



**IHL RESOURCE
DESK FOR MALI**

LEGAL BRIEF

Legal classification of the situation in Mali and applica- ble international law

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Acronyms and abbreviations

AP : Additional Protocol to the Geneva Conventions of 1949

AQIM : Al-Qaeda in the Islamic Maghreb (Al-Qaida au Maghreb Islamique)

ASS : Alliance for the Salvation of the Sahel (Alliance pour le Salut au Sahel)

CMA : Coordination of Azawad Movements (Coordination des Mouvements de l'Azawad)

DDR : Disarmament, Demobilization and Reintegration

FAMa : Malian Armed Forces (Forces Armées Maliennes)

GATIA : Imghad Tuareg Self-Defense Group and Allies (Groupe armé Toureg Imghad et Alliés)

HCUA : High Council for the Unity of Azawad (Haut conseil pour l'unité de l'Azawad)

IAC : International Armed Conflict

ICC : International Criminal Court

ICRC : International Committee of the Red Cross

ICTY: International Criminal Tribunal for the former Yugoslavia

IEDs : Improvised Explosive Devices

IHL : International Humanitarian Law

ISGS : Islamic State in the Greater Sahara (État islamique dans le Grand Sahara)

JNIM : Jama'at Nasr al-Islam Wal Muslimin

MAA : Arab Movement of Azawad (Mouvement arabe de l'Azawad)

MINUSMA : United Nations Multidimensional Integrated Stabilization Mission in Mali

MNLA : Azawad National Liberation Movement (Mouvement National de Libération de l'Azawad)

MSA : Movement for the Salvation of Azawad (Mouvement pour le Salut de l'Azawad)

MUJWA : Movement for Unity and Jihad in West Africa (Mouvement pour l'unicité et le jihad en Afrique de l'Ouest)

NIAC : Non-international Armed Conflict.

Abstract

Under international law, the current situation in Mali consists of several “non-international armed conflicts” involving notably the Malian Armed Forces (FAMa), the French armed forces and several armed groups. International Humanitarian Law (IHL) applies to acts of hostilities and other events linked to these armed confrontations. The Malian context is also characterized by other acts of violence, including inter-community violence, which are not necessarily related to these armed conflicts. If not, these other acts are covered (and prohibited) by Human Rights law and Malian law. The application of international law (IHL and Human Rights law) has important consequences, including for the legality of the use of force, the protection owed to affected populations and the classification of certain violent acts as international crimes.

Introduction

In Mali, the context is characterized by violence in the central and northern regions of the country involving the Malian Armed Forces (FAMa) and their external supporters - the French forces, the armed forces of the United Nations Integrated Multidimensional Stabilization Mission in Mali (MINUSMA) and the G5-Sahel Joint Force - and numerous non-state armed groups. The complexity of the current situation is manifested in particular by the proliferation of armed actors, the fluidity of armed groups and their shifting alliances¹, the interlocking nature of the conflicts between these different actors and, lastly, the diverse nature of the acts of violence (direct high-intensity clashes, attacks using improvised explosive devices, targeted kidnappings and assassinations, inter-community violence, etc.)².

The events as they are currently taking place in Mali require a legal classification in order to determine which rules of international law are applicable. In particular, the distinction between a situation of internal unrest and a situation of armed conflict is essential because the application of International Humanitarian Law (IHL) (also known as the “law of armed conflict”) depends on it. In turn, the application of IHL has an impact on the legality of certain activities - such as the use of force - on the extent of protection enjoyed by persons affected by such violence, or on the classification of certain acts as “war crimes”.

IHL is not the only branch of international law applicable to these situations, since it complements Human Rights law, which applies at all times, including in times of armed conflict.

1 For a mapping of non-state actors active in Mali, see in particular European Council on Foreign Relations, Mapping armed groups in Mali and the Sahel, updated in May 2019, available at https://www.ecfr.eu/mena/sahel_mapping

2 See Report of the United Nations Secretary-General to the Security Council on the situation in Mali, S/2019/454, 31 May 2019, §§ 20-30. See also The International NGO Safety Organization *Report: Mali*, Edition 128, 16-28 February 2019.

I. Methodology of the legal classification in IHL

IHL distinguishes between two types of conflicts: international armed conflicts (IACs) opposing two or more states, and non-international armed conflicts (NIACs) opposing a state to an armed group or several armed groups. This distinction is important because the applicable IHL rules are not the same for international and non-international armed conflicts. According to the method of determination of applicable IHL rules adopted in this note - as well as by many states and the International Committee of the Red Cross (ICRC) - the applicable IHL rules (IAC/NIAC) are identified on the basis of each bilateral relationship between belligerents.

Moreover, the nature of the conflict depends exclusively on the identity of the parties opposing each other: an armed conflict between several states will be classified as international (it opposes several nation states, hence the classification as international), whereas an armed conflict between a state and an armed group or several armed groups corresponds to a non-international armed conflict (as it does not oppose two nation states to each other).

It is important to note that the classification of a situation of violence for the purposes of the application of IHL does not belong to the parties to the conflict but depends on objective criteria defined by IHL. As the ICRC points out, “[t]he fact that a State does not explicitly refer, for political or other reasons, to the existence of an armed conflict [...] in a given situation, does not preclude the legal application of this classification”³.

A. International armed conflict

Under IHL, an IAC exists when one or more states use armed force against another state⁴.

It should be made clear that the reasons or the intensity of the clashes between states are not relevant in determining the existence of an IAC. Also, no recognition of the state of war from the parties to the conflict is required⁵.

An IAC may also exist when a third State intervenes indirectly in an internal conflict by exercising a certain degree of control over an armed group involved in that conflict⁶. Moreover, a state conducting military operations against an armed group on the territory of another state which does not consent to such operations would also, according to at least part of the doctrine, be involved in an IAC against the territorial state even in the absence of clashes between those two states⁷.

The IHL rules that apply to an IAC are the four Geneva Conventions of 1949, Additional Protocol I (AP I), provided that it has been ratified by the parties to the conflict, and customary IHL applicable to international armed conflicts.

3 ICRC, “International Humanitarian Law and Challenges of Contemporary Armed Conflicts”, 31st International Conference of the Red Cross and Red Crescent, Geneva, Switzerland, 28 November-1 December 2011, p.9. On the adoption of a fragmented approach for the determination of the IHL rules applicable, see Tristan Ferraro, “The ICRC’s legal position on the notion of armed conflict involving foreign intervention and on determining the IHL applicable to this type of conflict”, *International Review of the Red Cross*, 2016, vol. 97, n°900, pp. 1241 and following.

4 See Common Article 2 to the four Geneva Conventions of 1949.

5 In this connection, according to the International Criminal Tribunal for the former Yugoslavia (ICTY), in *Prosecutor v. Dusko Tadic*, the use of armed forces between states is sufficient to qualify the situation as an IAC, and consequently to apply the rules of IHL to this situation. ICTY, *Prosecutor v. Dusko Tadic*, Judgment on the Defense Appeal on the Preliminary Objection of Lack of Jurisdiction, Appeals Chamber, IT-94-1-A, 2 October 1995, § 70.

6 ICTY, *Prosecutor v. Dusko Tadic*, Judgment, Appeals Chamber, IT-94-1-A, 15 July 1999, §§131, 137; ICRC, “Article 2”, *Commentary to the First Geneva Convention for the Amelioration of the Condition of the Wounded and of the Sick in the Armed Forces in the Field*, 2nd edition, 2016, §§ 265-273.

7 ICRC, “Article 2”, *Commentary to the First Geneva Convention for the Amelioration of the Condition of the Wounded and of the Sick in the Armed Forces in the Field*, 2nd edition, 2016, §§ 261-262.

B. Non-international armed conflict

A NIAC opposes government armed forces against non-state armed groups or such groups against each other⁸. Two criteria must be met for the existence of a NIAC: the armed group must have a certain degree of organization and the violence reached must have a certain level of intensity⁹. Only these two criteria are taken into account in determining the existence of a NIAC, regardless of the objective of the armed actors involved or how a given operation is characterized in common parlance (e.g. an act described as “terrorist” or an operation described as “anti-terrorist” by a state may or may not be part of an armed conflict)¹⁰. The ICRC’s comments, as well as the case-law of international tribunals, have shed light on these two criteria for the existence of a NIAC.

An armed group does not have to be as organized as state forces, but it must be sufficiently organized to be able not only to conduct hostilities but also to respect IHL (and thus to be able to give orders to its members and to be able to enforce them). Thus, the degree of organization of the armed group is assessed on the basis of factors such as the existence of a chain of command; rules and disciplinary bodies within the group; headquarters; the ability to secure weapons and other military equipment; to recruit, train and equip new combatants; to plan, coordinate and conduct military operations; the ability to speak with one voice and to conclude agreements such as ceasefires or peace agreements¹¹.

The level of intensity of the violence is determined by indicators such as the number, the duration and the severity of armed clashes; the number and the type of forces engaged in the fighting; the type of weapons used; the number of victims; the extent of the damage caused or the referral to the United Nations Security Council¹².

The IHL rules applicable in NIACs include Common Article 3 to the four Geneva Conventions, the Additional Protocol II (AP II) of 1977 and certain rules of customary international law¹³. However, AP II, unlike Common Article 3, applies only to certain NIACs: only those that take place on the territory of a state that has ratified AP II (such as Mali) and that pit that state against an armed group exercising, under responsible command, a certain degree of control over a part of the state territory enabling sustained and concerted military operations and the implementation of the Protocol (NIACs between armed groups, or involving a state acting outside its territory, are covered by Common Article 3 and customary law).

C. Foreign interventions and territorial expansion of the conflict

The fact that third states or international organizations (such as the UN) are involved in a NIAC does not necessarily change the nature of the conflict. Indeed, according to the classification methodology adopted in this note, if these external actors support the state party to a NIAC (and not the enemy armed group), the conflict remains non-international (it pits a state and its supporters against an armed group)¹⁴.

