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PROPERTY RIGHTS AND RESOURCE GOVERNANCE

BURKINA FASO

OVERVIEW

Burkina Faso is working hard to emerge from the large-scale political and social upheaval that characterized the 18 months following the popular uprising that resulted in the resignation of President Blaise Compaoré in October 2014. In view of the presidential and legislative elections held in November 2015, and the largely successful municipal elections in May 2016, the country appears to have reached a positive turning point, although governing institutions remain in transition and fragile.

Burkina Faso is a land-locked country with agro-ecological conditions ranging from the Sahelian North, where pastoralism and agro-pastoralism predominate, to the Sudanian Central and Southern portions of the countries that contain the largest share of cultivable land. Agricultural land constitutes approximately 39-45 percent of the country's total land area, and about 0.55 percent of total land area is equipped for irrigated agricultural production. Based on interpretation of satellite imagery produced in 2013, the United States Geological Survey concludes that less than 2 percent of the national territory features true, natural forest cover.¹ The same study estimates that *agricultural land* covers 39 percent of the country's total area; *savanna*, 31 percent; *steppe*, 16 percent and *Sahelian short grass savanna*, 5 percent.

A rural land tenure reform process in Burkina Faso culminated in a pioneering Rural Land Law adopted in 2009, and in substantial revisions, adopted in 2012, to the long-standing framework land tenure law, the *Réorganisation Agraire et Foncière* (RAF). The 2009 Rural Land Law recognizes customary land rights and provides legal mechanisms for their formalization. The revised RAF serves as the “umbrella” land tenure law, upholds and reinforces the mechanisms introduced by the 2009 Rural Land Law. The 2012 RAF also clearly breaks with previous policies that asserted a monopoly of state ownership rights to all land by establishing property rights domains for both municipalities and private actors. Implementation of the new policies is proving to be challenging given the broad scope of the targeted changes, which require significant institutional capacity. A period of political and social instability in 2015-2016 also slowed implementation of some aspects of the new land tenure legislation.

Competition for available land and natural resources is fueling conflict in Burkina Faso. Supply-side constraints include periodic drought that has exacerbated the loss of vegetation and biodiversity. Other environmental threats include erosion from wind and water, loss of soil nutrients and uncontrolled bush fires. Demand-side drivers of conflict include a fast-growing population, the expansion of agriculture (still mostly led by small-scale farmers but with an increasing incidence of industrial-scale production), large-scale migration within Burkina Faso and in the sub-region, increasing acquisition of land in rural areas by

¹ In contrast to USGS estimates, World Bank statistics, as cited in Box 1, suggest that slightly more than 20 percent of Burkina Faso's surface area is forested.

urban-based elites, and an expanding mining sector spearheaded by a boom in gold mining beginning about 2009/2010 and including both industrial and artisanal gold mining. Although the most pervasive category of conflict is that between settled farmers and transhumant herders, an increasingly diversified mix of economic activities and production systems, along with population growth and migration, are leading to a corresponding diversity of types of conflict.

KEY ISSUES AND INTERVENTION CONSTRAINTS

Donors should consider providing support for the following programming options:

- **Implementation, Monitoring and Evaluation of the 2009 Rural Land Tenure Laws.** The Millennium Challenge Corporation provided substantial support during the period of 2009-2014 for implementation of the major provisions of the 2009 Rural Land Tenure law, as well as for development and adoption in 2012 of revised RAF legislation. MCC project results included establishment of decentralized land tenure services (SFR) in 47 of Burkina Faso's 302 rural communes, delivery of 2,167 rural land possession certificates (APFR), and training provided to 61,057 stakeholders on themes related to implementation of land policies and laws. More recently other donors, led by the Agence Française de Développement (AFD) and the World Bank, have made commitments to support expanded application of land tenure laws to additional communes. These efforts are being coordinated by GOBF through the General Directorate for Land Tenure, Training and Organization of Rural Populations (DGFOMR) housed in the Ministry of Agriculture and Hydraulic Development. USAID is supporting the Observatoire National du Foncier - Burkina Faso (National Land Tenure Observatory, or ONF), which is studying implementation of land tenure legislation and is responsible for formulation of policy recommendations to improve policy and its application. A Land Tenure Research Group (GRAF) was established in 2001 to study land tenure issues, including application of policy. GRAF remains to this day a well-known and respected research agency in Burkina Faso that specializes in rural development, gender and land tenure issues.

The scale for implementation of the relatively recent land tenure laws is immense providing significant space for additional donor support in terms of:

- Geographical reach of decentralized reforms, targeting eventual establishment and permanent operation of new land services in 302 rural and 49 urban communes;
- Needed adjustments within the central government and agencies involved in land governance;
- Number of innovations being introduced, such as rural land certificates, rural land charters, land registries and information management systems;
- New institutions, procedures and processes for conflict resolution; and
- Needs for education and awareness-raising of rural and urban populations.

Donors should consider working collaboratively among themselves, as well as at the national level with governmental and non-governmental agencies, to expand implementation of Burkina Faso land tenure laws, and also to improve the quality of implementation – and possibly to improve the quality of the policies themselves. In other words, equally important to application of the laws is the need to develop local capacity not only to improve land governance, but also to effectively monitor and evaluate land governance in the

objective of continually working toward improvement. This could be furthered through development of strategic partnerships with specialized government agencies, such as DGFOMR, and/or with autonomous research or monitoring and evaluation “watchdog” organizations, such as GRAF or the ONF.

- **Land Conflict Resolution and Risk Mitigation.** Much of the motivation that drove development of the 2009 Rural Land Law was the desire to mitigate the risk of land conflict, and implementation of the Law provides the primary avenue to achieve this objective. However, international sponsors of rural development programs in Burkina do not necessarily need to develop new or unique programs in order to make a serious contribution to mitigation of the risk of land conflict. The venues and types of land conflict in Burkina Faso are as varied as the country itself, with conflicts driven by the unique circumstances of locality, including evolving production systems and market relations, and the changing motivations of both local and non-local actors. Donors sponsoring development programs should take measures not only to mitigate the risk they may inadvertently introduce, but could also contribute broadly to enhance local capacity to manage land conflict in their intervention zones.

Donors sponsoring programs in any sector of rural development in Burkina Faso should consider including a robust land conflict and risk mitigation component within larger projects, whether the development target is construction of irrigation infrastructure, more sustainable forest management, improved pasture resources or enhanced capacity to manage the mining sector. Design of the land conflict risk mitigation component should be informed by serious research into local conflict occurrence, existing management structures and risk factors, and local, regional and national capacities to manage existing and anticipated project-driven land conflict.

- **Strategic Planning for Both Rural Development and Climate Change.** Burkina Faso has systematically developed sector strategies for the environment and for rural development, but there appears to be a level of compartmentalization with respect to the domains of environmental management and rural development. On the environmental side: Burkina Faso launched its strategy for Reducing Emissions from Deforestation and Forest Degradation (REDD+) in 2010 and the Readiness Preparation Plan for REDD+ was completed in 2012. In 2013 the National Council for the Environment and Sustainable Development (CONEDD) was established and placed under the tutelage of the ministry in charge of the environment to coordinate development and implementation of national global and sector strategies for the environment and sustainable development. On the rural development side, in 2010 GOBF adopted a National Rural Sector Program (PNSR), currently in its second phase, which serves as the coordinating framework for programming and implementing the interventions in rural areas in Burkina Faso and constitutes a clear institutional framework for the proposed interventions. As of January 2017, the PNSR II is being drafted with stakeholders. The first PNSR assumes a multi-sector approach to rural development built on the programs of the ministries in charge of agriculture, animal resources and the environment. The centerpiece program for implementation of the PNSR is the National Village Development Program (PNGT), administered by the Ministry of Agriculture and Hydraulic Development. The challenge is to achieve and maintain a true multi-sector approach. Finally, rounding out the government’s strategic framework for economic and social development nationally, the government developed and approved its 2016-2020 National Economic and Social Development Plan (PNDES) in July 2016. The PNDES is the reference framework for interventions by various national and international partners, an instrument for political dialogue with technical and financial partners, and a medium for mobilizing resources to finance development.

Donors could consider increasing integration of rural development and forest management programs, particularly where the two sectors come together at the local level. The 2009 Rural Land Tenure Law, along with legislation mandating decentralization of management authority to local governments, provide legal and institutional frameworks whereby shifting land uses can be more effectively planned or managed. Particular attention needs to be paid to the impact and opportunities of the different sector policies on pastoral communities. The Rural Land Charters authorized and defined in the 2009 Law and its implementing legislation provide an ideal tool for integrating rural development strategies and adaptation to climate change.

- **Regulation and Improvement of Standards in Artisanal and Industrial Mining.** Burkina Faso’s gold mining activities, accurately referred to as a “boom” since 2009/2010, are contributing to rapid changes to national and local economies and to local social organization. The speed of the changes has overwhelmed existing regulatory capacity and presents significant dangers to miners’ personal safety, the environment and especially women and children. Both artisanal and industrial gold mining are expanding in land surface area at the expense of existing agricultural and forest lands.

Donors should support efforts to curb child labor at artisanal mines and to help increase the level of organization by artisanal miners. Donors should also support research into land acquisition patterns and the resettlement policies of investors in industrial mining.

FOR MORE RECENT LITERATURE:

<http://usaidlandtenure.net/burkina-faso>

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SUMMARY

Burkina Faso is a land-locked country located in West Africa's Sahelian zone. The population is largely rural and the economy is primarily based on agriculture and livestock, but also features a growing mining sector. With over 90 percent of the country's workforce engaged in agricultural activities, small, family farms remain the norm.² However, there has been an acceleration in recent decades of urban-based, and to a lesser extent international, investment in agricultural production suggesting some movement toward larger-scale and more commercially oriented production. During the same period the country has

experienced significant levels of internal migration, in large part motivated by young farmers from densely populated central Burkina Faso seeking opportunities to produce cash crops, particularly cotton, in the western and southern zones of the country, as well as by families seeking land for production of food crops (Ouédraogo 2006; Mathieu et al. 2003; Ouédraogo et al 2012; Kima 2016).

Upper Volta peacefully gained independence from France in 1960. In 1966 the first of a series of military governments took charge through a coup d'état. Thomas Sankara came to power by coup in 1983 and the country was renamed Burkina Faso the following year. Sankara, was assassinated in 1987 and succeeded by Blaise Compaoré who held the office of president for 29 years before fleeing in the face of a popular uprising in October 2014. Under Compaoré Burkina Faso underwent a transition from the pan-African socialist model championed by Sankara to more market-oriented economic policies. While the economy was growing in excess of 6 percent annually from 2010-2013, political and social instability since 2014, along with lower world prices for gold and cotton since 2015, slowed growth to a still respectable 4.8 percent in 2015 and an estimated 5.4 percent in 2016. Economic and social inequalities, poverty, unemployment and under-employment among urban youth and women continue to pose economic and political risks (IDA 2007; World Bank 2013; Wynne 2014; Dayo et al 2016).

Box I. Macro Indicators

	Year	Score
Population, total	2014	17,589,198
Population growth (annual %)	2014	2.9
Population density (people per sq. km)	2014	64
Total labor force (millions)	2015	8.350
Labor force in agriculture (% of total labor force)	2015	92
Rural population (% of total population)	2015	70.1
GNI, Atlas method	2014	12,278,258,335
GNI per capita (Atlas method)	2014	700
GNI per capita, ppp (int'l\$)	2014	1,600
GDP (current US\$)	2014	12,542,221,942
GDP growth (annual %)	2014	4.0
Foreign Direct Investment (current US\$)	2010	38,150,370
Poverty headcount ratio at national poverty lines (% of population)	2009	46.7
Inflation, GDP deflator (annual %)	2014	-0.4
Domestic credit provided by financial sector (% of GDP)	2014	28.8
Agriculture, value added (% of GDP)	2014	34.2
Life expectancy at birth, total (years)	2014	59
Improved water source (% of population with access)	2014	82
Improved sanitation facilities (% of population with access)	2014	20
Prevalence of undernourishment (% of population)	2014	21
Primary completion rate, total (% of relevant age group)	2014	61
Surface area (sq. km)	2014	274,220
Percent forest cover	2011	20.4
Annual change rate (percent)	2005-2010	-1.03
Arable land (millions of ha)	2011	20.8
Terrestrial and marine protected areas (% of total territorial area)	2014	15.5
Agricultural area (1000 ha)	2013	12,300
Crop production index (2004-2006=100)	2014	141.6

² 72 percent of farms are less than 5 hectares (FAO 2013 citing MEF/IAP 2012).

TIMELINE OF MAJOR POLITICAL TRANSITIONS AND EVENTS SINCE INDEPENDENCE

1960	Upper Volta becomes independent with Maurice Yameogo as president
1966	Yameogo toppled in a military coup led by Sangoule Lamizana following unrest over a government austerity programme.
1980	President Lamizana is ousted in coup led by Saye Zerbo.
1982	Saye Zerbo is overthrown in a coup led by Jean-Baptiste Ouedraogo following industrial unrest.
1983	Capt Thomas Sankara takes power from Mr Ouedraogo in an internal power struggle.
1984	Upper Volta renamed Burkina Faso.
1987	Thomas Sankara ousted and killed in a coup led by his close aide, Blaise Compaoré.
1998	Compaoré wins presidential election by a landslide.
1999	General strike over economic grievances and alleged human rights violations.
2005	President Compaoré wins a third straight term in office.
2008	Two-day general strike follows weeks of protests about high living costs and call for wage increases.
2010	Presidential elections. President Compaoré gains another term in office.
2011	Weeks of violent protests follow the death of a student in police custody.
2011	Soldiers, presidential guards mutiny over unpaid allowances. Thousands of people protest over food prices.
2014	Demonstrators across the country oppose possible plans by President Compaoré to prolong his rule.
2014	More mass protests against proposed constitutional changes to allow the president another five years in power turn into a mass uprising that drives President Compaoré from office. Military takes charge.
2015	Former prime minister Roch Marc Christian Kabore wins presidential election; legislative elections also successfully conducted.
2016	Islamist militants attack a hotel and cafe in the capital, Ouagadougou, killing 29 people, many of them foreigners.
2016	Municipal elections successfully conducted.

