

U4 Expert Answer



Mali: Overview of corruption and anti-corruption

Query

Please provide an overview of corruption and anti-corruption efforts in Mali with a focus on the justice sector, public financial management, social service provision, and climate and the environment.

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Caveat

The areas of enquiry for this country profile focused on a wide range of sectors, including the judiciary, public financial management, social service provision, and climate and the environment. Because of the breadth and number of these sectors, the sectoral review provides brief overviews of the topics with supporting sources as starting points for further reference.

Summary

The recent political instability in Mali, which culminated in 2013 with the loss of two-thirds of state territory to a regional uprising and Islamist groups, has exposed long-term structural weaknesses in state governance. The clientelist

foundation to Malian politics and employment of state resources to sustain patronage networks gave a false sense of stability despite long-term commitment to a democratic system. The forms of corruption evident in Mali are closely associated with its on-going political and security problems, in particular, the operations of organised crime and terrorist groups on its territory.

There is limited evidence of progress on anti-corruption. While an improved legal framework has recently been put into place, Mali has been slow to establish and operationalise formal anti-corruption institutions. This is notwithstanding positive work undertaken by the auditor general's office and the potential created by the relative openness of the climate for civil society organisations and the media.

These points are borne out in the sectors covered in this overview. Corruption presents a major challenge in the judiciary, both in terms of the bureaucratic corruption issues, which permeate the system, and insufficient judicial independence to pursue politicised cases. Public financial management has been a focus of international donors and there are areas where Mali had

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registered improvement; however, the political crisis in 2012 set back reform programmes.

Experience-based survey data shows that corruption incidence is high across the state bureaucracy which affects social service delivery, even if this has only rarely led to repercussions for government officials implicated.

The environment is an area which brings together the themes of corruption, organised crime and state weakness, but the links have been under-researched to date. This review looks at the available evidence on land grabbing, environmental pollution and resource theft.

1. Overview of corruption in Mali

Background

The last five years in Mali have been characterised by political instability and conflict. The speed at which the country unravelled following a critical juncture of events in 2012 – a military coup, regional conflict and attacks by Islamist groups – reflected long-term weaknesses in state governance. While Mali might previously have been considered a “democracy poster child” in the region (Reuters 2012), it has been argued that this “proved to be a façade for institutional weakness and mismanagement” (Bøås and Torheim 2013). As Mali remains fragile and faces recurrent risks of conflict, the historical context is important to understanding root causes of corruption in Mali and the challenges to anti-corruption work.

Following independence from France in 1960, Mali was governed by autocratic regimes for three decades. Moussa Traoré, who came to power in a coup in 1968, was in turn overthrown in 1991, leading to Mali’s first multi-party elections in 1992 (BBC 2017). Traoré had begun a process of economic liberalisation in the 1980s which was continued under his elected successor Alpha Konaré, but neither leader led the process to broad-based socio-economic development. With international support, Konaré initiated a decentralisation programme and, in stepping down ahead of elections 2002, helped build Mali’s reputation as a democracy (BTI 2016).

Bøås and Torheim (2013) trace the roots of Mali’s recent crisis to the parallel processes of political democratisation, economic liberalisation and administrative decentralisation, arguing that in a weak state this ran “the risk of being hijacked by a

combination of national elites and regional “big men”. Konaré was succeeded by Amadou Toumani Touré (commonly known as ATT) who served as president from 2002-2012. ATT co-opted political opponents and employed state resources to support an extensive patronage system. Economic mismanagement also negatively affected his tenure. In 2009, for example, the auditor general office estimated that US\$226m was missing funds from the state budget (Transparency International 2015).

The 2012 crisis was precipitated by two events: a separatist conflict with the Tuareg group and the movement of Islamist fighters into the country after the collapse of the Gaddafi regime in Libya in 2011. There had been three previous major periods of conflict with the Tuareg group, principally active in Mali’s northern regions: in the 1960s, mid-1990s and mid-2000s (Transparency International 2015). The influx of Islamist fighters created a new dimension in the conflict, and by spring 2012 the Malian state had ceded two-thirds of its territory to a combination of the Movement for the Liberation of Azawad (MNL), a Tuareg separatist group, and the Islamist groups, Ansar Dine, Al-Qaeda in the Islamic Maghreb (AQIM) and the Movement for Unity and Jihad in West Africa (Reuters 2012). The conflict coincided with a coup d’état in the capital Bamako on 22 March 2012 and the establishment of an interim junta government under Captain Amadou Sanogo.

