

RULE OF LAW

Support to Conflict Prevention and Sustaining Peace in Mali

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I. Introduction

Mali presents some of the most complex and intractable conflict dynamics in the world, driven by the intersection of violent extremism, secessionist movements, farmer-herder conflicts, transnational organized crime, and weak State governance capacities. In 2012, Mali faced near collapse as a breakaway rebel group took up arms and challenged the State, soon followed by a coup d'état by the Malian military and a spreading insurgency that quickly became linked to violent extremist groups. Deeply enmeshed with regional dynamics, the conflict in Mali was driven by massive arms flows from Libya and Islamist insurgencies that spread across neighbouring Niger and Burkina Faso, allowing Al Qaeda in the Maghreb to find a foothold in the country. These regional dynamics influenced the international response, as the UN, the Economic Community of West African States (ECOWAS), France and Mali's five neighbours (the so-called G-5 Sahel) were all drawn in to help stabilize the situation.

From the outset of the conflict in Mali in 2012, the international community has stressed the need to build strong, effective rule of law and security institutions to address the chronic governance shortfalls of the Malian State. The failure to deliver adequate justice, services and development beyond the central capital has been recognized as a key driver of instability in the country, leading to ambitious and far-reaching rule of

law interventions over the past eight years. As a result, much of the UN's work in the country since the 2012 insurgency has focused on support to national rule of law and security institutions, and extension of State authority across the territory of Mali.

This case study explores the UN's rule of law work from the outset of the Malian crisis in 2012 to the 2020 military coup in Mali, focusing on how the UN Stabilization Mission in Mali (MINUSMA), UNDP and other UN actors implemented a range of activities to improve the Malian capacities to deliver security, justice and protections to its citizens. It takes a relatively broad approach to rule of law, looking beyond the traditional police/justice/corrections work to include human rights, national reforms, transitional justice, and conflict-related sexual violence (CRSV) where relevant. Across these areas, the study asks, *How have the UN's rule or law interventions contributed to conflict prevention, to a reduction in risks of widespread violence in Mali?* Based on available evidence and expert opinion, it aims to provide an assessment of the impact of the UN, identifying good practices, inhibiting and enabling factors, and lessons for the broader UN system.

The study has five sections: (1) a background description of the risk landscape and the endemic shortfalls in the Malian State's rule of law capacities; (2) an overview of the UN's rule of law mandate from

2012 to present, mapping out the key rule of law actors in-country; (3) an assessment of the areas where there is evidence of the UN's impact in terms of conflict prevention; (4) an examination

of the enabling and inhibiting factors; and (5) lessons and recommendations for the broader UN system.

A note on scope and methodology

Rule of law is defined by the UN as a “principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards.”¹ Traditionally, this has resulted in a focus by the Security Council on police, justice, and corrections as the primary vehicles for the UN's rule of law engagement. However, we recognize that other areas of the UN's work may also contribute to the core goals of the UN's rule of law work, including efforts to combat impunity, build accountability, advance transitional justice, limit corruption, and address conflict-related sexual violence, amongst others. This project does not adopt a strict definition of rule of law but is instead largely guided by interviews with experts in a range of field settings, asking them what they consider to be the key rule of law engagements by the UN and its partners.

In terms of the scope of these studies, it is important to highlight that this is not a comprehensive assessment of the UN's work in a given setting. It does not try to capture every rule of law programme, but instead reflects the views of experts about the most impactful, relevant,

and effective rule of law interventions in the given timeframe. This expert-driven approach to cases studies is to ensure that they feed meaningful cross-cutting policy recommendations, which is the core purpose of this project.

In terms of methodology, we note that the UN's rule of law work takes place alongside the interventions of a range of actors, including national leaders, bilateral donors, INGOs, and local organizations. While it is our goal to identify evidence of the UN's impact, often the UN is a small player amongst these, supporting and coordinating rather than leading on programming. Given these limited supporting roles and the large number of other intervening factors, it can be difficult to isolate the UN's impact via its rule of law interventions. Rather than speak in direct causal terms about impact, we contextualize the UN's *contribution*, alongside the interventions of others, to the broader goals of risk reduction.² Where the precise impact is impossible to ascertain, or where the UN has not generated evidence that directly supports causal findings about impact, we rely on a broad set of expert consultations to help us identify good practice and lessons that could be applied beyond a single country context.³

2. The conflict landscape in Mali

In 2012, the National Movement for the Liberation of Azawad (MNLA) rose up in northern Mali, challenging the State's authority with forces strengthened by fighters and weaponry from the fall of Ghaddafi's Libya. Taking advantage of the weak State security presence in the northern part of the country, rebel groups struck alliances with a range of regionally-based armed groups, including prominent Al Qaeda-affiliated Islamist groups, including AQIM, as well as Ansar Dine and others.⁴ This alliance conquered three northern regions of Mali, declared a separatist republic, and administered much of it with Sharia rule in open defiance to the central Malian Government.⁵

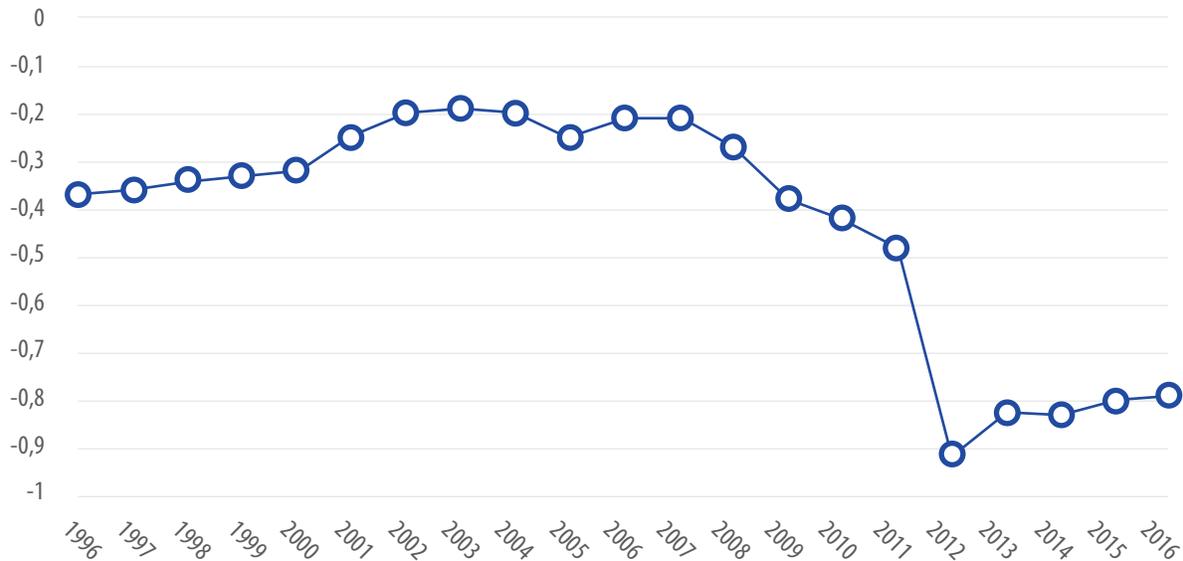
The faltering response by the Malian Government to the insurgency led to high levels of disgruntlement in the national army, triggering a coup d'état in the spring of 2012 which toppled President Amadou Toumani Touré. Immediate condemnation of the coup by Mali's neighbours, the regional organization ECOWAS, and the international community led to a quick agreement to vest power in a transitional Government. At the same time, advances by the rebel alliance towards the capital Bamako in late 2012 prompted the deployment of French troops alongside an African-led International Support Mission (AFISMA), which was rehatted in 2013 to the UN-led stabilization mission MINUSMA.

