



BURKINA FASO: DIFFICULT JOURNEY TOWARDS HUMAN RIGHTS RESPECT

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INTRODUCTION

This submission was prepared for the Universal Periodic Review (UPR) of Burkina Faso in May 2018. In it, Amnesty International evaluates the implementation of recommendations accepted by Burkina Faso in its previous UPR, assesses the national human rights framework and the situation of human rights on the ground, and makes a number of recommendations to Burkina Faso to strengthen human rights protection and address human rights challenges in the country.

FOLLOW UP TO THE PREVIOUS REVIEW

Burkina Faso accepted 138 recommendations during its last UPR in April 2013,¹ including on prohibiting early and forced marriage,² improving prisoners' physical conditions and legal rights,³ adopting specific legislation to combat violence against women,⁴ ensuring the independent, impartial and effective functioning of the National Human Rights Commission⁵, guaranteeing the independence of the judiciary,⁶ and investigating allegations of torture and other ill-treatment by law and order forces.⁷

However, it rejected 27 recommendations,⁸ including on ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,⁹ prohibiting corporal punishment in all settings,¹⁰ and

¹ *Report of the Working Group on the Universal Periodic Review, Burkina Faso*, 8 July 2013 (hereon: A/HRC/24/4). Of the recommendations accepted, five were considered already implemented or in the process of implementation.

² A/HRC/24/4, II. Conclusions and/or recommendations, 135.56 (Armenia), 135.73 (Uruguay), 135.75 (Canada), 135.87 (Belgium), 135.88 (Hungary), 135.95 (Switzerland), 135.96 (Germany).

³ A/HRC/24/4, II. Conclusions and/or recommendations, 135.68 (Denmark), 135.69 (Mexico), 135.70 (Thailand), 135.71 (Turkey), 135.72 (France).

⁴ A/HRC/24/4, II. Conclusions and/or recommendations, 135.3 (Brazil), 135.4 (Burundi), 135.5 (Djibouti), 135.6 (Chile), 135.7 (Costa Rica), 135.8 (Indonesia), 135.9 (Ireland), 135.10 (Palestine).

⁵ A/HRC/24/4, 'II. Conclusions and/or recommendations', 135.21 (Azerbaijan), 135.28 (France), 135.29 (Indonesia), 135.30 (New Zealand), 135.32 (South Africa), 135.33 (Sudan), 135.34 (Tunisia).

⁶ A/HRC/24/4, II. Conclusions and/or recommendations, 135.107 (UK), 135.108 (USA), 135.110 (Ethiopia), 135.111 (Germany).

⁷ A/HRC/24/4, II. Conclusions and/or recommendations, 135.67 (Austria).

⁸ Of those rejected, 18 were initially postponed for examination, before the delegation subsequently stated that they could not be supported.

⁹ A/HRC/24/4, II. Conclusions and/or recommendations, 138.1 (France).

¹⁰ A/HRC/24/4, II. Conclusions and/or recommendations, 138.6 (Liechtenstein).

abolishing the death penalty,¹¹ although the government accepted a recommendation to prohibit the death penalty for minors.¹²

THE NATIONAL HUMAN RIGHTS FRAMEWORK

NEW CONSTITUTION

A draft new constitution has been submitted for approval (the date is yet to be decided). The proposed new constitution contains several articles which would strengthen the protection of human rights in the country, including by abolishing the death penalty, guaranteeing economic, social and cultural rights,¹³ and strengthening the independence of the judiciary.¹⁴

LAW TO COMBAT VIOLENCE AGAINST WOMEN

Burkina Faso accepted eight recommendations to adopt laws to eliminate violence against women.¹⁵ In September 2015, a law was adopted on the prevention, punishment and reparation of violence against women and girls and support for victims.¹⁶ This includes promising measures to establish help centres for female victims of violence, which offer legal, psychological and clinical support. However, to date only one centre is in operation.¹⁷

NATIONAL COMMISSION FOR HUMAN RIGHTS

Burkina Faso accepted recommendations to establish a national human rights institution in compliance with the Paris Principles.¹⁸ In March 2016, a new law was approved establishing such a commission and guaranteeing its administrative and financial independence.¹⁹ Its members were appointed in August.

¹¹ A/HRC/24/4, II. Conclusions and/or recommendations, 137.1-137.18 (UK, Uruguay, Belgium, Djibouti, Germany, Finland, Spain, Switzerland, France, Montenegro, Rwanda, Turkey, Slovakia, New Zealand, Australia, Togo, Burundi, Italy).

¹² A/HRC/24/4, II. Conclusions and/or recommendations, 135.11 (Belgium).

¹³ Article 29 of the draft constitution.

¹⁴ The President of Burkina Faso and the Minister of Justice would no longer be members of the High Council of the Magistrate (*Conseil Supérieur de la Magistrature*), Articles 147 and 152 of the draft constitution.

¹⁵ A/HRC/24/4, Accepted recommendation: 135.3-135.10 (Brazil, Burundi, Djibouti, Chile, Costa Rica, Indonesia, Ireland, Palestine).

¹⁶ Act No. 061-2015/CNT of 6 September 2015.

¹⁷ Meetings with Procureur du Faso and Minister for Women in June 2017.

¹⁸ A/HRC/24/4, Accepted recommendations: 135.28-135.34 (France, Indonesia, New Zealand, Niger, South Africa, Sudan, Tunisia).

