

BURKINA FASO

CAPITAL: Ouagadougou POPULATION: 13.6 million GNI PER CAPITA: \$250

SCORES

ACCOUNTABILITY AND PUBLIC VOICE: 3.44

CIVIL LIBERTIES: 3.88 RULE OF LAW: 3.32

ANTICORRUPTION AND TRANSPARENCY: 3.12 (scores are based on a scale of 0 to 7, with 0 representing weakest and 7 representing strongest performance)

Augustin Loada

INTRODUCTION

After four years of revolutionary regime ended in a bloody coup led by Captain Blaise Compaoré on October 15, 1987, Burkina Faso entered a process of liberalization. At the end of the 1980s, internal and external pressures resulted in further democratic reforms. The adoption of a new constitution in June 1991 was a major step in this process. Many opposition parties, however, raised criticisms about the new constitution, which they claimed invested too much power in the executive and unfairly gave the incumbent president the right to manage the transition to the constitutional regime. Therefore, they urged President Compaoré to convene a national conference—a constituent assembly with sovereign power to amend the new constitution—and form a government of national unity to manage the democratic transition. Confronted with President Compaoré's steadfast refusal to satisfy their demands, all major opposition parties boycotted the December 1991 presidential elections,

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resulting in an easy victory for the president, although voter turnout was less than 25 percent. His party also won the May 1992 and May 1997 legislative elections, in which the opposition participated but accused the ruling party of fraud. The opposition largely chose to boycott the November 1998 presidential elections, although political leaders from two small parties challenged President Compaoré, who was nevertheless reelected with 88 percent of the total votes.

The murder of the well-known journalist Norbert Zongo on December 13, 1998, launched the country into a deep sociopolitical crisis. A movement led by civil society groups and opposition parties protested the failure to bring Zongo's assassins to justice. The crisis, which shook the regime to its foundations, paved the way for a reinforcement of the democratic process. Political and electoral reforms adopted in 2000 and 2001 introduced significant changes following intensive consultations among political parties. This made possible the reestablishment of a minimum of confidence between political parties and the introduction of more transparent and effective electoral rules. The result of this was a significant gain in the May 2002 legislative elections for opposition parties, which combined won 54 out of 111 seats.

Despite progress, democratization in Burkina Faso is far from complete.² In spite of the electoral reforms implemented since 2001, the people's will is not fully expressed due in part to electoral corruption and the absence of equal campaigning opportunities for all candidates. The excessive power of the executive and the ruling party disrupts the balance of power among the branches of government.

In contrast, freedom of expression and civil society groups are relatively well protected, with thousands of associations and a pluralist and sometimes critical press in operation. Civil liberties are generally guaranteed, although torture continues and often goes unpunished. The principles of equality and nondiscrimination are legally ensured, but in practice some groups, such as women, have suffered from inequalities. The rule of law is also constitutionally guaranteed but undermined by the judiciary's lack of independence and credibility and the weak democratic control over the police and military forces. An arsenal of laws intended to ensure transparency and to fight corruption lacks effectiveness, and in practice, corruption continues to increase because the political will to tackle it remains weak.

ACCOUNTABILITY AND PUBLIC VOICE - 3.44

The constitution states that government authority is based on the will of the people as expressed through elections. These elections are organized by the Independent National Electoral Commission (CENI) on the basis of universal and equal suffrage and are open to a variety of political parties and candidates. However, although administration of elections in Burkina Faso has steadily improved, there is still much to be done to achieve free and fair voting. Indeed, elections are still undermined by corruption, and the electoral law somewhat favors the ruling party.

In October 2003, 16 people were arrested and charged with attempting to overthrow the Compaoré government. Among them were two civilians—a pastor whose church was attended by the majority of the arrested people, and a party leader well known for his radical opposition to the regime—and several soldiers formerly of the regiment in charge of President Compaoré's safety. The government claims the plot began three years earlier and involved financial support from Cote d'Ivoire and Togo.³ However, the majority of the opposition and the public believe that the regime invented the charges as a pretext to neutralize its radical opposition.

