

# U4 Helpdesk Answer

U4 Helpdesk Answer 2020

## Overview of corruption and anti-corruption in Mali

Corruption is a fundamental challenge in Mali. It permeates through Malian institutions, with evidence of high levels of corruption at every level of the state apparatus. In surveys, Malian citizens consistently report high levels of perceived corruption and low levels of trust in state institutions. As state legitimacy erodes, Malians have come to increasingly rely on a range of non-state actors and non-statutory institutions for governance and service provision, but these arrangements have proven insufficient to manage the disputes and conflicts that often turn violent. Years of military and humanitarian interventions aimed at restoring stability and state authority in Mali have also proven insufficient to end the violence. While not necessarily an active driver of Mali's multidimensional crisis, corruption and criminalization of the state has enabled this outcome by feeding grievances and alienation among certain groups in Mali.

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# Query

Please provide an analysis of corruption and anti-corruption in Mali, with a particular focus on justice and the rule of law, mining sector, agriculture and forestry.

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## Background

In the last decade, Mali has been embroiled in a profound crisis. Prior to 2012, Mali was often regarded by outsiders as a positive model for democratic development in low-income countries, and the quick escalation of the crisis in Mali surprised many analysts who had long perceived Mali as a democratic and resilient nation (Boeke and de Valk 2019). This notion that Mali was an island of good governance and democratic stability in a turbulent neighbourhood was largely based on a flawed analysis (Boeke and de Valk 2019). In fact, inside Mali, the debate seemed to reflect an increasing concern with rising experiences of corruption and lower levels of trust towards the state (Benjaminsen and Ba 2019).

## Origins and development of Mali's crisis

Since gaining independence from France in 1960, Mali has experienced three republics: the first republic under Modibo Keita (1960-1968); a constitutional single party born out of a military coup that deposed Keita (1968-1991); and attempts

## MAIN POINTS

- The many dimensions of Mali's current crisis are connected. Rule of law issues, conflicts over land tenure, organized crime and jihadist expansion are all interconnected issues rather than separate challenges that have hit the country separately. Corruption is at the heart of the problems of mistrust that allowed these issues to spiral out of control.
- Addressing corruption and the justice gap in rural and peripheral areas is key to social and economic development, as well as building sustainable peace.
- While Mali's anti-corruption framework has some serious flaws, some key institutions have shown capable of effectively investigating corruption cases.
- In recent years, Mali's government has also introduced a number of reforms and new laws that, all else being equal, can potentially create more transparency and inclusive forms of governance.

at democratisation by the third republic from 1991 (for instance, by the establishment of the Transition Committee for the Salvation of the People 1991-1992, the 1992 Constitution, and the

National Council for the Restoration of Democracy 2012-2013).<sup>1</sup>

The current crisis originates from these three republics. For example, soon after independence, the government of Mali had to govern a vast and diverse territory with multiple groups and communities directly opposed to its authority. In the north, in particular, Mali's first government after independence was seen as "just as much an external invading force as the French had been" (Bøås 2015: 304).

The unity of the country was always in question, and relations between elites in the south of the country and northern and central communities such as Arab, Fulani/Peul and Tuareg were characterised by mistrust. As a consequence of the dynamics of these relationships, Mali's dominant southern elites have tended to focus on the needs of their immediate constituencies in the south, directing state resources towards their own client networks (Chauzal and van Damme 2015). Meanwhile, many communities in northern and central Mali, particularly pastoral communities, felt alienated and subject to predation by the state (Chauzal and van Damme 2015). Under these conditions, Mali experienced uprisings in 1963, 1991 and 2006.

The current crisis in Mali was triggered by the events in early 2012 when the fourth Tuareg uprising since Mali's independence broke out (Chauzal and van Damme 2015). Tuareg separatists were initially supported by Islamist rebels, and together this uneasy coalition overran most of Mali's north, establishing the Republic of Azawad. It was not long, however, before the coalition of actors splintered, creating a scenario where jihadist groups expanded rapidly into central Mali and the government of Mali lost control of two-thirds of the country (Shiple 2017).

The immediate responsibility for the crisis was put on President Amadou Toumani Touré, who, according to accusers, had taken a somewhat passive approach to the worsening security issues in Northern Mali (Chauzal and van Damme 2015). Consequently, Touré was deposed in a coup d'état shortly prior to his planned departure. The new military government, however, also failed to reconquer territory and called on the international community to intervene. At the beginning of 2013, a French-led coalition began military operations with the aim of defeating the Islamic militants. During the same year, Mali elected Ibrahim Boubacar Keïta as president in the elections that were postponed due to the coup and was re-elected in 2018 (Lebovich 2018).

Neither military interventions nor elections have managed to ensure stability in Mali or end the cycle of violence. In recent years, communal tensions between Fulani/Peul (who are mostly pastoral) and Dogon (who are largely sedentary farmers) have escalated into all-out conflict. In Mopti and other parts of central Mali, intercommunal atrocities have become so severe that some analysts now talk of ethnic cleansing (for example, Jezequel 2019).

