U4 Expert Answer

Niger: Overview of corruption and anti-corruption

Query

Please provide an overview of corruption and anti-corruption in Niger, with a specific focus on police corruption.

Purpose

We are looking for some guidance on engaging in Niger, from a donor perspective. We are working in the country already and are now re-adjusting/developing new some measures, and would like to include more targeted, specific anti-corruption elements.

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Caveat

This answer was handled as an urgent query and provides preliminary information and sources of information on corruption and anti-corruption in Niger. There is very little information available on corruption in the Nigerien police forces.

Summary

In a context of political instability and weak institutions, most international governance indicators point to systemic levels of corruption permeating all levels of society in Niger, although in practice, firms and citizens report significant less experience of corruption than other countries in the region. Corruption takes many forms, ranging from petty and bureaucratic corruption to grand and political corruption. Lack of training and resources and petty corruption affecting the police and security forces are important areas of concerns, undermining domestic stability in a context of volatile security.

The Issoufou government is largely credited to be committed to address widespread corruption challenges as a priority. New anticorruption institutions have been set up, a dedicated telephone hotline has been created to report allegations of corruption and the 2010 constitutions provides for the declaration of personal assets by government officials and greater transparency in natural resource management. However, the credibility of this commitment has recently come under question by recent developments, including the purchase of a

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luxurious government jet and persistent allegations of corruption against high-ranking government ministers.

1. Overview of corruption in Niger

Background

Niger has endured a series of coups and political instability following its independence from France in 1960, with long periods of authoritarian, military-dominated rule. Since the onset of multiparty democracy in 1993, the country has had five constitutions and one interim civilian government (1991 – 1993), been subject to two longer periods of civilian governments (1993 – 1996, 2000 – 2009), one longer period of military rule (1996 to 1999) and two interim military governments (1999 and 2010-2011) (Bertelsmann Foundation 2016).

The Fifth Republic (2000 – 2009) marked a period of relative stability, with progress made in strengthening political institutions. Free and fair general elections at the end of 2004 confirmed President Tandja as the head of the State and the coalition in power. Stability was nonetheless threatened by a Tuareg rebellion that lasted from 2007 to 2009 and had a negative impact on freedoms of speech and the press, with journalists reporting critically of the government's handling of the rebellion or about alleged corrupt activities subject to arbitrary arrests and police violence (Bertelsmann Foundation 2016). In addition to unruly Tuareg population in the North, the country faces spillover violence from conflicts in Libya and Mali. In 2015, Niger joined a multinational coalition fighting the ISIS-aligned Boko Haram terrorists inside Nigeria (Heritage Foundation 2016).

President Tandja was eventually ousted by a military coup in February 2010 that led to the adoption of a new constitution. The new constitution reinstated executive term limits, curbed executive power, and provided amnesty for the coup leaders (Freedom House 2016). Free and fair elections were held in early 2011. In April 2011, the newly elected civilian government under Mahamadou Issoufou took office, and generally respects the rule of law (Bertelsmann Foundation 2016).

Today the country struggles in the face of frequent droughts, insurgency, poor infrastructure and wide-spread poverty. With one of the world'

fastest population growth rates (Heritage Foundation 2016), Niger has one of the lowest literacy rates in the world and under-developed basic health system and is consistently ranked at the bottom of the Human Development Index, with a relatively low GDP and per capital income. The economy is largely based on internal markets, subsistence agriculture, livestock and the export of raw commodities, including some of the world's largest uranium deposits. Niger is betting on increased oil exploration and gold mining to help modernise its economy (BBC 2017).

Extent of corruption

Corruption is a serious problem in Niger. Major governance indicators point to systemic levels of corruption permeating all levels of society, as reflected in 2015 World Bank worldwide governance indicators. Niger performs poorly on all 6 categories assessed, including in terms of political stability (15.24 on a 0 to 100 scale), regulatory quality (26.44), and government effectiveness (30.77), rule of law (30.77) and control of corruption (33.17). It is ranked 99 of the 168 countries and territories assessed by Transparency International's 2015 Corruption Perceptions Index, with a score of 34 on a 0 (highly corrupt) to 100 (very clean). Similarly, Niger performs below the regional and global average in the 2016 Heritage Foundation Index of Economic Freedom, especially in terms of freedom from corruption (35 out of 100), and is ranked 129 out of the 166 countries assessed.