The presence of Islamist groups brought Mali into the ambit of the global narrative of conflict against jihadism. In January 2013, France made a rapid military deployment and, followed by regional African force, succeeded in recapturing northern cities. This led to an initial peace deal signed in June 2013 with the Tuareg groups and legislative and presidential elections followed by the end of 2013. Ibrahim Boubacar Keïta and his party, *Le Rassemblement pour le Mali* (RPM), won the elections. The United Nations established the Multidimensional Integrated Stabilization Mission in Mali (MINUSMA) in the same year and it remains in force (BBC 2017; BTI 2016).

The Global Initiative Against Transnational Organized Crime (The Global Initiative 2015) argue that the international focus on countering terrorism has obscured signals that “there is something deeply rotten in the state of governance” in Mali. They see the main trigger of the 2012 coup as “in fact widespread disillusionment with the incumbent government and political leadership, not the Northern separatist movement”. Although the most intense period has passed, Mali remains unstable, and

there has been recurrent conflict. A breakdown in the 2013 peace deal led to a further two years of clashes between government and regional armed groups. In June 2015, the government and a coalition of rebel groups eventually signed a second peace deal, the Algiers peace accord, which has at its basis the principle of greater regional autonomy (BBC 2017).

There have been continuing challenges in ensuring implementation of the Algiers peace accord and the establishment of interim authorities in five northern regions (Africa Confidential 2017). Islamist groups also present a severe security threat as shown by repeated attacks on UN forces, Malian sites and Western hotels (BBC 2017). In July 2016, the International Crisis Group (ICG) issued a warning on the risk of conflict in central Mali, where a jihadist uprising had “capitalised on the state’s lack of legitimacy and extended its influence” (ICG 2016).

The persistent theme throughout this period of instability is of limited tangible improvement in socio-economic conditions. The 2016 Human Development Report ranked Mali at 175 out of 188 countries and territories (United Nations Development Programme 2016). The economy was hit badly in 2012 but strengthened in 2016 with a growth rate of 5.3%. The African Development Bank (AfDB) is cautiously optimistic about Mali’s medium-term economic prospects due to sustained international support (AfDB 2017). A major driver of the economy is gold. Mali is the third largest producer in Africa, although there is a high level of illicit activity in the sector (U4 2017).

Extent of corruption

Mali’s ranking on corruption indices based on both expert and citizen surveys suggest pervasive corruption issues. On Transparency International’s 2016 Corruption Perceptions Index Mali scored 32 out of 100; the scale ranges from 0 (highly corrupt) to 100 (very clean). There have been small fluctuations in its country score over the last five years: 35 (2015), 32 (2014), 28 (2013), 34 (2012). When translated into country rankings, Mali was ranked 116 of 176 countries in 2016. This places it near to the regional median for sub-Saharan Africa, where it ranked 19 out of 44 countries (Transparency International 2016).

The World Bank’s Worldwide Governance Indicators suggest a similar picture. For the control of corruption indicator, Mali had a country percentile rank of 30 in 2016, where 0

corresponds to the lowest rank and 100 to the highest rank. This is in line with the average for sub-Saharan Africa in 2016 (31). Mali’s previous scores on the same indicator were 27 (2015), 26 (2014), 22 (2013) and 22 (2012). The scores show perceptions of higher levels of corruption at the start of the recent period of instability (World Bank 2017).

Mali’s scores on broader indicators of governance are as follows: rule of law (23), regulatory quality (28), government effectiveness (16), political stability and absence of violence/terrorism (9), voice and accountability (40). The scores show on-going security concerns, but it is also important to highlight Mali’s comparatively high score on voice and accountability, reflecting the activity of media and civil society in the country, even if freedom of expression may not be uniform across the country, and likely more restricted in areas affected by security issues (World Bank 2017).

In citizen surveys, the results of the latest Afrobarometer survey suggest pessimism regarding levels of corruption and efforts to combat it. In the survey for 2016/2018, 44.2% of 1,200 informants believed corruption had increased a lot and a further 27.2% said that corruption had increased somewhat or stayed the same. The groups of elites those surveyed perceived to be most likely to be involved in corruption were judges and magistrates, business executives and the police. A majority (59.3%) said that all or most judges and magistrates are involved in corruption. The same figures for business executives and the police were 57.8% and 55% respectively (Afrobarometer 2017).

Forms of corruption

Grand corruption

There is evidence of high-level corruption and embezzlement of state resources being sustained across recent Malian government administrations. Under ATT (2002-2012), these issues developed to the point that, as described in the New York Times (2013), “corruption and impunity at every level of the state, but especially at the top, destroyed the army, undermined government institutions and persisted unchecked”. The newspaper cited work in 2010 by the *Bureau du vérificateur général* (BVG), the auditor general’s office, which estimated that 4%-5% of the national budget was lost annually to mismanagement and fraud, citing numerous examples of misspent funds across government agencies (New York Times 2013).

