

Translated from French

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**Ten years of support in the area of the rule of law
Study on the achievements and lessons learned by the MINUSMA Justice and Corrections Section in the execution of its mandate, and post-MINUSMA options and opportunities (17 November 2023)¹**

Executive summary

The ten years of support provided by the Justice and Corrections Section (JCS) of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) are first and foremost the story of close collaboration with the justice and corrections authorities of Mali, other Mission components and United Nations system partners. This support led to tangible results in certain key areas in support of the peace process, the restoration of State authority and the fight against impunity for serious crimes, in pursuit of the Mission's political priorities, and more nuanced results in others. These achievements were also recognized by the United Nations Office of Internal Oversight Services in its 2021 audit report.²

In accordance with its mandate, and with a view to implementing the Agreement on Peace and Reconciliation in Mali resulting from the Algiers process (hereinafter "the Peace Agreement"), MINUSMA, through the logistical, technical and financial support of the JCS, has contributed to the return, deployment and securing of numerous justice and corrections institutions in conflict-affected areas in northern and central Mali, to improving the functionality of courts and tribunals and to strengthening oversight mechanisms, in particular the Judicial Services Inspectorate. At the end of the Mission's mandate, 36 of the 38 courts and tribunals in the north and centre were operational or partially operational, as were 11 of the 18 prisons in these regions. The implementation of key institutional reforms for the prison administration, strengthened capacity-building and the improved management of correctional facilities and detention conditions for greater compliance with international norms and standards, including through better prevention and management of security incidents in prison settings, in cooperation with other sectoral policies and actors, are likely to leave a lasting impact in Mali. MINUSMA-JCS has also worked towards fostering a common understanding among stakeholders of the Peace Agreement's provisions on justice and reconciliation (in particular article 46) as a fundamental element of the peace process, and supported the justice reform process as well as the reassessment of the role of *cadis* and traditional authorities, as provided for in the Peace Agreement, in pursuit of constructive complementarity with formal justice actors and their integration into Malian positive law.

This support has also been accompanied by sustained assistance to combat impunity for serious crimes that risk destabilizing the peace process, and to manage the risks associated with people detained for such crimes. In the face of rising terrorist threats, an institutional, legislative and regulatory framework laying the foundations for a judicial response adapted to these challenges was established, including through the operationalization, in 2017, of the Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime, the extension of its material jurisdiction to international crimes and the adoption of a related criminal justice policy and prosecutorial strategy, with advocacy, technical and financial assistance to the Malian authorities. This support thus led to significant advances, particularly regarding the prosecution of terrorism-related crimes, with the trial of 255 persons, of whom 208 have been convicted since the operationalization of the Specialized Judicial Unit in 2017, and, to a lesser extent, regarding crimes committed against MINUSMA personnel, with the conviction of 10 people involved in such crimes. In addition, the Mission's support has also enabled the establishment of prison infrastructures and capacities to ensure the secure

¹ This study does not necessarily represent the views or policies of the Department of Political and Peacebuilding Affairs, Department of Peace Operations, or of the United Nations. For inquiries, please contact the DPPA/PMD Guidance and Learning Unit at dppa-policy@un.org or the DPO/DPET Knowledge Management and Guidance Team at peacekeeping-bestpractices@un.org.

² Office of Internal Oversight Services, Outcome evaluation of the contribution of MINUSMA to the return, restoration and extension of State authority in the rule of law area and the fight against impunity in Northern and Central Mali, Assignment No. IED-21-017, 23 December 2021. See, for example, the summary of key findings on pp. 4 and 5.

detention of high-risk detainees in compliance with international norms and standards, and the prevention of violent extremism and radicalization, in support of the national policy to prevent and combat violent extremism and terrorism.

Given the security challenges, the political instability punctuated by crises and the limits of the support provided by the MINUSMA-JCS, these results should be nuanced in certain areas. The results achieved in restoring and extending the State authority remain fragile and dependent on the security situation and the intermittent absence of administration and justice officials in field locations. Despite technical and financial assistance from MINUSMA and partners, and advocacy efforts, some key reforms, such as revised texts on criminal legislation, military justice, traditional justice, trafficking in persons and migrant smuggling, which could significantly improve the processing of cases that could be sources of conflict and instability, have not yet been adopted. Efforts to promote judicial integrity and professional ethics and to combat corruption in justice and corrections settings need to be supported and stepped up over the long term, in order to bolster the low level of public confidence in the justice system and the legitimacy of the State. While the fight against terrorism, through the apprehension and prosecution of terrorism-related crimes has made significant progress in Mali with the support of MINUSMA and partners, the capacity of the authorities to identify and neutralize terrorist networks through criminal analysis and the cross-checking of files and intelligence, and to respond to the needs and expectations of victims, remains limited. Despite all the support provided, progress in the fight against impunity, particularly for international crimes and conflict-related sexual violence, is timid and eagerly awaited, with an approach more focused on the rights of victims and survivors, in the spirit of the Peace Agreement. Investigations into these cases are still under way, and no convictions have yet been handed down.

The lessons learned include the following:

1. Any result or progress requires national ownership if it is to have a lasting impact. The anchoring of the Mission's support to the priorities of the justice sector, and linkage with other actors and sectoral policies in certain areas, such as counterterrorism, prevention of violent extremism and prison security, are likely to leave a lasting impact.
2. The political commitment of stakeholders to implementing certain provisions of the Peace Agreement was crucial in achieving results in the area of the rule of law and justice, as was the Mission's monitoring and advocacy role, accompanied by technical and financial support.
3. By implementing joint rule of law programmes and projects, the United Nations system was able to provide coherent and coordinated support to the Malian authorities, in line with national priorities and United Nations strategic frameworks. This joint effort has also fostered short- and medium-term programmatic planning, beyond the annual planning period required for peacekeeping operations, as well as complementarity in interventions and geographic scope.
4. The establishment of coordination mechanisms within the Mission and between MINUSMA and the United Nations country team has enabled planning within the framework of joint projects, in the areas of security and rule of law, and efforts to restore and extend State authority have enabled a regular exchange of information, and to some extent coordinated planning. These mechanisms could, however, have benefited from being more firmly rooted in a joint analysis of the political and security situation, with a stronger involvement of the Mission's senior leadership (and United Nations agencies where appropriate), to enhance effectiveness and efficiency in the mandate implementation.
5. MINUSMA-JCS could have more explicitly articulated its contribution to the implementation of the Women, Peace and Security (WPS) agenda, and in particular to the National Action Plan for the implementation of Security Council resolution 1325 (2000) and subsequent resolutions. The Section's work in support of the WPS agenda and to the promotion of gender equality and women's empowerment could have been defined and strengthened in closer collaboration with the Mission's gender component, the Office of the Senior Women Protection Advisor, the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), the focal points of the Ministry of Justice and Human Rights on these issues as well as the Ministry for the Promotion of Women, Children and the Family.

The imminent withdrawal of MINUSMA could jeopardize or even reverse the progress made in these key areas for the stabilization of Mali, with a definite impact on the country's peace and security, if these efforts are not pursued in the short, medium and long term in support of the peace process, the national policy to prevent and combat violent extremism and terrorism, the fight against impunity for serious crimes and access to justice for the people of Mali. A

new page is being turned, presenting Mali with the opportunity to fulfil its commitment outside the peacekeeping framework.

For the Malian authorities, country team partners and technical and financial partners, **options and opportunities in terms of cross-cutting issues** could include the following areas:

1. **The parties' commitment to implementing the provisions of the Peace Agreement, particularly those relating to the rule of law, justice and reconciliation, will continue to be crucial to lasting peace and security in Mali, as will the monitoring and advocacy role of the United Nations system**, including the United Nations Office for West Africa and the Sahel (UNOWAS), upon the Mission's departure.
2. With the withdrawal of MINUSMA and the implementation of the programme in support of the stabilization of Mali by strengthening the rule of law (*Programme d'appui à la stabilisation du Mali à travers le renforcement de l'Etat de droit*, PROSMED) by the country team – essentially the United Nations Development Programme (UNDP), UN-Women and the United Nations Office on Drugs and Crime (UNODC) – there is an **opportunity to further regionalize the support available for justice and to encourage the exchange of best practices with the countries of the Sahel and the subregion, and build linkages with other relevant sectoral policies**, including in the fields of security, health and the promotion of the rights of women and children, through the humanitarian-development-peace nexus approach.
3. Through joint implementation by the country team, greater emphasis could be placed on **articulating the contribution** of support from the various United Nations **entities to the implementation of the National Action Plan for the implementation of Security Council resolution 1325 (2000)** and subsequent resolutions on the WPS agenda in Mali for the period 2019–2023. This is due for renewal in 2024 and could **explicitly include and incorporate the joint communiqué on conflict-related sexual violence**, which was concluded between the United Nations and the Republic of Mali on 1 March 2019. On this last point, collaboration could be maintained with the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict via the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict.

For the Malian authorities, country team partners and technical and financial partners, **options and opportunities in terms of specific thematic issues** could include the following areas:

4. Consider developing a **multisectoral national policy for the restoration and extension of State authority**, taking into account the security situation, **accompanied by an action plan and the establishment of an interministerial committee** to coordinate its implementation, **as well as incentives to promote the presence of justice and corrections authorities, including measures to recruit more female personnel**, a personnel rotation plan, and temporary measures to enable minimum justice services in the centre and northern regions.
5. **Continue efforts to adopt, disseminate, publicize and implement the revised texts** of the Criminal Code and the Code of Criminal Procedure; the draft legislation on the role of cadis and traditional authorities in the delivery of justice; the two laws on trafficking in persons and migrant smuggling, and the draft code of military justice; as well as the **effective implementation of constructive complementarity between formal and traditional justice mechanisms**.
6. Pursue efforts to **implement the national policy to prevent and combat violent extremism and terrorism, including its road map for prison settings**.
7. Continue efforts to **combat impunity for serious crimes**, in particular crimes linked to terrorism, transnational organized crime, international crimes, including conflict-related sexual violence, and follow up on prosecutions and trials for crimes committed against MINUSMA personnel, in accordance with Security Council resolution 2589 (2021), with **targeted technical and financial support from partners**. In this context, promote a gender-sensitive approach based on the rights of victims and survivors, including on issues of protection, participation and reparation; and ensure the dissemination, ownership and **implementation of circular No. 644/MJDH-SG of 12 September 2022 determining the criminal justice policy and the prosecution strategy**. In this respect, collaboration could be maintained between the United Nations system in Mali and the Office of Rule of Law and Security Institutions (OROLSI) through the Global Focal Point for the Rule of



Law (GFP), including its Justice and Correction Standing Capacity, with a view to providing targeted and punctual support, as needed.

Note of gratitude - MINUSMA-JCS would particularly like to thank the Ministry of Justice and Human Rights and all the staff of its technical departments for their excellent collaboration in implementing its mandate. The Section has also benefited from close coordination and cooperation with other Mission components and partners of the country team, in particular UNDP, UN-Women and UNODC, as well as the United Nations Interregional Crime and Justice Research Institute (UNICRI), the United Nations Children's Fund (UNICEF), the European Union Common Security and Defence Policy mission in Mali (EUCAP Sahel Mali), the United States Agency for International Development (USAID)-supported Mali Justice Project and the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict. MINUSMA-JCS expresses its gratitude to Belgium, Canada, Denmark, France, Germany and the Kingdom of the Netherlands for their trust, financial support and continued interest in supporting these key areas for peace and security in Mali.

Acronyms et Abbreviations

AGIDERM	Computerized inmate management application compliant with the Nelson Mandela Rules
AQMI	Organization of Al-Qaeda in the Islamic Maghreb
COGES	Management Committee for Production Activities in Corrections and Supervised Education Facilities
COVID-19	Coronavirus disease
CRSV	Conflict-related sexual violence
CSMAK	Comité de Sécurité Mixte de l'Azawad à Kidal
DNAJ	National Directorate for the Administration of Justice
DNAJS	National Directorate for Judicial Affairs and the Seal
DNAPES	National Directorate for Prison Administration and Supervised Education
ECOWAS	Economic Community of West African States
EUCAP Sahel Mali	European Union Common Security and Defence Policy mission in Mali
GFP	Global Focal Point for the Rule of Law
HRPD	Human Rights Protection Division
ICRC	International Committee of the Red Cross
IDLO	International Development Law Organization
JCS	Justice and Corrections Section
JCSC	Justice and Corrections Standing Capacity
MARA	Monitoring, Analysis and Reporting Arrangement mechanism on conflict-related sexual violence
MINUSMA	United Nations Multidimensional Integrated Stabilization Mission in Mali
MJP	Mali Justice Project
MNLA	Mouvement national pour la libération de l'Azawad
MoJHR	Ministry of Justice and Human Rights
NGO	Non-governmental organization
OLA	Office of Legal Affairs
OROLSI	Office of Rule of Law and Security Institutions
PROSMED	Programme in support of the stabilization of Mali by strengthening the rule of law
RESA	Restoration and extension of State authority
ROLSI	Rule of Law and Security Institutions
SOFA	Status-of-forces agreement
UNDP	United Nations Development Programme
UNICEF	United Nations Children's Fund
UNICRI	United Nations Interregional Crime and Justice Research Institute



UNODC	United Nations Office on Drugs and Crime
UNOWAS	United Nations Office for West Africa and the Sahel
UNPOL	United Nations Police Division
UN Women	United Nations Entity for Gender Equality and the Empowerment of Women
USAID	United States Agency for International Development
WACAP	West African Network of Central Authorities and Prosecutors against Organized Crime
WPS	Women, Peace and Security



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1. Background

Following the request of the transitional authorities of Mali for the withdrawal of MINUSMA, 10 years after its deployment, the Security Council, by its resolution 2690 (2023), terminated the Mission's mandate as of 30 June 2023. The resolution notes that the situation in Mali continues to constitute a threat to international peace and security, and reiterates the importance of implementing the Peace Agreement for the achievement of lasting peace.

The security and institutional crisis that Mali experienced in 2012 severely shook the foundations of the State, including the justice and corrections institutions in the country, particularly in the north and centre. During the occupation of the region by extremist and other armed groups, numerous human rights abuses and violations of international humanitarian law, including conflict-related sexual violence, were committed, particularly affecting women and girls. Courts and prisons were targeted, deserted, looted and ransacked, and judicial services were largely disrupted. In place of courts, members of extremist groups handed down and enforced harsh sentences not provided for under Malian criminal law, thus committing numerous human rights abuses against the population.

It was in response to this crisis and at the request of the transitional Government at the time that, on 25 April 2013, the Security Council adopted resolution 2100 (2013) creating MINUSMA. Deployed on 1 July 2013, the Mission's initial aim was to stabilize the country's main cities and restore State authority. Over the years, its mandate has evolved, successively including support for the conclusion and implementation of the Peace Agreement following its signature in 2015, support for the stabilization of the central regions, given the deteriorating security situation, and more recently, support for the political transition process leading to the restoration of constitutional order.

More specifically, in its resolution 2640 (2022) of 29 June 2022, and in its previous resolutions, the Security Council called on MINUSMA to support the Transition Government's efforts for the effective restoration and extension of State authority and rule of law throughout the territory, including in the centre of the country, to support the implementation of the reconciliation and justice measures of the Agreement, to help ensuring the effectiveness of justice and corrections officials as well as Malian judicial institutions, particularly regarding the detention, investigation and prosecution of individuals suspected of, and sentencing of those found responsible for terrorism-related crimes, mass atrocities and transnational organized crime activities (including trafficking in persons, arms, drugs and natural resources, and the smuggling of migrants). In addition, MINUSMA was given the task of supporting the efforts of the Malian authorities to bring to justice without delay those responsible for serious abuses or violations of human rights or violations of international humanitarian law, in particular war crimes and crimes against humanity in Mali, taking into account the referral of the situation in the country since January 2012 to the International Criminal Court.

Since 2021, Security Council resolution 2589 (2021) has called upon host States to work with peacekeeping operations to enhance the safety and security of mission personnel, and "to take all necessary measures to investigate, arrest and prosecute the killing of, and acts of violence against Mission personnel.

The United Nations was also called upon to monitor the killing of, and acts of violence against, United Nations personnel serving in peacekeeping operations, to notify the relevant national authorities immediately upon receiving reports of the killing of, and all acts of violence against, United Nations personnel serving in peacekeeping operations, and to report on progress in investigating and prosecuting such cases.

Despite efforts to stabilize the country and promote peace and security, conflict and tensions in Mali persist. Existing tensions and socioeconomic frustrations have created fertile ground conducive to violent extremism, terrorism and criminal activities linked in particular to drug, arms and migrant trafficking, including reported forms of collaboration between terrorist organizations and criminal groups. In addition, intercommunal violence has led to the loss of many lives and forced population displacement within the country. These complex threats pose a significant risk to the country's stability.

2. Objectives et methodology

The aim of the present report is to provide an overview of the achievements made in restoring and extending the authority of the State in the justice sector and combating impunity for crimes that risk destabilizing the peace process,

with the support of MINUSMA; to identify challenges and key lessons learned in implementing the Mission's mandate in this sector; and to propose options and identify opportunities for the Malian authorities, United Nations partners and other key partners involved in the justice and rule of law sector in Mali to continue these efforts.

The present study covers the 10-year period of the MINUSMA mandate, from 25 April 2013 (S/RES/2100) to 30 June 2023 (S/RES/2690). It is not intended to provide an exhaustive account of all the support provided by technical and financial partners to the Malian authorities in the justice sector, but focuses essentially on the achievements to which MINUSMA has contributed, through the logistical, technical and financial support of the Justice and Corrections Section. The report focuses on the results achieved and the relevance of the support provided with respect to the mandate and priorities of MINUSMA and national strategic and policy frameworks.

This study is based on a desk review and analysis of relevant strategic frameworks and documents, programme and project documents, justice sector reviews, and activity and evaluation reports. However, the lack of comprehensive archives for the early years of the Mission's mandate and high staff turnover have made access to some information difficult. The report was informed by a participatory process of internal consultations, including through group discussions organized with various MINUSMA-JCS offices (Bamako, Gao, Kidal, Mopti and Timbuktu), and bilateral meetings with JCS staff over the course of July and August 2023. This process was complemented by consultations with key stakeholders inside and outside the Mission, including other MINUSMA components, United Nations country team partners, former justice sector officials, and technical and financial partners (40 men and 18 women, totalling 58 people). In terms of limitations, given the context of the MINUSMA withdrawal, the authorities' views for the present study were taken into account mainly on the basis of interviews, press articles and press releases, to which they contributed up to the end of June 2023, and on the basis of activity reports. The preparation and drafting of the present study were followed by further consultations to finalize the conclusions.

3. Analysis of achievements, lessons learned, challenges and opportunities related to support for the restoration and extension of State authority in the justice sector

3.1. Return, deployment and securitization of justice and corrections institutions in conflict-affected areas and in the centre

Summary of Section 3.1.

Key achievements:

- **33 justice and corrections facilities rehabilitated, secured, equipped and/or built**
- **36 of the 38 courts in the north and centre operational or partially operational** (in terms of viable facilities, deployment of judicial authorities and holding of court hearings), including seven (7) of the eight (8) relocated courts
- **11 of the 18 prisons operational** (in terms of viable facilities, deployment of prison authorities, presence of detainees and conduct of hearings) in the Bandiagara, Douentza, Mopti, Gao and Timbuktu regions, **holding 628 detainees, including 10 women and 23 minors.**

Main challenges and lessons learned:

- **Functionality of the courts is highly variable depending on the security situation**, but generally higher in the centre than in regions of the north, and in the main cities than in peripheral or rural areas
- **Persistent lack of women's representation within the justice sector in the centre and north** despite the adoption of Act No. 2015-052 of 18 December 2015, establishing measures to promote gender equality in access to appointed and elected positions.

Main options and opportunities for follow-up:

- **Develop a multisectoral national strategy for the restoration and extension of State authority**, taking into account the security situation, together with an action plan and the **establishment of an interministerial committee** to coordinate its implementation
- **Consider adopting incentives to promote the presence of judicial authorities**, including a personnel rotation plan, temporary measures to enable a minimum justice service in regions in the centre and north,

and measures to improve living, security and working conditions for justice and corrections personnel, such as the payment of a risk premium in insecure areas and training to raise awareness of safety and security for State agents; and to study initiatives applied in the subregion in order to address the absence or intermittent presence of the authorities

- **Take measures at the local level to implement Act No. 2015-052**, establishing measures to promote gender equality in access to appointed and elected positions, in order to **increase the representation of women** in the justice sector.

Assessment of needs and identification of priorities - At the start of the Mission, in 2013, priority was given to actions to promote the return of the justice and corrections authorities to the conflict-affected areas. Several joint missions involving the Government, MINUSMA and the international community were deployed to Mopti, Gao and Timbuktu to assess the situation, with the aim of ensuring the return of the justice administration to those areas and the reopening of prisons. Missions led jointly by the National Directorate for Prison Administration and Supervised Education (DNAPES), MINUSMA and UNDP have also made it possible to assess urgent needs for the return of the authorities and to identify 13 priority prison facilities to be renovated and equipped. These establishments, which were based in conflict-affected areas and exposed to threats, were not in a position to hold detainees in secure and humane conditions.³ In order to coordinate the actions needed to restore justice and corrections institutions in the north, the Ministry of Justice and Human Rights (MoJHR), MINUSMA, UNDP and the European Union created a technical working group that met weekly. MINUSMA also provided technical and logistical support to the Ministry to deploy small teams of justice and corrections officials to the north of the country in order to plan and prepare for the renovation of facilities and the resumption of activities in the Gao and Timbuktu regions. It was therefore established that insecurity, a lack of suitable facilities and sufficiently trained personnel, as well as inadequate financial and administrative capacity hampered the reopening of courts and prisons. According to the conclusions of the assessment of prisons in the north and some prisons in the south, in addition to the problems relating to facilities and prison overcrowding in functional facilities, prisons were unsuitable because of sanitation and health conditions, especially the poor state of the wastewater disposal system, the lack of any distinction between pre-trial and convicted detainees, and of separate holding facilities for minors and women. The assessment also concluded that all prisons in the north needed to be renovated or rebuilt. Eighty (80) per cent of prisons built during the colonial era were in an advanced state of disrepair. Furthermore, some prisons had been built with design errors such as watchtowers facing outwards and the absence of patrol paths, visiting rooms and armouries.⁴

In 2014, at the end of the crisis, MINUSMA and UNDP supported the MoJHR in drafting the Document on the reform of justice, prison administration and supervised education in Mali, containing a detailed diagnosis of the justice sector and proposed areas for reform. The aims were to: consolidate the independence of the judiciary and improve governance through thorough institutional reform; improve professional ethical standards in the justice system, prison administration and supervised education; strengthen the judicial protection of rights and freedoms, in particular the right to a healthy environment, and fill legal gaps; modernize the organization of courts and services, and personnel management; enhance access to justice by improving public information and legal awareness for citizens as well as an appropriate judicial map; and strengthen the capacity of the prison administration and supervised education to ensure greater security in detention centres and human rights compliance. Based on that document, the Ministry developed an emergency programme to strengthen the justice system in Mali for the period 2015–2018, with three specific aims: (1) to consolidate the judiciary and the rule of law; (2) to protect human rights and promote the fight against impunity, corruption and financial crime; and (3) to improve citizens' knowledge and awareness of the programme and the justice system and ensure implementation of the Peace Agreement in relation to justice. The emergency programme was followed by the adoption in 2019 of Act No. 2019-072 of 24 December 2019 on justice sector programming and orientation for 2020–2024, which sets the priorities for that period. The Act is aimed especially at “building a public justice service that is accessible, effective and competent in order to build trust among citizens and litigants”.

