



January 2014

UNHCR POSITION ON RETURNS TO MALI - UPDATE I

1. This position supersedes UNHCR's May 2012 *Position on Returns to Mali*.¹

Background and recent developments

2. Following violence, hostilities, human rights violations and a rapidly deteriorating humanitarian situation in the northern part of Mali² since mid-January 2012, large numbers of Malians fled abroad or were displaced internally. As of the end of October 2013, UNHCR and partners continued to address the needs of 169,291 Malian refugees in Algeria, Burkina Faso, Mauritania and Niger. The estimated number of internally displaced persons (IDPs) inside Mali is 283,726 according to the Malian Commission of Population and Movements.³
3. On the 18th of June 2013, the Government of Mali, the "Mouvement National de Liberation de l'Azawad (MNLA)" and the High Council for the Unity of Azawad signed a preliminary peace agreement in Ouagadougou, Burkina Faso, that provided for an immediate ceasefire, the return of the Malian army and a gradual re-establishment of government institutions in the Kidal region. This development was welcomed as an important step in the context of a political dialogue between the various rebel groups and the government.⁴
4. The establishment of the United Nations Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) by Security Council resolution 2100 of 25 April 2013⁵ was an equally important development. In July 2013, the African-led International Support Mission in Mali (AFISMA) was re-hatted to MINUSMA.⁶ The latter's mandate is to support the political

¹ UNHCR, *Position on Returns to Mali*, 7 May 2012, <http://www.refworld.org/docid/4fa6c5262.html>.

² The northern part of Mali includes the provinces Timbuktu, Kidal and Gao.

³ Figures available to UNHCR. See: UNHCR, *Situation au Mali : Réfugiés et Personnes déplacées interne au Mali*, 20 November 2013, <http://www.refworld.org/docid/529df07c4.html>. Further updates will also be made available on <http://data.unhcr.org/malisituation>.

⁴ UN Secretary-General, *Statement Attributable to the Spokesperson for the Secretary-General on the Signing of Mali Peace Agreement*, 18 June 2013, <http://www.un.org/sg/statements/?nid=6914>.

⁵ UN Security Council, *Resolution 2100 (2013) Adopted by the Security Council at its 6952nd meeting, S/RES/2100 (2013)*, 25 April 2013, http://www.un.org/en/peacekeeping/missions/minusma/documents/mali%202100_E.pdf.

⁶ See e.g. BBC News, *UN's Mali Peace Force Begins Operations*, 1 July 2013, <http://www.bbc.co.uk/news/world-africa-23125615>.

process and carry out a number of security-related stabilization tasks with a focus on major population centres and lines of communication, including the protection of civilians, human rights monitoring and the creation of conditions for the provision of humanitarian assistance and the return of displaced persons.⁷

5. The Malian Presidential elections on 28 July and the run-off on 11 August 2013, in which UNHCR supported Malian refugees to cast their vote out-of-country,⁸ were generally considered successful⁹ and a positive element in the process towards reconciliation and normalization.¹⁰ Legislative elections, held in two rounds in November and December 2013, further consolidated this trend.¹¹
6. In the context of improvements in the political and security situation,¹² spontaneous returns of groups of refugees from neighbouring countries have been taking place since April 2013, although the overall numbers are not known.¹³ Returns of refugees – as well as of internally displaced persons – are occurring mainly to areas in the Timbuktu and Gao regions.¹⁴ UNHCR is preparing for the facilitation of returns of Malian refugees currently hosted in Algeria, Burkina Faso, Mauritania and Niger who wish to return home.

Current situation in northern Mali

7. However, it should be noted that despite spontaneous returns to this region during the last six months, particularly Timbuktu and Gao provinces, the situation in the north remains volatile. Security incidents and human rights violations, including reprisals against returnees and others, continue to be reported.¹⁵ Several attacks have confirmed the

⁷ For details, see MINUSMA, *United Nations Multidimensional Integrated Stabilization Mission in Mali*, <http://www.un.org/en/peacekeeping/missions/minusma/background.shtml> (undated; accessed on 28 October 2013).

⁸ UNHCR, *Mali Situation Update No. 20, June & July 2013*, <http://data.unhcr.org/SahelSituation>.

⁹ Mission d'Observation électorale de l'Union européenne au Mali, *Rapport Final – Élection Présidentielle 2013, 28 juillet et 11 août 2013*, http://www.eueom.eu/files/pressreleases/other/RAPPORT-FINALANNEXESA-F_MOE-UE-MALI-2013-lection-prsidentielle_fr2.pdf.

¹⁰ UN Secretary-General, *Secretary-General Congratulates Malians on Successful Polling, Boubacar Keïta on Election as President, Reiterates Commitment to Country's Reconciliation*, SG/SM/15217, AFR/2679, 15 August 2013, <http://www.un.org/News/Press/docs/2013/sgsm15217.doc.htm>.

¹¹ See: U.S. Department of State, *Press statement: Mali Legislative Elections*, 25 November 2013, <http://www.state.gov/secretary/remarks/2013/11/218059.htm>; see also: African Press Organization, *Malians Vote in Run-off Legislative Elections*, 16 December 2013, <http://appablog.wordpress.com/2013/12/16/malians-vote-in-run-off-legislative-elections/>.

¹² See for a general overview of security and political developments UN Security Council, *Report of the Secretary-General on the Situation in Mali*, /2013/582, 1 October 2013, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/2013/582.

¹³ Mauritania has confirmed the return of 1,123 refugees. Intention return surveys are under way in Burkina Faso and Niger. Niger has confirmed that, so far, 6,000 refugees have indicated that they intend to return. Information available to UNHCR.

¹⁴ Information available to UNHCR.