Similarly, the nature of the conflict does not depend on territorial considerations: a NIAC between state forces and an armed group that “spills over” into the territory of neighboring states (such as the Sahelo-Saharan

8 See Common Article 3(1) to the Geneva Conventions and Article 1 of Additional Protocol II (AP II) to the 1949 Geneva Conventions.

9 See ICTY, *Prosecutor v. Dusko Tadic*, Judgment, IT-94-1-T, 7 May 1997, §§ 561-568.

10 See ICTY, *Prosecutor v. Fatmir Limaj*, Judgment, IT-03-66-T, 30 November 2005, § 170.

11 See ICTY, *Prosecutor v. Haradinaj*, Judgment, IT-04-84-T, 3 April 2008, § 60.

12 *Idem*, § 49.

13 See Jean-Marie Henckaerts, Louise Doswald-Beck, *Customary International Humanitarian Law*, Volume I – Rules (hereinafter “Customary IHL Study”), ICRC, 2006.

14 ICRC, note 6, “Article 3”, § 404. For a detailed analysis of this approach, also adopted by the ICRC, see Tristan Ferraro, “The ICRC’s legal position on the notion of armed conflict involving foreign intervention and on determining the IHL applicable to this type of conflict”, *International Review of the Red Cross*, 2016, vol. 97, n°900, pp. 1227-1252. See also the RULAC online platform, “Contemporary Challenges for Classification” (section “Intervention by foreign forces”), <http://www.rulac.org/classification/contemporary-challenges-for-classification>.

band states) does not become international simply because it spans several states¹⁵. The criterion for classification remains the same: the nature of the parties involved. Thus, a conflict between state forces and an armed group, which extends over the territory of two states, remains non-international¹⁶.

D. Peacekeeping forces

In line with numerous sources, the present note considers that a peacekeeping force may become a party to an armed conflict and that the nature of its mandate does not affect this issue. In other words, it can become a party to a conflict even if its mandate is limited to peacekeeping and/or the protection of the civilian population. The criteria described above for the existence of an IAC or a NIAC apply equally to peacekeeping forces¹⁷. Thus, the motivations for the use of armed violence are irrelevant: whether an armed force uses force for political (to overthrow a government, to take control of a territory), religious, criminal, economic or civilian protection purposes, does not affect the fact that it may become a party to a conflict.

The only valid consideration is the use of force between two sufficiently organized armed entities. The reason for such a separation between the reasons for the use of force and the actual use of force lies in the essential distinction between “*jus ad bellum*” (the law that governs the conditions for the legal use of force, essentially contained in the UN Charter) and “*jus in bello*” (the law that governs the manner in which force may be used during an armed conflict, i.e. IHL). Thus, a peacekeeping force can become a party to an armed conflict if it uses armed force against a sufficiently organized armed group (or a state, although this is less likely). The peacekeeping force would then become a party to a NIAC¹⁸, and thus be bound by IHL¹⁹.

The following analysis is based solely on information available in the public domain. This note provides an objective analysis of the events as they are currently unfolding in Mali and the nature of the armed actors involved, solely according to the criteria defined by IHL for the legal classification of the situation. Considering the difficulty of obtaining accurate and reliable information that reflects the reality on the ground, the present serves as an indication, but is not intended to be exhaustive, nor of the belligerent relations nor an exact reflection of the situation on a given date.

15 Sylvain Vité, “Typology of Armed Conflicts in International Humanitarian Law: Legal Concepts and Actual Situations”, *International Review of the Red Cross*, Vol. 91, n° 873, March 2009, pp. 89-90.

16 If the third State on whose territory the conflict extends consents to such operations. If not, the classification of the situation is controversial.

17 ICRC, note 6, “Article 2”, § 245 and following. “[The] applicability of IHL to multinational forces depends on the same factual circumstances that apply to any other force, regardless of their international mandate and designation, and regardless of the designation that may have been given to any parties opposing them. The mandate and legitimacy of a mission entrusted to multinational forces are matters of *jus ad bellum* and general international law, but they are not relevant to the applicability of IHL to multinational operation”, Nils Melzer, *International Humanitarian Law – Detailed Introduction*, p. 88.

18 Nils Melzer, *International Humanitarian Law – Detailed Introduction*, p. 89.

19 United Nations, Secretary-General’s Bulletin, ST/SGB/1999/13, 6 August 1999. See also Terry Gill, Dieter Fleck, William Boothby, Alfons Vanheusden, *Leuven Manual on the International Law Applicable to Peace Operations*, Cambridge University Press, Cambridge, 2017.

II. Classification of the situation in Mali

The political and security situation in Mali was marked by the signing of the Agreement for Peace and Reconciliation in Mali in 2015 (“the Peace Agreement”). However, the Agreement did not put an end to all armed confrontations; they intensified in some areas and new belligerents emerged.

Only some armed confrontations have actually ceased. Thus, from 2012 to 2015, Mali’s regular army was engaged in a NIAC against the National Movement for the Liberation of Azawad (MNLA). In the light of the military operations carried out by the MNLA and in particular its takeover of certain localities in the North of Mali in 2012, the conditions for the existence of a NIAC between the FAMA and the MNLA were met. After the signing of the Peace Agreement, there do not appear to have been, according to public sources, any confrontation between the Malian army and the MNLA²⁰, so that this NIAC seems to have stopped.

On the other hand, several armed actors are still involved in armed confrontations whose intensity seems high enough to justify the applicability of IHL. The bulk of these violent acts pit Malian forces and their supporters (including Barkhane’s forces and some of the groups that signed the Peace Agreement) against various radical Islamist groups in northern and central Mali. The Malian context is also marked by inter-community violence.

On the basis of the information available in the public domain, none of these confrontations seems to correspond to an IAC since they do not set states against each other²¹. Consequently, the situation in Mali at the time of writing is characterized by the existence of several NIACs²², as well as violence that does not reach this threshold.

It should be pointed out that, as in many other situations, the exercise of the legal classification of the situation in Mali is complicated by at least three fact-finding factors. First, it is difficult to assess the degree of organization of some armed groups²³. Second, it is often difficult to identify perpetrators of violent acts when they are unclaimed and thus to attribute them to a party to an armed conflict or not. Thirdly, certain groups often have multiple targets: it is not only Malian or international forces that are targeted, but also traditional and notable local authorities or other members of the civilian population²⁴. However, some attacks against civilians may in fact be aimed indirectly at enemy forces (the state, its international supporters, other armed groups): a belligerent may in fact seek to reach its enemy through civilian populations it perceives being associated to the other party (rightly or wrongly, on community, ethnic, religious or other grounds). In these circumstances, it is not always clear who the ultimate target entity is and thus whether or not an attack is linked to a particular armed conflict within the meaning of IHL.

20 See the Report of the group of experts established pursuant to Security Council Resolution 2374 (2017) on Mali, 9 August 2018, <https://reliefweb.int/sites/reliefweb.int/files/resources/N1823299.DOC.pdf>.

21 Foreign forces (notably French and UN forces) are present in Mali with the consent of the Malian state, and no third state appears to exercise sufficient control over an armed group or groups to qualify itself as a party to a conflict against the Malian state.

22 For a similar conclusion, see “Non-international armed conflicts in Mali”, RULAC <http://www.rulac.org/browse/conflicts/non-international-armed-conflicts-in-mali>

23 Not only is it difficult to access accurate and reliable information about the degree of organization of these groups, the description of these groups by third parties sometimes reflects more their interest in portraying these groups as organized entities, rather than a real degree of organization. Aurélien Tobie raises this point in relation to the Katibat Macina at least at the beginning of its activity: “It seems that the identification of this group as the main jihadist actor at the Centre was linked more to the need to identify an actor to explain the resurgence of violence, than to the emergence of a clearly structured phenomenon at the local level”, Aurélien Tobie, “Le Centre Mali: Violences et Instrumentalisation croisées”, SIPRI Insights on Peace and Security, n° 2017/5, December 2017, p. 5.

24 Idem.

A. Degree of organization of the armed groups involved

1 Radical Islamist Groups

a. JNIM

In March 2017, three armed groups – Ansar Dine, the Saharan branch of Al-Qaeda in the Islamic Maghreb (AQIM) and Al-Mourabitoun - announced their merger into the Group in Support of Islam and Muslims (GSIM) or Jama'at Nusrat al Islam wal Muslimine (JNIM)²⁵. The JNIM pledged allegiance to Al-Qaeda through its leader, Iyad Ag Ghaly²⁶. The Katibat Macina, considered one of Ansar Dine's katibas, has itself pledged allegiance to the JNIM²⁷.

Since its inception, the group has claimed responsibility for numerous attacks²⁸. However, little information is available on the command structure of the group - apart from the existence of a head of operations²⁹ - so that it is difficult to assess whether its groups are answerable to a command specific to the JNIM and therefore whether the JNIM constitutes in itself an organized armed group.

In any case, it seems that each of the groups that make up the JNIM already fulfilled the organizational criterion imposed by IHL – as evidenced in particular by their respective chain of command structure³⁰, their ability to plan and conduct attacks³¹, their resources and their recruitment capacity³². Since the creation of JNIM they have carried out complex and coordinated attacks, mainly against Malian and French forces and the MINUSMA³³. Although the JNIM member groups do not seem to “control” any territory strictly speaking, some of them exert a definite influence on the social space of certain parts of Mali³⁴, notably by imposing taxes and regulating, by coercive means, certain aspects of civil life³⁵.

25 Thomas Joscelyn, “Analysis: Al Qaeda groups reorganize in West Africa”, *JDD's Long War*, 13 March 2017, <https://www.longwarjournal.org/archives/2017/03/analysis-al-qaeda-groups-reorganize-in-west-africa-php>.

26 “Jama'at Nasr al-Islam wal Muslimin (JNIM)”, *Center for Strategic and International Studies*, https://www.csis.org/programs/transnational-threats-project/terrorism-backgrounders/jamaat-nasr-al-islam-wal-muslimin#_edn5.

27 Statement attributed to Amadou Kouffa, 21 August 2017, cited by Tobie, note 23, p. 8.

28 For a list of attacks claimed by the JNIM, see “Attacks claimed by the Islamic State in the Greater Sahara (ISGS)”, *Menastream*, <http://menastream.com/attacks-islamic-state-greater-sahara>.