Adapted from *Burkina Faso profile – Timeline*. BBC World News. <http://www.bbc.com/news/world-africa-13072857>

Among recent drivers of internal migration is a gold mining boom that began to have widespread economic and social implications by about 2009/2010. Production of gold plays an increasingly prominent role in the country's economy, and in some rural areas has reorganized social structures. At the same time, along with small-scale farming, livestock production remains an important economic activity and way of life for large numbers of rural people. However, transhumant patterns and grazing practices have become unstable in response to reduced access to traditional grazing lands caused by a combination of expanded farming, degrading natural resources and climate disruption. While land transactions are becoming increasingly common in rural areas, they take place in a context dominated by informal, customary land tenure management systems that afford ample opportunity for unauthorized

participation in,³ or varying interpretations of, land transaction agreements. Each of these trends – including shifting populations, evolving or competing production systems, climate instability and the changing nature of land transactions – has been associated with land and natural resource-based conflict (FAO 2013; Hochet 2014; FAO 2014 (FAPDA); Koussoubé 2015; COPAGEN-REDTAC 2015; Kima 2016).

The land tenure regime in Burkina Faso is defined and regulated by two framework laws: the 2009 Rural Land Tenure law and the Agrarian and Land Tenure (RAF) law most recently revised in 2012. Land laws enable legal recognition of rights legitimated by customary rules and practices, and provide for formalization of individual and collective use rights through rural land certificates and charters, and include the option of transforming certified rights into private titles. The laws also promote alternative forms of conflict resolution by requiring that attempts be made to resolve conflicts at the local level before recourse to the court system and establishing village-level commissions responsible for conciliation of conflicts. The 2009 Rural Land Law further codifies principles of customary land rights by enabling communities to draft local land charters (*Chartes Foncières Rurales* – CFR). These land charters integrate customary rules relating to conservation or shared natural resources, the process of giving and receiving land loans, and land dispute management (FAO 2014; Mansion 2014; Ouédraogo 2014; MEDD 2015; GOBF 2009; GOBF 2012).

I. LAND

LAND USE

Burkina Faso is a West African country with 105,638 square miles (273,600 square kilometers) of land and no coastline. Of the 17.5 million inhabitants (2014), 73 percent are rural. In 2014 the GDP was US\$ 24.5 billion (WB), of which agriculture comprised 34.2 percent, industry 23.1 percent and services 42.7 percent (WB). Crop production, livestock, forestry and mining are the dominant rural sector activities, with the agricultural sector accounting for over 90 percent of the workforce (FAO 2012). In 2009 gold surpassed cotton as the country's leading commodity export, with livestock third on the list. Burkina Faso ranks 183 out of 188 countries on the Human Development Index (Winkler and Straumann 2016; CIA 2016; UNDP 2015).

Burkina Faso's agro-ecological zones range from the Sahelian zone in the North, where nomadic pastoralism is evolving towards agro-pastoralism, to the Sudanian zones in the center and south of the country, which holds the majority of cultivable land. Agricultural land is nearly 45 percent of the total land area. In 2012 only 55,000 ha of agricultural land (0.5 percent) was equipped for irrigation out of an estimated potential total of 233,500 ha located near river systems and an additional 500,000 hectares of valley-bottom lands that potentially could lend themselves to small-scale irrigation. In 2014, an additional 10,000 irrigated hectares were categorized as "small-scale irrigation." According to World Bank statistics, forests cover 20 percent of national surface area, with an average annual deforestation rate estimated at 1 percent over the period 2005-2010. However, a recent USGS study based on satellite imagery produced in 2013 determined that the extent of remaining naturally forested land in Burkina Faso is negligible. Nevertheless, approximately 14 percent (3,815,000 ha) of the national territory is protected as forest or nature reserves (FAOSTAT; GOBF 2011; Timetoré 2015; Mongabay; GOBF 2011; Tappan et al 2016).

³ For example, actors negotiating the sale or rent of a rural parcel in some cases may not necessarily represent all holders of rights to the parcel, as recognized under the customary land tenure system.

Livestock production remains the dominant livelihood for a significant portion of Burkina Faso's rural population and plays an important role in the country's economy, constituting 12 percent of GDP and over 19 percent of export value. Livestock production is also the leading strategy for farmers throughout the country to diversify their livelihoods, with 80 percent of households engaging to some degree in production of livestock. Livestock production systems are extensive, with a total land surface need estimated at 65,637 square miles (170,000 km²), or 61 percent of the country's total surface area. The GOBF's efforts to encourage sedentarization of transhumant herders and their herds by legally establishing large areas designated as "pastoral zones" following the droughts of the 1970s and 1980s has so far met with limited success (MEDD 2015; FAO 2013; Nelen et al 2004; PNDEL 2010).

Mining – particularly gold mining – has become a significant and growing consumer of land in some rural areas. At least six large industrial mines are currently operating in the country, the largest of which covers over 38 square miles (100 square kilometers). Artisanal gold mining takes place over wide expanses of land, usually at the expense of former agricultural land. Estimates of the number of Burkinabè now working in the artisanal mining sector for at least part of the year range from 600,000 to approximately 1,000,000. Oxfam and the Publish What You Pay coalition in Burkina Faso supported civil society organizations in a successful campaign to increase payments made to local communities for development projects from 0.5 percent to 1 percent of mining revenues, as included in a new mining code adopted June 26, 2015 (Winkler and Straumann 2016; Tetra Tech 2014; Reuters 2015).

Traditional agricultural and livestock production systems in rural zones are facing increasing levels of stress resulting from environmental and climatic challenges. Since the 1970s, Burkina Faso has experienced endemic drought, with the most serious droughts occurring in the periods 1972-1974 and 1983-1984. Drought has exacerbated the loss of vegetation and biodiversity and is caused in part by the pressure on land resources from demographic growth, increasing population density, expansion of agriculture, and periodic overstocking and overgrazing of livestock. Other environmental threats include uncontrolled bush fires, erosion from wind and water and loss of soil nutrients (UNDP 2006; Dorlöchter-Sulser et al. 2001; Kagone 2001).

In addition, serious climate challenges may be emerging: there is evidence that the country is experiencing increasing temperatures as well as greater rainfall intensity and variability. Government rural development strategies assume that during the period 2010-2015 Burkina Faso entered a period of permanent water stress during which water demand is increasingly likely to outstrip supply in dry years (Tetra Tech 2014a; GWP 2015; PAGIRE 2009; SCADD 2009; Newborn and Tucker 2015).

Box 2. Land Tenure Indicators

	Score
<u>Millennium Challenge Corporation Scorebook, 2015</u>	
- Land Rights and Access (Range 0–1; 1=best)	0.57
<u>International Property Rights Index, 2015</u>	
- Physical Property Rights Score (Range: 0–10; 0=worst)	4.4
<u>World Economic Forum’s Global Competitiveness Index, 2015</u>	
- Property Rights (Range: 1–7; 1=poorly defined/not protected by law)	..
<u>World Economic Forum’s Global Competitiveness Index, 2015</u>	
- Ease of Access to Loans (Range: 1–7; 1=impossible)	..
<u>International Fund for Agricultural Development, Rural Poverty Report, 2001</u>	
- Gini Concentration of Holdings, 1981-1990 (Range: 0–1; 0=equal distribution)	0.42
<u>International Fund for Agricultural Development, Rural Sector Performance Assessment, 2014</u>	
- Access to Land, 2014 (Range: 1-6; 1=unsatisfactory access)	3.0
<u>Food and Agricultural Organization: Holdings by Tenure of Holdings</u>	
- Total Number of all Agricultural Holdings, 1993	886,638
- Total Area (hectares) of all Agricultural Holdings, 1993	3,472,480
- Total Number of Holdings Owned by Holder (< 1ha; 1-2ha; 2-5ha; 50-10ha; 10-20ha)	114,377; 172,894; 365,295; 186,194; 47,878
- Total Area (hectares) of Holdings Owned by Holder; Year	..
- Total Number of Holdings Rented from Another; Year	..
- Total Area (hectares) of Holdings Rented from Another; Year	..
<u>World Bank Group, Doing Business Survey, 2016</u>	
- Registering Property-Overall World Ranking (Range: 1–181; 1=Best)	12
<u>World Bank Group, World Development Indicators, 2016</u>	
- Registering Property-Overall World Ranking (Range: 1-181; 1=Best)	149
<u>World Bank Group, World Development Indicators, 2015</u>	
- Registering Property-Number of Procedures	4
- Registering Property-Days Required	67
<u>World Bank Group, World Development Indicators, 1998</u>	
- Percentage of Population with Secure Tenure	..
<u>Heritage Foundation and Wall Street Journal, 2016</u>	
- Index of Economic Freedom-Property Rights (Range 0-100; 0=no private property)	59.1
<u>Economic Freedom of the World Index, 2013</u>	
- Legal Structure and Security of Property Rights (Range 0-10; 0=lowest degree of economic freedom)	3.93
- Protection of Property Rights (Range 0-10; 0=lowest degree of protection)	4.16
- Regulatory Restrictions of Sale of Real Property (Range 0-10; 0=highest amount of restrictions)	4.69

LAND DISTRIBUTION

Agriculture in Burkina Faso has historically been dominated by small family farms of between three and six hectares.

Generally, only a portion of total family holdings are cultivated in any given year.

Although the small family farm continues to be the most common form of agricultural production, as sales of land have become more common, especially since the early-1990s, there is movement toward concentration of rural land holdings among the urban elite, especially in the proximity of population centers. Tendencies toward more concentrated land holdings are also reinforced by increasing international investment in agribusiness and mining (Ouédraogo 2002; AH Consulting 2010; GRAF 2011; Sanou 2012; Hilhorst et al 2011; FAO 2013; Zongo 2013; COPAGEN-REDTAC 2015).

Agricultural land has been expanding steadily in Burkina Faso in recent decades, increasing by over 60 percent between 1990 and 2011. The expansion of the agricultural area has been at the expense of pasturelands and forests, and has benefited farmers over herders. Drought has also

played a role in reducing the quantity and quality of pasture available to herders (AGRA 2013; GRAF 2011; Barry 2012; Mathieu et al 2003; Hamade 2001; Kamuanga et al 2008; Kima et al 2016; Tappan et al 2016).

For several decades, the government has encouraged migration from the drought-affected regions to the sparsely populated regions of the south and southwest. Beginning in 1969-70 migration was dominated by young farmers fleeing the densely-populated Yatenga and Central Plateau zones of Burkina Faso to

seek opportunity in the “cotton fronts” of the North-West and South-West, but since that time the southern and eastern zones of the country have also received large number of migrants. This has swollen local populations and increased the amount of land cleared for agriculture, hastening the reduction of forests (IIED 1999; Mathieu et al. 2003; Ouédraogo et al 2012; Hochet 2014; Koussoubé 2015; Ouédraogo et al 2015).

Both industrial and artisanal miners are claiming increasing amounts of land in rural areas for gold production. At least six large industrial gold mines have been established since 1991, and wide expanses of former agricultural land, as well as associated water resources, are now used by artisanal gold miners (Tetra Tech 2014; Winkler and Straumann 2016).

LEGAL FRAMEWORK

The current land tenure regime in Burkina Faso follows a history of land tenure policy that has oscillated between recognition and denial of the legitimacy of customary land rights. After independence, land management in rural settings was largely left to customary institutions and governed according to customary law, with government involvement mainly limited to classified or protected lands. This legal and political approach to land governance underwent a decisive reversal in 1984 when all land and management rights were vested in the state. Since 1987 there has been a much more gradual swing back in the opposite direction. This shift began to pick up steam over the past decade (Hochet 2014).

Burkina Faso launched an agrarian and land tenure reorganization (RAF) law in 1984 that has since undergone three revisions, most recently in 2012. The RAF legislation governs land and land tenure throughout the country. The 1984 RAF denied the legitimacy and even recognition of customary land rights. The RAF vested all land throughout the country in the state and outlawed sales of land. The intent was to require all Burkinabé citizens to gain access to land through government-determined rules of access and end the authority of customary chiefs. Individuals could apply for permits allocating use rights to rural land for cash crops. The law was widely interpreted by farmers to mean that land belonged to whoever cultivated it regardless of customary rules (Ouédraogo 2002; Ouédraogo 2006; Paré 2001; Cotula 2006; Hochet 2014).