MINUSMA was deployed into an extraordinarily fragile context characterized by some of the worst

socioeconomic indicators in the world, chronically poor governance, and widespread distrust in public institutions. Mali has consistently ranked as one of the poorest countries in the world, ranking in the bottom ten over the past decade.⁶ With extremely high birth rates and well over half the population having no education at all, Mali has become one of the most aid-dependent countries in sub-Saharan Africa.⁷ The impacts of poverty are not felt equally across Mali's territory: roughly 70 per cent of rural areas experience "severe poverty" versus 17 per cent in urban areas, while the heavy reliance on subsistence agriculture in rural Mali make the populations in the peripheries far more susceptible to irregular weather and crop failure.⁸ In fact, over the past eight years, the rates of inequality appear to have worsened – by 2019, around 400,000 people were severely food insecure.⁹

While Mali had for decades built a reputation as a democratic success story, this narrative was increasingly recognized as "a façade for institutional weakness and mismanagement."¹⁰ In fact, from 2007 until the coup in 2012, Mali's governance indicators had plummeted, driven by the widespread use of patronage networks and rampant corruption within government.¹¹ By 2012, roughly half of Malians believed that most government officials were involved in corruption. Transparency International has consistently ranked the country near the worst on its corruption scale.¹² Corruption and mismanagement have been

FIGURE 1: World Governance Indicators, Mali Average



Source: World Bank DataBank

especially prevalent in the rule of law institutions of Mali, which are reliably viewed as partial, subordinated to patronage networks, and unable to provide Malian citizens with equal access to justice.¹³

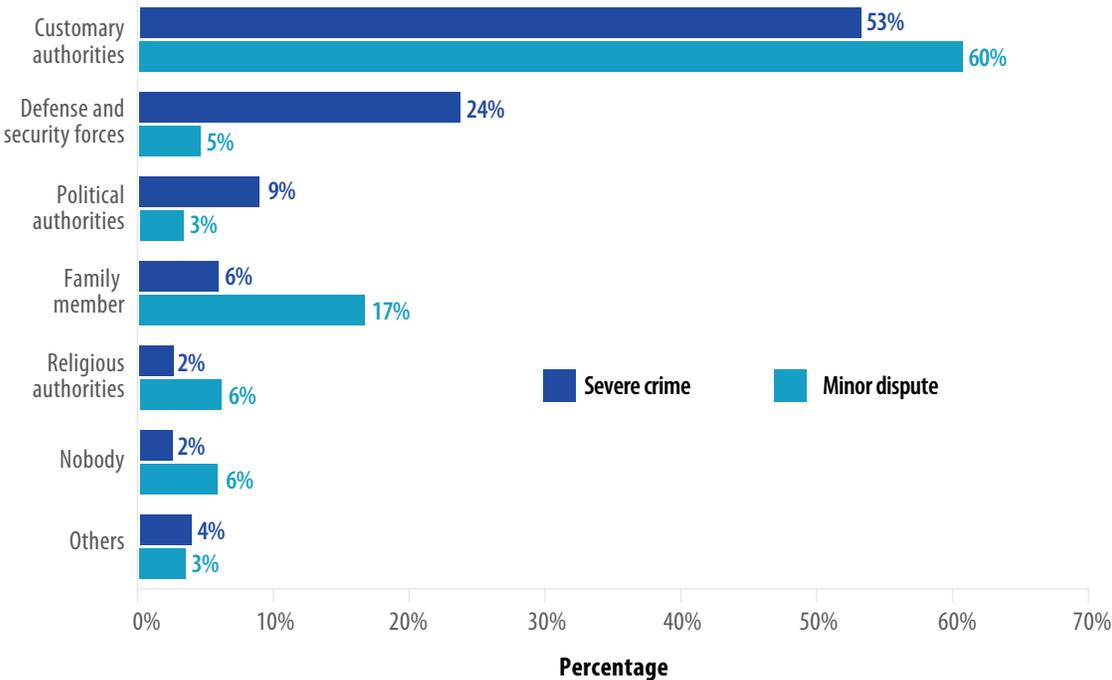
Poor governance and weak rule of law institutions played a role in the 2012 uprising and in the conflict dynamics over the past eight years.¹⁴ While the various armed groups that formed the Azawad movement had widely varying ambitions, they shared a common frustration that the central Malian Government had failed to live up to its commitments to deliver better services to the peripheries, or to allow them greater autonomy. This discontent allowed violent extremist groups like AQIM, Ansar al Dine, and (in 2015) the Islamic State in the Greater Sahara to gain a stronger foothold in Mali, as they promised better governance than the Malian State had provided before.¹⁵ Wide-ranging trafficking routes – for arms, resources, and people – have also taken advantage of the lack of central State authority to use Mali as a flow-through point, further undermining State institutions and sustaining conflict dynamics.¹⁶

Following the signing of the 2015 peace agreement between the Government and some rebel groups, conflict dynamics shifted gradually from northern Mali into the central part of the country, though the northern part of the country continued to experience serious bouts of instability as well. This coincided with a dramatic uptick in the number and severity of violent incidents, particularly those involving farmer-herder conflicts between the nomadic Fulani and sedentary Dogon communities. Islamic groups instrumentalized longstanding intercommunal grievances and were able to gain a foothold in rural parts of central Mali, contributing to a dramatic increase in the number of conflict displacements. Importantly, traditional mechanisms for conflict resolution were largely overwhelmed by these new dynamics, driving cycles of violence and a growing sense of impunity for serious crimes.¹⁷ As a result, self-defence groups formed amongst many communities in central Mali, taking advantage of easily accessed weapons flowing through the region and perpetrating large-scale massacres in 2018. In the years 2018-2019, cycles of revenge killings along communal lines in the broader Mopti area were responsible for hundreds of deaths.¹⁸

In the face of these conflict dynamics, Mali's State rule of law institutions have shown themselves deeply inadequate to the tasks of combating impunity and addressing widespread criminality. One well-respected international legal group characterized the Malian penal system as lacking judicial independence, chronically corrupt, and lacking the basic resources to process criminal caseloads.¹⁹ Malians surveyed have consistently ranked the judiciary as one of the most corrupt State institutions, while endemic corruption is often linked to the extremely poor salaries across the justice institutions.²⁰ These rankings have not changed much over time and are not necessarily completely negative in terms of Mali's global ranking. Indeed, the World Economic Forum ranked Mali's judiciary more independent than many Eastern European countries, as well as much of Latin America.²¹ And Malians are not significantly more distrustful of their judiciary than Americans.²²

A significant challenge in Mali is not only the weak State institutional rule of law capacities, but also the parallel processes for addressing justice and accountability across the country. Nearly 80 per cent of family and land conflicts are dealt with via traditional justice systems, while traditional chiefs have also played a crucial role in addressing criminal cases especially in conflict-affected areas with little State institutional capacity.²³ While complementarity amongst State and traditional authorities can actually be beneficial, in this case it appears to reflect low confidence in the State. Public confidence in traditional authorities is, in fact, much higher than in the State in many parts of the country, meaning that the focus on State institutional capacity often must contend with widespread public distrust in the central Government.²⁴