29 United Nations Security Council, “Twenty-fourth report of the Analytical Support and sanctions monitoring”, *S/2019/570*, 15 July 2019, § 32; “Jama'at Nasr al-Islam wal Muslimin (JNIM) – Group profile”, *Constellis Analysis*, February 2017, p. 2-3; Jami Forces, “Revisiting the Mali Al-Qaeda Playbook: How the Group is Advancing on its Goals in the Sahel”, *CTC Sentinel*, Vol. 11, n° 9, October 2018.

30 For some elements concerning the structure of each of the JNIM member groups, see for example Joscelyn, note 25; “Shifting relationships, growing threats: Who's who of insurgent groups in the Sahel”, *The New Humanitarian*, 19 February 2018. For elements on AQIM's organizational structure, see for example Adib Benchérif, “From Resilience to Fragmentation: Al Qaeda in the Islamic Maghreb and Jihadist Group Modularity”, *Terrorism and Political Violence*, 2017. See also Nicolas Desgrais, Yvan Guichaoua, Andrew Lebovich, “Unity is the exception. Alien formation and deformation among armed actors in Northern Mali”, in *Small Wars and Insurgencies*, Vol. 29, n° 4, 2018. It should be noted, however, that some commentators have pointed to the vagueness surrounding the organizational structure of Katibat Macina. International Crisis Group, “Mali Central: la fabrique d'une insurrection?”, *Rapport Afrique n°238*, 6 July 2016, pp. 11-12; Tobie, note 23, pp. 6-7.

31 In 2012, AQIM, Ansar Dine and MUJWA (part of which later became Al-Mourabitoun) took control of Timbuktu, Kidal and Gao, respectively, for almost a year, indicating their ability to conduct large-scale military operations and control territory. These groups continued to carry out attacks, some of them complex and coordinated.

32 These groups have an arsenal of armaments partly originating in Libya and resources obtained in particular through hostage-taking of Westerners. Desgrais, Guichaoua, Lebovich, note 30, p. 660.

33 See Section II. B. 1 below. See also Center for Strategic and International Studies, note 26; Tobie, note 23, p. 7.

34 This seems to be, for example, the case of the Katibat Macina in the flooded areas of the Mopti region. Interview with Adib Benchérif, political scientist specializing in Tuareg groups in Mali and Niger, conducted on August 12, 2019.

35 See Namie Di Razza, “Protecting Civilians in the Context of Violent Extremism: The Dilemmas of UN Peacekeeping in Mali”, IPI, October 2018, p. 10; United Nations Security Council, note 29, § 30.

b. The “Islamic State in the Great Sahara” (ISGS)

The ISGS was formed from a component of Al-Mourabitoun – thus an already organized armed group – which pledged allegiance to the Islamic State in May 2015³⁶. The latter recognized this allegiance in October 2016³⁷. The ISGS appears to have a command structure, whose main commanders are sometime identified in public sources³⁸. Although relatively less active than the JNIM and less significant in terms of numbers (estimates of the number of combatants in the ISGS vary from 100 and just over 400³⁹), the ISGS claimed responsibility for several attacks, including in Mali⁴⁰. Thus, in mid-2019, the UN considered the ISGS to be “firmly established” in Mali⁴¹. Close cooperation between the ISGS and the JNIM is reported - they have reportedly carried out attacks jointly⁴² - but the two armed groups remain quite distinct⁴³.

2. Armed groups belonging to the CMA

The Coordination of the Azawad Movements (CMA) was created in 2014 and brings together several Tuareg and Arab armed groups in favor of the self-determination of Azawad, including: the MNLA, the High Council for the Unity of Azawad (HCUA) and the Arab Movement of Azawad (MAA). As its name indicates, the CMA is a coordination of armed groups of a political-military nature, created to enable their participation in the 2015 Peace Agreement⁴⁴. It does not have a unified command of the armed forces of its member groups⁴⁵. Consequently, this note does not take into account this affiliation and treats the groups that are members of the CMA as distinct armed groups within the meaning of IHL. Despite the ongoing accelerated disarmament, demobilization and reintegration (DDR) process, these armed groups still exist at the time of writing.

36 “Sahel: un chef d’Al-Mourabitoune prête allégeance à l’organisation de l’État islamique”, France 24 with AFP, 14 May 2015, <https://www.france24.com/fr/20150514-sahel-groupe-jihadiste-prete-allegeance-organisation-etat-islamique-belmokhtar-sahraoui-mourabitoune>.

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

38 See, for example, “Ménaka : Un cadre de l’EIGS abattu et deux civils tués par un raid de Barkhane”, Kibaru, 27 August 2018, <https://kibaru.ml/fr/art/ménaka-un-cadre-de-l-eigs-abattu-et-deux-civils-tués-par-un-raid-de-barkhane> “Comment des djihadistes ont piégé une patrouille américaine au Niger”, Le Monde, 4 November 2017, https://www.lemonde.fr/afrique/article/2017/11/04/comment-les-djihadistes-ont-piege-une-patrouille-americaine-au-niger_5210154_3212.html.

39 Menastream estimated that at the end of 2018, the ISGS had 425 combatants, J. Warner and C. Hulme, “The Islamic State in Africa: Estimating Fighter Numbers in Cells Across the Continent”, *Center for Combating Terrorism*, vol.11, n°7, August 2018: <https://ctc.usma.edu/islamic-state-africa-estimating-fighter-numbers-cells-across-continent/>. The United Nations estimates this number at approximately 100-200 combatants, see United Nations Security Council, “Twenty-third report of the Analytical Support and Sanctions Monitoring Team”, S/2019/50, 15 January 2019, § 36.

40 For a list of attacks claimed by the ISGS, see note 28.

41 United Nations Security Council, note 29, § 34. On the rise of the ISGS, see also Djallil Lounnas, “Le djihadisme au Sahel après la chute de Daech”, *Politique étrangère*, Vol.2, Summer 2019, §§ 11-13.

42 United Nations Security Council, note 29, § 36.

43 Report of the Secretary General on the situation in Mali, S/2017/1105, 26 December 2017, § 33; United Nations Security Council, “Twenty-second report of the Analytical Support and Sanctions Monitoring Team”, S/2018/705, 27 July 2018, § 40. On the relations between the ISGS and the JNIM, see Djallil Lounnas, “Ke djihadisme au Sahel après la chute de Daech”, *Politique étrangère*, vol.2, Summer 2019, §§ 14-18.

44 Desgrais and others, note 30.

45 The CMA is able to take collective decisions, notably regarding the recruitment policy of its member groups (in March 2017 the CMA signed an action plan with the UN to end and prevent the recruitment and use of children and sexual violence against children in conflict) or regarding the regulation of civilian life in the territories that its member groups *de facto* administer (for decision issued by the CMA Steering Committee, see the “News” section of the MNLA website: <http://mnlamov.net/actualites.html>). The CMA implements these regulations through a *de facto* police force made up of the forces of the three CMA member groups, the Security coordination of the Azawad Movements in Kidal (CSMAK). However, apart from its capacity to coordinate law enforcement operations, the CMA does not appear to have its own chain of command to plan, coordinate and conduct acts of hostilities; it would appear that the armed groups that constitute it retain their autonomy in this area and fulfill, separately, the organizational requirements imposed by IHL. This interpretation is shared by Adib Benchérif, a political scientist specializing in Tuareg groups in Mali and Niger; interview conducted on 12 August 2019.

The MNLA has an armed branch with a military leader⁴⁶ and is governed by statutes⁴⁷. At the beginning of 2012, the MNLA launched a rebellion against the Malian state allowing it to take control of part of northern Mali. This provides evidence of an ability to conduct coordinated military operations and to control territory. Although the MNLA lost much of its territorial control a few months later for the benefit of jihadist groups - Ansar Dine, the Movement for Unity and Jihad in West Africa (MUJWA) and AQIM - it regained control of Kidal, which has since become its stronghold. The Movement appears to have suffered defections and the creation of parallel movements, but the number of its combatants was estimated by the UN in 2016 to be around 2000⁴⁸. The MNLA is capable of planning and conducting military operations, and has sufficient military equipment to fight, as demonstrated by its involvement in armed clashes against radical Islamist and Platform groups⁴⁹.

The Arab Movement of Azawad (MAA) was created in 2012 to replace the National Liberation Front of Azawad (FLNA). In April 2012, the latter had taken control of part of the city of Timbuktu for a few days, then punctually took control of small parts of the area during 2013⁵⁰. In 2014, the MAA divided into two branches, a “pro-CMA” and a “pro-government”. The pro-CMA MAA is notably made up of a General Staff, headed by a Chief of Staff⁵¹. The number of its combatants estimated by the UN in 2016 was between 500 and 1000⁵², but it is generally considered to be less militarily active than the MNLA and the HCUA⁵³.

As for the HCUA, it was constituted in 2013 from the High Council of Azawad (HCA) and the Islamic Movement of Azawad (IMA). The group is headed by a Secretary General and a military leader commands the armed wing of the group⁵⁴. His leadership and members are partly from Ansar Dine. In 2016, the number of its combatants was estimated by the UN to be between 400 and 600⁵⁵. The group operates in Kidal, Timbuktu, Gao (including a marked presence in the town of Talataye) and Ménaka⁵⁶. Like the MNLA, the HCUA is capable of planning and conducting military operations and has sufficient military equipment to fight, as demonstrated by its involvement in armed clashes with groups of the Platform⁵⁷.

3. Armed groups belonging to the Platform

The Platform brings together the armed groups favorable to the government of Mali. It is mainly composed of the Tuareg Imghad Self-Defense Group and Allies (GATIA), a branch of the Arab Movement of Azawad (MAA), the Coordination of Movements and Patriotic Resistance Front (CMFPR) and recently the Movement for the Salvation of Azawad (MSA). Like the CMA, the Platform appears to be more of a coordinating entity with a political focus than an armed group as such, since it does not appear to have a unified military command structure.