The 2012 revision to the RAF represents a new direction, although it nevertheless is not an entirely clean break from previous RAF legislation. The 2012 RAF establishes a National Land Domain (*domaine foncier national*) composed of the State Domain (*domaine foncier de l'Etat*), the Domain of Local Collectives (*domaine foncier des collectivités territoriales*), and the Patrimony of Private Actors (*patrimoine foncier des particuliers*). This tri-partite legal categorization of land rights is roughly equivalent to establishing that property rights to land may be held by the State, by municipalities and by private actors. The latter two categories – local collectives/municipalities and private actors – are the result of a relatively recent innovation, given that from 1984 the state held a monopoly over land rights.⁴ Also prior to the 2012 revision, customary land rights and land tenure management systems had no legal recognition or standing but are now eligible for protection through delivery of land certificates (APFR). In addition to defining the legal status of land rights across the different domains, the 2012 RAF, similar to its predecessors, provides the legal framework for local land use planning. The RAF law defines the legal instruments and development structures at different levels of local planning and sets preconditions for urban and rural development as well as conditions for development in areas designated for agricultural use (Ouédraogo 2014; GOBF 2012; Kaboré et al 2014).

⁴ A partial exception is the 1996 RAF revision, which granted some limited private rights to land (GOBF 1996).

In the early 2000s, in light of limited application of RAF laws and growing recognition of the impracticality of some of its fundamental tenets, a participatory process was launched to define a land tenure legal regime unique to rural areas. The process culminated in adoption of a Rural Land Policy in 2007 and a Rural Land Tenure Law (034-2009/AN) adopted in 2009. The law applies to rural lands, understood as any territory located within the administrative boundaries of rural communes, that is designated for agricultural or conservation activities. Also, subject to this law are village lands attached to urban communes – these lands are areas where some agricultural or conservation activity is taking place but within the borders of the urban commune. The 2009 Rural Land Tenure Law defines state property boundaries as well as the delimitations of land zoned for agricultural production. The law also outlines the principles of land security for rural landholders. In a legal domain model that would later be echoed in the 2012 revision of RAF legislation, rural lands comprise three legal domains: state-owned rural land, rural land managed by the local collectives, and the inherited rural lands of private actors (Kaboré et al 2014; GOBF 2009).

The land tenure regime complements and reinforces Burkina Faso's ongoing initiative to decentralize a broad array of political and administrative responsibilities. In 1993 Burkina Faso adopted its first decentralization laws, and in 2004, Burkina Faso established its current legal framework for decentralization with Law No. 55-2004/AN regarding local government (*Code de Général des Collectivités Territoriales, or CCGT*), revised in 2009. This law targets the regional and communal levels of the administrative hierarchy, establishing the principles and means to transfer authority and finances to local governments, and defines the relationship between the central government and municipalities and regions. In addition, the CCGT provides a legal basis for the local planning processes by defining the different levels of planning, identifying the key structures in the local planning processes, and organizing the support of the central government. The 2009 Rural Land Law promotes and builds on decentralization laws by establishing or further defining such institutions as land services at the communal-level (*Services Fonciers Ruraux – SFR*) and village-level Development Committees (*Comités Villageois de Développement – CVD*), Village Land Commissions (*Commissions Foncières Villageoises – CFV*) and Village Land Conflict Conciliation Committees (*Commissions de Conciliation Foncière Villageoises – CCFV*) (Kabore et al 2014; Hughes 2014).

Pastoralism is governed by the 2002 Law Orienting Use and Access to Pastures (034-2002/AN). The Law underscores the importance of sustainable management of pastoral resources, and at the same time guarantees pastoralists the right to pastoral land and to maintain the mobility of livestock. The Law explicitly points out that pastoral resources are shared among different actors and different uses, and that the legitimate rights of all actors must be respected (GOBF 2002; MARH 2010).

A number of government-sponsored action plans and livestock production policies have been adopted in Burkina Faso of which the most recent is the National Policy for Sustainable Development of Livestock in Burkina Faso (PNDEL) adopted in 2010 and covering the period 2010-2025. Among the objectives of the PNDEL are: to improve the traditional livestock production system by moving it from extensive production toward semi-intensive and intensive production systems; and to increase the contribution of livestock production to food security (Hughes 2014; MARH 2010; GOBF 2002).

Burkina Faso also has a Code for Urbanism and Construction that was adopted in 2006 (*Loi 017-2006 du 18 mai 2006*). The Code establishes the Master Plan for Urban Development (SDAU) as the planning instrument for the medium and long-terms that defines development priorities in urban zones. A Land Occupation Plan (POS) provides the general rules for the different zones consistent with the SDAU, and may restrict construction as necessary (GOBF 2006).

TENURE TYPES

Following revisions to the RAF adopted in 2012 the National Land Domain, which is equivalent to the national territory of Burkina Faso, is organized under the categories “urban lands” and “rural lands.” Urban lands are located within administrative boundaries or defined in the SDAU and principally used for residences, commerce, industry, artisanal activities and public services. Rural lands are principally used for agriculture, livestock production, forestry, wildlife, fisheries and conservation. Urban communes may, however, also contain some “rural lands” – lands on which agricultural or conservation activities are taking place within one of the country’s 49 urban communes.

Cross-cutting rural and urban lands, as noted above, are the three legal land rights domains: State Domain, Domain of local collectives (Regions and Communes), and the Land Tenure Patrimony of Private Actors (*Patrimoine Foncier des Particuliers*). The domains of the State and Local Collectives include both public and private sub-domains (see below), while the Patrimony of Private Actors comprises land subject to private land rights.

Some categories of rural land held by the State and by local collectives (e.g., forested land, land featuring mineral deposits or land developed for irrigated agricultural production) needs to be made available to private actors in the interest of increased production and economic development. Private actors can gain access to the lands under the public domains (whether the state domain or the domain of local collectives) including, for example, lands developed for irrigation, via temporary concessions, short and long-term leases, or definitive transfer of property rights. Land laws also provide actors with the option of obtaining a full land title, although the process for doing so is relatively long and expensive.

Although the instruments to formalize land property rights have long existed, they have not been broadly or uniformly applied. The options of individual farmer long-term leases and property titles in a government-sponsored irrigation perimeter were exercised, probably for the first time, following completion in 2014 of the MCC-financed 2,240-hectare perimeter in the Sourou Valley at Di. The majority of the beneficiaries of parcels at Di formalized their rights either through long-term leases or full land titles (GOBF 2012; MCC 2014c; Ouédraogo 2014).

The Rural Land Certificate of Possession (APFR), introduced in the 2009 Rural Land Law and mandated in the 2012 RAF as an instrument to secure customary land rights, appears to be something of a hybrid between full title and defined use rights. Notably, the APFR is designed to serve as a preliminary step toward acquisition of a full land title, and thus provides an opportunity for formalization and expansion of private land rights (GOBF 2012; Ouédraogo 2014; Hughes 2014).

Although the 2009 Rural Land Law and the 2012 RAF provide the mandate and mechanisms to formalize and secure a variety of tenure types in rural Burkina Faso, most rural land continues to be governed according to customary, informal rules, which differ between communities. In general, customary land tenure types are one of the following (from Hughes 2014):

- Rights of permanent use are granted to members of the corporate group (family clans).
- Rights of permanent use are acquired by claiming unclaimed deforested land.
- Rights of limited use are extended to members of the corporate group who need to borrow land. Depending on the group, these may become rights of permanent use if held for more than one generation.

- Rights of limited use are granted to ‘strangers’ who are borrowing the land. These rights can become permanent after generations of being passed down, particularly if the borrower has improved the land with the permission of the lender.

SECURING LAND RIGHTS

Although the 2009 Rural Land Law and the 2012 RAF provide mechanisms for formalizing and securing rural land rights, and mechanisms for establishing full land titles have been in place since the early part of the 20th century, relatively little of the rural and urban surface areas in Burkina Faso have been formalized. Between 1906⁵ and 2013 only 15,753 land titles were registered, the vast majority in the urban centers of Ouagadougou and Bobo-Dioulasso. Since establishment of the Rural Land Rights Certificate, or APFR (introduced in the 2009 Rural Land Tenure Law as a means to secure land rights based on customary land tenure), with the support of the Compact with the Millennium Challenge Corporation, by late-2014 some 13,000 applications and 4,500 APFR had been delivered. However, distribution of application for the APFR is strikingly uneven, with slightly more than one-half of all applications originating in the single commune of Boudry (one of the 17 *first generation* communes hosting decentralized land services (SFR) as established by the 2009 Rural Land Tenure Law). By the end of the MCC Compact in July 2014, a total of 47 SFR had been established (Burkina Faso has a total of 302 rural communes and 49 urban communes) (Ouédraogo 2014; MCC 2014b). Additional initiatives by the World Bank, AFD and other donors to increase the number communes with SFR were put on hold throughout much of 2015 and into early 2016 as a result of political and social unrest.

Parallel to the formal system for securing land rights in rural Burkina Faso, customary land tenure systems continue to provide the primary means for securing these rights. Many communities do not acknowledge that anyone “owns” the land, but rather grant primary rights of use to family groups who first settle a plot of land. In other communities, while a village chief is the formal arbitrator of village land, he does not have authority to control lands other than those belonging to his family. Among the Mossi, the largest ethnic group in Burkina Faso, an individual can only claim rights to land specifically granted by a land chief (*chef de terre*). Chefs de terre have authority because their ancestors were the “first” people to settle there. They act as intermediaries to their dead ancestors and to spirits, guaranteeing that local lineage groups maintain rights to the land their ancestors settled (Cotula 2006; Opoku-Ankomah 2006; Hughes 2014).

As a result of pressures including population growth, migration and land sales, customary land tenure systems in Burkina Faso are evolving. There is a tendency toward management of land rights by increasingly smaller units, such as households and individuals as compared to extended families and lineages. Land transactions, including loans, gifts, sales and rentals, increasingly are managed at the family or individual level and by-pass the involvement of customary land tenure authorities. Land sales, normally not allowed in the context of customary land tenure systems, are becoming common, especially in areas with irrigated perimeters where land values have risen. Another trend is the shortening time period of loans and informal leases in areas such as those where cotton is grown. Within customary systems land loans granted to migrants were usually open-ended and could remain in effect over very long periods. As land reserves are exhausted in some parts of the country it is becoming more common for locals to withdraw land from migrants without following traditional rules.

⁵ Land titles became an option in Burkina Faso with adoption of *Décret du 24 juillet 1906 portant organisation du régime de la propriété foncière dans les colonies relevant du gouvernement général de l’AOF*.

Non-respect of customary rules increases the risk of land conflict (Hochet 2014; Tetra Tech 2014; Mathieu et al 2003; Opoku-Ankomah 2006).

The 2009 Rural Land Tenure Law’s founding principle of equal access to land on the part of all Burkinabé has been cited as a factor that may, paradoxically, benefit urban-based elites disproportionately, because they may have superior access to information and to the means to formalize land rights. Land acquisitions in rural areas by urban based elites or other advantaged actors can increase the risk of conflict as land that was previously governed under informal, customary land tenure systems becomes subject to more formal titling options (Sanou 2012).

A possible counter-balance to uneven access to the means for obtaining formal land rights is the Rural Land Tenure Charter (*Charte Foncière Rurale – CFR*). The CFR is intended to empower rural populations to set the rules that govern local land tenure, including, for example, guidelines defining the acceptable duration of land loans (Ouédraogo 2014; Hughes 2014). However, implementation of the CFR remains somewhat of a pilot activity limited to just a handful of communes.

Without legally recognized rights, rural land users are at risk of the state removing them from their land, which happens as part of projects to improve lands for water infrastructure schemes. The RAF does not require compensation for expropriation of customary rights, but the 2001 Water Management Policy Act (*Loi d’Orientation relative à la Gestion de l’Eau*) does provide compensation for the impairment of existing rights in the process of irrigation projects (Mathieu et al 2003; GOBF 2001).

INTRA-HOUSEHOLD RIGHTS TO LAND AND GENDER DIFFERENCES

Burkina Faso has a strong record of international agreements and national legislation intended to protect the rights of women, promote women’s health and encourage the participation of women in domains such as economics and politics. However, the country’s record of translating legal protections into real, measurable gains is somewhat uneven and difficult to discern.

Burkina Faso ratified the International Convention on Elimination of All Forms of Discrimination against Women in 1987 and its optional protocol in 2005. Burkina Faso also ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (the *Maputo Protocol*) in 2006. The 1991 Constitution (revised in 2012) stipulates that all citizens of Burkina Faso have equal rights and prohibits discrimination based on

sex. The Constitution also guarantees the right to property making no distinction on the basis of sex/gender, the right to freely consent to marriage, and prohibits sex discrimination within marriage (RECIF ND; FAO 2011; GOBF 2012). Female circumcision was outlawed in Burkina Faso in 1996, but the ban is unevenly enforced and in some areas, there were worries of an upsurge of the practice during the social turbulence that followed the overthrow of Blaise Compaoré in October 2014 (FAO 2007; Voice of America 2015).