The jihadist movements that continue to operate in spite of military interventions have proved excellent at exploiting local grievances, finding new sources of recruitment among Fulani/Peul pastoralists who have found themselves in an increasingly bloody fight with Dogon ethnic militias. When it results in reduced arable land, climate change and ecological fragility can help fuel this competition, and without well-regulated and balanced conflict dispute mechanisms, competition tends to be solved violently (International Crisis Group 2020).

To stabilize Mali, international partners have created a vast framework for intervention. France continues to lead regional counter-insurgency

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<sup>1</sup> See the history of Mali government here: <https://uca.edu/politicalscience/dadm-project/sub-saharan-africa-region/mali-1960-present/>

operations together with the G5 Sahel. Since 2013, the United Nation's Multidimensional Integrated Stabilisation Mission in Mali (MINUSMA) was mandated to support the G5 Sahel with stabilisation, protection of civilians and state-building. However, critics argue that both MINUSMA, the international coalition under operation Barkhane and the multiple stabilisation programmes have created a "security traffic jam" and have often failed to protect civilians (Cold-Ravnkilde 2018).

## The role of corruption as one of the root causes of Mali's crisis

Corruption and poor governance underpin many of Mali's troubles. On one hand, corruption, particularly in local government, plays an enabling and facilitating role in the conflict (Bøås 2015). At a deeper level, the divisions at the heart of the violence have been reproduced over years of mismanagement and indifference to the plight of certain groups in Malian society. Indeed, the grievances that jihadist groups have proved adept at exploiting, stems largely from corruption (Benjaminsen and Ba 2019).

Corruption also creates incentives to keep the rent-seeking activities stemming from the war going (Bøås 2015). Moreover, poor or absent governance over land tenure and the inability or unwillingness of authorities to mediate justly in land disputes fuels the potentially conflict-inducing effects of climate change, ecological devastation and over-population (International Crisis Group 2020).

Administrative structures are unequally present across the country, with local administrations often lacking capacity and resources (BTI 2020). To some extent, this is a consequence of mismanagement and corruption, but it is also because most civil administration personnel has fled from conflict-affected areas (BTI 2020). As a result, the responsibility for service delivery has often been placed on other actors than the state, particularly in the areas of Mali where jihadi

militants are most active. The 2015 peace agreement places the responsibility of service delivery on interim authorities, but these often lack the financial resources to actually carry out these obligations (BTI 2020).

While the picture painted here is rather gloomy, it is possible to find sources of resilience in Mali. Malians may be unsatisfied with their current political system, but the Afrobarometer 2017/2018 survey shows that 75% of Malians prefer democracy. Civil liberties are under a lot of stress, not least due to the violence in the country, but they have not been wiped out to the extent seen in many other fragile- and conflict-affected settings (Freedom House 2020). With regards to countering corruption, some of the country's anti-corruption institutions appear to act with independence and integrity (see the section on legal and institutional framework).

## Extent of corruption

Corruption is a systemic issue in Mali and various indicators show that perceived corruption is increasing. On the 2019 Corruption Perceptions Index (CPI), Mali currently has a score of 29 out of a possible 100, ranking 130 out of 180 countries (Transparency International 2019a). The 2019 CPI is the first time Mali has fallen below a score of 30 since 2013, when the country experienced a quick, temporary drop in its CPI-score.

Other indices of governance in Mali compounds this picture. On the Ibrahim Index of African Governance (2018), Mali has an overall governance score of 50.1 (out of 100), ranking 28 out of 54 countries in sub-Saharan Africa. On the Worldwide Governance Indicators (2018), Mali scores -0.55 on regulatory quality, -0.80 on rule of law and -0.70 on control of corruption (all on a -2.5 to 2.5 scale), whereas the World Justice Project's Rule of Law Index gives Mali a score of 0.44 that makes it rank 106 out of 130.

Survey data indicates that Mali's perceived corruption challenge is increasing. In the 2019

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Global Corruption Barometer, 60% of Malian respondents perceived that corruption had increased over the last 12 months and 71% believed that the government did a bad job fighting corruption. In the 2015 Global Corruption Barometer this number was just 56%. Similarly, in the 2019 Justice Needs and Satisfaction in Mali Survey, 88% of respondents think that overall levels of corruption in Mali is either high or very high (Hague Institute for Innovation in Law 2019). The number of respondents who perceive levels of corruption to be very high differ significantly from region to region, however, with 71% of respondents in Mopti reporting to believe levels of corruption are very high as opposed to Kayes with only 49%.

## Nature of corruption challenges

### Grand corruption

High-level corruption is a major concern in Mali. Conflicts of interest are widespread, particularly in the legislative branch (BTI 2020), and levels of trust towards legislators appear relatively low. In the 2016/2018 Afrobarometer survey, 47% of the 1,200 respondents believed that most or all MPs are corrupt, while an additional 15% reported believing that some of their MPs are corrupt.

There are multiple cases of nepotism and conflicts of interest in parliament, perhaps most notably inside Keïta's own family. Currently, Keïta's son is heading the National Assembly's Security and Defence Commission, while his father-in-law is the president of the National Assembly (BTI 2020).

