

U4 Helpdesk Answer 2019:14

Burkina Faso: Overview of corruption and anti-corruption

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Date: 04 November 2019

Query

Please provide an overview the current situation regarding corruption and anti-corruption in Burkina Faso.

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Overview of corruption in Burkina Faso

Background

The Republic of Burkina Faso is a landlocked country in West Africa, belonging to the Sahel region of Africa. The country gained independence from France in 1960 as the Republic of Upper Volta, experiencing multiple military coups until 1983. In 1983, then prime minister and army captain Thomas Sankara staged a coup with support from the military. Sankara undertook ambitious socio-economic reform, nationalising natural resource extraction and negotiating with international financial institutions to reduce debt pressure. Crucially, Sankara's rhetoric focused heavily on anti-corruption principles, going so far as renaming the country Burkina Faso (land of honest/incorruptible men) (Hagberg 2015).

In 1987, the regime was overthrown by military general Compaoré, who undertook a gradual democratisation of the country through a 1991 constitutional reform that guaranteed multi-party elections and began a process of decentralisation (Hilgers and Mazzocchetti 2010). In 1991, Compaoré was the only candidate for election,

Main points

- Bribery is present at all levels of the Burkinabé state and business sector, but perceptions of corruption are below the average in Africa.
- Various sectors suffer from corruption in Burkina Faso, but the available literature focuses on corruption in the extractive industries, public service provision in health and education, and the judiciary.
- Popular protests in 2014 led to the resignation of the president and subsequent anti-corruption reforms.
- More than half of Burkinabé respondents to the 2019 GCB believe that corruption has decreased in the past year and that the current government is doing a good job countering corruption.

winning with a low 25% participation (Bertelsmann Stiftung 2018; Bonnecase 2015).

Through networks of clientelism and patronage (Santiso and Loada 2003) and the deployment of harsh military repression of opposition movements, as well as amendments to the

constitutio, Compaoré managed to stay in power until 2014 (Bonnecase 2015).

In October 2014, following news of Compaore's intention to once again reform the constitution to abolish term limits, popular protests supported by military groups led to Compaoré's resignation and to the establishment of a national democratic council. In 2015, a coup by military guards loyal to Compaoré failed due to massive street protests and intervention by other troops (Asante 2015). Fair and free elections were held later that year, where Christian Kaboré was elected, the first civilian to hold the post of president in the history of the country (Bertelsmann Stiftung 2018).

Since Kaboré's election, the country has been gripped by rising security threats, with over 400 violent incidents reported since 2016 and around a third of the territory no longer under state control (Le Monde 2019). While the current administration accuses Compaoré and religious extremists of orchestrating the violence, observers point to a range of domestic factors driving people into the arms of insurgent groups, including bad governance, injustice, and human rights abuses on the part of the military (Le Monde 2019). Studies indicate that many officials appointed to posts in the north of the country have "become rich on the proceeds of trafficking, corruption and racketeering", which has generated considerable local grievances and fuelled conflict (International Crisis Group 2017). In addition, the head of the Autorité Supérieure de Contrôle d'Etat et de Lutte contre la Corruption identifies growing corruption, particularly with regards to the black box that is defence spending, as crippling the state's ability to respond effectively to these challenges (Le Monde 2019).

Violence has escalated in 2019, as seven to nine different armed groups contest the central

government's authority in the north of the country. As the number of internally displaced persons has risen from 87,000 in February 2019 to 500,000 in October, Western officials reportedly fear the total collapse of state authority (Reuters 2019; Le Monde 2019).

Burkina Faso is a parliamentary democracy with a president as head of state and a prime minister as head of government. The current 1998 constitution establishes a decentralised system of appointed regional governments and communes with limited fiscal autonomy, governed by local mayors and councils (Dafflon and Madies 2012), as well as a special administrative government for Ouagadougou, the national capital. Freedom House considers Burkina Faso to be a partly free democracy (Freedom House 2019), and 89% of Burkinabé respondents to the 2017 Afrobarometer survey consider the country to be a democracy, though 25% of respondents cite major problems (Afrobarometer 2017).

Burkina Faso is considered one of the least economically developed countries in the world: with a GDP per capita at only US\$1,900 (CIA World Factbook 2019). The average life expectancy is around 60 years (World Bank 2019), and the country has a human development index score of 0.402, among the lowest in the world (Bertelsmann Stiftung 2018). Approximately 76.4% of the population lives under the poverty line, and 3% of the working-age population is unemployed (Bertelsmann Stiftung 2018). Inequality is significant in Burkina Faso, as shown by the country's 2017 Gini index score of 35.3. The Burkinabé economy is dominated by ore and mineral mining and agriculture, particularly cotton (CIA World Factbook 2019).