Family and succession law is embodied in the Persons and Family Code of 1990. Article 234 prohibits levirate, i.e. forced remarriage of the widow with the heir of her deceased husband. An important

Box 3. Land and Gender Indicators

	Score
<u>OECD: Measuring Gender In(Equality)—Ownership Rights, 2014</u>	
- Women’s Access to Land (to acquire and own land) (Range: 0-1; 0=no discrimination)	0.5
- Women’s Access to Property other than Land (Range: 0-1; 0=no discrimination)	0.5
- Women’s Access to Bank Loans (Range: 0-1; 0=no discrimination)	0.5
<u>FAO: Holders of Land Classified by Sex, 1993</u>	
- Percentage of Female Holders of Agricultural Land	8.4

exception to the western norms regarding gender equality is the legality of polygamy, which was prohibited in the original draft code but was subsequently allowed following intense popular pressures. The matrimonial regime is community of property in case of monogamy, and separation of property in case of polygamy. Widows have legal rights to inherit their husbands' property, albeit only if their marriage was a recognized civil marriage. There are calls to revise the Persons and Family Code of 1990 to increase its compatibility with international conventions. RAF laws generally reinforce the treatment of gender under the Persons and Family Code in that men and women are guaranteed equal land rights. Article 75 of the 2009 Rural Land Tenure law mandates "specific programs" such as drafting perimeter-specific by-laws to ensure minimum allocations to women (FAO 2007; Ouédraogo 2012; Kaboré et al 2014).

Burkina Faso developed a National Policy on the Advancement of Women that was officially adopted in 2004 (Decree 486). This was followed in July 2009 by adoption of a National Gender Policy (PNG) along with a 3-year work plan for its implementation. The PNG targets "a society free of all forms of inequalities and injustices, guaranteeing essential security to all male and female citizens toward full self-fulfillment" (GOBF 2012; Ouédraogo 2015).

Providing support and a degree of operational capacity to the generally positive policy and legislative environment for gender equality in Burkina Faso are several policy and institutional developments beginning in the mid-1990s. A Ministry for the Advancement of Women (MPF) was established in 1997 by Decree 270. The five-year Action Plan adopted by the MPF for 2003-2007 included an advocacy component entitled "Reduction of the Inequalities Suffered by Women. Gender focal points have been designated in all the ministries involved in gender-related policies and programs. Implementation of the National Gender Policy was reinforced through an accelerated program implemented in 2011-2012 to reinforce the capacity of actors to implement the Policy (FAO 2007; GOBF 2004; Ouédraogo 2015).

To reinforce women's participation in governing structures, Burkina Faso adopted Law 010-2009 in April 2009 requiring that women constitute 30 percent of the candidates included on ballot lists. Even prior to the revision women accounted for higher percentages of local elected councils than neighboring countries such as Mali and Niger, reaching 26 percent in the elections of 2009. However, despite the new law, the percentage of women on local elected councils dropped to 21 percent following the elections of December 2012. Nevertheless, the percentage of women deputies in the National Assembly improved somewhat over the same period from 15 percent in 2007 to 19 percent in 2012 (Thiemounou 2013; Pambazuka 2015; Kaboré et al 2014; RECIF ND).

Despite the favorable policies, legislative and institutional reform adopted in recent decades that promote gender equality, the reality is that nearly 80 percent of Burkina Faso's population lives in rural areas where customary land tenure systems are nearly universally dominant over statutory laws and national strategic policies. Although women contribute slightly more than one-half of agricultural labor in Burkina Faso, the notion that land is sacred and that management rights should exclusively be held by men is only gradually losing its grip on the rural mentality. As articulated by a staff member of a Burkinabé NGO, "Since land is sacred, women cannot manage it. If women were to have access to the land, all records of land tenure would be lost. We would no longer know to which family a certain piece of land had belonged. It would be the death of tradition" (FAO 2011; Yoda 2008).

Changing family structures in rural areas is certainly having an impact on how customary land tenure management is evolving. Extended families are splintering and giving rise to the empowerment of member households and emergence of nuclear families. Likewise, farmland is fracturing (Diarra-Doka

2014). While the substance of these changes is clear, it's less clear how all these changes are affecting customary land tenure rules, or with what speed rules may be evolving.

In general, women continue to gain access to land through their husbands, who by custom are required to make a portion of their agricultural plots available to their wife or wives. Women's plots have a mixed status, between a gift and a loan. In some cases, they become the property of the women, particularly on the death of their husbands or on their own death, since their children inherit these plots. In other cases, the plot is ploughed back into the bulk of the inheritance to be shared on the death of the husband, or it reverts to the husband in the event of the wife's passing. Most often the statutory right to inherit is superseded by the customary practice of a man's property passing to the male members of his family. (Diarra-Doka 2014; Kaboré et al 2014).

Further complicating the land tenure security of women are the sometimes-unanticipated practical requirements to formalize and protect land rights. For example, to obtain an APFR one must first possess a national identify card. The government is now in the process of replacing national ID cards with biometric cards issued by the regional Economic Community of West African States (ECOWAS) organization.⁶ While approximately 90% of men had national ID cards, only 30-40 percent of women had these cards. It is unclear if women will still hold fewer biometric ID cards than men. However, if extra time and expense is required to obtain appropriate documentation in support of formalized land rights this often disproportionately impacts women, making it more difficult for them to pursue legal protection of informally recognized rights (ONF personal communication 2016).

In 2009/2010 the Alliance for a Green Revolution in Africa (AGRA) commissioned AH Consulting to conduct a baseline agricultural survey prior to AGRA-sponsored interventions. Among many other items the survey includes information on how property rights to land are distributed within households. The survey sample size is 1,040 households in three regions (Boucle du Mouhoun, Région de l'Est and Les Cascades). The global result is that 96 percent of household parcels are "owned" by the head of the household, between 0.7 and 1.8 percent of the parcels are owned by the "spouse", and 5.2, 3.5 and 0 percent (depending on the region) are owned by the "head and spouse"; and 5.6, 1.6 and 0.2 percent (depending on the region) are owned by the "head, spouse and children (AGRA 2014).

While the AGRA study suggested that women faced obstacles to becoming proprietors of land, women sometimes find it easier than men to access loaned or borrowed land. Landholders are more willing to lend to women because women cannot claim permanent rights to land and are easier to evict. Married women usually have more avenues to access land than unmarried women, who often can only access their mothers' fields. A widow can choose to be 'inherited' by one of her husband's brothers and thus stay on the land, although the practice of levirate marriage is prohibited by law in Burkina Faso. Access to land loans may become easier and more secure for women as contracts are formalized through writing. Similarly, as the land market develops, an increase in the use of written transactions may provide women with more secure avenues to access land ownership (Kaboré et al 2014; Hughes 2014).

Another evolving influence on women's access to land is the role played by the government and its partners sponsoring programs to increase agricultural development. Some examples suggest that

⁶ This change was reported in late January 2017 on local news: <http://www.rtb.bf/2017/01/jt-de-20h-du-26-janvier-2017/>.

development projects have undermined women's rights by reinforcing traditional tenure institutions and ignoring the existing rights of women. Operation Rice, a water infrastructure project, undertook to improve lowland areas and then allocated the improved plots to household heads. Those lowlands had been controlled by the women to grow rice; when allocated to male household heads, the land was no longer accessible to women. In subsequent phases of the project, this gender bias was removed. Other development projects, such as the MCC Agriculture Development Project implemented in the Sourou Valley between 2009-2014, has ensured that significant proportions of newly-developed irrigation plots are assigned to women and women's groups whose land rights are formally secured (FAO 2007; Davis 2014).

For the time being and into the foreseeable future women's access to land in rural areas remains constrained relative to that of men. Moreover, constrained access to land parallels the obstacles women face when they attempting to access the inputs needed to make land more productive. In Burkina Faso studies, have shown that women use less fertilizer and other farm inputs than men, and that relative yields suffer as a result. Overall agricultural output also suffers as a result of women's constrained access to land and productive inputs. Interestingly, another study conducted in Burkina Faso found that areas suffering from drought tended to allocate resources between male- and female-managed plots more efficiently than households in more favorable areas, perhaps because the risk associated with being inefficient was higher (FAO 2011; Diarro-Doka 2014). Whether this result is generalizable across the wider rural population may eventually be revealed if the environmental instabilities witnessed over the past couple of decades continue into the future.

LAND ADMINISTRATION AND INSTITUTIONS

There are several government institutions governing land in Burkina Faso, but the fundamental responsibilities for land administration, land registration and property taxation are assigned to the Ministry of Economy and Finance (MEF). The MEF implements its land administration policies through the General Directorate for Taxation (DGI), which includes a Directorate for Legal Registration of Land and Land Tenure (*Direction des Affaires Domaniales et Foncières – DADF*) and a Directorate of the Cadaster (*Direction du Cadastre*). MEF is the premiere agency for implementation of RAF legislation, which is the foundation of land law in the country. MEF has also established a "one-stop shop" (*guichet unique*) for provision of land registration services (Ouédraogo 2014; GOBF 2016a).

Since 2007, with adoption of a distinct Rural Land Tenure Policy, land tenure management responsibilities are held by the ministry in charge of agriculture, currently the Ministry of Agriculture and Hydraulic Development (MAAH). MAAH is responsible for the productivity of land and related natural resources. MAAH includes the General Directorate for Land Tenure, Training and Organization of Rural Populations (DGFOMR), which is responsible for coordinating and monitoring implementation of the 2009 Rural Land Tenure law. MAAH also serves as Permanent Secretary to the Permanent National Committee for Land Tenure Security in Rural Areas (SP/CONASFR). MAAH is the seat of the National Program for Rural Development (PNGT). Finally, MAAH is responsible for developing and managing irrigation infrastructure and perimeters (Ouédraogo 2014). The MAAH has something of a symbiotic relationship with the Ministry of Water and Sanitation (MEA), especially given that until December 2015 the two entities operated as units within a single ministry, the Ministry of Agriculture, Water Resources, Sanitation and Food Security (MARHASA).

The Ministry for Regional Development and Decentralization (MATD) plays a central role in land tenure management in that it oversees and supports local governments to increasingly assume the land

management duties assigned through the 2012 revised RAF and the 2009 Rural Land Tenure Law. MATD includes a General Directorate for Local Development (DGAT-DL) and a Directorate for Land Tenure of Local Collectives. The Ministry of Justice (MJ) plays a similar role in supporting local capacity-building for land dispute mediation. The Ministry of Habitat and Urbanism houses the Directorate of Topography and Land Surveying (DGUTF), which is responsible for providing surveying services for land registration throughout the country in both urban and rural zones.

The Ministry of the Environment, Green Economy and Climate Change (MEEVCC – former Ministry of the Environment and Sustainable Development, MEDD) manages public and private forests and fauna, and regulates environmental measures such as pollution control throughout the country. MEEVCC includes a General Directorate of Forests and Fauna. The MEEVCC also serves as the Permanent Secretary of the National Council for the Environment and Sustainable Development (SP/CONEDD), which coordinates implementation and international sponsorship of forestry, environmental and carbon sequestration programs.

The Ministry of Animal Resources and Fisheries (MRAH) assumes broad authority for establishment and regulation of pastoral zones and protection of animal resources in streams, rivers and lakes. MRAH hosts the General Directorate for Development of Pastoral Perimeters (DGEAP). The Ministry of Mines, Quarries and Energy is responsible for governance of the mining sector including delivery of mining permits and authorizations and maintenance of a mining cadaster. Rounding out the list of ministries claiming a measure of authority over land tenure management is the Ministry of Territorial Administration and Security (MATS), which plays a role in conflict resolution. The Burkina Geographical Institute (IGB), a non-ministerial technical agency at the national level, provides services for mapping, analysis and interpretation of remote imagery and other geographical technical services (Ouédraogo 2014; Kaboré et al 2014; IGB 2017).

In light of ongoing commitment to decentralization policies local governments and actors are increasingly involved in local land tenure governance. Burkina Faso is composed of 13 regions, 49 urban communes and 302 rural communes established in 2006 in accordance with the General Code of Local Authorities. Each region has a legal identity and functions as an economic unit that is expected to have an appropriate framework policy for land use, planning, and coordination of development activities. Each region is composed of communes, the basic unit of local governance. Each commune is divided into sectors and/ or villages.

The first line of deconcentrated or decentralized land governance institutions and administrators at the regional, commune and village levels are, respectively, High Commissioners, municipal governments presided over by a Mayor and technically assisted by Rural Land Tenure Services (SFR), and Village Development Councils (CVD) assisted by Village Land Commissions (CVF) and Village Conflict Conciliation Commissions (CCFV). The Association of Municipalities of Burkina Faso (AMBF) represents the communes at the national level, and the Association of Regions of Burkina Faso (ARBF) performs the equivalent function for regions (Kaboré et al 2014; Hochet 2014; LGAF 2014). Customary and religious authorities are also generally represented in national forums but appear to be only loosely organized into associations.

LAND MARKETS AND INVESTMENTS

Framework land legislation, intended by the colonial government to pave the way for individualization and commodification of land and the emergence of a land market, has been in place since early in the 20th century (Hochet 2014; Ouédraogo 2014). Procedures for obtaining private land titles were

established in 1906. The Civil Code (article 544) defines property in the most absolute terms reflecting the Roman Law notions of *usus*, *fructus* and *abusus*,⁷ and Article 15 of the Burkinabé Constitution guarantees property rights.⁸ Although less absolute in terms of defined property rights, the APFR introduced by the 2009 Rural Land Tenure Law is convertible to a private land title where legal and procedural qualifications are met (GOBF 2009).

In spite of availability of legal mechanisms providing for establishment and commercial exchange of private land rights, most land transactions remain informal. Land markets remain localized, undeveloped and are often discouraged – or even prohibited – by customary laws. This 2009 Rural Land Tenure Law requires approval of customary chiefs and/or family members or other people enjoying use and/or property rights in order for land transactions to be considered legal. High costs often discourage the registration of land and of land transactions. At the same time, however, pressures cited above are making sales of land in rural areas increasingly common. The sellers are usually young male locals who have come into possession of family or ancestral land, or older males facing financial problems. The purchasers are generally businessmen, traders, politicians, or migrants with sufficient cash. In addition to outright purchases of land, informal leases have become common in many parts of the country, particularly in areas that host large numbers of migrants (Koussoubé 2015; Mathieu 2003; AU-IBAR 2013; Sanou 2012; Zongo 2010).

