Inside the Human Rights Ministry of Burkina Faso: How professionalised civil servants shape governmental human rights focal points

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Abstract
The human rights professionalisation of civil servants has emerged as a core dimension of governmental human rights focal points (GHRFPs), notably in the 2016 OHCHR’s guide on ‘national mechanisms for reporting and follow-up’. The article investigates this dimension and warns that the role of civil servants is indeed pivotal to human rights compliance strategies but plays out in complex ways. Reflecting on an ethnographic journey within the Human Rights Ministry of Burkina Faso, the article shows how professionalised civil servants fall short of triggering the intended change. It debunks key mechanisms through which agents translate acquired skills and shape GHRFPs’ performance as sites of human rights localisation and coordination. Such ‘deviations’ should not be construed only as local pathologies: they are unintentionally nurtured by international guidance, support and oversight systems. The article calls for a renewed approach to human rights professionalisation, that would recognise – possibly resolve – the unaccounted yet crucial tension between agents’ values and neutral ideal-types for efficient bureaucracies.

Keywords
Governmental human rights focal points, human rights ministries, civil servants, professionalisation, translation, national mechanisms for reporting and follow-up, Burkina Faso

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1. INTRODUCTION

The formation of specialised and permanent staff is a core ideal attribute of governmental human rights focal points (GHRFPs), understood as States’ executive branch structures mandated to ensure human rights implementation at the national level. What was a fleeting reference to trained staff in earlier guidance on GHRFPs has now been made a central dimension of the practical guide on ‘national mechanisms for reporting and follow-up’ (NMRFs) published by the Office of the High Commissioner for Human Rights (OHCHR) in 2016. The guide prescribes a ‘dedicated, capacitated and continuous staff’ and abundantly details tasks that agents shall perform. Although focusing on reporting and follow-up functions, the guidance on NMRFs captures much of the attention on comprehensive GHRFPs. For the UN Secretary-General, it carves out a ‘new type of governmental structure’ that has ‘the potential to become one of the key components of the national human rights protection system’ precisely because it ‘may result in the building of professional human rights expertise in every State’.

This human rights professionalisation objective fits recent trends promoting domestic institutionalisation as a strategy to enhance human rights compliance – but should not be taken for granted. ‘Protest scholars’ associate human rights with social struggles and are suspicious of routinisation processes. They insist that human rights shall remain as a ‘counter-system’ against the invasive power of bureaucratic organisations, and denounce human rights administrative mainstreaming as a ‘colonization of political culture by a technocratic language’, with civil servants instrumentalising rights to bolster their own interests. On the contrary, the prevailing managerial compliance strategies contend that implementation problems are not necessarily linked to political lack of willingness, but also depend on issues such as insufficient State capacities, including stable and efficient administrations. Some radically find that ‘bureaucratic efficacy exert[s] the strongest independent effect on countries’ human rights practices’. Going further, other scholars focus on capacity-building of civil servants, but as an avenue to transform their values and socialise them, and through them States, into norm compliance. Socialisation appears as ‘a process grounded in the beliefs, conduct, and social relations of individuals [relying on] various

1. See GHRFP concept and attributes in the introduction to this Special Issue: Sébastien Lorion and Stéphanie Lagoutte, ‘What are Governmental Human Rights Focal Points’ (2021) Netherlands Quarterly of Human Rights.
2. OHCHR, National Mechanisms for Reporting and Follow-Up: A Practical Guide to Effective Engagement with International Human Rights Mechanisms (UN Doc. HR/PUB/16/1, 2016).
3. ibid 14.
4. See HRC Res 42/30 (UN Doc. A/HRC/42/30, 24 September 2019), which calls for the adoption of national mechanisms for implementation, reporting and follow-up. In this article, the terminology of ‘NMRFs’ is relied on, following the 2016 guide as the primary set of guidance.
5. UNGA, Report of the Secretary-General (UN Doc. A/72/351, 2017) para 15.
6. Steven LB Jensen, Stéphanie Lagoutte, Sébastien Lorion, ‘The Domestic Institutionalisation of Human Rights’ (2019) 37 Nordic Journal of Human Rights 165.
7. Marie-Bénédicte Dembour, ‘What are Human Rights? Four Schools of Thought’ (2010) 32 Human Rights Quarterly 1, 3.
8. Gideon Sjoberg, Elizabeth A Gill and Norma Williams, ‘A Sociology of Human Rights’ (2001) 45 Social Problems 11, 41.
9. Martti Koskenniemi, ‘The Effect of Rights in Political Culture’ in Philip Alston (ed), The European Union and Human Rights (Oxford University Press 1999) 99.
10. Wade M Cole, ‘Mind the Gap: State Capacity and the Implementation of Human Rights Treaties’ (2015) 69 International Organization 405, 434.
causal pathways through which global (or regional) norms are internalized by relevant individuals associated with the state.11

While civil servants’ skills, values and interests emerge as a pivotal concern of – and point of opposition between – compliance approaches, the latter are limitedly informed by empirical studies. Both international guidance and compliance approaches are motivated by the need to find innovative solutions to overcome persistent human rights implementation gaps.12 To do so, they resort to theoretical claims or borrow models from other disciplines such as public management.13 How civil servants’ professionalisation processes happens in practice is blatantly under-researched.14 This omission is all the more problematic given that social science, in particular neo-institutional studies, have long shown how civil servants constituting administrations are determinant in complex and crucial ways. Their collective dispositions (habitus) and individual behaviours reorient structures and impact an organisation’s ability to deliver on its objectives – including interinstitutional coordination.15 What is more, they transform professionalisation processes precisely initiated to ‘fix’ perceived bureaucratic pathologies: civil servants are both targets and agents of capacity-building and reforms processes.16

The present article therefore seeks to investigate the role of civil servants and the human rights professionalisation processes targeting them, as a key attribute defining GHRFPs. It posits that an empirical, neo-institutional inquiry into the matter is desirable to understand the mechanisms through which professionalisation processes impact institutional performance (see Section 2). There is significant experience from which to draw lessons, that pre-existed the recent guidance and could have better informed it. Human rights ministries, in particular, have existed since the 1990s and many of them have undergone staff capacity-building and reforms processes.17 However, they have never been investigated, and this article therefore also serves as a first-of-its-kind review of this type of GHRFP.

The Human Rights Ministry of Burkina Faso has been selected as a paradigmatic case study (Section 3). While most ministries are regularly discontinued, Burkina Faso showcases the longest Human Rights Ministry in existence without total interruption. Furthermore, it established a designated cohort of specially trained human rights civil servants in 2006, which makes it a rich site to trace the effects of professionalisation processes over time. To understand the Ministry, an

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11. Ryan Goodman and Derek Jinks, Socializing States: Promoting Human Rights through International Law (Oxford University Press 2013) 41.
12. Stéphanie Lagoutte, ‘The Role of State Actors Within the National Human Rights System’ (2019) 37 Nordic Journal of Human Rights 177.
13. See an analysis of the guidance and scholarship unpacking the institutional prescriptions of the Convention on the Rights of Persons with Disabilities by the author: Sébastien Lorion, ‘A Model for National Human Rights Systems? New Governance and the Convention on the Rights of Persons with Disabilities’ (2019) 37 Nordic Journal of Human Rights 234.
14. Hans-Otto Sano and Tomas M Martin, ‘Inside the Organization. Methods of Researching Human Rights and Organizational Dynamics’ in Bård A Andreassen, Hans-Otto Sano, Siobhán McInerney-Lankford (eds), Research Methods in Human Rights: A Handbook (Edward Elgar Publishing 1998) 253.
15. John W Meyer and Brian Rowan, ‘Institutionalized Organization. Formal Structure as Myth and Ceremony’ in Paul DiMaggio and Walter W Powell (eds), The New Institutionalism in Organizational Analysis (University of Chicago Press 1991) 43.
16. Thomas Bierschenk and Jean-Pierre Olivier de Sardan, ‘How to Study Bureaucracies Ethnographically?’ (2019) 39 Critique of Anthropology 243.
17. See Sébastien Lorion, Defining Governmental Human Rights Focal Points: Practice, Guidance, and Concept (The Danish Institute for Human Rights 2021) Section 2.1. <https://www.humanrights.dk/research-project/governmental-human-rights-focal-points> accessed 19 April 2021.
ethnographic investigation was carried out which spanned over two months in 2016 and 2017, and combined 51 semi-structured interviews, \(^{18}\) documentary analysis and observation. The research enjoyed a unique access to exclusive sites of coordination and translation where civil servants use acquired skills.\(^ {19}\) The article presents findings on the prevailing \textit{habitus} in which professionalisation processes take place (Section 4), and the resulting everyday professional practices, focusing on norms \textit{translation} (Section 5).