Mismanagement and embezzlement of state finances is believed to be widespread (Shipley 2017). This is particularly a problem in local government as a recent example shows from Segou regional council, which allegedly "lost" around 60 million CFA francs between 2016 and 2018) (Maliweb 2020b). A report from the auditor general pointed out that Mali lost the equivalent of €100 million in 2015 to fraud (BTI 2020). According to Le Monde, between 2005 and 2017 more than €1.13 billion was

irregularly spent by state and government bodies, some of which was due to embezzlement and some due to poor financial management (Le Cam 2019). This number represents the value of approximately 44% of development assistance received by Mali (Le Cam 2019).

Likewise, reports of bribery at the higher levels of administration are believed to be fairly common. Public procurement processes are often non-competitive and tenders pre-determined (BTI 2020, Freedom House 2020). For instance, in October 2019, the mayor of Bamako (Adama Sangare) was arrested for corruption in the award of a public tender (the trial is still pending) (BTI 2020).

Well-connected individuals in Mali have been known to demand bribes and kickbacks from both foreign and local companies in return for necessary permits or other administrative facilities (Smith 2019). Bribes or kickbacks to high-level local or national politicians are also given by organised criminal networks in return for protection or immunity from prosecution (Global Initiative 2020; see section on organised crime below). A recent case of illicit enrichment by high-level government officials include that of a social security inspector who owned 17 houses, and two government finance inspectors who owned 38 houses between them (Maliweb 2020). The case was brought by Mali's specialised anti-corruption body, though it has not yet been specified exactly how these individuals amassed their wealth.

Both embezzlement and rigged tendering is of particular concern in security and defence, where high-level conflicts of interest proliferate and where the nature of the sector makes transparency more difficult. Defence procurement is a particular concern because military procurement happens off-budget (sometimes for good reasons) and away from scrutiny from independent oversight bodies not headed by Keïta's son (Smith 2019). Recently, Mali's defence ministry purchased a set of non-functional helicopters for the value of the equivalent of US\$7.8 million (Smith 2019). During Keïta's tenure, two (out of seven in seven years)

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former defence ministers were involved in corruption scandals involving overpriced vehicles and dubious tendering practices (Smith 2019). The CEO of the company that sold some of these vehicles was arrested by French police with suspiciously large amounts of cash on him (Smith 2019).

## Neopatrimonialism at the local level

Patronage networks and neopatrimonial governance are important features of Malian politics (Ba and Bøås 2017). As part of the peace process in the beginning of the 1990s, Mali began implementing a decentralisation programme, which established new administrative boundaries and enabled villages to construct their own communes. The idea behind the decentralisation laws were to formalise the power of armed non-state actors so that they would participate in the Malian state structure rather than oppose it (Maiga et al. 2019).

While these reforms were largely driven by a peacebuilding agenda, they also produced a number of unintended consequences. By enabling local power brokers to create new communes and cement their influence and control within these newly created administrative divisions (local state capture in other words), the decentralisation reforms empowered local “big men” at the expense of the central apparatus (Bøås 2015). These big men often operated in the framework of the state and benefitted from controlling local institutions, taxes and rents from the central state. However, their allegiance to Mali was never guaranteed and they certainly helped keep local state institutions weak and unaccountable, enriching themselves and their client networks through corrupt practices as well as by playing important roles in illicit and criminal economies (Ba and Bøås 2017; Bøås 2015).

The result of these dynamics, therefore, were high levels of corruption in local governments, feeding grievances with profoundly destabilising effects. This can be seen in the behaviour of militant organisations like al-Qaeda in the Islamic Maghreb

(AQIM), Katiba Macina and Ansar Dine who, in their discourse, put a heavy emphasis on replacing corrupt rule with integrity and piety (Bøås 2015). As with most “violent extremist” movements across the world, jihadism in the Sahel should be seen, to some extent, as a governance project with the aim of supplanting a corrupt state at the local level (see Bak et al. 2019).

## Petty corruption

Petty corruption is another important element of Mali’s corruption challenge. In the 2019 Global Corruption Barometer, 21% of Malian respondents reported paying a bribe (Transparency International 2019b). Out of these bribes, 39% were paid to the police. Public sector jobs are generally underpaid and rent-seeking behaviour and bribe-extraction becomes a method for complementing this income (Smith 2019). According to the 2016/2018 Afrobarometer survey, 49% Malians believe that either most or all government workers are involved in corruption.

Petty corruption has been described in Malian media as a sign that the country suffers from a “culture of corruption”, as “corruption mania” and corruption “bulimia” (Sissoko 2017). High levels of bribery have given rise to various expressions used to describe corruption met in daily life, such as “sourafen” (that given after dark) (Sissoko 2017) or “Malian VAT” (Guindo in La Cam 2019). Indeed, small-time rent-seeking in bureaucracy appears to be routine and facilitation payments are common in a wide range of public services from education to obtaining an ID-card (Smith 2019).

Ethnicity appears to play an important role in the nature of petty corruption. Smith (2019), for instance, describes how some Malians look for individuals of their own ethnicity to gain “discounts” on their bribes, or at least avoid the most excessive ones.

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## Organised crime

On the Organised Crime Index (2019), Mali has the ninth highest criminality score in Africa and the third highest among the 15 West African states.

Corrupt individuals in the government are known to be involved in various illegal and illicit activities. These include trafficking and smuggling narcotics, people and contraband as well as unregulated artisanal mining (Bøås and Ba 2017).