The development of land markets in some parts of Burkina Faso has been associated with an influx of migrants. In Comoé Province the mass return of Burkinabé fleeing the civil war in Côte d'Ivoire in the late-1990s/early2000s led to a radical modification of the conditions of access to land, which swiftly passed from the traditional mode of integrating migrants (*tutorat*) to monetarized forms of access to land. In other areas of rural Burkina Faso high levels of internal migration, particularly since the 1980s, have been associated with a weakening of the customary land management systems that formerly discouraged commercial land transactions, and contributed to more individualized systems of land management. The transition from customary to monetized systems of regulating access to land is a source of conflict between indigenous lineages as well as between local populations and migrants (Mathieu et al 2003; Zongo 2010; Chauveau et al 2006; Hochet 2014; Engels 2014).

COMPULSORY ACQUISITION OF PRIVATE PROPERTY RIGHTS BY GOVERNMENT

The government is empowered to expropriate existing land and natural resource property rights for the public good, but prior to expropriation must render just compensation. However, where the expropriation is located within the Private Domain of the State, or on the urban lands of the Private Domain of a local collective, compensation is dependent on the land-holder's possession of land title. In cases where the expropriated property is located within the Public Domain of the State compensation is not required. Neither the central nor local governments are required to compensate investments or improvements made on lands subject to a long-term lease between the occupant and the government following expiration of the lease. Expropriations conducted for public utility must follow a legally-defined process beginning with timely notification of the intention to expropriate, and require public

⁷ The terms, *usus*, *fructus* and *abusus*, correspond to ascending levels of property rights, and can be roughly translated as the right to use (or access), the right to harvest, and the right to dispose of (e.g., to sell or give away). The holder of all three levels of rights possesses a complete bundle of the property rights associated with a given object or resource.

⁸ As of the time of writing this profile, a draft Constitution has been completed and appears to have reached the final stages prior to adoption. The draft suggests that the constitutional rights to property without regard to gender, ethnicity etc. will remain.

investigations and negotiations. Holders of APFR enjoy the same protection from expropriation for public utility and rights to compensation as holders of full land titles (GOBF 2012; Hochet 2015).

The government is also empowered to expropriate the private property rights to mining operations where public utility has been determined. Such expropriations are subject to preliminary and just compensation. Article 11 of Burkina Faso's Water Management Policy Act (2001) establishes that the issues of expropriation and compensation of land rights for the purposes of creating, improving or maintaining the water infrastructure may be addressed through legislative provisions. Whether such legislative provisions would require pre-existing land title in order to benefit from compensation is not specified in the Water Management Policy Act. In general, because of the lack of a unified, coherent government resettlement policy, in development settings resettlement policies are guided by international agreements and the policies of project donors (GOBF 2001; MAHRH/GOBF 2015; Cotula 2006; Ouédraogo 2014).

LAND DISPUTES AND CONFLICTS

Disputes over land are a widespread problem across Burkina Faso and may be increasing in frequency and scale. Primary drivers of conflict include population pressure, degradation of natural resources through mismanagement and possibly as a result of climate change, and multiple land tenure regimes – both legal and customary – that create confusion and openings for opportunism. A non-exhaustive typology of land conflicts in Burkina Faso based on the sets of opposing actors includes: farmers versus herders; indigenous populations versus migrants; family members versus each other; community against community; and the State versus private individuals and groups (Nakoulma 2014; AU-IBAR 2013).

In some rural communes, there is a strong sense that local people are losing their stocks of available agricultural land. At the household level, the future of the younger generations is under threat, particularly since agriculture remains the only employment prospect for rural youth. On the social side, an increase in tensions has been noted between indigenous people, migrants and agro-pastoralists on the one hand, and on the other, difficulties in accessing land by women and youth. Conflicts following withdrawals of land use rights pit local people against migrants and locals against pastoralists. Conflicts also arise over the blocking of the transhumance corridors, river banks, and pastures, etc. Intra-family conflicts are often linked to the sale of lineage land reserves by individual members of the family (GRAF 2011).

Conflicts between farmers and herders are almost certainly the most prevalent type of conflict. Drought, resource degradation and farmer encroachment on pastures and cattle trails have disrupted transhumant routes and reduced herder access to pasture and water resources, increasing the likelihood of clashing with other rural production systems, especially farming. The Ministry of Animal Resources estimates that 700 conflicts/year, or approximately 4,000 farmer-herder conflicts, took place between 2005 and 2011. The most serious of these conflicts are marked by violence and sometimes result in fatalities (Bonkougou 2012; Tetra Tech 2014a).

The challenges presented by land degradation and climate variability affect farmers as well as herders, and have spurred internal migration to more developed areas of the south and southwest, where irrigated agriculture and commercial investments are increasingly found, and to less developed areas in the east, where available land is relatively more abundant. In both instances, these demographic reconfigurations have contributed to conflicts over land. In the south, intra-familial disputes occur over the sale of land to “outsiders” from elsewhere in the country, while in the east disagreements are

common over the duration and validity of tacit agreements allowing newcomers to cultivate unused plots of land (Zongo 2010; Tetra Tech 2014a).

Land transactions between migrants and indigenous populations tend to follow customary rather than formal rules. Relatively unregulated and fluid transactions often lead to conflict that government authorities have shown themselves to be unprepared to resolve or effectively manage. The entry of urban-based elites, ready to press their economic advantages and relative legal fluency, into rural land tenure markets has only increased land pressure and local social volatility, as has the return of large numbers of refugees from the Cote d'Ivoire beginning in 2002 (GRAF 2011; Zongo 2010).

Certain opportunities for external investors result from relatively recent changes in land use, such as growing production of biofuels, particularly *Jatropha*, and the boom in goldmining in response to new or growing markets. At a national level 288,044 ha were acquired (by purchase or rental) between 2000 and 2012, mostly for production of cash crops. Over 113,500 ha were put to production of *Jatropha*. Much more land has changed hands for gold production. These newer land uses are recent additions to the long-standing "cotton fronts" in the northwestern and southwestern parts of the country, areas in which conflicts arising from changing land-uses, migration patterns, growing population pressures and urban-based investment in rural production have long been documented (Boulouvi 2009; COPAGEN-REDTAC 2015; Tetra Tech 2014; Mathieu et al 2003).

To some extent government policies have also encouraged migration. For example, the legal declaration in place since the first RAF in 1984 that "land belongs to all the people of Burkina Faso" has encouraged people of means to seek opportunities beyond their natal regions, and has instilled a sense of powerlessness among local populations who might wish to assert their customary claims. The sentiment is echoed today in the declared objective of the 2009 Rural Land Law to promote equal access to land on the part of all Burkinabé. In addition, government agricultural policies have at times promoted "professionalization" of agriculture by increasing external investment to remedy the shortcomings of family farming (Sanou 2012; Zongo 2010).

Regional conflicts, including Islamic extremism, may also be exacerbated by climate stress, which is anticipated to be an increasingly serious phenomenon in the future. In poor, vulnerable, and culturally diverse societies divergent climate adaptation strategies adopted by different groups (e.g., farmers and herders) also may generate conflict (Tetra Tech 2014a).

The impact of pervasive land conflict in Burkina Faso is far-reaching, it provokes social discord and spills over into the realms of food security and economics. In Burkina Faso, there is a significant, and negative, correlation between "perceptions of conflict" and investment in agricultural production (Linkow 2011).

Current land policy and legislation is fully cognizant of the pervasive risk of land conflict and has developed a series of measures in response. Article 94 of the 2009 Rural Land Tenure law requires that "the State takes and implements all necessary measures to prevent and reduce land conflicts in the rural milieu." Article 95 adds that customary authorities, civil society and *resource persons* (actors recognized locally for their unique status or mediation capacity, often informal, or possessing specialized knowledge) must take part in the prevention of rural land conflicts. Inclusion of customary and other local authorities is based on lessons drawn from experience: often conflicts have been settled by traditional chiefs and local institutions. The Law's requirement that attempts be made to conciliate conflicts prior to undertaking formal litigation is also based on experience: The judicial system is not equipped to deal with local-level land disputes. Judges base their decisions on the RAF, but since rural communities are

not basing their decisions on the RAF judicial decisions are often contested and rarely implemented (Kaboré et al 2014; Mathieu et al. 2003; Lund 1997; H. Ouédraogo 2006; M. Ouédraogo 2002).

The 2009 Law establishes that Local Charters are to determine the forms and procedures for conciliation. The Charters may also establish local conflict resolution commissions that are given 45 days to mediate disputes. Addressing the courts and initiating litigation should be used only as a last resort. As of March 2014, 995 village-level conflict resolution commissions had been established with support of various projects and programs (USAID 2010; Hughes 2014; Kaboré et al 2014; Hochet 2014).

Whether or not the policy response will be sufficient to manage and eventually reduced the level of land conflict in Burkina Faso is unclear. Even if it is successful it seems possible that the situation will worsen before it improves. While application of the conflict management tools of the 2009 Rural Land Tenure Law has, to some extent, been effective in preventing conflicts where it has been applied, it may also have led to new conflicts where it opens up latent disputes among family members or internal migrants. Uncertainties about its provisions and intent have raised questions for some families unsure about the future security of their land. Should they worry about losing the land? Should they consider selling it or taking other actions before new, unwanted arrangements are imposed on them? The decisions discussed or taken by family members can lead to new disputes or intensify existing ones. The existing land tenure domain may be simultaneously an area of institutional weakness and of institutional promise (Tetra Tech 2014).

KEY LAND ISSUES AND GOVERNMENT INTERVENTIONS

Burkina Faso has been effective in developing coherent and often innovative sectoral policies and legislation to address interdependent governance domains and intersecting objectives, including: land tenure, (RAF 2012), Rural Land Tenure (Law 034-2009/AN), decentralization (Law No. 55-2004/AN), rural development (the PNSR), the environment (REDD+ Strategy and REDD+ Implementation Plan), and pasture resource conservation and management (PNDEL). Many of these strategies, policies and laws, at least on paper, lend themselves to mutual coordination and a degree of integration. All of them require a minimum level of technical, administrative, governance and financial capacity for their effective implementation.

Burkina Faso's rural sector policies, laws and strategies all meet at the local level in villages and communes. Thus, effective implementation depends on local capacity for local governance and service provision. As noted by Kaboré et al (2014) regarding establishment of local land services in communes as mandated in the 2009 Rural Land Tenure Law, "[t]he policy takes into consideration land rights and usage that have been largely held by customary means, as well as the contextual diversity – ecological, economic, social, and cultural – of land in the rural milieu." Despite the adoption of the rural land tenure law, this legislation has yet to be implemented, mainly due to the lack of administrative capacity, especially in terms of personnel at the local government level, which is essential for making rural land services operational." The National Municipal Association of Burkina Faso (AMBF) blames the slow implementation of new, decentralized land services on the lack of autonomy allowed to local governments to use funds transferred from the central government as they see fit, and on the reluctance of deconcentrated technical services to support local empowerment (Kaboré et al 2014).

DONOR INTERVENTIONS

In July 2014 Burkina Faso completed implementation of a 5-year Compact with the Millennium Challenge Corporation (MCC). The Compact included the \$60 million Rural Land Governance Project. The RLG project sought to increase investment in land and thus rural productivity through: legal and procedural changes with associated training and public outreach; institutional development and capacity building for delivery of land services; and site-specific land tenure interventions in selected communes. Project results included establishment of decentralized land tenure services (SFR) in 47 communes, delivery of 2,167 rural land possession certificates (APFR), and training provided to 61,057 stakeholders on themes related to implementation of land policies and laws. The RLG made a major contribution to efforts to implement the 2009 Rural Land Tenure law and was instrumental in facilitating the 2012 revision of the RAF (MCC 2014a; MCC 2014b).

In June 2013, the US Government and the GOBF entered a partnership, as part of the G-8 Transparency Initiative, to establish and operate a National Land Tenure Observatory (ONF) and build government capacity for increasing transparency and tracking of land transactions. The Transparency Initiative was developed within the framework of the New Alliance for Food Security and Nutrition that was launched by the G-8 in 2012. In addition to the US, other G-8 partners pledging funds in support of the Initiatives of the New Alliance include France, Germany, Japan and the EU. The New Alliance also features substantial private sector participation. New Alliance initiatives are coordinated through the GOBF investment plan – the National Program for the Rural Sector (PNSR) – and will also take account of the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of Food Security (VGGT).

The specific US partnership with Burkina Faso within the Transparency Initiative is spearheaded by USAID and builds on progress achieved by GOBF in implementing elements of the Rural Land Tenure Law and the VGGT. The partnership focuses on two primary activities: establishing and operating a National Land Observatory, and building capacity for tracking transparency of land transactions. The National Land Observatory achieved legal recognition in Burkina Faso on July 3, 2014. Following nearly a year of participatory program development the ONF 5-year observation program was adopted in May 2015 and officially launched the following month (DOS 2013; MCC 2014b; ONF 2015; G-8 2012).