³ The prisons in Niafunké, Gourma-Rharous, Goundam, Youwarou and Diéma needed to be rebuilt, and those in Kangaba, Timbuktu, Ménaka, Diré, Ansongo, Bourem, Douentza and Ténenkou needed to be restored.

⁴ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, pp. 41 and 42.

Emergency assistance for the return and deployment of justice and corrections services – Emergency assistance involved a “hard” component with support for facilities and a “soft” component with capacity-building support and on-the-ground awareness-raising for populations and field missions to promote the return of the authorities. Through training, advice and quick-impact projects, the Mission supported the restoration, securing and operationalization of judicial and correctional facilities. Thus, the high courts in Gao and Timbuktu were able to reopen in February 2014, followed by the two main prisons in those regions. This support involved awareness-raising sessions for people in conflict-affected regions in the north on access to justice, as well as capacity-building for managers in order to make prisons in the north operational. In 2014, with the support of the Mission, magistrates, prison personnel, judicial police, judicial officers, and representatives of civil society and non-governmental organizations (NGOs) were convened for the first justice forum to be held in the north of Mali. At this first forum, the Malian justice stakeholders were able to take stock of the functioning of justice services within the jurisdiction of the Mopti Court of Appeals, determine priority actions for the swift return of justice in the north and centre, as well as address questions of justice, peace and reconciliation. A second justice forum in 2015 was aimed at bringing together all stakeholders for a local dialogue on the role of justice in implementing the Peace Agreement according to priorities and resources. In addition to efforts to restore the justice and corrections authorities, MINUSMA advocated for the assignment of sufficient magistrates, justice officials and prison personnel to these regions. Thus, following the signing of a ministerial decree in 2015 authorizing the deployment of more personnel in the north of the country, MINUSMA provided the MoJHR with logistical support to deploy prison personnel to the north in order to address the chronic lack of staff in prisons.

By 1 July 2014, more than half of the justice and corrections facilities in the north of Mali had been rehabilitated.⁵ Thereafter, from 2014 to 2023, through quick-impact projects, trust funds and programme funds, including in the context of GFP joint projects, especially the GFP Prison Mandela project and the PROSMED programme, MINUSMA directly supported efforts to rehabilitate, secure, equip and/or build 29 justice and corrections facilities/institutions. These included the detention and correctional facilities in Ansongo, Diré, Douentza, Gao, Kéniéroba, Koulikoro, Ménaka, Mopti, Niafunké, Ténenkou and Timbuktu, the detention centre at Kidal and Bamako Central Prison; facilities for judges/justices of the peace with extended jurisdiction in Ansongo, Bourem, Douentza and Ménaka; the Constitutional Court of Bamako, the courthouse in Diré, the high courts in Gao, Mopti and Timbuktu and the Mopti Court of Appeal; and the provision of equipment for the criminal justice system in Goundam and Gourma-Rharous. MINUSMA also supported efforts to build four (4) justice and corrections facilities, namely the prison in Koro, the first instance court in Djenné and high security wards in Diola and Koulikoro prisons, and to secure magistrates’ residences in Diré, Niafunké and Timbuktu.

Fast progress could be achieved in the first years after the establishment of MINUSMA. As of 1 January 2014, only two prosecutors and six prisons administration personnel were posted in the north, in Gao and Timbuktu. By December of the same year, 122 members of the justice and prison administration had been deployed to regions in the north, representing 51 per cent of the authorized strength of 237 officials. Three years later, in 2017, 10 courts were functional or partially operational in the north and centre. This number rose to 21 out of 23 courts functional or partially operational in the north and centre in 2020 (in terms of viable facilities, deployment of judicial officials and hearings), including seven (7) relocated courts partially operating from Gao (Bourem, Ansongo and Ménaka courts), Timbuktu (Goundam and Gourma-Rharous courts) and Mopti (Ténenkou and Youwarou courts). By May 2020, 11 of the 17 prisons in the north and centre were partially operational.

As of 30 June 2023, following the review of the judicial map, 36 of the 38 courts in the north and centre were partially operational (in terms of viable facilities, deployment of judicial authorities and ongoing hearings), including seven (7) of the eight (8) courts officially relocated for security reasons.⁶ The functionality of these courts, however, varies greatly depending on the security situation, but is generally higher in the centre than in regions in the north, and in the main cities than in peripheral or rural areas. In addition to the official relocations, some courts operate de facto from safer areas, and judicial authorities shuttle between their duty station and their home locations. With respect to correctional

⁵ Some facilities later benefited from additional renovation work.

⁶ The Timbuktu Region has four judges/justices of the peace with extended jurisdiction, namely in Diré (relocated to Timbuktu), Goundam, Gourma-Rharous and Niafunké. Three of the judges/justices of the peace with extended jurisdiction (Goundam, Gourma-Rharous and Diré) have been relocated to the headquarters in Timbuktu, Niafunké being the only one in the Timbuktu Region not yet officially relocated for security reasons.

facilities, of the 18 prisons in the north and centre, 11 were operational⁷ (in terms of viable facilities, deployment of corrections authorities, presence of detainees and ongoing hearings) in the Bandiagara, Douentza, Mopti, Gao and Timbuktu regions, holding a total of 628 detainees, including 10 women and 23 minors, as of the same date.

In terms of challenges, the redeployment of justice and corrections personnel could not be achieved as quickly as the rehabilitation of the facilities, mainly because of the insecurity affecting areas in the north of Mali, especially those controlled by armed groups, as well as some areas in the centre. Furthermore, during the 10 years of support provided by MINUSMA, insecurity continued to impact on the redeployment of judicial personnel to some locations and led to absenteeism of existing personnel, unlike among corrections personnel. The security situation required some magistrates to be temporarily relocated to other jurisdictions or be absent from their jurisdictions for more or less extended periods. Once encouraging results had been achieved with regard to the presence, return or deployment of judicial authorities, another major challenge was to sustain these achievements. For example, in February 2019, magistrates' unions denounced the Government's inability to improve security conditions in parts of the country and called upon magistrates throughout Mali who felt unsafe to relocate to Bamako or to more secured jurisdictions. This followed the confirmation on 19 February 2019 by the MoJHR of the death of the President of the Niono court (Ségou region), who had been abducted by unidentified armed men on 16 November 2017.⁸ The Mission's continued efforts to support the return of judicial authorities in the centre were also jeopardized by growing insecurity, including direct threats to magistrates by radical elements in 2021, which prevented the support to the temporary deployments of magistrates to Bandiagara and Youwarou.⁹ More recently, on 15 April 2023, MINUSMA was informed that the chief clerk of the justice of the peace with extended jurisdiction in Diré had been abducted from in front of his house by two unidentified armed persons. He was reportedly freed on 22 August 2023.

Despite the Mission's advocacy work, the monitoring of appointments and deployments, court hearings, as well as of detention conditions, have revealed the persistent lack of women's representation within the justice sector in the centre and the north, regardless of Act No. 2015-052 of 18 December 2015 establishing and requiring the adoption of measures to promote gender equality in access to appointed and elected positions, in particular within the public administration. This lack of representation can be nuanced by the fact that a limited number of women are affected in crisis areas for security reasons, considering the sociological context, which is visible in all sectors. Therefore, a recommendation and an opportunity would be to adopt measures aimed at operationalising Act No. 2015-052 to increase the representation of women in the justice sector, including through local recruitment of clerks and prison officials so as to allow female staff to stay close to their families. To overcome the absence of clerks in some jurisdictions, *ad hoc* clerks, or members of the judicial personnel of these courts, are used to facilitate the functioning of justice. In the absence of rules on remuneration, the *ad hoc* clerks are remunerated on the basis of the fees they charge to litigants. To address this, it is recommended that measures be taken to pay *ad hoc* clerks, or even to formalize recognition of the experience gained through support for training and the acquisition of certifying diplomas.

As part of the efforts to restore and extend State authority, in order to have a real impact on the ground, it is critical to ensure the coordination of efforts to guarantee and coordinate the presence of State civil servants – healthcare personnel, teachers, administrators, security services, justice and corrections personnel, etc. – to offer essential services to the population, such as access to health care, education, security and justice. However, no framework exists for coordinating those efforts. On several occasions, and more recently during the brainstorming workshop on strategic discussions and planning on justice reform and the deployment of justice and corrections authorities in the centre and north of the country, held from 28 February to 2 March 2022, it was specifically recommended that an interministerial framework¹⁰ for exchanges and coordination be created with a view to redeploying the administration, in general, to the north and centre. Furthermore, MINUSMA provided support in the absence of any national policy or strategy during the

⁷ Functioning prisons: Timbuktu, Diré and Niafunké (Timbuktu Region); Gao (Gao Region); Douentza (Douentza Region); Mopti and Ténenkou-Djenné (Mopti Region); and Bandiagara, Bankass and Koro (Bandiagara Region). Non-functioning prisons: Kidal (Kidal Region); Ménaka (Ménaka Region); Ansongo and Bourem (Gao Region); Goundam and Gourma-Rharous (Timbuktu Region); and Youwarou (Mopti Region).

⁸ Report of the Secretary-General on the situation in Mali (S/2019/262), March 2019, para. 18.

⁹ Report of the Secretary-General on the situation in Mali (S/2021/99), March 2021, para. 32.

¹⁰ With the involvement of the Ministry of Justice and Human Rights, the Ministry of Defence and Former Combatants, the Ministry of Territorial Administration and Decentralization and the Ministry of Security and Civil Protection.

10-year period of its mandate. In the context of discussions within the United Nations held through the Restoration and Extension of State Authority Working Group (RESA), comprising MINUSMA and country team components, RESA group members also concurred on the importance for the Government to adopt a national policy for the restoration and extension of State authority.

With respect to support for the rehabilitation and construction of corrections and justice facilities, the availability within the Section of engineering and architectural expertise has made it possible to fill gaps in the national administration and to provide technical assistance to carry out assessments, provide technical assistance and support and the monitoring of work sites.

Despite the assistance for rehabilitation and construction, as well as for the provision of equipment, some justice facilities remained unoccupied for extended periods, irrespective of the presence of administrative and corrections authorities. Some interlocutors also considered that the management of human resources, characterised by the concentration of authorities in Bamako and the south of the country combined with the non-application of penalties for unjustified staff absences, have hampered efforts to promote the return of authorities and the restoration of State authority in conflict-affected areas. Moreover, for some judicial authorities, deployment to the centre and north of the country is often perceived as punishment rather than as recognition of integrity and professionalism. This has been the subject of advocacy and consultations with the MoJHR on several occasions, during which the issue of danger pay, improving working conditions and the possibility of imposing penalties on judicial personnel for repeated unjustified absences were raised. The Malian authorities could therefore consider adopting incentives to promote the presence of judicial authorities, including the adoption of a personnel rotation plan and measures to improve the living, working and security conditions of personnel, such as the provision of danger pay in insecure areas.

Although the political situation and security threats differ from one country to another in the subregion, undertaking a study of the measures taken in those countries to ensure the presence of judicial authorities in areas and locations exposed to terrorist threats and conflicts could be useful. In conclusion, considering the logistical, financial and security assistance given to the north and centre, the withdrawal of MINUSMA will leave a large void, in particular in support for deployment in regions of the north and centre, since the United Nations country team and partners do not have justice support teams present in the Timbuktu and Kidal regions, and do not have the Mission's security and logistics capabilities. The same holds true for the organization of mobile courts, which is why it is important to institutionalize them. The establishment of an interministerial framework to coordinate national efforts to restore and extend State authority will be all the more important.

3.2. Improved functioning of the justice and corrections system

Summary of Section 3.2.

Key achievements:

- **Support to the organisation of 28 mobile court sessions** through which some 140 civil, criminal and land cases were processed, and **for two (2) special criminal trial sessions of the Court of Assizes in Mopti**, processing 62 criminal cases and convicting 94 people.¹¹
- **Establishment of three (3) consultation frameworks for actors involved in the criminal justice system**, formalized in Gao and Mopti by the drafting of their internal regulations
- **Implementation of a pilot statistical information system** in the justice sector, for the northern and centre regions
- **Development of a curriculum for the initial and continuous training of corrections personnel** in support of Mali's National Legal Training Institute and training of trainers, in the absence of a national academy for corrections officers
- **Drafting of standard rules of procedure for corrections institutions** in Mali

¹¹ First session: 57 people; second session: 37 people.

- **Meilleure gestion de la détention à travers l'opérationnalisation de l'Application de gestion informatisée des détenus en établissement conformes aux Règles Mandela (AGIDERM)** dans sept (7) prisons pilotes et étendue à 37 des 60 établissements pénitentiaires avec l'appui du PNUD
- **Improved detention management through the operationalization of a computerized inmate management application compliant with the Nelson Mandela Rules (AGIDERM)** in seven pilot prisons, extended to 37 of the 60 corrections institutions with UNDP support
- **Institutionalization of the Management Committee for Production Activities in Corrections and Supervised Education Facilities (COGES)** in all functional corrections institutions
- **Development, adoption and implementation of integrated defence and security plans for all corrections institutions** in Mali.

Main challenges and lessons learned:

- **Relevance of combining mobile courts with awareness-raising sessions** on justice to strengthen access to the law and to justice, and to encourage dialogue between the population and the judicial authorities with a view to bringing justice closer to the people
- **Correlation between a lack of socioprofessional opportunities for inmates and security incidents** within the facilities, hence the importance of implementing social reintegration measures and programmes
- Lack of a national strategy to reduce prison overcrowding and implement alternatives to imprisonment
- **Importance of subjecting COGES to financial management and control procedures** to ensure transparency, ownership, the proper management of funds and the sustainability of prison production and reintegration programmes.

Main options and opportunities for follow-up:

- **Consider integrating mobile courts into national mechanisms for the organization and functioning of courts**, in line with the recommendations of the document on justice reform, and providing judicial actors with mobility kits
- **Institutionalize consultation frameworks for actors involved in the criminal justice system and make these frameworks permanent**
- **Introduce local recruitment and step up training for clerks**, including in file processing and information technology
- **Pursue institutional reforms of the prison administration** within the framework of prison reform, including support to operationalize the prison administration national academy
- **Institutionalize hygiene and health promotion committees in prisons**
- **Ensure the implementation of alternative measures to imprisonment**
- **Implement post-custody follow-up measures** to assess the impact of social reintegration measures.

3.2.1. Improved functioning of the justice system

The commitment to bring justice closer to the people and improve its performance is enshrined in article 46 of the Peace Agreement. As part of the efforts to restore State authority and the rule of law, MINUSMA, in cooperation with partners, provided technical, logistical and financial support to help the Government improve the functioning of the judicial system, as well as cooperation and coordination between judicial actors.

Support for court hearings, in particular mobile courts – In accordance with Act No. 2011–037 of 15 July 2011 on the organization of the judiciary, hearings are held at the appropriate courthouse or in any other locality within its jurisdiction. The transfer of the court to this locality is decided by a preliminary court ruling or by order of the President (article 4). For criminal trial sessions, at the request of the Public Prosecutor, the First President may order the Court of Assizes to be moved to any other locality within its jurisdiction (article 19). The original idea behind these provisions was to enable hearings to be held in localities where the court or tribunal is not based, in order to handle cases in certain remote areas that are more difficult to access, based on the needs of the litigants. However, contrary to the initial idea, mobile courts have most often been organized at courthouses, with logistical and financial support from the Mission to ensure the punctual presence of judges and judicial personnel relocated to their place of assignment, and

sometimes to other courts, at the Mission's initiative or at the request of the judicial authorities. These mobile courts have undoubtedly had the merit of enabling formal justice to function on an *ad hoc* basis in certain jurisdictions where the authorities were absent, of bringing justice closer to the people, and of raising awareness, thus promoting the perception of a State that is present and concerned about the functioning of basic services. In 2015, Mr. Yaya Traoré, former Justice of the Peace with Extended Jurisdiction for Bankass *Cercle*, said: "Mobile courts are like any other hearing, because we judge people with the same rigour. Their purpose is to bring justice closer to the people. As justice is administered on behalf of the people, it is a plus when the court travels to the people to show them how the trial is conducted and how justice is administered on their behalf".¹² With the support of MINUSMA, 28 mobile courts were held in the northern and central jurisdictions, during which some 140 civil, land and criminal cases were processed, including in Ansongo, Bankass, Bourem, Diré, Douentza, Goundam, Gourma-Rharous, Koro, Niafouké, Ouenkoro, Ténenkou and Youwarou. These hearings also enabled civil registries to be signed, including supplementary birth certificates, as well as citizenship certificates and criminal record to be issued, saving residents the trouble of travelling to relocated courts. In addition, two (2) special criminal trial sessions of the Court of Assizes were supported in Mopti, during which 62 criminal cases were dealt with and 94 people sentenced. These hearings were often preceded by fact-finding missions to gather and evaluate information on the litigants' cases.

However, in a context where MINUSMA was the only actor to support these mobile courts, the challenge inevitably arose of how to ensure their sustainability. In this respect, the 2014 document on justice reform, drawn up with the support of MINUSMA and UNDP, recommended experimenting with operational justice units covering several magistrates' courts. They would be based at the seat of the district court with the highest volume of cases, and would service other district courts upon request, in the form of mobile hearings. Despite the size of some regions, considering the low population density, and the limited number of cases heard in certain jurisdictions, this would prevent underemployment of magistrates and clerks, given the current transformation of judges/justices of the peace with extended jurisdiction into magistrates' courts, as well as guarantee effective judicial coverage of the country.¹³ It would also enable the judicial authorities to initiate and organize mobile courts themselves, as required.¹⁴ No follow-up to this recommendation has been reported to date, owing to the security situation. As insecurity is still a major challenge in the current context, the MoJHR could consider further integrating mobile courts into national mechanisms for organizing and running courts, and equipping judicial actors with mobility kits. This could mean, for example, experimenting with operational justice units initially through a pilot project in courts where the security situation permits, with the involvement and consultation of traditional justice mechanisms in the decision-making process. This would encourage the gradual institutionalization of the holding of mobile courts, as well as their ownership and sustainability; their integration into national mechanisms for the organization and operation of courts; and their complementarity with traditional justice.

Continuous training and capacity-building, including statistical information and registry management - Support for assessment, planning and inspection missions and the monitoring of court hearings have enabled the authorities and MINUSMA to determine gaps in the training of judicial personnel and to identify priority themes requiring staff capacity-building. As a first step, training on human rights, international humanitarian law and the administration of criminal justice was provided in 2014 for magistrates, lawyers and judicial police officers, followed in 2015 by mentoring sessions on court management and administration to strengthen the managerial capacities of heads of courts, as well as multiple mentoring sessions organized for magistrates in the northern and central jurisdictions. Support was also provided to the National Legal Training Institute for the revision and updating of training programmes for magistrates.

In 2021, the MoJHR, with MINUSMA support, established a statistical information system for the justice sector in Mali, a management tool that will contribute to enhancing the functioning of tribunals and prisons in the north and the centre. UNDP continued and extended this pilot project from 2022 onwards. This initiative was accompanied by capacity-building for the judiciary on statistical data collection, as part of the implementation of a statistical management tool and dashboard for the MoJHR. In addition, from 2020-2023, registry staff in the centre and north regions were trained in record keeping, seal management, registry management and criminal procedure.

¹² "Mobile courts in the Mopti Region- justice gets closer to the people with MINUSMA support", 15 June 2015:

<https://minusma.unmissions.org/audiences-foraines-dans-la-r%C3%A9gion-de-mopti>.

¹³ The Gourma-Rharous court handles only around 10 cases a year, including both civil and criminal cases.

¹⁴ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, pp. 92 and 93.

Other partners have provided training and capacity-building support for judicial personnel, notably UNDP and the European Union, including institutional, technical and financial support for the National Legal Training Institute, which could be pursued after the Mission's departure. However, the added value of MINUSMA was its government-provided personnel, particularly magistrates, which enabled professional relations and peer advice at the central level.

Improved cooperation and coordination between justice actors - From an institutional point of view, in order to deliberate on matters relating to the organization and operation of the courts, general meetings may be convened by the First President of the Court of Appeal or at the request of the Public Prosecutor, pursuant to article 14 of Act No. 2011-37 of 15 July 2011 on the organization of the judiciary. A general meeting comprises all the court's magistrates. It is responsible for drawing up or amending the internal regulations; setting the dates for ordinary, special and extraordinary hearings; and deliberating on any other matter relating to the operation of the court. In addition, as part of its coordination prerogatives, the National Directorate for the Administration of Justice (DNAJ) may take initiatives, such as organizing conferences that bring together judicial actors, in accordance with article 2 of Act No. 2011-039/AN-RM of 15 July 2011 creating the National Directorate, and article 15 of Decree No. 2011-604/P-RM of 19 September 2011 establishing the National Directorate's organization and operating procedures. To date, no general meeting has been held. The DNAJ has requested the Mission's support in organizing these meetings, which could be envisaged through the PROSMED programme. As part of efforts to consolidate the judiciary in line with the Peace Agreement and the National Directorate's coordination role provided for by law, the Mission supported the organization, in 2018, of the first Conference of Public Prosecutors' Offices in Mopti, with the participation of 99 representatives of Mali's judicial authorities on the theme "The Public Prosecutor's Office faced with the need for judicial cooperation and the constraints linked to the enforcement of criminal sanctions", followed by a second conference in 2019 on "Trafficking in persons and migrant smuggling". In the same vein, in 2022, a Conference of Magistrates was organized with the magistrates of the Mopti Court of Appeal, with the technical, logistical and financial support of MINUSMA, at which the magistrates were able to take stock of the functioning and challenges of the justice system.

With a view to improving the functioning of the justice system in the northern and central jurisdictions and remedying the deficits of the judicial system in the processing of criminal cases, consultation frameworks for actors involved in the criminal justice system were established at the high courts in Gao, Mopti and Timbuktu in 2015 with the support of the Netherlands and the United States of America, and formally in Gao and Mopti through support for the drafting of their internal regulations, and for implementing the recommendations of the frameworks related to capacity-building on priority themes. In this respect, MINUSMA served as the secretariat for these consultation frameworks, which also received support from the NGO International Development Law Organization, in particular to set up the same structure in Ségou in 2016, and from EUCAP Sahel Mali to replicate this initiative in Kayes in 2017.