Corruption is identified as one of the most problematic factor for doing business in the country by 83.7 % of the firms surveyed in the 2009 World Bank enterprise survey although "only" 18,5 % percent of firms experienced at least one bribe payment request (compared to 22,6 % regional average). A gift or an informal payment was requested in 13 % of public transactions.

Citizens also experience corruption in their daily lives, with 10 per cent of the respondents to Transparency International's 2015 Global Corruption Barometer (GCB) reporting having paid a bribe to at least one of eight services listed in the survey in the preceding twelve months and 44 per cent of the respondents thinking that corruption has increased/increased a lot in the past two years.

Forms of corruption

Weak administrative controls and institutions as well as a poorly financed and trained law enforcement officials fuel a culture of impunity that creates fertile grounds for corruption. Such corruption risks are exacerbated by a number of additional factors including low salaries, politicisation of the public service, traditional kinship and ethnic allegiances and the lack of civic education (US Department of State 2015). Corruption takes a variety of forms in Niger, from petty and bureaucratic corruption to grand forms of corruption involving high level officials.

Petty and bureaucratic corruption

While public services in Niger are inadequate, characterised by low salaries and weak administrative controls, Niger's public services sector bears a moderate risk of corruption to access public services compared to other countries in the region.

According to the Global Corruption Barometer 2015, relatively few of the respondents (10 %) having had contact with public services report paying a bribe or giving a gift to obtain public services, which is significantly less than in other Sub-Saharan African countries. Institutions where the bribery rate was the highest include the police and the courts (16 % of respondent report having paid a bribe). In terms of perceptions of corruption, business executives are perceived by 46 % respondents as the most corrupt in the country, followed by local councilors (29 %), police and tax officials (27 %).

Business operations and development are hampered by poor physical infrastructure, burdensome and inconsistent regulations, and a complex regulatory framework (US Department of State 2016). However, acquiring public services and licences is often easier and faster than elsewhere in the region (World Bank 2016). While more than 80 % of firms surveyed within the framework of the 2009 World Bank enterprise survey identify corruption as a major constraint to doing business in the country, only 35.2 % report being expected to make informal payment or give a gift "to get things done". Bribery is especially prevalent to get a construction permit (46.6 % of the firms report being expected to give a gift for this purpose), to secure government contracts (44, 5 %) or obtain an operating licence (32, 5 %).

Grand corruption and misuse of state resources

The government has traditionally been oversized in terms of personnel but under-equipped with regard to technical skills, with weak administrative controls, providing opportunities for corruption, embezzlement and other forms of misconduct. The allocation of budget items is not subject to public or political scrutiny (Bertelsmann Foundation 2016) and the country performs poorly in terms of budget transparency (17 on a 0 to 100 scale) and public participation (4 on a 0 to 100 scale). Budget oversight by the supreme audit institution is limited (International Budget Partnership 2015).

Against this background, there are examples of grand corruption involving high level pubic officials. In October 2014, former President Mamadou Tandja was stripped of his immunity and charged with corruption as an investigation into the disappearance of nearly $800 million of public money from the state treasury (Heritage Foundation 2016). While he was arrested, he was released shortly thereafter (Bertelsmann Foundation 2016).

In general however, subjecting high-ranking politicians to judicial action is the exception rather than the rule and if and when they are subject to investigation, cases are either abandoned or delayed indefinitely (Bertelsmann Foundation 2016).

Political corruption

Elections have been conducted regularly in Niger since 1993, meeting international standards in most cases (Bertelsmann Foundation 2016).

The party system is characterised by moderate fragmentation, low-to-moderate polarisation and moderate-to-high institutionalisation. Political alliances are fluid, making the political environment unstable and unpredictable. Party politics is less driven by ideological than by clientelisticor ethnic considerations and the desire to gain access to resources (Bertelsmann Foundation 2016).