The organised crime landscape in Mali has a wide range of actors, and different types of criminal actors appear to dominate the different markets in different ways. That said, the Global Initiative Against Transnational Organised Crime (Global Initiative 2019) finds that networks of state-embedded actors are important players in most criminal markets, providing protection to traffickers and opportunities for money laundering in return for a share of the profit.

According to the Global Initiative (2019), the largest criminal market in Mali is the market for non-renewable resources such as gold. Mali's second-biggest criminal market is that of fauna crimes, such as illegal and unregulated forestry.

Human trafficking and human smuggling are another two sizeable industries in the country. Mali is an important transit hub for migrants and trafficked individuals destined for Europe (Global Initiative 2019). However, internal trafficking appears to be more prevalent than transnational, and Mali appears to be not just an important transit country for migrants but a destination country for victims of sexual and combat trafficking<sup>2</sup> (Global Initiative 2019).

Finally, narcotrafficking is also a significant criminal sector as Mali is an important transit country for cocaine as well as synthetic drugs such as methamphetamine and tramadol finding their

way from South America to Europe (Global Initiative 2019).

As organised crime thrives, criminal networks increasingly penetrate and/or capture the state. Proceedings from the drug-trafficking market has become increasingly important to politics, particularly in Northern Mali (International Crisis Group 2018). In recent years, drug money has been used to finance electoral campaigns, particularly at the sub-regional level, as a means for traffickers to obtain protection, diplomatic passports or public contracts through which money can be laundered (International Crisis Group 2018). Traffickers have also embarked on political or administrative careers of their own (International Crisis Group 2018).

## Corruption in key sectors

### Justice and the rule of law

At the heart of many of Mali's issues is a constrained and often mismanaged judicial system. On the 2020 Rule of Law Index, Mali ranks 106 out of 128 countries; 21 out of 31 countries assessed in sub-Saharan Africa, and number 13 out of 19 low-income countries (World Justice Project 2020).

Mali's judicial system faces a series of challenges, in the form of mismanagement, lacking security and judicial influence from other branches of government (BTI 2020). In a number of high-profile cases over the years, including during allegations of irregularities during the presidential elections in 1997, 2002 and 2007, Mali's courts have acted in a way that suggests that their impartiality is limited (van Veen et al. 2015).

Levels of bribery among judges are high, and anecdotal evidence indicates that an individual can buy protection from prosecution. For example, in

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<sup>2</sup> trafficking with the purpose of fighting in battle.

one case, a judge sold immunity for 1 million CFA (van Veen et al. 2015).

The Higher Council of the Magistrate, which is in charge of staffing decisions, has often failed to investigate and take action on corruption or abuse of office among judges in Mali. At least to some extent, this enables impunity for corrupt and underperforming judicial staff (van Veen et al. 2015). Rather than performance or merit, appointments often take place on the basis of loyalty and political allegiance (van Veen et al. 2015).

Exposing judicial corruption can also be difficult for civil society and media. In 2018, an editor of the newspaper *Le Pays*, was sentenced to six months on a charge of defamation because he reported that Mali's supreme court had been bribed to uphold the validity of president Keïta's reelection in 2018 (Reporters Without Borders 2018).

As a result of pervasive corruption challenges, Mali's judicial system suffers from a lack of reach, a serious backlog in cases and legitimacy issues (BTI 2020). Under these conditions, controlling corruption has proven difficult, and Malians also tend to express a lack of trust in the statutory judicial system. For example, in the 2016/2018 Afrobarometer survey, 59% of Malian respondents believed most or all judges and magistrates to be corrupt. An additional 27% reported to believe some to be corrupt and only 10% believed none have been engaged in corruption. Additionally, 68% of respondents believe that it is either somewhat or very likely that a rich person could bribe their way out of a fair trial.

In the 2019 Justice Needs and Satisfaction in Mali Survey by the Hague Institute for Innovation in Law (HiiL), 55% of respondents (out of 8,300) reported not trusting the Malian justice system as a whole, while 66% of those with legal problems believed the courts to be the most corrupt institution in the country. About 76% of respondents agree or strongly agree with the statement that courts generally protect the rich and powerful. The survey also shows that 47% of those

who took legal action had their problem partially or fully resolved but that resolution rates are very different from institution to institution. Whereas 63% of cases that were brought up to village chiefs were resolved, almost half of cases (46% to be exact) in the courts are ongoing, indicating a higher rate of solved cases in statutory than in customary institutions. Legal disputes over land rights appear to be the area with the most ongoing cases (HiiL 2019). While these numbers paint a rather gloomy picture of the rule of law, survey data also shows that more Malians appear to take action to solve their legal problems than during HiiL's baseline survey in 2014 and fewer people give up.

The conflict that rages in Mali has compounded many of the pre-existing issues in the justice sector. Many former judges have either fled, been kidnapped or killed, which has weakened Mali's already limited statutory legal infrastructure (Pujol-Mazzini 2019). To keep some form of functional justice system going during the conflict, many court cases were transferred from northern courts to two specialised tribunals in Bamako. In the areas of Northern Mali covered by the 2015 peace accord, judges and civil servants were meant to return to their posts, but approximately a third of them has not done so (Pujol-Mazzini 2019). This situation contributes to the increasing backlog of cases.