The BVG has continued to unearth similar issues under the government of Ibrahim Boubacar Keïta. Its latest report, released in October 2017 and relating to 2015, estimated Mali had lost CFA70 billion (€100m) through fraud and bad management. This was based on a review of 23 government agencies (Radio France Internationale Afrique 2017). Similar audits released in 2015 found a gap of CFA150 billion (€243m) over two years in 2013 and 2014 (Radio France Internationale Afrique 2015).

Mismanagement of state funds has previously damaged Mali's relationship with international donors. In 2014 the International Monetary Fund (IMF) suspended programmes due to concerns around the purchase of a presidential jet recorded outside of the regular budget. It also questioned a state guarantee on a \$200m loan obtained by a private company that had won a contract to provide supplies for the army. The company was found to be vastly overcharging the army for basic supplies. The IMF agreed to resume funding after Mali committed to publishing the results of audits (Reuters 2014).

There are few examples of high-level officials who have been held to account for individual misconduct. The US State Department reported in 2016 that the Malian anti-corruption agency, l'Office central de lutte contre l'enrichissement ilicite (OCLEI), had initiated an investigation into three individuals for mismanagement of up to US\$2.4m from a state pensions fund (Department of State 2016). The chairman of the Mali state lottery fund also came under suspicion of embezzlement and was imprisoned in 2013, but appears subsequently to have been released (MaliActu.net 2014).

A concern is that allegations of corruption have also touched personally on President Keïta. The New York Times discussed a report related to Keïta's former tenure as prime minister in the 1990s when he was connected to "allegations of lavish, questionable spending". Keïta was required to justify the receipt of a US\$22,000 advance and US\$24,000 of state expenditure on a trip to Germany (New York Times 2013). More recently, press have reported on alleged links between Keïta and the Michel Tomi, a Corsican businessman on trial in France for involvement in suspected corruption and money laundering (MondAfrique 2017; Le Monde 2014).

Neopatrimonialism

Clientelism is the bedrock of Malian politics serving to undermine formal institutions and

facilitate wider practices of corruption. Under ATT in particular, stability was maintained through wide-ranging alliances, based on local traditions of dialogue and consensual politics (Reuters 2012). The short-termism of this system has since been exposed. The Global Initiative (2015) surmise that previous patterns of rebellion have been "typically quelled by clientelism rather than genuine inclusion or resource allocation, providing temporary respite but little genuine reform".

On the current state of affairs, the Bertelsmann Stiftung considers that the national assembly and constitutional court "appear to be returning to their status quo of limited power to control the executive, similar to that seen during Mali's 'democratic decades' (1992 to 2012). Beyond problems of executive dominance, particularly significant are returning past patterns of resolving conflicts at the community level and beyond through patron-client relations among national and regional government elites, and consensus politics incorporating opposition actors into the government" (BTI 2016).

Nepotism is prevalent. Again, concerns reported in the media focused on President Keïta are indicative of the issue. President Keïta has been criticised for putting family members in strategic posts. The most prominent example is his son, Karim Keïta, who in 2014 was nominated as president of the national assembly defence committee. Other extended family members who hold prominent positions include his father-in-law, Issaka Sidibé, who is president of the national assembly and the former minister of investment promotion, now deputy secretary general in the office of the president, Moustapha Ben Barka, who is reportedly a nephew to the president by marriage (MondAfrique 2017).

Bureaucratic and administrative corruption

Common to many states characterised by weak governance, corruption in everyday bureaucratic and administrative processes is commonplace. The state bureaucracy is inefficient and considered to be oversized relative to Mali's population. This is a trend which has continued from the ATT government. As of January 2018, the country had 36 government ministries (France Diplomatie 2018).

Of 185 firms surveyed in Mali for the 2016 World Bank Enterprise Survey, 43.9% agreed that firms are expected to give gifts officials "to get things done". The percentage of firms which had experienced at least one bribe request was 33.7%

which compares unfavourably against a sub-Saharan Africa regional average of 22.2%. In total, 70.6% of firms identified corruption as a major constraint to doing business.

The latest Afrobarometer survey for 2016/2018 also indicates that citizens perceive there to be high levels of corruption within the government bureaucracy. Of 1,200 respondents, 49.5% believed that all or most government workers are involved in corruption. A further 34.6% said the same of some government workers (Afrobarometer 2017). The section below on social service provision presents survey data which shows direct experience of corruption by businesses and citizens across different areas of government.