The Resilience in the Sahel Enhanced (RISE) initiative, announced in February 2014, is a USAID initiative that brings together our humanitarian and development assistance to address the root causes of persistent vulnerability. RISE commits more than \$130 million in new assistance over the first two years of a five-year effort to build resilience in targeted zones in Niger and Burkina Faso. The multi-year, multi-sectoral RISE programs will increase sustainable economic well-being through increased agricultural productivity, income diversification and increased access to markets and financial services. It is also supporting the MAST pilot project in Boudry Commune and will support additional land tenure work in five other communes in 2017. RISE also seeks to improve health and nutrition and strengthen institutions and governance critical to resilience, in order to improve natural resource management and mitigation of resource-related conflict (USAID 2015a; USAID 2015b; DOS 2014).

The third phase of the second National Village Development Program (PNGT 2) in Burkina Faso was launched in 2014 and scheduled to complete in 2018 and is financed by the World Bank/IDA, the Global Environmental Facility, and GOBF. Phase 3 of PNGT 2 targets reinforcement of the capacity of decentralized governments and local actors to implement local development plans targeting sustainable development of natural resources. The PNGT 2 is the centerpiece program and umbrella for

internationally-sponsored support for implementation of the PNSR, and is also a vehicle for furthering application of the 2009 Rural Land Tenure Law. Funds committed for PNGT implementation total 46.7 billion francs CFA or approximately \$US85 million. PNGT 2 Phase 3 targets establishment of decentralized land services (SFR) in 150 communes, installation of village land commissions and conflict conciliation commissions, facilitated delivery of rural land certificates (APFR) in the targeted communes and 50 rural land charters (CFR) (MEDD 2015; Le Faso.net 2013; PNGT 2015; World Bank 2013).

Political instability (which began in October 2014) has delayed implementation of some aspects of PNGT 2 Phase 3. The AFD has long supported programs and projects in Burkina Faso targeting land tenure security and implementation of the national land policy. In 2014 AFD launched the Project to Support Communes in Land Tenure and Natural Resource Management (PACOF/GRN) in 15 western communes and is providing 8 million euros for its implementation. PACOF/GRN supports implementation of the 2009 Rural Land Tenure Law and has the following specific targets: establishment of decentralized land services (SFR) in 15 communes; installation of 230 village-level land tenure commissions (CFV); development of 15 master zoning plans; completion of 30 rural land tenure charters (CFR); and one hundred productive investments (AFD ND; Kaboré et al 2014).

The International Fund for Agricultural Development (IFAD) has committed \$80 million to the Neer Tamba Project, launched in 2014. Neer Tamba targets enhanced resilience of households in villages facing climate disruption. The project may support application of some aspects of the 2009 Rural Land Tenure Law through an awareness-raising program and by facilitating installation of village-level land tenure management committees (CFV) and/or conflict conciliation commissions (CCFV). GOBF is also providing financing for Neer Tamba. Approximately 200,000 households are expected to be impacted during the project (IFAD 2014).

Burkina Faso provides evidence that the diffusion of soil and vegetation restoration techniques as sponsored by International sponsors and local NGOs can have a positive outcome on a wide scale. There is considerable evidence that the adoption of sustainable agricultural practices has played an important role in increasing productivity. Between 1995 and 2006, nine studies measured the impact of the new agricultural practices on yields in the Central Plateau under various conditions, and all recorded positive impacts – ranging from an increase of 40% to more than 100%. Credit is given to serious dissemination efforts made by international NGOs that began in the early 1980s and continue today, though the efforts are now largely supported by local NGOs. Oxfam Great Britain supported an agroforestry project which used a participatory village-level approach to promote the use of stone bunds. Pilot projects supported by the German Federal Enterprise for International Co-operation (GIZ), the Permanent Interstate Committee for Drought Control in the Sahel (CILSS) and others validated the bunds and *zai* techniques as the most attractive options for farmers. A project funded by the International Fund for Agricultural Development helped to promote *demi-lunes*, whose use continues to grow to this day (Lenhardt et al 2014).

2. FRESHWATER (LAKES, RIVERS, GROUNDWATER)

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

The three major river systems in Burkina Faso are tributaries of the Volta River, specifically the Black, White and Red Volta Rivers. The Volta River system drains approximately two-thirds of the country. Burkina Faso benefits from two other international river systems: the Niger River, draining 30 percent

of the country's land area in the east and north, and the Comoé River, draining 7 percent of the country's surface area on the southwest border with Côte d'Ivoire. Total exploitable surface water resources were estimated to be 4,750 km³ per year, or 280 m³ per year per capita in 2013. In 2014 groundwater resources were estimated to be 9,500 km³ per year (FAO AQUASTAT; Andreino 2002; UC Davis 2015).

Surface water availability and quality is increasingly in demand due to mining activities, for urban and industrial uses and agricultural development. In 2005 about 51.5 percent of water was used for agriculture, 46 percent went to municipalities and less than 3 percent was used by industry. Although more recent statistics are not available it is likely that these relative proportions have shifted given the huge increase in gold mining over the past decade. Eventually demand for water from the mining industry could threaten the quality of the existing water supply, potentially rendering it unsuitable for agriculture. (FAO AQUASTAT; GWP 2015).

The proportion of the national population using an improved water source is 97 percent in urban zones and 76 percent in rural areas. Overall 82 percent of the population has access to water through improved facilities. Tube wells are common in rural areas but only 25 percent of rural populations have access to clean water.⁹ Pollution is becoming more common through excessive use of agrochemicals. Arsenic occurs naturally in rock formations in northern Burkina Faso and poses a contamination threat. Twenty percent of rural populations and 50 percent of urban populations have access to improved sanitation facilities (World Bank 2014/2015; Newborn and Tucker 2015; UC-Davis 2015; Savadogo et al 2013).

LEGAL FRAMEWORK

Water legislation in Burkina Faso builds on the water policy framework which consists of the National Water Policy adopted in 1998, the National Public Hygiene Policy adopted in 2004; the National Environmental Policy adopted in 2007; and the National Sanitation Policy adopted in 2007. Together these policies define the orientation, objectives and judicial instruments for development of the water sector. These national policies adopt an approach to water management based on natural water catchments. Integrated management of water resources at the level of water basins is intended to ensure efficiency and to mitigate the risk of water catastrophes. This integrated water management approach, or GIRE, was encoded into the framework legislation governing the water sector with adoption of the Water Management Policy Act of 2001 (Law 002-2001/AN) (Zoungrana 2011; GOBF 2001; GOBF 2009).

The 2001 Act mandates the principles of integrated water resources management as the law of the land. The GIRE approach, built on decentralized management, was further reinforced with adoption in 2004 of the General Charter of Territorial Collectives (CGCT) which dictated that water supply service in rural areas would become the responsibility of local communities. An action plan for implementation of IWRM (Decree 220, PAGIRE) was adopted in 2003. The action plan laid out the decentralization of the Water Supply and Sanitation sector over the next six years, and subsequently for a second phase that was implemented beginning 2010 and through 2015. An increasing imbalance between supply and demand of water since adoption of the first phase action plan is recognized in subsequent water sector planning. For example, the Phase 2 PAGIRE struck an increasingly urgent tone stating that uneven

⁹ Not all sets of available statistics are entirely consistent regarding population percentages with access to improved facilities and access to clean water.

sharing of water resources along with weak knowledge of water management are contributing to high levels of water stress in the country (GOBF (PNSR) 2011; Sidwaya 2015).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The ministries responsible for water resources, hydraulic works and sanitation have undergone frequent reorganizations in recent years. Under the transition government put into place following the departure of Burkina Faso's president in October 2014, the Ministry of Agriculture and Hydraulic (irrigation) Development (MAAH) and the Ministry of Water, Hydraulic Works and Sanitation (MEAHA) were fused into a single Ministry of Agriculture, Water Resources, Sanitation and Food Security (MARHASA). More recently, under the government elected in December 2015, the ministries were decoupled and once again stand as separate ministries: the Ministry of Agriculture and Hydraulic Development (MAAH) and the Ministry of Water and Sanitation (MEA). Of the technical units that operated under MARHASA, MEA retains the General Directorate for Water Resources (DGRE), the General Directorate for Sanitation, Waste Water and Disposal, and control over the state-owned company, the National Office for Water and Sanitation (ONEA). MEA maintains Regional Directorates for Water and Sanitation in each of the 13 administrative regions of the country. At the commune level, decentralized management units (AEP) are responsible for the functioning and maintenance of drinking water supply facilities (Zoungrana 2011; Tiemtore 2015; Eauburkina 2016; ONF 2016).

MAAH water responsibilities center on irrigation. MAAH includes a General Directorate for Development of Irrigation (DGADI). It houses the Permanent Secretariat for the Integrated Water Resources Action Plan (SP-PAGIRE). Without status as a directorate but nevertheless under the control of MAAH, the Authority for Development of the Sourou Valley (AMVS) is in charge of the irrigation structures within the Sourou Valley. MAAH is the lead ministry for development of water infrastructure for production purposes and shares responsibilities for specific areas of rural development with ministries such as those responsible for animal resources, the environment and fishery resources. These ministries also may design and implement water and land development projects and programs. MAAH and its partner ministries working in the rural sector maintain branch offices at the regional level, and sometimes at the commune level (Cotula 2006; Tiemtore 2015).

TENURE ISSUES

The 2001 Water Management Act maintains the long-standing principle that water is public property held by the central government and therefore under the control of the central government. Permits are generally required to withdraw water, with exceptions if water is used for domestic purposes. The state reserves the right to expropriate existing resource rights, including water, and to reallocate rights over improved resources (such as irrigation schemes on land). Small-scale farmers can apply for plots of irrigated land as can agribusinesses, on the condition that they pay water fees and put the land to productive use. The instrument for securing tenure rights is a long-term lease, which lasts between 25 and 99 years. Irrigation perimeters developed through public sponsorship must be registered as the property of the state with a formal land title (GOBF 2001; Garané 2007; GOBF 2009; GOBF 2012; Cotula 2006).

In practice, these requirements have rarely been applied. Historically there has been little demand on the part of rural populations to buy in to the formal land tenure system defined for irrigation perimeters. People prefer to operate under informal, customary rules. Nor has the central government had the capacity to implement the formal land tenure system in irrigation perimeters, which is designed to be realized through land titles held by the State and long-term leases held by producers. An

exception is the MCC-sponsored 2,240 ha irrigation perimeter in the Sourou Valley at Di, at which Project Affected Persons (PAPs) were allocated parcels and received full land titles (a project-negotiated exception to existing legislation) and non-PAPs received long-term leases, preceded by acquisition by the government of full land titles to the perimeters (MEDD 2015; MCC 2014a; MCC 2014b; Ouédraogo 2014).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

The 2001 Water Management Policy Act and associated national strategies target a transition to decentralized management of water resources through local public-private agencies representing the full range of local stakeholders, and the 2003 Action Plan for Integrated Management of Water Resources serves as a blue print for implementation of the new policies. In December 2006, the GOBF launched the National Program for Drinking Water Supply and Sanitation (PN-AEPA) targeting achievement of the United Nation's Millennium Development Goal (MDG) to halve the number of persons without access to potable water by 2015. The PN-AEPA is founded on the 2011 SCADD (Phase 2), the 2001 Water Management Act, and the 2003 PANGIRE. To achieve its goal Burkina Faso would have had to achieve access rates to potable water of 87 percent in urban areas and 76 percent in rural areas. While the program achieved its target in urban areas of 87 percent access to water, its result as of December 31, 2014 in rural areas was 64.1 percent, significantly short of its target of 76 percent in rural areas by that date (Tall 2012; Eauburkina 2016; Sidwaya 2015b).

In the agricultural sector GOBF is focused on increasing agricultural production by expanding irrigation. The Accelerated Growth Strategy for Sustainable Development (SCADD) aimed to increase irrigated production by 50 percent over the period 2011-2015. The SCADD target was consistent with the National Strategy for Sustainable Development of irrigated agriculture (SNDDAI) that was developed in 2003 to increase irrigated agricultural production and increase farmers' income, including an action plan that targeted the development of 5,000 ha of lowlands and 55,000 ha of irrigated areas by 2015. While available information suggests that these targets were not fully reached within the specified period, substantial progress was achieved with support from MCC, The World Bank and other donors. In 2016 the GOBF continued to focus on development of irrigation perimeters: in March 2016, the Prime Minister announced a target for 2016-2017 of 20,000 total newly irrigated hectares, to include 12,000 lowland hectares, 5,000 additional hectares of small-scale irrigation, 2,500 hectares of large-scale irrigation and 500 hectares of existing perimeters that were to be rehabilitated (Tiemtore 2015; GOBF 2011a; GWP 2015; Lefaso 2016; GOBF 2016b).

The SNDDAI adopts an approach based on integrated development of "growth poles." The growth pole approach is designed to increased economic activity in the Project Area, resulting in an increase in private investment, employment generation, and agricultural production. The government has invested heavily in implementation of this approach around the Samendéni dam in *Ouest* province and the Bagré Growth Pole project in the *Center East* region of Burkina Faso. The Bagré Growth Pole, which was launched in 2012 with the objective of creating an area of integrated development, mixing agricultural production, fish farming, processing industries, tourism and trade and financial services in a 50,000 hectare-wide area may face challenges completing activities due to funding issues. (Tiemtore 2015; GOBF 2011; GWP 2015; World Bank 2011).