Recruitment in the administrative sector lacks transparency which can fuel patronage and clientelism. It is not uncommon to secure and reward political support with key positions in government. Since assuming power in 2011, Issoufou has appointed former opponents and members of civil society to high positions in government to foster inclusivity, though it left most key posts in the hands of Issoufou's allies

(Freedom House 2016). For example, over the course of 2014, President Issoufou formed a new coalition government and managed to secure the support of many opposition MPs by offering them lucrative government positions (Bertelsmann Foundation 2016).

Natural resource management

There are risks of corruption in the Nigerien natural resource sector and observers have raised concerns regarding uranium-mining contracts. (Heritage Foundation 2016). The 2010 constitution provides for greater transparency in government reporting of revenues from the extractive industries, demanding contracts related to the exploration and exploitation of natural resources to be made public (Freedom House 2016). Niger is also 'compliant' with the Extractive Industries Transparency Initiative (EITI).

In practice however, there are indications that these standards are not always upheld, as reflected by the opaque negotiations with the French company Areva, which exports uranium from Niger at a minimal tax rate without making the contracts between the company and Niger accessible to the public. Uranium accounts for 70% of Niger's exports but only contributes only 5.8 percent to its GDP (GAN Business Anti-corruption Portal 2016).

1. Corruption in police and security forces

Niger is surrounded by internal and external security threats, including terrorism and insurgency (the Tuareg Rebellion) and deficient border control contributing to the spread of smuggling, drug trade and circulation of jihadists in the Sahel region. While Niger President Issoufou has shifted large amounts of resources and personnel to the borders in order to stem the flow of extremists, the military and police of Niger remain resource-challenged and face major capacity issues (Institute for National Security and Counterterrorism (INSC) 2014). However, external observers argue that the multiplication of border offices cannot fully solve the problem and that training security forces and tackling corruption should be first priority (Danish Institute for International Studies 2016).

The Nigerien police force is divided into the national police and the National Guard, which report to the General Directorate of National Police, under the control of the Ministry of the

Interior and the gendarmerie, which functions under the Defence Ministry and has primary responsibility for rural security (GAN Anti-Corruption business portal 2016). The National Police force is estimated to have 8,500 total personnel and, as a traditional domestic force is tasked with law enforcement in urban areas, protecting persons and property, maintaining order, and fighting all forms of crime. The National Guard is responsible for domestic security and the protection of government buildings and high-level officials. With a personnel of about 10.000, the National Guard is used by the administration as a reserve force to maintain law and order (Institute for National Security and Counterterrorism (INSC) 2014). The gendarmerie numbers around 3700 (Interpol Website).

Police activities are restricted by lack of resources and adequate training, and perceived by external observers to be largely ineffective due to a lack of training and basic supplies such as vehicle fuel, radios, and other investigatory and law enforcement equipment. Only specialised police units have basic weapon-handling skills. Corruption is also perceived to be a remaining challenge and law enforcement institutions affected by a culture of impunity. While the gendarmerie is responsible for investigation of police abuses, police impunity tends to remain a widespread problem (US Department of State 2015, Bertelsmann Foundation 2014).

There is little information and reports publicly available on police and security corruption in Niger. According to the Global Corruption Barometer 2015, as already mentioned, the police is perceived as one of the most corrupt institutions in Niger, carrying a high risk of corruption. Yet, Niger has one of the highest levels of public trust in the police in Africa (76%), bribery rate within the police is lower than in other countries in the region and fewer than one in 5 citizens report having felt unsafe in their neighbourhood (Afro Barometer 2015).

However, border regions are increasingly troubled by crime and violence, which are not effectively addressed by the police (Bertelsmann Foundation 2014) and petty corruption is a contributing factor to the country's security challenges. Petty corruption at border controls provides supplementary revenues to state agents, while exposing the region to a number of interrelated threats including illegal trade, criminal networks, smuggling of migrants, weapons and drugs, human trafficking, etc. Bribing allows users to

escape the taxation of goods or bureaucratic procedures imposed by state agents (Danish Institute for International Studies 2016).