¹⁹ Loi n° 001-2016 / AN du 24 mars 2016 creating a National Commission for Human Rights

THE RIGHT TO STRIKE

A new bill on the right to strike was approved by the government in 2017, but has not yet been passed by the National Assembly.²⁰ If it is approved by the National Assembly, it will limit the right to strike for unions and personnel of certain sectors, including magistrates, radio and television.²¹ In addition, the state will be given the right to recruit personnel to replace workers on strike in essential sectors.²² If approved, the bill will violate ILO Convention 87 on Freedom of Association and Protection of the Right to Organize and ILO Convention 98 on the Right to Organize and Collective Bargaining to which Burkina is a state party.

HIGH COURT OF JUSTICE

A new law governing the High Court of Justice was adopted in July 2017.²³ It allows for appeals and for the participation of civil parties throughout the procedure.²⁴ Previously victims were unable to file claims for compensation for crimes or offenses pursued before the High Court.²⁵

MILITARY TRIBUNALS

A new bill governing military tribunals was adopted in July 2017²⁶ permitting the military prosecutor to initiate public prosecutions. It also allows for a two-step appeals process²⁷ and enables non-Burkinabe lawyers to be a part of proceedings.²⁸ Amnesty International is concerned, however, that it allows for civilians to be tried before military courts and that it operates independently of the High

²⁰ Proposition de Loi relative à l'exercice des droits de grève dans les services publics.

²¹ Articles 4 and 16 of the draft bill on the right to strike.

²² Article 19 of the draft bill: "Des travailleurs peuvent être recrutés pour remplacer des travailleurs grévistes dans les secteurs essentiels". Essential sectors are defined in Article 16 and include television and media.

²³ Loi n° 043-2017/AN Amending Organic Law No. 20/95 / ADP of 16 May 1995 on the composition and functioning of the High Court of Justice and the relevant Procedures (*portant modification de la Loi organique n°20/95/ADP du 16 mai 1995 portant composition et fonctionnement de la Haute Cour de Justice et Procédure applicable devant elle*). The High Court of Justice is responsible for judging the actions of the President of Burkina Faso and members of the government in their official capacities.

²⁴ Appeals within the High Court of Justice are made within the same structure but with different magistrates. Article 1 bis: The High Court of Justice shall comprise: the investigating committee; an investigating chamber, a trial chamber; a Chamber of Appeal (*Article 1 bis: la Haute cour de justice comprend : la commission d'instruction ; une chambre de contrôle de l'instruction, une chambre de première instance ; une chambre d'appel*).

²⁵ Article 25: Civil party applications are admissible before the High Court of Justice during the investigation phase and before the formation of a judgment, in the forms provided for in the Code of Criminal Procedure. The High Court of Justice shall rule on claims for damages resulting from the crimes or offenses prosecuted before it (*Article 25: la constitution de partie civile est recevable devant la Haute cour de justice pendant la phase d'instruction et devant la formation de jugement, dans les formes prévues par le code de procédure pénale. La Haute cour de justice statue sur les demandes en indemnisation des préjudices ayant résulté des crimes ou délits poursuivies devant elle*);

²⁶ Law N° 044-2017/AN Amending Law n° 24/94 ADP of 24 May 1994 on the code of Military Justice

²⁷ Appeals can be made to the Military Appeals Court and the Cassation Court (Articles 128 bis and 129).

²⁸ In the previous iteration of the law, created in 1998, the Military Prosecutor derived authority from the Minter of Defence, appeals were made to the Supreme Court (which has now been dismantled) and non-Burkinabé lawyers were excluded from proceedings.

Council of Magistrates (*Conseil Supérieur de la Magistrature*).²⁹ The UN Human Rights Committee has called for the removal of military court jurisdiction over civilians.³⁰

THE DEATH PENALTY

Although Burkina Faso is abolitionist in practice, it rejected 17 recommendations to abolish the death penalty, including by ratifying the Second Optional Protocol to the International Covenant on Civil and Political Rights.³¹ It accepted a recommendation to abolish the death penalty for minors.³² This was adopted into law in 2014.³³ As of 31 December 2016, 12 people remained on death row.

HUMAN RIGHTS SITUATION ON THE GROUND

TORTURE AND OTHER ILL-TREATMENT

The prohibition of torture is enshrined in Article 2 of Burkina Faso's Constitution and national law explicitly prohibits acts of torture by state agents in the exercise of their duties.³⁴ During the previous review, Burkina Faso claimed that torture and other ill-treatment does not exist in the country.³⁵ However, Amnesty International has collected testimonies from more than 40 prisoners during a visit to Ouagadougou's main prison, *Maison d'Arrêt et de Correction de Ouagadougou* (MACO), in October 2014 and June 2017, alleging torture and other ill-treatment, usually at the time of arrest or while in police custody.