In terms of challenges, Malian law makes no provision for coordination mechanisms between the various actors in the criminal justice system. With the withdrawal of MINUSMA, the problem arises of how to ensure their sustainability and ownership. On the occasion of the second interregional meeting of consultation frameworks for criminal justice actors, held in May 2022 with the support of MINUSMA and the International Development Law Organization, the National Directorate for Judicial Affairs and the Seal (DNAJS) was recommended to work towards institutionalizing consultation frameworks, following the example of the Niger and the initiatives under way in Burkina Faso. At the meeting, Mohamed Dramane Traoré, project manager at the MoJHR, described the consultation frameworks as "regular forums for exchanging ideas and finding original solutions to the difficulties faced by the criminal justice system", and expressed the hope that the meeting "could be a springboard towards institutionalizing" the consultation frameworks. This desire was shared by the DNAJS, who also proposed to promote better performance by institutional actors; the inclusion and participation of a wider range of stakeholders, such as traditional and religious authorities and civil society organizations, particularly women's organizations; continued training and awareness-raising; and better gender mainstreaming, including through the adoption of a specific plan to this effect and capacity-building for actors involved in the criminal justice system. On the one hand, some interlocutors felt that the consultation frameworks focused mainly on requests for support in terms of equipment, materials to improve working conditions and training, and could do more to address substantive issues to find appropriate solutions for better functioning of the criminal justice system. On the other hand, these meetings fostered communication between actors in the criminal justice system and with civil society organizations, promoting transparency regarding the requests and concerns of various actors, including on the dysfunctions of the criminal justice system, and enabling a consensus to be reached on key needs.

Another challenge in the subregion, including in Mali, highlighted on several occasions in the reports of UNOWAS,¹⁵ is the prosecution of political actors or the absence of prosecutions for violations of human rights or international humanitarian law, fuelling a perception of the instrumentalization of the judiciary.¹⁶ In this context, the national authorities, with the support of technical and financial partners, could attach particular importance to guaranteeing respect for the principle of judicial independence and the right to a fair and impartial trial.

3.2.2. Improved management of corrections facilities and conditions of detention

At the start of the Mission, according to the findings of the evaluation of prisons in the north and some prisons in the south, in addition to infrastructure problems, detention conditions below international norms and standards, and prison overcrowding in functional establishments, structural problems were identified. These included an inadequate organizational structure, a lack of identity for the prison staff, who did not benefit from training that took into account the specificities of prison-related professions, a lack of gender mainstreaming in prison administration, budgetary constraints and a lack of human resources development, including insufficient staffing levels, particularly for female staff.

Initial and continuous training – The assessment of corrections institutions carried out jointly in 2013 by DNAPES, MINUSMA and UNDP found that initial training for prison staff was an amalgam of military and general administration courses, with no direct connection to the core business of the prison administration. In addition, there was no structured refresher training. Support for initial and continuous training was therefore identified as a priority. In line with the recommendations of the 2014 document on justice reform and in the absence of a national academy for the prison administration, technical support from the MINUSMA-JCS has enabled the establishment of an initial training programme for national corrections staff and the development of a curriculum for their continuous training in support of the National Legal Training Institute. The initial training programme comprises a theoretical phase and a practical internship in a corrections facility. Theoretical training comprises one cross-disciplinary teaching unit and three specific teaching units. The cross-disciplinary component focuses on “institutional law and organization”¹⁷ while the specific components cover “safety and security”,¹⁸ “registry and administrative management”¹⁹ and “humanization and integration”²⁰. MINUSMA supported the practical training of prison personnel. The prison administration and a pool of 36 trainers, including six (6) women, were also trained in the content of this programme, including on the Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) and on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), also with the support of UNDP under the GFP Prisons Mandela Project, UN-Women and UNODC. For the most part, the training courses were delivered with the participation and facilitation of the team of trainers from DNAPES.

Other partners, including the European Union, as part of its second justice support programme in Mali (PAJM 2), have also supported the training of prison staff. In September 2021, during a brainstorming session on the issue of continuous training for prison administration staff and the creation of a national training academy for the prison administration in Mali, organized with the support of MINUSMA and with the participation of the central services of the MoJHR and the National Legal Training Institute, it was recommended that a specific training programme be set up in a school dedicated to the prison administration. A committee made up of representatives of the National Directorate for Prison Administration and technical and financial partners has also been established to monitor the procedures required to set up the training academy, including the drafting of the relevant text. The text of the decree creating the academy is

¹⁵ See, for example, the report of the Secretary-General on the situation in Mali (S/2017/1117), January 2022, para. 10.

¹⁶ Reports of the Secretary-General on the activities of UNOWAS (S/2020/490), 20 June 2023, para. 37; (S/2022/521), 29 June 2022, para. 19; (S/2021/1091), 15 December 2021, para. 78; and (S/2020/1293), 24 December 2020, para. 3.

¹⁷ 1. Administrative organization; 2. Organization of the judiciary; 3. Prison regulations; 4. Human rights in prisons; 5. General criminal law; 6. Criminal procedure, 7. Special criminal law; and 8. Conduct and ethics.

¹⁸ 1. Prison security; 2. Law enforcement; 3. Fire management; 4. Self-defence and technical actions during interventions; 5. Physical education and sports; 6. Armaments; 7. Judicial identity; 8. Prisons information; 9. Communications; and 10. Drugs and narcotics.

¹⁹ 1. Prison registry; 2. Administrative drafting; 3. Collection of statistical data; 4. Stock records; 5. Information technology; and 6. Communication and public relations.

²⁰ 1. Correctional science; 2. Social reintegration policy; 3. Psychology; and 4. Hygiene and first aid.

currently with the National Transition Council for adoption. Pending the operationalization of this academy, the various training programmes developed with the support of partners could be reviewed and consolidated. However, in a context where financial partners are increasingly reluctant to finance infrastructure projects, in terms of sustainability and impact, they could make such support conditional on the implementation of prison reform, including the transformation of the prison administration into a general directorate.

Management of inmates and corrections facilities - The 2014 document on justice reform recommended reviewing Decision No. 10- 002/MJ-DNAPES of 6 August 2010 on the internal regulations of correctional and supervised education facilities, in the form of a decree, with a view to improving the functioning of correctional and supervised education facilities, in order to ensure that the facilities comply with international norms and standards. With the advice and technical assistance of MINUSMA, the MoJHR also adopted Order No. 2016–4748/MJDH-SG of 29 December 2016 on the internal regulations of correctional and supervised education facilities, in the interests of greater compliance with the international norms and standards applicable to detention. The regulations include the obligation to set up supervisory commissions at the central, regional and local levels; to establish separate areas to comply with the separation of categories on the basis of gender, age, criminal record, grounds for detention and treatment requirements; and to define the roles and responsibilities of staff members, as well as rules of discipline and internal policing. At the same time, the Mission supported the training of corrections personnel in prison management and recordkeeping, and provided prison staff with registries.

Another recommendation made in the 2014 document on justice reform was to computerize prisoner management through the introduction of inmate management software, proper prison registries, training for prison registrars, and equipping central regional directorates and prisons in regional capitals with computer hardware, supplies and equipment maintenance. Thus, AGIDERM has been developed, installed and operationalised in seven pilot prisons: Mopti, Gao, Timbuktu, Bollé Femmes, Koulikoro, Bamako Central Prison and Bandiagara. Initially, the tool was used to register 4,000 inmates, and 45 users were trained in its use. During the implementation phase, 250 cases of pre-trial detention exceeding the statutory time limits were identified, enabling the prison administration to follow up with the judicial authorities. Since 2018, with technical support from UNDP and MINUSMA as part of the joint GFP Prisons Mandela project and the PROMED programme funded by the Kingdom of the Netherlands, AGIDERM has been installed in a total of 37 of the 60 prisons and four regional directorates for prison administration and supervised education. On this subject, Mody Kanouté, chief prison clerk and AGIDERM software administrator at Bollé Femmes, said “[t]he AGIDERM application (...) has removed a major thorn in our side. We can now monitor and control the size of the prison population, detect recidivism, carry out rapid searches of inmates using biometric data, and carry out optimum security assessments and classification of inmates, including detecting cases of radicalization, among other things”.²¹

In addition, MINUSMA has provided technical and financial support to organize a series of workshops to draw up and validate job descriptions, in order to help strengthen the prison administration’s management capacity, particularly in terms of human resources, and facilitate the assessment of needs in this area.

Humanization of prisons, including health and hygiene – The findings of the joint missions carried out by the DNAPES, MINUSMA and UNDP in 2013 and of the 2014 document on justice reform already pointed to shortcomings in respecting prisoners’ rights to health and hygiene.²² Assistance has been provided to improve health and hygiene conditions by rehabilitating infrastructures, building infirmaries in certain establishments, implementing hygiene and sanitation measures, and providing materials, equipment and medicines. To this end, MINUSMA-JCS recruited staff with expertise in prison health care. However, with a view to ensuring the sustainability and humanization of detention conditions and improving the health management of prisons in line with international standards, as enshrined in the Nelson Mandela and Bangkok Rules, the Mission provided advice and technical support to institutionalize the health and hygiene system in collaboration with the Ministry of Health. Thus, with the technical and financial support of the International Committee of the Red Cross (ICRC) and the technical support of the Mission, the Ministries of Health and Development and the MoJHR jointly adopted Interministerial Order No. 2020–3256/MSDS-MJDH of 31 December 2020, setting the terms and conditions for the care of the prison population in the framework of public health services. This

²¹ AGIDERM, prison data management tool, UNDP Mali, 29 June 2022: <https://www.undp.org/fr/mali/news/agiderm-outil-de-gestion-de-donn%C3%A9es-carc%C3%A9rales>.

²² Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, p. 122.

was the first official document to provide for interministerial collaboration on hygiene and health issues, and support for prison infirmaries in terms of staffing, equipment, monitoring and technical supervision, and was a recommendation made in the 2014 document on justice reform.²³ In 2022–2023, MINUSMA supported assessments of health and hygiene conditions at detention and correctional facilities in Gao, Kénioroba, Koulikoro, Mopti, Timbuktu and Bamako. In line with the recommendations of these assessments, a national normative framework for the management, operation and establishment of hygiene and health promotion committees within Mali's prisons was drawn up with technical support from the Mission. In addition, as a follow-up to these assessments, campaigns were also supported to contain and eradicate the scabies epidemic, a frequent pathology in Mali's prisons.

As part of the response to health emergencies, MINUSMA supported the implementation of the Ebola virus prevention campaign, as well as measures in response to the coronavirus disease (COVID-19) pandemic, including through awareness-raising, the provision of masks, visors, disinfectants, hand-washing devices and medicines, and the training of health workers. Logistical and technical support was also provided for the implementation of vaccination campaigns, covering 43 per cent of Mali's prison population, and prisons and tribunals were equipped with medical and sanitary supplies to help justice institutions maintain essential services during the pandemic. In this context, the President of Mali pardoned 1,447 inmates in order to protect the prison population from the threat of COVID-19, as part of the measures to reduce overcrowding in prisons which the Mission had advocated for. It should also be noted that Mali is one of the only countries in the subregion to have held a session on terrorism-related crimes during the pandemic, attesting to the willingness of the judicial authorities to prosecute terrorist offences, despite the health emergency.

The support provided by the Mission in the field of hygiene and health brought the MoJHR closer to the Ministry of Health, and enabled the implementation of institutional reforms designed to ensure that health services in prisons meet international standards and are sustainable. In order to consolidate the gains made and further institutionalize the health and hygiene system in prisons, it is recommended to adopt an order on the creation, remit and operation of a hygiene and health promotion committee in corrections facilities.

To help people in detention better understand their rights and duties, a "Prisoner's Guide" has also been drawn up as part of the GFP Prison Mandela Project. It has been translated into four languages and distributed via audio recordings, posters and picture boxes. The annual celebration of International Prisoners' Day, known as Nelson Mandela Day, has also served to raise awareness of the fact that prisoners remain part of society, of the rights held by prisoners, and of the importance of the work carried out by prison staff.

Prison security – Ensuring security in prison settings requires the implementation of different types of physical or static, procedural and dynamic security measures. The assessments carried out when the Mission was set up, and the observations made during visits to facilities, revealed the weakness of the prison administration's capabilities in these three areas. With respect to static security, MINUSMA supported the physical security of the prisons with material resources, such as the rehabilitation and construction of prison infrastructures, including the rehabilitation of cells, walls, doors and bars, the construction of a watchtower, the laying of barbed wire around the perimeter of the prison, the installation of a lighting system in strategic areas of the prison, security posts and video surveillance systems, and the provision of safety equipment, such as riot vests, shields and helmets, bulletproof vests and helmets, shin guards, protective gloves, handcuffs and batons, metal detection equipment, flashlights and fire extinguishers.

Second, in the area of procedural security, in addition to the adoption of internal regulations in 2016, the advice and support provided by the Mission resulted in the recognition of the importance of strengthening the security of corrections establishments, including through the adoption, on 4 August 2017, of Interministerial Order No. 2587/MJDH-MDAC-MAT-MSPC-SG setting the conditions for the application of the integrated plan for the protection and defence of corrections and supervised education facilities. The latter order comprised a set of provisions combining human, physical and material resources as part of the prevention or management of disturbances inside or outside corrections and supervised education facilities. In particular, the order requires each facility manager to draw up an internal operational plan to be applied in the event of internal disturbances, and a protection and intervention plan to deal with external disturbances, along with the obligation to organize simulation exercises on a regular basis. In a first phase, the Mission provided technical assistance in drawing up these plans, and supported the organization of workshops to

²³ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, p. 42.

validate them. In a second phase, the Mission organized a series of continuous education training courses for 500 prison staff, including 20 women representing 80 percent of the administration's workforce, on security issues such as maintaining and restoring order in prisons, incident management, search and handcuffing techniques, escorting and transferring prisoners, and combating drugs in prisons and improvised explosive devices. The Mission also trained a team of 15 trainers; and supported the holding of 11 workshops and simulation exercises from 2019 to 2023 for the detention and correctional facilities in Bandiagara, Douentza, Gao, Mopti and Timbuktu, with the participation of 462 representatives of the Malian defence and security forces, including 16 women. Subsequently, the Mission continued to provide technical support to strengthen prison security, particularly following the revision of the interministerial decree on the integrated prison security plan on 15 and 16 November 2021, and supported the creation, training and equipping of a correctional intervention squad to enable the prison administration to meet internal and external security needs. In terms of impact, by way of example, during the mass escape attempt by inmates from the Timbuktu detention and correctional facility on 19 June 2023, the situation was brought under control thanks to the activation of the integrated protection and defence plan, as the Regional Director emphasized in the detailed report relating to this incident: "Lastly, it should be noted that this crisis was brought under control thanks to the professionalism that characterized all the defence and security forces in their reaction to the situation, and this in accordance with the implementation of the interministerial order [...] of 4 August 2017 setting the conditions for the application of the integrated protection and defence plan for corrections and supervised education facilities". In the same report, he called on his superiors "to continue the annual implementation of practical simulation exercises using the defence and protection plans of corrections facilities in order to better prevent and manage similar incidents according to the rule book".

In the third area, the Mission supported capacity-building for staff on the principles of dynamic security, raised awareness among prison staff about the importance of complying with instructions from superiors and establishing and maintaining good relations with inmates and visitors, in line with international standards, and provided technical support for the integration of dynamic security principles into prison security arrangements. In practice, therefore, mentoring and capacity-building efforts have resulted, according to the findings of the Mission's visits, in improved relationships between prison staff and their superiors, as well as between staff and prisoners as well as their visitors. These capabilities laid the foundations for feeding into the prison intelligence system, understanding the situation in prisons and preventing incidents, disorder, criminal behaviour and suicides, thanks to information gathering.

Social reintegration of prisoners – By monitoring the situation in corrections facilities and relevant statistics, a correlation was established between the occurrence of incidents and the lack of socioprofessional opportunities. Hence the importance of implementing social reintegration measures. As early as 2015, the Mission supported various learning initiatives and activities for the reintegration of prisoners, which since 2018 have been part of efforts to prevent and combat violent extremism, radicalization and terrorism. Social reintegration workshops were organized in Diré and Niafouké on the role of the supervisor in implementing the social reintegration policy, the role of civil society in the social reintegration of prisoners, and the role of the prisoner in social reintegration in Timbuktu for the prisons of Diré, Niafouké, Goundam and Timbuktu. In 2016, MINUSMA financed the construction of a market gardening and forestry perimeter, a wood and metal carpentry workshop and a sheep fattening facility at the Timbuktu prison in order to identify and train inmates and prison officers in market gardening, sheep fattening and forestry techniques, acquire equipment and inputs, build fencing, manure pits and water retention basins, acquire young animals (sheep) and launch production, as part of social reintegration efforts. In the same vein, MINUSMA supported the training of instructors in carpentry, soldering and market gardening. Similar initiatives have been implemented in Mopti, to prepare prisoners for social reintegration by teaching them fattening techniques, and in Gao, through the construction and equipping of leather goods and sewing workshops, the creation of an artistic and cultural troupe, metalwork, woodwork and soapmaking workshops, and the implementation of a literacy course. One major initiative has been strengthening the capacities of the Kénioroba agricultural correctional centre through the creation of five production units, the training of inmates in fattening, market gardening, fruit and agricultural production, the provision of inputs, materials and equipment, including a double-horsepower tractor, and the construction of a dormitory. The idea was to absorb part of the convicted prison population and, at the same time, strengthen the activities of the Kénioroba agricultural correctional centre which are dedicated to teaching prisoners agricultural work as part of vocational training, as well as serving as a springboard for prisoner reintegration, given that a third of the agricultural income generated by agricultural production is statutorily allocated to prisoners. Within the framework of the GFP Prisons Mandela Project, UNDP and MINUSMA supported the authorities in drawing up a national policy for the reintegration of prisoners in Mali, with the contribution of other

ministerial departments, including those in charge of social services. Once again, further exploiting agricultural potential to strengthen the prison administration was a recommendation of the 2014 document on justice reform, in which it was recognized that Kénioroba had enormous potential.²⁴

A major lesson learned in the implementation of social reintegration and prison production initiatives, also identified through field monitoring visits, is the importance of monitoring these initiatives, the use of the materials and equipment provided for reintegration purposes, and safeguarding the proper management of proceeds and funds from prison production to avoid their misappropriation. Accordingly, the Mission recommended that the corrections authorities set up a mechanism for managing prison production and provided technical support for the drafting of Decision No. 011/MJ-DNAPES of 16 October 2017 establishing Management Committees for Production Activities in Corrections and Supervised Education Facilities (COGES). Initially planned to be set up at the Kénioroba agricultural correctional centre, its implementation was extended to other prisons with UNDP support under the GFP Prisons Mandela project. However, the absence of post-sentence follow-up makes it impossible to measure the real medium- and long-term impacts of social reintegration measures on people who have served their sentences, hence the importance of implementing such measures.

On the one hand, market garden production has made a significant contribution to improving prisoners' diet and combating malnutrition in prison. On the other hand, it can be argued that corrections facilities are still in the early stages of self-sufficiency. In this respect, it would be useful to carry out an evaluation of the agricultural and rehabilitation centres and to determine the measures to be taken to ensure their self-sufficiency.

In line with the recommendations of the justice reform document, the Mission also supported the organization of "prisoner week" and awareness-raising days on prisoners' rights, enabling prisons to exhibit the products made or generated by prisoners in order to combat negative prejudices and promote their role within communities.²⁵ It is recommended that these initiatives be continued, in the context of the celebration of Human Rights Day on 10 December each year.

Despite this progress, weaknesses remain, starting with structural and organizational aspects. The DNAPES is financially subjected to the Finance and Materials Directorate of the Ministry of Justice, and has no autonomy to manage the budget allocated to it. As part of the prison reform, it is recommended that the National Directorate be made a general directorate.

3.3. Progress in the reform process to improve the functioning of the justice system and support the peace process

Summary of Section 3.3.

Key achievements:

- **Development of the document on justice reform** in 2014 with the technical and financial support of MINUSMA and UNDP; that document was **used to establish the emergency programme** to strengthen the judiciary and implement the Peace Agreement
- Active participation in the Reconciliation, Justice and Humanitarian Affairs Subcommittee of the Peace Agreement Monitoring Committee, and in consultations that **fostered a common understanding among the signatory parties of article 46 of the Peace Agreement** and of the priorities for justice reform
- Support for the **revision of the Criminal Code and the Code of Criminal Procedure**
- Conduct of **two studies in order to gain a better understanding of the functioning of cadis and traditional justice**, with a view to identifying ways in which to enhance their role and inform the reform process
- Support for the preparation of the **draft legislation on the role of cadis and traditional authorities in justice delivery**, which is currently being finalized
- Support for the **preparation of the draft code of military justice**

²⁴ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, pp. 31 and 32.

²⁵ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, p. 32.

- Support for the **revision of the 2012 law on trafficking in persons and related practices.**

Main challenges and lessons learned:

- **Successive changes of government and difficulties in reaching consensus on aspects of the texts,** slowing down the reform process.
- **The Ministry of Justice and Human Rights-led process combining the holding of inclusive consultations with stakeholders, including parties signatory to the Peace Agreement, dialogue with actors from the formal and traditional justice systems, and the establishment of a technical committee of experts as a good practice** enabling the advancement of progress while building greater trust among the various actors.

Main options and opportunities for follow-up:

- **Pursue efforts to adopt, disseminate, publicize and implement the revised texts** of the Criminal Code and the Code of Criminal Procedure; the draft legislation on the role of cadis and traditional authorities in the administration of justice; the two laws on trafficking in persons and migrant smuggling; and the draft code of military justice.
- **Involve the university and academic community** more closely in the reform process.

Progress in implementing the Peace Agreement, particularly through support for justice reform – The “commitment to implement comprehensive justice reform that will improve access to justice, enhance the performance of the justice system, end impunity and incorporate traditional and customary mechanisms, without prejudice to the sovereign rights of the State” is enshrined in article 46 of the Peace Agreement. To that end, MINUSMA, in cooperation with its partners, provided technical and financial support to assist the Government in the reform process.