According to the constitution (Article 167), any regime that does not derive its power from the constitution, such as a regime that comes to power via a military coup, is not legitimate. In the event that an illegitimate regime does come to power, the constitution invites citizens to revolt against it. Yet the government's announcement of the 2003 coup attempt did not result in widespread indignation among the population. The tepid popular response points to the deficiency in the consolidation of democracy in Burkina Faso.

Unlike the 2001 electoral reforms, which were affirmed by wide consensus, the revised electoral code of April 2004 has been questioned by some opposition parties and by many members of civil society. The ruling party has been accused of redrawing electoral districts and revising the system of proportional representation to its advantage. In addition, the ministry of territorial administration and decentralization, which was in effect excluded from the administration of the 2002 elections because it was viewed as partisan, was tasked in the 2004 electoral code with certain electoral functions, such as voter registration, at the request of the

CENI. This led the opposition to question the independence of the CENI. Free elections in Burkina Faso have also been hindered by widespread electoral fraud, the electorate's weak civic awareness, and the dominance of religious and traditional leaders, who influence the votes of their followers and—in exchange for compensation from the regime—often encourage them to support the ruling party.

During electoral campaigns, the High Council for Information ensures that all political parties and candidates have equal and free access to the state-owned media, which have a monopoly on election coverage. In general, the High Council fulfills its responsibilities, guaranteeing equal access to the national media during electoral campaigns. However, aside from the ruling party and a handful of larger opposition parties, most parties have trouble filling the time or space provided for them in the media, mainly due to organizational shortcomings such as a lack of professionalism, means, and qualified staff.

The opposition has two main criticisms of tactics used by the ruling party to manipulate reporting by the state-owned media. First, the state-owned media tend not to cover opposition political activities outside electoral campaigns. Second, in election years the government and ruling party typically organize a thinly veiled pre-electoral campaign of media coverage endorsing government activities—the organization of cultural activities and sports events, for example, or the unveiling of infrastructure and community facilities—which clearly influences the mobilization and vote of the electorate. The High Council does not regulate media coverage before the campaign, and the opposition has no effective way to counterattack. In addition, no rules regulate the funding of political parties or candidates, and there is no limitation on campaign spending. The ruling party thus has an advantage in campaign funding because it can easily generate funds from its members and supporters as well as from outside the party and the country.

These obstacles to democratization are heightened by the fragmentation of the opposition. According to the ministry of territorial administration and decentralization, which is in charge of civil liberties, as of September 2004, 103 political parties were officially registered. This quasi-anarchic situation complicates the formation of an opposition capable of posing a credible alternative to the ruling party. In addition, the ruling party has frequently been accused of actively encouraging dissidents and defectors within the main political opposition parties. Thus,

given its difficulty in unseating the ruling party, the opposition considers the enforcement of a two-term limit for the presidency of great importance to its success, as it would reduce the incumbent advantage. The two-term limit, which was eliminated in 1997 but contested by civil society groups and opposition parties, was reinstated in 2000 during the crisis sparked by the murder of Norbert Zongo. But since January 2004, adherents of the ruling party have made clear their view that the provision is not retroactive and that therefore President Compaoré is eligible for two more consecutive presidential terms.

A May 2000 law allocates funds for non-electoral-campaign activities to political parties that took part in the previous election, with higher levels for parties that received at least 5 percent of the total votes—currently three political parties.⁵ However, no law addresses private funding or funds from foreign donors, both of which are increasingly sought by political parties.

The constitution of Burkina Faso is based upon the separation of powers between the executive, the legislature, and the judiciary. However, the checks and balances system does not function as it was designed. The president possesses exorbitant powers; the parliamentary check is not sufficient due to parliament's weakness combined with pressure from the ruling party, which expects parliament to be supportive rather than critical of the government.