Organised crime and corruption

There is a convergence between corruption and high levels of organised crime in Mali, such as human trafficking, drug and contraband smuggling, and kidnap for ransom. At the centre of the Sahel region, Mali and particularly its northern regions are a transit area for different forms of illicit global trafficking. In a 2013 report, the United Nations Office on Drugs and Crime (UNODC) mapped out the main threats from transnational organised crime across West Africa. The report highlighted Mali's role in migrant smuggling, such as in the city of Gao, a major migrant embarkation point for onward travel to Europe, as well as its role in cocaine trafficking networks, best illustrated by the 2009 "Air Cocaine" case, which involved a Boeing 727 carrying tons of cocaine found burnt out in the desert. The report also showed how instability in Mali had been driven by the flood of firearms into its territory from Libya in 2011 (UNODC 2013).

The Global Initiative has researched the nexus between organised crime and state corruption across two reports. It has shown how contemporary trafficking networks took form in the 1970s, initially to facilitate the illegal flow of licit goods, before these channels were used for the more profitable movement of illicit goods (The Global Initiative 2014). The influx of illicit funds into northern Mali allowed different groups to "become more effective at leveraging the state to consolidate both administrative and political control over their geographic and ethnic bases" (The Global Initiative 2015). The Global Initiative discusses the "highly corrosive effect of criminal groups on governance and the state ... (which) is undermining the state's legitimacy in the eyes of its population" (The Global Initiative 2015). State representatives at the local level may or may not be acting under the influence of actors in the

central state and, regardless, given the power dynamics, have little incentive "to serve as a bulwark against criminal interests" (The Global Initiative 2015).

There are also examples of complicity between state officials and AQIM, such as in wealth generated from its kidnap-for-ransom activities (The Global Initiative 2014). More broadly, the links between corruption and insecurity are the focus of a 2015 report published by Transparency International's defence and security programme, which explores the long-term erosion of the capability of the state security forces through corruption and complicity in illicit activity (Transparency International 2015).

2. Corruption in key sectors

Judiciary

The failings of the justice system, where corruption is a key contributing factor to low levels of public trust in formal judicial authorities, significantly undermine state legitimacy. The US Department of State 2016 Human Rights Report refers to "bribery and influence peddling" as "widespread" in the courts, while Human Rights Watch (HRW) describes how "neglect and mismanagement within the Malian judiciary countrywide" have led to "striking deficiencies" (HRW 2016). This leads to citizens resorting to informal justice solutions, particularly in territories where the state presence is weak (BTI 2016).

Negative views on the extent of corruption issues in the judiciary are reflected in survey data: 59.3% of respondents to the 2016/2018 Afrobarometer survey believed that all or most of judges and magistrates are involved in corruption, and a further 26.6% believed that some of them are involved in corruption (Afrobarometer 2017). Of the businesses surveyed in the World Bank Enterprise Survey, 43.8% regarded the court system as a major constraint to doing business, compared to a sub-Saharan African regional average of 18.3% (World Bank 2016).

Commitments in principle to judicial independence are present in the 1992 Malian constitution. However, a significant clause which undermines this position is that the president is also the chair of the *Conseil Supérieur de la Magistrature*, the high judicial council. The position gives the executive wide influence over judicial appointments and, in practice, this has meant that the judiciary has been ineffective in pursuing high-

profile cases, particularly those with a political dimension (Global Integrity 2017).

An example is the on-going government investigations and legal proceedings against an activist known as “Ras Bath”. The minister of justice has been accused of attempting to manipulate Bath to not pursue investigations into other ministerial figures to which the minister is allegedly close. Bath is currently on trial for defamation for allegations made against a politician who serves as a special advisor to President Keïta (Radio France International 2017b; Global Integrity 2017).

The problems described in the judiciary have a dual negative effect. First, pervasive corruption and partiality in the judiciary is a major source of state corruption. And second, the issues within the judiciary are an Achilles heel in anti-corruption work to bring individuals implicated in corruption to justice. Our review found few examples of high-level prosecutions of prominent individuals.

Public financial management

Public financial management (PFM) is a major focus of the work of international donors and the Malian government. The World Bank Country Partnership Framework (2016-2019) speaks in general terms about the importance of improving transparency in financial processes for better citizen awareness of public resource allocation (World Bank 2015). The AfDB general budget support operations are also focused on strengthening fiscal decentralisation, improving public procurement and reinforcing internal controls (AfDB 2015).