In 2014, one detainee described how he was tortured for a period of 17 days at the central police station in the capital Ouagadougou.³⁶ His hands were handcuffed to his ankles and a wooden bar was put under his knees and he was suspended in a squatting position between two tables. Another

²⁹ One of the key roles of the High Court of Magistrates is as an advisory body on appointments and nominations throughout the judiciary. The status of the magistrates will be regulated by a forthcoming law. Article 23: Military magistrates constitute an autonomous body with their own hierarchy, whose staff, recruitment and training obtain a special statute set by law. The hierarchy of the Military Magistrates Corps comprises: captain magistrates, commanding officer magistrates; lieutenant-colonel magistrates, colonel magistrates; general magistrates (*Article 23 : les magistrats militaires constituent un corps autonome à hiérarchie propre, dont les effectifs, le recrutement et la formation font l'objet d'un statut particulier fixé par la loi. La hiérarchie du corps des magistrats militaires comporte les magistrats capitaines, les magistrats commandants ; les magistrats lieutenant-colonels, les magistrats colonels ; les magistrats généraux*).

³⁰ Human Rights Committee *General Comment 13*, paragraph 4.

³¹ A/HRC/24/4, recommendations not accepted: 137.1-137.18 (UK, Uruguay, Belgium, Djibouti, Germany, Finland, Spain, Switzerland, France, Montenegro, Rwanda, Turkey, Slovakia, New Zealand, Australia, Togo, Burundi, Italy).

³² A/HRC/24/4, accepted recommendation: 135.11 (Belgium).

³³ Loi No 15-2014/AN Portant protection de l'enfant en conflit avec la loi ou en danger – Article 78.

³⁴ Articles 3, 4, 8 and 9 of the Law Against Torture and Related Practices Law N° 022-2014/AN (*Pourant Prévention et Répression de la Torture et des Pratiques Assimilées*).

³⁵ A/HRC/24/4 Interactive dialogue and responses by the State under review, paragraph 107.

³⁶ Prison visit in Ouagadougou, November 2014.

person told Amnesty International in 2017 that he had been tortured every day for a month. Other detainees said that they had been beaten to extract confessions.

In September 2015, the Presidential Guard (*Régiment de Sécurité Présidentielle*, RSP) attacked people protesting against an attempted coup. A witness filmed five persons, including a child, being forced to lie down and beaten with belts and metal buckles. Six soldiers also whipped a human rights defender and beat a photographer until he lost consciousness.³⁷

The use of torture is facilitated by the widespread disregard of initial custody periods,³⁸ which legally cannot exceed three days.³⁹ During meetings with detainees in 2014 and 2017, Amnesty International was told that they had been held for between seven and 36 days at the gendarmerie and police stations before being charged. Article 9(3) of the International Covenant on Civil and Political Rights, to which Burkina Faso is a state party, specifies that anyone arrested on a criminal charge must be brought promptly before a judge.⁴⁰

During its previous UPR, Burkina Faso also accepted a recommendation to investigate allegations of torture.⁴¹ However, four persons interviewed by Amnesty International in 2017 said that they had reported these practices to the prosecutors and in court, yet no one has been prosecuted for torture and no inquiry has been conducted into these allegations, in violation of Article 13 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which Burkina Faso is a state party.

CONDITIONS OF DETENTION

Many prisons in Burkina Faso are overcrowded.⁴² In June 2017, the MACO prison authorities told Amnesty International that 1,900 detainees were held in the prison, despite its capacity for only 600 inmates. Those convicted and those awaiting trial are held together in the same cells.

Conditions at the MACO prison remain poor despite progress in building an outdoor exercise area. Prison officials also told Amnesty International that one unoccupied section of the prison is structurally unsound, potentially placing nearby detainees at risk.⁴³ Medical assistance and provisions are inadequate with scarce medical supplies and only one volunteer doctor visiting for just two hours a week. Both detainees and prison officials told Amnesty International that the provision of food was inadequate and nutritionally insufficient.

³⁷ Each of these cases were confirmed by witness testimonies and medical reports seen by Amnesty International in 2015. See: Amnesty international, *Burkina Faso: No Amnesty for Soldiers who Killed Unarmed Civilians*, (Press release, October 2015).

³⁸ Custody before being presented before a judge or prosecutor, known as "garde à vue".

³⁹ Ordinance No. 68-7 of 21 February 1968 on the introduction of a Code of Criminal Procedure (J.O.RHV, of 13 May 1968, p. 229), Supplemented and amended in Articles 21 and 73 by Ordinance 68-53 of 29 November 1968 (J.O.HV. of 12 December 1968, p. 657) (*Ordonnance 68-7 du 21 février 1968, portant institution d'un code de procédure pénale (J.O.RHV. du 13 mai 1968, p. 229); complétée et modifiée en ses articles 21 et 73 par l'ordonnance 68-53 du 29 novembre 1968 (J.O.HV. du 12 décembre 1968, p. 657).*

⁴⁰ ICCPR, entry into force 23 March 1976, Article 9.3 "Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release".

⁴¹ A/HRC/24/4. Recommendation 135.67.

⁴² 20 of the country's 26 prisons were recorded as overpopulated in 2016 according to « *Plaidoyer pour l'amélioration des conditions de vie carcérale* » from the Centre pour la Qualité du Droit et de la Justice.

⁴³ This was also highlighted in a report by the Ministry of Town and Country Planning, which was mentioned by prison officials during a visit to the MACO by Amnesty International.

In 2014, lack of air and water may have contributed to the deaths of two detainees during a three-day prison lockdown following an attempted escape at the MACO.⁴⁴ Some prisoners also described to Amnesty International how they were beaten on three separate occasions following their attempted escape, including being handcuffed and forced to lie face down on the ground and beaten with belts and whips.