In principle, recruitment for civil service jobs is by competitive examinations based on merit. But in practice, some competitive examinations have been subject to corruption. In addition, access to strategic posts appears to be conditional on membership in the ruling party rather than on intrinsic qualifications. The government also uses controversial methods to recruit and promote senior civil servants, such as the so-called psychotechnical tests that were added to the August 2004 examination for entrance to the master's level of the Ecole Nationale des Régies Financières. These tests are meant to evaluate certain psychological factors that might affect a candidate's eligibility for a job, but opponents charge that they are manipulated to favor the government's preferred candidates.

Under Article 8 of the constitution, associations and civic groups can testify or comment on pending government policy or legislation. However, for many adherents to the ruling party, democracy is understood as rule by the majority. The government does not want to give the impression of weakness in the face of pressures from civil society or the press. Unless it is constrained by popular opinion, the political leadership rarely changes course as a result of peaceful demonstrations or strikes. For example, the ruling party adopted the April 2004 electoral reform in the face of strong resistance from civil society.

The institutional framework regulating nongovernmental organizations (NGOs) is not restrictive. The government imposes no onerous requirements for registration, and funders of civic organizations are free from state pressures. As a result, thousands of associations and NGOs operate in Burkina Faso. Still, the activities of human rights groups are sometimes impeded by the government or local authorities.

Freedom of the press and media pluralism are relatively ensured. However, the government sometimes pressures the state-owned media to revise their editorial positions when they are too critical of the regime or if it seems to favor the opposition. The private media are relatively independent and often critical of the government and the opposition, and the government makes no direct attempt to control them. However, investigative journalists are sometimes intimidated when they try to report on corruption or human rights abuses committed by powerful people. For example, Newton Ahmed Barry—a well-known journalist who investigated the credibility of official reports on the 2003 coup attempt and who later questioned the independence of the president of the military court of Ouagadougou—was summoned repeatedly by the police or the general prosecutor in 2003 and 2004.

The press code is generally unrestrictive. However, it does include some repressive clauses, notably with respect to defamation, which is punishable by imprisonment. This year only one dispute, which was solved by mediation, arose with a journalist. The government protects and promotes the freedom of cultural expression through the ministry of culture.

The government allocates public funds to private media. However, this financial assistance is insufficient given the large number of recipients, and many financially struggling organizations are vulnerable to indirect pressures. Some private media are allied with the ruling party while others are aligned with opposition parties, although all claim to be independent. Intimidation by the police and journalists' fears of the regime lead to self-censorship, resulting in a failure to publish stories examining official corruption. Moreover, journalists themselves are not

free from corruption, with some being paid to promote partisan opinions in their reporting.

Recommendations

- The government should invest more in civic education to promote awareness of the right to free expression and to inform the public about proper electoral procedures as a means to combat electoral fraud.
- The law on funding of political parties should be reformed to include regulation of private funding and to limit electoral expenditure.
- Regulation of the media should ensure equal access to public media by all political parties, including outside electoral campaign periods.
- The parliament should empowered to provide a check on the actions of the executive. Parliamentarians should be trained to assume this role.

CIVIL LIBERTIES - 3.88

Burkina Faso's constitution forbids torture, and the country has ratified the International Convention against Torture. But in practice, citizens are subject to torture and inhumane or degrading treatment when in police or military custody. Only when deaths in custody are denounced in the media do judicial authorities intervene, although authorities have never officially acknowledged torture as a cause of death. Rather, suicide or natural death is given as the cause. For example, in May 2004, a citizen died inside Baskuy state police barracks in Ouagadougou. His family referred the matter to the authorities, but as of September 2004 no one has been arrested for the death. In addition, human rights activists have often accused the security forces of killing criminals, although the authorities have claimed that they were acting in self-defense.

Prison conditions do not support the human dignity of prisoners due to overpopulation and lack of hygiene, infrastructure, and staff. In September 2004, a disruption in the water supply at the central prison of Ouagadougou caused a rebellion that resulted in the deaths of several prisoners and the escape of at least 100 others.