As mentioned above, in the aftermath of the crisis MINUSMA and UNDP assisted the MoJHR in developing a document on the proposed reform of the justice system, prison and supervised education administration in Mali, which included a detailed study of the justice sector and proposed areas for reform. On the basis of this document, the MoJHR launched an emergency programme to strengthen the judiciary and implement the Peace Agreement, covering the period 2015–2018, which provided for the development of a policy document on justice reform and of its operational programme. Justice reform was identified as a key priority in various policy documents of the Government of Mali in recent years, such as the conclusions of the inclusive national dialogue, issued on 22 December 2019; the 2020 Transition Charter; and the final report of the national dialogue on the reform process, in which justice and human rights are identified as major aspects of governance and one of the priorities of the transition. During the mandate of MINUSMA, JCS, as a component of the Mission, took part in leadership teams both at headquarters and in the regions, in order to draw attention to the rule of law-related dimensions of the Peace Agreement. JCS endeavoured to help the stakeholders to reach a common and constructive understanding of the implications of article 46 of the Agreement on Peace and Reconciliation, as a cornerstone of the peace process. It assisted the national authorities in holding conferences and workshops on the rule of law and the importance of justice reform. In the regions, JCS raised local actors’ awareness of the rule of law-related aspects of the Peace Agreement. The Mission also actively participated in the meetings of the Reconciliation, Justice and Humanitarian Affairs Subcommittee of the Peace Agreement Monitoring Committee in order to inform and raise awareness among Committee members and national partners with regard to the importance of reforming the justice system and enhancing the role of cadis, in the spirit of the Peace Agreement and international standards relating to human rights and the rule of law.

Support for the Standing Legislative Commission – While the legislative reform process benefited considerably from technical and financial assistance from the USAID-funded Mali Justice Project, from the European Union through the justice support programme in Mali and from EUCAP Sahel Mali, the Mission also provided technical and financial support on key texts relating to the implementation of its mandate. In 2016, pursuant to a decision of 28 September 2016, a standing legislative commission was established by the MoJHR to carry out, with the support of MINUSMA-JCS, and in cooperation with the Mali Justice Project/USAID and EUCAP Sahel Mali, the justice sector-related reforms set out in the Law for the Orientation and Planning of the Justice System. The Standing Legislative Commission’s mandate is to draft and propose new texts for the MoJHR. The Standing Legislative Commission, steered by the DNAJS, comprises all central services, namely, the DNAJ, the Judicial Services Inspectorate, the Planning and Statistics Unit,

the Finance and Materials Directorate, the DNAPES, the DNAJS, the Supreme Court, the Court of Appeal, certain Bamako courts and technical partners. The reform programme defined by the Standing Legislative Commission includes the drafting of texts relating to the Criminal Code, the Code of Criminal Procedure, the organization of the judiciary, legal aid, the status of cadis and traditional authorities, trafficking in persons and migrant smuggling, draft legislation on legal aid, draft legislation on gender-based violence and the Code of Military Justice, all of which received support from MINUSMA. In addition, MINUSMA supported the drafting of Act No. 2019-050 of 24 July 2019 amending Act No. 01-080 of 20 August 2001, as amended, on the Code of Criminal Procedure, in which the exclusive competence of the Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime was expanded to include international crimes, in addition to terrorism and transnational organized crime. This point will be discussed in section 4.2. Moreover, MINUSMA-JCS, in its role as co-leader of the Dialogue Group on Justice, together with the European Union delegation, provided close support to the Planning and Statistics Unit of the MoJHR in its monitoring of the implementation of the Law for the Orientation and Planning of the Justice System.

Preparation of the draft reforms of the Criminal Code and the Code of Criminal Procedure – MINUSMA took part in the work on the Standing Legislative Commission’s draft reforms and in the various workshops for discussion and approval of the Criminal Code and the Code of Criminal Procedure between 2021 and 2023. In November 2020, MINUSMA, in collaboration with partner entities from the United Nations system, including UNDP, UNICEF, UN-Women and UNODC, prepared and transmitted to the MoJHR a note on the reform of the Code of Criminal Procedure, providing recommendations for greater compliance with international norms and standards, which led to amendments to the subsequent text, particularly with regard to the non-applicability of statutes of limitations. Notable improvements to the Criminal Code include the incorporation of the Rome Statute and of laws on the suppression of terrorism, money-laundering and the financing of terrorism, and cybercrime, the integration of draft texts and the establishment of new offences involving gender-based violence, forced marriage, trafficking in persons, migrant smuggling, obstruction of justice, environmental offences and offences against cultural property, amongst others. The new aspects introduced by the Code of Criminal Procedure include, but are not limited to, the incorporation of the fundamental fair-trial rights recognized in the preliminary title of the text; the establishment of investigative chambers; the abolition of Courts of Assizes, which will speed up the processing of criminal cases; the incorporation of a prohibition on the issuance of any non-prosecution order by the Minister of Justice; the use of special investigative techniques; the introduction of the procedure to interim appeal to be released from custody thereby limiting cases of illegal and arbitrary detention; and the regulation of police custody and the conditions for filing a criminal complaint with application to be a civil party to the proceedings.

Preparation of the draft legislation on the role of cadis and traditional authorities in the delivery of justice – Another flagship project supported by the Mission was the preparation, in cooperation with the Mali Justice Project, of draft legislation on the role of cadis and traditional authorities in justice delivery. Under article 46 of the Peace Agreement, as part of measures to promote reconciliation and justice, the parties to the Agreement “agree to promote genuine national reconciliation based”, among other things, on the incorporation of “traditional and customary mechanisms, without prejudice to the sovereign rights of the State”, the “reassessment of the role of cadis in the administration of justice, particularly in the context of civil mediation, in order to take into account specific cultural, religious and customary circumstances”, and the “incorporation of traditional authorities and consideration of those authorities in the rules of protocol and precedence, in order to enhance their status”. Furthermore, the emergency programme to strengthen the judiciary and implement the Peace Agreement recognized “the need for a justice system geared towards endogenous and domestic solutions that are adapted to the imperatives of economic, political and social development and are capable of resolving matters relating to impunity and attitudes of mistrust, which are intensifying as a result of the social and security situation”.

In the context of Mali, cadis and traditional authorities play a key role in the settlement of disputes and conflict prevention, particularly in locations far from courts and tribunals. These traditional justice mechanisms are often the main remedy for the population. It was important not only to enhance but also to develop a framework regulating the role of cadis and traditional authorities, given the events that occurred during the occupation of the northern part of the country by terrorist and armed groups. During that time, members of extremist groups handed down and applied harsh penalties not provided for under Malian criminal law, in lieu of justice, thereby committing many human rights abuses against the population and creating a climate of mistrust.

In support of the MoJHR, starting in 2016, MINUSMA performed research and analysis on religious and traditional justice in all regions of the country, to gain a better understanding of the ways in which cadis and traditional justice operate and to identify ways in which to enhance their role and inform the justice reform process, the implementation of the Peace Agreement, as well as the mapping of cadis and actors of the traditional justice system.²⁶ Field consultations conducted in the Kidal region, for example, confirmed that justice as administered by cadis is more firmly rooted than formal justice, and that the people of this region prefer this remedy. Even before the 2012 occupation, formal justice played a limited role in conflict resolution in all regions and communities of the country, particularly in Kidal. Subsequently, in 2018, MINUSMA carried out a more detailed study to establish a road map for ensuring complementarity between formal and traditional justice, on the basis of which the Mission advised the Government of Mali in the reform process.²⁷ That study included a detailed analysis of the various types of relationships between the State justice system and informal conflict resolution mechanisms in the countries of the subregion and the continent, all of which are characterized by systems based on legal and judicial pluralism.

Simultaneously, in support of the implementation of the Peace Agreement, in 2017, the MoJHR began consultations with stakeholders at the central and regional levels on ways in which to enhance the role of traditional authorities, including cadis, in the administration of justice. That process culminated in the convening, in 2018, of the Standing Legislative Commission and the preparation, in April 2019, of a first version of the draft legislation, with technical and financial support from the Mali Justice Project and MINUSMA. A presentation workshop, enabling an exchange of views by stakeholders, including members of the movements signatory to the Peace Agreement, was held, followed by a second workshop, focused on consolidation, with the participation of lawyers of the MoJHR, civil society representatives and technical and financial partners. A 12-member select committee of lawyers, including two (2) women, was set up to finalize the new draft legislation. At that time, MINUSMA renewed its call for constructive complementarity²⁸ between traditional and formal justice and for the strengthening of certain provisions to protect human rights, including the rights of women and children, a call that was taken into account by the technical committee. A new version of the draft legislation was submitted to the MoJHR in February 2020, followed by a third one in March 2023, the finalization and submission of which were put on hold pending the adoption of the new Constitution. In view of the recent history of Mali, the draft legislation excludes the processing of criminal cases from the sphere of competence of cadis and traditional authorities, confining their competence to the settlement of civil, commercial, social and traditional disputes, and requiring them to comply with the Constitution and the law. Given the sensitivity of the subject, certain aspects of the text were discussed at length, particularly the definition and demarcation of cadis and traditional sources of legitimacy; the authority and decision-making power of cadis and traditional authorities, including homologation and the conditions under which people can file an appeal against a homologation judgment - admissible only before the Supreme Court and in the event of violation of the law -; and remuneration that was claimed by some cadis, traditional authorities and signatory groups. The preparation and approval of the draft legislation demonstrated that the Malian authorities and the stakeholders consulted had taken ownership of the concept of complementarity between formal and traditional justice.

Preparation of the draft code of military justice – MINUSMA, in cooperation with UNDP, EUCAP Sahel Mali and ICRC, provided technical and financial assistance for the review of the 1995 Code of Military Justice and for the preparation of the draft code of military justice, taking into account the discussions on the reform of the Criminal Code and the Code of Criminal Procedure, and on the new judicial map. On 15 March 2022, with technical and financial support from MINUSMA, the draft law on the reform of the Military Code was approved in order to enhance the effectiveness of the investigation and prosecution of offences committed by military personnel. The final version of the draft legislation provides for provosts, the introduction of a system of appeal courts, the introduction of a procedure for

²⁶ Study on traditional justice in the northern regions of Mali, contribution to the discussion on the implementation of the Agreement for Peace and Reconciliation in Mali, MINUSMA, Justice and Corrections Section, 18 April 2016, 9 p.

²⁷ From local perspectives to national strategies: a road map for complementarity between the State justice system and traditional conflict resolution mechanisms in Mali, study conducted by the Unit for Conflict Research of the Clingendael Institute for the MINUSMA Justice and Corrections Section, 30 October 2018, 100 p.

²⁸ Constructive complementarity leads to a situation in which formal judicial authorities operate normally (resolving criminal and other cases effectively and impartially, and enjoying the trust of the population), and cadis and traditional authorities are respected and settle certain civil disputes in accordance with national laws and with traditions, in a manner complementary to formal justice, without undermining the principles of fair trial, the sovereign prerogatives of the State, or the applicable international standards relating to human rights, including the rights of women and children.

in flagrante delicto cases as well as for the filing of a criminal complaint with application to be a civil party to the proceedings, and the use of judicial delegations and letters rogatory. A major change introduced by the text relates to the initiation of prosecution. Currently, under articles 32 and 34 of the Code of Military Justice, it is the Minister of Defence who determines the appropriateness of prosecution, failing which the proceedings are invalid, whereas the new text provides that the Prosecutor of the Military Court shall be competent to initiate prosecution (article 72). This provision is in line with the reform introduced in Burkina Faso in July 2017. In addition, the introduction of provisions on provosts into the draft code of military justice of Mali demonstrates recognition of the importance of taking legal and judicial issues into account in the conduct of military operations, thus laying the foundations for fostering accountability for violations of human rights and of international humanitarian law committed during such operations. These provisions fill a major gap identified by the Mission in relation to the transmission of information useful for apprehending court cases arising from the consequences of or findings made during military interventions, and contribute to the judicialization of the theatre of military operations. Similarly, in Burkina Faso, pursuant to Act No. 001-2023/ALT of 16 February 2023 amending Act No. 24-94/ADP of 24 May 1994 on the Code of Military Justice, the transitional Legislative Assembly extended the possibility of establishing provosts for military interventions to operations carried out outside the country, particularly counter-terrorism operations in the Sahel.

Draft legislation on legal aid and draft legislation on gender-based violence – These draft texts were supported by MINUSMA-JCS, which worked in collaboration with the Mali Justice Project on the text relating to legal aid, and with UN-Women on the text relating to gender-based violence. These important texts are still pending. The first text is intended to promote the establishment of an aid agency in Mali, and the second one to criminalize gender-based violence. Given their significance, it will be important to continue to provide assistance to the MoJHR in the form of advocacy and technical and financial support.

Constitutional reforms – MINUSMA also provided technical advice and produced analytical notes on constitutional texts, particularly on the 2019 draft of the revised Constitution and, more recently, on the new text of the Constitution. On 22 July 2023, the President of the Republic promulgated the new Constitution by Decree No. 2023-0401/PT-RM. The establishment of the Senate, as provided for under the Peace Agreement, was formalized. With regard to the judiciary, in the spirit of the Peace Agreement, the Constitution formally recognizes traditional justice and stipulates that “alternative and traditional methods of dispute settlement are authorized under the conditions determined by law” (article 129, paragraph 2), thus marking the inclusion in the Constitution of the dispute settlement function of cadis and traditional authorities, a precedent in the constitutional history of Mali but not in the subregion.²⁹ The establishment of a Court of Audit, the requirement for half of the High Council of the Judiciary’s members to be chosen from outside the judiciary, the possibility for citizens to bring matters before the latter Council, and the recognition that a judge’s failure to fulfil his or her duties of independence, impartiality and integrity, or to draft decisions in writing, is considered serious professional misconduct, all represent progress towards a more independent justice system and the implementation of the Peace Agreement. Allowing citizens to bring matters before the High Council of the Judiciary was also a recommendation of the document on justice reform.³⁰ Another recommendation of the document on justice reform, aimed at granting the High Council of the Judiciary greater independence by entrusting its presidency to the President of the Supreme Court, as has been done in some West African countries, including Burkina Faso, Guinea-Bissau, Togo and Cabo Verde, and, more recently, Côte d’Ivoire, was not adopted.³¹

Many challenges were encountered during the reform process. Successive changes of government, the need for wide-ranging and inclusive consultations, difficulties in reaching consensus on certain issues, and the duration of the work all contributed to slowing down the reform process and led to continuous technical support and advocacy efforts on the part of the Mission. A good practice in supporting the preparation of the draft legislation on the role of cadis and traditional authorities in the delivery of justice was combining the holding of inclusive consultations with those actors, dialogue between actors from the formal and traditional justice systems, and the establishment of a technical committee of experts, as it helped to advance progress and build greater trust among the various actors. Those efforts, together

²⁹ Article 67 of the Constitution of the Seventh Republic of the Niger recognizes traditional leaders as custodians of traditional authority, thus enshrining in the Constitution their responsibility and role in the functioning of the State.

³⁰ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, p. 61.

³¹ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, p. 47.

with the advocacy of the academic community, undoubtedly also contributed to incorporating recognition of traditional justice into the new Constitution.

In the support for the reform process, with the end of the Mali Justice Project – that could resume if the project proposal for the 2024 cycle is accepted, - which, together with MINUSMA, provided the majority of the technical and financial assistance in that area, and the withdrawal of MINUSMA, it is important for technical and financial partners to continue this assistance and to support, in cooperation with the academic community, advocacy for the adoption, dissemination, ownership and publicization of these texts, in order to enact justice reform in support of the implementation of the Peace Agreement and the various national strategic frameworks.

3.4. Strengthened access to the law and justice, including by strengthening conflict resolution and prevention mechanisms

Summary of Section 3.4.

Key achievements:

- **Distribution of 400 copies of a three-volume compendium of the laws of Mali** on constitutional, civil, criminal and administrative matters and 1,000 USB flash drives to judicial personnel
- **Distribution of 18 legal kits, each containing 108 books, to improve access to the law** for lawyers, paralegals and other legal professionals, mainly in northern jurisdictions
- **Holding of numerous awareness-raising events and open days in northern and central Mali** to promote and raise awareness of the role of the justice system and to make it accessible to remote communities
- **Training in agricultural and land law for 78 legal professionals and members of land commissions.**
- **Establishment of a framework for consultation and exchange between formal and traditional justice actors in northern Mali**, to contribute to trust-building and constructive complementarity.
- **Study on the interconnection between inter/intracommunity conflicts and land disputes** in northern and central Mali.

Main challenges and lessons learned:

- **Failure to enforce Act No. 01-082 of 24 August 2001 on legal aid and the related implementing decree of 2006** providing for the installation of a legal aid office in each jurisdiction
- Implementation of the provisions of the Peace Agreement relating to the **incorporation of traditional and customary mechanisms**
- **Risk of reversing progress made in the implementation of the Peace Agreement in the absence of sustained support for the implementation of constructive complementarity** between formal and traditional justice actors.

Main options and opportunities for follow-up:

- **Continue to support local actors**, including the Bar Association, **in order to strengthen and sustain access to the law and to legal assistance and aid**
- **Continue efforts to adopt, disseminate and implement a law on the role of cadis and traditional authorities**, and ensure the effective implementation of constructive complementarity between formal and traditional justice actors
- **Conduct research on the role of women in the traditional justice system.**
- **Disseminate the study on the interconnection between inter/intracommunity conflicts and land disputes** in northern and central Mali, and **implement the study's key recommendations**, replicate the study in other pilot areas and learn from best practices in the subregion.

3.4.1. Strengthened access to the law and to legal assistance and aid

Dissemination of the Peace Agreement and awareness-raising – Following the conclusion of the Peace Agreement in 2015, MINUSMA carried out numerous public outreach activities with a view to increasing understanding of the

Agreement among the people of Mali. More specifically, in support of the peace process, MINUSMA organized a series of awareness-raising and information sessions with formal and traditional justice actors and local authorities to disseminate article 46 of the Agreement, on justice and reconciliation, including in Mopti in central Mali and in Aguelhok, Kidal and Tessalit in northern Mali. The sessions were an opportunity to discuss justice reform, access to justice, enhancing traditional justice, and the the Law on the Organisation and Planning of the Justice System. Numerous public awareness-raising activities, radio programmes and open days were organized in Gao, Mopti, Timbuktu and, more recently, Douentza, to promote and raise awareness of the role of the justice system and to make it accessible to remote populations, as provided for in the aforementioned law.

Dissemination of Malian law – Pursuant to article 46 of the Peace Agreement, reconciliation and justice measures shall include the “expansion of access to legal aid and assistance and information on citizens’ rights”. Accordingly, in 2016, in support of the authorities, 400 copies of a three-volume compendium of the laws of Mali on constitutional, civil, criminal and administrative matters and 1,000 USB flash drives were distributed to judicial personnel. The following year, the Mission supported the acquisition and distribution of 18 legal kits, each comprising 108 books, to improve access to the law for lawyers, paralegals and other justice actors, mainly in northern jurisdictions.

Legal assistance and aid – Despite Act No. 01-082 of 24 August 2001 on legal aid and the related implementing decree of 2006, which provides that the State must establish a legal aid office in each jurisdiction, follow-up measures have not been taken in the regions. In view of the conclusions of the joint assessments carried out by the DNAPES, MINUSMA and UNDP related to overcrowding in functioning prisons, legal assistance was provided to individuals in pretrial detention. The Mission also collaborated with the Bar Association to hold a conference in June 2021 on the role of the Bar Association in strengthening the rule of law and combating impunity. Participants discussed the role of the Bar Association in strengthening the rule of law and legal aid and assistance in Mali and in combating impunity, with a view to realizing the commitments made by the parties to the Peace Agreement, including strengthening the judiciary in order to ensure the rule of law throughout the territory, and comprehensive justice reform to improve access to justice, improve the performance of the justice system and end impunity. The Mission also worked with the Bar Association to expand access to legal aid and assistance. In Mopti, from 2021 to 2023, support was provided to strengthen the capacity of legal aid providers in the central region in terms of access to justice and the conduct of proceedings, and to support the establishment of a framework for consultation between legal aid providers. For example, the Mission consistently associated the heads of the legal aid offices of the high court in Timbuktu and the magistrates’ courts with extended jurisdiction of Gourma-Rharous, Goundam, Diré and Niafunké cercles to the organisation of awareness-raising and capacity-building activities. In 2018, MINUSMA supported the creation of a network of civil society organizations working on access to justice in the Gao and Ménaka Regions. The network, which was led by the organizations themselves, was active until the start of the COVID-19 pandemic in March 2020. Thereafter, it became inactive, in part because the expected financial support did not materialize.

3.4.2. Strengthened justice reach through innovative approaches to enhance access to justice and resolve disputes that may be conflict drivers, including through leveraging the role of cadis and traditional authorities and constructive complementarity between formal and traditional justice mechanisms

Raising awareness of complementarity and building trust between formal and informal justice mechanisms - Article 46 of the Peace Agreement provides for the incorporation of “traditional and customary mechanisms, without prejudice to the sovereign rights of the State”, the “reassessment of the role of cadis in justice delivery, particularly in the context of civil mediation, in order to take into account specific cultural, religious and customary circumstances”, the “promotion of high-quality training for all legal actors and officials, including cadis” and the “incorporation of traditional authorities and consideration of those authorities in the rules of protocol and precedence, in order to enhance their status”. In addition to the technical and financial support provided for the drafting of the legislation described in section 3.4, based on the recommendations made at the workshops held to develop an implementation strategy for ways to enhance the role of traditional justice and adopt a road map to clarify the role of cadis and traditional authorities in justice delivery, a series of awareness-raising workshops have been held since 2018 on the complementarity of traditional and formal justice mechanisms in the Kidal, Mopti, Gao, Timbuktu, Ségou, Sikasso and Kayes regions, as well as forums and brainstorming workshops attended by 250 people (62 women), including cadis and members of the *Comité de Sécurité Mixte de l’Azawad à Kidal* (CSMAK). Other workshops on enhancing the role of cadis and traditional

authorities followed in northern and central Mali. In addition, between 2019 and 2021, several training sessions on agricultural and land law were held for justice professionals working in jurisdictions in the centre of the country and for members of land commissions. The workshops were an opportunity for the various actors to discuss land issues in central Mali and propose solutions to reduce conflicts.

Consultation frameworks for justice actors in northern Mali – From 26 to 29 September 2022, MINUSMA facilitated the holding of a consultation in Gao between formal justice actors (magistrates) and customary justice actors (cadis and traditional leaders) from the Gao, Timbuktu, Ménaka and Kidal Regions. The aim was to open a constructive dialogue and collaboration between those actors as part of efforts to restore State authority and the rule of law in accordance with the Peace Agreement. The participants discussed security challenges, the redeployment of the formal justice system, the role played by the customary justice system in the absence of any alternative, and the ways in which the two systems could complement each other. It was recommended that the consultation framework be made permanent, as it was essential for building trust between justice actors. The first consultation was followed by a second, held on 1 and 2 February 2023 in Timbuktu, which brought together the same actors from the northern regions for a constructive discussion on the ways in which the formal and traditional justice systems could complement each other. The discussions focused on the background and role of the various actors, possible ways of interrelating without encroaching on the criminal prerogatives of state justice, the security challenges of redeployment to Kidal, and the role of local land commissions in conflict resolution.