The International Development Agency (IDA) has undertaken the most recent overarching assessment of PFM standards in Mali. Its review was published in 2016 and relates to the period 2013-2015 and covers the following areas: budget credibility, budget transparency and comprehensiveness, budget consistency with published policies, predictability and control of budget execution, accounting practices and external verification, and surveillance. These areas are broken down into 31 performance indicators. In comparison to the last review completed in 2010, Mali had progressed against nine indicators, 13 indicators were unchanged, and it had regressed against a further nine indicators (IDA 2016).

The main areas where the review highlights for improvements are consistency between budgeting and published policies; more diversified

participation in preparation of the annual budget; and the role of external control bodies, namely the BVG and the accounting division of the supreme court. The areas where the review points to persistent weaknesses relate to the standard of internal controls, particularly around non-salaried expenditure, and budget credibility, where a deterioration against the 2010 indicators is linked to the political crisis. The report refers here to non-budgeted military expenditure and the acquisition of a presidential plane, cases described previously in this review (IDA 2016).

The overall situation with budget transparency has remained unchanged, even if better quality budget information is being provided to the national assembly and individual ministries are putting more information online (IDA 2016). Mali scores 46 out of 100 on the latest 2015 Open Budget Index, indicating an overall level of insufficient budget transparency. As of December 2016, Mali had published four of eight key budget documents, including the executive budget proposal and enacted budget, but had not released a citizens’ budget nor a mid-year review (International Budget Partnership 2016).

Public procurement is also traditionally a primary area of focus in PFM reforms and is vulnerable to corruption risks. Competitive bidding is a legal requirement for major procurements in Mali and is regulated by a national procurement agency, a *Direction générale des marchés publics* (DGMP) (Global Integrity 2017). However, in practice, this requirement is not always respected and there are regular accusations of corruption in public procurement processes (GAN Integrity 2016).

In 2016, the Ministry of Economy and Finances released its strategic plan on PFM for 2017-2021. This also discusses strengths and weaknesses across four areas of financial management practice and its future areas of focus: management of public revenue; preparation and execution of the budget; transparency, financial governance and control; and decentralisation and devolution. For example, in the last category the document describes existing work and plans to transfer skills and resources to regional authorities, and the limitations created by weak local governance and record keeping in those regions (Ministry of Economy and Finances 2016).

An IMF country visit to Mali, concluded in July 2017, commented on some of the most recent developments in PFM. It noted, in May 2017, the approval by the national assembly of a new law prohibiting the granting of new discretionary spending exemptions. Mali is further moving

toward adopting a treasury single account system for state bodies, although the full transfer to this system is awaiting the approval of implementation guidelines (IMF 2017).

Social service provision

The social services encompass a broad range of government ministries and agencies involved in service delivery, from the large areas of state expenditure devoted to health and education to more targeted programmes focused on specific vulnerable groups. Due to the breadth of this area of enquiry, we present here corruption experience data indicating levels of corruption across state service delivery. This might be used to prioritise specific areas for more detailed research.

The above-mentioned survey data shows there are widely held citizen perceptions of high levels of corruption in the state bureaucracy. The same data shows lower, but nevertheless significant, direct experience by citizens of corruption. This was most common in interaction with the police. Of those surveyed who had contact with the police, 25.4% said they had paid a bribe, given a gift or done a favour for a police officer to receive assistance, and 40.9% said the same to avoid having a problem with the police. Respondents also reported that obtaining a document or permit is affected by corruption, with 19.7% saying they had paid a bribe, given a gift or done a favour in these processes. The same figures for treatment at a public clinic or hospital and obtaining school services were lower at 7.5% and 6.2% respectively (Afrobarometer 2017).

The World Bank Enterprise Survey (2016) captures business experiences of corruption in interaction with the government for access to services. In terms of specific transactions, obtaining a construction permit was reported by firms to be the transaction most prone to corruption, with 74% of firms surveyed believing that gifts are expected in this process. Areas specifically related to social service delivery again show comparatively lower but significant levels of corruption incidence. Examples include meetings with tax officials (32.1%), obtaining a water connection (31.2%) and obtaining an electricity connection (25.2%).

The survey data suggests high corruption incidence in social service delivery but, reflecting weak enforcement and monitoring (see background on anti-corruption institutions below), these issues have only rarely manifested themselves in high-profile government scandals. A notable exception to this is a story which broke

in 2011 on the misappropriation of up to US\$4m from the Global Fund. Following internal investigations, the Global Fund found that up to half of Mali's tuberculosis and malaria grant funding was suspected of being lost through fraud on payment of expenses for bogus training events. Fifteen health ministry officials were arrested on suspicion of committing fraud and the then health minister abruptly resigned before the release of the audit (Huffington Post 2011).