Since the assassination of the journalist Norbert Zongo in December 1998, no members of the political opposition or human rights defenders have been killed. However, justice has been very slow in Zongo's case. Citing the separation of powers, the government has not taken responsibility for this delay and has instead maintained that it has given the justice system the necessary means to clear up the issue. In reality, the government has not acted on the findings of an independent investigative commission, and it is unlikely that the case will move forward in the near future.

When political tensions are high, there is little protection against arbitrary arrest. Policemen often harass citizens to intimidate them. In September 2004, in spite of his parliamentary immunity, Hermann Yaméogo, a vocal opponent of President Compaoré, was arrested at the airport and had his passport seized before later being released. He was accused of giving false information to Ivorian and Mauritanian authorities on the involvement of Burkina Faso in the rebellion in Côte d'Ivoire and in the unsuccessful attempt to overthrow the Mauritanian president. Yaméogo, who the ruling party characterizes as a traitor and stateless, is being prosecuted for having secret dealings with Cote d'Ivoire and Mauritania, whom the Burkinabe government considers to be the country's enemies. The ruling party appears intent on discrediting him nationally and pushing him out of the running for the 2005 presidential elections. Opposition politician Noël Yaméogo, Hermann's cousin, was also detained in September 2004.

There is very little protection against long-term detention without trial. Detention is initially limited to 72 hours, with a possible extension by 48 hours at the request of the prosecutor or examining magistrate, but in practice it often extends beyond that. Frequently, the reason given is that the police do not have adequate means to collect the necessary information to permit release or to indict. The Burkinabe Movement for Human Rights, the country's largest human rights organization, intervened at a police station in Ouagadougou at the beginning of 2004 to obtain the release of a citizen who had spent 21 days in detention. Following her participation in the 35th session of the African Commission of Human and Peoples' Rights, the minister of human rights said in an interview in June 2004 that the government is open to a debate on this problem and to ideas about how to resolve it. However, no steps have yet been taken.

When state authorities violate citizens' rights, the latter can refer the matter to the justice system or to the national ombudsman, the Mediator of Faso. These mechanisms tend to work slowly and often decide in favor of the state authorities. Indeed, citizens who report abuse are far more likely to receive compensation in cases involving non-state entities, such as private businesses, than in those involving state authorities. However, the involvement of civil society organizations on behalf of a citizen can often lead to prompt compensation.

Abuses are sometimes committed by traditional chiefs and their relatives, who still consider the members of their community to be their subjects. These traditional leaders grant themselves the right to hand out punishments to subjects who fail to uphold traditional values. That said, traditional chiefs have appeared more reluctant to exercise this right since 2000, when a prominent traditional chief, who had ordered one of his subjects to be beaten to death, was put under house arrest. Nevertheless, in 2004, the guards of another important traditional chief, the king of Yatenga, manhandled one of his subjects. The affair was settled out of court through traditional procedures of mediation.

Most laws state the principle of nondiscrimination and specifically condemn discrimination based on sex, race, ethnic group, region, skin color, language, religion, caste, political opinions, wealth, and birth. The government addresses women's rights and has carried out some awareness campaigns among the general population. However, women's rights are not always guaranteed in practice because of traditional values that view women as inferior, leading to discrimination against them. There is no legislation specifically on gender discrimination. Instead, the law punishes certain social practices and backward customs that discriminate against women. For example, excision on young girls is punishable under the penal code. Several people found guilty of excision were jailed in 2004. With the support of the national commission for control of excision and the ministry for women's affairs, positive discrimination is practiced by the state and by some civil society organizations to increase girls' access to education by offering free schooling and scholarships. Still, much remains to be done to achieve genuine equality between men and women in Burkinabe society.

Officially, the labor code and the laws on employment and civil servants forbid any discrimination in access to employment. In practice, however, women are not treated equally to men during the recruiting process and in their compensation. Women are often reluctant to complain for fear of losing the opportunities they do have.