FIGURE 2: Answers from 2097 respondents to a survey to a survey question relating to which authorities they consulted in the event of a severe crime or a minor dispute at the local level



Source: Mamadou Bodian, Aurelien Tobie and Myriam Marending, SIPRI Background Paper 4 (2020)

3. Evolution of the UN's rule of law mandate from 2013 to date

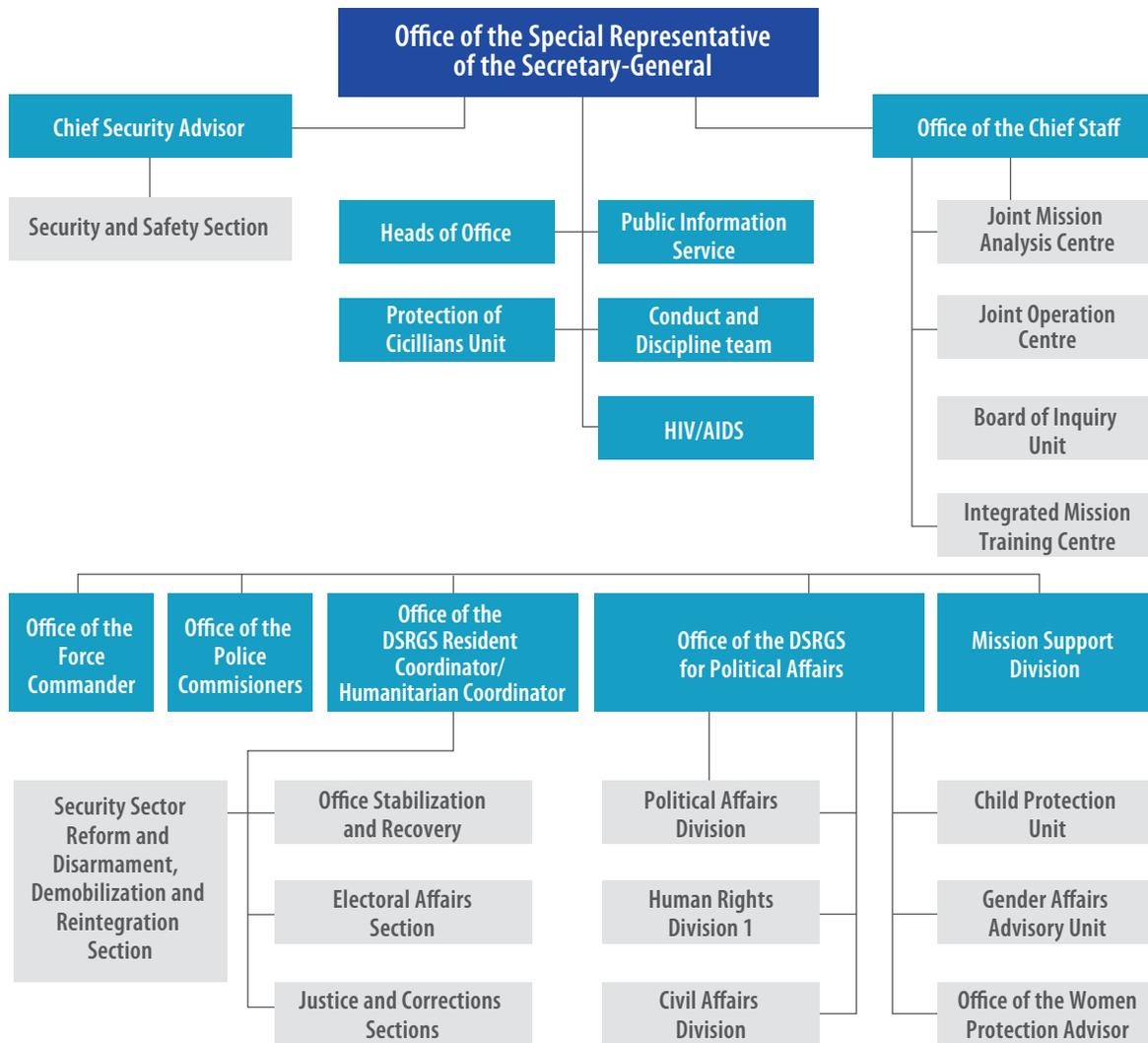
This case study traces the UN's rule of law engagement from the deployment of MINUSMA in 2013 to the time of writing. It is important to note at the outset that MINUSMA was established following the deployment of a 3,000-strong ECOWAS Standby Force and a similarly sized African Union-led operation (AFISMA).²⁵ It was also deployed alongside the French-led *Opération Serval*, which worked with Malian and African Union forces to recapture the three main northern cities in 2013. In addition to the significant deployment of regional and international forces, Mali was one of the largest recipients of bilateral development assistance, receiving nearly USD 6 billion in the 2011-2015 period alone (though it should be noted that much of this aid has been conditional).²⁶ The UN's mandate – both the peacekeeping operation and the broader UN family – thus overlapped significantly with other international engagement in Mali, including a strong counter-terrorism approach by international forces.

From its inception, MINUSMA's mandate had two main objectives: support/implementation of a peace process, and extension of State authority throughout the country. This latter task included deterring threats, preventing the return of

armed elements to formerly affected areas, and rebuilding the Malian institutions of the State. Part of its stabilization mandate included assisting in bringing to justice – either domestically or via the International Criminal Court (ICC) – those guilty of international crimes.²⁷ This mandate remained at the core of the Mission from 2013 to 2020, though in 2018 shifted to include terrorism-related crimes, mass atrocities and transnational organized crime as well as a greater geographic focus on central Mali, where the bulk of the violence had taken place following the 2015 peace process.²⁸

Specific to the rule of law, MINUSMA's initial mandate required the Mission to support national efforts to rebuild the security sector, especially the police and gendarmerie through technical assistance, capacity-building, co-location and mentoring, as well as the rule of law and justice sectors.²⁹ In 2015, the mandate was expanded to include bringing to justice those responsible for serious abuses of international humanitarian law, either by national trials or by referral to the ICC.³⁰ From 2015 onwards, the Mission was also tasked with extending the authority of the interim authorities under the 2015 peace agreement and implementing the reconciliation and justice measures of the agreement.³¹

FIGURE 3: MINUSMA Organizational Chart



The Council also emphasized that MINUSMA’s restoration of State authority and rule of law was the Mission’s highest priority, also listing support to the justice and reconciliation measures high on the priority list.³²

Conflict-related sexual violence (CRSV) and sexual and gender-based violence (SGBV) are widespread in Mali.³³ A major priority for the UN’s rule of law work is to help build the capacities of the Malian institutions to reduce the rates of

sexual violence, hold perpetrators accountable, and protect the interests of victims.³⁴

UNDP’s work in Mali has had a strong rule of law focus since 2012, including several projects done in collaboration with UNODC and MINUSMA. Broadly, UNDP’s work has addressed restoration of State authority and access to justice in northern Mali, improving prison conditions, and anti-corruption.