Climate and the environment

The serious environmental challenges Mali faces are well understood. Mali's position at the centre of the Sahel region means it has high exposure to desertification and drought, with resulting adverse effects on food security. Mali ranks 158 out of 181 countries on the ND-GAIN Country Index, which assesses a country's vulnerability to climate change and readiness to manage its impact (ND-GAIN 2015). The links between climate change and conflict in Mali have been explored and contested. The International Institute for Environment and Development (IIED 2016) claims that the idea that conflict is caused by climate change-created resource scarcity is exaggerated. It sees the state's pastoral and land tenure policies, which favour farmers and leads to agricultural encroachment on pastoral land, as a primary driver of conflict. Our desktop review indicates that links between these issues and corruption have not been subject to detailed analysis. We highlight three areas of overlap with the corruption field, which might be starting points for further research: land grabbing, environmental pollution in mining and theft of natural resources.

Land grabbing is an issue of significant concern in Mali and is facilitated by state corruption. It contributes to scarcity in pastoral land as well as damaging the economic livelihoods of farmer smallholders. A prominent example of the issue is a 2008 deal between the Malian government and Libya's Colonel Muammar Gaddafi to lease 100,000 hectares of prime farmland in Mali. The deal was agreed in opaque circumstances and the full terms were never released into the public domain. The current status of this land is not fully clear (Pulitzer Center 2015).

There are ties between corruption, the expansion of illegal mining and environmental pollution in Mali. The gold sector is a key economic sector in Mali accounting for two-thirds of exports (AfDB 2017). The sector can be broadly grouped into two categories: artisanal mining, which includes illegal mining and permissible forms of informal mining, and industrial mining. Artisanal mining

increased following the 2012 crisis as a ready means of securing basic economic livelihoods. Government officials have been shown to tolerate and/or be complicit in permitting artisanal mining outside of legal areas to gain sources of income (U4 2017). Illegal mining entails not only exploitation of labourers but a significantly high risk of environmental pollution. HRW (2011) has reported on the widespread use of hazardous chemicals in artisanal mining, in particular mercury, which poses dangerous health threats to communities and can also have a wider effect, such as pollution of water supplies and soil fertility.

A common link between corruption and the environment concerns the destruction or theft of natural resources, such as through illegal logging and wildlife poaching enabled by lax state monitoring or complicity in profiteering. Although the illegal timber trade is prevalent in West Africa – as an indication of the scale of the issue in 2015, Interpol seized US\$262m of timber in a pan-regional investigation which encompassed Mali (Interpol 2015) – we have not come across specific publicised investigations into illegal logging in Mali. Similarly, wildlife poaching is a significant issue in conflict-affected areas in northern Mali, but the links to organised criminal groups and corrupt networks have not been examined in detail.

Returning to the mining sector, the informality of artisanal mining means a high volume of revenues are diverted from the legal value chain with ‘patrimonial logics and rent-seeking behaviour’ influencing the distribution of returns (U4 2017). There have also been allegations of mismanagement of the country’s natural resources in the industrial sector. In July 2017, Bloomberg ran an article entitled ‘the curious tale of Airbus and the African gold mine’. Its investigation traced the ‘circuitous path’ and movement of funds which resulted in Airbus obtaining a stake in the Kodieran gold deposit in Mali. The investigation looked at potential links between Airbus’ investment in the project in 2012, which was owned by a politically connected Malian businessman, and later arms sales by Airbus to the Malian government (Bloomberg 2017).

3. Legal and institutional framework

Overview

The Malian government’s overall record to date in combatting corruption has been poor (Global Integrity 2017). While the broad basis to a legal framework is in place, there has been a critical lack of implementation. This can be attributed in part to the limited operationalisation of anti-corruption institutions.

President Keïta’s 2013 inauguration speech, in which he declared that “no one will ever again enrich themselves illegally and with impunity under our tenure”, signalled a commitment to combatting corruption. He further declared that 2014 would be the year of the great “clean-up” and devoted to the fight against corruption (Le Figaro 2014). The Helpdesk has not found a document where these pronouncements have been formally translated into a full strategy on anti-corruption, although a 2013-2018 government action plan included references to establishing anti-corruption institutions (Government of Mali 2013). There is also a separate government anti-money laundering strategy (IMF 2017).