Of the 20 recommendations made at the two consultations, as at June 2023, six (6) were in the process of being implemented, while implementation of the others had yet to be initiated. In addition to recommending that the consultation framework be made permanent, the participants made recommendations concerning the deployment of justice and corrections personnel in northern Mali (expediting the implementation of measures to ensure the security of magistrates in their respective jurisdictions, conducting an assessment mission in Kidal, holding hearings for the issuance of administrative documents in Kidal); traditional justice actors (expediting the adoption of the legislation on the role of cadis and traditional authorities, providing training for traditional justice mechanisms); constructive complementarity (establishing a focal point to act as a bridge between the formal and traditional justice systems, ensuring the presence of cadis close to courts, providing training to customary assessors who deal with land issues); and land issues (ensuring the systematic participation of customary authorities and cadis in land commissions). Similarly, in Mopti, the Mission supported the holding of a consultation with formal and informal justice actors and land commissions to discuss mechanisms for collaboration between such actors and to reflect on land issues, which are often a source of tension between communities. With respect to the cercles, the magistrates' courts cannot work without the support of the traditional authorities. The support provided by the Mission has made it possible to strengthen and formalize proximity and collaboration between formal and informal justice mechanisms. In terms of opportunities, according to the consultations with traditional justice actors, women also contribute to traditional justice and conflict resolution. It would be useful to carry out further research on this issue in order to identify those women, understand their role and involve them more in supporting the implementation of complementarity between traditional and formal justice mechanisms.

By supporting understanding of the practices and role of traditional justice mechanisms, the drafting of a bill, the holding of awareness-raising events and brainstorming workshops on constructive complementarity, and the establishment of a framework for consultation between formal and informal justice actors in northern Mali, MINUSMA has undoubtedly contributed to the recognition and revalorization of the role of cadis and traditional authorities, in line with the Peace Agreement. However, without sustained support and continued efforts, implementation of the relevant provisions of the Peace Agreement could be jeopardized and progress reversed.

Justice and reconciliation pilot project in Koro cercle – In 2018, the Mission launched a justice and reconciliation pilot project, targeting four villages in Koro cercle, under the authority of the head of the Mopti office and with the involvement of several MINUSMA sections. This multidisciplinary project aimed at reducing inter-community conflict led to inter-community dialogue, the establishment of mechanisms enabling villagers to resolve conflicts, and the signing

of a peace agreement, thereby encouraging displaced persons to return and easing tensions between local communities. The project could be replicated in other localities.³²

Understanding the root causes of inter/intra-community violence, such as land disputes and natural resources management, and how they are dealt with by the justice system – A study was carried out by MINUSMA, with the support of the Clingendael Institute and a national consultant, entitled “Land disputes, community violence and justice: case study in the Mopti and Ménaka Regions”. According to the study, complaints regarding the judicial processing of land disputes focused on the inefficiency of the justice system, which was perceived to be slow, distant and corrupt, and more likely to aggravate land disputes rather than resolve them, as well as on the existence of multiple, poorly coordinated normative systems. The simultaneous recourse to both formal and informal justice fuels disputes over jurisdiction and leads to contradictory outcomes and decisions in the processing of cases. The study warns that this increases the likelihood of violence, by reinforcing each party’s sense of being within their rights. Although the land commissions are a promising hybrid mechanism, the technical, operational and legitimacy shortcomings they face prevent them from fully fulfilling their dual role of mediator between the parties and intermediary between the traditional and formal systems, as assigned by law. To remedy this, the study’s recommendations included simplifying the legal texts applicable to land issues in order to make them more accessible, strengthening the roles and capacities of land commissions, and clarifying the roles and escalation mechanisms of customary and formal bodies, in order to put an end to conflicts of jurisdiction and reduce opportunities for forum shopping. The study also recommended pooling data with other actors and partners in order to get a more complete overview of the situation of land disputes and violence related to natural resources. It would be useful to replicate this study in other pilot areas, including the Timbuktu and Gao Regions, and possibly learn from best practices in the subregion.

3.5. Strengthened oversight and accountability of justice and corrections institutions, and progress in combating corruption

Summary of Section 3.5.

Key achievements:

- **Provision of support for 17 inspection missions** in areas affected by insecurity in northern and central Mali
- Provision of support for **monitoring visits to 26 prisons and four regional departments of the National Directorate for Prison Administration and Supervised Education** in order to assess compliance with the relevant legislative provisions and international standards
- **Proportion of judicial and prison services inspected more than doubled in three years**, thanks in part to support from MINUSMA, UNDP and partners
- **Development and distribution of inspection manuals** within the judicial and prison services
- **Mali joined the Global Judicial Integrity Network in 2021**, becoming a pilot country for training in judicial ethics
- Provision of support for **the drafting of an interpretative circular on the Code of Ethics for Magistrates**
- **In cooperation with UNODC**, identification, analysis and assessment of the prison sector’s vulnerability to corruption, followed by **the development of a plan to mitigate high-priority corruption risks**
- **Provision of support for the establishment of a committee to prevent corruption in prison settings** at the national level.

Main challenges and lessons learned:

- **Insecurity in northern and central Mali and along certain routes**, making it difficult to conduct inspection missions in affected areas
- **Insufficient numbers of inspectors and support staff, including women**, within the Judicial Services Inspectorate

³² “Justice and reconciliation, a MINUSMA pilot project aimed at reconciling four villages in central Mali”, 3 June 2021: <https://minusma.unmissions.org/justice-et-r%C3%A9conciliation%C2%A0-un-projet-pilote-de-la-minusma-pour-r%C3%A9concilier-quatre-villages-du-centre> (07/09/2023).

- **Follow-up to inspection missions** conducted by the Judicial Services Inspectorate, with implementation of its recommendations dependent on effective feedback and follow-up of findings and recommendations within the Ministry of Justice and Human Rights
- **Shortcomings in oversight structures and mechanisms**, such as limited control of magistrates over judicial police officers.

Main options and opportunities for follow-up:

- **Increase the workforce of the Judicial Services Inspectorate, in particular the number of inspectors and support staff, including women**
- **Implement the activities contained in the action plan to mitigate high-priority corruption risks**
- **Formalize the training courses on ethics and integrity** and deliver them with the help of trained trainers
- **Continue, finalize and disseminate the study on oversight mechanisms** in the justice sector.

Strengthened judicial and prison inspections – As previously mentioned, article 46 of the Peace Agreement includes a commitment to comprehensive justice reform to improve access to justice and enhance the performance of the justice system. Improving the performance of the justice system and boosting confidence in it requires oversight of its functioning. Accordingly, support for improved oversight and accountability of judicial and prison actors contributes to the implementation of the Peace Agreement. Strengthening the Judicial Services Inspectorate was recommended in the document on justice reform and was defined as a priority in the 2015–2018 action plan of the emergency programme to strengthen the judiciary and implement the Peace Agreement.³³

The Mission implemented a number of capacity-building activities in support of the Judicial Services Inspectorate. Those activities included supporting the development of two manuals for inspectors, one covering judicial services and the other on prison services, as part of the GFP project, disseminating them and holding ownership workshops, as well as capacity-building workshops on inspections and audits for staff of the Judicial Services Inspectorate and judicial actors. That support was combined with logistical, financial and technical assistance for judicial and prison inspections, including support for carrying out 17 inspections in northern and central Mali between 2016 and 2022, in locations that were difficult for inspectors to access. Support was also provided for monitoring visits to 26 prisons and four (4) regional departments of the DNAPES in order to assess their compliance with the provisions of Act No. 94-009/AN-RM on the fundamental principles for the establishment, organization, management and control of public services; Act No. 01-003/AN-RM of 27 February 2001 on the prison and supervised education system; the United Nations Minimum Rules for the Treatment of Prisoners; and decision No. 10–002/MJ-DNAPES of 6 August 2010 on the internal regulations of prisons and supervised education facilities.

In terms of impact, the Judicial Services Inspectorate conducts judicial and prison inspections on a more regular basis. According to the annual reviews of the sectors, the proportion of inspected services rose from 40.48 per cent in 2020 to 78.95 per cent in 2021 and to 91.11 per cent in 2022, meaning that inspection rates have more than doubled in three years. This has translated into recognition of the importance of inspections, which is reflected in the significant increase in the budget allocated to the Judicial Services Inspectorate. In 2017, the Inspectorate had a budget of 10 million CFA francs, a figure that has been increased fivefold to 50 million CFA francs in 2023. In addition, for the first time, the Inspectorate received the requested budget to cover inspection missions related to alleged incidents, suggesting a greater commitment to combating corruption and misconduct by judicial personnel.

With respect to challenges, despite the progress made, the Inspectorate has a shortage of inspectors, support staff and female personnel. The Inspectorate should have 15 inspectors, but as at April 2023, there were 11 inspectors, including one (1) woman. In order to consolidate the progress made, the workforce of the Inspectorate should be strengthened. In addition, insecurity in northern and central Mali and along certain routes has made it difficult to carry out inspection missions in affected areas, which is why the Mission provided logistical and security support to transport and escort inspection missions, particularly in areas affected by insecurity. The withdrawal of MINUSMA and the security situation could have an impact on the progress made by the Inspectorate. Another challenge is following up on inspection missions carried out by the Inspectorate, which is dependent on whether information is effectively fed back at the central

³³ Document on the reform of justice, prisons administration and supervised education in Mali, November 2014, p. 48.

level and on follow-up of conclusions and recommendations by the MoJHR. In that respect, particular attention should be paid to the effective follow-up of recommendations to ensure the impact of inspection missions.

Oversight mechanisms are not limited to the Inspectorate. Magistrates have often reported problems with the oversight of judicial police officers. In order to take stock of the services and bodies that carry out oversight and inspections, identify the shortcomings of oversight bodies in the justice sector and propose recommendations for improvement, MINUSMA commissioned an assessment, which was being finalized as at June 2023. Within the framework of PROSMED, the assessment could be finalized and its conclusions and recommendations widely circulated within the justice sector, in order to identify priority actions in support of the judicial authorities.

Progress in combating corruption and promoting professional ethics and integrity – As recognized in the Law on the Organisation and Planning of the Justice System, corruption in the public justice service, coupled with impunity, is the most persistent recriminations against the judiciary and remains a major challenge. According to Transparency International's 2022 Corruption Perceptions Index, Mali ranks 137th out of 180 countries, with a score of 28 on the scale of 0 (highly corrupt) to 100 (not corrupt). As early as 2015, MINUSMA began providing capacity-building in professional ethics for magistrates and supported, through a joint project with UNODC, a series of capacity-building initiatives, including awareness-raising sessions on the United Nations Convention against Corruption and training on professional ethics and judicial integrity for 93 magistrates, court clerks and prison officers with a view to tackling corruption in the justice sector, as well as other sessions on ethics and integrity combining both judicial and prison personnel. A team of trainers was also trained. On 5 May 2021, the Government of Mali, through the DNAJ, joined the Global Judicial Integrity Network in order to pilot judicial ethics training. As part of the joint MINUSMA-UNODC project, support was also provided for the drafting of an interpretative circular on the Code of Conduct for Magistrates. The Code is currently being finalized and will be submitted to the MoJHR in 2023 for adoption and possibly publication.

In cooperation with UNODC, and in support of the DNAPES, MINUSMA increased its support for the prison administration's anti-corruption efforts. That support consisted of three phases: a preliminary research phase; a workshop with relevant stakeholders to identify, analyse and assess collectively the sector's vulnerability to corruption; and a workshop to define priority risk mitigation measures. The preliminary research phase resulted in the preparation of a report in May 2021. The report contained an initial analysis of the prison system, with a view to enhancing understanding of the prison context and its functioning and to identifying the various processes and entities in place. As a follow-up to those activities, support was provided for the drafting of a document establishing a committee to prevent corruption in prison settings at the national level, tasked with early warning, advisory functions on prison staff appointments, and awareness-raising. In addition, ethics training was also provided to trainers from the prison administration, who were then required to provide training to the rest of the staff. Support would be needed to implement the action plan to mitigate the risk of corruption in prison settings.

All those initiatives have contributed to greater awareness that corruption tarnishes the image and functioning of the justice system and that it is important to sanction behaviour that violates the rules of ethics and integrity. Nevertheless, follow-up action is needed, with the support of partners, to consolidate the gains made and further mainstream the fight against corruption. Mali could also benefit from the experiences of UNDP and UNODC in supporting countries in the subregion in combating corruption, in particular best practices.

4. Analysis of achievements, lessons learned, challenges and opportunities related to support for the fight against impunity for crimes that risk destabilizing the peace process and the management of people detained for such crimes

Faced with an increase in hostage-taking and terrorist attacks, and in the aftermath of the crisis, the Malian justice system was very quickly overwhelmed by the large number of people arrested for involvement in terrorism-related or international crimes, and was unprepared and ill-equipped to investigate and prosecute such crimes. The apprehension and prosecution of suspects of such crimes is a major security issue in Mali. Impunity for such acts risks destabilizing the peace process.

In 2015, under article 1 of the Peace Agreement, the parties undertook to respect human rights, human dignity and fundamental freedoms, to combat impunity, and to counter terrorism, drug trafficking and other forms of transnational organized crime. The commitment to countering terrorism and its links with organized crime, including through existing regional strategies and mechanisms, and to establishing special units for countering terrorism and transnational organized crime is enshrined in articles 29 and 30 of the Agreement. Article 54 of the Agreement provides for the international community to support efforts to counter terrorism and organized crime. In addition, under article 46 of the Agreement, the parties undertook to “promote genuine national reconciliation” based on “comprehensive justice reform that will improve access to justice, enhance the performance of the justice system and end impunity” and the non-application of amnesty for perpetrators of war crimes, crimes against humanity or serious violations of human rights, including violence against women, girls and children, and conflict-related violence.

Since 2015, the number of deaths due to terrorist attacks in the country has steadily increased. In 2022, Mali, together with neighbouring Burkina Faso, recorded the highest number of terrorism-related deaths of the past decade. While the number of attacks had fallen by 20 per cent, the number of deaths had risen by more than 50 per cent. In 2022, an average of 3.5 people were killed per terrorist attack, compared with 1.7 the previous year. Civilians accounted for more than 64 per cent of the deaths, i.e. 607 deaths, followed by military personnel, who accounted for 20 per cent of the deaths, i.e. 188 deaths. Mali and Burkina Faso on their own accounted for 73 per cent of terrorism-related deaths in the Sahel and 52 per cent in sub-Saharan Africa. Mali on its own accounted for 14 per cent of all recorded terrorism-related deaths. The deadliest attack was an armed assault on several villages in the Mopti Region, killing 110 civilians.³⁴ In addition, terrorist groups have been maintaining links and working with criminal groups involved in transnational organized crime, including drug, arms and migrant trafficking. The complexity of these attacks, the large number of victims and the links between terrorist and criminal groups mean that substantial resources are required to investigate and prosecute the perpetrators of such acts.

4.1. Establishment of an institutional, legislative and regulatory framework for the prosecution of terrorism-related crimes, international crimes and transnational organized crime

Summary of Section 4.1.

Key achievements:

- **Operationalization of the Specialized Judicial Unit in 2017**, with comprehensive support from the United Nations system, including MINUSMA through the GFP
- **Drafting and adoption of Decree No. 2015-0723/P-RM of 9 November 2015 establishing the organization and operating procedures of the Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime**, with technical support from MINUSMA
- **Drafting and adoption of Act No. 2019-050 of 24 July 2019** amending Act No. 01-080 of 20 August 2001, as amended, on the Code of Criminal Procedure, which **extended exclusive jurisdiction of the Specialized Judicial Unit to international crimes**, including war crimes, crimes against humanity and genocide, in addition to crimes related to terrorism and transnational organized crime, with technical support from MINUSMA
- Building and strengthening of **investigation and prosecution expertise through targeted training and mentoring** under the joint MINUSMA-UNODC project
- **Support for the drafting and adoption of circular No. 644/MJDH-SG of 12 September 2022 determining the criminal justice policy and the prosecutorial strategy** for the fight against terrorism and crimes under international criminal law in Mali
- Introduction of case management software for clerks of the Specialized Judicial Unit and goCASE crime analysis software as part of the joint MINUSMA-UNODC project.

Main challenges and lessons learned:

³⁴ Institute for Economics and Peace, Global Terrorism Index 2023, pp. 5, 14 and 24: <https://www.visionofhumanity.org/wp-content/uploads/2023/03/GTI-2023-web-270323.pdf> (5 September 2023).

- **Mobilization of political advocacy efforts** for the adoption of a legislative framework supplementing the law on the establishment of the Specialized Judicial Unit in the light of political changes and crisis situations
- **An overwhelming amount of support from partners**, which affected the functioning of the Specialized Judicial Unit, leading to some duplication of effort and a lack of ownership by and financial commitment from the authorities
- Inadequate legal framework **and necessary reform of Malian criminal legislation**
- **Coordination of prosecution efforts and ownership of the circular** of 12 September 2022 determining the criminal justice policy and the prosecutorial strategy
- Close collaboration between UNODC and MINUSMA, which has enabled the **provision of counter-terrorism expertise and the consolidation of experiences and best practices** from the subregion.

Main options and opportunities for follow-up:

- **Ensure the coherence and coordination of support from partners** for the work of the Specialized Judicial Unit
- **Support the implementation and ownership of the circular** determining the criminal justice policy and the prosecution strategy, including through the organization of work sessions and **targeted training, and the creation of an inventory of cases** involving terrorism-related crimes and international crimes
- **Strengthen the criminal analysis competencies of the Specialized Judicial Unit**, including through the operationalization of the goCASE crime analysis software
- **Operationalize the regional branch of the Specialized Judicial Unit in Mopti** and consider establishing additional branches
- **Support the creation of a database of case files of the Specialized Judicial Unit.**

4.1.1. Establishment of a unit and building of expertise to prosecute crimes related to terrorism and transnational organized crime

Establishment of the Specialized Judicial Unit – In view of the terrorist threats in the country, Mali adopted a counter-terrorism law in 2008, namely, Act No. 08-025 of 23 July 2008 on the suppression of terrorism in Mali, followed by Act No. 10.062 of 30 December on the financing of terrorism in Mali, thereby following the example of Mauritania and doing so ahead of other countries in the subregion. Indeed, Mauritania adopted two laws, in 2005 and in 2010;³⁵ Burkina Faso adopted two laws in 2009;³⁶ and the Niger adopted an ordinance in 2011 and a law amending and supplementing the Criminal Code in 2016.³⁷ Although this law provided for the introduction of new terrorism-related offences in Malian criminal law, it was not actually implemented, and there were no provisions for special jurisdiction to deal with these acts. Given the increase in terrorism-related threats and crimes, there was also a need to adopt a law establishing a specialized counter-terrorism structure for investigations and prosecutions that could support the analysis and dismantling of terrorist networks, and prosecute persons suspected of such crimes, including those arrested by the Barkhane force. During the drafting of the text, developments in neighbouring Sahel countries were taken into account, given the common terrorist threat. In addition to the laws criminalizing acts of terrorism, Mauritania has had a counter-terrorism unit since 2011.³⁸ With the adoption of Act No. 2013-016 of 21 May 2013 amending Act No. 01-080 of 20 August 2001 on the Code of Criminal Procedure, which established the Specialized Judicial Unit, Mali set an example

³⁵ Act No. 2005.048 of 27 July 2005 on money-laundering and the financing of terrorism and Act No. 2010.035 of 21 July 2010 on countering terrorism.

³⁶ Act No. 060–2009/AN of 17 December 2009 on the suppression of acts of terrorism and Act No. 061/2009/AN of 17 December 2009 on countering the financing of terrorism.

³⁷ Ordinance No. 2011-12 of 27 January 2011 amending and supplementing Act No. 61-27 of 15 July 1961 establishing the Criminal Code; and Act No. 2016-22 of 16 June 2016.

³⁸ Decree No. 2011–210 of 24 August 2011 establishing the organization and operating procedures of the prosecution and investigation counter-terrorism units.

for Burkina Faso, which established a specialized judicial unit for the suppression of terrorist acts in 2017,³⁹ and the Niger, which established the Central Office for Combating Terrorism and Transnational Organized Crime⁴⁰ also in 2013, shortly before the deployment of MINUSMA. The adoption of the Act relating to the Specialized Judicial Unit did not occur without its difficulties. Initiated in 2011, the draft text was finalized in early 2012, just before the coup d'état in March. The political changes meant that intensive advocacy efforts had to be carried out by the MoJHR and political support for the text was needed before it could be adopted. The issues of concurrent or exclusive jurisdiction, national jurisdiction, the court in which the Unit would be placed and the offences that would fall within its jurisdiction were the subject of much debate. In the end, the Unit was established with exclusive national jurisdiction and with material jurisdiction limited to crimes related to terrorism and transnational organized crime. It was placed within the High Court of commune VI of Bamako district – because this commune is the gateway to Bamako and is close to the international airport and major roads – and was made up of a prosecution service, specialized investigation offices and a Specialized Investigation Brigade.⁴¹

Operationalization of the Specialized Judicial Unit – Despite the adoption of the Act, the Specialized Judicial Unit did not receive the funding needed for its operationalization. With the help of a quick-impact project, the Mission was able to rehabilitate premises for the Unit, which were handed over to the Prosecutor in December 2015, and to renovate annex buildings, including for the Specialized Investigation Brigade and detention cells. In addition to financial and material support for infrastructure, security and equipment, advisory support was provided on personnel issues, investigative missions were supported in the north and centre of the country, and a series of training and capacity-building activities were carried out in cooperation with the United Nations Police Division (UNPOL), the Mine Action Service and the Human Rights and Protection Division (HRPD), as well as UNDP, UNODC, the Counter-Terrorism Implementation Task Force and the Counter-Terrorism Committee Executive Directorate as part of a GFP project. The training sessions focused on the fight against terrorism and respect for human rights and international humanitarian law; terrorism investigations for criminal investigation police officers and magistrates; techniques for using intelligence during the investigation, prosecution and trial of terrorism cases for criminal investigation police officers; drafting requests for mutual assistance in criminal matters and extradition; and the exchange of best practices with countries in the subregion. The aforementioned Act of 2013 was followed by the adoption of Decree No. 2015-0723/P-RM of 9 November 2015 establishing the organization and operating procedures of the Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime, drafted with the support of MINUSMA which also carried out intensive advocacy efforts for its adoption. Clerks, prosecutors, investigating judges and a Specialized Investigation Brigade were appointed within the Specialized Judicial Unit. The Unit was operationalized in January 2017. According to the former Prosecutor of the Unit, “It was thanks to MINUSMA that we [the Specialized Judicial Unit] were able to get up and running”.⁴²

At the time it was established, the Specialized Judicial Unit was headed by a Prosecutor, who was assisted by two (2) deputy prosecutors, eight (8) investigating judges and seven (7) clerks, while a Gendarmerie Commander headed the Specialized Investigation Brigade, comprising 50 officers, including four (4) women, selected through a competitive process conducted in May 2016 by representatives of the Government, MINUSMA-JCS, UNPOL and EUCAP Sahel Mali. The Unit currently has nine (9) investigation offices, two of which are run by women. Five teams of seven (7) to eight (8) investigators and four specialized groups, covering forensics, intelligence, external relations, management and administration, were set up within the Specialized Investigation Brigade. By comparison, in Burkina Faso, the counter-terrorism judicial unit has 20 magistrates and the special brigade for counter-terrorism investigations and combating organized crime has 70 officers. In the Niger, the Central Office for Combating Terrorism and Transnational Organized Crime has 295 officers, including 30 women. However, contrary to the provisions of the Malian Act, the MoJHR has not yet provided assistants specialized in terrorism and transnational organized crime. In the absence of specialized

³⁹ Act No. 006-2017/AN of 19 January 2017 on the establishment, organization and functioning of a specialized judicial unit for the suppression of terrorist acts.

