-eng.pdf> (last accessed 20 January 2019).

490 ECOWAS, Emergency Mini-Summit of ECOWAS Heads of State and Government on the Situation in Mali, press release, 30 March 2012, <http://news.ecowas.int/presseshow.php?nb=092&lang=en&annee=2012> (last accessed 20 January 2019).

491 Accord cadre de mise en œuvre de l'engagement solennel du 1^{er} Avril 2012, 2 April 2012, <https://peacemaker.un.org/mali-accord-cadre2012> (last accessed 20 January 2019).

492 'Tuareg Rebels Declare Independence in North Mali', *France24*, 6 April 2012, <https://www.france24.com/en/20120406-france-24-exclusive-tuareg-rebels-declare-independence-mna-mali-ansar-dine-azawad>.

agreed to dissolve and found the Transitional Council of the State of Azawad, the first step towards the creation of an Islamic State of Azawad. The deal crumbled a few days later. On the one hand, most of the MNLA leadership refused to disavow the group's traditional secularism by signing off the imposition of Sharia law in Azawad. On the other, the Islamists had strengthened their ranks while moving south to territories populated by other ethnic groups more sensitive to jihadist propaganda than to the independentist agenda of the MNLA.

The first clashes between the MNLA and Ansar Dine reportedly occurred on 8 June 2012, in the surroundings of Kidal,⁴⁹³ triggering a parallel NIAC between Tuareg and Islamist rebels. By the end of the month, Ansar Dine, MUJAO and AQIM expelled the MNLA from major cities in the north. On 30 June, members of Ansar Dine began the systematic destruction of the ancient mausolea and Muslim shrines of the World Heritage site Timbuktu.⁴⁹⁴

During the same months, the fragile interim institutions established by the 6 April Framework Agreement remained under permanent threat from the military. At the end of April, the ex-junta repelled a counter-coup led by the Red Berets, an elite unit of paratroopers loyal to ousted President Touré. Allegations of torture, enforced disappearances and extrajudicial killings of detained Red Berets⁴⁹⁵ were later confirmed by the discovery of mass graves outside the capital.⁴⁹⁶ On 21 May, pro-junta demonstrators stormed the presidential palace and wounded President Traoré. In December 2012, Prime Minister Cheick Modibo Diarra, chairing a government of national unity, was arrested by soldiers of the ex-junta and forced to resign. He was replaced by Django Sissoko, appointed by President Traoré.

With the political and military institutions of Mali in a state of disarray, ECOWAS and the AU prepared to intervene militarily to eradicate the jihadist menace in Mali. On 12 June 2012, the PSC authorized the deployment of a peace operation led by the ECOWAS Standby Force.⁴⁹⁷ The expected deployment of the mission within three weeks, subject to authorization by the UN Security Council (UNSC), was slowed down by the initial refusal of the UNSC to endorse the operation and provide UN funding. The stalemate lasted until December, when all conditions imposed by the UNSC concerning mandate, planning, mission management and

493 'Mali Rebel Groups "Clash in Kidal"', *BBC News*, 8 June 2012, <https://web.archive.org/web/20121223052848/http://www.bbc.co.uk/news/world-africa-18377168>.

494 'Ansar Dine Fighters Destroy Timbuktu Shrines', *Al Jazeera*, 1 July 2012, <https://www.aljazeera.com/news/africa/2012/06/2012630101748795606.html>.

495 Human Rights Watch (HRW), 'Mali: Security Forces "Disappear" 20, Torture Others', 25 July 2012, <https://www.hrw.org/news/2012/07/25/mali-security-forces-disappear-20-torture-others> (last accessed 20 January 2019).

496 'Mali: deux fosses communes découvertes aux environs de Kati', *RFI*, 24 February 2014, <http://www.rfi.fr/afrique/20140224-mali-deux-fosses-communes-decouvertes-environs-kati/>.

497 PSC, Communiqué of the 323rd Meeting of the Peace and Security Council, PSC/PR/COMM.(CCCXXIII), 12 June 2012, <http://www.peaceau.org/uploads/psc-323-mali-12-06-2012.pdf> (last accessed 20 January 2019).

accountability were met.⁴⁹⁸ In Resolution 2085 of 20 December 2012, the UNSC invoked Chapter VII of the UN Charter to authorize the African-led International Support Mission to Mali (AFISMA). With a strength of 3,300 personnel, AFISMA was tasked with a peace enforcement mandate '[t]o support the Malian authorities in recovering the areas in the north of its territory under the control of terrorist, extremist and armed groups'.⁴⁹⁹

3. French Intervention and The UN's Robust Peacekeeping Mission

Preparations for AFISMA were expected to take several months. In the first days of 2013, however, the situation in Mali changed once again. On 10 January, militants of Ansar Dine captured the city of Konna and advanced to within a few kilometres of Mopti and Ségou, a strategically important military garrison and airport in the centre of Mali. When the fall of Bamako appeared imminent, President Traoré resolved to request immediate French military intervention.⁵⁰⁰

On 11 January 2013, France launched Operation Serval, progressively deploying more than 4,000 personnel within a few days. Backing the FAMA with air and ground support, the French troops swiftly managed to repel the Islamist offensive and disband the rebels. On 28 January, Islamists fleeing Timbuktu from approaching French and Chadian forces set fire to the Ahmed Baba Institute, but fortunately only a limited number of its manuscripts were destroyed.⁵⁰¹ On 30 January, after Gao and Timbuktu, French soldiers entered Kidal. On 2 February, French President François Hollande and President Traoré appeared together in Timbuktu to celebrate the recapture of the north.