The GATIA has a military commander⁵⁸ and would be constituted of about 500 men, according to a 2016 UN estimate⁵⁹. The group is present in the North but does not appear to control any territory *per se*. The MSA

46 Adib Benchérif, “Le Mali post Accord d’Alger : une période intérimaire entre conflits et négociations”, *Politique africaine*, vol. 2, n°150, 2018, table p. 198.

47 Denia Chebli, “Du MNA au MNLA: le passage à la lutte armée”, 10 June 2014, <https://www.noria-research.com/en/du-mna-au-mnla-le-passage-a-la-lutte-armee/>.

48 Baba Ahmed, “Mali: le business du cantonnement ?”, *Jeune Afrique*, 29 April 2016, <https://www.jeuneafrique.COM/321987/POLITICS/MALI-BUSINESS-CANTONNEMENT/>.

49 See Section II. B. 2 and II. C.

50 “Mali: un groupe armé prend le contrôle d’une localité du nord est”, *Le Monde*, 22 April 2013, https://www.lemonde.fr/afrique/article/2013/04/22/mali-un-groupe-arme-prend-le-contrôle-d-une-localité-du-nord-est_3163777_3212.html

51 Benchérif, note 46, p. 199.

52 Ahmed, note 48.

53 “MAA-CMA”, Mapping armed groups in Mali and the Sahel, ECFR, https://www.ecfr.eu/mena/sahel_mapping/maa_cma.

54 Benchérif, note 46, p. 198.

55 Ahmed, note 48.

56 “HCUA”, mapping armed groups in Mali and the Sahel, ECFR, https://www.ecfr.eu/mena/sahel_mapping/hcu

57 See section II. B. 2 and II. C.

58 Benchérif, note 46, p. 199.

59 Ahmed, note 48.

was formed in September 2016. For its part, the MSA announced, through its Secretary General, that it would join the Platform on 12 July 2019⁶⁰. These two groups are involved in clashes against CMA groups as well as against radical Islamist groups, which demonstrates their ability to plan military operations and the fact that they have substantial weaponry at their disposal⁶¹. In addition, they collaborate openly with the Malian and Western state forces, including in the context of joint military operations against Islamist groups⁶².

B. Intensity of the confrontations and classification of the non-international armed conflicts involving radical Islamist groups

1. Against Malian and French forces

The JNIM and the ISGS have carried out numerous attacks resulting in loss of human lives, property damage and displacement of populations⁶³. They have the capacity to carry out complex, coordinated and frequent attacks, using a variety of tactics such as vehicle bombs, remote-controlled explosive devices and indirect fire⁶⁴. For example, between the end of March and the end of May 2019, the UN estimated that 59 asymmetric attacks were committed by “terrorist groups”⁶⁵. These attacks - which are sometimes claimed⁶⁶ - target mainly the FAMA⁶⁷, but also French⁶⁸ and UN forces⁶⁹. These forces are sometimes targeted collectively, as may have been the case in the July 2019 attack on the Gao military base⁷⁰. They are also targeted by means of improvised explosive devices (IEDs)⁷¹. It seems that these radical Islamist groups target civilians more rarely directly, but civilians are nonetheless heavily affected by the armed violence deployed by these groups, whether by IEDs, or as collateral damage of attacks against state or UN security forces, or through abuse or various acts of harassment and intimidation⁷².

For their part, Malian and French forces are also conducting, jointly or otherwise, military operations against these radical armed groups, which they publicly identify either by the name of the group in question or by

60 “Communiqué de presse d’adhésion du #MSA à la Plateforme des Mouvements du 14 juin 2014”, 13 July 2019, <https://www.msa-azawad.com/actualites/100-communique%C3%A9-de-presse-d-adh%C3%A9sion-du-msa-&C3AO-la-plateforme-des-mouvements-du-14-juin-2014-aux-c%C3%B4t%C3%A9s-du-gatia-du-maa-et-de-la-cmfpr.html>.

61 See section II. B. 2 and II. C.

62 For example, see “Mali: Barkhane mène des opérations anti-terroristes dans la région de Gao”, RFI, 23 February 2018, <http://www.rfi.fr/fr/afrique/20180223-mali-barkhane-mene-operations-anti-terroristes-region-gao-al-saharoui>; “30 djihadistes tués dimanche par les forces françaises et maliennes”, *l’Express*, 5 April 2018, https://www.lexpress.fr/actualites/1/societe/mali-30-jihadistes-tues-dimanche-par-les-forces-francaises-et-maliennes_1997917.html.

63 For a detailed and updated list of attacks by radical groups in Mali go on the *Armed Conflict Database* platform of the International Institute for Strategic Studies (IISS) in the chapter “Mali (The Sahel)”, the “Timelines” by year, <https://acd.iiss.org/member/default.aspx>, for a.

64 Report of the Secretary General on children and armed conflict in Mali, S/2018/136, 21 February 2018, § 11.

65 UN Secretary General, note 2, § 20.

66 AQIM, for example, claimed responsibility for an attack on a Malian army camp in the center in March 2019 (see “Mali: la principale alliance djihadiste su Sahel revendique l’attaque contre l’armée à Dioura”, *Jeune Afrique*, 23 March 2019, <https://www.jeuneafrique.com/753348/politiciens-mali-la-principal-alliance-jihadist-du-sahel-revendique-latta-counter-arms/>) and against a convoy from Barkhane that killed a French soldier in April 2019, (<https://www.france24.com/fr/20190408-aqmi-revendique-attentat-medecin-militaire-francais-mali>). For a list of attacks claimed by the ISGS, see Menastream, note 28.

67 This is the finding of the Secretary General of the United Nations, see note 2, § 22. For example, the FAMA were attacked in May 2019 in Diankabou in the Mopti region and were victims of an ambush in June 2019 in the locality of Gossi, near Timbuktu that resulted in 38 casualties including 5 soldiers. See IISS, *Armed Conflict Database*, “Mali”, <https://acd.iiss.org/member/default.aspx>.

68 For example, in March 2019 in the south of Mali, in an area that would serve as a refuge for the ISGS. “Point de situation des opérations du 9 au 14 mars », French Ministry of the Armed Forces, <https://www.defense.gouv.fr/operations/points-de-situation/point-de-situation-des-operations-du-9-au-14-mars>.

69 See section II. B. 3.

70 «Attaque kamikaze contre la base militaire de Gao: les FAMA ont enregistré des blessés», *Forces Armées Maliennes*, 23 July 2019, <http://pastel.fama.ml/attaque-kamikaze-contre-la-base-militaire-de-gao-les-fama-ont-enregistre-des-blesses/>.

71 For example, on 5 June 2019, two Malian soldiers were killed and two others wounded by an IED between Youwarou and Dioura, Mopti, and two others were killed on 16 June 2019. On 2 April 2019, a French army convoy was hit by an IED, killing a French military doctor. It is often difficult to attribute an IED attack to a particular group when it is unclaimed.

72 Di Razza, note 35.

the term “terrorist armed groups” (TAGs). These operations lead to the neutralization of members of these groups and the destruction or seizure of their equipment⁷³. Joint operations are regularly carried out, for example in November 2018 and February 2019 against the Katibat Macina in the Mopti region⁷⁴, in April 2019 in the Gourma⁷⁵, or in June 2019 against the ISGS in the region of Liptako⁷⁶. The French authorities have repeatedly indicated that they target senior officials of these groups during offensive operations⁷⁷. These operations take place in the North, but also in the Center⁷⁸ and in the Liptako-Gourma region⁷⁹. In view of the intensity of the hostilities between them and the degree of organization of the ISGS and the JNIM (or its member groups), it is clearly established that the Malian and French forces are engaged in a NIAC against each of these groups.

2. Against armed groups allied to Malian and international forces

The use of violence between radical Islamist groups and armed groups allied to Malian and international forces also appears to be reaching the threshold of intensity required to constitute a NIAC, at least between some of these groups. Thus, the GATIA and the MSA regularly counteract the ISGS⁸⁰ or the JNIM⁸¹, through armed clashes and other acts of violence. The GATIA and the MSA are also conducting joint operations with the Barkhane force against these groups⁸².

3. Status of MINUSMA

The question of whether the MINUSMA force should also be qualified as a party to a NIAC against these groups requires consideration of several elements. First, and as explained above⁸³, the nature of MINUSMA as a “peacekeeping” mission and the fact that it is authorized by the United Nations Security Council to use

73 “Sécurisation du centre: les FAMA neutralisent une trentaine de terroristes”, 27 June 2019, <http://pastel.fama.ml/securisation-du-centre-les-fama-neutralisent-une-trentaine-de-terroristes/>. See also “Lutte contre le terrorisme au centre: les FAMA ont récupéré des armes et des motos », 23 June 2019, [http://pastel.fama.ml/lutte-contre-le-terrorisme-au-centre/Lutte contre le terrorisme: Le Chef d'état-major général sur le terrain au centre du pays; des bases terroristes détruites](http://pastel.fama.ml/lutte-contre-le-terrorisme-au-centre/Lutte%20contre%20le%20terrorisme%20Le%20Chef%20d%27etat-major%20général%20sur%20le%20terrain%20au%20centre%20du%20pays%20des%20bases%20terroristes%20détruites/)”, 20 June 2019, <http://pastel.fama.ml/lutte-contre-le-terrorisme-le-chef-detat-major-general-sur-le-terrain-au-centre-du-pays-des-bases-terroristes-detruit/>.

74 The operation from 22 to 23 November 2018 is said to have led to the neutralization of some 30 members of the Katibat Macina, “Point de situation du 23 au 29 novembre”, website of the French Ministry of the Armed Forces, <https://www.defense.gouv.fr/operations/points-de-situation/point-de-situation-du-23-au-29-novembre>. The February 2019 operation reportedly led to the neutralization of some 15 members of the Katibat Macina, <https://thedefensepost.com/2019/02/25/mali-france-airstrike-kills-jnim-mopti-eutm-koulikoro-attacked/>.

75 “Point de situation du 5 au 11 avril», <https://www.defense.gouv.fr/operations/points-de-situation/point-de-situation-des-operations-du-5-au-11-avril>.