⁴⁰ Decree No. 2017-5517PRNMISPDACR of 16 June 2017 on the organization of the Central Office for Combating Terrorism and Transnational Organized Crime.

⁴¹ History of the Act described by the former Prosecutor of the Specialized Judicial Unit, Boubacar Sidiki Samaké, at a meeting on 3 August 2023 in Bamako.

⁴² Meeting with the former Prosecutor of the Specialized Judicial Unit, Boubacar Sidiki Samaké, in Bamako on 3 August 2023.

personnel, the Specialized Judicial Unit employs people to handle technical issues, when necessary, by seeking referrals of qualified personnel. The lack of sworn interpreters and of remuneration for them also hampers the smooth functioning of the Specialized Judicial Unit and the Specialized Investigation Brigade, especially when it comes to conducting hearings and notifying suspects of their placement in custody and their rights.

From March 2018, following this project, MINUSMA, in collaboration with UNODC, implemented a joint project to support the Specialized Judicial Unit, which again combined financial, material, equipment, logistical and technical support, but also included enhanced mentoring for the Specialized Judicial Unit and the Specialized Investigation Brigade. As part of the mentoring, advice was given to help make progress on cases; improve knowledge of the terrorist threat in the subregion and in Mali and of the main terrorist groups active on their territory, including their *modus operandi* and sources of financing; on the use of appropriate special investigative techniques; inter-agency cooperation for information-sharing; management of judicial delegations; management of an investigating judge's office; and the importance of collecting statistics on cases and terrorist suspects in prison. Focusing on those areas helped to address the gaps identified in the management of the Specialized Judicial Unit, the criminal analysis of terrorist cases, special investigative techniques, and the collection and maintenance of statistics. Consistent cooperation was maintained with UNPOL, HRPD and EUCAP Sahel Mali. The partnership agreement between MINUSMA and UNODC was subsequently renewed. Under this agreement, MINUSMA and UNODC mentored six (6) investigating judges, including one woman, and 42 investigators, including three (3) women, and trained magistrates, clerks and investigators in case management and terrorism investigations. More recently, in 2022, MINUSMA and UNODC organized a workshop for 18 magistrates on the use of special investigative techniques in the judicial processing of cases involving terrorism offences. To address the gaps in criminal analysis, in 2023 MINUSMA and UNODC supported the installation of the goCASE crime analysis software, which is an investigative file analysis system designed to meet the needs of law enforcement, investigative, intelligence and judicial institutions. However, follow-up and support will be required to ensure that the necessary information is entered and to oversee its processing, especially as the Specialized Investigation Brigade does not have an information technology specialist. The UNODC team working on this issue strongly recommended building the information technology capacities of the members of the Brigade with the most expertise in this area. Support was also provided for the introduction of terrorism case management software for the Specialized Judicial Unit registry; further follow-up and support will be required for its operationalization, use and ownership.

In terms of impact, for the first time since the operationalization of the Specialized Judicial Unit in January 2017, trials of people accused of terrorism-related crimes which the Unit had investigated on, were held in 2018 in the Bamako Assize Court, resulting in four (4) convictions and two (2) acquittals. As of July 2019, two and a half years after the Unit's operationalization, 458 cases were being investigated by the Unit.⁴³ With regard to challenges in the operationalization of the Unit, given the lack of national expertise and the importance attached by technical and financial partners to the fight against terrorism, the Unit was overwhelmed with support from partners, which meant that the Unit's personnel had less time to make progress on cases. This also led to some duplication of efforts and a lack of ownership by and financial commitment from the authorities. Partners reportedly provided numerous training courses for the Unit on similar topics, without coordinating the capacity-building activities or the content of the courses. Partners were urged to coordinate with each other, and a mapping of the various stakeholders was requested, which could be organized through the integrated national programme to combat drug trafficking and organized crime. Given the numerous crimes related to terrorism and transnational organized crime and international crimes carried out in northern and central Mali, the construction of a regional branch of the Unit, intended to facilitate investigation and prosecution efforts and improve access to justice, all while combating impunity in line with the Peace Agreement, began in Mopti in April 2021, with the assistance of the European Union delegation, which the Mission supported by carrying out security-related works and providing equipment. Due to the authorities' concerns about the security of the premises and the judicial staff, and the lack of detention cells and secure accommodation close to the premises, the regional branch has not yet been operationalized and judicial staff have not yet been assigned to it. The operationalization of the Mopti branch will require additional follow-up and support, as well as the construction of a reinforced security area in Mopti, given that the prison authorities do not have the capacity to hold a large number of high-risk detainees there. Preliminary discussions had

⁴³ Report of the Secretary-General on the situation in Mali (S/2019/782), October 2019, para. 22.

also been held on establishing a regional branch in Gao in northern Mali with the support of MINUSMA. This issue will also require follow-up by the country team and partners in consultation with the judicial authorities.

4.1.2. Extension of the material jurisdiction of the Specialized Judicial Unit to international crimes and recognition as autonomous Unit

Article 46 of the Peace Agreement provides for the implementation of transitional justice mechanisms, including through the operationalization of the Truth, Justice and Reconciliation Commission, and the establishment of an international commission of inquiry to investigate war crimes, crimes against humanity, genocide, sexual crimes and other serious violations of human rights and international humanitarian law throughout Mali, supported by HRPD, in addition to the commitment of the signatories to combat impunity.

Extension to international crimes – An important step in the development of the Specialized Judicial Unit was the extension of its material jurisdiction to international crimes owing to a combination of circumstances. First, Act No. 2016-39 of 7 July 2016 amending Act No. 01-79 of 20 August 2001 on the Criminal Code provided for crimes under international criminal law to be incorporated into the domestic legal system, in fulfilment of the obligations of Mali arising from its ratification of the Rome Statute. In December 2018, the *Collectif Cri de cœur pour le Mali* filed an application with the Community Court of Justice of the Economic Community of West African States (ECOWAS) relating to the limited progress in the processing of complaints, filed on behalf of 33 victims of war crimes and crimes against humanity, including sexual violence, committed during the occupation of Timbuktu by armed groups in 2012–2013. The Court has not ruled on the case to date. Given the lack of progress in the processing of cases, and the focus on and massive investment in the Specialized Judicial Unit, significant advocacy efforts to extend the Unit’s jurisdiction to international crimes were led by civil society organizations and NGOs representing victims of the 2012 crisis, including Lawyers Without Borders (Canada), and by ICRC. This was also spurred by the situation on the ground with the arrest of a large number of members of terrorist and armed groups as part of Operation Barkhane and the increase in intercommunal conflict. The Act was adopted shortly after the Ogosogou massacre of 23 March 2019. A MINUSMA investigation concluded that the attack had been planned, organized and coordinated, and could constitute a crime against humanity. It was established that at least 145 civilians of the Fulani community had been killed through the use of automatic Kalashnikov-type and hunting rifles and 95 per cent of the houses had been burned down.⁴⁴ The Mission provided technical and logistical support for this investigation. In this case, arrests have been made and an investigation launched, but no convictions have been handed down to date. The MoJHR has also contributed to the advocacy efforts to extend the jurisdiction of the Unit by emphasizing the ratification by Mali of the Rome Statute. With the technical support of MINUSMA, Act No. 2019-050 of 24 July 2019 amending Act No. 01-080 of 20 August 2001, as amended, on the Code of Criminal Procedure was adopted, extending the exclusive jurisdiction of the Unit to international crimes, including war crimes, crimes against humanity and genocide, in addition to crimes related to terrorism and transnational organized crime. This is a unique feature of the Specialized Judicial Unit in Mali. Since the neighbouring countries of the Sahel have not experienced a conflict such as the 2012 crisis, the question of extending jurisdiction to international crimes has not come up in the same way. In view of its expanded jurisdiction, the Unit requested MINUSMA to provide technical and logistical support for its investigations, particularly in the centre of the country. As part of the joint project, MINUSMA-JCS and UNODC provided capacity-building activities on international criminal law, including mentoring. The continuation of this support is vital for the effective implementation of the Unit’s extended jurisdiction.

Recent developments and recognition of the Specialized Judicial Unit as an autonomous Unit - More recently, pursuant to Act No. 2023-018 of 23 May 2023 amending Act No. 01-080 of 20 August 2001, the composition of the Unit was modified by recognizing the position of chief investigating judge, however without specifying his or her roles and responsibilities, and by creating specialized criminal chambers, thus establishing the Unit as a structure for the investigation, prosecution and trial of criminal cases. Act No. 2023-20 of 23 May 2023 amending Act No. 2011-037 of 15 July 2011 on the organization of the judiciary completes these new provisions by making the Unit autonomous, for which MINUSMA-JCS had actively advocated. This major change means that the Prosecutor and Deputy Prosecutors can work exclusively on crimes falling within the jurisdiction of the Unit, without having to also process cases under ordinary law.

⁴⁴ Report of the Secretary-General on the situation in Mali (S/2019/782), October 2019, para. 35.

4.1.3. Adoption of a criminal justice policy and a prosecutorial strategy for terrorism-related crimes and international crimes

Relevance of introducing case prioritization - As a general rule, in times of peace, criminal cases are handled in the order in which they are received. In situations of transition or armed conflict, the justice system is often unable to keep up with the backlog of cases involving serious and complex crimes and at the same time follow the procedures and uphold the guarantees associated with the right to a fair trial. Thus, a lack of hierarchy or prioritization can be detrimental to the imperatives of combating impunity and protecting victims. A prosecutorial strategy that defines a framework to guide investigations and courses of action and that concentrates institutional, political, human and material resources, while limiting allegations of political interference in judicial affairs, may prove a useful means of achieving progress in the fight against impunity.⁴⁵ This is what MINUSMA focused its advocacy and technical support efforts on. MINUSMA took an inclusive approach by supporting the establishment of a committee to monitor the technical work and the holding of broad consultations.

Difficulties in judicial practice requiring clarification - In Mali, difficulties arose in judicial practice relating to conflicts of jurisdiction and the coordination, or lack thereof, of prosecution efforts. Problems have been observed in the referral of cases to the Specialized Judicial Unit, including both the transmission of cases without any real effort to gather information to enable the legal characterisation of the offences as crimes related to terrorism or transnational organized crime or as international crimes, and the failure to refer cases involving crimes that could fall within the Unit's jurisdiction. Difficulties have also arisen in determining jurisdiction and in coordination among national courts, in prioritizing cases and proceedings, and in deciding when to seek international cooperation.

Adoption of the circular and objectives - The adoption of Circular No. 644/MJDH-SG of 12 September 2022, determining the criminal justice policy and the prosecutorial strategy for the fight against terrorism and crimes under international criminal law in Mali, facilitates the resolution of potential conflicts of jurisdiction, and the coordination of prosecution efforts for terrorism-related offences and international crimes among the various domestic courts. The circular also sets out how jurisdiction is to be determined and how prosecution efforts are to be coordinated between the International Criminal Court and the Specialized Judicial Unit, as well as the procedures for international judicial cooperation in criminal matters. It establishes objective criteria for the prioritisation of certain cases by the judicial authorities, and provides for the creation and maintenance of an inventory of cases opened for crimes characterised as terrorism-related crimes and international crimes.

4.2. Progress in the processing of criminal cases, in particular those relating to terrorism and international crimes, including conflict-related sexual violence and crimes against MINUSMA personnel

Summary of Section 4.2.

Key achievements:

- **255 people tried for terrorist crimes, including 208 convicted** with sentences ranging from 18 months' imprisonment to death (automatically commuted to life imprisonment), following arrests by the Barkhane force, MINUSMA and the Malian Armed Forces, as well as by joint patrols from 2013 to 2022
- **Support for a special assizes session on serious economic and financial crimes** in 2021 during which 18 cases were tried involving 54 people prosecuted for terrorist crimes, resulting in 27 convictions
- **Evaluation of the national judicial response to conflict-related sexual violence crimes** committed in the north of Mali in 2012 and 2013, and **prioritization of four (4) emblematic cases** involving a total of 158 victims, in cooperation with the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict

⁴⁵ Report of the Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence (A/HRC/27/56), 27 August 2014, paras. 34–37.

- **Identification and monitoring of attacks that resulted in the death of 171 MINUSMA personnel and 741 persons wounded, leading to the trial of two (2) cases and the conviction of 10 people for the murder of six (6) peacekeepers**
- Establishment of an internal MINUSMA working group on the judicial response to cases relating to crimes against peacekeepers
- **Holding of the first two sessions of the Mopti military court** since its creation in 1995, that enabled the examination of 37 cases.

Main challenges and lessons learned:

- **Insecurity at investigation sites and weaknesses in the collection of evidence** following military operations, hampering the proper conduct of investigations and inquiries
- **Risks of political interference** in the processing of legal cases, e.g. extrajudicial release of prisoners prosecuted for terrorist acts and prisoner exchanges
- **Allegations of human rights violations** committed in the context of counter-terrorism operations
- **Problems with the transmission of information, evidence and coordination**, as well as the rotation of Mission personnel, **that impacted on investigations into attacks against MINUSMA personnel**
- **Mobilization and advocacy** required at the political level and among judicial authorities to speed up the processing of international crimes, including conflict-related sexual violence crimes
- **Coordination problems between the Specialized Judicial Unit and the ordinary courts** that are often the first to intervene at terrorist crime scenes.

Main options and opportunities for follow-up:

- While continuing to support investigations and prosecutions for terrorism-related crimes and transnational organized crime, **strengthen advocacy efforts and provide specific expertise and capacity-building on international crimes, including conflict-related sexual violence crimes**
- **Continue to support investigations into and prosecutions of those responsible for attacks** against MINUSMA personnel, and **establish and designate a United Nations system focal point to monitor the judicial response to those attacks**, with experience in investigating and prosecuting serious crimes in order to ensure follow-up to cases
- Strengthen the human rights-based and victim-centred approach, including by **implementing victim and witness protection measures**
- **Analyse the risks of conducting counter-terrorism operations and their implications for support to judicial authorities** in terms of investigations and prosecutions, in line with the Human Rights Due Diligence Policy.

4.2.1. Cross-cutting issues in the fight against impunity and the processing of court cases

It is worth highlighting some cross-cutting issues common to all types of cases involving serious crimes, before addressing the processing of those cases thematically. First, from an investigative point of view, serious crimes are mostly committed outside urban centres, in rural areas that are especially affected by insecurity, making the conduct of investigations and the collection, transmission and preservation of evidence particularly difficult. MINUSMA provided significant logistical and security support in this regard, including at sites where explosions occurred. That type of support cannot be replaced following the Mission's departure but will have to be provided by the Malian authorities. The operationalization of regional branches of the Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime would ease the problem by improving proximity to the crime scene. Such cases are often linked to the conduct of military operations, which suffer from a lack of judicialization of the crime scene, in particular in the absence of institutional provosts within the Armed Forces, and a lack of intelligence. The adoption of the text of the revised draft code of military justice will help address the situation relating to provosts by integrating them into military operations. Special investigative techniques and criminal analysis haven't been used sufficiently to be able to analyse and dismantle criminal and terrorist networks. In addition, own-initiative inquiries are carried out only to a limited extent, as with the use of judicial delegations and letters rogatory, both at the national level and in the context of regional and international judicial cooperation. On this issue, the leadership of the judicial authorities, in particular the Prosecutor of

the Specialized Judicial Unit, is especially important. From an institutional point of view, judicial police officers are attached to the Ministry of Internal Security, but Specialized Judicial Unit officers are attached to the MoJHR and must collaborate with magistrates and report to the Prosecutor's Office, which poses a practical problem given the lack of cooperation and communication observed in some cases. Measures are therefore needed to strengthen collaboration between magistrates and judicial police officers. Difficulties also exist between the Gendarmerie and police officers, as illustrated in 2019, by the resignation of some police officers, citing discrimination between gendarmes and police officers as a result of the actions of a commander from the gendarmerie.

4.2.2. Processing of terrorism-related crimes and transnational organized crime

In 2018, for the first time since the *Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime* became operational in January 2017, an investigation led by the Specialized Judicial Unit resulted in persons accused of conduct relating to a terrorist act being brought before the Bamako Assize Court. On that occasion, four (4) of the six (6) defendants, who had been arrested in the Mopti and Kidal regions in 2015 and 2016, were sentenced to prison terms, and the other two (2) were acquitted. In May 2019, MINUSMA-JCS established a task force on the rule of law in Mopti. This coordination mechanism, comprising national judicial authorities, the National Human Rights Commission, various Mission components (MINUSMA-JCS, UNPOL, HRPD, Civil Affairs Division, Protection of Civilians team and Joint Monitoring and Analysis Unit), and representatives of UNDP, UNICEF and UN-Women within the country team, aims to help the Malian judicial authorities to effectively combat impunity in the centre region of Mali and to lobby the authorities. In particular, through this mechanism, United Nations partners were able to coordinate their support to investigations and prosecutions in certain cases, capacity-building on specific themes and the monitoring of cases relating to both terrorism and other serious crimes likely to hamper the peace process, such as international crimes. The year 2020 was marked by a series of high-profile trials. These included the trial, in October 2020, of the case involving the two terrorist attacks on a restaurant and hotel in Bamako in 2015, in which the suspects were found guilty and sentenced to death (automatically commuted to life imprisonment). In another terrorism-related case, 15 suspects, including Souleymane Keïta, the suspected leader of the Khalid ibn el-Walid Brigade, a terrorist group affiliated with Ansar Eddine, were brought to justice and also sentenced to death (automatically commuted to life imprisonment). MINUSMA helped to broadcast the trial live, so that victims outside Mali could follow it.⁴⁶ At the request of the judicial authorities, MINUSMA also provided logistical and technical support for a special session of the Court of Assize dedicated entirely to the processing of terrorism-related cases in 2021. During this special session on serious economic and financial crime, 18 cases were tried, involving 54 people prosecuted for terrorist crimes, resulting in 27 convictions. Supporting special sessions is a good way to ensure progress in such cases. The support could be replicated in other terrorism-related cases or in other areas such as international crimes and crimes of sexual violence or transnational organized crime.

Since the operationalisation of the *Specialized Judicial Unit*, a total of 255 people have been tried by the Bamako Assize Court for terrorism-related crimes. This includes 208 people who were given sentences ranging from 18 months' imprisonment to the death penalty (automatically commuted to life imprisonment), following arrests by the Barkhane force, MINUSMA and the Malian Armed Forces, as well as by joint patrols from 2013 to 2022; and 47 acquittals. In Burkina Faso, following the establishment of the Specialized Judicial Unit in 2017, the first hearings in cases handled by the counter-terrorism unit were held in August 2021. Two assizes sessions have so far been held, and 964 people are being detained for terrorism-related offences, more than three times as many as in Mali. In monitoring the sessions, MINUSMA noted the speed with which the cases were processed, in accordance with article 7, paragraph 1 (d), of the African Charter on Human and Peoples' Rights and article 9, paragraph 3, and article 14, paragraph 3, of the International Covenant on Civil and Political Rights. For example, at the assizes session held by the Bamako Assize Court in November 2022, 43 per cent of the cases took an average of one to two years to process, while the remaining 57 per cent took more than two years. The average cannot be calculated for all cases owing to the absence of a judicial statistics yearbook for Mali, which UNDP is currently supporting in follow-up to the support provided by MINUSMA-JCS in 2021. In comparison, the statistical yearbook of Burkina Faso for 2019 shows that most criminal cases at the investigation stage alone often exceeded three years. Some of the challenges related to the referral of cases, which on its own increased the length of proceedings, the severity of sentences handed down, not taking into account mitigating

⁴⁶ Report of the Secretary-General on the situation in Mali (S/2020/1281), December 2020, para. 79.

circumstances and the relative absence of victims and witnesses. Given the time taken to schedule assizes cases, the abolition of the assizes and the requirement that judgements state the grounds on which they are based, as provided for in the new text of the Code of Criminal Procedure, will speed up the processing of cases and improve the quality of the trials. In addition, the processing of some cases demonstrates weaknesses in criminal analysis. It became clear during hearings that the investigations had been confined to the question of membership of a combat group, without going into more detail about the structure of such groups and their *modus operandi*.

Existing tensions and socioeconomic frustrations have created fertile ground for violent extremism, terrorism and criminal activities linked in particular to trafficking in drugs, arms and migrants, including collaboration between terrorist organizations and criminal groups. Despite the interactions between terrorism and transnational organized crime, and the multiple forms that transnational organized crime takes, few cases are characterised as acts relating to transnational organized crime. MINUSMA had planned to support the finalization and dissemination of a draft circular in support of the MoJHR on the conditions for criminalizing the trafficking and smuggling of migrants, as well as the organization of targeted training for focal points identified from among magistrates and judicial police officers. This support could be resumed in the context of PROSMED. It could also be worth revitalizing the West African Network of Central Authorities and Prosecutors against Organized Crime (WACAP), which was initiated in 2013 in partnership between ECOWAS and UNODC, to develop a regional strategy to prosecute persons involved in acts related to transnational organized crime within ECOWAS countries. Similarly, in some cases, even when the constituent elements of international crime were present, the judicial authorities retain terrorism as legal qualification, either because the concept of international crime is not perfectly understood or to avoid blocking the case on account of political sensitivity. Targeted training courses in international criminal law would therefore help to address this gap.