Some recent steps forward on anti-corruption can be noted. These include amendments to the penal code to strengthen the anti-money laundering framework in 2016; the requirement for government officials to declare their assets by August 2017; and in June 2017 the appointment of senior staff to *l’Office central de lutte contre l’enrichissement illicite* (OCLEI – the Central Office in the Fight against Illicit Enrichment) (IMF 2017). It is also important to highlight the role of the auditor general’s office, the BVG, in anti-corruption, and its successive reports over this decade revealing losses of government funds through fraud and mismanagement (Global Integrity 2017).

However, the pace of change has been slow, and key institutions, particularly the OCLEI, have not been fully operationalised. There is a lack of capacity to enforce measures undertaken. For example, the government is not able to monitor and process information on asset declarations despite these being a requirement for government officials. The consequence is that abuse of office is rarely sanctioned and there are few examples of prosecutions of prominent individuals (BTI 2016).

International conventions

Mali ratified the United Nations Convention against Corruption (UNCAC) in April 2008, the

African Union Convention on Preventing and Combating Corruption in 2012 and the Economic Community of West African States Protocol on the Fight against Corruption. It also ratified the United Nations Convention against Transnational Organised Crime in 2002.

Domestic legal framework

The criminalisation of UNCAC offences is principally covered across the 2001 penal code (amended through Law No.2016-039 in July 2016), the 2014 Law on the Prevention and Repression of Illicit Enrichment and the 2016 Uniform Act on the Fight against Money Laundering and the Financing of Terrorism. Active corruption (the act of promising, offering or giving an undue advantage) and passive corruption (the fact of soliciting or accepting such an advantage) in the private and public sectors are punished under the penal code. There are custodial sentences and fines scaled according to the gravity of the offence. The custodial sentences range from five years to life imprisonment for public corruption and two to five years for private corruption (UNCAC 2016).

Reviews undertaken by the IMF in 2015 and an UNCAC Implementation Review Group in 2016 have identified weaknesses in the anti-corruption legal framework. As an example, concepts of undue advantage and third-party beneficiaries of corruption are not clearly defined in the provisions (UNCAC 2016). Furthermore, both organisations considered the criminalisation of abuse of functions to be too restrictive. This is established as an offence only within the context of public procurement. Recommendations to confirm the intentional nature of such an act and conduct relating to the performance of duties, or failure to perform duties, are absent from this area (IMF 2015; UNCAC 2016).

In 2015, the IMF made several additional recommendations specifically on the Law on the Prevention and Repression of Illicit Enrichment. Measures it did not consider to be in line with international best practice included the exclusion of parliamentarians and their adult children from the obligation to report assets; the large number of officials covered by asset declarations which would create infeasibility of implementation; and a limited statutory period of limitation of three years for illicit enrichment (IMF 2015). In its latest country review, the IMF reported that these recommendations would be taken into account as part of a revision of the act by 31 March 2018 (IMF 2017). Asset declarations to date have been

provided to the supreme court, but the process will now be managed by OCLEI (UNCAC 2016). Having only recently been staffed (see below), there are doubts as to whether the organisation will have the capacity to fully make use of the declarations as an anti-corruption tool.

With regard to the anti-money laundering framework, the 2016 Uniform Law defines the concept of money laundering and a wide range of predicate offences. The law also provides for seizure and confiscation of funds and property in connection with money laundering. Nevertheless, the IMF has previously expressed concerns that there are elements of the law which are not fully compliant with international standards promoted by the Financial Action Task Force (FATF). The points relate to the definition of certain concepts and incrimination of terrorists and terrorist organisations, although the IMF also stated that key points had been incorporated in the 2016 amendments to the penal code (IMF 2017).

Mali does not have a specific legal act relating to whistleblower protection. Article 95 in the 2016 Uniform Law allows for witness anonymity in money laundering proceedings. However, there is no wider legislation on protection of witnesses, experts, victims or reporting persons. Obstruction of justice is also only partially criminalised: the law in this area does not provide for intimidation and the use of physical force. The 2016 UNCAC Implementation Review Group included a recommendation to adopt enhanced whistleblower protections (UNCAC 2016).

Institutional framework

There are four main institutions involved in anti-corruption work in Mali. They are the *Bureau du vérificateur général* (BVG), the auditor general's office; the *the anti-corruption agency*, OCLEI, the Central Office in the Fight against Illicit Enrichment; *La Cellule nationale de traitement des informations financières* (CENTIF), the financial intelligence unit; and the economic and financial unit of the public prosecutor's office.

BVG

The BVG has been in place since 2003 and is charged with the general auditing of all government agencies and authorities. In this period, it has built a reputation for independence. It has the freedom to determine its own auditing schedule, which has conferred it legitimacy at the national level (Global Integrity 2017). The organisation has published periodic reports since its establishment on economic mismanagement

which received wide media attention (Radio France Internationale 2015, 2017). The BVG has served to draw attention to the extent of corruption across state institutions and has been the most active to date of Mali's anti-corruption institutions.