By reversing the power balance on the ground, the French intervention seemed to bring the conflict close to a military and political solution. The rapid territorial gains obtained by France induced ECOWAS and the AU to accelerate AFISMA's deployment in order to help the Malian army retain control over the recaptured areas. The first troops – contributed by Nigeria – arrived on 17 January. On the same date, the European Union established a multinational military Training Mission in Mali (EUTM Mali).⁵⁰² On the following day, Chad joined the conflict with a contingent of 2,000 soldiers – the Chadian Armed Forces Intervention in Mali

498 For a full account of the planning and authorization process, see W. Lotze, 'United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)', in J. A. Koops, T. Tardy, N. MacQueen and P. D. Williams (eds), *The Oxford Handbook of United Nations Peacekeeping Operations*, Oxford University Press, 2015, p 858.

499 UNSC Res 2085, 20 December 2012. For the qualification of AFISMA as a peace enforcement operation, see Lotze, 'United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)', p 858.

500 Identical letters dated 11 January 2013 From the Permanent Representative of France to the United Nations Addressed to the Secretary-General and the President of the Security Council, UN doc S/2013/17, 11 January 2013.

501 T. Ralph, 'Islamists Have Destroyed One-Tenth of Timbuktu's Ancient Manuscripts, UN Finds', *PRI*, 3 July 2013, <https://www.pri.org/stories/2013-07-03/islamists-have-destroyed-one-tenth-timbuktus-ancient-manuscripts-un-finds>.

502 Council of the European Union, 'EU Training Mission in Mali Established', press statement 5428/13, 17 January 2013, https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/134748.pdf (last accessed 13 February 2019).

(FATIM) – who initially fought under national command alongside French troops, only being integrated into AFISMA in March.⁵⁰³

At this point, the conflict entered a guerrilla phase. Ansar Dine and AQIM retreated to the Adrar des Ifoghas in the northeast, chased by French and Chadian troops. MUJAO remained in the Gao region, conducting sporadic attacks. A splinter group of Ansar Dine calling itself the Islamic Movement for Azawad (MIA) declared its rejection of terrorism and demanded the start of negotiations for a peaceful settlement of the conflict.⁵⁰⁴ The Tuareg front was not immune from realignments either. The MNLA, which at the end of 2012 had dropped its separatist claims, declared its readiness to cooperate with France in the fight against jihadism. In the following weeks, episodes of actual clashes were reported, along with France's willingness to favour a political solution which involved the Tuareg.⁵⁰⁵ On 2 May, the High Council for the Unity of Azawad (HCUA) was founded by the Tuareg to facilitate peace talks with the government.⁵⁰⁶ The MIA decided to join the HCUA, while the MNLA refused.

Despite AFISMA's anticipated deployment, the interim Government of Mali, France, ECOWAS and the AU agreed to request AFISMA's transition into a UN peacekeeping operation.⁵⁰⁷ On 25 April 2013, UNSC Resolution 2100 authorized the deployment of MINUSMA, comprising up to 11,200 military and 1,440 police personnel. Established under Chapter VII of the UN Charter, MINUSMA was provided with a widely robust mandate including the authorization to 'stabilize key population centers ... and deter threats and take active steps to prevent the return of armed elements to those areas'.⁵⁰⁸ Given the security situation in Mali, the UNSC also authorized French troops to operate as a parallel force alongside MINUSMA, using 'all necessary means ... to intervene in support of elements of MINUSMA when under imminent and serious threat upon request of the Secretary-General'.⁵⁰⁹

On 18 June 2013, the government and the Tuareg rebels of the MNLA and the HCUA signed a preliminary peace agreement in Ouagadougou, which paved the

503 'Mali: le contingent tchadien rejoint officiellement la MISMA', *RFI*, 10 March 2013, <http://www.rfi.fr/afrique/20130310-mali-le-contingent-tchadien-integre-misma>.

504 'New Mali Rebel Faction Calls for Negotiations', *Al Jazeera*, 25 January 2013, <https://www.aljazeera.com/news/afrika/2013/01/2013124223130722857.html>.

505 C. Diouara, 'French Battle Mali Islamists as Tuareg Problem Looms', *Reuters*, 6 February 2013, <https://www.reuters.com/article/us-mali-rebels/french-battle-mali-islamists-as-tuareg-problem-looms-idUSBRE9150LR20130206>.

506 P.-F. Naudé, 'Mali: des Touaregs créent un Haut conseil de l'Azawad pour négocier avec Bamako', *Jeune Afrique*, 6 May 2013, <https://www.jeuneafrique.com/170970/politique/mali-des-touaregs-cr-ent-un-haut-conseil-de-l-azawad-pour-n-gocier-avec-bamako/>.