In recent years, the government has been taking steps to prevent the trafficking in women and children. In September 2004, the government adopted a plan of action to control trafficking in children. The ministry for women's affairs has created the national committee for control of trafficking in children and sponsored volunteer groups to monitor the problem. Security forces are on alert and have been given sensitivity training. Still, the country's, and individual families', poverty seems to ensure that the problem will persist.

Burkina Faso's population is composed of more than 60 ethnic groups. The most prominent is the Mossi, who constitute an estimated 6 million people—half of the total population of Burkina Faso. Muslims, who represent half of the population, are the main religious group. However, they are less politically influential than Christians, who represent only about 10 percent of the population but are better organized and have played a prominent role in the education of state elites. Despite the inequality of influence on politics, all ethnic and religious groups completely and effectively exercise their rights and basic freedoms without any discrimination and with full equality before the law. Mechanisms are in place to ensure social cohesion and tolerance within the Burkinabe society. The government deliberately avoids promoting policies that favor one ethnic or religious group, in accordance with the principle of nondiscrimination established by the constitution. Ethnicity and religious affiliation are not significant factors in political life in Burkina Faso. Nevertheless, negative stereotypes exist about certain groups, a problem the government does not consider a priority or its responsibility and does not usually take steps to combat.

The government does little to ensure the rights of people with disabilities. Many services available to the general public, such as post offices, are not accessible to people with disabilities, a fact that is denounced by many NGOs. The government does not strive to provide information on government services and decisions in forms accessible to people with disabilities, in spite of a 1986 provision ensuring access to public buildings for the disabled. In addition, there are no efforts to promote access to education and employment for people with disabilities. Few policies promote their rights.

Freedom of religious belief is acknowledged in the constitution (Article 7) and respected by the government, which imposes only one limitation: respect for law, order, and standards of good behavior. The government does not generally interfere in the appointment of religious or spiritual chiefs or in the internal activities of religious groups. However, due to the disorganization of the Muslim community and offenses committed in the past, the government has in the past few years participated in arrangements for travel to Mecca for the annual Muslim pilgrimage through a commission composed of representatives of the government and the Muslim community. In 2004, the government disbanded an organization that was similarly involved in arranging pilgrimages but had failed to present sufficient safety guarantees for participants and was disturbing the work of the government-sponsored commission. Most Muslims would prefer that sole responsibility for arranging the pilgrimage be returned to their community.

Freedom of association is recognized in the constitution (Article 21), and the law related to freedom of association is unrestrictive. Many associations form freely and are recognized by the authorities. However, while the government acknowledges the rights of these groups, it dislikes most of them, as they frequently criticize the government's record on human rights and democracy. The government often accuses these groups of partisanship and sometimes resorts to excessive force in response to public demonstrations and protests. In February 2004 security forces opened fire during a public meeting of the traders and vendors of Ouagadougou's central market, resulting in many injuries and violent demonstrations in the following days.

Trade unions are permitted to operate, and workers can freely join. However, in practice, direct and indirect sanctions are often inflicted on workers who strike. Judicial decisions in favor of workers are not always respected. In September 2004, a new labor code was adopted that forbids sympathy strikes and strikes for political reasons. The code also requires the labor tribunal to endorse all arbitration agreements established by factory inspectors before implementation. These provisions are contested by labor unions, which criticize the resulting decline in civil liberties and the lengthening of procedures. Only a minority of workers are employed in the formal state-owned and private sectors. Unregistered workers or those in the informal sector have difficulty turning to the state to report abuse.

Recommendations

- The government should reinforce human rights training for the police and military forces, especially on the prohibition of torture and inhuman, cruel, and degrading treatment.
- The government should promote training for the security forces and civil society organizations on the peaceful management of public demonstrations to help avoid violence.
- The government should promote awareness among the general population, traditional authorities, and the police about women's and children's rights.
- The government should improve prison conditions by building new facilities and providing prisoners more and better food, health care, and legal assistance.