Problems faced by the BVG are regular delays in publishing its annual reports (the most recent report released in October 2017 covered the year 2015), which has been attributed to internal resourcing issues and slow responses to its queries from the Ministry of Economy and Finances (BTI 2016). Although its reports include reform recommendations, these have also not been universally implemented. Moreover, as argued by the Bertelsmann Stiftung, "while important in principle and norm-setting", the BVG's activity does not appear to have significantly "shifted the pattern that office abuse is rarely sanctioned" (BTI 2016).

OCLEI

The incorporation of the OCLEI was included in the 2014 on the Law on the Prevention and Repression of Illicit Enrichment. However, it was not until May 2016 that the national assembly adopted a decree to formally establish the agency. The delay was primarily due to debates concerning the correct remuneration and allowances for members of the office (IMF 2017).

The OCLEI will effectively function as the lead national anti-corruption agency in Mali. It will be responsible for conducting and coordinating investigations, receiving complaints related to corruption from the public, as well as communication and preventive activities. It is intended to have administrative independence (Global Integrity 2017), but it is too early to comment on how this will develop in practice. OCLEI's first 12 board members were only confirmed in June 2017, and staffing of the agency is on-going (MaliActu.net 2017).

CENTIF

CENTIF, the national financial information processing unit, was established in 2007 under the authority of the minister of finance. It is responsible for the administration of intelligence relating to money laundering and terrorist financing, such as suspicious transaction reports (STRs) from the finance sector, and transmits these to relevant authorities for investigation. According to the UNCAC review, prosecutors also have an obligation to prosecute when facts are communicated to them by CENTIF (UNCAC 2016).

The number of STRs received by CENTIF is low, and a limited number are passed to the law enforcement agencies. In 2013, of 22 STRs received by CENTIF, only one was forwarded to the prosecutor's office. The organisation has historically suffered from budgeting and training deficiencies (IMF 2015).

Economic and financial unit at the public prosecutor

In addition to the institutions outlined, a unit within the office of the public prosecutor specialises in economic and financial investigations. Acting under a 2003 decree, they prepare preliminary enquiries on the instruction of the public prosecutor on specific subjects, which include corruption offences (Global Integrity 2017). As noted, the record of successful prosecutions relating to corruption has been weak.

Other stakeholders

Media

Freedom of speech and the press are principles enshrined in the Malian constitution. From a regional perspective, Mali has a reputation for having a relatively open media. On the World Bank governance indicator of voice and accountability, it has a percentile rank of 40 against the sub-Saharan Africa average of 33 (where 0 corresponds to the lowest rank and 100 to the highest) (World Bank 2017). Freedom House classifies Mali's media environment as "partly free" with the country scoring 37 of 100 (where 0 is the most free and 100 the least free) (Freedom House 2017).

On the impact of the political crisis, the coup and resulting detention of journalists and occupation of state media, are not considered to have started "a general pattern of creeping state-sponsored repression" (BTI 2016). However, there are examples of the government influencing media coverage which might have political implications, particularly on security issues. Reporters without Borders describes the case of a national TV channel, ORTM, which chose to broadcast a drama series instead of the hostage crisis at the Radisson Blu Hotel in Bamako in November 2015 as an example of the government seeking to cover up security issues (Reporters without Borders 2017). On the previously cited case of the journalist Ras Bath, the defamation charges brought against him, which it has been claimed are politically motivated, are on the theme of attempting to "demoralise the armed forces". Media access to the northern regions where there

is on-going conflict is tightly restricted (US Department of State 2016).

Civil society

There are large active networks of civil society organisations in Mali. These groups have contributed to the country's relatively open political culture, with diversified organisations representing individuals grouped by shared professions, religion and gender. Civil society organisations also have an important role in the provision of welfare, particularly in rural regions. A criticism of the sector, however, is that opportunistic expansion has made "Malian civil society dense with many organisations of limited internal capacity and coordination" (BTI 2016).

There are a number of civil society organisations working on corruption issues. Mali is a compliant member of the Extractive Industries Transparency Initiative (EITI), which brings civil society together with companies and government to monitor transparency around revenues generated in its mining sector (see EITI website). A network of civil society organisations has also previously collaborated with the national assembly on budgetary issues (MaliActu 2016). There is nevertheless no formal freedom of information law in Mali (Global Integrity 2017) to facilitate openness of information. Levels of genuine government engagement with civil society can consequently be variable.

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