In June 2017, representatives of the Ministry of Justice told Amnesty International that a strategic plan was being developed to improve prison conditions.

SELF-DEFENCE MILITIA

Self-defence militia known as *Kogleweogo* continue to commit abuses, including killings and ill-treatment, despite a decree, adopted in December 2016, regulating community policing and ensuring it respects human rights and is subordinate to police authority.⁴⁵ An official from the Ministry of Security said that six people, including two civilians, had been killed in Tialgo and Goundi during clashes between *Kogleweogo* and the local population in May 2017, while the Procureur du Faso in Ouagadougou told Amnesty International that two members of the *Kogleweogo* had been charged with murder in connection with killings in 2016 and 2017. Officials from the Ministry of Justice also told Amnesty International that a man suspected of stealing a chicken was tortured to death by *Kogleweogo* members in the town of Tapoa in January 2017.

In Boulkiemdé and Sanguié, in Central West Burkina Faso, the regional governor banned self-defence groups in May 2017 following abuses by *Kogleweogo*.

Judicial sources confirmed in July 2017 that *Kogleweogo* had obstructed the course of justice in order to protect their members in 2016 and 2017 and prevented trials in Fada N’Gourma and Koupela.⁴⁶

EXCESSIVE USE OF FORCE

In 2014 and 2015, the security forces used excessive, sometimes lethal, force against peaceful protesters and detainees, resulting in at least 27 deaths with hundreds more injured.

In late October 2014, the security forces fired live ammunition at protestors, killing at least 10 individuals and injuring many more.⁴⁷ This was confirmed by the judicial authorities. The protestors were opposing a constitutional change proposed by then President Blaise Compaoré. The unrest also spread to the MACO prison in Ouagadougou where prison guards and the gendarmerie used excessive force against prisoners during a riot and an attempted escape, killing at least three.

During an attempted coup in September 2015, the presidential guard used excessive force to prevent people from peacefully assembling to protest, shooting dead at least fourteen people, including six who were shot in the back while fleeing from the security forces.⁴⁸

⁴⁴ Amnesty International Report, *Burkina Faso "Just what were they thinking when they shot at people?"* (Index: AFR 60/001/2015). Three prisoners were also shot dead during the escape attempt. See section on Excessive Use of Force.

⁴⁵ Articles 3, 8 and 9 of Law No. 32-2003/AN of 14 May 2003 on internal security. (Loi N° 032-2003/AN (JON°31 2003 du 31 juillet 2003 relative à la sécurité intérieure).

⁴⁶ Interviews with officials from the Department of Justice, July 2017.

⁴⁷ Amnesty International report, *Burkina Faso "Just what were they thinking when they shot at people?"*, (Index number: AFR 60/001/2015).

⁴⁸ Amnesty international, *Burkina Faso: No Amnesty for Soldiers who Killed Unarmed Civilians*, (Press Release October 2015).

IMPUNITY

A Commission of Inquiry, established in 2015 to investigate the killings of at least 10 people and the wounding of hundreds by the security forces in October 2014, submitted its report to the Prime Minister in June 2016.⁴⁹ The report has yet to be made public. In June 2017, the Procurer told Amnesty International that, on the basis of the report, six people were provisionally detained and charged with murder, assault and battery and destruction of property.⁵⁰

In June 2017, the trial of former President Blaise Compaoré was suspended following a decision by the Constitutional Council that the lack of an appeals procedure was unconstitutional.⁵¹

In December 2015, three former members of the Presidential Security Regiment were charged in connection with the murder of Norbert Zongo, a journalist, who was assassinated in 1998.

At least 106 people, including 40 civilians and one foreigner, have been charged in connection with the attempted coup that took place in September 2015. Thirty of them are still detained, while the rest have been released on bail. The military prosecutor has informed Amnesty International that the investigation has been completed and is currently awaiting a decision from the Indictments Division (Chambre d'accusation).⁵²

Between January 2015 and October 2016, 14 people were charged in connection with the murder of former President Thomas Sankara. As of June 2017, at least four people remain in detention, including one civilian, while the rest have been released provisionally.⁵³ An international arrest warrant remains in place against former President Blaise Compaoré and one of his former adviser Hyacinthe Kafundo.

In June 2017, the *Procureur du Faso* told Amnesty International that three investigating magistrates (*cabinets d'instructions*) had been tasked with investigating reports of human rights violations committed during protests in October 2014 against proposed changes to the Constitution.

MATERNAL HEALTH AND ACCESS TO CONTRACEPTION

Despite the removal of financial barriers to accessing maternal health services in March 2016, the number of maternal deaths remain high.⁵⁴ The latest available data indicates 371 maternal deaths for

⁴⁹ Amnesty International Report, *Amnesty International Report 2016/17: The State of The World's Human Rights*, (Index: POL 10/4800/2017).

⁵⁰ Independent Commission on the Burkina Faso Uprising, *Rapport complet de la Commission d'Enquête Indépendante sur les crimes commis lors de l'insurrection populaire au Burkina Faso*, (no date provided). <http://www.icla.up.ac.za/images/un/commissionsofinquiries/files/Burkina%20Faso%20Commission%20into%20the%20uprising%20Report.pdf>

⁵¹ Articles 21 and 33 of the Law on the High Court of Justice declare that the acts of the Commission of Inquiry of this Court were not subject to any appeal; and decisions made by the High Court of Justice could not be appealed or appealed in cassation. See: Organic Law n° 017-2015 / CNT of 21 May 2015 amending Organic Law n° 20/95 / ADP of 16 May 1995 on the composition and functioning of the High Court of Justice and the procedure applicable to it. (*portant composition et fonctionnement de la Haute cour de justice et procédure applicable devant elle*).