4. Rule of law impact

Mali presents one of the most difficult settings to evaluate the preventive impact of the UN's rule of law work. During the 2012-2019 period, conflict-related fatalities soared, despite the 2015 signature of a peace agreement between the Government and several rebel groups. While an argument exists that the violence rates could have been higher absent the UN's rule of law interventions, the significant increase in fatalities in the centre of the country in the last years may align with the view of many interviewees that the UN's impact on conflict prevention was relatively limited. Violence also shifted significantly during this period as armed groups took advantage of weak State capacities in the central part of the country, combining with already volatile farmer-herder dynamics in the central part of the country. How can the UN claim to have helped to

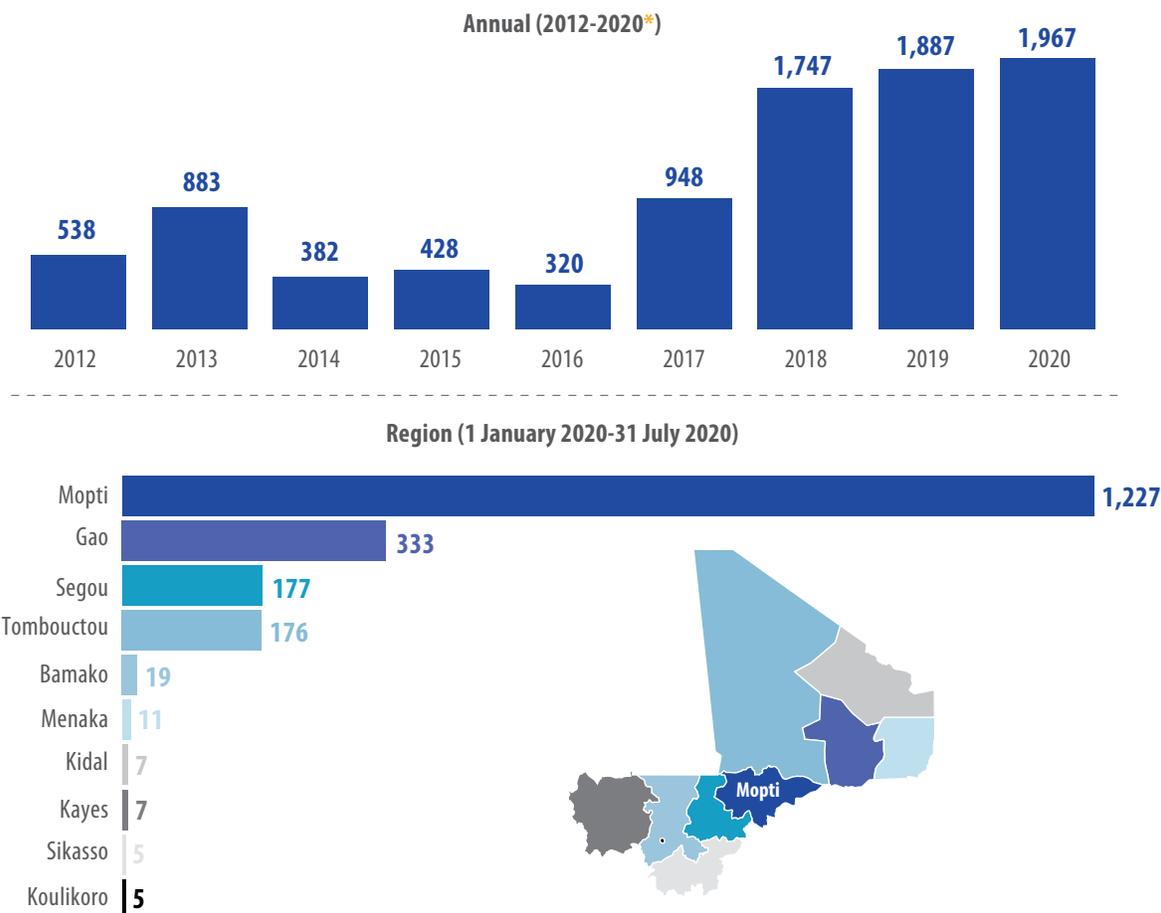
prevent conflict and/or reduce the risk of more widespread violence in this context, particularly given the extremely weak role that State-run rule of law institutions play in central and northern Mali? Across a wide range of interviews with experts based in Mali, there was an almost uniform opinion that the UN's role in preventing the larger-scale violence that took place over the past several years was quite minimal. That does not mean the UN had no impact whatsoever; in fact, there is some evidence supported by expert opinion that in several areas the UN did contribute to a reduction in risk of even greater conflict-related violence during parts of the 2012-2019 period.³⁵ Acknowledging the difficulties in establishing definitive proof of impact, this section explores the ways in which some of the UN's rule of law work did appear to reduce risks.

The fight against impunity

Combating impunity for serious human rights violations and other crimes fuelling conflicts is at the core of the UN's work in Mali, cutting across a wide range of the UN's programming. The fight against impunity contributes to conflict prevention in several ways: greater accountability for serious crimes takes violent actors out of circulation in the public, it acts as a deterrent to future violence, and it gradually builds greater confidence in the justice institutions, leading to less recourse to violence as a means to resolve disputes.³⁶ This is particularly important in Mali, where the lack of effective State institutions and high

levels of corruption have led to near-total impunity for the serious human rights violations of the past decade.³⁷ "The best chance the UN has to reduce the risks of violent conflict," a UN official explained, "is to curb the culture of impunity and help the Malian State make tangible progress to holding violators of human rights accountable."³⁸ This view has been echoed by the Malian Government, including the Minister of Justice in 2017 who stated, "Justice, justice and nothing but justice. The first and last remedy for the crisis threatening the survival of our country and its people lies in justice."³⁹

FIGURE 4: Mali: Reported Fatalities



Source: ACLED (As of 31 July 2020)

Note: Gao and Menaka regions shown separately but overall value merged. *1 January 2020 - 31 July 2020

Reporting is imperfect, *inter alia*, due to monitoring bias. Fatality data should be viewed as indicative rather than definitive

The fight against impunity is reflected in much of the below areas of the UN's work, including efforts to improve the State's counter-terrorism response, build law enforcement, prosecutorial and judicial capacity, strengthen the overall penal chain, and take forward a transitional justice process for Mali. It is also at the core of the MINUSMA, OHCHR, UNDP, UNODC, UN Mine Action Service, and UN Women joint programme, "Addressing Root Causes of Conflict through Rule of Law," which began in 2016 and aims to address longstanding grievances and sources of conflict via strengthening the rule of law institutions of the State. In addition to this, the UN continues to work to investigate, monitor, and report on serious crimes and human rights violations, with a view to reducing the widespread culture of

impunity and call for specific actions by the Malian State. Some clear steps have been achieved with UN support in this regard, including:

- Public agreement by the Government to end impunity within the 2015 Agreement on Peace and Reconciliation in Mali;
- Finalization of several high-profile criminal cases, such as: the August 2017 sentencing of Aliou Mahamane Touré, the former self-proclaimed superintendent of the Islamic police of Gao from 2012 to 2013; and the September 2016 ICC conviction of Ahmad Al Mahdi Al Faqi, a member of the Islamic police of Timbuktu in 2012, for destroying cultural monuments in the Timbuktu region;