Extent of corruption

International surveys on corruption show that corruption in Burkina Faso is a widespread problem. Burkina Faso ranks 78 out of 180 countries in the 2018 Corruption Perceptions Index, with a score of 41, slightly below the global average of 43, but above the average score for sub-Saharan Africa of 32 (Transparency International 2019a). The 2017 Mo Ibrahim Index of African Governance reflects a similar situation, giving Burkina Faso a score of 57.1 out of 100, above the African average of 49.9 (Mo Ibrahim Foundation 2018). Finally, the World Governance Indicators shows that Burkina Faso is in the 53 percentile rank for control of corruption, a notable increase from the 38.5 percentile rank held in 2014 (Kaufmann and Kray 2018).

These perceptions tend to correlate to national opinion surveys on corruption. In the 2017 Afrobarometer survey, 30% of respondents from Burkina Faso believe all or most government officials to be corrupt (Afrobarometer 2017). It is important to note, however, that the same Afrobarometer survey shows that 53% of respondents believe corruption to have decreased in the last year, a result echoed by the 2019 Global Corruption Barometer (GCB), where 54% of respondents believed corruption to have decreased in the last 12 months.

Bribery is present at all levels of the Burkinabé state and business sector. In the 2019 GCB, at least 16% of respondents in Burkina Faso stated that they had paid a bribe in some form, below the 28% average in the rest of Africa (Transparency International 2019b). The results of the 2017 Afrobarometer show a lower rate of bribery, as just 2% of respondents claimed to have bribed officials to obtain documents they needed, 5% bribed to get medical attention at a public hospital or clinic, and 2% paid a bribe or did a favour for a government

official to access public services (Afrobarometer 2017). Réseau National de Lutte Anti-Corruption (REN-LAC), a local civil society organisation, also undertook a national survey on corruption in 2017 and found 39.3% of respondents had paid a bribe in the last year (REN-LAC 2017).

The private sector is also affected by corruption. The latest (2009) Enterprise Survey reported that 9.7% of enterprises surveyed considered corruption to be a major constraint for their businesses. Meanwhile, 9.8% of firms experienced a bribe request, and 18.8% of the firms surveyed report being expected to give gifts to win government contracts (World Bank 2018a). In the World Economic Forum's 2018 Global Competitiveness Index, specifically the corruption and ethics indicator (which measures bribery incidence among businesses, solvency and transparency of public funds and corruption perceptions among business), Burkina Faso has a score of 42, ranking it number 63 out of 140 countries in the Index (World Economic Forum 2018).

Forms of corruption

Patronage and bureaucratic corruption

Before the 2014 protests, the executive branch of government controlled most appointments of civil servants and controlled the remuneration and transfer of resources to local governments (Hagberg et al. 2017). The use of strategic, clientelistic hiring practices and petty corruption at local level was a key electoral tactic that Compaoré used to stay in power (Hilgers and Loada 2013). Cases of corruption of high-level officials were rarely brought forward during Compaoré's rule (Akouwerabou and Bako 2015), and when they were, it was generally before elections to ramp up support for the government, as was the case of the

2011 corruption case brought against the head of Burkina Faso's customs ministry (Salisbury 2018).

In 2004, a public accounts court audit showed that 151 retired civil servants were still receiving their salaries, amounting to US\$860,000. The Ministry of Finance claimed ignorance about these retirements, deepening the debate about the ministry's capacity to control its accounts (Transparency International and Damiba 2006).

Since 2014, reforms have been made to professionalise and incorporate merit into government appointments and hiring. Despite advances in this area, observers are not overly optimistic as regards efforts to curb corruption in the public administration, given that the well-established patronage and clientelist networks forged under Compaoré still persist (Hagberg et al. 2017; Bonnecase 2015). These networks originated during the decentralisation process in the 1990s, as local leaders, especially in rural areas, were co-opted by Compaoré's faction via the selective transfer of administrative powers and public services (Odaro 2012). This has led to the general perception that local governments rely on the largesse dispensed by political parties' war chests to maintain support and clientelist practices (Hagberg et al. 2017).

In 2014, shortly after the protests, massive interventions were undertaken in most ministries, as well as in local governments, where special delegations were assigned to assume administrative roles until the new local governments could be elected in 2016. The transitional government further cracked down on exiting mayors, charging many with financial crimes and corruption (Hagberg et al. 2017). The special delegations, in many cases, were likewise accused by local populations of corruption, particularly with financing political parties with

local funds ahead of the 2015 elections (Hagberg et al. 2017; Lierl 2017).

In 2016, the Higher Authority for State Control and the Fight Against Corruption (ASCE-LC) published a report where it found many instances of patronage and corrupt adjudication of public service employment and public contracts by the transitional government (Bertelsmann Stiftung 2018). Various civil society organisations were highly critical of the adjudication of public offices by the transitional government, noting many instances of vote buying and nepotism (Hagberg et al. 2017).

By 2019, the government hopes that 50% of all government hirings will be carried out through a digital platform to avoid nepotism and cronyism in the civil service (Open Government Partnership 2019).

In terms of petty corruption in public service delivery, data from the 2019 Global Corruption Barometer suggests that after police officers (21%), public officials working in utilities agencies are the most likely to solicit bribes from citizens (12%), followed by officials providing documents (11%), teachers (9%) and health workers (5%) (Transparency International 2019b).