⁵² Interview with Military Prosecutor, June 2017.

⁵³ Interview with Military Prosecutor, June 2017. Those detained include Gabriel Tamini, special advisor; Christophe Diébere, colonel; Gilbert Dienderé, general; Adjudant-Chef former Head of Security (all under the Blaise Compaoré administration).

⁵⁴ The situation remains otherwise largely unchanged since Amnesty International's last major report on the issue in 2009. Amnesty International Report, *Giving life, risking death: Maternal mortality in Burkina Faso*, (Index number: AFR 60/001/2009).

every 100,000 births.⁵⁵ At least 2,700 women die in childbirth annually in Burkina Faso,⁵⁶ with some estimates suggesting that more than a quarter of maternal deaths may be attributed to unsafe abortions.⁵⁷ In an interview with a medical practitioner in June 2017, Amnesty International learned of at least 100 maternal deaths over the previous five months at one of the two main hospitals in Ouagadougou.⁵⁸ Equipment, medication and staffing are insufficient.⁵⁹ Overworked midwives perform up to 25 caesarean sections a day, basic medicines are unavailable and the bedding is inadequate leading to women sleeping on the floor.⁶⁰ The lack of basic hygiene and equipment place women and new-born babies at risk of infection. A woman and her baby died in early 2016 when a delivery table collapsed while she was giving birth.⁶¹

In cases of rape and incest, abortion is legal within the first 10 weeks of pregnancy. However, the lengthy judicial authorisation process required is a major barrier to timely access to safe legal abortion.⁶² Despite government efforts to increase the provision of post-abortion care through the introduction of protocols, training and service provision, little appears to have been done to inform the general population of the legal provisions allowing abortion.⁶³ In 2014, 2,377 illegal and unsafe abortions were recorded by the government and 50 deaths were registered resulting from complications related to such abortions, although the true number of both unsafe abortions and related deaths is likely to be much higher.⁶⁴ In the same year, there only 48 legal abortions were performed.⁶⁵

A civil society monitoring committee comprised of four NGOs working with the Ministry of Health raised key concerns with the Ministry, including patients being asked to pay for goods that should be

⁵⁵ World Health Organisation, *Country Profile for MDSR Implementation: Burkina Faso*, 2015. http://www.who.int/maternal_child_adolescent/epidemiology/maternal-death-surveillance/country-profiles/burkina-faso-mdsr.pdf The principle causes of maternal deaths in the country are hemorrhages, infections, pregnancy-induced hypertension and abortion-related complications.

⁵⁶ World Health Organisation, *Trends in Maternal Mortality: 1990 to 2015 Estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division* 2015, p. 51.

⁵⁷ Ipas, *Comprehensive abortion care needs and opportunities in francophone West Africa: Situational assessment results*, 2016, p. 8. This report cites the Burkina Faso Ministry of Health proportion of maternal deaths caused by unsafe abortion

⁵⁸ Interview with medical practitioner in Ouagadougou, June 2017.

⁵⁹ Information about health facilities, goods and services must be made available to everyone and be physically, economically and socially acceptable to all, free from discrimination. They must be affordable for all individuals, (See Committee on Economic, Social and Cultural Rights, General Comment No. 14: The right to the highest attainable standard of health, 11 August 2000, UN Doc.E/C.12/2000/4, para. 12) and must be within safe physical reach of all sections of the population, especially marginalized groups. (See Committee on Economic, Social and Cultural Rights, General Comment No. 14: The right to the highest attainable standard of health, 11 August 2000, UN Doc.E/C.12/2000/4, para. 12).

⁶⁰ Interview with medical practitioner in Ouagadougou, June 2017.

⁶¹ Interview with medical practitioner in Ouagadougou, June 2017.

⁶² In order to access an abortion, a legal/procedural requirement must be fulfilled by a prosecutor establishing that a crime of rape or incest has been committed. A prosecutor told Amnesty International in 2016 that legal proceedings can last up to 10 years. See Amnesty International, *Amnesty International Submission to Human Rights Council* (Index: AFR 60/4066/2016).

⁶³ In interviews conducted by Amnesty International in 2015. Few people other than the medical health professionals had information about the circumstances in which abortion is legal.

⁶⁴ Ministère de la santé, Direction générale des études et des statistiques sectorielles, *Annuaire statistique 2014*, p. 132.