RULE OF LAW - 3.32

In Burkina Faso, judicial independence is maintained in legal texts, and judges are instructed to make impartial decisions, respecting only the law and their inner conviction. Judges and prosecutors benefit from statutory guarantees that in theory ensure their independence. But the reality is mixed. Judicial appointments and promotions are determined by the executive, which can therefore influence judges' decisions. The head of state, assisted by the minister of justice, presides over the High Magistrate Council, which manages magistrates' careers and is dominated by members appointed by the executive. Magistrates considered loyal and accommodating move quickly up the ranks and are put in charge of important cases, such as those implicating people in power. In contrast, independent-minded magistrates are typically posted far from the capital.

Prosecutors are part of the hierarchy headed by the minister of justice. They can express themselves freely during trials, but their written addresses must be in accordance with the prescriptions of the hierarchy. In addition, they can be removed from their positions at any time. This system allows for unity and coherence in the government's judicial policy. But the main consequence is that members of the executive use prosecutors to meddle in judicial decisions; prosecutors can exert strong influence over the presiding magistrate.

Judges are susceptible to bribery, especially given their modest remuneration. The High Magistrate Council set up a commission to consider the problem of bribery among judges and how to combat it, but the commission has yet to issue its recommendations. As a result of magistrates' economic vulnerability and fears of executive reprisals, many try to avoid any confrontation with the executive. Judges have adequate legal training before assuming the bench, but this initial training could be reinforced and improved by continued education.

Public officials can be sued for abuse of power and other inappropriate actions. The leaders of the ruling party, however, are rarely subject to such measures. In general, only public officials who are disloyal to those in power face suits, granting most politicians de facto immunity. Thus, public authorities tend to comply with judicial decisions. However, some plaintiffs complain of delays in the execution of these decisions, especially when the cases concern administration officials or certain powerful private actors.

According to the constitution, accused persons are presumed innocent until proved guilty. In practice, accused criminals are often subject to condemnation in the media, which challenges the presumption of innocence of the accused. The practice of detaining accused persons for long stretches of time before trial also undermines this principle. This point is illustrated by the case of the president of one of the opposition parties, who was released by a military court in April 2004 after having been detained for six months while awaiting trial related to an attempted coup.

Citizens with financial means have access to the services of an independent lawyer of their choice. The state provides counsel when those accused of serious crimes cannot afford it. But funds to provide assistance to persons accused of lesser crimes are lacking.

According to the constitution, citizens are entitled to have their cases heard by an independent, impartial, and public tribunal. However, for the poor, the right to a fair and speedy trial exists mostly in theory. In contrast, in cases in which the accused are members of the political opposition, justice moves very swiftly, thus indicating some orchestration by the ruling power. Justice is perceived by the majority of the population as not very credible, partly because it favors the politically and economically powerful.

President Compaoré controls most of the military apparatus. Democratic oversight of the security and military forces is negligible. For example, the constitution states that the military can be sent to a foreign country only if the action is approved by the parliament (Article 106); in reality, the parliament is often informed of such actions after the fact or is not informed at all. Officially, military and security services abstain from all interference in the political process. But ties between some members of the military and the ruling party are well known. Members of the military are sometimes appointed to strategic positions in the government or to head important projects. Security forces are occasionally used for partisan purposes, such as to intimidate opponents or investigative journalists. In September 2004, the director of police was a former deputy of the ruling party.

Property rights—individual or in association with others—are guaranteed by the constitution (Article 15). In general, the state adequately respects and enforces property rights and contracts. If the state does not respect its contractual commitments, it can be sued. The constitution states that land can be expropriated only for the public good and with just and prior compensation, except in the case of an emergency. The current government generally respects these conditions. However, there is not always agreement between the government and the victim of expropriation on what constitutes just compensation.