Private sector corruption and tax evasion

With the return to multi-party democracy in the early 1990s, there was an explosion of investment by private enterprises in public procurement and resource extraction. However, despite low fiscal pressure and the low cost of permit and licence acquisition relative to its neighbours (Grimm et al. 2011), informal enterprises make up a significant percentage of the local economy, providing 74.3% of employment in Burkina Faso (Akouwerabou and Bako 2015).

Tax enforcement is low and unevenly applied, and corruption in the tax collection service is significant according to REN-LAC (2017). Coupled with tax evasion, the business culture in Burkina Faso is also known to be open to corruption to avoid state controls. Surveys show that around 56% of Burkinabé are sympathetic to tax avoidance when it comes to operating a business. For example, a REN-LAC survey of customs agency workers, inspectors and directors found that 22.6% of respondents had been offered a bribe in the last 12 months, almost a third of which report having been offered bribes at least once a week (REN-LAC 2015). Unsurprisingly, the 2019 GCB shows that Burkinabé respondents view business executives as the most corrupt group in the country (Transparency International 2019b), while in the 2017 Afrobarometer, 39% of Burkinabé respondents believe businesspeople to be corrupt.

According to Global Financial Integrity (2019), due to an estimated trade misinvoicing rate of 26.2%, Burkina Faso loses an average of US\$620 million annually in the form of illicit financial outflows. Notably, Hagberg and other academics attribute the recent rise of violent extremism in the country to illicit financial flows and the lack of control of trade in the northern region of the country (Hagberg et al. 2017; Zeiger et al. 2015). UNODC (2018a) reports, for instance, that in 2018 potential foreign fighters were intercepted with US\$800,000 in cash, 6.4 kg of heroin and 1 kg of cocaine. The International Crisis Group (2017) argues that much of the current violence in the north is not necessarily linked to religious extremism; in fact, many of those who have taken up arms were already involved in crime, while others “may resort to violence to defend socio-economic and financial interests or because of local grievances.” Further complicating matters is the fact that the borders between Burkina Faso and its neighbours are highly porous; a bribe of between 1,000 and 3,000

CFA francs to the police allows anyone – even those without identity papers – to cross into the country, which observers state “facilitates terrorism” (Deutsche Welle 2019).

In 2018, a local media investigation found evidence in the Panama Papers document dump of the use of offshore, shell companies by various notable businessmen from Burkina Faso. The KANIS case, named after the company allegedly participating in tax evasion, was a major scandal to hit the new Kamburé presidency as some government officials were allegedly linked to the company (Keita 2018).

Public financial management

Public financial management has seen gradual improvements in Burkina Faso since the first laws reforming national accounting practices were introduced in the mid-1990s (Wickberg and Martini 2014). Subsequent gradual changes in the early 2000s were observed to have had a positive effect on oversight and control of government finances, though public financial management continued to be in a precarious state (Delavallade 2007).

More recent assessments of budget transparency and control show that Burkina Faso is still deficient in all areas. The 2017 Open Budget assessment gives Burkina Faso a score of 26 out of 100 for budget, which reveals significant backsliding from its 2015 score of 43 (International Budget Partnership 2017). The survey also shows that information of budget execution is rare and seldom detailed. A 2016 ASCE report noted that 55% of government expenditures were listed as “exceptional procedures” (Bertelsmann Stiftung 2018).

Patronage and bid-fixing are common in public procurement and when cases of these corrupt acts are discovered, there is rarely redress or sanctions

(REN-LAC 2011; Akouwerabou and Bako 2015). For example, Taylor (2012) comments on the case of a local businessperson who allegedly rigged bids and provided fraudulent services, was investigated and later sanctioned and blacklisted by the World Bank, yet continues to be a public service provider. Between 2008 and 2012, the ASCE-LC received more than 1,600 complaints about unfair adjudication of public contracts of which, between 30% and 50% were considered actionable by the ASCE-LC (Akouwerabou and Bako 2015).

Corruption by sector

While various sectors suffer from corruption in Burkina Faso, the available literature on corruption in Burkina Faso places particular interest on corruption surrounding extractive industries as well as on corruption in public service provision in health, education and the judiciary.

Extractive industries

As stated previously, the Burkinabé economy is largely powered by ore and mineral extraction and agriculture. Extractive industries make up 75% of the country's exports, and employ roughly 10% of the nation's workers (CIA World Factbook 2019). This dependence on extractive industries as well as the profits that can be earned through these enterprises create fertile ground for corruption.

As mining takes place largely in rural communities, away from large cities, mining operations fall under the jurisdictions of local governments. Weak institutional governance in local governance, as well as reduced transparency oversight by national authorities has led to numerous instances of bribery, extortion and rent-seeking by municipal authorities and mining companies (REN-LAC 2014). The Burkinabé government has been formally challenged several times in international courts and chambers of commerce for allegedly

conceding licences in exchange for bribes or kick-backs. (REN-LAC 2014). Acquiring land, especially in the mineral rich Dori region, has become especially problematic due to a broad network of legal brokers who bribe officials to block land purchases of competitors and then sell them the same land (Joslyn 2019).