- A national trial was initiated against the former coup leader General Amadou Haya Sanogo, for the torture and enforced disappearance of 21 “Red Berets”;
- Deployment of OHCHR monitoring teams to areas of G-5 Sahel activity, to ensure human rights compliance in counter-terrorism operations;⁴⁰
- Regular public reporting on human rights violations and abuses by State and non-State actors, raising awareness and contributing to public pressure for trials.⁴¹

Unfortunately, the impact of these public and high-profile efforts is widely described by experts in Mali as minimal in terms of reducing the risks of violence or even curbing the number of human rights violators remaining free. For example, the

Independent Expert on Human Rights in Mali issued a forceful critique of the fight against impunity in 2019, noting that “no significant improvements” had been made in the ability of the criminal justice system to address impunity, while “most perpetrators of abuses and violations of human rights and international humanitarian law go unpunished.”⁴² These findings align with the fact that widespread violence and serious human rights violations have increased over the past five years, with little available evidence that the conduct of high-profile cases has acted to curb these trends (it is, of course, possible that violence levels would have been worse absent these interventions). Some of the more specific steps to build capacity and address serious crimes described below, however, do appear to have had more tangible impact.

Countering terrorism and transnational organized crime

Some of the most serious violence in Mali is carried out by extremist groups and/or groups designated as terrorist. Supporting the Malian Government’s efforts to bring violent extremists to justice and ensure fair, credible trials for alleged terrorists is an important aspect of the UN’s rule of law work, and is seen as complementary to the broader fight against impunity. Given the high rate of transnational criminal activity – driven by criminal networks stretching to Libya, East Africa and beyond – efforts to bolster the judicial system to manage transnational crimes is especially relevant to violence reduction.

In 2013, Malian authorities passed a law amending the Code of Criminal Procedure and creating the *Pôle Judiciaire Spécialisé en matière de lutte contre le terrorisme et la criminalité transnationale organisée* (PJS), a specialized judicial unit for the fight against terrorism and transnational organized crime.⁴³ The jurisdiction of the PJS was extended to international crimes in 2019. A flagship joint MINUSMA/UNODC project in 2018 supported the PJS in investigating and prosecuting crimes, contributing to several tangible results:⁴⁴

- As of February 2021, 147 individuals charged for terrorism-related crimes were brought to trial by the PJS, leading to 115 convictions with sentences ranging from 18 months to life imprisonment as well as the death penalty (automatically commuted to life imprisonment as per a moratorium signed by Mali) and 32 acquittals;
- Finalization of several high-profile criminal cases such as: the October 2020 sentencing of Fawaz Ould Ahmed, aka Ibrahim 10, and two others in relation to the terrorist attacks against the La Terrasse restaurant and the Radisson Blu hotel in Bamako in 2015, and the November 2020 conviction of Souleymane Keita, the alleged chief of the Khaled Ibn Walid Katiba affiliated with Ansar Dine, and 14 accomplices;
- Capacity support to the PJS and associated investigation teams⁴⁵ have kept them operational with one special prosecutor, six deputy prosecutors, nine investigating judges, 48 police investigators, and

renovated premises. This continuous staffing of the PJS has allowed for the caseload above;

- MINUSMA has escorted dozens of judicial authorities of the PJS to the scenes of serious crimes in insecure areas to conduct investigations, hear victims and collect evidence, sending a strong signal to affected populations. Through a distinct stream of work, MINUSMA also led capacity-building efforts in support of judicial investigations into crimes committed by the Malian military;
- The national policy on preventing and combating violent extremism and terrorism and the action plan for 2018–2020 were adopted by the Malian Government, with UN support.

It is difficult to ascertain the extent to which these activities may have had a broader preventive impact on rates of violent extremist activity in Mali. During the 2015-2019 period, violent extremism surged, especially in the central part of Mali, despite a concerted effort by the G-5 Sahel, Barkhane, MINUSMA, and a range of other actors seeking to curb the impact of such groups. In this context, the UN has only reported on its activities, not any assessment of whether they were partially responsible for a reduction in

violence. Based on available evidence and wide-ranging interviews, this study concludes that, at the very least, the UN's support has increased the caseload of the Malian judicial authorities, removing dozens of violent extremists from the theater of conflict. MINUSMA's escorts of PJS teams into insecure areas also likely increased the reach of the Malian judicial system and increased its caseload on serious crimes. MINUSMA's role in directly supporting the arrest of suspects has also clearly had a small but tangible impact in allowing the authorities to gain custody of individuals who might otherwise have remained involved in violent extremist activity.

More broadly, the UN's efforts to support penal responses to terrorism should be considered alongside (though certainly distinct from) the military-led efforts by the Mission, the G-5 Sahel, and the Barkhane forces. Several interviewees indicated that the combination of military pressure and trials of suspected terrorists has acted to curb the overall levels of violent extremism, especially in the areas of operation. One potential indicator of this is the relative drop in violence in northern Mali during the 2015-2018 period, though other factors (including the growth in intensity in fighting in central Mali and farmer-herder conflicts in the Mopti area) may well have played a more direct role.

Restoring judicial capacity

The 2012 violence resulted in the occupation and destruction of a significant number of judicial services throughout the country, resulting in a near-total curtailment of criminal procedures. In line with the 2015 Law on the Reorganization of the Judiciary, MINUSMA and UNDP supported the return of judicial authorities and the reopening of courts and prosecutors' offices in the regions of Gao, Mopti and Timbuktu, contributing to the following achievements:

- As of May 2020, 14 out of the 23 tribunals in the north and centre are partially operational (in terms of viable infrastructures, deployment of judicial officials, hearings);⁴⁶
- More than 70 per cent of judicial officers returned to office in the north, and 87 per cent in the Mopti region as of the end of December 2019;
- Where the security situation has not allowed for institutionally based cases, mobile hearings have been conducted, including dozens of cases with UN support.

According to several interviewees, there have been real improvements in the quality of justice and in public confidence in the judicial system as a result of the return of courts and judicial officers.⁴⁷ However, from 2015 to the date of writing, there has also been a significant upsurge of violence in much of Mali, limiting any change in popular opinion. For example, a recent survey found that very little had changed in terms of popular perceptions of justice in Mali between 2014 and 2018, despite the above changes.⁴⁸ Other surveys have similarly found that the Malian population retains a quite low opinion of the justice system, perceiving it as corrupt and inaccessible, while Mali has remained near the bottom of justice and rule of law indicators from 2012 to date.⁴⁹ Several UN officials involved in rule of law work in Mali mirrored these findings. It remains impossible to know what violence levels might have been absent these interventions.

Nonetheless, it should be noted that from 2012 to 2018, northern Mali experienced a significant decrease in levels of violence as much of the most serious fighting shifted to the central part of the country. Interviewees suggested several interrelated reasons for this shift: groups involved in the 2015 peace agreement did reduce their levels of violence; large numbers of international troops were deployed in northern Mali in support of the peace process; and violent extremist groups like JNIM took advantage of the lack of State capacity in central Mali to build coalitions and destabilize those areas.⁵⁰ Within these larger trends, they also pointed out that the restoration of State authority and presence in northern Mali played a role: “in the context of the peace process, the return of courts, police and judges meant that northern Mali became much safer,” one UN official noted.⁵¹

Prison security

During the 2012 violence in Mali, 13 of the 59 prison facilities nationwide were targeted by armed groups, particularly in the northern regions of the country. Poor infrastructure and inadequate security meant that prisons were easily overrun: in late 2016, two prisons were attacked by armed groups seeking to release suspected terrorists. Preventing prison breaks and extending the overall capacity of the Malian prison system to handle its prison population reduces the number of violent actors in circulation and constitutes an important step in the overall trust levels between the population and the State.