¹⁵ See e.g. UN News Service, *Ban and Security Council Condemn Deadly Attack on UN, Malian Forces*, 14 December 2013, <http://www.refworld.org/docid/52b016bf4.html>; UN News Service, *Mali: UN Mission Calls for Restraint, Return to Negotiations after Clash in Kidal*, 29 November 2013, <http://www.refworld.org/docid/529db1bc4.html>; Integrated Regional Information Networks (IRIN), *Insecurity Still Engulfs Northern Mali, Hampering Humanitarian Effort*, 26 November 2013, <http://www.refworld.org/docid/529c8c26130.html>; IRIN, *Mali Conflict Inflames Ethnic Tensions*, 23 October 2013, <http://www.refworld.org/docid/526e514b4.html>; UN News Service, *Secretary-General Condemns Attack Resulting in Death of UN Peacekeepers in Mali*, 23 October 2013, <http://www.refworld.org/docid/527266cc4.html>; RFI, *Mali: un notable touareg battu à mort près de Tombouctou*, 13 August 2013, <http://www.rfi.fr/afrique/20130812-mali-notalbe-touareg-battu-mort-pres-tombouctou>; BBC News, *Mali Unrest: Kidal's Deadly Race Riots*, 19 July 2013, <http://www.bbc.co.uk/news/world-africa-23379122>.

continued need for extreme vigilance.¹⁶ A number of so-called “auto-defense militias”, which were formed in 2012 in opposition to the separatist and/or Islamist armed groups and function outside state-controlled security structures, remain active in the northern part of Mali.¹⁷ Some of these militias are reported to have a record of human rights abuses.¹⁸ In addition, economic and social conditions in certain areas in northern Mali are yet to return to their pre-conflict state. Infrastructure and access to basic services are yet to be fully restored, hence the continuous reliance on humanitarian assistance by the local population.¹⁹ UNHCR therefore considers the situation as not yet conducive for sustainable returns in safety and dignity.

8. The security in and around Kidal is of specific concern, with the presence of a multitude of military actors including the Malian and French armies, MINUSMA contingents and MNLA troops. The latter are confined to their barracks but not disarmed. No law enforcement mechanisms are operational in this area.²⁰

UNHCR position regarding forcible returns

9. In light of the normalization in the southern part of Mali,²¹ UNHCR no longer calls for a suspension of forcible returns to this part of the country of persons who had their claim for international protection rejected on the merits in fair procedures. For any person from southern Mali who may still seek international protection for more individualized reasons, UNHCR considers that their claim for international protection needs to be assessed in accordance with established asylum procedures, taking into account the individual circumstances of the case.
10. In many parts of northern Mali, the security situation remains volatile. A risk of reprisal attacks may exist for persons who return from abroad (refugee returnees) or after having been internally displaced (IDP returnees). In addition, social and economic conditions have not yet been restored to pre-conflict levels. UNHCR continues to call for a suspension of forcible returns to the northern part of the country. In addition, UNHCR generally considers that for persons originating from northern Mali an internal flight or relocation alternative to the southern part of the country is not reasonable, as many of these individuals would end up in a situation of internal displacement.²²

¹⁶ See previous footnote for examples of recently reported security incidents.

¹⁷ The background and role of these self-defense militias is described in the following publication: Jamestown Foundation, *Mali's Self-Defense Militias Take the Reconquest of the North into their Own Hands*, 10 August 2012, <http://www.refworld.org/docid/5050583a2.html>.

¹⁸ Jamestown Foundation, *Mali's Self-Defense Militias Take the Reconquest of the North into their Own Hands*, 10 August 2012, <http://www.refworld.org/docid/5050583a2.html>.

¹⁹ See for example: European Commission, *Humanitarian Implementation Plan (HIP) Mali (ECHO/MLI/BUD/2013/91000) Last update: 29/11/13 Version 4*, 29 November 2013, <http://reliefweb.int/report/mali/humanitarian-implementation-plan-hip-mali-echomlibud201391000-last-update-291113-version>.

²⁰ See for example BBC, *Mali Unrest: Kidal Attack Kills Two UN Peacekeepers*, 14 December 2013, <http://www.bbc.co.uk/news/world-africa-25379618>; France 24, *Kidal, A Lawless Outpost in Mali's Desert North*, 4 November 2013, <http://www.france24.com/en/mali-kidal-security-mnla-ansar-dine-mujao-serval-minusma-army-dupont-verlon/>.

²¹ The southern part of Mali includes the provinces Kayes, Sikasso, Segou, Mopti, Koulikoro and Bamako (Capital district).

²² In order for an IFA/IRA to be *relevant*, the proposed area of relocation must be practically, safely and legally accessible to the individual. If the individual fears persecution at the hand of the State, an IFA/IRA is presumed not to be available. In case of feared persecution at the hands of a non-State agent, the capability to pursue the individual in the proposed area of

11. UNHCR considers that the current situation in Mali does not warrant cessation of refugee status on the basis of Article 1C(5) of the 1951 Convention.

UNHCR
January 2014

relocation would need to be considered. Furthermore, if persons from the affected states would not be able to lead “a relatively normal life” in the proposed area of internal relocation, for example if they were to find themselves in a situation of internal displacement, the proposed alternative flight or relocation alternative would not be *reasonable*. Other elements to take into account when considering reasonableness of a proposed IFA/IRA include the impact of past persecution, safety and security and the respect for human rights in the proposed relocation area, and the possibility for the individual to make a living there. For details on IFA/IRA and the reasonableness test, see UNHCR, *Guidelines on International Protection No. 4: "Internal Flight or Relocation Alternative" Within the Context of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees*, 23 July 2003, HCR/GIP/03/04, <http://www.refworld.org/docid/3f2791a44.html>.