DONOR INTERVENTIONS AND INVESTMENTS

USAID is funding the \$24 million West Africa Water Supply, Sanitation and Hygiene Program (WA-WASH) in Northern Ghana, Burkina Faso and Niger during the period 2011-2017. WA-WASH

introduces innovative and low-cost water and sanitation technologies, and promotes appropriate hygienic behaviors at the community level. The program is developing practical models of sustainable WASH service delivery and will increase the capacity of national and regional institutions to replicate these approaches and models throughout the region. WA-WASH is partnering with the African Water Association to serve as a knowledge dissemination platform (USAID 2016).

The Millennium Challenge Corporation's 5-year \$481 million Compact with Burkina Faso, implemented 2009-2014, included a \$142 million Agriculture Development Project (ADP). The ADP aimed to expand the productive use of land in order to increase the volume and value of agricultural production in project zones and included three activities: water management and irrigation; diversified agriculture and access to rural finance. By the end of the Compact the project had increased land under irrigation by 2,240 hectares through infrastructure and water management improvements in the Sourou Valley, specifically through the construction of the Di Irrigation Perimeter. In addition, the project advanced implementation of Burkina Faso's 2003 PAGIRE, which defines a decentralized water management institutional framework composed of Water Management Committees at the level of major water basins and Local Water Committees (CLE) at the local level, by establishing two Basin Water Resources Development and Management Master Plans (SDAGE), and twelve Water User Associations with a total of 207 trained members (MCC 2014a; MCC 2014b).

More than \$240 million had been mobilized through a variety of development partners for development of the irrigation sector over the decade leading up to 2013. Partners include The World Bank (sponsor of the Support Program for Agro-Silvo-Pastoral Value Chains, or PAFASP, and a principal sponsor of the Bagré Growth Pole), IFAD, (sponsor of Irrigation and Small-Scale Water Management Project, PIGEPE), AfDB (sponsor of the Community-Investment in Agricultural Fertility Project, PICOFA), and AfDB (sponsor of the Project to Intensify Agricultural by Management of Water, PIAME). Taiwan has pledged to finance development of 6,000 hectares of irrigated land over a period of five years (Tiemtore 2015; FAO 2013; MEDD 2012; GOBF 2016b).

The 2012 G8 New Alliance for Food Security and Nutrition (NASAN) in Burkina Faso seeks to improve food and nutritional security by helping 1.6 million people emerge from poverty by 2022, in part through a partnership with six international companies and ten Burkina Faso companies, in cooperation with the government and with international donors. However, NASAN has been criticized in the Burkinabè press and by some international donors and NGOs as overly friendly to business interests to the detriment of small and family farms, and as a repackaging of activities already underway, leading to little new investment. The Bagré Growth Pole is a core element of the New Alliance, which also aims to support the Rural Sector National Programme (PNSR). Another growth pole is being developed through the Integrated Development Program for the Samendéni Dam (Ouest Province) at a total cost of more than 181 billion FCFA, which targets 21,000 hectares of newly irrigated land and development of fisheries among other objectives (GWP 2015; OXFAM 2014; Sidwaya 2015c; FAO 2013).

3. TREES AND FORESTS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

In 2013, 5,469,600 hectares, comprising about 20 percent of Burkina Faso's surface area, were classified as forest area. None of the forest is classified as primary, while 98 percent is considered "naturally regenerated," and the remaining 2 percent planted forest (World Bank 2014/2015; Mongabay 2010).

Forests are disappearing at a rate of 1 percent to 1.5 percent per year. Drivers of deforestation include: agricultural expansion, overgrazing, bush fires, increasing demand for fuel-wood and charcoal, over-harvesting of non-timber forest products and mining. Poor governance is also seen as an important cause of deforestation and poses risks to implementation of program solutions such as the Forest Investment Plan sponsored by the World Bank (Mongabay 2010; MEDD 2012).

The primary form of renewable energy in Burkina Faso is wood, which meets 85 percent of household energy demand. This situation is not expected to change substantially in coming decades. While the potential sustainable wood production under current practices is 9.2 million cubic meters, households consume 7.945 cubic meters and businesses consume an additional 1.728 million cubic meters, thus posing a risk to sustainability and quality of woodlands. Although the cumulative area of managed forests is officially 880,000 ha, most of the wood production comes from unmanaged forests, where communities are not organized but where the Forest Service exerts partial control by issuing wood harvesting permits. The permits are not generally linked to assessments of regenerative capacity, which explains why the system has been referred to as “unorganized but authorized.” There also exists a category of logging that is both “unorganized and unauthorized,” referring to a lack of linkage between harvesting activities and regenerative capacity coupled with wood harvesters who choose not to obtain a harvesting permit (CIFOR 2015).

Non-timber forest products (NTFPs) are also an important component of the rural economy, especially for women, who are often engaged in harvesting, processing and, increasingly, commercializing products such as shea nuts, forest honey and baobab leaves. Shea butter in particular has become an important revenue generator and export, earning \$20 million in annual exports but with the potential to earn much more if policies, organization and incentive structures are improved (Paulson et al 2012; MEDD 2012).

LEGAL FRAMEWORK

The first forest code for French West Africa, including the area now known as Burkina Faso, was adopted by the colonial government in 1935. The 1935 decree established the State as owner of all forests and of all natural forest products. The legislation gave the State the power to control commercial use of forest resources by requiring that all actors engaging in harvesting, transport or trade of forest products obtain the appropriate permit. Indigenous populations were allowed to exploit forest resources for domestic, non-commercial use without permits (MEDD 2012). The assumption by the state of exclusive property and management rights to forest resources continued well into the era of national independence in the RAF of 1984, which extended government property and management rights over resources to the realms of land and other natural resources. This proclivity for concentrating property and management rights over natural resources in the hands of the state has been moderated through successive revisions to the RAF (especially the revised RAF of 2012), and reinforced by decentralization legislation and the forest codes of 1997 and 2011 (MEDD 2012; GOBF 2004; GOBF 2012).

The Constitution of Burkina Faso (revised in 2012) states that the country’s natural wealth and resources are to be utilized to improve living conditions and also that the protection of the environment is everyone’s duty (arts. 14 and 29). Following the lead of the Constitution, most of the legislation governing the different natural resources sectors such as land, water, pastures, forests, fauna, fisheries and mining, is founded on the dual objectives of development and conservation (GOBF 2012).

The current forest code was adopted in 2011. The fundamental objective of the Code is to both protect and develop forest, water and fish resources. The State is responsible for developing a national forest policy and defining the global objectives of that policy. The national forest policy guarantees concerted and complementary participation on the part of all stakeholders (GOBF 2011). The 2011 Forest Code fits within the National Program for the Rural Sector (PNSR), which provides a framework for development objectives in rural areas to strengthen coherence and coordination among sectoral interventions in rural development. The 2011 Forest Code, complemented by the 2004 decentralization law and the 2009 Rural Land Tenure Law, is viewed as a step forward in the ongoing process toward decentralized governance of land and natural resources that encourages local governments and private actors to participate in development and preservation of woodlands (MEDD 2012; World Bank 2014).

A related sector code with significant overlap to the forest code is the Orientation Law for Pastoralism in Burkina Faso (*Loi n° 034-2002/AN portant Loi d'orientation Relative au Pastoralisme au Burkina Faso du 14 novembre 2002*) adopted in 2002. The Pastoral Orientation Law promotes the development of the livestock sector in a balance with the sustainable management of natural resources. The law obligates national and local governments to ensure access rights to pastoral zones to herders. It specifies that all categories of natural resource users are to equitably share natural resources. Herders have an automatic use right to pasture their animals in the areas within the forest domain that take the form of pasture.

Burkina Faso adopted an Environmental Code (*Loi 006-2013/AN du 02 avril 2013 portant Code de l'environnement au Burkina Faso*) in 2013 that defines the principles for environmental preservation. The Code directs public authorities to oversee: sustainable management of natural resources, improved living conditions of all living beings; prevention or management of technological risks and natural disasters, and restoration of the environment.

TENURE ISSUES

Forest, fauna and fish resources are integral to the national patrimony and subject to the national forest policy established by the State. All zones with a predominantly forest character (*vocation forestière*) are subject to the central government's forestry regime, as are classified as restoration perimeters, reforestation perimeters, agroforestry parks and trees outside of forests (GOBF 2011). The national forest domain is divided into public and private forest domains. Public forests are either classified (subject to a specific legal document establishing the classified zone) or protected (without a classifying document), and both classified and non-classified forests may be placed under the management authority of either the State or of local collectives (GOBF 2011). Private ownership of forests is permitted, by either people or corporations who have legally acquired forested areas or planted the trees. Private holders of property rights to forests are required to hold a legally valid title. The State, as well as local collectives, can delegate the management of forest resources to third parties, based on a management plan and a contract of concession with terms of reference. The terms of reference must include a strategy to reconstitute exploited resources (GOBF 2011; MEDD 2012).

However, forest authorities lack human, material, and financial resources to effectively implement forest policy and legislation. This is true at both the national and local levels. Private investment in forestry has not yet materialized on a large scale – in spite of favorable legislative provisions, as of 2015 there were no natural private forests in Burkina Faso. Arbitrary enforcement of restrictions of use of forest resources has both strained relationships between local populations and the forest service and weakened customary forest management and tenure systems. Lack of forest and land tenure security has

been cited as a contributing factor to deforestation and forest degradation, and the public-private/local-national networks of cooperation foreseen in current forest policy and legislation may be challenging to achieve (CIFOR 2015; Paulson et al 2012; MEDD 2012).

While most wood production is managed by Forest Management Groups (GGFs – authorized under Law 014/99/AN and decree 2004-040), women are usually not members of the GGFs. Yet women – similarly to men – have become increasingly dependent on diversified income generation given erratic rainfall patterns and unreliable income from agricultural activities and so having access to forests is important for their livelihoods. Women tend to favor exploitation of NTFPs rather than wood products. While women often have limited rights to access to land and forest resources (due to traditional land inheritance practices) they are, nonetheless, often the main collectors and producers of NTFPs, so within the household NTFPs can provide women with control over a key source of income. Notably, female access to NTFPs also varies with the resource (World Bank 2014; MEDD 2012).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The State Forestry Services (known as the, General Direction of Water and Forests or DGEF), a unit within the Ministry of the Environment, Green Economy and Climate Change (MEEVCC¹⁰), is responsible for preservation of forest resources included in the national patrimony. MEEVCC is also responsible for coordinating the different national and local public agencies and private actors engaged in sustainable development. Local governments are responsible for translating the national sustainable development objectives into local objectives and operational tools such as local development plans (GOBF 2013).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

The forestry and rural sectors have long been prominent components of Burkina Faso's global development programs. In 2011 Burkina Faso replaced its Poverty Reduction Strategy Paper (in effect from 2000 through 2010) with its Strategy for Accelerated Growth and Sustainable Development (SCADD), scheduled for implementation during the period 2011-2015. Among the guiding principles of SCADD are national ownership of the development agenda and setting of priorities, and sustainable development. Environmental sustainability is cited in the SCADD as one of its eight objectives. A review of SCADD in April 26, 2016 during a conference of Burkina Faso's development partners, the private sector, civil society and local governments determined that targeted results fell significantly short of targets, but attributed much of the shortfall to the social and political turbulence that has dominated the country in recent years. In January 2016, the government decided to develop a 2016-2020 National Economic and Social Development Plan (PNDES), which was scheduled for adoption May 2016 as a replacement for the SCADD. The PNDES will thus become the reference framework for interventions by various national and international partners, an instrument for political dialogue with technical and financial partners (TFPs), and a medium for mobilizing resources to finance development. (IMF 2012; Lefaso.net 2016; GOBF 2016c).

A more sector-specific follow-up to SCADD targeting rural sector development is the National Program for the Rural Sector (PNSR), adopted in 2010, that provides a framework for development objectives in rural areas to strengthen coherence and coordination among sectoral interventions. The PNSR

¹⁰ The MEEVCC is the current name of the ministry formerly known as Ministry of Environment and Sustainable Development – MEDD (GOBF 2011; MEEVCC website: <http://www.environnement.gov.bf/>).

specifically seeks to integrate livestock management, agriculture development and environment policies into a multisector programmatic approach to development. The PNSR is now the coordinating framework for programming and implementing the interventions in rural areas in Burkina Faso and provides a clear institutional framework for the proposed interventions under this grant (World Bank 2014).

In 2013 a National Council for the Environment and Sustainable Development (CONEDD) was established and placed under the tutelage of the MEEVCC (named MEDD at that time) to coordinate development and implementation of national, global and sector strategies for the environment and sustainable development. CONEDD has broad membership including the office of the Prime Minister (the titular president of the Council), several technical ministries in addition to MEEVCC, local elected officials and representatives of the private sector, civil society organizations, religious or customary authorities, producer groups and other resource persons as deemed appropriate (Décret No 2013-151/PRES/PM/MEDD du 21 mars 2013 portant attributions, organization et fonctionnement du Conseil National pour l'Environnement et le Développement Durable – CONEDD).

DONOR INTERVENTIONS AND INVESTMENTS

The relatively low level of donor support for forestry programs in recent years in Burkina Faso began to change following establishment of the World Bank's Forest Investment Program (FIP) in 2009. FIP provides an opportunity to capitalize on Burkina Faso's growing commitment to decentralized decision-making, including in relation to decentralized forest management. In Burkina Faso, AfDB and the World Bank are sponsoring complementary programs under the FIP framework, one aiming to conserve and rehabilitate specific forests, and the other targeting creation of income generating opportunities for nearby village dependent peoples so that they do not seek out forests elsewhere to sustain their livelihoods (UNEP 2014; CIF 2014).