The current migration crisis exacerbates these concerns. Security forces frequently take bribes from migrants, fuelling migrant smuggling and flows of illegal migrants towards Europe. On the road north from Niger's capital Niamey, police systematically take migrants aside at checkpoints to demand payment, with bribes ranging between $2 and $20. According to the Halcia anti-corruption agency, payments to security forces and local authorities totalled $450 per vehicle and $30 per foreign migrant on the route between Agadez and the Libyan borders. The Halcia also found that bribes paid by migrants were essential to keep the security forces functioning as money earmarked in the military budget to buy diesel for vehicles, spare parts and food doesn't reach its intended destination (The Guardian 2015).

These informal practices of border crossing have severe consequences in the local context of volatile security. In addition to the donations received from abroad, terrorist organisations such as Islamic State and Boko Haram, collect funds at the local level by controlling part of the trans-border trade between Nigeria and Niger, including the lucrative business of smoked fish from the Lake Chad area (Danish Institute for International Studies 2016).

To address this concern, the Parliament of Niger unanimously passed a legislation on the smuggling of migrants in May 2015 but is yet too early to assess its effectiveness in practice (UNODC 215).

In any case, the multiplication of border offices and police check points is not sufficient to effectively address these issues. On the contrary, it could even expand corruption opportunities and increase insecurity as state agents often create fake offices and checkpoints in order to increase the number of opportunities for taking bribes and racketing migrants and citizens. As a result, security policy should focus on adequate training and addressing corruption, including creating a culture of effectiveness including systematic and regular staff meetings, reporting, law implementation and sanctions as well as new modalities to reward border guards and other state agents (Danish Institute for International Studies 2016).

2. Governance structures and anti-corruption efforts in Niger

Overview

There are mixed reports on the current government's record in fighting corruption. The Issoufou government initially appeared to take the issue of corruption more seriously and committed to address widespread corruption as a priority. Several public officials who abused their positions for private gain during the Tandja years have faced criminal charges, and in 2012, two members of the cabinet had to resign due to corruption allegations (Bertelsmann Foundations 2016).

New anticorruption institutions were set up to address all levels of corruption in the government such as the the "Haute Autorité de Lutte contre la Corruption" (HALCIA) in 2011 the "Bureau d'information de Réclamation contre la Corruption" and a dedicated telephone hotline to which instances of corruption could be reported (Bertelsmann Foundation 2016). The declaration of revenues from extractive industries has come under more scrutiny, and so has the declaration of the personal assets of government employees, with constitutional provisions requiring the declaration of personal assets by government officials, including the president (Freedom House 2016). Niger is also developing a National Strategy to fight corruption (Stratégie Nationale de lutte contre la Corruption – SNLC) (US Department of State 2016). The Helpdesk has found no indication that this strategy has been adopted since the end of 2016.

In 2014, the United Nations Office on Drugs and Crime (UNODC) supported HALCIA in the adoption of a draft anti-corruption bill, while the Millennium Challenge Corporation (MCC) Board selected Niger for the first time in 2012 as a country eligible for a Compact, recognising the country's efforts in good governance, its engagement and commitment in the fight against corruption, the respect of political rights, civil liberties, freedom of information, and the adoption of policy reforms to strengthen economic freedom (US Department of State 2016).

However, the credibility of these initiatives has been questioned by recent developments, undermining the momentum of such initiatives. The purchase of a luxurious government jet and persistent allegations of corruption against high-

ranking government ministers have undermined the reformist reputation of the Issoufou government and the speaker of Niger's parliament recently fled the country after he and immediate family members were accused of being involved in human trafficking (Bertelsmann Foundation 2016).

Despite high levels of corruption, surveys generally indicate higher levels of trust in the government and its institutions than in other countries in the region.44% of GCB 2015 respondents think corruption has increased over the past year and 47 % find that the government is not effective in handling corruption.

Legal framework

National legislation

The Constitution, adopted in 2010, contains provisions for greater transparency in government reporting of revenues from the extractive industries, as well as the declaration of personal assets by government officials, including the President (Freedom House 2016).