⁶⁵ Ministère de la santé, Direction générale des études et des statistiques sectorielles, *Annuaire statistique 2014*, p. 132.

free of charge and free medicines being sold to private enterprises, forcing patients to purchase these medicines on the private market.⁶⁶

Women, social workers and medical professionals, including midwives, have repeatedly highlighted a number of factors preventing them from accessing contraception,⁶⁷ including costs, stigma, decisions taken by other family members, and lack of information and comprehensive sexual education. Young women and women in rural areas face the greatest difficulties.⁶⁸ Amnesty International learned of multiple cases of women suffering violence by their husbands when attempting to use or simply discuss contraception. This is exacerbated by the husbands' control over financial resources and the high cost of contraception, which was repeatedly highlighted by those interviewed as a major barrier, alongside the costs of travelling to a clinic.⁶⁹

While prevalence rates of female genital mutilation (FGM) reduced from 75.8 % in 2010 to 67.6% in 2015,⁷⁰ it remains widespread despite its criminalization in 1996. Burkina Faso accepted 10 recommendations to eradicate FGM in the 2013 UPR.⁷¹

EARLY AND FORCED MARRIAGE

Burkina Faso accepted seven recommendations to end early and forced marriage.⁷² However, rates of early and forced marriage in Burkina Faso remain among the highest in the world.⁷³ Early and forced marriage has a range of human rights impacts, including early pregnancy and pregnancy complications,⁷⁴ to the detriment of young girls and women's health and lives,⁷⁵ and their lack of access to education.

⁶⁶ Study carried out by Action Contre la Faim, Save the Children, Help and Terre des Hommes, *Le Contrôle de l'Effectivité de la Gratuité des Soins : des Résultats Probants Issus d'un Effort Conjugué*, 2017.

⁶⁷ This was repeatedly mentioned in various interviews carried out by Amnesty International over the last eight years.

⁶⁸ The Committee on the Elimination of Discrimination against Women has repeatedly expressed its concerns about rural women and girls and those living in poverty, highlighting the obligation of states to ensure that cost does not become a barrier to access. (See General Recommendation No. 24 paras 26 and 27, and, further, C. Chinkin, M.A. Freeman and B. Rudof, *The UN Convention on the Elimination of All Forms of Discrimination against Women: A Commentary*, Oxford University Press, 2012, pp. 320 and 321)

⁶⁹ Amnesty International report, *Burkina Faso: Coerced and Denied*, (Index: AFR 60/3851/2016).

⁷⁰ Official inquiry by the *Enquête multisectorielle continue (EMC) in 2015*. See : <http://lefaso.net/spip.php?article75534>

⁷¹ A/HRC/24/4, 'II. Conclusions and/or recommendations', 135.73, 135.74, 135.75, 135.76, 135.79, 135.80, 135.82, 135.83, 135.84, 135.85.

⁷² A/HRC/24/4, 'II. Conclusions and/or recommendations', 135.56 (Armenia), 135.73 (Uruguay), 135.75 (Canada), 135.87 (Belgium), 135.88 (Hungary), 135.95 (Switzerland), 135.96 (Germany).

⁷³ The latest available data indicates that 52% of girls in the country are married before the age of 18 on average and 86% in the Sahel region. See: UNICEF, *State of the World's Children*, 2016; Girls Not Brides, *Child Marriage Around the World: Burkina Faso* <http://www.girlsnotbrides.org/child-marriage/burkina-faso/>

⁷⁴ Death during childbirth is the second biggest cause of death worldwide for girls aged 15-19. See: UNFPA, *Girlhood, not motherhood: Preventing adolescent pregnancy*, 2015, p. 10.

⁷⁵ According to experts in this field interviewed by Amnesty International, when a girl is still a child, the physical and psychological health risks and consequences of being raped, as well as subsequent early pregnancy, are long lasting and even life-threatening. See Amnesty International report, *Burkina Faso: Coerced and Denied*, (Index: AFR 60/3851/2016).

In 2014, 2015 and 2016, dozens of women and girls told Amnesty International that they were victims of early and forced marriage,⁷⁶ including a 13-year-old girl who walked more than 160km over three days to escape being forced by her father to marry a 70-year-old man who already had five wives.⁷⁷

In November 2015, Burkina Faso finalized a National Strategy to End Child Marriage by 2025.⁷⁸ This includes a commitment to increase the legal minimum age of marriage; however, to-date no progress has been made. While its objective is to accelerate the elimination of child marriages, it only sets an expected result of reducing child marriages by 20% from 2016 to 2025.⁷⁹ This target is not compatible with the government's obligations under Article 12 of the International Covenant on Economic, Social and Cultural Rights,⁸⁰ the African Charter on the Rights and Welfare of the Child (which in article 21 specifically prohibits child marriage), and other international and regional human rights treaties, to which Burkina Faso is a state party. These human rights obligations require immediate and sustained action to eliminate "child marriage" and the consequent flagrant abuses of girls' human rights. Furthermore, although the National Strategy aims to reinforce the legal framework for prevention and prohibition of forced and early marriage, it does not set out the specific reforms that will be undertaken, or a time-frame for this. Article 5 of the Convention on the Elimination of All Forms of Discrimination against Women requires Burkina Faso to take measures to modify existing social and cultural patterns of conduct, based on stereotyped roles for men and women.⁸¹

ABUSES BY ARMED GROUPS

Since 2015, armed groups have perpetrated attacks against civilians, the security forces, officials and schools. More than 20 attacks have been recorded killing more than 90 people,⁸² mostly in the Sahel region bordering Mali, but also in Ouagadougou. The attacks have been claimed by the al-Mourabitoun brigade of Al-Qa'ida in the Islamic Maghreb (AQIM), groups linked to Ansar Dine and by Ansarul Islam, which was established in Burkina Faso in late 2016.