As will be discussed in Section 6, these findings help reflect on the approach taken in the guidance on NMRFs. It is contended that whereas emerging guidance correctly identifies staff as a central dimension of GHRFPs, the way in which professionalisation is currently addressed is likely to produce ambivalent effects, if not exacerbate bureaucratic discretion. This is not only explained by local practices, but also influenced by the guidance’s underlying public management ideologies, the channels of support used and international human rights bodies’ practices. Crucially, there is a need to devise institutional strategies that reconcile, rather than oppose, ideal-types of efficient bureaucracies and attention to agents’ values.

2. NEO-INSTITUTIONAL KEYS TO ANALYSE PROFESSIONALISATION PROCESSES

Neo-institutional insights are key to debunking the apparent straight-forward causal pathway between staff capacity-building and institutional effectiveness that underpins the professionalisation objective. In this Section, a review is given of four types of considerations identified in this literature as influencing the outcomes of professionalisation processes. These include (1) the intervention modalities, (2) the expectations of actors promoting professionalisation, (3) the governance models that professionalisation processes carry, and (4) the prevailing dispositions of civil servants and bureaucracies in which these interventions happen. At the core of each of these dimensions lies an unresolved tension between addressing civil servants as neutral skilled resources or as individuals with values. The article proceeds to show that a research design tracing how ‘human rights translation’ skills of civil servants are reinforced and impact institutions is best suited to evaluate how these four considerations play out in the field of human rights.

2.1 EFFECTS OF MODALITIES USED FOR PROFESSIONALISATION PROCESSES

The managerial approach to compliance, boosting capacity-building strategies as a ‘major remedy’ for human rights implementation – especially in developing countries,\(^ {20}\) currently prevails. In

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18. Including with 33 human rights civil servants, two former Ministers, 12 staff of other ministries, and external stakeholders interacting with the Ministry. This article refers to interviews by date and using an anonymous code (M stands for Ministry personnel/former ministers, C for other civil servants, E for External stakeholders/donors). Interviews were conducted in Ouagadougou unless stated otherwise. Translations from French have been made by the author.

19. This investigation was primarily carried out as part of a doctoral research conducted at the University of Copenhagen and the Danish Institute for Human Rights. For a full methodological overview, see Chapter 2, in Sébastien Lorion, \textit{The Institutional Turn of International Human Rights Law and its Reception by State Administrations in Developing Countries} (PhD diss., University of Copenhagen 2020) <https://www.humanrights.dk/research-project/institutional-turn-international-human-rights-law-its-reception-state> accessed 19 April 2021.

20. Thomas Risse and Stephen C Ropp, ‘Introduction and Overview’ in Thomas Risse, Stephen C Ropp and Kathryn Sikkink (eds), \textit{The Persistent Power of Human Rights: From Commitment to Compliance} (Cambridge University Press 2013) 19.
practice, this focus on capacity-building tends to bracket or assume the question of political willingness and under-prioritise socialisation and value-transformation processes.21 Interventions of cooperation agencies play a role in exacerbating these tendencies due to the modalities and strategies they adopt. Anthropologist James Ferguson has shown how donor dynamics tend to transform intervention objectives into politically neutral and technical issues, and how this, in turn, raises bureaucratic power but not necessarily the State’s capacity to impact reality.22

This depoliticised approach may bear particular impact in the field of human rights, where State actors are not only primarily responsible for protection, but in many cases the main sources of violations. In a unique anthropological account of international human rights trainings of Turkish civil servants, Elif Babül demonstrates how the reorganization of the bureaucratic field according to stipulations of professionalism and expertise ultimately transforms state violence into governmental force by rendering it more calculable, technical and exacting. Human rights training programs add a further twist to this transformation by expanding the boundaries of the bureaucratic field in Turkey, providing spaces for experimenting with what is sayable […] and drawing out the shame.23

Not only may this approach feed a feeling of impunity, but it may also miss the target of building efficient bureaucratic processes. In the Turkish case, capacity-building trainers ended up encouraging agents to use personalised connections for inter-institutional coordination, as formal systems mostly existed on paper only.24 Paradoxically, the modalities of capacity-building interventions may reintroduce an element of personalised informality over ideals of standardised bureaucracies.

2.2 EFFECTS OF CONTRADICTING EXPECTATIONS PLACED ON ‘PROFESSIONAL’ HUMAN RIGHTS CIVIL SERVANTS

Whether public management ideals shall apply as such to human rights civil servants is also a matter of perspective. Two fields of studies have highlighted the divergent types of expectations associated with the desired ‘professional’ behaviour, and how it places job-holders in a practical conundrum.

One research led by Michael O’Flaherty and George Ulrich pertains to the professionalisation process of the OHCHR’s field officers.25 The study shows how the professionalisation process was a purposeful initiative: by pursuing it, the OHCHR sought to mitigate risks associated with officers’ reliance on benevolence and personal convictions. It adopted a Weberian ideal-type of bureaucracy, in which relations with external stakeholders are to be ‘neither personal nor commercial or utilitarian; rather, [professionalisation] has a peculiar quality of impersonal commitment and obligation that involves acting on the basis of expert knowledge, in accordance with set

21. Alejandro Anaya-Muñoz, ‘Bringing Willingness Back in: State Capacities and the Human Rights Compliance Deficit in Mexico’ (2019) 41 Human Rights Quarterly 441, 446.
22. James Ferguson, The Anti-Politics Machine: ‘Development’, Depoliticization, and Bureaucratic Power in Lesotho (University of Minnesota Press 1996).
23. Elif M Babül, Bureaucratic Intimacies: Translating Human Rights in Turkey (Stanford University Press 2017) 182.
24. ibid 72.
25. Michael O’Flaherty and George Ulrich (eds), The Professional Identity of the Human Rights Field Officer (Routledge 2016) 7.
principles, and in compliance with established methods and procedures’. Findings showed how the process greatly impacted officers, notably self-identification (professional pride and ethics, but also considerations of career and rewards) and their position vis-à-vis rights-holders.

Feminist scholarship has highlighted the opposite expectation: the fact that feminist movements have supported the establishment of specialised State mechanisms – as well as sought to transform the very makeshift of civil service through quotas and positive discrimination – led to an expectation that such agencies would be responsive to the movements’ causes. Specialised staff are expected ‘to acquire a dual identity: they can’t be just bureaucrats; they have to bring in the goals of the women’s movement that are outside the state and make them palatable within the state’. These ‘femocrats’ are thus confronted with the need to navigate how their accountability to the movement fares if compared to other types of loyalty expected from the bureaucracy, towards political leadership or administrative hierarchies, and in view of bureaucratic ideals of impartiality: ‘too much interaction with outside constituencies can be seen as a violation of professionalism to the extent that it is regarded as politicizing the administration and eroding its integrity’.

2.3 EFFECTS OF PUBLIC MANAGEMENT MODELS FOR PROFESSIONALISATION

Public management ideal-types for ‘professional’ bureaucratic behaviours themselves evolve over time, and it has been demonstrated elsewhere how international human rights law is increasingly imprinted with a reliance on neo-Weberian public management strategies. The complex consequences of such choices, on both civil servants and on institutional performance, are worth considering. As sociologist Béatrice Hibou showed, neo-Weberian models are characterised by a proliferation of abstractions and formalities that produce indifference to political objectives, with processes becoming more important than outcomes. At the individual level, the focus on procedures destroys the meaning that underpins jobs, and notably the values of associated with the civil service, with job-holders eventually experiencing a ‘feeling of malaise and futility’.

In the field of human rights, the impact of neo-Weberian reforms has mainly been assessed in relation to increasing use of statistical measurements. Neo-institutional studies have alerted that indicators tend to become substitutes for the phenomena that they measure. Anthropologist Sally Engle Merry argued that measurements displace and submerge contestation over substantive rights issues into seemingly bureaucratic and technical decisions, while in reality the ‘production of indicators is itself a political process, shaped by power to categorize, count, analyze’.