Tax evasion is also a serious concern in the extractive industries sector as there is little uniformity in tax rates due to the opacity of the public tax system (Kini 2015; Shaxson 2018).

A 2013 survey of mineworkers by REN-LAC found that 58% of them had experienced a corrupt act that had occurred on the site they were working (REN-LAC 2014). The most common occurrences of corruption reported are "pots-de-vin" (bribes) and undue commissions to local inspectors to overlook worker health and safety standards (Kini 2015; REN-LAC 2014).

Despite all these issues, the last Extractive Industries Transparency Initiative (EITI) evaluation of Burkina Faso conducted in 2017 certified the country as compliant. The assessment's key recommendations included ensuring the full disclosure of mining, oil and gas licences grants, the publication of application dates and geographic coordinates of relevant activities, greater contract transparency in the mining sector and the full disclosure of official figures for the volume and value of exports of mining enterprises (ITIE-BF 2019).

Health service delivery

Burkina Faso's health provision faces serious challenges from corruption and mismanagement. Odaro (2012) notes that public service quality saw a notable drop in the early 1990s due to a wave of privatisations undertaken with minimal control or oversight. A 2003 report by the National Ethics

Committee found that most social public services were highly corrupt, inefficient and lacked professionalism (Transparency International and Damiba 2006). Efforts to improve public services via decentralisation likewise met with mixed results as responsibilities were devolved to local government but devolution of resources to these governments was uneven (Brockhaus et al. 2012; Ministère de Santé and WHO 2017).

The quality of the country's health sector is low relative to other sub-Saharan African countries, with low life expectancy (Bertelsmann Stiftung 2018), high mortality rates and infant mortality rates (Ministère de la Santé and WHO 2017). This is primarily due to inadequate funding, years of mismanagement and disregard, and because of entrenched cultures of rent-seeking (Odaro 2012).

In their analysis of the Burkinabé health services provided by religious organisations, Gemignani, Tsimpo and Wodon (2014) note that the public health sector charges patients for medical supplies and care (a product of 1990s liberalisation of the health sector), but due to rent-seeking and alleged corruption, prices are inflated and become inaccessible to vulnerable patients.

A 2018 study by REN-LAC found that the health sector saw the widespread practices of selling free medicine to patients, the theft of prescription drugs and clandestine surgical operations (REN-LAC 2019a). The report also registered multiple complaints of solicitation of bribes by health professionals, noting that of 172 patients surveyed, approximately 26% had been asked for a bribe (REN-LAC 2018). The report also featured reports by health sector whistleblowers who had come forward to denounce "ghost positions", of posts that were not filled, yet the salaries were charged.

Since 2014, there has been a concerted effort by the government to improve health services in the

country, raising health budgets and providing funds for improving health infrastructure, as well as creating plans to counter corruption in the health sector. In 2018, the government set up various committees for citizen monitoring of service delivery (Comités de Suivi-citoyén des Prestations de service, CSCPS) to better understand governance problems in the health sector, plus committees to investigate and sanction racketeering in university hospital centres and regional hospital centres (Open Government Partnership 2019). Despite these advances, the Ministry of Health website contains very little information about these programmes and publishes minimal or outdated information regarding health statistics (Open Government Partnership 2019).

Corruption of the judiciary and law enforcement

Judicial corruption is considered to be a serious problem in Burkina Faso in most of the available literature. Judicial corruption has historically been linked to lack of judicial independence from the executive power during the rule of Compaoré. Corruption also stems from "an overall system that is inefficient, poorly trained and poorly equipped" (Bertelsmann Stiftung 2018). The executive branch has the power to appoint, promote, transfer and discipline judges and prosecutors. This influence was historically abused by the Compaoré regime to manipulate key court decisions (Transparency International and Damiba 2006). For example, in 2006, a high-profile case of the murder of a local journalist, Norberto Zongo, by a presidential guard was thrown out by judges despite massive protests.

In another, more extreme case, judge Salifou Nébié, who in early 2014 had ruled against reforming the 1998 constitution, was killed 30km west of Ouagadougou in suspicious circumstances,

which media organisations considered retribution for his ruling (The World Today 2015; DroitLibreTV 2014)

In 2005, a media exposé about corruption in the judiciary, including the soliciting of bribes, embezzlement of court funds and client extortion, led to the establishment of an ad hoc judicial commission to investigate the matter. The commission investigated the two largest court systems and was able to identify “more than 30 cases of ‘questionable practices’ and ‘suspicious behaviour’ implicating judges, lawyers, police officers, intermediaries or ‘touts’, and other users of the judicial system, including accounting firms and liquidators” (Transparency International and Damiba 2006). Despite the report, the judiciary did not take action to redress the situation, though the national bar association expelled lawyers who had solicited bribes and extorted clients and, in 2006, the judicial branch adopted a code of conduct for magistrates (Code de déontologie des magistrats) to improve access to justice, strengthen the institution’s integrity and fight judicial corruption. This code is targeted at magistrates, judicial staff and users, and comprises chapters on judicial independence, impartiality, integrity, freedom of expression, judicial competence and incompatibilities (Wickberg 2014)

Since 2014, initiatives have been taken to improve accountability and transparency in the public sector but, crucially, allegedly corrupt judges and prosecutors from the Compaoré era hold enormous power (Hilgers and Loada 2013).