The country has no specific anti-corruption legislation and anti-corruption provisions are included in the 1961 penal code. The penal code criminalise active corruption, influence peddling, misappropriation of public funds, embezzlement of public fuds, favouritism: abuse of office illicit enrichment. Bribery of foreign officials is not criminalised. Nigerien anti-corruption legislation still need to be strengthened and UNODC has made a series of concrete recommendations to align the national legal framework to the requirements of the UNCAC (UNODC 2016).

The 2004 money laundering legislation criminalises money laundering and provides for the liability of moral persons.

The constitution requires the president of the republic, presidents of other government institutions, and cabinet members to submit written statements of their personal property and other assets to the Constitutional Court upon assuming office, and they usually comply with these requirements. These statements are to be updated annually and at the end of an individual's tenure and the initial statements and updates are made public. Filers must explain any discrepancies between the initial and the updated statements and copies of the statements are forwarded to the government's fiscal services.

While the Constitutional Court has authority to assess discrepancies, but there was no indication a declaration has been challenged for its veracity and that sanctions have been imposed (US Department of State 2015).

The law provides for access to public information and administrative documents with a list of "communicable" and "non-communicable" documents and establishes procedures for accessing them and paying related costs. If officials deny access to a document, they are required to notify the enquirer in writing and provide the legal grounds for denial. There are provisions for sanctions and an appeal mechanism for review through the national mediator, and legal complaints are referred to the Administrative Court (US Department of State 2015). In practice, implementation of the law remains inadequate, and in practice access to information Africa Union is somewhat difficult (Freedom House 2016b).

There is still no effective party finance regulation in place (Bertelsmann Foundation 2016).

Niger has no provision to ensure the effective protection of witness, victims, experts and whistle-blowers (UNODC 2016).

International legislation

Niger has ratified the United Nations Convention against Corruption in 2008 and is on its way to aligning its legislation and ratified the Africa Union Convention on Preventing and Combating Corruption in 2006. . It is also party to the United Nations Convention against Transnational Organised Crime. The Government has ratified the Economic Community of West Africa States (ECOWAS) Protocol on the Fight Against Corruption uniform law on combating money laundering in WAEMU countries. It is a member country of EITI since 2007 and has been designated a compliant country in 2011 (EITI Website).

Institutional framework

A number of institutions play an important role in fighting corruption in Niger, including The General Direction of Finances (Direction Générale des Finances), the General Direction of the State (la Direction Générale de l'État), the Court of Accounts (la Cour des Comptes), the agency for the regulation of public procurement (Agence de Régulation des Marchés Publics), the financial intelligence unit (la Cellule Nationale de Traitement des Informations Financières

(CENTIF), the Bureau of Information, Claims and Combat Against Corruption and Bribery (Bureau d'information de Réclamation contre la Corruption), and the High Authority to Combat Corruption and Assimilated Offences (HALCIA), among others (UNODC 2016).

Judiciary

The constitution provides for an independent judiciary, and courts have shown some autonomy in the past by prosecuting high level officials. In December 2014 for example, the Nigerien judiciary opened legal proceedings against former Prime Minister and President of the National Assembly's wife and numerous high-ranking government officials. The Ministry of Justice supervises public prosecutors, and the president has the power to appoint judges. Instances of executive interference have decreased since the 7th Republic (Freedom House 2016; Bertelsmann Foundation 2016). There are concerns of nepostism and business ties influence decisions (GAN Anti-corruption business portal 2016)

The lower levels of the judicial system are overburdened by work, notoriously under-resourced and plagued by corruption which is partly fueled by low salaries and inadequate training (Bertelsmann Foundation 2016; Freedom House 2016).

The Bureau of Information, Claims and Combat Against Corruption and Bribery
(Bureau d'information de Réclamation contre la Corruption),

The Bureau was created at the Ministry of Justice in 2011 to tackle corruption within the judiciary. It has a mission to inform justice service users, to receive and handle judiciary related complaints from the public to report on its investigations and refer cases to the state's prosecutor (Bureau Informations-Réclamations, Lutte Contre la Corruption et le Trafic d'Influence 2015). The Helpdesk has fund no independent account on how the bureau performs its mandate in practice.