76 “Point de situation des opérations du 14 au 20 juin”, <https://www.defense.gouv.fr/operations/points-de-situation/point-de-situation-des-operations-du-14-au-20-juin>.

77 National Defense and Armed Forces Committee, National Assembly, 11 June 2019, <http://www.assemblee-nationale.fr/15/cr-cdef/18-19/c1819042.asp>.

78 For example, in January 2019, Operation Barkhane, in coordination with FAMA, claimed to have disarmed some 15 “terrorists” in Dialoubé, Mopti region, see “Point de situation des opération du 11 au 17 janvier”, French Ministry of the Armed Forces, <https://www.defense.gouv.fr/operations/points-de-situation/point-de-situation-des-operations-du-11-au-17-janvier>.

79 On 31 May 2019 the French authorities announced that they had neutralized around ten members of a TAG in Ndaki, in the Gourma area. See also “Point de situation des opérations du 4 au 10 janvier”, <https://www.defense.gouv.fr/operations/points-de-situation/point-de-situation-des-operations-du-4-au-10-janvier>. See also Commission of the national Defense and the Armed forces, National Assembly, 11 June 2019, <http://www.assemblee-nationale.fr/15/cr-cdef/18-19/c1819042.asp>.

80 For example, clashes have occurred between the MSA and GATIA against the ISGS: “Le chef djihadiste Al-Sahraoui accuse et menace deux communautés du Mali”, *RFI*, 28 June 2017, http://www.rfi.fr/afrique/20170627-chef-jihadiste-al-sahraoui-accuse-et-menace-deux-communautes-mali-imghad-idaksahak?ref=tw_i. The ISGS claimed responsibility for an attack in April 2018 against a GATIA commander in the Timbuktu region, clashes between the ISGS and the GATIA took place near Gao in July 2018 and May 2019 and in Ménaka in February 2019. Clashes also took place in February 2019 in Ménaka, and two MSA officers were killed by the ISGS in Ménaka in April 2019, see Menastream, note 28.

81 For example, the JNIM claimed responsibility for an attack on the MSA in February 2019, see <https://twitter.com/sidikounta7/status/1097192265943040001>.

82 See, for example “Mali: le récit exclusif de la traque de Abou Walid Al-Sahraoui”, *Jeune Afrique*, 5 March 2018, <https://www.jeuneafrique.com/mag/538970/politique/mali-le-recit-exclusif-de-la-traque-de-abou-walid-al-sahraoui/>.

83 See discussion under section I. D.

force (including to protect its personnel and civilians) are not relevant considerations in this analysis. The criteria taken into account are the same as for any other armed entity potentially party to a conflict.

MINUSMA is regularly targeted by attacks coming from the above-mentioned radical groups⁸⁴, including through IEDs⁸⁵. Some of these attacks are claimed, notably by the JNIM⁸⁶. Direct clashes between MINUSMA and radical armed groups sometimes occur during operations that it conducts in coordination with the FAMA, as was the case, for example, in Ménaka in November 2017⁸⁷. If armed violence between MINUSMA and these radical armed groups was deemed insufficient to meet the intensity requirement, MINUSMA could possibly be considered a party to one or more NIACs by virtue of the support it provides to Malian and French forces.

Indeed, according to the ICRC's support-based approach, when a multinational force provides a party to an armed conflict with support related to the conduct of hostilities, it itself becomes a party to that pre-existing armed conflict⁸⁸. Again according to the ICRC, the mere sharing of information enabling the conduct of hostilities or the transport of troops for that purpose is a sufficient form of support to become a party to the conflict⁸⁹. However, with regard to MINUSMA, the Security Council Resolution 2100 already gave it the task "to support the Malian transitional authorities [...] to avert threats and take active measures to prevent the return of armed elements to these areas"⁹⁰. MINUSMA has also been explicitly mandated by the Security Council to provide operational and logistical support to FAMA and the G5-Sahel force⁹¹. Although the mandate of MINUSMA is not in itself relevant because only the facts matter, it can be an indicator to assess the nature of MINUSMA's activities if it is effectively implemented. Indeed, in 2013, MINUSMA appears to have been actively engaged in operations against radical armed groups jointly with Malian and French forces⁹². Since then, it seems that it continues to provide them with at least logistical support⁹³, but it cannot be clearly established - on the sole basis of public sources - that this support directly enables the FAMA to carry out activities that are acts of hostilities⁹⁴.

84 Among the many attacks recorded against MINUSMA, we can cite the attack of 10 May 2015 near Ténenkou and the attack of 29 May 2016 near Sévaré. Two attacks in August 2017 in Douentza and Timbuktu, the attack of 3 April 2019 against the MINUSMA base in Kidal, the attack of 20 January 2019 in Aguelhok and the attack of 18 May 2019 that killed three Chadian soldiers in Tessalit, near Kidal.

85 For example, "UN peacekeeper killed in IED attack on convoy in central Mali", *The Defense Post*, 20 April 2019, <https://thedefensepost.com/2019/04/20/mali-peacekeeper-killed-ied-convoy-mopti/>.

86 For example, JNIM claimed responsibility for an ambush against MINUSMA on 17 April 2019 and an IED attack between Douentza and Boni in the Mopti area on 20 April 2019, and AQIM claimed responsibility for an attack on a MINUSMA camp in Aguelhok in January 2019. A 15 April 2018 attack on MINUSMA in Timbuktu is attributed by the UN to JNIM, see UN Security Council, "Twenty-second report of the Analytical Support and Sanctions Monitoring Team", S/2018/705, 27 July 2018, §38.

87 "La MINUSMA Repousse Une Attaque Lors D'une Opération Coordinée Avec Les Famas Dans La Région De Ménaka", 24 November 2017, <https://minusma.unmissions.org/la-minusma-repousse-une-attaque-lors-d%E2%80%99une-op%C3%A9ration-coordonn%C3%A9e-avec-les-famas-dans-la-r%C3%A9gion-de>.

88 Ferraro, note 14.

89 *Idem*, p. 185.

90 United Nations Security Council Resolution 2100 (2013), § 16.

91 According to Resolution 2480, which renewed the mandate of MINUSMA until 30 June 2020, MINUSMA must in particular "support the redeployment of the Malian Defense and Security Forces in central Mali, including by continuing to provide operational, logistical and transport support during coordinated and joint operations", United Nations Security Council, Resolution S/RES/2480(2019), 28 June 2019, § 28. Support for the G5-Sahel force is provided for in Resolution 2391, see United Nations Security Council Resolution 2391 (2017), adopted on 8 December 2017, § 13.

92 At the end of 2013, MINUSMA took an active part, alongside Malian and French forces, in Operation "Hydra", which was openly offensive in nature and led in particular to the capture of members of so-called terrorist groups, see "Mali : les violences qui ont mené au lancement de l'opération anti-terroriste "Hydre"", *HuffPost*, 25 October 2013, https://www.huffingtonpost.fr/2013/10/25/regain-violences-mali-operation-hydre_n_4162915.html.

93 On MINUSMA's participation in "anti-terrorist" operations by Malian and French forces, including the logistical support provided, see Di Razza, note 35, pp. 25 and 30.

94 If, for example, MINUSMA only transported the FAMA to their bases rather than to the site of an operation against an armed group, this type of logistical support does not seem to meet the conditions established by the ICRC, see Ferraro, note 14, p. 195.

The activities of MINUSMA led the ICRC to consider in 2017 that the conditions were met to qualify MINUSMA as a party to at least some NIACs in Mali⁹⁵. It should be stressed, however, that such classification would no longer be justified if the nature of the support provided by MINUSMA to its partners was no longer related to the conduct of hostilities.

4. Status of the G5-Sahel force

The G5-Sahel joint force is composed of troops from Burkina Faso, Chad, Mali, Mauritania and Niger. Its mandate is to “combat terrorism and transnational organized crime”⁹⁶. To the extent that this mandate results in the use of armed force against organized armed groups such as those previously identified, it could become a party to a NIAC. However, at least two arguments suggest that this is not the case. Firstly, although the G5-Sahel force has its own General Staff, it would appear that it is the member states that retain command and control of their troops. If this is the case, it would be the states that would be parties to possible conflicts. Thus, if the Malian forces deployed within the G5-Sahel force were involved in hostilities, it would be Mali, and not the G5-Sahel force as such, that would be a party to a conflict.

Secondly, although the troops were under the command and control of the G5-Sahel force, the force does not appear to have been sufficiently involved in acts of armed violence to meet the threshold of intensity at the time of writing. It has been the target of attacks on several occasions - notably in June 2018 against its HQ then located in Sévaré and in March 2019 near Mopti⁹⁷ - but its operational activity seems limited for the time being⁹⁸.

C. Intensity of the confrontations and classification of the non-international armed conflicts between Platform and CMA groups

The 2015 Peace Agreement did not put an end to the clashes between all the armed groups that signed it. Thus, numerous acts of hostilities took place in 2016 and 2017⁹⁹, leading the UN Secretary-General to note, in early 2018, the existence of frequent tensions between the two signatory coalitions, sometimes leading to ceasefire violations and armed clashes¹⁰⁰. For example, in July 2017, heavy clashes reportedly took place between the GATIA and a group identified as belonging to the CMA, resulting in casualties on both sides¹⁰¹. In May 2019, rivalries for control of the town of Talataye, in the Gao region, a strategic crossroads for these movements, reportedly led to clashes between the MSA and CMA groups¹⁰². The intensity of the violence can be measured by the loss of human life on both sides, major material damage and the displacement of the local population to the town of Ménaka. These incidents led to the CMA taking control of part of Talataye¹⁰³. It appears that the CMA and the MSA clashed again in June 2019 in the same area, resulting in loss of life¹⁰⁴. Other acts of violence attributed to these groups, which do not necessarily lead to direct confrontation, are also identified¹⁰⁵.

95 The ICRC has publicly referred to the MINUSMA as “party to the conflict”, see for example “The world’s most dangerous U.N. mission”, 17 February 2017, https://www.washingtonpost.com/sf/world/2017/02/17/the-worlds-deadliest-u-n-peacekeeping-mission/?utm_term=.da67do55399c.