The 2019 GCB showed that 31% of respondents believed the judiciary to be corrupt or extremely corrupt. Likewise, 29% of the 2017 Afrobarometer survey respondents believed most or all judges and magistrates to be corrupt (Afrobarometer 2017).

In terms of law enforcement, the police in the country is divided between national gendarmes and municipal police forces. REN-LAC surveys show a high rate of bribery solicitation by local-level police. In 2017, the organisation considered local police the most corrupt institution in the country (REN-LAC 2017), while the 2019 GCB found that 29% of respondents believed the police to be corrupt, with 21% of those having reported bribes, paying them to police (Transparency International 2019b).

While bribe solicitation from gendarmes and army units reported to REN-LAC is considerably lower, there is a notorious lack of transparency and accountability in the armed forces. In Transparency International UK’s Defence Governance Index, Burkina Faso has a low grade of F (on a Scale of A to F), with major problems related to accountability of the armed forces to the government and in relation to procurement and use of resources (Transparency International UK 2015). Furthermore, some scholars and organisations working in Burkina Faso note that the military has historically been, and continues to be, active in national politics, putting the current state of democracy at risk of coups or pressure from unelected military groups (Hagberg et al 2017, Bonneau 2015).

Legal and institutional framework

Overview and background

Burkina Faso’s current legal and institutional framework for countering corruption cannot be understood without understanding the impact the 2014 popular uprising and subsequent resignation of Compaoré. The protests were provoked by Compaoré’s attempt to reform the 1998 constitution to allow for indefinite re-election (Asante 2015). Inspired in part by protests in

Senegal following a similar situation in that country (The World Today 2015), in Burkina Faso, various civil society and youth movements, trade unions, opposition political parties and members of the military took to the streets under the slogan “enough is enough” and “nothing will be as it was”. Observers of the protests noted that countering corruption was a key tenet of the protests and conditioned future government actions. Youth activists appropriated the figure of former president Sankara as a figure for the coming anti-corruption revolution (Hagberg 2015).

Following Compaoré’s resignation, a transitional national democratic council took power and spearheaded new anti-corruption, transparency and accountability reforms ahead of the 2015 elections, including a new anti-corruption law which integrates new corruption crimes and punishments, establishes a framework to define and disclose conflicts of interest, and provides new protections for whistleblowers, as well as a new access to public information law. These reforms were carried out in a context of greater public participation in politics as well as public demonstrations for and against policies, which became collectively referred to as “ruecratie” (street-ocracy, in English) (Hagberg 2015).

The context of the 2014 uprising and the subsequent reforms explain the recent flurry of anti-corruption activity as well as the transcendent nature of anti-corruption topics throughout the political spectrum (Tagnan 2019; Chayes 2018; Freedom House 2019). More than half (54%) of Burkinabé respondents to the GCB believe that corruption has decreased in the past year, and 51% believe the government is doing a good job countering corruption (Transparency International 2019b). Similarly, 53% of Burkinabé respondents of the 2017 Afrobarometer survey believe corruption to be decreasing (Afrobarometer 2017). A REN-LAC 2017 survey found that 36.6% of

respondents believed corruption to be decreasing (REN-LAC 2017).

International conventions

Burkina Faso has been party to the United Nations Convention against Corruption (UNCAC) since 2006 and to the African Union Convention on Preventing and Combating Corruption since 2005. In 2010, Burkina Faso also ratified the African Charter on Democracy, Elections and Governance. As a member of the Economic Community of West African States (ECOWAS), Burkina Faso has adopted the 2001 ECOWAS Protocol on Democracy and Good Governance (Kabia 2017) as well as the 2001 ECOWAS Protocol on the Fight against Corruption. The country also ratified the OECD Convention to Combat Bribery in 2006.

Burkina Faso has been a member of EITI since 2013 and the Open Government Partnership since 2017.

Domestic legal framework

Criminalisation of corruption

Corruption, embezzlement, abuse of office, illicit enrichment, extortion and influence-peddling in the public sector and facilitation payments are criminalised under the penal code. In Burkina Faso, active and passive bribery is punishable with a fine and up to five years per corruption offence (OECD/African Development Bank 2012). Public employees are also mandated to denounce corruption if they experience or become aware of a corrupt act (Global Integrity 2018). Any public servants receiving a payment, gift or donation in return for performing a service, even if the service is due, is punished by two to five years imprisonment and fined twice the value received (Global Integrity 2018). Law N° 026-2006/AN prohibits and creates mechanisms to create and

control money laundering. Decree N° 2017-0049/PRES/PM/MINEFID also established that companies involved in bid-rigging or bribery of procurement officials would be barred for up to five years from participating in public procurement contracts.