507 Lotze, 'United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)', p 859.

508 UNSC Res 2100, 25 April 2013, §16.

509 *Ibid.*, §18.

way for presidential elections and inclusive peace talks.⁵¹⁰ The agreement created the political conditions for the deployment of MINUSMA, which started on 1 July 2013 with the transfer of authority over AFISMA's personnel. MINUSMA's first task was to oversee the two turns of the 2013 presidential elections in July and August, which saw the victory of Ibrahim Boubacar Keïta. A few months later, Captain Sanogo, leader of the March 2012 military coup, was arrested and charged with crimes committed during the putsch.⁵¹¹

4. The End of the Tuareg Rebellion Alongside Relentless Jihadist Violence

The fragile ceasefire signed in June 2013 fell apart rapidly. In September, the MNLA, the HCUA and the Arab Movement of Azawad (MAA, the new designation of the FNLA) suspended negotiations with Bamako, faced with the government's refusal to discuss the autonomy of Azawad.⁵¹² In November, the MNLA announced its resumption of the fight. The truce finally broke down in May 2014, when the Tuareg recaptured Kidal and, repelling an army counter-offensive, occupied Ménaka, Léré and other cities in the north.⁵¹³ Following the recent debacle of the FAMA, in August 2014 Tuareg of the Imghad tribe announced the creation of the GATIA, aligned with the government to oppose the rebels. The GATIA joined the loyalist wing of the MAA and other organizations of the Platform, a coalition of loyalist armed groups created in June 2014. In the second half of 2014, the Platform started a campaign against the MNLA, the HCUA and the rebel faction of the MAA, who in turn formed a military alliance: the Coordination of Azawad Movements (CMA).

Facing a different configuration of forces on the ground, with the Islamists no longer controlling a fixed territory but taking advantage of desert areas to operate across the borders, France announced the conclusion of Operation Serval and its replacement with Operation Barkhane as of 1 August 2014. With 3,000 personnel, later increased to 4,500, Operation Barkhane was not limited to Mali but tasked with fighting Salafi jihadism in the entire Sahel.⁵¹⁴

In 2015, the northern Mali conflict seemed to move forward towards a solution. After negotiating a ceasefire in February, an Agreement for Peace and Reconciliation was finally reached in Algiers, granting more autonomy to the north, providing for rebels' reintegration in the national security forces and promising better represen-

510 Accord préliminaire à l'élection présidentielle et aux pourparlers inclusifs de paix au Mali (Accord de Ouagadougou), 18 June 2013, <https://peacemaker.un.org/mali-accord-preliminaire-elections2013> (last accessed 20 January 2019).

511 FIDH, 'Mali: General Sanogo Arrested and Taken into Custody in the "Missing Red Berets" Case', 29 November 2013, <https://www.fidh.org/en/region/Africa/mali/14323-mali-general-sanogo-arrested-and-taken-into-custody-in-the-missing-red> (last accessed 20 January 2019).

512 P.-F. Naudé, 'Les négociations avec les rebelles achoppent sur l'autonomie du Nord', *Jeune Afrique*, 27 September 2013, <https://www.jeuneafrique.com/168211/politique/mali-les-n-gociations-avec-les-rebelles-achoppent-sur-l-autonomie-du-nord/>.

513 'Chassé de Kidal, le gouvernement malien décrète un cessez-le-feu', *RFI*, 22 May 2014, <http://www.rfi.fr/afrique/20140522-mali-kidal-cessez-feu-instaure-gouvernement-malien/>.

514 Ministère des Armées, Dossier de presse – Opération Barkhane, December 2018, file:///C:/Users/amorooa/Download/20181218_NP_EMA%20CABCOM_DP%20BARKHANE_vf.pdf.

tation. Initially accepted only by loyalist groups and international mediators on 15 May, the agreement was finally signed by the CMA on 20 June 2015.⁵¹⁵

In the same period, the jihadist front registered instead a recrudescence of violence, partly due to a reorganization of Islamist forces. Victims of many jihadist attacks were peacekeepers, who remained the sole regular force with a constant presence throughout northern Mali.⁵¹⁶ The whole of 2015 was marked by continuous attacks. On 20 November, two Islamist militants took 170 hostages in the Radisson Blu hotel in Bamako and killed 20 of them before the intervention of the Malian Special Forces.⁵¹⁷ Al-Mourabitoun, a jihadist organization created in late 2013 from the merger of MUJAO and the Signataires par le sang ('signatories in blood'), claimed responsibility for the attack.⁵¹⁸ The Macina Liberation Front (MLF), another Salafi group that emerged in mid-2015, spread terror in the central regions.⁵¹⁹

On 31 March 2016, the National Assembly of Mali passed a law establishing interim authorities in the north. Yet, hopes of a smooth implementation of the peace deal were shattered in 2016 by a reawakening of past tensions and the appearance of new threats. The state of emergency, having expired on 31 March, was restored on 19 July after an attack by the MLF on the Nampala army base, which killed 17 soldiers. In the same month, a report by the International Crisis Group drew attention to the escalation of violence in central Mali, the first intercommunal clashes between Bambara and Fulani self-defence militias.⁵²⁰ In August, the conflict between rival Tuareg factions broke out again, with frequent confrontations between the CMA and the GATIA. As a result, in September former members of the MNLA, the HCUA and the MAA founded the MSA, seeking to strengthen the peace process and halt community violence.⁵²¹