96 See Resolution n°00-01/2017/relative to the creation of a joint G5-Sahel force, <https://www.g5sahel.org/documentations/publications/1129-resolution>.

97 “Roadside bomb blast in Mali kills 9 soldiers in G5 Sahel joint force”, 1 March 2019, <https://thedefensepost.com/2019/03/01/mali-roadside-bomb-kills-g5-sahel-soldiers-boulkessi/>.

98 Notably because following the attack on its HQ in June 2018 in Sévaré (since moved to Bamako), the G5-Sahel Force remained inactive until early 2019. “La force du G5 Sahel reprend ses opérations », *Jeune Afrique*, 20 January 2019, <https://www.jeuneafrique.com/711553/politique/la-force-du-g5-sahel-reprend-ses-operations/>.

99 Benchérif, note 46, p. 179-201, § 23.

100 Report of the UN Secretary General, note 64, § 4.

101 “Mali: lourd bilan des combats entre le GATIA et la CMA dans le nord du pays”, RFI, 27 July 2017, <http://www.rfi.fr/afrique/20170727-mali-lourd-bilan-combats-entre-le-gatia-cma-nord-pays>.

102 IISS, note 63.

103 Report of the UN Secretary General, note 2, § 19.

104 IISS, note 63.

105 See for example the “killings” reported by the HRC in *Monthly Protection Monitoring Report n° 04-April 2019*, 30 April 2019.

In view of these clashes which persist despite the Peace Agreement and their intensity, it seems that the NIAC between the Platform and CMA member groups continue to exist.

D. Violence of an inter-community nature

The current situation in Mali is also strongly marked by inter-community violence perpetrated against civilians, particularly in the center of the country.

Generally speaking, violence of an inter-community nature (murder, sexual violence, looting, etc.) is not necessarily covered by IHL, even if it takes place in a country affected by one or more armed conflicts, as in Mali. It is covered by IHL only if it is related to such an armed conflict¹⁰⁶. According to the jurisprudence of international criminal tribunals, such a link is demonstrated if the armed conflict has “significantly affected the ability of the perpetrator [...] to [commit the violent act], his decision to commit it, the manner in which he committed it or the purpose for which he committed it”¹⁰⁷. This condition is met if the perpetrators acted “with a view to serving or under the cover of the armed conflict”¹⁰⁸. Obviously, if a violent act is committed by a belligerent (state forces or a sufficiently organized armed group), this link to the armed conflict is more obvious. In order to determine the law applicable to inter-community violence in Mali, this “link” condition must therefore be met. It could be in three different scenarios¹⁰⁹.

Some of this violence appears to be committed directly by armed groups that have been identified above as parties to an armed conflict (e.g. groups belonging to JNIM, ISGS, CMA or the Platform)¹¹⁰. In this first specific case, such violence would be linked to these same conflicts if the perpetrators were in fact targeting an enemy armed group through a civilian population perceived as loyal to that enemy. This is particularly relevant in the Malian context, where some populations are perceived as being affiliated with a particular armed group¹¹¹. In this first case, such acts of violence, committed by parties to a conflict for a cause related to that conflict (weakening the enemy), would be certainly covered (and obviously prohibited) by IHL. They could therefore constitute war crimes¹¹².

Another important part of this violence would rather be committed by groups called “self-defense groups” which are community-based. These groups include the Dan Na Ambassagou hunting group, the Alliance for Salvation in the Sahel (ASS) group, or also the Sékou Bolly’s group. These groups organize patrols with the claimed objective of ensuring the safety of members of their community¹¹³, but at least some of these groups are accused of massacres¹¹⁴. Since public sources concerning the structure and *modus operandi* of these groups are limited, it is difficult to assess whether some of them could meet the organizational criterion imposed by IHL for constituting a party to a NIAC. This could be the case at least for the Dan Na Ambassagou militia, which appears to have a General Staff and a chain of command, and the ability to recruit and arm

106 IHL applies only to acts that have a sufficient link with an armed conflict, see by example ICTY, note 9, § 572.

107 ICTY, *Prosecutor v. Dragoljub Kunarac and al.*, Appeals Chambers, 12 July 2002, IT-96-23/1-A, § 58.

108 *Idem*.

109 It should be noted that the NGO Human Rights Watch considers that “the clashes in central Mali correspond to a non-international armed conflict”. See Human Rights Watch, “Before, We Were Brothers - Exactions Committed by Self-Defense Groups in Central Mali”, 7 December 2018. According to the qualifying approach followed in this note (and in line with the ICRC’s approach), this statement needs to be qualified. As explained above and below, a NIAC can only exist between two sufficiently organized entities. The “clashes” that take place in central Mali do not therefore all form part of a NIAC. The application of IHL to such violence must be assessed on a case-by-case basis.

110 “ISGS has heavily recruited from the Fulani community and has been blamed for multiple massacres of Tuareg civilians, while two mainly Tuareg militia groups – GATIA and MSA – have been accused of carrying out massacres of Fulani civilians”, “Islamic State puts the Sahel in West Africa – for now”, *The Defense Post*, 30 May 2019, <https://thedefensepost.com/2019/05/30/islamic-state-greater-sahara-west-africa/>. See also “Radical Islamists Have Opened a New Front in Mali”, *Foreign Policy*, 29 March 2019, <https://foreignpolicy.com/2019/03/29/radical-islamists-have-opened-a-new-front-in-mali/>.

111 See for example, Tobie, note 23, p. 12; Human Rights Watch, note 109; Di Razza, note 35, p. 15.

112 See Section III. D.

113 Tobie, note 23, p. 11.

114 See, for example, the findings of MINUSMA on the March 2019 massacre in Ogossagou, see MINUSMA, “Preliminary findings of the special fact-finding mission on the serious human rights violations committed in Ogossagou on 23 March 2019”, 2 May 2019.

itself¹¹⁵. As in the first case, if such a group is sufficiently organized within the meaning of IHL, the violence it displays against civilians in seeking to reach an enemy group could be covered (and prohibited) by IHL.

For “self-defense groups” that are not sufficiently organized in the sense of IHL and therefore cannot be qualified as a party to an armed conflict, their acts of violence could still be covered by IHL. This second scenario could arise when such inter-community violence is triggered by acts committed by a party to a conflict: for example, if an organized armed group commits murder for a reason related to the conflict between them and the FAMA (such as to take revenge on civilians perceived to be collaborating with the FAMA) and that this is the trigger for inter-community violence committed by self-defense groups (not parties to a conflict)¹¹⁶, then such violence would be a consequence of the conflict and could therefore be considered to be governed (and prohibited) by IHL. This is a second specific case.

In a third specific case, violence committed by “self-defense” militias that are not belligerents could also be considered conflict-related if it is directly encouraged by those belligerents. In Mali, there are indications that some armed groups involved in NIACs are instrumentalising ethnic tensions and encouraging these “self-defense” militias to violence¹¹⁷. The fact that a party to a conflict “externalizes” to these militias the commission of violent acts indirectly targeting the enemy (through civilian populations perceived to be loyal to the enemy) could constitute a sufficient link to the conflict.

In the absence of a sufficient link with an armed conflict taking place in Mali, such violence remains, in any event, covered and prohibited by Human Rights and Malian law and could constitute, inter alia, crimes against humanity.

115 The Dan Na Ambassagou militia, which is said to bring together several self-defense groups in Dogon country, is led by a leader who presents himself as “Chief of General Staff”. In his own words, the militia is made up of “5,000 elements” and has “more than thirty training camps”. “Mali - Youssouf Toloba : Notre mouvement cible les malfaiteurs, pas une ethnie”, *Le Point*, 12 December 2018, https://www.lepoint.fr/afrique/mali-youssouf-toloba-notre-mouvement-cible-les-malfaiteurs-pas-une-ethnie-12-12-2018-2278819_3826.php.

It would seem that the militia is divided into several units, each answerable to a leader, themselves under the orders of the Chief of General Staff. As regards the Alliance for Salvation in the Sahel (ASS), it also has a leader known as Bacar Sow, who claimed in March 2019 to have around 100 members. “Après le massacre d’Ogossagou, notre entretien avec un chef Peul armé”, *Mondafrique*, 25 March 2019, <https://mondafrique.com/mali-notre-entretien-avec-le-chef-peul-dune-milice-armee/>.

116 For example, the murder of a Bambara vice mayor in retaliation for his collaboration with the FAMA reportedly triggered an ethnic massacre in Malémana; the murder of a Dogon chief in June 2017 by a radical armed group triggered massacres between Dogons and Fulani. See Di Razza, note 35, p. 15.

117 United Nations Security Council, note 29, § 31; Human Rights Watch, note 109.

III. Applicable international law and operational, humanitarian and judicial consequences

Qualifying a situation of violence as an IAC or a NIAC implies that IHL applies to it. This does not mean that *only* IHL applies; IHL complements the “ordinary” rules, which protect individuals at all times. Nevertheless, its applicability has important consequences: IHL has an influence on the legality of certain acts, on the extent of protection enjoyed by those affected by violence and on the possibility of prosecuting illegal acts as war crimes. Moreover, IHL binds all parties to the conflict - state and non-state parties alike - according to the principle of equality of the belligerents.

A. IHL and Human Rights

The law applicable in a given state is composed of national law (all the texts and customs specific to that state) and international law (the treaties ratified by the state as well as the rules of “customary international law”, i.e. unwritten rules accepted by the international community as a whole).

Human Rights are a branch of international law that offers protection to individuals through rights conferred on them and obligations imposed on the state. The content of the Human Rights applicable to a given population depends in particular on the texts ratified by the state in question; these may be international - such as the International Covenant on Civil and Political Rights - or regional - such as the African Charter on Human and Peoples’ Rights. These Human Rights apply at all times, including in times of armed conflict. However, in times of armed conflict, they coexist with IHL.

IHL is another branch of international law that applies only in armed conflict. More concretely, it only regulates events related to an armed conflict. IHL provides for a type of protection that is specifically adapted to this type of event: for example, it regulates the evacuation and treatment of war wounded, the provision of humanitarian aid, the protection of individuals detained as a result of the conflict, forced displacement, etc. It also considers “hostile” measures that can only be taken by virtue of the military necessity to defeat the enemy: under IHL, it is not prohibited to use armed force against individuals because of their membership to the enemy’s armed forces or to intern them for compelling security reasons related to the conflict.