Law N° 04-2015 / CNT, otherwise known as the anti-corruption law, was an important product of the transitional government's bid to appease popular support for anti-corruption reform. The law, based on model legislation promoted by the African Union, created a plethora of new economic and corruption crimes, established an asset declaration system, formally incorporated civil society actors to anti-corruption policy formulation, established harsher punishments for existing crimes and established a framework for international cooperation on corruption investigations. In its review of the law, the UNODC considered the legislation to be monumental in relation to previous corruption legislation in the country (UNODC 2018b).

Political party and campaign financing

There is currently a national system which finances electoral campaigns with public funds, specifically to parties who garnered at least 3% of the vote in a previous election (Trans-Saharan Elections Project 2012). The National political financing law, Law N° 008-2009/AN, does not obligate political parties to publish their political or campaign expenditures. Parties are required to justify expenditures from publicly ceded funds to the public accounts court (PAC), yet these reports are not published by the PAC. Failure to report expenditures to the PAC is penalised by Law N° 004-2015/CNT.

There is no requirement for political parties to publish private sources of funding or their amounts. There are no limits or restrictions to private sources of funding, nor are there limits to

anonymous or foreign donations (Institute for Democracy and Electoral Assistance 2018) Similarly, there are no spending limits related to political or campaign spending.

Vote buying is illegal under the current penal code (Institute for Democracy and Electoral Assistance 2018).

Access to public information

Law N° 051-2015/CNT establishes the right to access public information produced by government agencies at no cost to the person requesting the information. Nevertheless, observers note that public information requests are rarely replied to, and if they are responded to, the information given is either incomplete or erroneous (Global Integrity 2018). As of 2018, the government recognised that access to information was still not fully operational, and committed to a plan to undertake major reforms as part of its 2017-2019 (Open Government Partnership 2019).

Burkina Faso has also implemented an open data portal called the Burkina Faso Open Data Initiative (BODI), which aims to provide governance data to civil society, academics and citizens in general. While the initiative has been well received by international observers for its use of open formats and its high degree of accessibility (Bello et al. 2006), critics note that only a limited amount of government institutions currently provide and update datasets, and some of those that do only provide limited not-actionable information (Stoneman 2015). Due to these critiques posed through the Open Government Partnership, the government has partnered with civil society organisations and private data mining organisations to develop new datasets (Iglesias 2019).

Conflicts of interest and asset declaration

Article 13 of Law N° 04-2015/CNT establishes the mandatory submission of asset declarations for cabinet members though directors within the executive branch, legislators and members of the judiciary to be published in the Burkinabé government official bulletin. These asset declarations must be presented annually and within 30 days of assuming and leaving office. The ASCE-LC is responsible for the reception, control and publishing of these asset declarations (Global Integrity 2018). While regional authorities must also present asset declarations, local authorities and councillors are left out of the current regime. (Global Integrity 2018).

Conflicts of interest are addressed in Law N° 039-2016/AN and in Article 6 and 7 of Law N° 04-2015. Between them, the laws define conflicts of interest and specify that public servants cannot participate in state affairs where they have a direct conflict of interest, and may suffer sanctions if they should be discovered. In any case, conflicts should be declared should the situation arise (UNODC 2018b). Despite these stipulations, Burkinabé law does not establish the procedures to declare conflicts of interest, does not consider indirect conflicts of interest which may be known to the civil servant, and does not specify whether conflict of interest declarations should be made public (UNODC 2018b).

Finally, Burkina Faso does not have any restrictions on lobbyists or special interest group representatives from becoming public officials, nor does it restrict public employees from joining lobby firms or interest groups following their time in the public service (Global Integrity 2018).

Whistleblowing

Whistleblowing protection in Burkina Faso is limited to Law N° 04-2015/CNT, which establishes

basic protections from retaliation or punishment for experts or public officials who denounce corruption. The law also establishes fines for public officials who undertake retribution against whistleblowers and establishes a system of reparations for those whistleblowers who have suffered such retaliation (Global Integrity 2018).

The Ministry of Public Functions, Employment and Social Protection has recently launched a channel for users of public services, as well as government workers to present complaints to competent authorities that can investigate the matter (Open Government Partnership 2019).

A 2004 decree on police conduct entrenched citizens' right to denounce police abuse, including corruption, and established a protocol for such denunciations (Transparency International and Damiba 2006). As of 2016, the national human rights commission assumed the responsibility of receiving allegations of abuse of human rights from citizens and members of the police (Global Integrity 2018).

Institutional framework

Burkina Faso has several institutions responsible for investigating corruption and providing oversight for government institutions and processes.