Given these issues, it is not surprising that Malians continue to prefer more local and culturally embedded customary justice institutions. Customary justice service providers have traditionally been engaged in civil disputes, including disputes over land and inheritance (Ursu 2018). However, due to the turmoil in Mali in recent years, these institutions have now found themselves having to handle more cases that are more complex, have more significant ramifications, but with fewer resources and amid profound insecurity (Ursu 2018). Customary justice institutions do not always have the capacity to enforce their decisions, and while they, according to Mali's constitution, exist and work in tandem with the statutory judicial system, law enforcement

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sometimes does not provide customary institutions with the support they need (Ursu 2018).

Reliance of large parts of society on customary justice mechanisms is problematic. Corruption and political patronage are defining features in many customary justice systems (Goff et al. 2017). Moreover, customary leaders often rule with traditional values in mind and often tend to engage in compromises – both of which can be seen as good things, of course, but can also be seen as less responsive to the needs of women, minorities and slaves (where/if they exist). Nevertheless, it is important to remember that these institutions are currently more trusted, perceived as less corrupt, and researchers find satisfaction rates are substantially higher than for participants in the formal justice system (Goff et al 2017). Analysts have argued that policymakers need to take steps to strengthen customary justice providers, but that interventions aimed at strengthening the judicial system and access to justice for Malians have tended to focus on the formal system (Ursu 2018).

In addition to more traditional customary justice providers, many jihadist groups have implemented more strict forms of Sharia law in territories where they exercise authority. Sharia law is not a uniform concept and is implemented differently by various groups, whether it is the Movement for Unity and Jihad in West Africa (MUJAO), Ansar Dine, AQIM, Katiba Macina, Ansarul Islam or the Islamic State in the Greater Sahara (all of which currently have some presence and authority in Mali<sup>3</sup>). Indeed, some of these groups (mostly Ansar Dine, Katiba Macina and MUJAO) are of Malian or Sahelian origin and tend to be more in tune with local grievances and responsive to local needs, albeit from a strict Islamic standpoint (see, for instance, Roetman et al. 2019). With that said, they all stand accused of grave atrocities and many are engaged in forms of criminality that are indeed not very pious (and probably Haram). In terms of severity of

actual human rights abuses, however, Dan Nan Ambassagou, a Dogon militia, is probably responsible for the most extreme atrocities. The government of Mali is often accused of taking a relatively lax stance on Dan Nan Ambassagou (see, for example, Human Rights Watch 2018).

## Mining

Mining is important to the Malian economy, with gold being the primary extractive industry in the country. Mali is Africa's third-largest gold exporter (EITI 2019), and gold makes up no less than 46% of Mali's (relatively undiversified) export basket (Atlas of Economic Complexity 2020). Mali's two biggest export partners are the United Arab Emirates and Switzerland – large net gold importers (Atlas of Economic Complexity 2020). Gold can be found predominantly in southern and western regions of Mali where both industrial and artisanal mining occur (EITI 2019), but smaller mines are also scattered across other parts of the country.

Mali is a participant to the Extractive Industries Transparency Initiative (EITI) and has made “meaningful progress” towards implementing the 2016 EITI standards, covering various indicators of governance, oversight, revenue management and impact assessment (EITI 2019).

While positive trends can therefore be identified, there are serious issues with corruption in Mali's mining sector, particularly with regard to artisanal mining. Since the 2012 crisis erupted, there has allegedly been an increase in people involved with artisanal mining (Ba and Bøås 2017). By some estimates, 700,000 individuals in Mali work as artisanal gold miners (EITI 2019). One potential reason for this increase is that many displaced individuals have turned to mining after losing their former livelihoods, such as in agriculture (Ba and Bøås 2017).

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<sup>3</sup> For a visualisation of which groups are present where, see Lebovich 2019.

Artisanal mining is legal within designated territories (Ba and Bøås 2017). The size of these artisanal gold-mining corridors, however, are limited and they tend to be over-exploited. As a result, many artisanal miners operate outside these legal zones. While the Malian state looks the other way, local government officials in these jurisdictions are often heavily involved in extracting rents from the artisanal mining sector, often by taking a cut of the produced gold or by hiring artisanal miners themselves (Ba and Bøås 2017). These local government officials then send a share up the chain to higher ranked government officials (Ba and Bøås 2017).

A significant amount of the informally harvested gold is exported outside of the legal system, via networks of gold traders who operate the clandestine value chains. In this network, each trader, both those at the mining sites, traders in Bamako, the exporters and the importers (again, mostly stemming from Switzerland and UAE) pre-finance each other to ensure that the system functions (Ba and Bøås 2017). Moreover, there are indications that the gold exported from Mali via this system stems not just from Mali but includes gold extracted in Burkina Faso and the Ivory Coast (Ba and Bøås 2017).

Not only does this system seem to come at the expense of social development and welfare of artisanal miners, evidence is also emerging that artisanal gold mining has come to be a source of conflict-financing for a number of armed and criminal groups across the Sahel (International Crisis Group 2019). In neighbouring Burkina Faso, conflicts over gold mines have turned very violent (International Crisis Group 2019). The networks who trade gold informally have also built a significant amount of expertise in money laundering and terrorist financing and, overall, expose Mali (as well as other states in the Sahel) to a higher risk of dirty money flows (International Crisis Group 2019).