Here, the Global Focal Point system has played an increasingly important role in the UN’s response. Amongst others, a USD 8.4 million joint UNDP/ MINUSMA GFP project entitled “Strengthening Mali’s Penal Chain” (also known as the Mandela Prison Project) and the security project initiated by the JCS and MINUSMA that provided support for the development of integrated prison protection plans and the organization of practical simulation sessions for the implementation of these plans. These activities have contributed directly to improved security and capacity of prisons, including:

- 11 prisons are now operational, covering the broader regions of Mopti, Gao, and Timbuktu. Over 90 per cent of prison officers (76 officers) have taken office at their appointed posts in the north, and 93 per cent (80 officers) in the Mopti region;
- The four prisons of Gao, Mopti, Timbuktu and Koulikoro – the latter holding high profile detainees including suspects/ convicts of terrorist acts - have been equipped with security equipment, while simulation-based training has been provided;
- 143 prison guards nationwide have been trained to respond to prison incidents, including 15 prison officers in Bamako and 78 prison officers in Timbuktu, Gao and Mopti to address radicalism and violent extremism. A nationwide roadmap for the implementation of the national policy for the prevention of violent extremism and radicalization in prisons was developed to guide further efforts;
- In Bamako Central Prison, where individuals suspected of or convicted for terrorism are detained, two high-security wings have been rehabilitated and security

cameras installed. A security plan was developed in 2018 and tested through simulations for 550 Malian Security and Defence Forces personnel;

- Computerized software is being rolled-out in seven prisons across the country to enhance case management and facilitate analysis of detainee data. Over 4,000 detainees have been registered and 45 end-users have been trained on its application. As a result, more than 250 cases of prolonged detention were identified as a priority for follow-up with responsible judicial actors.⁵²

Sexual violence

The rates of SGBV following the 2012 rebellion surged at alarming rates across Mali.⁵³ UNHCR has registered roughly 3,000 cases of SGBV since 2012, though obviously the real number is far greater.⁵⁴ In its annual reporting from 2014 to 2018, the Secretary-General recorded an average of only 87 allegations of CRSV per year, but this is considered a tiny fraction of the thousands of cases alleged by other organizations in Mali.⁵⁵ While the intensity and rates of violence varied over time, there was a clear upsurge in both northern and central Mali following the 2012 rebellion and the military coup, including by the major armed groups and the Malian security services.⁵⁶ Human rights organizations in Mali have pointed out that a functioning judicial system capable of processing the caseload of SGBV would have both an ameliorative and a deterrent effect, reducing the risks of future violence.⁵⁷ Combating impunity for SGBV, and helping to reduce the risks facing women in the conflict, are key priorities for MINUSMA, which has contributed to the following:

- MINUSMA has identified and helped to document hundreds of cases of SGBV over the past eight years, providing witness and victim support via a Mission-run trust fund;⁵⁸

The lack of major attacks on prisons in Mali over the past four years provides some evidence that improved security may have played a role in preventing prison breaks, particularly given the attacks which took place in 2016. It is less clear, however, what impact the deradicalization training of prison officials, or the improved data tracking capacities within prisons, may have on risks of violence across Mali. The UN does not track radicalization in a systematic fashion in Mali, meaning that this study must rely on national data about the presence and operations of violent extremist groups. As such, the rapid escalation of violent extremism during the 2015-2019 period does not offer any evidence of impact, though at a more localized level the above programming may well be quite effective.

- The Mission has trained dozens of judicial authorities in SGBV cases, offering direct support to trials over the past several years;
- MINUSMA supported a coalition of six victim associations and three regional coordination groups offering legal, psychological and social assistance to 115 victims of sexual violence in Mopti, Gao and Timbuktu regions;⁵⁹
- With the UN's support, in 2018 the Malian Government developed a National Strategy to address sexual crimes, and drafted a related law (though it has not yet been promulgated);
- In 2019, the UN and the Malian Government signed a joint communiqué committing to a more focused response to sexual violence.

There is broad agreement across the UN and major human rights organizations in Mali that the Malian State has been unable or unwilling to prosecute the overwhelming bulk of the SGBV cases to date. The few trials regarding sexual violence that have been conducted have failed to result in prison sentences, while there have been no trials for those accused of committing sexual

crimes during the 2012-2013 period, and no trials of any accused State actors.⁶⁰ While the support to victims and witnesses may play an important role in particular instances, there is little evidence to suggest that the UN's rule of law support has acted to curb rates of sexual violence, nor has it resulted in the Malian State taking strong steps to end impunity for sexual crimes.⁶¹ MINUSMA, in collaboration with the UN Team of Experts on Rule of Law and Sexual Violence in Conflict,

conducted an assessment in 2019 of the judicial response to collective complaints filed for sexual violence committed in the north in 2012-2013, including causes of blockages. Recommendations drawn from this assessment will be discussed and validated by judicial authorities in 2020 and their implementation will be supported by the UN including in the context of the formulation of a national criminal policy to end impunity.

Transitional justice

The role of transitional justice mechanisms in reducing the risks of continuing violence and/or relapse into war is well documented.⁶² In the case of Mali, several transitional justice mechanisms have been established to address the large-scale atrocities of the 2012-13 period, support the broader peace process, and prevent further escalation. The most important of these is the Truth, Justice and Reconciliation Commission (CVJR) established in 2014 to support the peace process and establish accountability for crimes stretching back until 1960.⁶³ The UN has provided substantial support to the CVJR, including technical advice, support for witness/victim protection, data management, and logistical support for public hearings. This has contributed to the following:

- The CVJR has taken 18,000 victim statements, of which nearly 10,000 have been entered into the database;⁶⁴
- A public hearing (one of four envisaged) took place in early 2021, and plans are underway for future public hearings;
- The mandate of the CVJR has been expanded to include more recent crimes, as well as crimes that have taken place in central Mali.