26. ibid 15.
27. Nüket Kardam and Selma Acuner, ‘National Women’s Machineries: Structures and Spaces’ in Shirin R Rai (ed), Mainstreaming Gender, Democratizing the State? Institutional Mechanisms for the Advancement of Women (Manchester University Press 1993) 107.
28. Anne-Marie Goetz, ‘National Women’s Machinery: State-based Institutions to Advocate for Gender Equality’ in Rai (n 27) 89.
29. Lorion (n 13).
30. Béatrice Hibou, The Bureaucratization of the World in the Neoliberal Era: An International and Comparative Perspective (Palgrave/McMillan 2015) 85-110.
31. ibid viii.
32. AnnJanette Rosga and Margaret L Satterthwaite, ‘The Trust in Indicators: Measuring Human Rights’ (2009) 27 Berkeley Journal of International Law 253, 283-284.
33. Sally Engle Merry, Kevin Davis and Benedict Kingsbury (eds), The Quiet Power of Indicators. Measuring Development, Corruption, and the Rule of Law (Cambridge University Press 2015) 2.
2.4 Effects of Prevailing Dispositions of Civil Servants

There is a wide array of social science contributions to the analysis of State administrations. A stepping stone is sociologist Pierre Bourdieu’s conceptualisation of public bureaucracies as a social force field. Within this field, individual bureaucrats may have dynamic interactions or conflicts, but do not challenge the social field they constitute.\(^{34}\) This is attributable to the *habitus*, defined as ‘the shared set of dispositions that orient the agents in a particular field and with regard to other fields’.\(^{35}\) The *habitus* and practices of agents may impact organisational structures and even wider institutional landscapes. In the field of human rights, political scientist Assaf Meydani showed how prevalent bureaucratic cultures added to other factors, such as political platforms or voters’ preferences, to redirect political initiatives including suggesting for creating a national human rights institution (NHRI).\(^{36}\)

Within administrations, practices perceived as faulty deviations to the rules may in fact follow their own logic: ‘informal practices […] are widely shared among actors, highly structured and relatively predictable for anyone familiar with the daily routines of a bureaucratic unit’.\(^{37}\) In developing countries, one tendency is for instance to transform situations of donor-dependence into opportunities to exercise power.\(^{38}\) Looking at Burkina Faso, Boris Samuel showed how the country readily volunteers for any new State-building paradigm devised by donors in order to cultivate a ‘good pupil’ reputation and maximise cooperation inflows.\(^{39}\) The tendency to constantly update practices and laws to bring them into conformity with new models becomes a ‘game’ played notably by civil servants, with reforms becoming a resource.\(^{40}\)

Following neo-institutional scholarship, civil servants condition how international models are received locally, or translated. *Translation* is a key concept that ‘draw[s] attention to the fact that management practices, formal structures, or ideas are typically not passively transferred wholesale from one setting to another. Instead, they are changed as they are copied in new contexts’.\(^{41}\) In the field of human rights, translation also applies to substantial norms, and scholars have inquired into how universal norms produce local meanings.\(^{42}\) The role of communities, activists and NGOs in

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34. Pierre Bourdieu and Loïc JD Wacquant, *An Invitation to Reflexive Sociology* (University of Chicago Press 1992) 103.
35. Mikael Rask Madsen, ‘Beyond Prescription: Towards a Reflexive Sociology of Human Rights’ in Mikael Rask Madsen and Gert Verschraegen (eds), *Making Human Rights Intelligible: Towards a Sociology of Human Rights* (Hart 2013) 88.
36. Assaf Meydani, *The Anatomy of Human Rights in Israel: Constitutional Rhetoric and State Practice* (Cambridge University Press 2014).
37. Bierschenk and Olivier de Sardan (n 16) 248.
38. Jean-François Bayart, ‘Africa in the World: A History of Extraversion’ (2000) 99 African Affairs 217.
39. Boris Samuel, *La production macroéconomique du réel: formalités et pouvoir au Burkina Faso, en Mauritanie et en Guadeloupe* (Institut d’Études Politiques de Paris 2013) 374-380.
40. ibid 386.
41. David F Suárez and Patricia Bromley, ‘Institutional Theories and Levels of Analysis: History, Diffusion, and Translation’ in Jürgen Schriewer (ed), *World Culture Re-contextualised: Meaning Constellations and Path-dependencies in Comparative and International Education Research* (Routledge 2016) 145.
42. Mark Goodale and Sally Engle Merry (eds), *The Practice of Human Rights: Tracking Law Between the Global and the Local* (Cambridge University Press 2007); Koen De Feyter, Stephan Parmentier, Christiane Timmerman and George Ulrich (eds), *The Local Relevance of Human Rights* (Cambridge University Press 2011).
these processes have been studied, but a need remains to investigate administrations as human rights localisation and translation sites.\textsuperscript{43}

In short, neo-institutional insights point to four key dimensions that influence how professionalisation processes actually impact institutional effectiveness. Unresolved tensions over civil servants’ skills and values lie at the core of these dimensions and make causality assumptions uncertain. What is more, civil servants themselves ultimately influence the outcomes of interventions targeting them. To review what this means for the strategy of institutionalising human rights, the present research adopts a neo-institutional research design. As such, it first assesses the \textit{habitus} that impregnates civil servants in a selected case study. It then evaluates the results of human rights professionalisation processes, measured by the staff’s practices of their professional identities and newly acquired skills. To trace these effects, a focus is placed on translation practices, since they touch upon key functions of GHRFPs. In analysing data, attention has been paid, as per the above presented analytical considerations, to the ways in which intervention modalities, expectations and public management models may serve to impact results.

3. THE HUMAN RIGHTS MINISTRY OF BURKINA FASO: A PARADIGMATIC GHRFP

The Human Rights Ministry of Burkina Faso was selected as a case study. This Section introduces the case and assesses the extent to which this Ministry adheres to the GHRFPs’ core attributes constitutive of the conceptual framework adopted in the present Special Issue.\textsuperscript{44}

A dedicated ministerial portfolio was initially established in 2000 by President Blaise Compaoré, at a time when his authoritarian regime was challenged. In particular, the death of journalist Norbert Zongo on 13 December 1998 crystallised public outcry and triggered important demonstrations, underpinned by human rights claims. The government responded by taking a series of commitments, including the ratification in January 1999 of the two international human rights Covenants and of the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment. In 2000, a governmental reshuffling aimed at conveying political openness. On this occasion, the first Secretary of State for Human Rights was appointed.

This creation was therefore nationally oriented, but also internationally framed. As put by a Ministry’s Director-General:

\begin{quote}
the Ministry was created on the basis of two observations. First, only non-governmental organisations (NGOs) were participating at the international level, and were only feeding international machineries with grievances. Everyone has their own role to play, and it appeared as equally important to communicate efforts made. Second, with Norbert Zongo’s death, there had been a wide contestation movement that weakened the government. NGOs had too much hold [on people]. It seemed important to establish a structure that would highlight rights while also upholding duties. Both go hand-in-hand, in the interests of the nation. We also needed to get a chance to deal with a case before the population would deal with it on its own.\textsuperscript{45}
\end{quote}

43. George Ulrich, ‘Epilogue: Widening the Perspective of the Local Relevance of Human Rights’ in De Feyter and others (n 42) 338.
44. See introduction to the Special Issue.
45. Interview BF29(M), 03/10/17.
In terms of mandate, the Ministry has a comprehensive mandate and guarantees the main-streaming of all human rights into governmental action. Early on, it adopted a discourse pointing to violations committed by people themselves. The first Human Rights Policy was predicated on the fact that:

The philosophy of human rights does not always coincide with traditions and customs, that are deeply rooted in people’s minds. For instance, the practice of excision is wide-spread [...]. This is clearly a social problem which will be solved through a change in mentality, that requires a vast enterprise of citizen’s education to human rights.\(^ {46}\)

The Ministry further initiated activities on civic education, for instance, focusing on payment of taxes or respect of traffic rules. Ultimately, in 2011, it officially covered human rights and ‘civic promotion’.

In terms of governmental anchorage, the initial structure was that of a Secretariat of State appended to the Ministry of Justice. In 2002, the Secretariat became a full-fledged Ministry for Human Rights. Subsequently, the Ministry underwent several mergers with, and splits from, the Ministry of Justice. Interviewees, even former ministers, have difficulties in explaining these variations, which points to the high discretion of the heads of State/government in making institutional choices. The 2014 merger with the Ministry of Justice is read in connection with a political consensus to limit ministries in order to cut spending. The 2019 decision to return to a self-standing ministry may be explained by the willingness to accentuate ‘civic promotion’, in the face of growing social unrest and insecurity. In 2021, the two ministries were again merged. Despite these changes, a dedicated ministerial portfolio has continuously been in existence in some form since 2000.