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<sup>4</sup> A period where corporations are not included by changes to tax rates and changes in customs rules.

Organised criminals are also known to launder money via clandestine gold export operations (International Crisis Group 2019).

The government of Mali has recently passed a new mining law. The new law aims to enable the government to raise increased domestic revenue from mining by removing VAT exemption for mining companies, shortening the “stability period”<sup>4</sup> for corporations and other measures that should enable Mali to tax corporate mining (Maiga and Schwartz 2019). At the same time, the law provided opportunities for industrial mining companies to formalise their use of artisanal miners working under their concessions (Maiga and Schwartz 2019). Perhaps most importantly from a transparency perspective, the law requires the Malian Ministry of Finance to publish reports of how local mining revenue is spent (Maiga and Schwartz 2019). Therefore, regardless of political debates about the role international mining companies should have, the reforms could potentially help prevent at least some illicit wealth capture by state or non-state elites, if adapted correctly (Maiga and Schwartz 2019).

## Agriculture and forestry

With 80% of Mali’s population participating in agriculture, and the sector contributing to 36% of the country’s GDP, agriculture is hugely important to Mali (Maiga et al. 2019).

Food security is a major challenge in Mali. 19% of the country’s households are considered food insecure, and regions such as Mopti and Gao report food insecurity rates of 34% and 28.4% respectively (Maiga et al. 2019). The rates of stunted children (i.e. chronic malnourishment) stands at an average of 27% across Mali, indicating that children under five pay a very high price for the lack of agricultural development and food insecurity (Maiga et al. 2019).

Mali faces a number of constraints to agricultural development, including demographic pressures, and climate-induced environmental shocks.

Beyond these geographical factors, poor governance, access issues and intercommunal conflicts are major contributors to the lack of agricultural development and forms the point of departure of many analyses on Mali's agricultural development issues (Maiga et al. 2019).

Agricultural policy in Mali is implemented by multiple actors with various mandates who are not always perfectly aligned (Maiga et al. 2019). Development actors also play an important role, but donor coordination could be improved (Maiga et al. 2019). In practice, agricultural policies and land tenure regulation is by exercised by both customary and statutory institutions (see the section on justice and rule of law)

This regulatory framework has not been adequately capable of solving pressing issues within the agriculture sector, such as land disputes. According to some figures, around 80% of legal cases in Mali involve land disputes in some way (Maiga et al. 2019). Many of these land disputes go unresolved over corruption, mismanagement or a lack of efficacy in the statutory legal system (Benjaminsen and Ba 2019; Maiga et al 2019). In some cases, government officials have actively kept conflicts over tenure and land access going, as these open cases presented opportunities to extract bribes from the different parties in the conflict (Benjaminsen and Ba 2019). Forty per cent of respondents in the 2016/2018 Afrobarometer survey believed it to be either somewhat likely or very likely that one could use bribes or personal connections to register land not belonging to them.

Customary justice institutions, which tend to be more trusted, often lack the capacity to enforce their decisions, and state law enforcement rarely sends personnel to support their decisions (though traditional authorities' roles as intermediaries in conflict are enshrined in Mali's decentralisation laws) (Maiga et al. 2019). In the past, customary institutions have often proved more effective at

addressing intercommunal tensions over land tenure but have been increasingly incapable of managing this increasingly complex task (Maiga et al. 2019). Because of this governance vacuum, various armed groups have emerged as important decision makers in land disputes and regulators of agricultural policy in many parts of Mali (Maiga et al. 2019).

Particularly in areas where competition over land is fierce, uncertainty over land tenure hinders agricultural development in Mali (Maiga et al. 2019). As land can be taken away from a farmer at any time (either by an armed group or by extreme weather conditions), incentives to fully develop land for agricultural production is reduced. Likewise, as pastoralists may lose access to land, their livelihood is often in danger (Benjaminsen and Ba 2019). The Pastoral Charter sets out the rights of pastoralists to move their livestock and requires local governments to regulate grazing areas, paths and manage natural resources to make pastoralism possible (Maiga et al. 2019).

Nevertheless, the legal framework for agriculture in Mali often places the rights of pastoralists below those of sedentary farmers, and the implementation of policies that manage the land access of pastoralists often take a backseat in local administrations and at the level of the central state. Moreover, pastoralists have been more vulnerable to corruption and state predation as corrupt elites have been careful at extracting rents (bribes, but also legal, but unpopular fees) at key entry points from dry to wetland pastures (Benjaminsen and Ba 2019).

Pastoralists are vulnerable to corruption, and state predation is openly exploited by jihadist groups with a presence in Mali who recruit among them. For instance, Hamadoun Koufa, a radical preacher who leads the Macina Liberation Front, often frames the jihadi struggle in Mali as a struggle between pastoralists and corrupt and predatory state officials as well as against sedentary communities (such as Dogon) (Benjaminsen and Ba 2019). The militants have also attempted to regulate agriculture in ways that are more

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responsive to the needs of herders. Many Fulani/Peul do not support the jihadi movements out of religious conviction but out of various practical needs, including the need for more reliable and less corrupt land governance (Benjaminsen and Ba 2019).