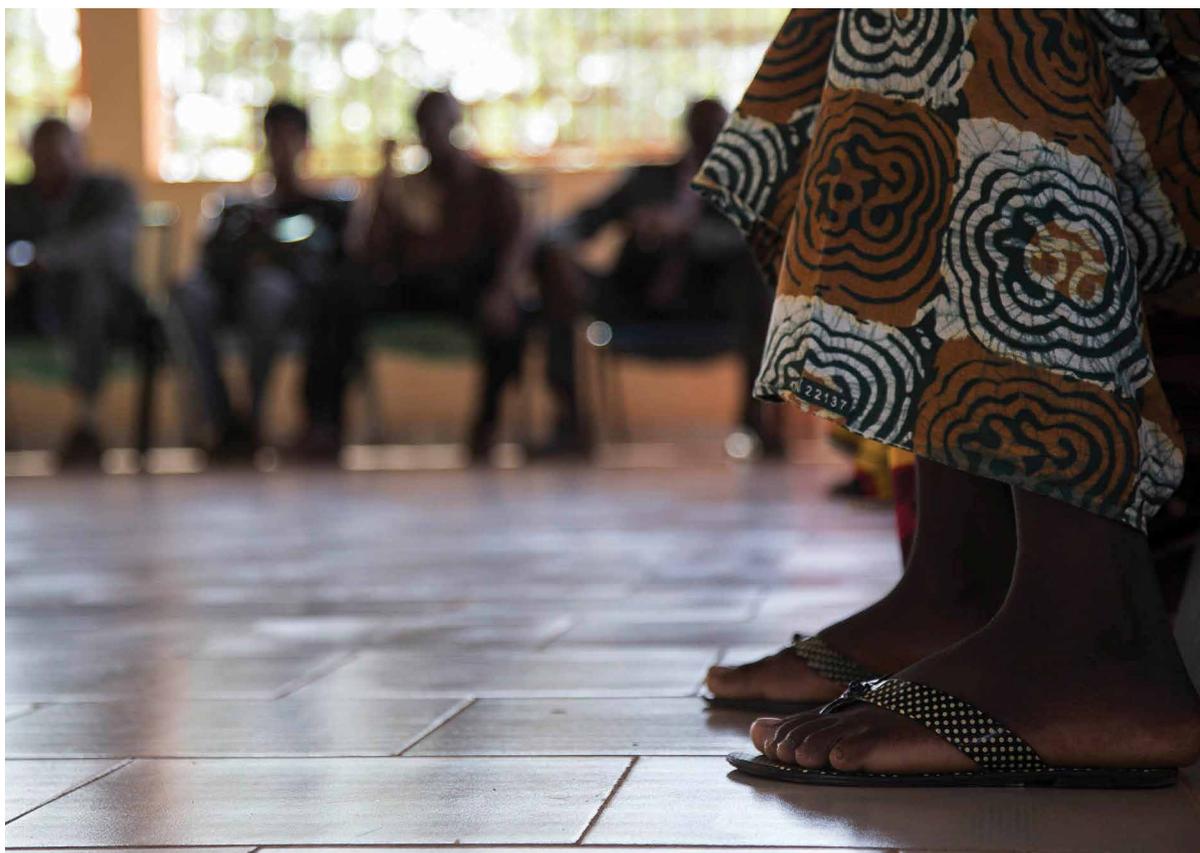
UN experts involved in the transitional justice work in Mali acknowledge the progress that has been made in recording victim statements, laying the groundwork for future trials, and beginning public outreach. But there was uniform frustration at the slow pace of progress by the CVJR, the lack of any completed trials, and the poor investment by the Malian authorities. The heavy reliance on international consultants to conduct the work of the CVJR, according to some interviewees, suggests low levels of national ownership of the project. "It's an external imposition on the Malian Government, they don't want it," one UN expert noted.⁶⁵ Experts also pointed to the expansion of the CVJR's mandate as a challenge: already stretching back to the 1960s, the extended mandate to cover recent crimes in central Mali has been a distraction, placing even greater pressures on the commission at a time when it is already well behind schedule.

This study concludes that it is too early to evaluate the impact of the CVJR. While the broad scope and large number of victims suggest that it might be a crucial element of the broader peace process, as of the time of writing there is little evidence that it has played a violence-reducing role in Mali yet. The progress that has been made thus far, however, does appear to be largely due to the UN's supportive efforts, alongside bilateral donors that have provided significant resources and staff as well.

Overall impact

Broadly, the experts interviewed during this study were sceptical that concrete evidence of impact was readily available, especially concerning the risks of violent conflict. The fact that the levels of violence have increased in some parts of the country since the deployment of MINUSMA in 2012 makes any claim of impact more difficult. The causes of this are multifold, reflecting regional dynamics, shifting conflict trends within the country, and the effects of a peace process that initially only targeted the northern part of Mali. Indeed, in this context the UN is but one of many actors – not least the Malian Government but also a range of other organizations – contributing to the rule of law and conflict prevention in Mali. Here, there is some evidence that the UN’s support has enabled several important steps towards reduced impunity, increased judicial caseload for violent offenders, and expanded

presence of rule of law institutions in conflict-affected areas. Specifically, UN support has certainly contributed to the conduct of some high-profile trials, 147 trials of perpetrators of terrorist acts, a 70 per cent increase in judicial officers in the north and an 87 per cent increase in central Mali, hundreds of SGBV claims documented, and 18,000 victim statements in a transitional justice process. These activities, while not acting as a major curb on violence levels in Mali, have taken some violent actors out of the conflict arena, increased caseloads for violent crimes, and improved protections for victims. And while the presence of the State is not necessarily a conflict prevention measure in itself, there was relatively agreement across interviews that the efforts to increase State presence likely prevented larger-scale violence and displacement, especially in northern Mali.



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5. Enabling and inhibiting factors

This section provides an overview of the major factors that either inhibited or enabled the UN's ability to reduce the risks of violent conflict. These include contextual issues outside of the UN's control, but also issues that the UN might be able to influence directly.

The most frequently cited inhibiting factor was the sheer **scale of the problem**. Mali is an enormous territory, and by 2018 violence had spread from the northern regions into the centre, affecting millions of people. This widespread violence,

combined with extraordinarily weak governance capacities in the Malian State, meant that the UN has had relatively few resources compared to the task at hand. This has had direct impacts on the Mission's ability to provide adequate security to government officials deployed to the north and the centre, for example. Lack of resources was the most common recurrent complaint by UN staff in Mali, though few were able to articulate how additional resources to rule of law institutions would necessarily do more to reduce the risks of violence.

Lack of political will

The lack of political will across the Malian elite in Government was also cited as a major inhibiting factor. Interviewees suggested that the very slow progress on high-profile cases demonstrated that there was little momentum within Government to hold perpetrators accountable, while some pointed to the release of some key actors in the recent conflict as a signal that the culture of impunity was being perpetuated by the State. A related problem was the very high turnover at the ministerial level,

often requiring the UN to restart processes each time a new minister came into power. "Working with the Malian Government is Sisyphean," one UN expert pointed out. "Every time we take our eye off a rule of law project, it either goes nowhere or actually falls back."⁶⁶ Several other experts suggested that deeply rooted corruption within the State system meant that the larger reform and capacity-building work was often not welcomed by government partners.

Reliance on partnership with the State

A related challenge has been the reliance on a partnership with the State for implementation of much of the UN's rule of law mandate. "We are implementing a peace agreement and supporting extension of State

authority," an expert described, "but most of the Malian population doesn't see the State as the solution to their insecurity problems."⁶⁷ As some of the population surveys listed above indicate, and as it is the case in

many similar contexts, the Malian population has a quite low opinion of the State's justice system, and many prefer to use customary, local forms of justice instead. In the longer term, the goal of strengthening the State's legitimate presence

throughout Mali may have a violence-reducing impact, but in the short term the UN may need to find more effective ways of working with a wider range of authorities.