At the beginning of 2017, the peace process came under attack. On 18 January, a suicide bombing claimed by AQIM hit a military camp in Gao, killing 77 people. The base housed government troops and former rebels of the CMA and the Platform taking part in joint patrols under the Operational Coordination Mechanism,

515 Accord Pour la Paix et la Réconciliation au Mali – Issu du Processus d'Alger (Accord d'Alger), 20 June 2015, <https://peacemaker.un.org/node/2681> (last accessed 20 March 2019).

516 Report of the Secretary-General on the Situation in Mali, UN doc S/2015/219, 27 March 2015, §69.

517 'Mali Hotel Attack: "No More Hostages" After Special Forces Raid', *BBC News*, 20 November 2015, <https://www.bbc.com/news/world-africa-34879955#>.

518 C. Muratet, 'Mali: qui sont les nouveaux chefs des katibas jihadistes?', *RFI*, 14 May 2014, <http://www.rfi.fr/afrique/20140514-mali-etat-jihadistes-apres-mort-emir-al-mourabitoune-aqmi-al-qaida-mujao-belmokhtar/>.

519 K. Calderwood, 'Macina Liberation Movement: New Terror Group In Mali Threatens Peace Agreement', *International Business Times*, 14 May 2015, <https://www.ibtimes.com/macina-liberation-movement-new-terror-group-mali-threatens-peace-agreement-1915290>.

520 International Crisis Group, *Central Mali: An Uprising in the Making?*, Africa Report no 238, 6 July 2016, <https://www.crisisgroup.org/africa/west-africa/mali/central-mali-uprising-making> (last accessed 20 January 2019).

521 R. Carayol, 'Mali – Moussa Ag Acharatoumane: «Nous avons créé le MSA pour représenter tous les Azawadiens», *Jeune Afrique*, 9 September 2016, <https://www.jeuneafrique.com/355863/politique/mali-moussa-ag-acharatoumane-avons-cree-msa-representer-azawadiens/>.

established in the framework of the peace agreement.⁵²² On 1 March 2017, Ansar Dine, Al-Mourabitoun, the MLF and the Saharan branch of AQIM merged to form Jama'at Nusrat al-Islam wal-Muslimin (JNIM), which became the official branch of Al-Qaeda in Mali.⁵²³ At the same time, a series of attacks on civilians were claimed by ISGS, a splinter group of Al-Mourabitoun professing allegiance to the Islamic State.⁵²⁴ More than five years after the beginning of the conflict, the threat posed by Salafi jihadism had reached a new level and required the enhancement of military efforts. On 6 February, Burkina Faso, Chad, Mali, Mauritania and Niger, which in 2014 had established an institutional framework for cooperation known as G5 Sahel, agreed to establish a Joint Force (G5SJF) operating under a clear counter-terrorism mandate. On 1 November 2017, the G5SJF launched its first mission, codenamed Hawbi.

On 20 September 2017, after months of escalating tensions, the CMA and the Platform signed a 'document of commitments', providing for a definitive cessation of hostilities and the finalization of the peace process.⁵²⁵ Their demobilization and integration in the security forces followed soon thereafter.

B. PARTIES TO THE CONFLICT

1. Malian Armed Forces (FAMA)

The FAMA are comprised of the army and the air force, as well as two paramilitary corps, the Gendarmerie and National Guard. All forces are under the control of the Ministry of Defence and Veterans. Their current estimated strength is 17,800 troops – 10,000 military and 7,800 paramilitary personnel.⁵²⁶ The defence budget is around 2 percent of the GDP.⁵²⁷ The FAMA suffered a collapse after the Tuareg rebellion and the military coup of March 2012. They have since been reorganized with the support of French troops, EUTM Mali and the EU Capacity Building Mission in Mali.

2. French Armed Forces

French military engagement in Mali started on 11 January 2013 with Operation Serval, deploying up to 4,500 troops in the country. Although different legal justifications were cited by French authorities,⁵²⁸ the operation relied on the invitation

522 'Death Toll From Suicide Blast at Gao Army Base Rises', *Al Jazeera*, 19 January 2017, <https://www.aljazeera.com/news/2017/01/suicide-blast-gao-army-base-170119112555093.html>.

523 C. Gaffey, 'African Jihadi Groups Unite and Pledge Allegiance to Al-Qaeda', *Newsweek*, 3 March 2017, <https://www.newsweek.com/al-qaeda-groups-unite-sahel-563351>.

524 'Mali: le groupe Etat islamique officialise sa présence au Sahel', *RFI*, 31 October 2016, <http://www.rfi.fr/afrique/20161031-mali-groupe-etat-islamique-officialise-presence-sahel-Abou-Walid-Sahraoui>.