The extrajudicial release of prisoners in the context of political negotiations and the peace process has also hampered efforts to achieve justice. In December 2014, long before the *Specialized Judicial Unit* was set up, four persons imprisoned for terrorism-related crimes were released in exchange for a French national who had been held hostage by the Organization of Al-Qaida in the Islamic Maghreb since 2011. Besides, according to prison staff, one of the released prisoners had killed a prison guard during an attempted escape.⁴⁷ The year 2020 was also marked by the extrajudicial release of prisoners accused or convicted of terrorism-related offences, in exchange for the release of a Malian opposition figure and three (3) foreign nationals, in a case in which at least 37 defendants, i.e. almost 45 per cent of the individuals involved in the case, are estimated to have benefited from the exchange.⁴⁸ In addition to the risks of political interference in judicial affairs concerning these cases, it has been reported that the particular interest shown by the international community in cases falling within the remit of the Specialized Judicial Unit, and the close scrutiny that such cases receive, can be perceived as interference in the country's sovereignty. It is therefore important to maintain a balance between political commitment, advocacy, technical support and respect for judicial procedures.

Another major challenge is that some cases are likely to be linked to counter-terrorism operations during which human rights violations may have been committed by the various forces involved, including the Malian Armed Forces. In several reports of the Secretary General, attention is drawn to illegal arrests and detentions that occurred without arrest warrants or beyond the legal time limit, acts of torture or ill-treatment, excessive use of force, summary executions and enforced disappearances in the context of counter-terrorism operations.⁴⁹ Every alleged human rights violation should be subjected to an independent and impartial investigation. With the withdrawal of MINUSMA, including its HRPD, it appears all the more important to undertake a risk analysis in line with the Human Rights Due Diligence Policy.

4.2.3. Processing of international crimes, including conflict-related sexual violence crimes

Owing to the armed conflict in 2012–2013 and hostilities in the north of Mali, government services, including judicial and prison services, had to leave their places of assignment and retreat to other areas. Even though violations and crimes were committed on a massive scale in the north of the country, justice was largely absent. In January 2012, in Aguelhoc, Malian army positions were attacked by individuals claiming to belong to two independence movements

⁴⁷ Report of the Secretary-General on the situation in Mali (S/2014/934), December 2014, para. 11.

⁴⁸ Report of the Secretary-General on the situation in Mali (S/2020/1281), December 2020, para. 78.

⁴⁹ Reports of the Secretary-General on the situation in Mali: S/2016/819, September 2016, para. 43; S/2016/1137, December 2016, para. 36; S/2018/273, March 2018, para. 48; S/2019/454, May 2019, para. 49; and S/2021/844, October 2021, para. 68.

(Mouvement national pour la libération de l'Azawad, MNLA, and the Organization of Al-Qaeda in the Islamic Maghreb, AQMI) and were reported to have committed summary executions, looting, extortion and destruction of property. In July 2021, in response to these attacks, the Criminal Chamber of the Supreme Court issued its first ruling on the basis of closing arguments by the Public Prosecutor of the Supreme Court, removing the jurisdiction of the judge/justice of the peace with extended jurisdiction in Kidal and designating the High Court of commune III, Bamako district, to hear the cases⁵⁰ on the basis of articles 586 and 587, paragraph 4, of the Code of Criminal Procedure.⁵¹ Similarly, six months later, owing to the absence of judicial personnel, the Supreme Court ruled,⁵² at the request of the Prosecutor of the Mopti Court of Appeal, that courts in occupied areas in the north of Mali were no longer competent to hear cases falling within their jurisdiction, which would now be heard by the High Court of commune III, Bamako district, on the basis of article 587, paragraph 4, of the Code of Criminal Procedure.⁵³ These cases mostly involved the following offences: assassinations, murders, assault and battery, amputations, floggings, individual rape, gang rape, sexual slavery, torture, inhuman treatment, desertion, rebellion, crimes against State security, hostage-taking and kidnapping, etc., all of which could be classified as international or terrorist crimes. After the occupied areas in the north were liberated in 2015, the Supreme Court issued a third ruling, this time transferring the competence back to the northern courts.⁵⁴ The confusion created by the restitution order led to the interruption of hearings for victims and witnesses, whose travel to the capital had been arranged by civil society organizations. The transfer of magistrates and a lack of coordination and collaboration have also hampered follow-up efforts in these cases.

Faced with this situation and the lack of progress in processing these international crimes, MINUSMA strengthened its political commitment and technical support on these issues by addressing conflict-related sexual violence (CRSV) crimes and collaborating with United Nations Headquarters as an entry point. The Mission also has a mandate to support the Malian authorities in the fight against impunity for crimes involving human rights violations and international humanitarian law, including sexual and gender-based violence. The support given to the authorities is also in line with Security Council resolution 1888 (2009) on CRSV and the joint communiqué on conflict-related sexual violence signed on 1 March 2019 by the United Nations and the Republic of Mali. This support also contributed to the implementation of the National Action Plan for the implementation of Security Council resolution 1325 (2000) and related resolutions on the women and peace and security agenda in Mali for the period 2019–2023, following the national action plans adopted in 2012 and 2015 for the periods 2012–2014 and 2015–2017, respectively.

Moreover, MINUSMA-JCS, in conjunction with the Office of the Senior Women's Protection Adviser and the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict, assessed the national judicial response to CRSV crimes committed in the north of Mali between 2012 and 2013. The assessment was concluded in 2020 and shared with the authorities in July of that year. It enabled an exhaustive list to be drawn up of all proceedings brought before Malian courts concerning CRSV committed in 2012 and 2013, in order to determine the state of progress, identify past and future challenges and difficulties linked to the judicial response to the cases, and make recommendations to the Malian political authorities, judicial authorities, NGOs and MINUSMA. Recommendations based on the evaluation included adopting a clear criminal policy to support the fight against impunity, adopting a prosecutorial strategy in application of the prioritization criteria defined by such a criminal policy, giving instructions to prosecutors to prioritize the processing of CRSV cases, transferring such cases to the *Specialized Judicial Unit prima facie*, identifying a court to handle the backlog of cases at the High Court of commune III, Bamako district, adopting reforms to bring criminal legislation into line with the Rome Statute, establishing a mechanism for the computerized management and archiving of cases within courts, and training magistrates in international criminal law, including CRSV. This work has given greater visibility to the shortcomings in the fight against impunity for CRSV, helped with advocacy for developing a circular on the criminal policy and prosecutorial strategy, and supported advocacy for greater political commitment on

⁵⁰ Decree No. 46 of 16 July 2012.

⁵¹ Article 586 of the Code of Criminal Procedure: "In criminal, correctional or police matters, the Criminal Chamber of the Supreme Court may relinquish jurisdiction for an investigation or trial and refer the case to another court of the same order, either if the court that usually has competence cannot be legally constituted or if the course of justice is otherwise interrupted, or owing to legitimate suspicion".

⁵² Decree No. of 21 January 2013.

⁵³ Article 587, para. 4, of the Code of Criminal Procedure: "The Public Prosecutor of the Supreme Court may also, in the same way, request the Criminal Chamber to transfer a case from one jurisdiction to another in the interests of proper administration of justice".

⁵⁴ Decree No. 11 of 16 February 2015.

this issue. During the visit in 2019 of the Special Representative of the Secretary-General on Sexual Violence in Conflict, a joint communiqué on CRSV was concluded between the United Nations and the Republic of Mali on 1 March 2019, in which the United Nations committed to providing technical assistance for institutional efforts to combat impunity through the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict. The agreement also highlighted firmer engagement by the Government of Mali on the issue.

Building on this collaboration, MINUSMA-JCS, along with the Office of the Senior Women's Protection Adviser and the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict, organized a workshop in June 2021, jointly with the MoJHR and the Ministry for the Promotion of Women, Children and the Family, on cases before the courts in Bamako related to CRSV committed in the north of Mali in 2012 and 2013. Bringing together magistrates in charge of such cases as well as civil society organizations, the workshop made it possible to update progress on judicial cases, discuss and adopt the recommendations of the 2019 assessment and prioritize emblematic cases, based on the following nine objective criteria: seriousness; the nature of the crime (sexual and gender-based); the scale of the crime; the number of victims; the individual vulnerability of victims; the profile of the perpetrators; the degree of responsibility of the perpetrators; the modus operandi (particular cruelty); and the impact of the crime on victims and populations. It was therefore decided that four emblematic cases should be prioritized: Houka Houka and others and Aliou Mahamane Touré; complaints from 82 victims and Deme So; a complaint from 33 victims; and complaints from the period 2019–2020 involving a total of 158 victims of serious crimes, including CRSV. To date, no case has been tried. In order to promote progress in processing cases of CRSV, MINUSMA, together with the Office of the Senior Women's Protection Adviser and the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict, submitted a project to support the judicial authorities with funding from the trust fund granted by Belgium, which includes holistic support in the form of technical expertise and mentoring, an evaluation mission, exchange sessions between the *Specialized Judicial Unit* and magistrates from other jurisdictions, including international jurisdictions, support for organizing the first trial, as needed, and the identification and implementation of victim and witness protection measures. This project could not be implemented because of the withdrawal of MINUSMA. However, the assistance planned as part of the project could be provided in the context of PROSMED. Following the Mission's withdrawal, the issue of CRSV and the prioritized cases will need to be monitored. The United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict provides support in countries where no peace operations are deployed, and could therefore continue its support through the United Nations country team. This is the case in Guinea, where support was provided through the Office of the United Nations High Commissioner for Human Rights and UNDP. Except for CRSV cases from 2012 and a war crimes case involving a soldier, there are currently no international crimes under investigation by the Specialized Judicial Unit. As sexual violence in times of conflict is not limited to cases in the north and centre of Mali from 2012 to 2014, it is also important to continue to gather relevant information in order to bring justice to all survivors.

4.2.4. Processing of cases against MINUSMA personnel

In accordance with article 47 of the status-of-forces agreement (SOFA), the Government of Mali and MINUSMA are under an obligation to assist each other in conducting all necessary investigations into offences committed against the interests of either party, including offences committed against United Nations personnel. Specifically, Security Council resolution 2589 (2021) of 18 August 2021 requires host States to work with peacekeeping missions to enhance the safety and security of mission personnel and to take all necessary measures to investigate acts of violence against mission personnel and arrest and prosecute perpetrators of such acts. The United Nations is also required to follow up on cases related to the killing of, and acts of violence against, United Nations personnel serving in peacekeeping operations, to notify the relevant national authorities immediately upon receiving reports of such attacks, and to report on progress made in the investigation and prosecution of such cases. For its part, in accordance with the aforementioned resolution and applicable international norms and standards, the Government of Mali is responsible for bringing to justice perpetrators of acts of violence against United Nations personnel.

In this respect, progress has been made in recent years by the Malian authorities, with the Mission's support, in prosecuting the perpetrators of such acts of violence and identifying and following up on these cases. Follow-up by



MINUSMA⁵⁵ in line with Security Council resolution 2589 (2021) led to the identification of 68 attacks against its personnel, resulting in the deaths of 171 peacekeepers and MINUSMA personnel and 741 wounded. This represents 53 percent of all recorded fatalities involving United Nations peacekeeping personnel across all peacekeeping operations since 2013, making MINUSMA the mission with the highest fatality rate.

Following discussions with the Special Representative of the Secretary-General, monthly coordination meetings between the Specialized Judicial Unit, JCS, UNPOL, the Office of Legal Affairs (OLA) and the Senior Women's Protection Advisor were instituted to ensure follow-up of cases. It was also decided to establish an internal working group on the judicial response to deaths that took place in the context of MINUSMA peacekeeping operations. The purpose of this working group was to ensure greater consistency, coordination and integration between the relevant components of the Mission and the judicial and police authorities investigating and prosecuting the perpetrators of criminal offences against MINUSMA personnel, to ensure effective support for the Malian authorities in their judicial response to the deaths of United Nations peacekeepers. The working group has strengthened coordination and identified flaws and gaps in the response to attacks against MINUSMA personnel.

In accordance with the applicable standard operating procedures,⁵⁶ a note verbale must be sent to the Ministry of Foreign Affairs within 48 hours of a serious criminal offence being committed against MINUSMA personnel, together with a report describing the attack, for information purposes and for transmission to the competent judicial authorities. Support for the authorities can also take the form of logistical and technical support for investigations and the transmission of investigation reports and evidence, including in the form of an order by the Specialized Investigation Brigade for the delegation of judicial powers to request the cooperation of the police component of MINUSMA. For example, technical and logistical support was provided by MINUSMA to a mission sent to Aguelhok, Kidal region, to investigate the attack on the MINUSMA camp on 2 April 2021 that resulted in the deaths of four peacekeepers. The Mission maintains a database of cases to ensure follow-up.

A first step was taken on 24 March 2021, with the first-ever conviction of nine (9) people by the Bamako Assize Court in a case concerning two (2) attacks on MINUSMA personnel in Bamako in 2015 during which a peacekeeper was killed.⁵⁷ A second conviction was handed down in the case of the attack perpetrated near Siby. Since then, a total of 10 individuals have been convicted for the murder of six (6) peacekeepers, representing less than four (4) per cent of all deaths of MINUSMA personnel in the country. Coordination with the Specialized Judicial Unit and within the aforementioned working group led to the identification of nine (9) cases, which were opened following the transmission of a separate note verbale; of these, two (2) have been brought to trial and eight (8) are still with the Unit. Investigations were not opened for other cases that were grouped together and were the subject of notes verbales owing to a lack of coordination on the part of MINUSMA or the competent authorities, protracted delays in responding to requests, problems with transmitting evidence, or because some of the information transmitted was considered insufficient to confirm the facts and justify an investigation. In addition, the MINUSMA personnel turnover rate has had an impact on follow-up of certain cases and on investigative procedures; the privileges and immunities of MINUSMA personnel have made it difficult to hear key witnesses without expressly requesting that their immunity be waived. Malian courts could use letters rogatory to obtain international judicial assistance in that regard. In response to these problems, the Specialized Judicial Unit and MINUSMA agreed on a new procedure whereby the Unit would be immediately informed of any new attacks.

Recently, in the case concerning the 2 April 2021 attack on the MINUSMA camp in Aguelhok, Kidal region, which left four (4) peacekeepers dead and 34 wounded, the Unit closed the investigation and transmitted the case to the indictment chamber for trial. One of the identified perpetrators was taken into custody and indicted for carrying out acts

⁵⁵ Follow up of and support for these cases is provided by the Office of Legal Affairs, the police component and the justice and corrections component.

⁵⁶ United Nations Department of Operational Support, Department of Peace Operations, Department of Political and Peacebuilding Affairs, Office of the High Commissioner for Human Rights, Ref. DPO 2020.18, Standard Operating Procedures, Prevention, investigation and prosecution of serious crimes committed against United Nations personnel in peacekeeping operations and special political missions, 1 December 2020.

⁵⁷ S/2021/519, June 2021, para. 37.

of terrorism. The case may go to trial at the next session of the Assize Court to be held before the end of 2023. In this case, MINUSMA provided extensive support by providing a copy of the report of the joint investigation team and some of the evidence collected, such as the cell phone and portable GPS belonging to the accused, to the Specialized Judicial Unit. The Mission also organized a joint mission to Aguelhok in October 2021 together with the Unit's investigators, who had delegated judicial authority, during which evidence seized on site was analysed. A private ceremony to transmit seized and transferred weapons was held by UNPOL and the Specialized Judicial Unit on 6 May 2022.

Once MINUSMA withdraws, it will be difficult to ensure judicial follow-up of the 96 per cent of cases involving personnel deaths that have not yet been adjudicated, including the cases requiring judicial investigation. The Specialized Judicial Unit has made welcome progress on certain cases with the support of MINUSMA. However, pursuant to Security Council resolution 2589 (2021), the Malian authorities are under an obligation to investigate and bring to justice those responsible for these acts, and the United Nations is under an obligation to follow up and report on these cases, not only as part of implementing the resolution, but also as part of the Organization's general duty of care for the remaining cases. It is therefore essential for the United Nations system to continue to provide support to the Specialized Judicial Unit in investigating and prosecuting attacks against MINUSMA personnel and to designate a focal point within the United Nations system who has experience in investigating and prosecuting serious crimes and can access MINUSMA archives to monitor and coordinate the support being provided.

4.2.5. Progress in the area of military justice

In the area of military justice, support was provided mainly to the Mopti military court, which has jurisdiction over the northern and central regions of Mali. Established in 1995, the court held its very first hearings on 23 and 24 November 2020, with logistical and financial support from MINUSMA, and tried eight (8) cases involving misdemeanours, sentencing six (6) soldiers to prison terms. The following year, support was provided for a second session of the court, at which it heard 29 cases concerning offences under military and ordinary law involving 34 defendants. The court has tried a total of 37 cases to date. In addition to providing support for the hearings, MINUSMA provided capacity-building training for 42 members of the Mopti court authorities in military justice procedures and the concept of material jurisdiction in order to speed up investigations into offences committed by members of the Malian Armed Forces and to prevent new offences from being committed.

The Mopti military court is also participating in the task force on the rule of law. The court's Public Prosecutor has worked with MINUSMA on the Malémana case, which has been under investigation since December 2019. The case concerns extrajudicial executions which allegedly took place following the arrest, by members of Malian Armed Forces, of 26 men from the Fulani community in Malémana in Ténenkou cercle, Mopti Region, whose bodies were later found in a well in the village of Ndoukala. A joint mission by representatives of the Malian Gendarmerie and MINUSMA in March 2020 had mapped the well, which was believed to contain several bodies, and used drones to search for human remains. On the request of the Public Prosecutor of the Mopti military court in December 2020, equipment for extracting, preserving and analysing the remains was provided to the Prosecutor in September 2021; the HRPD provided support in the form of quick-impact project funding. In December 2021, the prosecutor received the judicial delegation order assigning to the territorial brigade of the Mopti gendarmerie the extraction of the contents of the well. The brigade then conducted the preliminary investigation. The order authorised the brigade to request support from MINUSMA to carry out the assignment. On 5 February 2021, in addition to the task force on the rule of law, a working group on military justice was established in Mopti with the support of MINUSMA and EUCAP Sahel Mali. The main task of the working group, which brings together UNPOL, HRPD and JCS from MINUSMA, the United Nations Development Programme and EUCAP Sahel Mali, is to facilitate, support and coordinate support for military justice to combat impunity for offences of a purely military nature. The working group followed up on the Malémana case at one of its meetings and confirmed the judicial delegation order. Although the meetings of these working groups did not result in the closure of the investigation, they did enable the coordination of support to the judicial authorities. Following the withdrawal of MINUSMA, the collaboration should continue between the United Nations system and the judicial authorities and partners with a view to combating impunity and advancing the processing of serious criminal offences committed by Armed Forces.

During the same period, the Ministry of Defence and Former Combatants opened at least 10 legal proceedings in line with the Malian Military Justice Code. The proceedings involve alleged perpetrators of serious human rights violations

that took place in Dioura, Boulikessi and Nantaka, Mopti Region, in February, May and June 2018 respectively, and in Massabougou, Ségou Region, in June 2020. The Bamako and Mopti military courts are currently investigating these violations. The new Military Justice Code, if adopted, will help to ensure more effective investigation and prosecution of offences committed by the Armed Forces. The Public Prosecutor will be able to open an investigation without waiting for an instruction to do so from the Minister of Defence, which would bolster the independence of military courts and potentially speed up proceedings. The introduction of provosts will also contribute to the judicialization of military operations.

Recent developments demonstrate that the military authorities are beginning to show a commitment to prosecuting criminal offences committed by members of the Armed Forces. While the holding of initial hearings is commendable, it is especially the conviction of military personnel for criminal offences that will demonstrate the commitment of the Malian State and its authorities to combating impunity. To that end, the working group on military justice could continue to provide advocacy and technical support, in line with the Human Rights Due Diligence Policy, and ensure that funding to support the holding of hearings is included in the budget of the Ministry of Defence and Former Combatants, if necessary with the support of partners such as EUCAP Sahel Mali. In addition, uncertainty or disagreements about jurisdiction over criminal offences committed by members of the Armed Forces can affect the way such offences are processed. In order to ensure effective implementation, the military judicial authorities will need to be made aware, with the support of partners, of the aforementioned circular on criminal justice policy and prosecutorial strategy; and uncertainties addressed about conflicts of jurisdiction, including in the framework of the revised Military Justice Code, to ensure an effective judicial response. An initiative to this end was included in a Trust Fund project that was pending approval in June 2023.

4.3. Management of high-risk detainees and preventing and combating violent extremism and radicalization in prisons

Summary of Section 4.3.

Key achievements:

- Construction and **operationalization of two (2) reinforced security areas in Dioila and Koulikoro prisons** with a combined capacity of up to 210 high-risk detainees (150 and 60 respectively)
- **Rehabilitation of two (2) high-security blocks and upgrading of secured areas at the Bamako Central Prison** to accommodate up to 100 high-risk detainees
- Support for the development and execution of the **road map and action plan for the implementation of the national policy to prevent and combat violent extremism and terrorism** in Malian prisons
- Support for the drafting of a **decree establishing a service to collect information on and detect signs of radicalization in prisons.**

Main challenges and lessons learned:

- **Lack of facilities with capacity for and equipped to manage the large numbers of high-risk detainees in the north and centre** of the country
- **Importance of taking into consideration security issues and social dynamics when identifying sites for high-risk detainees**, in particular with regard to the presence of defence and security forces near the facility.

Main options and opportunities for follow-up:

- **Pursue the execution of the road map for the implementation of the national policy to prevent and combat violent extremism and terrorism** in Malian prisons
- **Build a reinforced security area in the Mopti prison by the time the regional office of the Specialized Judicial Unit becomes operational**; build such facilities in jurisdictions where other regional offices could be set up in the future (e.g. Gao and Ségou Regions)
- **Develop and systematize the use of a gender-sensitive classification and risk assessment system.**

Management of high-risk detainees – In the wake of the crisis in northern Mali, the prison administration was quickly overwhelmed by the large number of persons arrested and detained for acts of terrorism or in connection with violent extremism. After the crisis, the Malian prison system lacked the infrastructure to accommodate and manage high-risk detainees. There was an urgent need for support to expand accommodation and management capacities. This priority was identified as early as in the start-up phase of MINUSMA, with the support of the Justice and Corrections Standing Capacity (JCSC) of the Department of Peace Operations. MINUSMA carried out assessment and prospecting visits to Bamako Central Prison and the detention and correctional facility in Dioïla. Based on the assessments, the possibility of developing a high-security area at the facility in Bamako was ruled out in view of its location in a densely populated area, the general layout of the prison buildings, the size of the inmate population and other factors. Nevertheless, a series of measures were recommended to the DNAPES and the prison's director and management. MINUSMA supported the prison administration by supplying equipment to bolster security, providing targeted training for prison staff, renovating two (2) high-security blocks and upgrading secured areas at the facility in Bamako to accommodate up to 100 high-risk detainees, and providing technical support for the development of a tailored defence and security plan for the facility, taking into account the presence of high-risk detainees, in accordance with the interministerial order of 4 August 2017.