In terms of accumulation and provision of expert knowledge, the Ministry set up Orientation and Documentation Centres on Human Rights – in Ouagadougou in 2003 and gradually in all 13 regions of the country. The Centres raise public awareness and make documentation available on human rights and civic issues. They collect information on human rights for the Ministry and they hear and inform citizens who have complaints of their rights and remedial avenues in case of violations.

As regards human resources, ministerial departments in Burkina Faso are usually staffed with specialised groups of civil servants, defined as ‘specific employments’ within the civil service. The first Human Rights Minister, Monique Ilboudo, battled to profit from this scheme. Her logic was to create structural expertise that would outlive the Ministry, should it be dismantled.\(^ {47}\) In 2006, two ‘specific employment’ categories were created: the Human Rights Counsellors, with advisory functions and of higher administrative rank, and the Human Rights Officers, tasked with execution functions.\(^ {48}\) Both receive a 30-month specialised training at the National Administration and Judiciary School. In 2016, there were 105 Counsellors and 100 Officers, 41\% of whom were posted in the Ministry’s regional delegations.

In terms of coordination functions, by law, the Ministry’s competences overlap with line ministries. Given the transversal nature of human rights, its most likely tangible impact is through the work of other institutions. It also has a structuring role: the Ministry was in particular tasked

\(^ {46}\) Government of Burkina Faso, Decree No. 2001-731/PRES/PM/MJDH (28 December 2001) Introduction.
\(^ {47}\) Interview BF48(M), 20/10/17.
\(^ {48}\) Government of Burkina Faso, Decree No. 2006-127/PRES/PM/MPFRE/MPDH/MFB (31 March 2006).
from the outset to establish an NHRI. The 2013 Human Rights Policy further mandated it to steer the human rights ‘sector’, defined as governmental actors but also independent State bodies, NGOs, and even donors. Several interministerial committees (limited to executive actors) or sectoral frameworks (including also NGOs, donors, NHRIs, courts, etc.), in which the Ministry plays a central function, assist human rights coordination. The Ministry is also supported by focal points in line ministries, appointed for multiple purposes. In 2017, the Ministry had an estimated 35 focal points. The most organised set of focal points was designated to support processes relating to the Universal Periodic Review (UPR).

International reporting has grown to become a substantial part of the Ministry’s activities. In particular, UPR-related processes (reporting, follow-up, mid-term reviews) now overshadow other policy frameworks, including the national human rights policies, in terms of investment and attention by the Ministry. This situation is in part explained by the political salience of this process, but also by donor influence. The Ministry is financially dependent on cooperation aid from Sweden and Denmark. As of 2016, the latter decided to direct the entirety of its support to the Ministry on UPR-related processes. Furthermore, the introduction of administrative reforms based on international models has strongly imprinted the Ministry. Donors made their support conditional on the adoption of specific public management techniques, such as the use of strategic planning and indicators. Interactions with UN agencies also influence the Ministry, with its staff identifying a pressure to adopt the NMRF-thinking.

The above review confirms that the Human Rights Ministry of Burkina Faso constitutes a prototypical case and relevant site to assess agent professionalisation processes. Reviewing its history and organisation further illustrates how GHRFPs may primarily serve national political purposes, but are enmeshed in and influenced by international actors and models. In turn, the promotion of new international guidance interplays with a pre-existing institutional ecology and an ensemble of collective dispositions, or habitus, that influence the way in which new models are received and reinterpreted.

4. FINDINGS ON THE HABITUS WITHIN THE HUMAN RIGHTS MINISTRY

In this Section, five core dimensions of this habitus of civil servants in the Human Rights Ministry are discussed, identified for their salience in bureaucratic practices per se and for their explanatory potential in terms of reception of internationally inspired reforms.

49. Government of Burkina Faso (n 46) 14.
50. MJDHPC, Politique Nationale des Droits Humains et de la Promotion Civique (2013) 58.
51. Interview BF02(M), 26/05/16.
52. Interview BF03(M), 26/05/16.
53. DANIDA, Coopération bilatérale entre le Gouvernement du Royaume du Danemark et le Gouvernement du Burkina Faso, Document d’Engagement de Développement: L’effectivité des Droits Humains et Crédibilité de la Justice (2016).
54. See sub-Sections 4.3 and 4.5.
55. Interview BF33(M), 09/10/17.
4.1. **COHESION FOR A PROTECTIVE HUMAN RIGHTS-SPECIFIC STATUS**

Overwhelmingly, the civil servants specially trained on human rights at the National Administration and Judiciary School display a strong attachment to their professional title as Human Rights Counsellors and Officers. This sense of belonging does not rely on pre-existing individual vocations or beliefs. As explained by a Counsellor, ‘there is unemployment and people look for jobs. When we finish our studies, we apply for various positions, just in case. […] It is only thereafter that the vocation to promote human rights kicks in’.\(^{56}\)

Socialisation processes take place during the training and within the Ministry, leading to a discourse of distinctiveness. One recurrent argument is that their subject matter places them in a unique position compared to civil servants working on other issues. Human rights are found to be a source of tension both with other ministries, but also vis-à-vis the population, as human rights may be perceived as disrupting widely shared societal mores. One Counsellor explained:

Many people do not trust us. […] One colleague was endangered while running some activities. It pertained to a case of discrimination against two individuals belonging to sexual minorities that a district’s inhabitants wanted to oust. A Counsellor was dispatched to understand what was going on. The population […] could not bear the idea that someone from the Ministry could listen to those two persons.\(^{57}\)

Accordingly, staff stressed the specificity of human rights to support the idea of a protective status that would take into account their mission – either through a new law or by arguing that the 2017 law on the protection of human rights defenders applies to them.\(^{58}\) It does not mean, however, that the specialised civil servants personally embrace human rights values: they may ‘personally and subjectively’ disagree on issues – for instance as regards death penalty or the ‘correction’ of children.\(^{59}\)

The distinctive discourse that binds together the Counsellors and Officers also has a corporatist dimension. This dimension is apparent in the activities of the trade union dedicated to human rights civil servants, which acts as a unifying force against perceived threats to their status. Following the 2014 merger with the Ministry of Justice and the competition for posts it created with magistrates, a union leader called on human rights civil servants to consider themselves in ‘legitimate defence’ if joint units were headed by magistrates.\(^{60}\) Furthermore, for the union’s Secretary-General, ‘if one agrees that human rights questions are a specific field, then one must grant a specific treatment to the staff. Today, one gets the impression that the Ministry’s agents are there, beholden to a government, whereas it is not the case. The specific status shall remedy this situation’.\(^{61}\)

Human rights concepts, such as the principle of independence – in reality crucial for NHRIs but not for ministries, are thus discursively used to underpin a request for distinctive status.

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56. Interview BF02(M), 26/05/16.
57. Interview BF28(M), 03/10/17.
58. ibid.
59. Interview BF02(M), 20/05/16.
60. Quoted in Moussa Diallo, ‘Promotion des droits humains: Les agents veulent un statut spécifique’ in *Lefaso.net*, 17 January 2015 <http://lefaso.net/spip.php?article62820> accessed 19 April 2021.
61. ibid.
4.2. Legalistic and Formalistic Approaches

The Ministry’s staff also shares some defining features with other civil servants, and legalistic and formalistic tendencies are one such trait. Formalism has consequences: it notably limits the Ministry’s responsiveness. For instance, administrators posted in regions note that any investigatory/remedial action they identify to address an alleged violation must be formalised into a written, detailed and budgeted proposal sent to headquarters. As a result, these activities can never take place as they do not fit into pre-defined workplans.

Human rights civil servants generally do not challenge this state of play, but rather find solace in administrative routines and buttress formalism. A vivid example is the row that the nomination in 2012 of Albert Ouedraogo, a professor of literature, as Minister for Human Rights unleashed in the administration. As put by a Counsellor, the Minister ‘wanted to question mechanical activities. He said we had to focus on quality, rather than quantity. However, administration loves repetition’.

The staff union led the charge that eventually led to the Minister’s resignation. The union underpinned its criticisms by using human rights language, but also by calling in respect of formal rules as a fundamental trait of professional civil service. The union claimed that the Minister’s practice of signing decisions or leading committees in place of the Secretary-General displayed ‘authoritarianism’ and prevented the administration ‘to function in an independent fashion’, calling civil servants ‘human rights victims’.