There are contradictions between traditional customs and the 1996 land and agrarian act, which establishes a national land domain defined by the law as comprising all lands of the national territory and all lands acquired abroad by the state. The state has basically made no effort to find solutions to these contradictions. In practice, the land continues to be managed by traditional authorities according to the customs of the community, particularly in rural areas, although these customs have been legally abrogated since 1985. Only in areas managed by the state and in urban districts does the state impose its will. Even in towns, land is sometimes controlled by no one or ruled by traditional authorities whose power has officially been abolished. In face of this legal dualism, the state seems powerless. Thus, land conflicts are sometimes irremediable.

Recommendations

 The High Magistrate Council and the public prosecutor's office should be reformed to allow for greater independence from undue interference from the executive.

- To improve accountability and reduce human rights violations, parliament should have oversight of the security forces and the military.
- Human rights transgressions committed by the security forces and military must be thoroughly investigated and punished.
- Legal aid for the poor should be reinforced with more funding.
- Traditional and modern rights of land management must be reconciled through the revision of the state land law to involve traditional authorities in land management and through awareness campaigns for law enforcement personnel.

ANTICORRUPTION AND TRANSPARENCY - 3.12

Since the beginning of the economic liberalization process in 1990, Burkina Faso, with the support of the IMF and the World Bank, has implemented multiple economic reforms to simplify procedures, privatize public enterprises, and break up the monopolies that generated corruption. The state considerably reduced its involvement in the economy through the process of economic liberalization. It has disengaged from most sectors of production, now considered the basis for economic growth. However, the state remains the main actor of economic development because of the embryonic nature of the formal private sector.

Many laws and institutional arrangements aim at ensuring the separation of the public domain from the personal interests of government officials. For example, during their time in office, members of the government cannot directly or indirectly buy or lease anything that belongs to the state unless a waiver is granted by law. In addition, under the constitution (Article 77), members of the government must submit a list of their property holdings to the constitutional council when they take and leave office. In reality, these constitutional provisions are not observed. The purchase of state property by members of the government is common in Burkina Faso. The president of the constitutional council revealed during a press conference in December 2003 that very few officials were in compliance with Article 77 and that he has no means to enforce the law.8 The journalist Norbert Zongo, before his murder, found that the written declarations of state officials' assets received by the constitutional chamber of the Supreme Court (today the constitutional council) were

still sealed because there was no authorization for a judge to read the content.

The state is not sufficiently protected against conflicts of interest in the private sector because of the close relationships between private economic actors and government authorities. The most important businessmen and -women of the country are either supporters of the ruling party or friends or family members of top state officials. They survive economically because of public contracts and could not prosper without political favors. The state justifies this by asserting that these actors are the pillars of economic growth and must therefore be supported.

Although normative and institutional mechanisms for the prevention and punishment of corruption are in place, they are not at all effective due to the lack of political will. The state does not rigorously apply the legislative and administrative procedures designed to ensure integrity and to prevent, detect, and punish corruption by public officials. State authorities downplay corruption, pointing out that the situation in Burkina Faso is better than in other countries in the region. Public corruption is used as a way to gather support and reward and maintain loyalty. Similarly, ruling party followers can divert public resources with impunity, provided that they remain loyal. According to the High Authority to Combat Corruption, several reports from the state general inspector revealed cases of incompetent management or embezzlement of public funds, with no subsequent action taken. Only people who do not belong to the ruling party are subject to judicial action.

Citizens who are victims of corruption have the right to sue. The results of these suits vary, with more successful outcomes generally achieved by those with higher social, economic, or political status.

Several cases of fraud in university examinations or in professional civil servant exams were widely publicized in August 2003. This led the government to cancel 14 professional exams, which were rescheduled in December 2003. Less is known about corruption in higher education than in secondary education; in the latter, teachers or headmasters do not hesitate to ask for money or favors in exchange for providing admission to schools or advance copies of tests. The government does attempt to contain this practice. Teachers and headmasters have been sued since July 2004 in a case of leaked exams. The prosecutor has pursued very severe penalties in order to set an example.