High Authority to Combat Corruption and Assimilated Offences (HALCIA).

HALCIA (Haute Autorité de Lutte contre la Corruption was created in 2011, aiming at fighting corruption in the public sector at large. An anti-corruption hotline was also set up the same year. It has the mandate to monitor the national programme against corruption, to centralise

complaints and allegations of corruption, to investigate and recommend all legal and administrative measures to prevent and combat corruption. It also has a prevention mandate, including anti-corruption education and awareness raising activities (UNODC 2016).

In 2015, HALCIA investigated and uncovered several corruption and fraud cases involving civil servants, judges, and security force members, notably customs officers and forwarded several corruption cases to the state prosecutors for action. Individuals were charged with crimes and occasionally jailed for short periods, although they often were granted provisional release, and no sentences were handed out for corruption (US Department of State 2016).

Supreme Audit Institution (Cour des comptes)

The court of auditors checks the regularity of public income and expenses, verifies the accounts of the public accountants and sanctions the management of facts and management faults. As of 2011, it lack sufficient resources and capacity to conduct its mandate (Transparency International 2011).

In practice, there is not an effective auditing mechanism of state spending. In fact, the government provides limited information on its expenditures and use of public resources. Even parliamentarians who are members of the budget accounts committee lack access to crucial documents (Bertelsmann foundation 2016)

According to the International Budget Partnership, the independence of and budget oversight by Niger's Supreme Audit Institution is somewhat limited. Although the SAI has the discretion to decide which audits to undertake, it does not have a budget or staff sufficient to fulfil its mandate (International Budget partnership 2015).

Financial Intelligence Unit (la Cellule Nationale de Traitement des Informations Financières)

Created in 2004 under the Ministry of Finance, CENTIF acts as a financial intelligence unit in charge of analysing suspicion transactions as part of the country's anti-money laundering framework. The Helpdesk has found no recent account on how the CENTIF performs its mandate.

The Office of the Ombudsmann (le Médiateur de la République)

This institution was established at the end of 2008, as an independent authority to who claims regarding the operation of State administrations, local communities, public institutions and any other body invested with a public utility mission in their relation with the administered, are legally submitted. He can make recommendations on upgrading public services and streamlining the administration and reform (Transparency International 2011).

Other actors

Media
The Nigerien constitution guarantees the freedoms of thought, opinion, and expression. After the 2010 coup, media offences for defamation and publication of false information were decriminalised and sanctioned by fines instead of prison sentences.

However, legal protections for journalists are poorly enforced in Niger and there are instances of journalists being harassed and arrested in practice. The state-run media regulatory body, the High Council on Communication, occasionally issues warnings or suspensions to media outlets for alleged content violations. While it is not considered to be heavily politicised, it is not effective at protecting the media from abuses by the government and security forces. Conditions grew worse in recent years, as attacks by the Islamist militant group Boko Haram in the country's eastern region made news coverage more difficult and there have been some restrictions placed on press coverage of the war on terror. (Freedom House 2016b; Bertelsmann Foundation 2016).

The poor state of the private media that many cases of high-level corruption does not receive adequate media attention. The quality of media coverage remains poor due to widespread poverty, illiteracy and the dire financial situation of many media outlets (Bertelsmann Foundation 2016)

Civil society
Constitutional guarantees of freedoms of assembly and association are largely upheld, and in general, civil society organisations can operate without restriction, though a lack of security in the north impedes their functioning. Invoking security reasons, the government has used force to break up demonstrations in the past and refused to

authorise several public protests, due to the increased threat from militant groups. In May 2015, two civil society activists who denounced military abuses perpetrated during the state of emergency in Diffa were arrested and accused of complicity with Boko Haram (Freedom House 2016a).

In spite of these growing challenges, civil society is vocal in Niger, though its impact on politics is low (Bertelsmann Foundation 2014).

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