On 15 January 2016, an armed group killed at least 30 civilians and injured many in an attack in Ouagadougou for which al-Mourabitoune claimed responsibility. A photographer and a driver working on behalf of Amnesty International were among those killed. A judicial enquiry has been

⁷⁶ Furthermore, between 2009 and 2013, the Ministry of Social Affairs documented that 6,325 girls and 860 boys (more than 1,000 children a year) had been subjected to forced and early marriages across the country. See: UNICEF, *State of the world's children 2015: Rethink the future*, November 2014, and Ministry of Social Action and National Solidarity, *National Strategy for the Prevention and Elimination of Child Marriage 2016-2025*, November 2015.

⁷⁷ Interviews carried out by Amnesty International in 2014, 2015 and 2016. Index number: AFR 60/3851/2016 Amnesty International Report 2016; Index number: AFR 60/1960/2015 Amnesty International Report 2015; Index: AFR 60/4066/2016 Amnesty International submission to the UN Human Rights Committee.

⁷⁸ Ministry of Social Action and National Solidarity, *National Strategy for the Prevention and Elimination of Child Marriage 2016-2015*, November 2015. <http://www.girlsnotbrides.org/wp-content/uploads/2016/10/Burkina-Faso-National-Strategy-2016-2025-Nov-2015.pdf>

⁷⁹ Ministry of Social Action and National Solidarity, *National Strategy for the Prevention and Elimination of Child Marriage 2016-2015*, November 2015, p. 39.

⁸⁰ See: UN Committee on Economic, Social and Cultural Rights, General Comment No. 22 on the right to sexual and reproductive health, (article 12 of the International Covenant on Economic, Social and Cultural Rights) UN Doc. E/C.12/GC/22, 2 May 2016.

⁸¹ The Committee on the Elimination of Discrimination against Women has called on states to take all necessary action to improve the situation for women "including the dismantling of patriarchal barriers and entrenched gender stereotypes". See CEDAW, Art. 5

⁸² See statement by Minister for Security Simon Compaoré, March 2017 <https://burkina24.com/2017/03/24/attaques-terroristes-au-burkina-le-bilan-des-enquetes/>

opened. On 13 August 2017, at least 19 people were killed and 22 injured in an attack against a restaurant in Ouagadougou by an armed group, both Burkinabes and foreigners were among the victims. No group claimed responsibility for the assault.

On multiple occasions throughout 2016 and 2017, armed groups attacked police stations near the borders with Mali, Niger and . At least 21 people were killed and many wounded, including civilians.

In January 2017, the government created a specialised judicial centre to combat terrorism; however, the centre has yet to be set up.

In June 2017, the National Assembly amended the Code of Criminal Procedure⁸³ to combat financial, organized crime and terrorism. The amendments permit searches and home visits, under certain circumstances, without the consent of the persons concerned and at any time.⁸⁴ These provisions are contrary to Article 17 of the International Covenant on Civil and Political Rights.⁸⁵

⁸³ <http://netafrique.net/lassemblee-nationale-adopte-un-nouveau-code-de-procedure-penale-pour-combattre-les-delinquances-economiques-financieres-le-crime-organise-et-le-terrorisme/>

⁸⁴ The former law required the presence and written or oral consent of the individual being investigated. The modification allows for searches to take place without this consent or presence in cases of more severe accusations (those offences punishable with a sentence of over 5 years). Article 74 of Law n°040-2017/AN, Modifying Law 68-7 establishing a Code of Criminal Proceedings.

⁸⁵ Article 17, 1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.
<http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

RECOMMENDATION FOR ACTION BY THE STATE UNDER REVIEW

AMNESTY INTERNATIONAL CALLS ON THE GOVERNMENT OF BURKINA FASO TO:

THE DEATH PENALTY

- Abolish the death penalty for all crimes;
- Pending the total abolition of the death penalty, commute all death sentences;
- Ratify without reservations the Second Optional Protocol to the International Covenant on Civil and Political Rights.

THE RIGHT TO STRIKE

- Ensure full respect of the ILO Convention 87.

TORTURE AND OTHER ILL-TREATMENT

- Carry out prompt, independent, impartial and effective investigations into all allegations of torture and other ill-treatment;
- Establish an independent, professional, representative and well-resourced National Preventive Mechanism, in accordance with the requirements of the OPCAT, to carry out visits to places of detention and make recommendations to the government on ways to prevent and stop torture and other ill-treatment, including by improving prison conditions;
- Train judges, lawyers and other judicial officials in human rights law, including regarding the prohibition of torture and other ill-treatment.

PRISON CONDITIONS

- Implement a comprehensive plan to end overcrowding in prisons and eradicate conditions and practices that violate the human rights of prisoners;
- Ensure that all prisoners have access to adequate and appropriate food, sanitation and medical assistance;
- Ensure the separation of accused and convicted detainees and that trials are held in accordance with Article 14 of the ICCPR.

MILITIA AND SELF-DEFENCE GROUPS

- Introduce and enforce national legislation to ensure that justice and security are administered exclusively by state agents;
- Promptly, thoroughly, impartially and transparently investigate all allegations of human rights abuses by self-defence groups and bring suspected perpetrators to justice.