Autorité Supérieure de Contrôle d'Etat et de Lutte contre la Corruption (ASCE-LC)

The Autorité Supérieure de Contrôle d'Etat et de Lutte contre la Corruption (Higher Authority for State Control and the Fight Against Corruption, ASCE-LC) established by law N° 04-2015/CNT as the national anti-corruption body of the country. The ASCE-LC is the successor to the Autorité Supérieure de Contrôle d'Etat, and has since integrated the High Commission for the Coordination of Anti-Corruption Activities, the

State Inspector General, and the National Commission for the Fight against Fraud.

The ASCE-LC is charged with, “prevention and fight against corruption and related offences to promote integrity and probity in the public, private and civil society sectors; control of public services to ensure compliance with laws and regulations as well as the optimisation of the performance of these services; and the coordination and supervision of the administrative bodies for the control and fight against corruption and related offences” (Ibriga 2018). The ASCE-LC is also responsible for receiving and controlling presentations of asset declarations by public officials (Global Integrity 2018).

The ASCE-LC experienced a significant strengthening with the passing of Organic Law N° 082-2015 /CNT. The law transferred the ASCE-LC from the office of the prime minister, and granted it autonomous constitutional status within the office of the presidency. An orientation council was established, comprising of three representatives from the public sector (from all three branches of government), the public sector (from chambers of commerce, the order of chartered accountants and the bar association) and civil society and media organisations. This orientation council provides guidance to the ASCE-LC as well as manages the process for vetting and selecting the comptroller general who runs the institution for a five year mandate after a formal appointment by the president.

Furthermore, Organic Law 082-2015/CNT also establishes that the budget cannot be less than 0.1% of the national budget, grants immunity to controller generals during their mandate, and allows the ASCE-LC to hire experts without going through other state hierarchies.

In 2015, the ASCE-LC opened itself to peer review by representatives of the UNODC and other West African anti-corruption agencies to adjudicate its operations relative to the Jakarta Principles of anti-corruption agencies (Ibriga 2018). Currently, the ASCE-LC operates with a permanent staff of 27 and a budget of US\$2.5 million.

The ASCE-LC has seen considerable improvement in its performance since 2015: in 2014, 10 investigations were brought forward to the judiciary, while 2017, more than 70 investigations were presented to the judiciary (Ibriga 2018).

Nevertheless, it takes an average of 10 months from the time the ASCE-LC receives a complaint to the moment that complaint is processed (Global Integrity 2018). In addition, a large number of corruption cases referred to the prosecutors are still pending years later, and ASCE-LC recommendations are often not followed by action (World Bank 2018b). To ameliorate the situation, in 2017 the government has launched a process to install special judicial units to deal with economic and financial crime, with the objective of speeding up casework (Jeune Afrique 2017).

The ASCE-LC is also reportedly constrained by the fact that the government has not yet adopted the implementing decrees that would allow the body to operate freely, meaning that in practice it is very difficult to recruit additional staff to verify asset declarations or investigate corruption cases (LibreInfo 2019).

Public accounts court (Cour des comptes)

Established in 2002, the public accounts court is responsible for auditing the government’s accounts and complements the functions of the ASCE-LC. It has historically been a major player in anti-corruption politics in the country. Despite its trajectory, recommendations posed by the PAC are

seldom incorporated and PAC reports are often not released to the public (Bertelsmann Stiftung 2018; Global Integrity 2018).

National Independent Electoral Commission (CENI)

Created in 1998, CENI is composed of 15 members, including representatives from civil society organisations and major political parties (Santiso and Loada 2003). As of 2000, it is monitored and controlled by the constitutional council, a body of the supreme court.

Both the CENI and the constitutional council were criticised in 2015 for failing to intervene after the transitional government amended the electoral code to exclude legislators who had supported Compaoré's latest constitutional reform from running for the 2015 elections (Hagberg et al. 2017), a policy which in part led to the 2015 coup attempt.

Authority for the Regulation of Public Procurement (Autorité de régulation de la commande publique, ARCOP)

The ARCOP was created in 2014 by Decree N° 2014-554/PRES/PM, replacing the Authority for the Regulation of Public Procurement (Autorité de Régulation des Marchés Publics, ARMP) and the Inspection General d'État which preceded it. The ARCOP is a permanent secretariat under the authority of the prime minister's office and is charged with controlling and directing public procurement and civil service hiring. While executive functions of the ARCOP fall under the jurisdiction of a secretary with a mandate of four years, it also operates under the directives of two tripartite councils composed of civil society, public sector and private sector representatives.

Unlike its predecessors, the ARCOP has considerable powers to investigate and sanction corruption, as well as the ability to conduct audits

of all areas of the executive branch. The ARCOP has a mandate to publish its reports and, importantly, can conduct surprise audits on all ministries. In May 2018, the ARCOP undertook a comprehensive risk analysis of all government bodies' accounts and activities, and developed an action plan in order to address these risks systematically (ARCOP 2019). The results of the action plan, however, will not be known until 2020 when the 2019 report is published. In its most recent 2018 report, the ARCOP made several observations regarding the decreasing amount of contracts awarded via public bidding and noted the barring of 20 companies from participating in procurement processes due to acts of corruption or fraud. (Nabole 2019)

Ministry of Justice, Human Rights and Civic Promotion (Ministère de la justice, des droits humains et de la promotion civique, MJDHPC)

The MJDHPC is charged with assisting the judicial sector with its investigations related to corruption in the executive branch, as well as supporting general judicial actions. It has recently established new specialised judicial centres to deal with economic and financial crimes. As part of a partnership with Transparency International, REN-LAC and the World Bank, as well as with peer-revision by other West African governments, the ministry has established two centres for the judicial branch to properly investigate economic crimes (Open Government Partnership 2019).