The skills of human rights civil servants are primarily palatable in the production of documents. The Ministry has considerably internalised the processes of drafting law and regulations, as well as reports to international and regional bodies. The number of produced documents has particularly increased in relation to international systems. Counsellors proudly recall that only one international report was produced in the early years of the Human Rights Ministry (2000-2007), whereas more than 11 were submitted after human rights civil servants started to operate (2008-2018). In addition, the administration produces follow-up plans, annual or mid-term reports, roadmaps focusing on distinct UPR recommendations, etc.

62. Interview BF48(M), 19/10/17, Koudougou.
63. Interview BF22(C), 22/09/17.
64. Syndicat National des Agents de la Promotion des Droits Humains, Déclaration du Syndicat national des agents de promotion des droits humains en fin 2012 au Ministre, le Pr. Albert Ouedraogo (2012) <http://droitshumainsbf.canalblog.com/> accessed 19 April 2021.
65. ibid.
66. See <https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/countries.aspx?CountryCode=BFA&Lang=EN> accessed 19 April 2021.
Specific forms of bureaucratic artefacts and techniques were introduced under the influence of international cooperation, such as strategic planning and the production of human rights indicators. The Ministry’s staff initially faced challenges in embracing them. A senior official recalls that statistical thinking was not well-perceived at first: data sources were considered untrustworthy and the Ministry did not have the means to conduct field surveys. Notwithstanding, the processes gradually became unquestionable dimensions of the Ministry’s routines.

The number of laws and bureaucratic artefacts very limitedly informs actual implementation. Laws are not necessarily written in ways that are implementable or justiciable, but what matters most is the production of any document identified as good practice by international actors. ‘As regards texts and laws, we want to be the champions’, explained a Counsellor. This results in the production of documents being an end in itself, and in several ministries drafting similar roadmaps for action concomitantly. Also, staff tends to be constantly engaged in the production of bureaucratic artefacts. This happens through comprehensive and lengthy processes that structure the life within the Ministry. For each output, a working group is established, composed of approximately eight Counsellors and usually entailing a series of meetings spanning over up to a year. New working groups are regularly put in place that re-create or recast existing information.

4.4. Civil servants’ ‘motivation’

Internal access to the above-mentioned working groups is not equally distributed amongst the agents of the Ministry. Working groups are nearly all capital-based and systematically include the higher management of the Ministry. This means that some Counsellors are ‘quasi-unemployed’, while others spend countless hours in meetings and working at weekends. This unequal access also pertains to missions and trainings, which are generally perceived as rare opportunities. This creates considerable frustration amongst the Ministry’s staff, which they refer to as an issue of insufficient ‘motivation’ to perform their job.

Whereas ‘motivation’ generically refers to a variety of factors driving behaviours, in the Burkinabe administration, the idiom solely refers to the financial incentives attached to activities. As in other ministries, officials are rewarded for undertaking specific tasks. Participation in a working group entails daily financial remunerations. In addition, officials receive food and petrol (vouchers) for participating in any meeting in their own city and per diems covering accommodation and food if activities are organised 50 kilometres away. These three types of allowance tend to be cumulated and are perceived as complementary salaries rather than compensation for incurred costs.

Looking into the Burkinabe health sector, Valéry Ridde has shown how per diems are woven within social practices and notably the projection of power, with opportunities seized by high-
ranking officials. There is a pressure to discredit activities that do not include additional allowances, and a ‘workshop syndrome’ appears, with the same person attending the same training again, instead of actually performing his/her tasks. These observations are not only valid, but play out with additional acuteness in the Human Rights Ministry, after its key donors took issues with the allowance system. Denmark stopped funding officials’ per diems outside of Ouagadougou – despite uproar from the Ministry’s officials, who denounced ‘a violation of their rights’. This adds to human rights staff finding their Ministry to provide lesser opportunities and resources for on-the-ground activities than other ministries, since it has a coordinating rather than an implementing role. This ‘lack of motivation’ issue creates a general climate of anxiety in the Ministry, and many find this situation to explain the departure of a non-negligible proportion of Counsellors from the Ministry since 2015.

A contrario, other types of motivation – for example fuelled by ethics or personal beliefs – are undermined amongst staff. Being too active or taking initiative while disregarding incentives structures is frowned upon. Officially, the Ministry instructs ‘any agent who notices violations of human rights […] to inform without any delay their upper hierarchy immediately’. However, this rarely happens. In 2014, only three cases were self-initiated by regional offices, and five by central services. A Director confirmed that it is challenging to draw attention to human rights violations from within: ‘it is much easier for me to justify following a case if I am being called upon to do it from the outside’. The challenges faced by officials that return to the Ministry after having gained experience elsewhere are also illustrative of peer pressure against demonstrating initiative. As a Counsellor explained, ‘coming back to the Ministry with higher skills is not at all valued. They can make you pay for having left, by downgrading you compared to the position you previously held’.

4.5. INTERNATIONAL AND NATIONAL BUREAUCRACIES’ CO-DEPENDENCY

The Ministry is highly dependent on external donors – but this relation is neither linear nor one-way. Donor agencies – and their agents in headquarters and on-site, may pursue diverging objectives. Field representatives note that while their headquarters claim to be interested in results, in reality they tend to put pressure on timely disbursements. This reinforces the tendency to support routinised and quantifiable processes within the administration: ‘our problem is that when [the Human Rights Ministry] does not function well, we cannot disburse. And it gives us a bad reputation’.

Donor representatives have begun recognising the conundrum they created by supporting institutional processes. As summarised by a donor representative:

In the aftermath of the UPR, for implementation, [the Ministry] proposes to us to support many activities. But [it] only suggests things that are 80–90% of the time allowances and rental of venues.

74. Valéry Ridde, ‘Réflexions sur les per diem dans les projets de développement en Afrique’ (2012) 34-36 Bulletin de l’Association Euro-Africaine pour l’Anthropologie du Changement Social et du Développement 7-8.
75. ibid 11.
76. Interview BF37(E), 11/10/17.
77. MJDHPC, Guide pour le traitement et le suivi des cas de violation et d’atteinte aux droits humains (2015).
78. MJDHPC, 2014 Annual report of all human rights cases dealt with by the Ministry (2014).
79. Interview BF03(M), 26/05/16.
80. Interview BF22(C), 22/09/17.
81. Interview BF15(E), 31/05/16.
There is a huge bureaucratisation of human rights, especially around the UPR. But what is the reality for rights-holders? There is a dilemma around the UPR and the use that can be made of its recommendations. On the one side, there is legitimacy, there is a dialogue around the UPR. But there is also the other side of the coin. By focusing on procedures, we legitimate the facade work that conceals the fact that the State does nothing. We contribute to creating a monster – at least in terms of size, compared to the effects it produces. We cannot disengage, they must be fuelled.82

Pressured by their capitals’ foreign policy orientations and aid modality choices, donors simultaneously impact local bureaucratic processes and depend on proposals and opportunities for support framed and expressed by the Human Rights Ministry’s officials.

5. FINDINGS ON TRANSLATION PRACTICES BY HUMAN RIGHTS CIVIL SERVANTS

Given the above-described *habitus*, how do civil servants perform their role? This Section delves into the everyday practice of translation, as an exercise where expertise and values manifest themselves, and as a tool for transversal coordination – a key dimension of GHRFPs. The Section is organised around the three directions in which human rights translation occurs: outwards towards line ministries, upwards informing about the human rights situation in the country, and downwards educating rights-holders.83

5.1. OUTWARDS TRANSLATION

As an investigative thread, the production and use of the UPR Implementation Plan of Action 2014–2017 aimed at translating recommendations into sectoral activities performed by line ministries has been traced.84 Nominally, the process followed the procedural steps recommended in a guide of the International Organisation of La Francophonie (OIF).85 The elaboration of such matrices includes several steps: clustering of similar recommendations; identifying general actions and indicators; identifying activities and ministries in charge; and identifying timeline and activities’ costs.