EXCESSIVE USE OF FORCE AND IMPUNITY

- Ensure that policing of demonstrations is consistent with national law and international

human rights standards, including the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials;

- Bring to justice all persons suspected of responsibility for unlawful killings and beatings, including at the MACO prison, in accordance with international fair trial standards;

MILITARY TRIBUNALS

- Ensure that military courts are subordinate to the authority of the High Council of Magistrates (*Conseil Supérieur de la Magistrature*) as other courts;
- Ensure that military courts cannot try civilians and that their jurisdiction is limited to offenses of a purely military nature committed by military personnel.

MATERNAL HEALTH AND ACCESS TO CONTRACEPTION

- Ensure that medical staff, supplies and equipment necessary to maintain hygienic conditions and quality service are available, including increasing the number of trained midwives;
- Decriminalize abortion in all circumstances and take all necessary measures to ensure that safe and legal abortion services are available, accessible and of good quality for all women who require them, as set out in national legislation;⁸⁶
- Amend the Criminal Code to remove the requirement for victims of rape and incest to seek judicial approval before they can access legal abortions;
- Ensure that all victims of rape are offered emergency contraception and testing and treatment for sexually transmitted diseases, by health professions and without charge, and informed that they can access legal abortions;
- Monitor health centres to ensure that informal and inappropriate fees are not levied and that effective accountability mechanisms are in place to eliminate any corrupt practices;
- Make contraceptive products available and easily accessible free of charge, which women and girls are able to use safely and discreetly.

EARLY AND FORCED MARRIAGE

- Amend the Persons and Family Code to set 18 years as the minimum age of marriage, including for traditional marriages, for both boys and girls, in line with the African Charter on the Rights and Welfare of the Child and other international and regional human rights instruments to which Burkina Faso is a party;
- Amend the law to provide for protection orders and other measures to protect people at risk of early and forced marriages and ensure that all victims of early and forced marriages have access to effective remedies and reparation;
- Increase the number of shelters available to people at risk of early and forced marriage, and the availability of expert staff to support young people at risk;
- Conduct a national consultation in order to identify and develop programmes to provide better psychological, legal and financial support to people at risk of early and forced marriages;
- Update the target of the National Strategy for the Prevention and Elimination of Child Marriage 2016-2025 with more ambitious targets to substantially reduce child marriages, compatible with the government's obligations to take immediate and sustained action to eliminate child marriage and forced adult marriages and align it with the Sustainable

⁸⁶ Law N° 049-2005/AN of 22 May 2005 on reproductive Health (Loi No 049-2005/AN du 22 décembre 2005 portant Santé de la Réproduction).

Development Goal 5, target 5.3;⁸⁷

- Undertake information and education campaigns aimed at both women and men to address the cultural and social acceptance of early and forced marriage, including by raising awareness of its harm to the victims and the cost to society.

ARMED GROUPS

- Take all lawful measures to bring an end to unlawful killings, including of civilians, by armed groups.

⁸⁷ Eliminate all harmful practices such as child, early and forced marriage and female genital mutilations (by 2030).

ANNEX

AMNESTY INTERNATIONAL DOCUMENTS FOR FURTHER REFERENCE⁸⁸

- Burkina Faso: Submission to the United Nations Human Rights Committee, Index number: AFR 60/4066/2016, 26 May 2016 (<https://www.amnesty.org/en/documents/afr60/4066/2016/en/>)
- Burkina Faso: Submission to the United Nations committee on economic, social and cultural rights, 19 May 2016 (<https://www.amnesty.org/en/documents/afr60/3973/2016/en/>)
- Burkina Faso: Coerced and denied: forced marriages and barriers to contraception in Burkina Faso, 26 April 2016 (<https://www.amnesty.org/en/documents/afr60/3851/2016/en/>)
- Burkina Faso: Devastating news of the deaths of Leila Alaoui and Mahamadi Ouédraogo, 19 January 2016 (<https://www.amnesty.org/en/latest/news/2016/01/burkina-faso-devastating-news-of-the-deaths-of-leila-alaoui-and-mahamadi-ouedraogoburkina-faso-devastating-news-of-the-deaths-of-lela-alaou-and-mahamad-ouedraogo/>)
- Burkina Faso: Army must free detained leaders and avoid violent repression of protests, 17 September 2015 (<https://www.amnesty.org/en/latest/news/2015/09/burkina-faso-army-must-free-detained-leaders-and-avoid-violent-repression-of-protests/>)
- Burkina Faso: Opportunity to abolish the death penalty must be seized, 27 August 2015 (<https://www.amnesty.org/en/latest/news/2015/08/burkina-faso-opportunity-to-abolish-the-death-penalty-must-be-seized/>)
- Burkina Faso: Elections cannot ignore women's crisis, 15 July 2015 (<https://www.amnesty.org/en/latest/news/2015/07/burkina-faso-elections-cannot-ignore-womens-crisis/>)
- Burkina Faso: Military shooting of protesters must be investigated, 15 January 2015 (<https://www.amnesty.org/en/latest/news/2015/01/burkina-faso-military-shooting-protesters-must-be-investigated/>)
- Burkina Faso must end excessive use of force against protesters, 31 October 2014 (<https://www.amnesty.org/en/latest/news/2014/10/burkina-faso-must-end-excessive-use-force-against-protesters/>)

⁸⁸ All these documents are available on Amnesty International's website:
<https://www.amnesty.org/en/countries/africa/burkina-faso/>

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