IHL complements, but does not replace, Human Rights that remain applicable at all times. Thus, the same event (an attack, a detention case, an “anti-terrorist” operation, etc.) can be covered by both IHL and Human Rights. In this case, the question of the interaction between these two regimes arises. This issue is subject to debate¹¹⁸, and should be resolved on a case-by-case basis.

On the other hand, events that take place in a country involved in (or affected) by an armed conflict but which are not related to that conflict are not regulated by IHL but only by Human Rights and national law.

According to the classification exercise carried out in the previous section, there are several NIACs in Mali. Therefore, in addition to Human Rights and Malian law, IHL is applicable to these conflicts. In particular, Article 3 common to the four Geneva Conventions of 1949 and many customary rules apply. The 1977 AP II applies to armed conflicts involving the FAMA and armed groups exercising, under responsible command, a certain degree of control over a part of the state territory as indicated above ¹¹⁹. Acts of violence that are unrelated to these conflicts are covered by Human Rights treaties ratified by Mali, by customary Human Rights

¹¹⁸ For a presentation of these debates see Marco Sassòli, *International Humanitarian Law: Rules, Controversies, and Solutions to Problems Arising in Warfare*, Edward Elgar, 2019, pp. 422-443.

¹¹⁹ See Section I. B.

law and by Malian law.

B. Rules applicable to hostile acts

1. Use of force

IHL provides a specific set of rules for a particular type of use of force which takes place during and in connection with an armed conflict¹²⁰: acts of hostilities, or “attacks”. IHL defines attacks as “acts of violence against an adversary, whether offensive or defensive”¹²¹. Three essential rules apply to attacks: the rules of distinction, proportionality and precaution. These rules apply to NIACs not by virtue of an IHL treaty, but under customary IHL¹²². As a result, the exact outline of these rules of conduct of hostilities, as applied to NIACs, is controversial; however, there are aspects that enjoy a wide degree of acceptance - only these aspects are discussed below.

a. Main rules

The principle of distinction requires all parties to a conflict to target only legitimate military objectives, or targets. With regard to objects, these are objects “which by their nature, location, purpose or use make an effective contribution to military action and whose total or partial destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage”¹²³. With respect to persons, and during a NIAC, this is a controversial issue. The ICRC considers that only three categories of people are not protected against attacks: members of state armed forces, members of an armed group that is a party to the conflict provided that they have a “continuing combat function”, and lastly civilians if and for as long as they are directly taking part in hostilities¹²⁴. The latter concept must be strictly interpreted¹²⁵. In case of doubt, any person or object must be considered as a civilian (protected from attacks)¹²⁶.

Furthermore, the principle of proportionality prohibits parties to the conflict from launching “attacks which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated”¹²⁷.

Finally, not only must an attack be aimed at a military objective and be proportionate, but the parties to the conflict must also take all necessary precautions to minimize civilian casualties and damage¹²⁸. This obligation translates into a series of concrete measures to be taken before and during the attack¹²⁹.

IHL imposes obligations not only on the attacker but also on the party under attack. Thus, the parties must protect civilians and civilian property under their control from the effects of attacks¹³⁰. For example, they should move military objectives away from densely populated areas and avoid positioning themselves in civilian buildings in order to launch attacks. The use of “human shields” to protect oneself against attacks - for example, positioning civilians around a building where forces are housed, or moving with civilians to avoid

120 For a detailed discussion on the two regimes - IHL and Human Rights - that regulate the use of force in armed conflict and their interaction, see Gloria Gaggioli, *The Use of Force in Armed Conflict*, ICRC, 2016.

121 Art. 49(1) AP I.

122 See Study on Customary IHL, note 13, rules 7, 14 and 15.

123 *Idem*, rule 8.

124 This notion comes from Art. 51(3) AP I.

125 It has been the subject of an interpretative guide by the ICRC, see Nils Melzer, *Interpretative Guide on the Concept of Direct Participation in Hostilities*, ICRC, Geneva, 2010.

126 Arts. 50(1) and 52(3) AP I.

127 See Study on Customary IHL, note 13, rule 14.

128 *Idem*, rule 15.

129 *Idem*, rules 16-21.

130 See Study on Customary IHL, note 13, rule 22.

being targeted - is also strictly prohibited¹³¹.

b. Use of force outside the conduct of hostilities

The use of force that takes place in times of armed conflict but does not constitute an act of hostility - for example, in order to maintain order during riots or to exercise the right to self-defense - is regulated by Human Rights¹³². In these cases, the starting point is different and the use of force is permitted only under three conditions. Firstly, if absolutely necessary: in self-defense, to prevent a serious crime, to make an arrest (or prevent an escape) or to suppress a riot. Second, the use of force must be proportional to the threat (i.e. a different proportionality ratio from that imposed by IHL). Third, it must be a measure of last resort¹³³.

It is important to note, however, that even for acts of hostilities, Human Rights apply and complement IHL - for example, regarding the duty to investigate when the use of force results in death or serious injury¹³⁴.

2. Detention

Capture is another type of hostile measure often resorted to by belligerents in order to weaken the enemy's military capabilities.

In the event of an IAC, the belligerents may detain members of the enemy army as prisoners of war until the end of the conflict¹³⁵. On the other hand, prisoner-of-war status offers immunity from prosecution for acts of war, except those committed in violation of IHL. Thus, a fighter cannot be judged for killing an enemy combatant on the battlefield¹³⁶.

Such status (and the immunity attached to it) does not exist in the case of NIACs. Moreover, whether IHL alone, in both NIACs and IACs, allows belligerents to detain an individual preventively because he or she poses a threat (and not because he or she has committed a crime) is controversial¹³⁷. Even if this eventuality were accepted, the ICRC considers that the principle of legality would require that the grounds and procedure for such detention be provided for in an additional source of law¹³⁸.

In any event, IHL protects all persons who are de facto detained by a belligerent, whether for security reasons or for having committed a crime related to the conflict. The IHL rules applicable in NIACs thus provide for the prohibition of torture and other ill-treatment, impose decent conditions of detention and, in the event of legal proceedings, a fair trial¹³⁹. IHL obliges both armed groups and the state, by virtue of their status as "parties" to the conflict. On these and other issues, IHL acts as a complement to Human Rights.

C. Protection of affected populations

IHL also contains a set of rules that protects the civilian population more broadly from the direct and indirect effects of NIACs.

131 Idem, rule 97.

132 It should be made clear, however, that a use of force that does not constitute an act of hostility but is nevertheless related to the ongoing armed conflict is also covered by IHL (in addition to Human Rights) - not by the rules of the conduct of hostilities but, for example, by the IHL rule prohibiting murder - and may therefore, under certain conditions, constitute a war crime.

133 Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders in 1990. See also Gaggioli, note 120, p. 13.

134 Gaggioli, idem, pp. 48-53.

135 Art. 21 of the Third Geneva Convention of 1949.

136 In a IAC, combatants thus have the "right" to take a direct part in hostilities, according to art. 43(2) AP I.

137 For a summary of these debates and a position statement, see Sassòli, note 118 at 611-624.

138 ICRC, "Internment in armed conflict: Basic rules and challenges", ICRC Position Statement, November 2014, p. 10. See also Jelena Pejic, "Principes en matière de procédure et mesures de protection pour l'internement/la détention administrative dans le cadre d'un conflit armé et d'autres situations de violence", *International Review of the Red Cross - French Selection*, Vol. 87, 2005.

139 Art. 3 Common to the four Geneva Conventions of 1949, arts. 4 and 5 AP II.

In addition to being prohibited by Human Rights law, all forms of murder, torture, sexual violence, acts of terrorism or any other act of violence or outrages upon human dignity committed in connection with an armed conflict are prohibited by IHL (this prohibition applies not only to the civilian population but also to members of an armed force who are *hors de combat*, because in the hands of a party to the conflict, wounded, sick or for any other cause)¹⁴⁰.

IHL also provides rules concerning the humanitarian aid needed to meet the needs of civilian populations, whether created or intensified by the conflict. Thus, during a NIAC, the ICRC or any other impartial humanitarian agency may offer its services to the parties to the conflict. In addition, subject to their right of control, parties to the conflict are also under the obligation to allow and facilitate rapid and unimpeded passage of impartial humanitarian relief for civilians in need.¹⁴¹

Among the many other rules for the protection of civilian populations¹⁴², the prohibition of forced displacement for reasons related to the conflict is one of them¹⁴³. Again, it should be recalled that these provisions do not replace but complement Human Rights provisions - including the prohibition of torture or other cruel, inhuman or degrading treatment, the right to an adequate standard of living, health or education¹⁴⁴.

D. War crimes

Another important consequence of the applicability of IHL in Mali is that some acts or omissions that are in conflict with IHL can be prosecuted as “war crimes”. War crimes are indeed violations of IHL and therefore the existence of a war crime implies that IHL must apply to the act in question.

War crimes are international crimes, just like the crime of genocide or crimes against humanity. Unlike ordinary crimes, these international crimes are imprescriptible. Moreover, they allow for a form of justice that is inclusive of victims, unlike, for example, of crimes against state security. In this regard, it is relevant to note that the Specialized Judicial Unit against terrorism and transnational organized crime (established within the High Court of Commune VI of the district of Bamako) has now jurisdiction to prosecute war crimes, crimes against humanity and crimes of genocide¹⁴⁵.

Moreover, because of their particular gravity for the international community, international crimes fall within the jurisdiction not only of the territorial state, but also of other states¹⁴⁶. A war crime or a crime against humanity committed in Mali could be tried by the courts of a third state or by the International Criminal Court (ICC) - which already has an investigation underway.