Each step relies on civil servants. Even the preliminary, more political step – the decision to accept UPR recommendations – is influenced by civil servants. Acceptance of the recommendations are decided upon in Geneva, and for the 2013 review the Minister for Human Rights was accompanied by no less than twenty civil servants, making acceptance ‘both a political and an administrative decision’.86 In total, 165 recommendations were received. Of these, 133 were accepted and 5 considered already implemented.87

82. Interview BF37(E), 11/10/17.
83. This Section presents paradigmatic examples illustrating key findings. For details see Chapter 11 in Lorion (n 19).
84. MJDHPC, *Plan d’actions national 2014-2017 de mise en œuvre des recommandations issues de l’Examen Périodique Universel et des organes de traité* (2015).
85. OIF, *Practical Guide – Universal Periodic Review: Implementation Plan of Recommendations and Pledges* (2013) <https://www.francophonie.org/IMG/pdf/oif_epu_practical_guide_web.pdf> accessed 5 October 2020.
86. Interview BF29(M), 03/10/17.
87. See overview at <https://www.upr-info.org/sites/default/files/document/burkina_faso/session_16_-_april_2013/recommendations_and_pledges_burkina_faso_2013.pdf> accessed 19 April 2021.
The prevailing discourse suggests that the work around each step is done by specialised civil servants because it requires technical expertise. In addition to the OIF guide, the Ministry adopted a methodological manual detailing the technical requirements associated with each step. However, these requirements were not fully followed through, pointing to a slack between guidance and practice. For instance, whereas the guidance recommends integrating ‘noted’ – meaning rejected – UPR recommendations in follow-up plans, these were filtered out from the Burkinabe matrix. Conversely, the five ‘already implemented’ recommendations were part of the plan, and without being clustered with other recommendations.

The guidance insists that staff must analyse each recommendation’s normative and legal underpinnings, and their practical implications. In other words, the Ministry shall apply a rights-based lens to sectoral policies, e.g. foresee activities that give attention to disadvantaged groups, participation, justiciability, etc. In practice, the identification of activities is more akin to a ‘relabelling’ process, consisting of tallying existing sectoral policies with human rights recommendations. As a Ministry’s staff explained, his role is to identify what ministries have already planned and match it with recommendations. If no activity can be found, then the Ministry checks what line ministries would like to add – but it is up to the latter to secure the financial resources required.

To avoid adding new activities, officials resort to twisting the recommendation-action-activity causality chain: ‘together with the focal points [in line ministries], we try to see how to frame things so that in 2017 in the next UPR report we can show that Burkina Faso […] has implemented that recommendation’. The relabelling practice circumvents the need to involve politicians, as agents navigate and recast approved policies and plans. This technique occurs partly out of pragmatism. The Human Rights Ministry not only lacks institutional authority but also the means to impose new activities on other ministries: each ministry has its own planning processes.

Focal points in line ministries condone this ‘relabelling’ practice and emulate it beyond reporting and follow-up, in their human rights mainstreaming attributions. For one, ‘in order to convince people, we tell them that the [rights] do not speak of any additional burden’. Focal points generally assess that UPR recommendations, couched in general language, correspond anyway to their sectoral policies, and that all activities, especially in social sectors, essentially contribute to human rights. Focal points therefore call themselves ‘translators’ – almost in the literal sense.

In this process, a crucial dimension of human rights is left out. The matrix lists activities and indicators without consideration given as to how these activities should be rights-based. It conceals conceptual indeterminacy and the fact that a single action may in fact be implemented in different ways. Focal points are not supposed to become specialists of normative standards relevant to their field of activities. The training sessions organised by the Human Rights Ministry are almost exclusively on reporting procedures and data collection. ‘We provide focal points with knowledge about basic functions. The objective is not to turn them into human rights experts’, explained a

88. MJDHPC, Perspectives techniques et méthodologiques de mise en œuvre des recommandations de l’Examen périodique universel acceptées par le Burkina Faso (2015).
89. ibid 48-51.
90. Interview BF03(M), 26/05/16.
91. ibid.
92. Interview BF14(C), 31/05/16.
93. Interview BF07(C), 27/05/16.
94. Interview BF12(C), 31/05/16.
Human rights Counsellors transferred to line ministries are the exception and acknowledge that the relabelling practice entails a loss of human rights attributes, such as entitlements and obligations. One, located in a Ministry undertaking infrastructure works, explained:

> My colleagues have started to consult local populations [...]. But they do it to avoid the problems: there have been demonstrations, blockages of construction works, and so forth. They do not do it because the population has rights. 96

Lastly, planning becomes more important than actual implementation. Planning takes such a long time that it leaves little time for implementation. The UPR plan of action was adopted 21 months after the UPR Review, almost halfway through to the next review. Furthermore, during the plan’s implementation phase, little is done to prompt line ministries into action. Instead, focal points are primarily activated when the Human Rights Ministry prepares a report. The relationship is extractive rather than performative. Focal points embrace this, explaining that ‘our job [is] to estimate that this or that activity can contribute to this or that UPR recommendation. We send all the UPR indicators and activities to all directorates, so that, whenever there is an activity that could fit in, they would inform us’. 97 In short, rather than triggering change in and through line ministries, the UPR coordination arrangements are in practice oriented towards the production of the matrix of activities and indicators that will ensure the highest possible implementation ratio for the next review.

### 5.2. UPWARDS TRANSLATION

Upwards translation is the process by which human rights civil servants capture reality and needs in view of feeding the work of the government or international and regional human rights mechanisms. This sub-Section presents findings pertaining to international reporting. It traces practices relating to reporting under the Convention on the Rights of Persons with Disabilities (CRPD) and the UPR. The findings reveal the legal and statistical techniques used by civil servants to represent the human rights situation, and how this results in manufacturing a distorted representation of reality.

One widespread legal distortion is to present general provisions as dedicated measures. For instance, the CRPD draft report indicated that ‘legal provisions on women with disabilities were reinforced through the adoption of the National Gender Policy’. During a consultation organised by the drafting team with ministries and NGOs, this raised concerns:

> Participant: Should we mention the National Gender Policy since it actually does not speak about women with disabilities?

> Drafter: We mention the Policy because it does not exclude women with disabilities, which means that they are covered by the Policy. 98

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95. Interview BF03(M), 27/05/16.
96. Interview BF23(C), 26/09/17.
97. Interview BF12(C), 31/05/16.
98. Field notes, 28/09/17.
Laws that do not exclude persons with disabilities were referred to as enhancing their rights. Besides misrepresenting reality, this logic contravenes the principle of ‘reasonable accommodations’ at the heart of the Convention.

Another problematic technique observed was equating a legal prescription with a reality. For instance, disabled children are described as having the ‘ability to express themselves freely’ since ‘the regulatory and legal arsenal of Burkina Faso foresees that children have the right to freely express their opinions’. Drafters justify the omission of difficulties in the report based on formalism, and notably the lack of official documentation. For a drafter, ‘we have not indicated the difficulties to operationalise these texts, because we do not have a document or a source to support our claims’.\(^99\)

Discussing accessibility, participants further debated whether the report should mention the legal truth (‘all public buildings shall be accessible’) or the reality (‘even the Human Rights Ministry is not accessible’). A drafter reacted:

> We should not hide difficulties, but it is the report of the State. We shall not expose our problems to the light of the day. It is not customary for a State to commit ‘hara-kiri’. The UN Committee knows perfectly well that difficulties and shortcomings will be exposed by civil society through alternative reports.\(^100\)

A civil servant also heading a disability rights NGO interjected that: ‘it is civil society that will tell [the actual reality]. It will have the leisure to raise problems in its alternative report. […] It will be our role as civil society; we will say it’. The Secretary of State presiding over the consultations concluded: ‘Ok, we share the work. We focus on the efforts undertaken, and civil society will bring up the critical points’.\(^101\) This exchange directly challenges the internationally prescribed processes’ ability to trigger socialisation. Actors familiar with UN reporting processes share an understanding of their respective roles, but this seems to organise – rather than overcome – disagreement.

In practice, only a limited number of actors retain this processual expertise. International technical requirements (templates, deadlines, treaty bodies’ instructions, etc.) are mostly known to civil servants, and these can be opposed to potential external interventions in the processes, including from political leaders. A former Director explained that ‘if a minister has new ideas to develop this or that [aspect in a draft report], we refer him back to the instructions on reporting sent by the international bodies’.\(^102\) While finalising the draft State report for the UPR, civil servants actually expressed concerns of political interference in the drafting process, worrying that the parliament might be consulted on the draft text: ‘if parliamentarians change a single word, it is no longer our text!’\(^103\) This points to a tendency towards process capture by civil servants.