The fiscal administration has in place systems to verify accounts for tax collection purposes. But these systems are not always efficient, as the fiscal administration is among the most corrupt sectors of the government. 10 To reinforce the control mechanisms, the government plans to set up an integrated tax collector's office that will computerize the collection of customs money and government finances.

An audit office verifies public accounts, punishes management errors, and assists the National Assembly in the execution of finance laws. The audit office is an independent institution whose members benefit from statutory guarantees recognized by the judiciary. Unfortunately, the office is ineffective due to the insufficient human, financial, and material resources at its disposal. It has yet to publish a report. Moreover, no measures are in place for monitoring results or guaranteeing the effective application of those recommendations it might issue.

Many government bodies have been set up to address the prevention or suppression of corruption. However, these bodies, other than the audit office, are under the control of the executive and subject to political pressure. The executive is the primary instigator of court cases against government officials and primarily targets opposition party members. In practice, few allegations of public corruption are fully investigated and prosecuted.

Some allegations of corruption are widely publicized, mainly in the private media. Investigative journalism plays an important role in combating corruption in Burkina Faso. However, journalists face difficulties because of the culture of secrecy that prevails in the state apparatus. The work of media, civil society, and anticorruption advocates is also hampered by the lack of a legal environment to protect them. The impunity in the case of Zongo's murder and also the intimidation of journalists and activists of the National Network to Fight Corruption (RENLAC), an independent NGO, create insecurity that endures today.

No law provides for freedom of information. Reports from auditing bodies are not made public. Secrecy continues to hold back the administration, and civil servants maintain the ability to withhold information from the public.

The executive budget-making process is comprehensive, and parliament has the right to amendment. However, the constitution (Article 120) prohibits any amendment to the budget that would decrease public revenues or resources or increase public expenditures unless a corresponding increase in revenue or reduction in expenditures is proposed simultaneously. This provision reduces the ability of the deputies to influence the process. The government has adopted several reforms and improved budget transparency in recent years. However, many expenditures are classified as interdepartmental and miscellaneous, thus making them difficult to track. Documents relating to the budget process are not generally available to the public, much less simplified in order to make them accessible to average citizens. Moreover, the parliament and audit office have no means to execute an efficient verification of public expenditures. In recent years the government has improved the management of public expenditures through an integrated system of tax collection and review. It also attempts to submit draft laws on the regulation of public accounts to the National Assembly for a vote within a reasonable amount of time, but these bills have been subject to considerable delays.

Several reforms have been implemented in recent years to improve laws regulating public contracts. However, the state still does not ensure effective transparency, openness, and full competition. In principle, full competition is required for public procurement except in an emergency. In fact, this principle is frequently bypassed on the pretext of emergency. This leads to abusive recourse (about half of public procurement, according to RENLAC) to particular procedures (private contracts) that sometimes mask cases of corruption. Official corruption, which is often very difficult to prove, results in some public contracts going to less worthy enterprises or entrepreneurs.

Foreign aid constitutes 75 percent of state development investments. Conditions placed on aid by donors lead to the lawful administration and distribution of foreign aid. However, some grants are not mentioned in the state budget. They are managed in a parallel structure and thus open to corruption.

Recommendations

- The government should adopt a law ensuring the publication of the assets of public officials, verification of these declarations, and monitoring of changes in their assets over time.
- The capacity of control mechanisms should be reinforced through institutional reform, more human and financial resources, and

autonomy or independence. These institutions should be given the power to pursue violations and publish their reports in a timely manner.

- Protection for anticorruption activists against intimidation of all kinds should be reinforced through a law banning such practices.
- A new law should codify citizens' rights to information and to access to government documents.

NOTES

- 1 "La réforme du système électoral burkinabè" (Stockholm: International Institute for Democracy and Electoral Assistance [IDEA], 1999).
- ² "Report on democracy in Burkina Faso" (Stockholm: IDEA, 1998).
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