525 Report of the Secretary-General on the Situation in Mali, UN doc S/2017/811, 28 September 2017, §5.

526 International Institute for Strategic Studies, 'Chapter 9: Sub-Saharan Africa', *The Military Balance 2018*, p 473.

527 *Ibid.*

528 For an exhaustive analysis of the legality of French intervention in Mali, see K. Bannelier and T. Christakis, 'The Intervention of France and African Countries in Mali – 2013', in T. Ruys, O. Corten and A. Hofer (eds), *The Use of Force in International Law: A Case-Based Approach*, Oxford University Press, 2018, p 812.

of the Malian Government. After the adoption of UNSC Resolution 2100, the use of force by France in Mali also rests on UNSC authorization, when French troops ‘intervene in support of elements of MINUSMA when under imminent and serious threat upon request of the Secretary-General’.⁵²⁹ Operation Serval was replaced on 1 August 2014 by Operation Barkhane. Aiming to fight terrorism in the entire region, Operation Barkhane keeps 1,000 of its 4,5000 troops in Mali.⁵³⁰ It was designed to cooperate at the military level with forces of the G5 Sahel, and to coordinate with MINUSMA and EUTM Mali. It also conducts joint actions with Tuareg militias of the MSA and the GATIA. French as well as Chadian intervention in an early stage of the conflict supported the Government of Mali and did not turn the NIAC into an international armed conflict.

3. UN Multidimensional Integrated Stabilization Mission in Mali (MINUSMA)

Established under Chapter VII of the UN Charter by UNSC Resolution 2100 of 25 April 2013, MINUSMA was formed on 1 July 2013. On that date, the 6,500 troops of AFISMA were re-hatted as a UN force.⁵³¹ With an initial authorized strength of 12,640 uniformed personnel, MINUSMA’s troops were later increased to the current 13,883, making it the third biggest ongoing UN mission. MINUSMA is also the most dangerous ongoing operation, having suffered 177 fatalities in five and a half years.⁵³²

The robustness of MINUSMA’s mandate is one example of the evolution of the traditional peacekeeping principles of impartiality and limited use of force. Resolution 2100 authorized MINUSMA, inter alia, ‘to stabilize the key population centres, especially in the north of Mali and, in this context, to deter threats and take active steps to prevent the return of armed elements to those areas’.⁵³³ Nevertheless, MINUSMA’s mandate did not match the extent of authorized use of force granted one month earlier to the Force Intervention Brigade (FIB) within the UN Stabilization Mission in the Democratic Republic of the Congo (MONUSCO). Responding to Russia’s concerns that the FIB’s peace enforcement mandate might become standard practice, the UNSC carefully avoided any reference to the ‘neutralization’ of armed groups.⁵³⁴ MINUSMA’s mandate was therefore understood as excluding offensive or counter-terrorism operations.⁵³⁵ In 2016, Resolution 2295 requested MINUSMA ‘to move to a more proactive and robust posture to carry out its mandate’.⁵³⁶ To this end, MINUSMA was authorized ‘to anticipate, deter and counter threats, including asymmetric threats, and to take robust and active steps to pro-

529 UNSC Res 2100, §18.

530 Ministère des Armées, Dossier de presse – Opération Barkhane.

531 UNSC Res 2100, §7.

532 UN Peacekeeping, ‘Peacekeeping Operations Fact Sheet’, 31 October 2018, https://peacekeeping.un.org/sites/default/files/pk_factsheet_10_18_eng.pdf (last accessed 18 January 2019).

533 UNSC Res 2100, §16.

534 UNSC Res 2098, 28 March 2013, §9.

535 Bannelier and Christakis, ‘The Intervention of France and African Countries in Mali’, p 813.

536 UNSC Res 2295, 29 June 2016, §18.

tect civilians ... and to prevent the return of armed elements to those areas, engaging in direct operations pursuant only to serious and credible threats',⁵³⁷ MINUSMA's mandate makes it a party to the conflict in Mali following a support-based approach.⁵³⁸ Indeed, MINUSMA intervened in a pre-existing NIAC to support one party to the conflict (the Government of Mali), pursuant to official UNSC authorization, and its logistical and intelligence assistance to Malian and French troops constitute activities related to the conduct of hostilities.⁵³⁹

4. The G5 Sahel Joint Force (G5SJF)

The G5 Sahel was established in 2014 by five countries (Burkina Faso, Chad, Mali, Mauritania and Niger) as an institutional framework for regional cooperation based on a common understanding of the bonds between economic development and security. In February 2017, member countries announced the creation of a Joint Force to fight jihadist organizations in their territories, often operating across the borders. The G5SJF, strongly encouraged by France to progressively hand over security in the region to local authorities, was authorized by the PSC.⁵⁴⁰ With Resolution 2359 of 21 June 2017, the UNSC welcomed the G5SJF, but fell short of providing it with a UN mandate to use force.⁵⁴¹ Despite the initial difficulty in gathering the necessary funding, the G5SJF was eventually deployed and launched its first operation in November 2017. It currently comprises 5,000 troops, divided into seven battalions.⁵⁴²

5. Jama'at Nusrat al-Islam wal-Muslimin (JNIM)

JNIM ('the group for the support of Islam and Muslims') is a Salafi jihadist organization created in March 2017, when Iyad Ag Ghaly, leader of Ansar Dine, announced the merger with the MLF, Al-Mourabitoun and the Saharan branch of AQIM.⁵⁴³ After swearing allegiance to Ayman al-Zawahiri, JNIM became the official Al-Qaeda affiliate in Mali. Bringing together an estimated strength of 800 fighters,⁵⁴⁴ the

537 Ibid, §19.

538 T. Ferraro, 'The Applicability and Application of International Humanitarian Law to Multinational Forces', 95 *International Review of the Red Cross* 891/892 (2013) 584-586.