These dynamics are largely similar in the forestry sector. Here, the forest police has been known to hand out random fines, targeting mostly women and herders, often in the name of forest conservation (Benjaminsen and Ba 2019). Conservation tactics in Mali often evolved in a rather militarised manner and the forest service became a “vehicle for decentralised plunder” (Benjaminsen and Ba 2019: 11) as high-level officials received a share of the bribes. This ensured the “greening” of Mali, increased environmental sustainability and satisfied donors (who worried about desertification), but at the expense of social sustainability as those communities who used the forest commons (often pastoral communities) placed the forest service at the top of their “hate list” (Benjaminsen and Ba 2019: 11).

Recognising that addressing land tenure issues is central to agricultural development and peacebuilding, the government of Mali enacted the Agricultural Land Law in 2017. The law introduced a number of changes to land policy in Mali: it recognised certain “state-owned” lands where small-scale farmers had customary rights as belonging to the farmers, allowed communities (villages) to administer land owned by that community in its whole and created a platform for setting up commissions that administer land tenure and can resolve local conflicts (Djire 2017). It also set aside some land formerly owned by the state exclusively for women (Djire 2017).

## Security sector

The Malian security sector lacks oversight and has been identified as one of the institutions with the highest risks of corruption (Smith 2019). The sector overall lacks independent oversight mechanisms, with the parliamentary oversight

committee beholden to the interests of the executive (BTI 2020; Freedom House 2020). There are no independent vetting procedures for senior defence posts, and the executive can appoint generals and colonels on a range of criteria that have little to do with competencies and more to do with clientelism ethnicity. Moreover, the military lacks internal code of conduct enforcement mechanisms (Smith 2019). As a result of all these factors, the risks of individuals in the security sector of engaging in corruption are low, while low wages (close to the levels of an unskilled worker) sometimes necessitates predatory behaviour or the extraction of bribes (Smith 2019).

There are also reports that police and army recruits have to pay if they want access to basic (and compulsory) training. A police recruit interviewed by Le Monde claims that the price was 500,000 CFA France (or €760) (Le Cam 2019). Payments are also common to facilitate advance in rank, ensuring promotion in the army (Smith 2019). Indeed, the security sector institutions (the police in particular) are among the most responsible for Mali’s culture of bribery and rent-seeking (Smith 2019). There is also evidence that wages, allowances and potentially profits from bribes inside the security sector moves up in the command chain (Smith 2019), possibly in a manner that mirrors the systems of “rapportage” in countries such as the DRC.

## Anti-corruption framework

### Legal framework

Mali has signed and ratified key international conventions, including the United Nations Convention against Corruption (UNCAC), the United Nations Convention against Transnational Organised Crime (UNTOC) and the African Union Convention on Preventing and Combating Corruption. Mali has also ratified the [African Charter on the Values of Public Service and Administration](#) (articles 12 and 13 provide anti-corruption measures), as well as the [African](#)

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[Charter on the Values and Principles of Decentralisation, Local Governance and Local Development](#) (article 14 provides anti-corruption measures).

Mali's penal code covers most forms of active and passive corruption and both the private and public sector. Punishments range from fines to prison sentences between two and five years (Shiple 2017).

The 2014 Law on the Prevention and Repression of Illicit Enrichment established part of Mali's institutional setup to prevent corruption and illicit enrichment<sup>5</sup>. The law established the Central Office of the Fight Against Corruption (Office Central de Lutte contre la Corruption), which later became the Central Office in the Fight Against Illicit Enrichment (l'Office Central de Lutte Contre l'Enrichissement Illicite, OCLEI). The law also established an asset declaration regime for senior officials, including the president. However, it has been criticised for not including members of the national assembly (Shiple 2017).

Money laundering is covered first and foremost by the penal code title 4 chapter 9. The 2016 Uniform Law, furthermore, established provisions for asset seizure, recovery, and identifies a range of predicate offences (Shiple 2017).

Mali has a public procurement code, which outlaws collusion during tendering. It does have some significant gaps for defence procurement, however, which leaves room for significant amounts of abuse, most notably because the code allows for discretionary spending in the defence sector (Smith 2019).

In addition to the mentioned laws and codes, Mali has numerous laws that cover illicit and criminal economies, including a dozen separate laws on

trafficking in firearms, persons, cultural property, drugs, cybercrime and human smuggling<sup>6</sup>.

Article 35 of Mali's 1992 constitution prohibits presidents, even through intermediaries, from buying or taking in bailment anything which belongs to the state without prior authorisation by the supreme court within conditions determined by law. Furthermore, the article prohibits presidents or their intermediaries from purchasing supplies or taking part in auctions for the administrations or institutions dependant on the state or subject to their control.

In addition to the gaps in the public procurement code and the Law on the Prevention and Repression of Illicit Enrichment, Mali's legal anti-corruption framework has two important gaps. First, Mali does not have an explicit freedom of information law, which currently makes it difficult to obtain information from the government, even on issues that do not directly relate to national security (Freedom House 2020). Secondly, whistleblower protection is not guaranteed by law, except for matters involving money laundering or terrorist financing (Shiple 2017).