By contrast, the facility in Dioïla was considered ideal for establishing a high-security area, as it had a large unused area within the perimeter wall that was well suited for that purpose and for the associated buildings. The Gendarmerie and the National Guard are located in the immediate vicinity of the prison, enhancing security. Dioïla is in a remote area and has road access, ensuring that reinforcements can easily reach it by road and, if necessary, by air. MINUSMA has therefore built a reinforced security area at the Dioïla detention and correctional facility for 150 inmates. In addition, Dioïla was to be accorded the status of region, which called for the establishment of a military barracks and the appointment of an area commander, an important criterion for implementing a security plan that provides for the intervention of defence forces in the event of a major incident. A reinforced security area has also been built at the detention and correctional facility in Koulikoro, strategically located some 50 km from Bamako, with capacity for 50 high-risk detainees. MINUSMA also provided support for the development of a defence and security plan for the facility and simulation exercises. In addition, to strengthen prison security, MINUSMA supplied and installed security and surveillance equipment in prisons in the north and centre of Mali and in Koulikoro, where prisoners suspected or convicted of activities related to terrorism and transnational organized crime are held.

More recently, in 2022, prison officers in Mopti, Bandiagara, Douentza and Ségou received training in the management of high-risk detainees to prepare for the opening of the regional branch of the Specialized Judicial Unit and address the need to strengthen the prison administration's capacity to manage high-risk detainees. Once the regional office in Mopti is operational, it will also be necessary to build a high-security area in Mopti or near the regional branch. The same need will arise if regional offices are also opened in Gao or Ségou.

With regard to lessons learned, when planning the construction of enhanced security areas, it is imperative to take into account its geographical location, including access by road and air; security concerns, including the presence and proximity of defence and security forces; as well as social factors, such as population density, in addition to infrastructure-related considerations.

Prevention of and fight against violent extremism and terrorism – In 2016, the United Nations Interregional Crime and Justice Research Institute (UNICRI) conducted an assessment mission in Mali and presented its programme for the rehabilitation and reintegration of violent extremist offenders, which it had developed in cooperation with the Counter-Terrorism Implementation Task Force. Following this mission, UNICRI worked in close collaboration with MINUSMA to provide training and capacity-building sessions for prison personnel on the psychological aspects of violent extremism, the role that religious leaders could play in preventing and countering radicalization and the importance of risk assessment in prisons. In addition, 26 February 2018 saw the adoption by decree of the national policy to prevent and combat violent extremism and terrorism and its action plan for the period 2018–2020, drawn up with the support of the Mission, the Office of Counter-Terrorism and the Counter-Terrorism Committee Executive Directorate. Since 2018, the Mission has supported the Malian authorities in implementing the latter policy, including through social reintegration initiatives. On 20 February 2020, with support from MINUSMA and UNODC, the Ministry of Religious Affairs, Worship and Customs and the MoJHR adopted a road map and an action plan for the implementation of the national policy to prevent and combat violent extremism and terrorism in Malian prisons. The road map and the

action plan addressed three of the five components of the national policy, namely the prevention, response and social cohesion components. MINUSMA provided support to strengthen the capacity of the prison administration to detect signs of radicalization and contributed to the drafting of a decree establishing a service to collect information on and detect signs of radicalization in prisons as part of the national policy to prevent and combat violent extremism and terrorism. In December 2022, in Bamako, the Mission facilitated the sharing of experiences on the prevention of radicalization and violent extremism in prisons among religious leaders and prison staff from Mauritania and Mali. The road map and the action plan foresee the development of a regulatory framework for religious sermons in prisons. In that connection, the Security Sector Reform and Disarmament, Demobilization and Reintegration Section developed a guide that could serve as a starting point and be adapted to the prison environment.

According to a recent study conducted by UN-Women in 2022–2023 on the gender dimensions of violent extremism in Mali, women play the roles of accomplices and perpetrators of extremist violence in almost all of the 25 localities included in the study.⁵⁸ Some of the recommended solutions include training and awareness-raising on the harm caused by violent extremism; prosecuting perpetrators of offences involving violent extremism; reporting of offenders; instituting a permanent dialogue between communities; establishing a regulatory framework for religious sermons and religious leadership; and using traditional conflict prevention and management mechanisms. The profiles of the most recent detainees, men and women, present an additional security risk for which the prison administration is not sufficiently prepared. According to the data provided by the DNAPES, as of 30 June 2023, the prison population in Mali stood at 9,272, including 254 women and 279 minors. The current number of detainees in Malian prisons accused or convicted of terrorism-related crimes is around 300, all of them male. Since the establishment of the Specialized Judicial Unit, with the support of MINUSMA, 265 people have been put on trial for terrorism-related crimes. With the recent adoption of the national circular on the criminal justice policy and the prosecutorial strategy for combating terrorism-related and international crimes, and the adoption of the national policy to prevent and combat violent extremism, radicalization and terrorism, the number of persons detained in connection with violent extremism and terrorism, including women, could increase rapidly. It is therefore important to take gender-specific factors into account in the management of high-risk detainees.

Some of the actions set out in the road map have already been implemented or initiated, while others still require sustained support from our partners. Although measures are in place to ensure individualized management of detainees from the moment they are admitted to a facility, taking into consideration the risks involved in holding people prosecuted for serious crimes linked to terrorism, transnational organized crime and international crimes, it is imperative that a prisoner classification and risk assessment system be developed and used systematically, in line with international standards. As in other areas, in view of the terrorism and security threats in the subregion, the support provided should incorporate a regional perspective to capitalize on past experience and lessons learned and promote and disseminate best practices. The potential lessons learned include the effect of improvements in the way prison officers carry out their duties and improved relations between prison personnel and detainees, on preventing the radicalization of detainees.

5. Challenges, lessons learned and opportunities on cross-cutting issues

Importance of national ownership and political commitment - Any result or progress require national ownership if they are to have a lasting impact. In particular, results were achieved in areas where there was a high level of mobilization and political will, such as the prosecution of terrorism-related crimes. The commitment of stakeholders to implementing certain provisions of the Peace Agreement has been crucial in achieving results in the area of rule of law and justice, as has the Mission's monitoring and advocacy role. The parties' commitment to implementing the provisions of the Peace Agreement, particularly those relating to the rule of law, justice and reconciliation, will continue to be crucial to lasting peace and security in Mali, as will the monitoring and advocacy role of the United Nations system, including UNOWAS, upon the Mission's departure.

⁵⁸ UN-Women, Research study on the gender dimensions of violent extremism in Mali, 2022–2023, 142 p.

Intervention strategies and impact of MINUSMA-JCS – At the start of the Mission, in the absence of a strategic framework or sectoral policy in the field of justice in the aftermath of the crisis, MINUSMA and UNDP provided technical support to the MoJHR for the drafting of a document on the reform of justice, prisons administration and supervised education in Mali, which contained a detailed diagnosis of the justice sector and proposed areas for reform, which was finalized in 2014. On this basis, the Government decided to draw up and launch an emergency programme. Analysis of this justice reform document and of the support provided by MINUSMA-JCS over the 10 years of the Mission's mandate indicates that many of the areas and recommendations set out in the document have been implemented. This detailed assessment has proven to be particularly useful in supporting the justice sector.

The impact of the Section's support since the Mission's inception cannot be determined with clear indicators, owing to the limited availability of archives relating to the first years following the Mission's deployment, the weakness of monitoring and evaluation as part of strategic planning processes, as well as the sometimes limited skills in programme and project management and monitoring and evaluation. However, the strategic planning and reorientation of the Section's work carried out in 2017 clarified the strategic and political relevance of support from MINUSMA-JCS with respect to the Mission's priorities and mandate, which remained largely relevant until June 2023, when the mandate came to an end. Staff turnover, however, certainly had an impact on the understanding of intervention and support strategy of MINUSMA-JCS by the various components of the Mission, including senior staff.

Relationships with the authorities - From the point of view of relations with the Government, the tangible results described above could not have been achieved without close collaboration with the justice and corrections authorities. The professionalism of MINUSMA staff, their areas of expertise – particularly in the field of prisons, where these were diversified and complementary – and the nature of their relationships were particularly appreciated. The recruitment of government-provided personnel from the subregion enabled the rapid integration of personnel, an understanding of the cultural context and the incorporation of best practices from neighbouring countries, thus fostering cooperation at the regional level. Regular advocacy meetings between MINUSMA and the MoJHR at the level of the Minister of Justice, the General Secretariat and the technical departments, made it possible to maintain a constant dialogue on strategic and technical issues. Successive changes of government, however, required MINUSMA to be responsive and to make intensive lobbying efforts on certain issues. The withdrawal of MINUSMA will not have a negative impact on the United Nations system's relations with the authorities, since the country team's key partners, including UNDP, UN-Women and UNODC, also maintain good relations with the justice and corrections authorities. Nevertheless, the closeness of relations between staff and authorities at the technical and directorate levels was particularly noted, and sometimes helped to open doors more easily to the country team on certain issues.

Cooperation with other components and the United Nations country team – The establishment of thematic coordination frameworks, including groups on rule of law and security institutions (ROLSI), PROSMED and the restoration and extension of State authority (RESA), has enabled cooperation and a regular exchange of information between MINUSMA-JCS, other Mission components and country team partners on issues relating to support in the fields of rule of law, security and the restoration and extension of State authority. However, the meetings of the ROLSI group could have involved more of the Mission's senior leadership, and addressed political and strategic issues. While MINUSMA-JCS has contributed to efforts to investigate and prosecute cases of CRSV, it is regrettable that the Section has not been involved in the Monitoring, Analysis and Reporting Arrangement mechanism (MARA), the coordination framework for monitoring, analysing and reporting on CRSV, unlike in other United Nations mission contexts.

The implementation of joint programmes and projects through GFP and PROSMED has enabled the United Nations system to provide coherent and coordinated support to the authorities, in line with government priorities and United Nations strategic frameworks, despite administrative burdens and coordination and communication issues between partners in the GFP Mandela Prisons project. These joint programmes and projects have also enabled MINUSMA to plan its support over the medium term, i.e. several years beyond the one-year planning period required for peacekeeping operations, and fostered complementarity in the geographical scope of the country team and MINUSMA partners, as well as in programme interventions. For example, support initiated by MINUSMA through pilot projects was subsequently taken up and replicated by UNDP, such as the extension of the AGIDERM tool to prisons, the establishment of a statistical information system for the justice sector and the strengthening of prison farm centres. In addition, cooperation with the country team's partner agencies has made it possible to capitalize on their experience in supporting justice in other countries in the subregion, which is not the case for peace operations. Thus, with the

withdrawal of MINUSMA and the implementation of PROSMED by the country team – in particular UNDP, UN-Women and UNODC – there is an opportunity to further regionalize the support available and promote the exchange of experience with neighbouring countries in the Sahel and the subregion.

A final aspect of particular importance, and common to other peacekeeping mission drawdown contexts, is the relevance and usefulness of having a joint programmatic framework implemented by the Mission and partner agencies, which, through PROSMED, has enabled to lay the foundations for planning the Mission's transition and drawdown process.

Promotion and implementation of the women and peace and security agenda – Strategic documents, work plans (with the exception of those relating to the 2023–2024 budget year, which could not be implemented owing to the Mission's withdrawal) and reports of MINUSMA-JCS did not contain any explicit reference to the women and peace and security agenda, nor to the three national action plans successively adopted by Mali and implemented under that agenda, or to the way in which the Section's interventions contributed to it. Better cooperation with the gender component, the Office of the Senior Women's Protection Advisor, UN-Women, the focal points of the MoJHR on gender issues and on the women and peace and security agenda, and the Ministry for the Promotion of Women, Children and the Family would undoubtedly have enabled better integration and planning of the Section's interventions and contributions to these priorities. Furthermore, the latest National Action Plan for the implementation of Security Council resolution 1325 (2000) and related Council resolutions on the women and peace and security agenda in Mali for the period 2019–2023 makes no mention of the joint communiqué on CRSV, which was concluded between the United Nations and the Republic of Mali on 1 March 2019. It would therefore be important for the next action plan to include a reference to this topic, to give it greater political visibility and a coordinated programmatic response.

Consideration of a people-centered and victim-centered approach – According to some interlocutors, MINUSMA-JCS has favoured institutional support for justice and corrections authorities, rather than a people-centered and victim-centered approach. This approach could be further strengthened in the country team's support, through PROSMED, in combating impunity and in preventing and combating violent extremism and terrorism.

Close cooperation with headquarters and support missions – Close cooperation with headquarters, in particular with the Justice and Corrections Section within the Department of Peace Operations, made it possible to successfully request 13 rapid deployments of the JCSC, including during critical phases in the start-up and establishment of MINUSMA and in the planning of the drawdown. In addition, it was emphasized that these support missions focused on and contributed to strategic issues for the implementation of the mandate of MINUSMA-JCS, such as combating impunity for international crimes, including CRSV, preventing and combating violent extremism and terrorism, and ensuring prison security, the restoration and extension of State authority, and traditional justice. Such collaboration could continue through the GFP, and could lead to support missions for the country team, particularly on the issues of combating impunity and preventing and combating violent extremism and terrorism, themes on which there will be a key gap in human, technical and financial resources with the departure of MINUSMA. Collaboration could be maintained with OROLSI and through the GFP, including JCSC as required, for targeted and punctual support. Indeed, OROLSI could provide support in the critical phase of the Mission's effective withdrawal, and beyond, given its role as a service provider to the entire United Nations system.

6. Conclusion

The 10 years of support provided by MINUSMA-JCS are first and foremost the story of close collaboration with the justice and corrections authorities of Mali, other Mission components and United Nations system partners. This collaboration led to tangible results in certain key areas in support of the peace process, the restoration of State authority and the fight against impunity for serious crimes, in pursuit of the Mission's political priorities, and more nuanced results in others. These achievements were also recognized by the United Nations Office of Internal Oversight Services in its

2021 audit report.⁵⁹

In accordance with its mandate, and with a view to implementing the Peace Agreement, MINUSMA, through the logistical, technical and financial support of JCS, has contributed to the return, deployment and securing of numerous justice and corrections institutions in conflict-affected areas in the north and centre of the country, to improving the functionality of courts and tribunals and to strengthening oversight mechanisms, in particular the Judicial Services Inspectorate. The implementation of key institutional reforms for the prison administration, strengthened capacity-building and the improved management of corrections facilities and detention conditions for greater compliance with international norms and standards, including through better prevention and management of security incidents in prison settings, in cooperation with other sectoral policies and actors, are likely to leave a lasting impact in Mali. MINUSMA-JCS has also worked towards fostering a common understanding among stakeholders of the Peace Agreement's provisions on justice and reconciliation (in particular article 46) as a fundamental element of the peace process, and supported the justice reform process as well as the reassessment of the role of cadis and traditional authorities, as provided for in the Peace Agreement, in pursuit of constructive complementarity with formal justice actors and their integration into Malian positive law.

This support has also been accompanied by sustained assistance to combat impunity for serious crimes that risk destabilizing the peace process, and to manage the risks associated with people detained for such crimes. In the face of rising terrorist threats, an institutional, legislative and regulatory framework laying the foundations for a judicial response adapted to these challenges, including through the operationalization of the Specialized Judicial Unit to Combat Terrorism and Transnational Organized Crime in 2017, the extension of its material jurisdiction to international crimes and the adoption of a related criminal justice policy and prosecutorial strategy in this area. This support thus led to significant advances, particularly regarding the prosecution of terrorism-related crimes, with the trial of 255 persons, of whom 208 have been convicted since the operationalization of the Specialized Judicial Unit in 2017), and, to a lesser extent, regarding crimes committed against MINUSMA personnel, with the conviction of 10 people involved in such crimes. In addition, the Mission's support has also enabled the establishment of prison infrastructures and capacities to ensure the secure detention of high-risk detainees in compliance with international norms and standards, and the prevention of violent extremism and radicalization, in support of the national policy to prevent and combat violent extremism and terrorism.

Given the security challenges, the political instability punctuated by crises and the limits of the support from MINUSMA-JCS, these results should be nuanced in certain areas. The results achieved in restoring and extending the State authority remain fragile and dependent on the security situation and the intermittent absence of administration and justice officials in field locations. Despite technical and financial assistance from MINUSMA and partners, and advocacy efforts, some key reforms, such as revised texts on criminal legislation, military justice, traditional justice, trafficking in persons and migrant smuggling, which could significantly improve the processing of cases that could be sources of conflict and instability, have not yet been adopted. Efforts to promote judicial integrity and ethics and to combat corruption in justice and corrections settings need to be supported and stepped up over the long term, in order to bolster the low level of public confidence in the justice system and the legitimacy of the State. While the fight against terrorism, through the apprehension and prosecution of terrorism-related crimes has made significant progress in Mali with the support of MINUSMA and partners, the capacity of the authorities to identify and neutralize terrorist networks through criminal analysis and the cross-checking of files and intelligence, and to respond to the needs and expectations of victims, remains limited. Despite all the support provided, progress in the fight against impunity, particularly for international crimes and conflict-related sexual violence, is limited and eagerly awaited, with an approach more focused on the rights of victims and survivors, in the spirit of the Peace Agreement. Investigations into these cases are still under way, and no convictions have yet been handed down.

⁵⁹ Office of Internal Oversight Services, Outcome evaluation of the contribution of MINUSMA to the return, restoration, and extension of state authority in the rule of law area and fight against impunity in Northern and Central Mali, Assignment No. IED-21-017, 23 December 2021. Voir par exemple le résumé des conclusions clés pp. 4-5.

The lessons learned include the following:

1. Any result or progress requires national ownership if it is to have a lasting impact. The anchoring of the Mission's support to the priorities of the justice sector, and linkage with other actors and sectoral policies in certain areas, such as counterterrorism, prevention of violent extremism and prison security, are likely to leave a lasting impact.
2. The political commitment of stakeholders to implementing certain provisions of the Peace Agreement was crucial in achieving results in the area of the rule of law and justice, as was the Mission's monitoring and advocacy role, accompanied by technical and financial support.
3. By implementing joint rule of law programmes and projects, the United Nations system has been able to provide coherent and coordinated support to the Malian authorities, in line with national priorities and United Nations strategic frameworks. This joint effort has also fostered short- and medium-term programmatic planning, beyond the annual planning period required for peacekeeping operations, as well as complementarity in interventions and geographic scope.
4. The establishment of coordination mechanisms within the Mission and between MINUSMA and the United Nations country team has enabled planning within the framework of joint projects, in the areas of security and the rule of law, and efforts to restore and extend State authority have enabled a regular exchange of information, and to some extent coordinated planning. These mechanisms could, however, have benefited from being more firmly rooted in a joint analysis of the political and security situation, and with a stronger involvement the Mission's senior leadership (and United Nations agencies where appropriate) to enhance effectiveness and efficiency in the mandate implementation.
5. MINUSMA-JCS could have more explicitly articulated its contribution to the implementation of the WPS agenda, and in particular to the National Action Plan for the implementation of Security Council resolution 1325 (2000) and subsequent resolutions. The Section's work in support of the WPS agenda and to the promotion of gender equality and women's empowerment could have been defined and strengthened, in closer collaboration with the Mission's gender component, the Office of the Senior Women's Protection Advisor, UN-Women, the focal points of the MoJHR on these issues as well as the Ministry for the Promotion of Women, Children and the Family.

The imminent withdrawal of MINUSMA could jeopardize or even reverse the progress made in these key areas for the stabilization of Mali, with a definite impact on the country's peace and security, if these efforts are not pursued in the short, medium and long term in support of the peace process, the national policy to prevent and combat violent extremism and terrorism, the fight against impunity for serious crimes and access to justice for the people of Mali. A new page is being turned, presenting Mali with the opportunity to fulfil its commitment outside the peacekeeping framework.

For the Malian authorities, country team partners and technical and financial partners, **options and opportunities in terms of cross-cutting issues** could include the following areas:

1. **The parties' commitment to implementing the provisions of the Peace Agreement, particularly those relating to the rule of law, justice and reconciliation, will continue to be crucial to lasting peace and security in Mali, as will the monitoring and advocacy role of the United Nations system**, including the United Nations Office for West Africa and the Sahel (UNOWAS), upon the Mission's departure.
2. With the withdrawal of MINUSMA and the implementation of the Programme in support of the stabilization of Mali by strengthening the rule of law (PROSMED) by the country team – essentially the United Nations Development Programme (UNDP), UN-Women and the United Nations Office on Drugs and Crime (UNODC) – there is an **opportunity to further regionalize the support available for justice and to encourage the exchange of best practices with the countries of the Sahel and the subregion, and build linkages with other relevant sectoral policies**, including in the fields of security, health and the promotion of the rights of women and children, through the humanitarian-development-peace nexus approach.
3. Through joint implementation by the country team, greater emphasis could be placed on **articulating the contribution** of support from the various United Nations entities **to the implementation of the National Action Plan for the implementation of Security Council resolution 1325 (2000)** and subsequent resolutions on the WPS agenda in Mali for the period 2019–2023. This is due for renewal in 2024 and could

explicitly include and incorporate the joint communiqué on conflict-related sexual violence, which was concluded between the United Nations and the Republic of Mali on 1 March 2019. On this last point, collaboration could be maintained with the United Nations Team of Experts on the Rule of Law and Sexual Violence in Conflict via the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict.

For the Malian authorities, country team partners and technical and financial partners, **options and opportunities in terms of specific thematic issues** could include the following areas:

4. Consider developing a **multisectoral national policy for the restoration and extension of State authority**, taking into account the security situation, **accompanied by an action plan and the establishment of an interministerial committee** to coordinate its implementation, **as well as incentives to promote the presence of justice and corrections authorities, including measures to recruit more female personnel**, a personnel rotation plan, and temporary measures to enable minimum justice services in the centre and northern regions.
5. **Continue efforts to adopt, disseminate, publicize and implement the revised texts** of the Criminal Code and the Code of Criminal Procedure; the draft legislation on the role of cadis and traditional authorities in the delivery of justice; the two laws on trafficking in persons and migrant smuggling, and the draft code of military justice; as well as the **effective implementation of constructive complementarity between formal and traditional justice mechanisms**.
6. Pursue efforts to **implement the national policy to prevent and combat violent extremism and terrorism, including its road map for prison settings**.
7. Continue efforts to **combat impunity for serious crimes**, in particular crimes linked to terrorism, transnational organized crime, international crimes, including conflict-related sexual violence, and follow up on prosecutions and trials for crimes committed against MINUSMA personnel, in accordance with Security Council resolution 2589 (2021), with **targeted technical and financial support from partners**. In this context, promote a gender-sensitive approach based on the rights of victims and survivors, including on issues of protection, participation and reparation; and ensure the dissemination, ownership and **implementation of circular No. 644/MJDH-SG of 12 September 2022 determining the criminal justice policy and the prosecution strategy**. In this respect, collaboration could be maintained through between the United Nations system in Mali and the Office of Rule of Law and Security Institutions (OROLSI) through the Global Focal Point for the Rule of Law (GFP), including JCSC, with a view to providing targeted and punctual support, as needed.