539 Since the establishment of the All Source Information Fusion Unit (ASIFU) in April 2014, MINUSMA is the first UN mission equipped with a centralized military intelligence structure acting at operational level under the control of the Force Commander.

540 PSC, Communiqué of the 679th Meeting of the Peace and Security Council, 13 April 2017, PSC/PR/COMM.(DCLXXIX), <http://www.peaceau.org/uploads/679th-com-g5sahel-13-04-2017.pdf> (last accessed 20 January 2019).

541 UNSC Res 2359, 21 June 2017, §1.

542 J. G. Cook, 'Understanding the G5 Sahel Joint Force: Fighting Terror, Building Regional Security?', Center for Strategic and International Studies, 15 November 2017, <https://www.csis.org/analysis/understanding-g5-sahel-joint-force-fighting-terror-building-regional-security> (last accessed 20 January 2019).

543 Gaffey, 'African Jihadi Groups Unite and Pledge Allegiance to Al-Qaeda'.

544 R. Browne, 'US Warns of Growing African Terror Threat', *CNN*, 19 April 2018, <https://edition.cnn.com/2018/04/19/politics/africa-isis-al-qaeda-threat/index.html>.

merger was supposedly aimed at containing the expansion of ISGS in Mali.⁵⁴⁵ The UNSC ISIL and Al-Qaida Sanctions Committee added JNIM to its sanctions list on 4 October 2018.⁵⁴⁶ All its founding organizations, with the exception of the MLF, were already on the list.⁵⁴⁷

6. Islamic State in the Greater Sahara (ISGS)

Despite its early appearance in May 2015 as a splinter group of Al-Mourabitoun,⁵⁴⁸ ISGS was only officially recognized as an affiliate by the Islamic State of Iraq and the Levant on 30 October 2016.⁵⁴⁹ Initially counting on a few dozen active fighters,⁵⁵⁰ in 2017 and 2018 the group proved its remarkable capacity to conduct attacks on both the FAMA and civilians. It is mainly active in the region of Gao. Its leader, Adnan Abu Walid al-Sahraoui, was the spokesperson of MUJAO before joining Al-Mourabitoun.

7. Movement for the Salvation of Azawad (MSA)

The MSA emerged in September 2016 when a group of Tuareg fighters abandoned the CMA, the military alliance reuniting Tuareg rebels, to found an independent group supporting the Algiers peace process. The MSA condemned intercommunal conflicts and has lent its support to the FAMA since its inception. It is today one of the main counter-insurgency partners in Operation Barkhane.⁵⁵¹ It claims to have 3,000 fighters.⁵⁵²

8. Imghad Tuareg Self-Defense Group and Allies (GATIA)

The GATIA was founded in August 2014 as a Tuareg self-defence group after the Malian army again lost control over large parts of the northern regions. It joined the conflict against the CMA, alongside the Platform, a coalition of loyalist groups supporting Bamako. The GATIA remained active after the end of the Tuareg re-

545 M. Zerrouky, 'Les groupes djihadistes s'unissent au Sahel', *Le Monde*, 4 March 2017, https://www.lemonde.fr/international/article/2017/03/04/les-groupes-djihadistes-s-unissent-au-sahel_5089337_3210.html.

546 UNSC, 'Security Council ISIL (Da'esh) and Al-Qaida Sanctions Committee Adds One Entry to Its Sanctions List', press release, 4 October 2018, <https://www.un.org/press/en/2018/sc13531.doc.htm> (last accessed 20 January 2019).

547 UNSC, ISIL and Al-Qaida Sanctions Committee, Consolidated United Nations Security Council Sanctions List, <https://www.un.org/securitycouncil/sanctions/un-sc-consolidated-list> (last accessed 20 January 2019).

548 'Sahel: un chef d'Al-Mourabitoun prête allégeance à l'organisation de l'État islamique', *France 24*, 14 May 2015, <https://www.france24.com/fr/20150514-sahel-groupe-jihadiste-prete-allegeance-organisation-etat-islamique-belmokhtar-sahraoui-mourabitoun>.

549 'Mali: le groupe Etat islamique officialise sa présence au Sahel'.

550 M. Mémier, *AQMI et Al-Mourabitoun: Le djihad sahélien réunifié?*, Institut Français des Relations Internationales, January 2017, https://www.ifri.org/sites/default/files/atoms/files/memier_aqmi_et_al-mourabitoun_fr_2017.compressed.pdf (last accessed 20 January 2019).