140 Art. 3 Common to the four Geneva Conventions of 1949, arts. 4 AP II.

141 Art. 3 Common to the four Geneva Conventions of 1949, arts. 18(2) AP II, Study on Customary IHL, note 13, rule 55.

142 See the corpus of rules applicable to NIACs: Article 3 Common to the Geneva Conventions and the customary rules identified by the ICRC (see Study on Customary IHL). See also the rules of AP II which apply in Mali to all the NIACs opposing the FAMA to various armed groups.

143 Art. 17 AP II.

144 The State may, however, derogate from some of these rights in times of armed conflict under certain conditions.

145 A bill amending Act n°01-080 of 20 August 2001 was adopted by the Council of Ministers on 29 May 2019. This amendment to the Code of Criminal Procedure extends the jurisdiction of the Specialized Judicial Pole for Combating Terrorism and Transnational Organized Crime to the establishment, prosecution and investigation of crimes against humanity, genocide and war crimes, see Communiqué of the Council of Ministers of the Minister of Wednesday 29 May 2019.

146 The courts of many states have jurisdiction to prosecute international crimes (war crimes, crimes against humanity and genocide) committed in other states. A certain link is often required (e.g. the victim and/or perpetrator must be a citizen of the prosecuting state) but not always, since several states have adopted “universal jurisdiction”. For examples of cases involving international crimes tried outside the state where they were committed see for example Trial, “Prosecuting international crimes: a matter of willingness”, 17 May 2019, <https://trialinternational.org/latest-post/prosecuting-international-crimes-a-matter-of-willingness/>.

IV. Conclusion

The security situation in Mali is complex and volatile. From the point of view of international law, it is characterized by multiple “non-international” armed conflicts (NIACs), pitting Malian government forces and their supporters against radical Islamist groups such as the JNIM or the ISGS, as well as armed groups among themselves (e.g. CMA groups versus Platform groups). The fact that these clashes can legally be qualified as armed conflicts implies that IHL (or the law of armed conflict) applies to them, in addition to the Human Rights that protect Malians at all times. Thus, individuals affected by these armed clashes and the ensuing events (individuals captured, in need of medical care, displaced and/or facing increased difficulties in accessing goods necessary for survival as a result of the violence, etc.) benefit from the protections offered by these two regimes of international law. Acts of hostilities between parties to a NIAC are regulated by the regime of the conduct of hostilities, but any other type of use of force by Malian government forces - or any other actor bound by Human Rights - must comply with a policing regime that responds to a different logic.

The Malian context is also strongly marked by inter-community violence, which is a priori of a different nature since it does not directly oppose organized armed actors among themselves, or at least not in an obvious way. Yet, as explained in this legal note, at least some of this violence could be linked to a NIAC or NIACs. In this case, in addition to constituting violations of Human Rights and/or Malian law, they would also be covered and prohibited by IHL. The question of whether they constitute violations of IHL is especially relevant in the context of possible legal proceedings. Indeed, such violence could be prosecuted by Malian or foreign courts as war crimes.

Thus, the question of which rules of international law apply to events affecting the security situation in Mali (whether they are attacks by organized armed groups, so-called “self-defense groups” or operations by Malian, French, UN or other forces) is a question of interest to multiple actors.

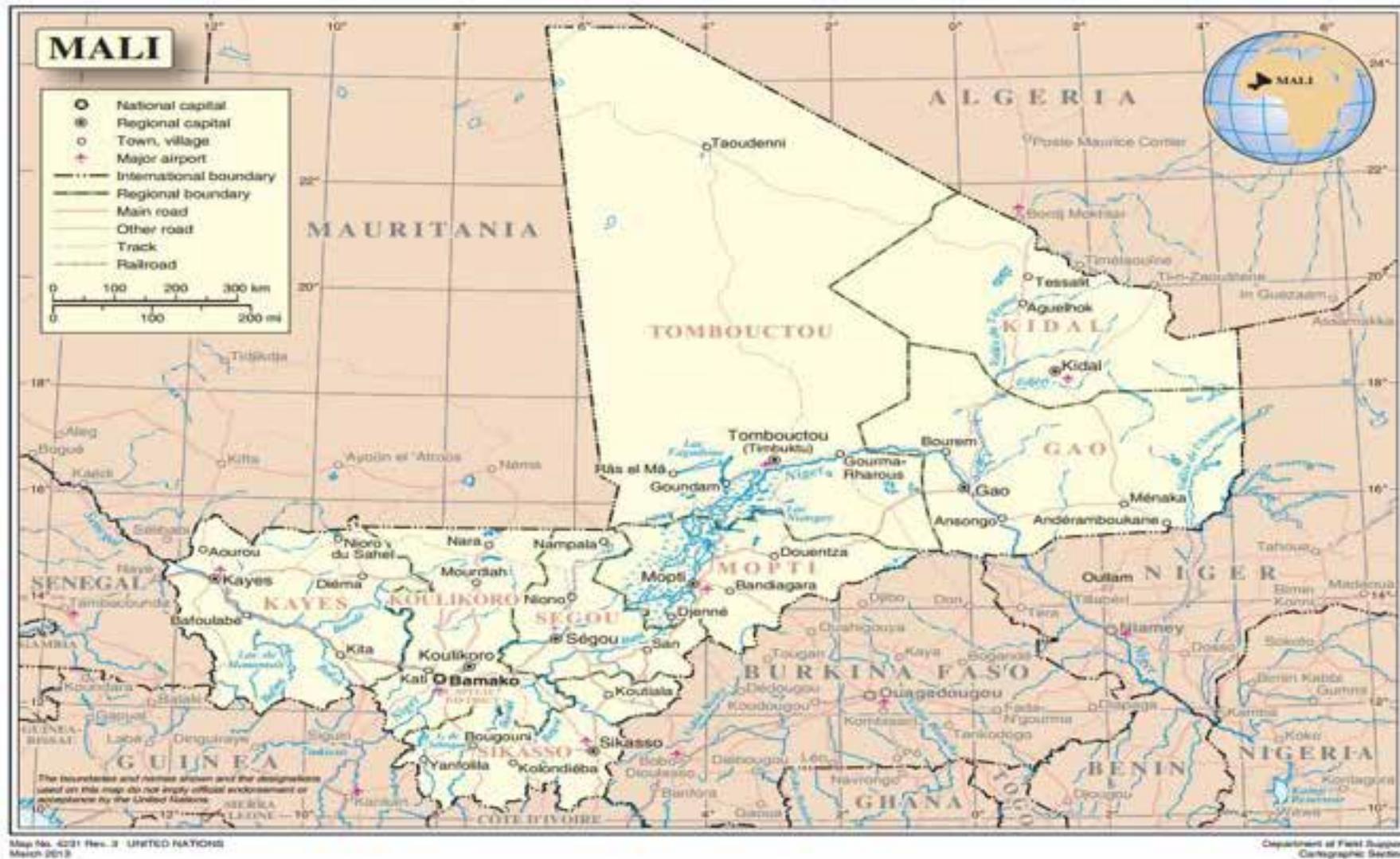
First of all, it must be of interest to any armed actor that intends to conduct its operations in accordance with the law. For any actor using armed force, the preliminary step is to determine whether its involvement qualifies as a party to an armed conflict. Once this issue has been clarified, the rules applicable to their operations and the cases in which they apply (e.g. Human Rights for law enforcement operations and IHL for acts of hostilities against an identified enemy) must be incorporated into the internal rules of the armed force (whether they are “rules of engagement”, a code of conduct or else) as well as in the training of weapon bearers. Here, it is essential to stress that the training of armed forces in IHL will have little impact if it is not accompanied by an effort at the political and strategic level to clarify when/in what types of operations these forces will have to apply these rules¹⁴⁷. The legal classification exercise must also take place systematically at the time of planning operations in order to determine the applicable rules and thus the conditions for the use of force in the given circumstances. Where several armed actors are conducting joint operations, a dialogue to clarify the applicable rules must be undertaken at an early stage.

The legal classification of security events in Mali is also of interest to humanitarian actors seeking to gain access to populations and provide them with assistance and protection adapted to the nature of the threats they face. In this sense, the various humanitarian actors present in Mali could benefit from a harmonization of their position regarding the rules applicable to their operations.

Finally, judicial actors are also concerned by this work of legal classification in international law since it makes it possible to determine whether a violent act could be prosecuted as a “war crime” rather than a crime against state security for example. As mentioned in this note, this classification offers certain guarantees to the victims of these acts. Moreover, given that Mali is a party to the Rome Statute and that, by virtue of the principle of complementarity, the ICC only intervenes as a “complement” to the Malian courts, it is important to ensure a certain level of coordination between local and international judicial actors regarding the law applicable to the violence affecting Mali.

147 Interactions of the Diakonia IHL Resource Desk with several armed actors operating in Mali suggest that this aspect is largely overlooked.

Appendix: Map of Mali



The IHL Resource Centre

The Resource Centre for International Humanitarian Law (IHL) of Diakonia is committed to promoting respect for IHL and International Human Rights Law (IHRL) in Mali and the Sahel region. We believe that by promoting respect for basic legal standards in the most difficult circumstances, we can help create an environment in which people and their communities can live side by side in peace and with full respect for their fundamental rights.

Our work on IHL and IHRL flows directly from Diakonia's overall strategic objectives in six distinct areas of intervention. In particular, the field of conflict and justice sets out the specific objective of strengthening protection in armed conflicts which guides our work to promote respect for IHL and IHRL.

The priorities under this objective are as follows:

- Mobilize to hold duty bearers accountable for their conduct in armed conflicts,
- Conduct impartial monitoring and reporting on IHL and IHRL violations during armed conflicts,
- Provide objective and strategic information and analysis on IHL and IHRL in armed conflicts and develop legal tools for relevant stakeholders,
- Advocate for the respect, protection and exercise by states of the rules and principles recognized by IHL and IHRL, including so-called "third states" (states not involved in a conflict),
- Strengthen strategies for the protection of women and men during armed conflicts.

The Diakonia IHL Resource Desk in Mali takes a broad and flexible approach to the dissemination of IHL and IHRL with the aim of informing and assisting stakeholders to apply and integrate IHL and IHRL issues within their respective mandates.

Would you like to know more about IHL and its applicability to the current context in Mali?

Please contact: ihl@diakonia.se