## Institutional framework

### Auditor General

Established in 2003, the [auditor general \(Bureau du vérificateur General, BVG\)](#) has often stood out as one of the most reliable institutions in exposing corruption in Mali (BTI 2020). This is not least due to the BVG's relative independence and freedom to operate without too much political interference (Shiple 2017). The BVG has successfully identified and reported on mismanagement and corruption in the past, most notably in the case of the 2014 acquisition of the presidential jet (where it was the failure of the courts to deliver justice and

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<sup>5</sup> Available in French at: <http://news.abamako.com/documents/docs/Loi%20Corruption.pdf>

<sup>6</sup> These laws are available in French at the UNODC database of legislation (Sherloc) database: <https://sherloc.unodc.org/>

accountability, not that of the BVG). As also pointed out by Shipley (2017), one significant issue with the BVG is that reports are often delayed and often take two years to be published. On the more positive side, however, the BVG's capacity is currently reported to be increasing (BTI 2020).

### **The Central Office to Fight against Illicit Enrichment**

Another key institution in Mali is the central office to fight against illicit enrichment (l'Office central de lutte contre l'enrichissement ilicite, OCLEI). OCLEI operates as the leading anti-corruption agency in Mali, receiving and reacting to reports of corruption. Currently, it appears that OCLEI has shown a willingness to look into affairs and conflicts of interests of high-level targets. In January 2020, it referred three cases of illicit enrichment by senior civil servants to the courts (Maliweb 2020). OCLEI has allegedly also been looking into Mali's prime minister, Boubou Cissé. According to reporters at Mali24, upon discovering he was a subject of an investigation, the prime minister in turn ordered the supreme court to begin investigations into potential illicit enrichment by the chair of OCLEI, Moumini Guindo (Fall 2020). This move may have been politically motivated, but that is largely unknown.

### **The National Financial Information Processing Unit**

The National Financial Information Processing Unit (La Cellule nationale de traitement des informations financières, CENTIF) is the financial intelligence unit (FIU) of Mali. CENTIF was established in 2007 to process and investigate suspicious transactions that may be related to money laundering or terrorist financing (Shipley 2017). In the 2019 Mutual Evaluation Report, GIABA (the regional FATF body) found that CENTIF does a "satisfactory" job. However, they also point out that CENTIF needs more resources and capacity and that many financial entities in Mali do not file their suspicious transaction reports (GIABA/FATF 2019). In particular, inputs from the

FIU seem only to be used by national security organisations to a limited extent. The inter-ministerial committee, which is the central coordinating body for policies regarding Mali's anti-money laundering and terrorist financing policies do not always include CENTIF in their decisions (GIABA/FATF 2019). Another issue is simply that Malian law enforcement do not always react on intelligence reports or cases referred by CENTIF (GIABA/FATF 2019).

### **The Public Procurement and Public Service Delegation Authority**

Also worth mentioning is the public procurement and public service delegation authority (translated from French, Autorité de Régulation des Marchés Publics et des Délégations de Service Public, ARMDS). Created in 2008, ARMDS evaluates and performs various control functions in public procurement. It also has the mandate to investigate potential violations of regulations and settle legal disputes over tenders.

### **Other stakeholders**

#### **Media**

The media landscape in Mali has long been seen as relatively diverse, and Mali has a reputation for enjoying relatively high levels of free speech. Mali is placed 108 out of 180 on the 2020 World Press Freedom Index. This is a slight improvement from a year prior, but still shows that press freedom in Mali, perhaps in contrast to its image, is more fragile than in neighbouring countries such as Niger (ranking 57) and Burkina Faso (38) (though Mali performs much better than its northern neighbour, Algeria). Likewise, Freedom House (2020) gives Mali a score of 2 out of 4 in terms of media freedom.

Nevertheless, self-censorship is common, and pressure against journalists who engage in critical investigations or coverage is not unheard of (Reporters Without Borders 2020; Committee to

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Protect Journalists 2020). Challenges are particularly serious for journalists operating in conflict-affected regions of Mali, where two French journalists were killed in 2013 (Committee to Protect Journalists 2020). Journalists who cover national security and defence issues often face some pressure (Reporters Without Borders 2020), and elections also tend to produce a short-lived bump in the number of violations against press freedom (Freedom House 2020).

Reporters Without Borders (2020) accuse Karim Keïta, who heads the parliament defence committee, of systematically harassing journalists who investigate Keïta's potential role in the disappearance of a journalist in 2016. Another prominent case of violation of media freedom involves the arbitrary arrest of three journalists from the news website MaliActu in 2018 (Committee to Protect Journalists 2020).

### **Civil society**

A part of Mali's democratic "poster boy" image came from a perception of a relatively open political culture in Mali. Freedom House (2020) gives Mali a score of 41/100, making it "partly free", indicating that Malians still enjoy some civil liberties. Nevertheless, recent years, have seen a number of violations against civil liberties, both the mentioned issues with regards to media freedom and with security forces applying heavy-handed approaches to protests (Freedom House 2020).

NGOs can register and operate in Mali, but experience restrictions in access to certain conflict-affected territories. The Malian chapter of Transparency International is Cercle de Réflexion et d'Information pour la Consolidation de la Démocratie au Mali.

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