551 C. Macé, 'Au Sahel, «je n'ai pas besoin de canons supplémentaires, mais il nous faut gagner en mobilité», *Libération*, https://www.liberation.fr/planete/2018/07/09/au-sahel-je-n-ai-pas-besoin-de-canons-supplementaires-mais-il-nous-faut-gagner-en-mobilite_1665186.

552 'Mali: le Mouvement pour la salut de l'Azawad, nouveau groupe politico-militaire', *RFI*, 11 September 2016, http://www.rfi.fr/afrique/20160911-mali-creation-msa-nouveau-mouvement-politico-militaire?ref=tw_i.

bellion as a counter-insurgency force partnering with French troops in the fight against Salafi jihadists.

9. Dan Nan Ambassagou

Dan Nan Ambassagou ('the hunters who confide in God') is a self-defence group founded in late 2016 to protect the Dogon, a community of hunters living in the central region of Mopti. The group brought together several self-defence militias after the murder of Théodore Soumbounou, head of the Dogon hunting society.⁵⁵³ Claiming to count on several hundred fighters, Dan Nan Ambassagou has a clear military hierarchy.⁵⁵⁴ It gained prominence in 2018, after clashing with the Fulani group, the Alliance for the Salvation of the Sahel. A report of the International Federation for Human Rights indicates that Dan Nan Ambassagou received logistical and financial support from Bamako and collaborated with the FAMA in the past.⁵⁵⁵

10. Alliance for the Salvation of the Sahel (ASS)

The ASS emerged in May 2018 as a self-defence group protecting Fulani from the attacks of Dogon hunters. Its intention to gather existing village-based self-defence militias was only partly fulfilled. Although the group claimed several attacks in late 2018, its agenda and real strength are currently disputed.⁵⁵⁶ Like Dan Nan Ambassagou, the ASS is also reported to have links with the government, as some leaders held senior positions in the public administration.⁵⁵⁷

C. KEY DEVELOPMENTS IN 2018

Despite the end of the armed conflict against and between Tuareg armed groups in 2017, in 2018 the Mali civil war continued against jihadist groups and acquired a new dimension when intercommunal clashes in the central regions reached the threshold of a separate NIAC.

French troops of Operation Barkhane helped the FAMA secure the region of Ménaka and control the area of Liptako, located on the border between Mali, Niger and Burkina Faso and, for this reason, used as a refuge by the Islamists.⁵⁵⁸ Military operations coordinated with the MSA and the GATIA sought to neutralize JNIM and

553 HRW, "We Used to be Brothers": Self-Defense Group Abuses in Central Mali, 7 December 2018, <https://www.hrw.org/report/2018/12/07/we-used-be-brothers/self-defense-group-abuses-central-mali> (last accessed 20 January 2019).

554 Ibid.

555 FIDH, *In Central Mali, Civilian Populations Are Caught Between Terrorism and Counterterrorism*, November 2018, pp50–51, https://www.fidh.org/IMG/pdf/fidh_centre-of-mali_population-sized-between-terrorism-and-counter-terrorism_727_en_november2018.pdf (last accessed 20 January 2019).

556 HRW, "We Used to be Brothers".

557 FIDH, *In Central Mali, Civilian Populations Are Caught Between Terrorism and Counterterrorism*, p 51.

558 V. Hugeux, '«Face à Barkhane, un ennemi aux abois»', *L'Express*, 20 April 2018, https://www.lexpress.fr/actualite/monde/afrique/face-a-barkhane-un-ennemi-aux-abois_2001343.html.

ISGS.⁵⁵⁹ Islamist groups no longer exercise stable control over portions of Malian territory – one condition for the applicability of AP II is therefore no longer met.⁵⁶⁰ Yet, they were able to carry out a long series of attacks targeting Malian, French and UN troops, as well as civilians.⁵⁶¹ On 26 and 27 April, two attacks by ISGS on the Tuareg camps of the MSA and the GATIA in Andéramboukane killed more than 40 people. Since ISGS fighters are mainly Fulani, the attacks were also explained as motivated by intercommunal hatred.⁵⁶²

This event showed how the use of ethnic-based militias and the exploitation of ethnic grievances eventually contributed to igniting a new NIAC between community-based armed groups. Violence grew exponentially in the region of Mopti in central Mali, a territory which was not covered by the Algiers agreement and where MINUSMA was not present. At the end of March 2018, the UN Secretary-General expressed concern over increasing civilian casualties caused by community violence.⁵⁶³ In the second half of 2018, two ethnic-based self-defence groups started clashing and quickly became the ‘main perpetrators of recent violence’ in Mali:⁵⁶⁴ Dan Nan Ambassagou, a Dogon militia, and the ASS, protecting the Fulani community. Intercommunal violence intensified in the run-up to the presidential elections in July and was the root of the lowest turnout registered in the central regions.⁵⁶⁵ A first peace agreement signed by Dogon and Fulani village chiefs on 28 August was rejected by Dan Nan Ambassagou.⁵⁶⁶ A unilateral ceasefire announced by the same group on 27 September was crushed by its military wing in late November.⁵⁶⁷

President Ibrahim Boubacar Keïta sought and obtained a second term in the presidential elections held in July–August 2018. A complaint filed by the opposition candidate, Soumaïla Cissé, was rejected by the Constitutional Court.⁵⁶⁸ All the main political forces agreed to postpone parliamentary elections to 2019 and to extend the state of emergency, in place since 20 November 2015, until 31 October 2019.⁵⁶⁹

559 ACLED, ‘Targeting of the Islamic State in the Greater Sahara (ISGS)’, 21 March 2018, <https://www.acleddata.com/2018/03/21/targeting-of-the-islamic-state-in-the-greater-sahara-isgs/>.