Measurements have become a central reporting requirement. For the report under the CRPD, 91 indicators had been identified, but these were so sophisticated, numerous and ad hoc that they were not populated. The report relied on existing statistics – e.g. the last census which had found that

\(^99\) ibid.  
\(^100\) ibid.  
\(^101\) ibid.  
\(^102\) Interview BF20(C), 21/09/17.  
\(^103\) Field notes, 05/10/17.
1.2% of the population was disabled. While all participants to the consultation agreed that this figure was considerably lower than reality, drafters explained that what mattered was the official source that had produced the statistics. On that basis, only official statistics were included, however misrepresentative they might be.\textsuperscript{104}

Civil servants carefully construct and populate indicators. To ensure the highest rate of implementation of UPR recommendations, as measured by indicators, agents deliberately focus on activities rather than outcomes, as ‘it would be too blurry to focus on results, [...] even if that would be more interesting’.\textsuperscript{105} They also thrive on recommendations’ ubiquity: ‘if the action is evasive, in line with UPR recommendations that encourage the government to ‘continue efforts’ in a given field, then it makes 100% completion easy’.\textsuperscript{106} Focal points in line ministries help in twisting realised activities to fit indicators. As one explained: ‘any activity can find a place in our reporting. If we want, through an extended interpretation, we can link anything to rights: even this interview today!’\textsuperscript{107}

Going further, agents then aggregated recommendation-specific indicators into a composite one: the overall ‘level of implementation of UPR recommendations’. Drawing on the above-mentioned techniques, the Ministry calculated that 92\% of the 2013 UPR recommendations were implemented. In fact, the only three non-implemented recommendations were binary ones (ratification of X or not). This single mathematical construct becomes a representation of the State’s performance in the field of human rights. It is for instance the only human rights indicator in the overarching National Economic and Social Development Plan of Burkina Faso.

5.3. DOWNWARDS TRANSLATION

As per the 2018 National Sectoral Policy, the Ministry ‘aims at inculcating a culture of human rights onto citizens and into their everyday behaviour, by whatever appropriate means’.\textsuperscript{108} Findings show how civil servants’ practices tend to filter human rights and project their own values in the process of translating them ‘downwards’. Below, two illustrations are provided.

Administrators have considerable leeway in selecting issues for human rights education activities. In 2016, the Ministry’s Orientation and Documentation Centres on Human Rights conducted 19 awareness-raising events in schools, focusing on: pollution, conflicts in communities, fraud in exams, impunity, rights/duties of children, public health and drug use.\textsuperscript{109} When asked why Centres would hold trainings on e.g. drug use, Counsellors responded that ‘everything contributes to human rights’ and invoked a twisted version of the principle of participation: ‘in application of the rights-based approach, we left school administrations to decide which topics were the most important to them’.\textsuperscript{110} While such logic makes it possible to address any topic, some actual human rights standards tend to be cropped out of awareness-raising initiatives – primarily those related to polygamy and sexual orientation. These omissions are presented as being for rights-holders’ own good, as ‘it would be counter-productive to mention LGBT people explicitly. It could trigger

\textsuperscript{104} ibid.
\textsuperscript{105} Interview BF03(M), 26/05/16.
\textsuperscript{106} ibid.
\textsuperscript{107} Interview BF12(C), 31/05/16.
\textsuperscript{108} Government of Burkina Faso, Politique Sectorielle « Justice et Droits humains » 2018-2027 (2018) 24.
\textsuperscript{109} MJDHPC, Rapport d’activités des Centres d’Écoute et de Documentation sur les Droits Humains (2017) 28.
\textsuperscript{110} Field notes, 23/09/17.
reactions. It might even be in [their] best interests that laws do not explicitly mention their situation’.111

A second example relates to staff meetings held to produce a pocket-sized Guide on the rights of persons deprived of liberty in penitentiary facilities. The aim was to ‘vulgarise’ in ‘easy French’ the content of a new law on the penitentiary system112 so that detainees could be aware of the rights it guaranteed. Three types of mechanisms were used by officials to edit rights. First, whereas the 2017 law only addressed rights, the guide also included a chapter on detainees’ duties, with a discourse of conditional access to rights arising. The Counsellor chairing the exercise claimed: ‘before claiming one’s rights, one shall have fulfilled obligations’.113 Second, rights were filtered according to their perceived feasibility. The group intentionally ignored some requirements of the law, such as the separation of untried and convicted prisoners or the minimum of square metres for detainees, as ‘it would create insurrections in prisons if we were to indicate rights in a document produced by the Ministry, without being in a position to fulfil them! No-one will notice if we have overlooked one right amongst others’.114 Third, the 2017 law was marginally reinterpreted based on the staff’s understanding of the situation in prisons. For instance, a new ‘right’ was inserted for female detainees to be compulsorily checked for recent abortion and all sexually transmittable diseases when entering facilities. While one female participant found it discriminatory – in comparison with guarantees of consent and confidentiality for male medical visits, others argued that it was an additional benefit for women, ‘for their own good’.115 These examples point to civil servants’ discretion in filtering rights or changing the content of laws, applying individual opinions based on experiences or paternalistic views on what rights-holders’ preferences and needs might be.

In sum, the findings presented in this Section outline three major types of translation mechanisms, which I termed the ‘relabelling’, the ‘bureaucratic representation’ and the ‘filtering’ of human rights. The examples provided are not isolated and serve to illustrate consistent patterns in translation practices. Additional research shows how these observations resonate beyond the present case study, pointing to tendencies shared by other GHRFPs and human rights civil servants elsewhere.116

6. LESSONS FOR GHRFPS AND STAFF PROFESSIONALISATION STRATEGIES

6.1. UNDERSTANDING HUMAN RIGHTS CIVIL SERVANTS IN DEVELOPING COUNTRIES

The findings generally abide by sociological and anthropological reviews focusing on other policy fields. They also point towards certain specificities within human rights administrations. To start with, the amplitude of translation practices may be exacerbated with regards to human rights. The

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111. Interview BF03(M), 26/05/16.
112. Government of Burkina Faso, Law No. 010-2017/AN (2017).
113. Field notes, 19/09/17.
114. ibid.
115. ibid.
116. See my review of practices associated to national human rights action plans and my research on Nepal in Sébastien Lorion, National Human Rights Action Plans: A Review of State Practices, International Guidance and Conceptual Evolutions (The Danish Institute for Human Rights, forthcoming 2021).
perceived indeterminacy of rights, especially when couched in generic recommendations such as those emanating from the UPR, contributes to the widespread view that ‘everything is human rights’, and that far-reaching reinterpretations may be acceptable. In contrast, in the environmental protection field, which also relies on transversal coordination and specialised civil servants, the latter are found to rely also on scientific knowledge. Human rights civil servants find themselves applying common sense as well as personal or paternalistic beliefs. This coincides with Stephanie Paterson and Francesca Scala’s findings on gender experts: their discretion is heightened by the fact that gender mainstreaming remains ‘a nebulous concept, often lacking substantive guidelines for expected outcomes [...]’, where it “can mean all things to all people”.

An expertise on processes, rather than substance, best defines the human rights civil servants surveyed here. The multiplication of processes may in part be fuelled by incentives structures prevalent in development contexts. But additional explanations may be specific to human rights. The treatment of human rights through technical processes allows civil servants to deal with human rights without touching political sensitivities, and without triggering cognitive dissonance when disseminating values that are not held by civil servants. This contrasts with Hibou’s conclusion that neoliberal bureaucratisation processes in Western countries engender a ‘feeling of malaise and futility’ for job-holders because it destroys the meaning associated with tasks. In the present case study, it is rather the rarity of, and unequal access to, formalised procedures that causes considerable anxiety.

Finally, human rights civil servants promote a discourse that reinforces a professionalisation of the human rights ‘sector’, characterised by an expert command of processes. They use the specificity – or at least the repertoire – of human rights as an argument in support of corporatist claims and demands for a protective status. They leverage their specialised training as a certification legitimating their role, to the detriment of other actors, including activists. Such an approach pushes away power relations and authority, whether exercised by political leaders, activists or citizens. Mastering international instructions and requirements is an element of this professional expertise, and the way in which international reporting models are practiced does not lead to the co-production of knowledge and consensus with relevant stakeholders, but rather structures the human rights field as a sector where disputes are performed and organised along allocated roles, with international guidance providing a sort of musical score.