Focus on counter-terrorism

The overriding focus on counter-terrorism is a double-edged sword in Mali. On the one hand, it has generated enormous international investment in the country, the deployment of regional and international forces, and dedicated judicial processes within the Malian system. This has produced results, as the PJS caseload above demonstrates. But counter-terrorism also creates blindspots in the broader rule of law

response. One human rights expert noted that the focus on terrorism means that other forms of violence – including by State actors – tend to be overlooked or even actively brushed aside. “By focusing on terrorist groups, we actually weaken the overall human rights response, because the overwhelming majority of serious violence is not actually done by violent extremist groups.”

Fragmental programming

One of the major challenges identified by experts has been the quite **fragmented and parallel ways that rule of law programming has been done** in the past. Multiple UN agencies, alongside bilateral efforts, have often touched upon the same issues (e.g. extension of judicial capacities) without coordination. But this seems to be

changing, in part as a result of the GFP and the ROLSI bi-monthly coordination meetings. “The GFP gives us a common platform, a requirement to coordinate, and it's helping us design a joint conflict prevention strategy across agencies,” a UN expert in Bamako explained.

Reach

MINUSMA's **broad geographic reach** was often an enabling factor, particularly for agencies like UNODC that would not otherwise have had access to many parts of Mali. In turn, direct collaboration between UNODC and MINUSMA

meant that the Mission has been able to take on UNODC's broader perspective of security, and to take advantage of its more regular contact with police, gendarmerie, and other actors.

Pandemic

The **COVID-19 pandemic** has also had an impact on the UN's work in Mali. Travel restrictions have contributed to a lack of staff movement into many field locations, and a decision to attempt some rule of law activities remotely. As some

UN experts pointed out, however, activities like prison security training, capacity support to judges, and direct support to criminal trials require in-person presence.

6. Lessons and recommendations

Based on the above analysis, this section lays out some lessons and recommendations for both the UN in Mali and the UN rule of law system more generally.

- **Take on corruption more directly.** Corruption is perhaps the most important impediment to a well-functioning rule of law sector in Mali. It diverts resources, strips institutions of capacities, and undermines public confidence in the justice system.⁶⁸ Yet, relatively little is done by the UN to take on corruption directly, especially in the rule of law arena. Rather than merely support capacity-building within the penal chain, the UN could direct more of its support to the governance structures within the justice sector, increasing transparency and accountability. There are signs that this shift is beginning to happen – and new anti-corruption work in the prisons/ justice system is promising – but a broader approach at how corruption undermines the goals of the UN and foments violence would be helpful.
- **Report publicly on “political will”.** Reinforce the engagement of UN senior officials to stimulate political will. There is a tendency in the UN to complain privately about the lack of political will, but to publicly laud a government in order to maintain good relations. This makes lack of cooperation from State actors a largely opaque issue, something that rarely receives specific, dedicated analysis. The UN should demand of its rule of law programming that programme monitoring and evaluation detail ways in which partners have obstructed, delayed, or otherwise inhibited programmatic outcomes. These reviews can be external if necessary (or perhaps conducted by OHCHR) but should be public to allow for a broader discussion with donors and partners about appropriate responses.
- **Increase focus on human rights monitoring.** In part as a result of the dominant counter-terrorism narrative in Mali, the UN has not done as much as in other settings to shine a light on government human rights violations. But popular distrust of a government is a significant reason individuals participate in violent activity, turning to armed groups instead of the State for their security. The expansion of MINUSMA’s focus to include violence in central Mali was an important step that has helped the Mission look at the broader range of violence actors, including State forces. Increasing the number and profile of public reporting on human rights violations by the governments, and pushing for more accountability

across State actors, including by pursuing technical support to military justice as initiated recently, will take this further, addressing an imbalance in the UN's approach to date.

- **Build a common vision and strategy for rule of law amongst the national actors, UN, and donors.**⁶⁹ Recent advances under the and recommendations and GFP have pointed to the positive outcomes of better coordination. But the UN still lacks a common rule of law strategy based on a well-conceptualized theory of change for Mali.⁷⁰ The 2020/21 Integrated Strategic Framework is an important step in the direction of a theory of change but is still very activity-focused and unlikely to lead to a better understanding of the impact

of the UN. What are the national-level goals for the UN's rule of law work for the coming years? How specifically will rule of law engagement contribute to lower risks of violence? What roles and responsibilities can be allocated across actors? These kinds of questions could help drive the UN towards such a common strategy, which should be based on or support the development of a national vision, strategy, and plans.

- **Build up support to the informal justice sector.** In the long term, the extension of legitimate Malian State-run institutions might play a vital role in reducing the risks of violent conflict across the country. But in the more immediate term, a majority of Malians hold deep distrust of the State



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and are far more ready to rely on informal, traditional, or other subnational justice mechanisms to resolve disputes and address their needs. Greater investment in those informal mechanisms would not only likely have a greater immediate impact, but would also provide an important additional source of information about how the local populations perceive justice and conflict risks. A proposal to develop bottom-up pilot projects in the area of informal justice would be worth considering, in addition to the ongoing support to build bridges and trust between the formal and informal justice sectors.⁷¹

- **Keep specific mandates achievable.** Over the past several years, the mandate of the CVJR has been expanded, now covering all serious crimes from several decades ago until present. This expansion, particularly during active conflict in central Mali in 2018, has meant a significant loss of focus, and a sense amongst many that the actual processes of trials and convictions are unlikely ever to occur. “If we keep expanding the jurisdiction, the work of the commission will never move forward,” one expert noted. A similar complaint was registered regarding the PJS, which has been asked to take on an ever-increasing realm of cases without new resources. Instead, there should be a rigorous cost-to-outcome analysis, asking what resources would be necessary to take a given caseload through trial, and restricting the mandate accordingly.
- **Think beyond criminality.** The overriding focus of the UN in Mali has been to build the State’s capacity to address violent criminality. This reflects the enormous problem of transnational criminal groups, violent extremists, and high levels of endemic violence. But a root cause of the violent conflicts over the past decades

is a deeper lack of trust in the broader justice system. Experts have pointed out that judges are changed when they provide opinions that contrast with elite powerbrokers’ demands, that “the entire legal system is beholden to a corrupt political class.” Addressing this deeper mistrust in the system may require that the UN focus efforts more broadly on the justice system as a whole, rather than the more immediate criminal trial capacities.

- **Measure change.** The UN conducts a remarkable array of rule of law activities in Mali, spending millions annually to improve the capacities of the Malian State. It is striking how little effort is put into measuring whether these activities are actually succeeding, whether by the UN or the Malian authorities (which have reporting obligations under the SDGs amongst others). The vast majority of UN assessments examine the extent to

and aligned with expected timelines. But very few, if any, interrogate whether the Malian rule of law system is better able to reduce risks and address impunity as a result. The relatively new Comprehensive Performance Assessment System in DPO offers a potential path to greater focus on impact, but more generally the UN would benefit from a refocusing on impact rather than activities. Furthermore, technical assistance should be provided to Malian authorities for the implementation of the indicators for SDG 16. The implementation of the UN rule of law Indicators should also be considered, given that this tool was endorsed by most United Nations entities involved in the rule of law sector.



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- ^{70.} NB: the Dutch Foreign Ministry has taken some steps to develop a theory of change, which could be a basis upon which to begin a UN-driven one.
- ^{71.} Diana Goff and Erwin van Veen, *A Crisis of Confidence, Competence, and Capacity: Programming Advice for Strengthening Mali's Penal Chain* (The Hague: Clingendael Institute, 2015).