Ombudsperson (Médiateur du Faso)

The national ombudsperson was created in 1994, basing itself on the model of the French ombudsperson. Its primary responsibility is providing legal protection to citizens against all incorrect use of public power or public sector inaction (Le Médiateur du Faso 2019). Recently, based on developments of national anti-corruption and access to information legislation, the office of

the ombudsperson has incorporated whistleblower protection and access to public information into the current agenda, though no notable case has yet to be brought up by the ombudsperson.

Other stakeholders

One issue that complicates the oversight role that media, civil society and citizens should exercise is the lack of reliable public sources of information about government activity, the performance of public administration and corruption. Most official websites are not updated and several ministries provide no information about their activities.

Media

Article 2 of the constitution and the 1993 information code guarantee freedoms of expression, information, and the press (Asante 2015). According to Reporters Without Border's 2019 World Press Freedom Index, Burkina Faso is ranked 36 out of 180 countries, with a score of 24.53, making Burkina Faso the 5th highest ranked African country and “Africa’s success story”, according to the organisation. (Reporters Without Borders 2019). It scores 3 out of a possible 4 , placing it among the highest scoring countries in sub-Saharan Africa (Repucci 2019).

Burkina Faso’s darkest moment for freedom of the press came in 1998 when Norberto Zongo, an investigative journalist focusing on government corruption was assassinated by a presidential guard. Zongo’s murder sparked riots and led to significant changes in the country’s attitude towards freedom of the press, though harassment still continues to be an issue for journalists (Asante 2015). In the following years, media organisations took a more active role in sharing information with official anti-corruption bodies (Asante 2015). Burkinabé journalists also spearheaded the establishment of the Norbert Zongo Cell for

Investigative Journalism in West Africa (CENOZO), a network aimed to both protect West African journalists reporting on corruption, as well as to assist each other in corruption investigations (UNODC 2015).

The High Council for Communication (CSC) is responsible for controlling press standards and applying censorship and uses various mechanisms, including legal action, to sanction journalists. In 2014, journalist Konaté went to the African Court on Human and Peoples’ Rights after being harshly penalised for publishing content that portrayed the government negatively. The court ruled in favour of the defendant and set an important precedent for press freedom in the country (Shelton 2015). The ruling at African Court on Human and Peoples’ Rights, which came on the heels of the 2014 uprising, resulted in 2018 in defamation of the government being decriminalised in the country (Reporters Without Borders 2019).

Civil society

Freedom of assembly and association are protected by the constitution and, since the 2014 popular uprising, the legislative and executive branches of government have initiated various mechanisms to consult civil society organisations.

Civil society has been at the forefront of the debate on corruption since the late 90s when several organisations formed to address the issue, and likewise played an important role in mobilising people around the 2014 uprising and the 2015 protests against the attempted coup (Hagberg 2015).

The Réseau National de Lutte Anti-Corruption (REN-LAC), formed in 1997, associating civil society groups, press, academics, diplomatic services as well as representatives of legal bodies and ministries (Luning 2010). REN-LAC has been

instrumental in shaping public perception of corruption and providing policy solutions to the national government. Critics, however, point to the historic participation of representatives of national ministries as a hindrance to comprehensive responses to denounce corruption (Luning 2010). REN-LAC offers an anti-corruption hotline to denounce corruption, though there is little information regarding actions taken from these complaints or statistics about cases handled (REN-LAC 2019b)

Since Sankara's rule, trade unions have maintained anti-corruption as a core value and have recurrently joined anti-corruption protests (Bonnecase 2015). Trade unions have maintained an active role in national human rights coalitions and, notably, in 2008, made up a large part of the Coalition nationale de lutte contre la vie chère, la corruption, la fraude, l'impunité et pour les libertés (Coalition against the High Cost of Living, Corruption, Fraud, Impunity and for Freedoms), in the course of intense protests against high food and fuel prices (Bertelsmann Stiftung 2018; Engels 2015).

Many civil society organisations were born from the 2014 uprising to channel popular anger towards constructive institutional development. Balais Citoyén is a relatively new organisation born out of the 2014 uprising which aims to engage disaffected Burkinabé youth in national policy debates (Bonnecase 2015). The group, started by local musicians and journalists, has been key in engaging youth in participatory mechanisms promoted by the government (Frère and Englebert 2015). Other groups Citoyén africain pour la Renaissance, and Front de Résistance Citoyenne also formed around disaffected community groups, such retirees, youth and women (Hagberg 2015).

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Keywords

Burkina Faso – extractive industries – health services

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