### 6.2. Recognising the Ambivalent Role of International Guidance in Bureaucratic Processes

International guidance, support, and systems are more than exogenous inputs received by national structures and agents. They are enmeshed with, and may feed, the above described practices. The more international guidance suggests additional techniques (plans, mid-term status reports, identification of indicators, and so forth), the more the administration superimposes processes and processual expertise raises. The continual expansion of (soft) legal guidance pertaining to

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117. Nicole Schmidt, Na’ama Teschner and Maya Negev, ‘Scientific Advice and Administrative Traditions: The Role of Chief Scientists in Climate Change Adaptation’ (2018) 35 Review of Policy Research 859.
118. Stephanie Paterson and Francesca Scala, ‘Gender Mainstreaming and the Discursive Politics of Public Service Values’ (2017) 39 Administrative Theory & Praxis 1.
119. ibid 3.
120. Hibou (n 30) viii.
administrative prescriptions and processes further sharpens the civil servant’s position as the keeper of processual expertise, which can feed their resistance to, or isolation from, external authority.

Compounding factors pertain to the channels through which support is provided. Donor agencies pursue various objectives that are not always compatible – such as disbursement imperatives. This leads to structural tendencies to support routinised and quantifiable processes within administrations. Donors’ ambivalent impact also surfaces in the promotion of managerial techniques – such as the adoption of internal strategies. The latter do not only aim at achieving impact: they also play a legitimising role for donor interventions. Objectives of socialisation and political willingness enhancement come second to the smooth conduct of administrative processes and production of bureaucratic artefacts, turned into outputs signalling donor projects’ successful completion.

This may in part spur from the tendency of international systems to commend States for adopting bureaucratic artefacts without looking into their actual impact. Tellingly, due to mistakes in translations, at least seven countries congratulated Burkina Faso during the 2018 UPR for adopting a national human rights action plan that does not exist in reality. The international community also tends to rely on simplified representation of reality, especially aggregated numerical ones. The ‘level of implementation of UPR recommendations’, constructed by the Human Rights Ministry on a series of operations that misrepresent and simplify reality is a case-in-point: it is the principal or sole indicator capturing human rights progress in donors’ programming strategies.

In short, there is a need to recognise how support modalities, practices of oversight bodies and choices over preferred bureaucratic ideal-types, may entail ambivalent effects on the behaviours they try to fix. In particular, it questions the strategy consisting of accumulating technical and processual requirements in the hope of circumventing civil servants’ discretion.

6.3. IMPLICATIONS FOR NMRFs AND GHRFPs

How does the existing guidance for comprehensive GHRFPs, currently limited to the NMRFs’ guide, fare in light of the above conclusions? On the one hand, the NMRF guide correctly flags civil servants and intra-organisational dynamics as key factors that impact institutional effectiveness. It does so by adopting a managerial approach to compliance, but does not embrace an objective of socialising civil servants. It ignores values and instead takes a purely technical approach to professionalisation. The guide is replete with suggestions of neutral and impartial procedural steps that civil servants should carry out (e.g. drawing minutes, calendars, encoding data, etc.).

The sub-text that runs through this approach is that technical specifications will eradicate or minimise bureaucratic discretion. Civil servants are to be neutral and efficient mechanical gears who implement decisions taken elsewhere, e.g. in consultative forums. For their advocates, NMRFs overcome the fact that ‘national processes and systems of implementation-reporting have

121. UNHRC, Report of the Working Group on the Universal Periodic Review – Burkina Faso (UN Doc. A/HRC/39/4, 2018).
122. DANIDA (n 53); UNDP, Country programme document for Burkina Faso (2018-2020) (UN Doc. DP/DCP/BFA/3, 2017).
123. For a full analysis, see Lorion (n 17) Chapter 2.
always tended to be bureaucratic [. . . and] tightly controlled by civil servants’. Solutions are developed to substitute civil servants in some analytical functions: this includes the development of ‘human rights technology’ and software automatising steps.

With regards to the analysis presented in this article, this approach raises three types of conundrums. First, there is a tacit understanding that it is possible to disregard, circumvent or eradicate agents’ discretion and values. This assumption creates a blind-spot, with the unavoidable question of values being left unaddressed. Second – and worse, the specific techniques used, imprinted with new governance thinking such as the multiplication of technical requirements, may entail counter-productive effects and in fact serve to enhance agents’ discretion. Third, the NMRF guidance takes a radically new approach to the relations between GHRFPs and rights-holders and values, if compared to other types of guidance produced for thematic GHRFPs. It recasts the value-based expectations placed on GHRFPs and human rights civil servants, their attachment to a cause and their accountability to the public.

Indeed, the guidance on NMRFs only recommends a few measures to cultivate public accountability, limited to transparency measures (publication of database and plans) and consultations with stakeholders. The only recommendation regarding staff composition is that NMRFs should ‘have a gender balance’. Such recommendations are minimal and very loosely coached in comparison with the requirements and expectations placed on thematic GHRFPs in the field of gender equality and disability rights, but also placed on NHRIs. An NHRI’s composition must ensure ‘a pluralist representation of the social forces’, its staff is preferably diverse and it shall be ‘directly accountable to [. . .] the constituency which it was established to assist and protect’. Consequently, NMRFs supporters’ grand claims that NMRFs’ guidance ‘help[s] turn implementation and reporting from a “bureaucratic process into a democratic process”’ run the risk of challenging the advanced suggestions coming from thematic fields, that seek to fundamentally transform decision-making processes at domestic levels, with policies co-produced and co-implemented with those impacted by it. This would be a limited issue if the discourse around NMRFs was limited to what they are: suggestions to States for enhancing engagement with the

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124. Marc Limon and Ellis Paterson, ‘The Emergence and Coming of Age of National Mechanisms for Implementation, Reporting and Follow-Up’ (Universal Rights Group Blog 2019) <https://www.universal-rights.org/blog/the-emergence-and-coming-of-age-of-national-mechanisms-for-implementation-reporting-and-follow-up/> accessed 19 April 2021.
125. ibid.
126. OHCHR (n 2) 25.
127. ibid 5.
128. ibid 13.
129. As analysed in sub-Section 2.2.
130. As demonstrated in Colin Caughey’s article in this Special Issue.
131. UNGA, Res 48/134: Principles relating to the status and functioning of national institutions for the protection and promotion of human rights (UN Doc. A/RES/48/134, 1993).
132. UN Centre for Human Rights, National Human Rights Institutions: A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights, Professional Training Series No. 4 (2015) para 138.
133. Ministry of Foreign Affairs of Norway, Global Human Rights Implementation Agenda: the role of international development partners (2018) <https://www.universal-rights.org/wp-content/uploads/2018/09/Oslo_2018_210918_low_res_spread.pdf> accessed 19 April 2021.
international bodies – but in practice, the NMRFs’ agenda tends to become a referential guidance for all GHRFPs, regardless of their mandates and functions.  

7. CONCLUSION: WAYS FORWARD

Considerable insights can be generated from the experience of human rights ministries, especially through neo-institutional inquiries which cast light on the central role of their constitutive civil servants. The journey inside the Human Rights Ministry of Burkina Faso lay bare the mechanisms that condition the effects of human rights professionalisation strategies. As carried out today, these strategies produce ambivalent effects. This points towards the need for a renewed or complementary approach to the existing guidance.

As a way forward, guidance on GHRFPs and professionalisation processes should address important issues such as the normative dimension of rights and the practical meaning of human rights-based policies and activities. It should also avoid the natural tendency to suggest additional processes and would reintegrate issues of accountability and political will in everyday bureaucratic activities. This could involve working on incentive structures and motivations based on commitments to values, redress for bureaucratic inaction or accountability to human rights movements.

What may be most difficult but equally most valuable would be rejecting the condoning of empty processes posturing as good international practices and reflecting on how donors and international fora may assess the reality of intra-administrative practices.

At the heart of new approaches lies the need to recognise that strategies based on ignoring civil servants’ roles, values and discretion, or believing that those can be obliterated, is not a solution, and can actually produce the opposite result. The impulse to prescribe heavily processual, norm-neutral and managerial techniques yields ambivalent effects, enhancing bureaucratic discretion, under the auspices that ‘everything is human rights’. This article shows the merit in excavating the day-to-day practices of civil servants: such takeaways should not be lost under layers of bureaucratic expectations or devotion to dominant managerial ideologies. As human rights enter the arena of public management, it remains crucial to safeguard their intrinsically normative dimension.

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134. See introduction to this Special Issue.