560 See C. Pilloud, Y. Sandoz, C. Swinarski and B. Zimmermann (eds), *Commentary on the Additional Protocols of 8 June 1977 to the Geneva Conventions of 12 August 1949*, Martinus Nijhoff Publishers, 1987, p 1352.

561 Report of the Secretary-General on the Situation in Mali, UN doc S/2018/273, 29 March 2018, §35 ff; Report of the Secretary-General on the Situation in Mali, 28 September 2017, §34 ff.

562 ‘Mali: deux attaques font une quarantaine de morts dans le nord-est’, *RFI*, 28 April 2018, <http://www.rfi.fr/afrique/20180428-deux-attaques-region-menaka-quarantaine-morts>.

563 Report of the Secretary-General on the Situation in Mali, 27 March 2015, §40.

564 Report of the Secretary-General on the Situation in Mali, UN doc S/2018/866, 25 September 2018, §42.

565 ACLED, ‘Neighbors in Arms: Intercommunal Violence and Targeting of Civilians in Mali in 2018’, 19 November 2018, <https://www.acleddata.com/2018/11/19/neighbors-in-arms-intercommunal-violence-and-targeting-of-civilians-in-mali-in-2018/> (last accessed 20 January 2019).

566 Report of the Secretary-General on the Situation in Mali, 25 September 2018, §46.

567 ‘Un groupe de chasseurs dogons met fin à une trêve au centre du Mali’, *VOA*, 21 November 2018, <https://www.voafrique.com/a/un-groupe-de-chasseurs-dogons-met-fin-%C3%A0-une-tr%C3%Aave-au-centre-du-mali/4668362.html>

568 Report of the Secretary-General on the Situation in Mali, 25 September 2018, §20.

569 Report of the Secretary-General on the Situation in Mali, UN doc S/2018/1174, 28 December 2018, §12.

D. WAR CRIMES ALLEGATIONS, INVESTIGATIONS AND PROSECUTIONS

Mali ratified the Rome Statute of the ICC on 16 August 2000. The ICC therefore has jurisdiction over crimes in its Statute committed on the territory of Mali or by its nationals from 1 July 2002 onwards, provided national courts are inactive, or unwilling or unable to prosecute.

On 18 July 2012, the Malian Government referred ‘the Situation in Mali since January 2012’ to the ICC, with no end date. Based on the outcome of its preliminary examination, the Office of the Prosecutor determined that there was a reasonable basis to believe that war crimes within the jurisdiction of the Court had been committed in the country.⁵⁷⁰ The ICC has so far heard two cases originating from the situation in Mali.

On 18 September 2015, the ICC Pre-Trial Chamber I (PTC I) issued a warrant of arrest against Ahmad al-Faqi al-Mahdi. An alleged member of Ansar Dine, al-Mahdi was accused of being involved in the destruction of nine mausoleums and one mosque in Timbuktu, between 30 June and 10 July 2012. He was charged with the war crime of intentionally directing attacks against historic monuments and buildings dedicated to religion. Surrendered to the ICC by the authorities of Niger on 26 September 2015, he pleaded guilty at the trial’s opening on 26 August 2016. On 27 September, Trial Chamber VIII unanimously convicted al-Mahdi as a co-perpetrator and sentenced him to nine years’ imprisonment.⁵⁷¹ His case was the first before the ICC to deal with the destruction of cultural property.

A second warrant of arrest was issued by the ICC PTC I on 27 March 2018 against Al-Hassan Ag Abdoul Aziz, suspected of committing crimes against humanity and war crimes in Timbuktu between April 2012 and January 2013. Considered the de facto chief of the Islamic police in Timbuktu, Al-Hassan was allegedly involved in the work of the Islamic court in the city and participated in the execution of its decision. Mali surrendered him to the ICC on 31 March 2018. The confirmation of charges hearing is scheduled for 6 May 2019.⁵⁷²

570 Office of the Prosecutor, International Criminal Court (ICC), Report on Preliminary Examination Activities 2013, November 2013, §§230–231.

571 ICC, *The Prosecutor v Ahmad Al Faqi Al Mahdi*, Case Information Sheet, 20 March 2018, <https://www.icc-cpi.int/CaselInformationSheets/Al-MahdiEng.pdf> (last accessed 20 January 2019).

572 ICC, *The Prosecutor v Al Hassan Ag Abdoul Aziz Ag Mohamed Ag Mahmoud*, Case Information Sheet, October 2018, <https://www.icc-cpi.int/CaselInformationSheets/al-hassanEng.pdf> (last accessed 20 January 2019).