Another global initiative toward greener economies is contributing to integration of Burkina Faso into international programs seeking to reduce carbon emissions: Burkina Faso's Ministry of Environment and Sustainable Development (MEDD), in collaboration with the United Nations Environment Programme (UNEP), recently completed a Green Economy Assessment to support government policies with the objectives of achieving sustainable economic development with low dependences and impacts on the environment. Similar to programs financed through FIP, progress toward achieving a Green Economy is said to have the added benefit of contributing to social equity (UNEP 2014; Paulson et al 2012; MEDD 2012).

With support from the World Bank and the African Development Bank, Burkina Faso launched its strategy for Reducing Emissions from Deforestation and Forest Degradation (REDD+) in 2010 and the Readiness Preparation Plan for REDD+ was completed in 2012. Burkina Faso had also developed a 10-year investment plan for the environment, forestry, and climate adaptation and mitigation that was approved by a sub-committee of FIP in 2011. The investment plan will be implemented through two projects: the Decentralized Management of Forests and Wooded Areas Project (PGDFEB) financed through the World Bank, and the Participatory Management of Classified Forests Project (PGPFC) financed through AfDB. Total financing for the two projects is approximately \$30 million. The projects, scheduled for implementation during the period 2014-2018, will promote an adaptation-based mitigation path that would both reduce poverty and limit deforestation and the degradation of forests and woodlands, thereby reducing greenhouse gas emissions. A third project, the Project to Support Forest-Dependent Populations (PAPF) was being prepared in 2015. PAPF seeks to reinforce participation of

local populations in REDD+ activities (UNEPS 2014; AfDB 2013; MEDD 2012; AGRA 2014; MEDD 2015; CIFOR 2015).

The USAID sponsored Resilience and Economic Growth in the Sahel - Enhanced Resilience project (REGIS-ER), with an implementation timeframe of November 2013 – November 2018, includes a Farmer-Managed Natural Regeneration (FMNR) component that began achieving results in 2014-2015. FMNR has been shown to increase tree populations and access to resources such as forage and tree products rural zones, generate revenues through sales of secondary tree products, and enhance the volume of organic matter in the soil. The component began achieving results in 2014-2015 by training 4,594 producers in combined Conservation Forestry-FMNR techniques, applied to a total surface area of 2,286 ha. In addition, technical agents and animators in select zones of the country were trained in FMNR, and learning visits to producers' fields were organized, to further promote adoption of tree-enhancing techniques throughout project intervention villages (USAID 2015).

The third phase of the second National Village Development Program (PNGT 2) was launched in 2014 and is scheduled to be completed in 2018; it is financed by the World Bank, the Global Environmental Facility and the GOBF. Phase 3 of PNGT 2 targets reinforcement of the capacity of decentralized governments and local actors to implement local development plans supporting the sustainable development of natural resources. The PNGT 2 is the centerpiece program and umbrella for internationally sponsored support for implementation of the PNSR. Of the 46.7 million francs CFA committed by the World Bank for PNGT 2, Phase 3, 11,7 billion francs CFA are earmarked for management of forests and natural resources (MEDD 2015; Lefaso 2013; Lefaso 2014; Sidwaya 2015).

The NGO Tree Aid has been working in Burkina Faso since 1994 and maintains a regional office in Ouagadougou. Tree Aid recently contributed to a FAO-sponsored case study of smallholder households' consumption of non-timber forest products (NFTPs), which details the important contribution of NFTPs to household nutrition (FAO 2015). In addition to forest research, Tree Aid has conducted related projects in Burkina Faso. *Trees for Change Burkina* has been working to facilitate the transfer of access and control rights over forest resources from centralized authorities to local governments and user groups by helping local populations to develop resource use conventions and community forest management plans. *Forest Connect Burkina* (2007-2011), with initial funding from DFID and follow-up funding (beginning in 2012) from SIDA, focuses on awareness-raising regarding NFTPs. In 2011 Tree Aid hosted the Forest Dialogue on Locally Controlled Forestry in Burkina Faso (Tree Aid 2011; Bonkougou 2011).

4. MINERALS

RESOURCE QUANTITY, QUALITY, USE AND DISTRIBUTION

Mineral commodities produced in Burkina Faso include gold, cement, lead, manganese, silver and zinc. Other industrial minerals produced in the country are dolomite, granite, marble, phosphate rock, salt, sand and gravel. However, because the value and economic importance of gold is far and away the most important of the minerals mined in the country. Gold dominates the mining sector and in 2009 it surpassed cotton as Burkina Faso's leading export. Gold accounted for 71 percent of the country's total exports by value in 2013 and nearly 16 percent of Government revenues. Gold is produced at 7 industrial mining sites and at artisanal mining sites, which are scattered throughout rural areas and may cover broad swaths of land. The importance of gold to the Burkinabé economy is relatively recent: production rose from 11,581 kilograms in 2009 to 32,714 kilograms in 2013, and during the period 2007

to 2010 increased nearly 15-fold. This is in spite of the fact that artisanal production of gold is probably under-reported (Bermúdez-Lugo 2013; Tetra Tech 2014a; MEDD 2015).

LEGAL FRAMEWORK

The GOBF adopted a new Mining Code on June 26, 2015 (Law no. 036-2015/CNT). Key regulatory legislation that remains in effect and, with the new Mining Code, constitute the framework for legislative regulation of the mining sector are: Decree no. 2005-047/PRES/PM/MCE adopted February 3, 2005 regulating issuance and conditions for mining permits; and Decree no. 2005-049/PRES/PM/MCE also adopted February 3, 2005 to regulate mining conventions and prospecting and operating licenses (ALB 2015). The new Mining Code seeks to correct a perceived bias of the previous Mining Code (adopted in 2003) toward investors to the detriment of the GOBF and local communities. The new code amends the tax regime of the mining sector in general to collect more revenue to both increase public revenue as a whole and to fund local social development programs. Thus, a previous tax advantage granted to mining firms was abolished and replaced by a new tax of one percent of monthly turnover. In addition, mining activity profits are subject to income tax under the regular taxation regime. Twenty percent of government revenues from the mining industry are to be deposited in regional development funds. After a campaign by civil society, the GOBF passed a law in June, 2015 that requires that 1 percent of mining revenues must be allocated to local development efforts for mining-impacted communities (Oxfam 2015). Additional provisions of the new Mining Code require mining firms to consult with local populations and to include them in negotiations before engaging in exploratory activities, and to establish funds that will be used to rehabilitate the mining sites following closure of the mine (Zeldin 2015; Winkler and Straumann 2016; GOBF 2015).

TENURE ISSUES

Parties interested in large-scale mining are required to obtain an exploration permit to conduct exploration, and an exploitation permit to conduct mining. Holders of mining permits must consult with local populations prior to large-scale operations and contribute to regional development funds. The newly-adopted mining code requires the consent of a community in cases where there is a well on the land, a cemetery or a holy place (GOBF 2015; Roesch 2016).

Artisanal mining, defined as “manual and traditional” and without use of heavy equipment using mechanical energy, is also subject to formal authorization. Permits are valid for two years and renewable in increments of two years. The holder of an artisanal permit is required to physically delimit the mining site with markers and this survey work needs to be conducted by a licensed surveyor. Artisanal miners must not extend their mines into agricultural areas without the permission of the land-holding farmer, and must not interfere with existing irrigation systems. Dangerous chemicals, specifically mercury, are prohibited from use in artisanal mining operations. Artisanal permits are heritable in case of death or incapacitation (GOBF 2015).

In spite of legislative safeguards, the mining industry has had negative impacts on Burkina Faso’s environment and natural resources. According to one study, the costs of environmental damage (water, soil, inefficiencies) from the gold industry alone could be in the region of 0.28 percent of the country’s national GDP (UNEP 2014).

The rapid expansion of gold production is having a significant impact on rural populations. Industrial-scale mining requires large land surface areas that usually were previously used for agriculture or pastures. The largest industrial gold mine in Burkina Faso, the Essakane mine located in the north of

Burkina Faso near the border with Mali, covers 100 square kilometers and displaced 2,500 families, or more than 11,000 individuals. This displacement generated numerous conflicts and the Essakane mine is only one of at least 7 large-scale mining operations in Burkina Faso. Approximately 6,820 Burkinabé were employed in the entire industrial mining sector in 2012 (Winkler and Straumann 2016).

Artisanal gold mining also increasingly adds to the conversion of agricultural and pasture lands to mines, and to resulting land conflicts. In the dry season, which is the off-season for agricultural activities, some villages in Burkina Faso are seeing as much as 60 percent of their population leave to engage in artisanal gold mining. Estimates of the number of Burkinabé now working in the artisanal mining sector for part of the year range from 600,000 to approximately 1,000,000, yet only about 200 artisanal permits were delivered in 2013. Between 30 and 50 percent of those working in artisanal gold mining are estimated to be children (Winkler and Straumann 2016; Tetra Tech 2014b).

GOVERNMENT ADMINISTRATION AND INSTITUTIONS

The Ministry of Mines, Energy and Quarries (MMCE) includes the General Directorate of Mines, Geology and Quarries (DGMGC), which is responsible for development and application of mining policy. The DGMGC is composed of four directorates which include: Geology and the Mining Cadaster; Mines; Quarries; and Small-Scale Mining Operations.

The MMCE periodically organizes workshops called “PROMIN” under the theme “Mining and Community Development.” PROMIN is a framework for discussion between mining professionals, investors and policymakers (MMCE 2016).

GOVERNMENT REFORMS, INTERVENTIONS AND INVESTMENTS

The government’s policy and legislative reform associated with the new Mining Code adopted in 2015 is discussed above. This legislative reform is complemented by other GOBF initiatives that contribute to increased transparency in the mining sector. For example, in 2014 Burkina Faso became a member country both of the Kimberley Process and the Extractive Industries Transparency Initiative (EITI). The Kimberley Process is a multi-sectoral initiative of governments, industry and civil society to stem the flow of conflict diamonds through a certification and verification system of diamond markets. EITI is a global Standard to promote open and accountable management of natural resources (Moore Stephens LLP 2016).

DONOR INTERVENTIONS AND INVESTMENTS

Neither USAID nor the MCC currently program around mining issues in Burkina Faso.

The World Bank has been providing support to Burkina Faso targeting improved mining sector governance since 1997. More recently, in 2012 the World Bank approved an International Development Association (IDA) grant of \$90 million targeting, in addition to increased cotton exports and domestic food reserves, an increase in mining revenues from 1.8 percent of GDP in 2011 to 3 percent of GDP. The initiative’s adopted approach to increasing mining revenues is to provide a framework for greater transparency in the mining sector (World Bank 2005; McMahon 2010; World Bank 2012b).

Also in 2012 the World Bank launched the \$33 million Mineral Support Development Project for which the revised closing date is September 30, 2016. The project objective is to strengthen the capacity of key institutions of Burkina Faso to manage the industrial mineral sector. A midterm report gave a rating of “moderately satisfactory” regarding progress toward achieving project objectives, but an overall rating of “moderately unsatisfactory” with respect to project implementation (World Bank 2012a).

CONCLUSION

At the beginning of 2017 Burkina Faso appears potentially to be in a position to achieve significant progress in implementing rural and urban land tenure policies that have been decades in the making and are now encoded in land laws. The national government (executive and legislative branches) voted into office in November 2015, and the more recently elected Mayors (elections held in May 2016) in each of the country's 351 rural and urban communes, have now had some time to settle into their duties and assume their responsibilities. Following several turbulent years culminating in the toppling of the former president in October 2014, the country may be embarking on a period of relative political and social stability.)

The 2009 Rural Land Tenure Law and the 2012 revision to the global land tenure legislative framework (RAF) embody bold reforms such as recognition of customary land tenure, encouragement of women's land property rights, and introduction of new tools to secure both individual and collective land rights. Introduction of new concepts and tools requires considerable institutional capacity, the building of which poses a significant challenge in a context of limited resources coupled with political instability that can distract or discourage both national actors and international partners. At this time Burkina Faso needs to focus simultaneously on adjusting and equipping land governance agencies to fully assume their roles under current land tenure policies, expand decentralized land governance institutions, implement new land titling tools and procedures, and monitoring and evaluating land governance on an ongoing basis to protect against unintended consequences and make adjustments as needed. In order to effectively face these challenges GOBF will to a significant extent rely on development partners. Fortunately (and again, assuming a continuing and acceptable level of political and social stability), several international donors appear willing to partner with Burkina Faso in support of increasing implementation of current land laws, as well as in the crucial domains of water, forest, and mineral resources management.¹¹

The bottom line is that Burkina Faso has over the past decade made some bold and pioneering policy choices favorable to land tenure security and responsible natural resource management. The overriding challenge at this time is to *implement* the policies. Successful implementation is clearly in the interest of furthering the country's economic development. But just as importantly, successful land governance will accomplish the goal of avoiding or managing the sorts of land conflicts, exacerbated by populations growth, mobile populations and resource degradation, that have increasingly threatened the country, and that have so disastrously unfolded in a growing number of neighboring West and Central African countries. If successful in its implementation of the new policies, Burkina Faso will be well placed to serve as a model in the region for inclusive, transparent and participatory land governance.

¹¹ See "Key Issues and Intervention Constraints" section at outset of this profile for a more detailed list of proposed interventions that could potentially be supported by Burkina Faso's development partners.

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