



International Covenant on Civil and Political Rights

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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

List of issues in relation to the initial report of Burkina Faso

Addendum

Replies of Burkina Faso to the list of issues*

[Date received: 1 April 2016]

Constitutional and legal framework for the implementation of the Covenant (art. 2)

1. Pursuant to article 151 of the Constitution, in matters involving an application for annulment of an administrative decision, or for a declaration establishing the liability of the administration, courts in Burkina Faso accept legal arguments based on human rights instruments including the International Covenant on Civil and Political Rights and may invoke those instruments as a basis for their decisions. With regard to annulment, in its decision No. 41/07 of 26 July 2007, *Ministry of Foreign Affairs Employees' Union v. the State*, the Ouagadougou administrative tribunal ordered the suspension of a Cabinet decision censuring and reassigning 105 civil servants on the grounds that that decision was "a clear violation of the right to form and join trade unions, the right to demonstrate, the right to work of one's choice, fundamental rights guaranteed in article 22 of the Covenant as well as article 6.1 of the International Covenant on Economic, Social and Cultural Rights".

2. With regard to applications for a declaration establishing the liability of the administration, the Ouagadougou administrative tribunal, in its decision No. 22 of 31 January 2012 relating to a request for compensation lodged by the SIRRES company, ordered the Government of Burkina Faso to pay SIRRES all damages claimed on the basis of article 14 of the Covenant and article 7 of the African Charter on Human and Peoples'

* The present document is being issued without formal editing.



Rights, which guarantees both natural persons and legal entities the right to have their case heard within a reasonable time.

3. Anyone who feels his rights under the Covenant have been violated may appeal to the courts as well as to Burkina Faso's non-judicial or quasi-judicial bodies. If there has been no resolution after exhausting all domestic remedies, the individual may appeal to the Human Rights Committee.

4. As for procedures and measures to ensure implementation of and compliance with the Committee's Views under the first Optional Protocol to the Covenant, the Government responded to the Committee's recommendations in a memorandum dated 30 June 2006. On 7 March 2006 the Baskuy district tribunal issued a ruling in lieu of a death certificate in the name of "Thomas Isidore Sankara, died 15 October 1987". The compensation fund for victims of political violence established in June 2006 offered compensation in the amount of 43,445,000 CFA francs to the family, which the family refused, saying that the truth about Thomas Sankara's fate was not for sale.

5. With a view to ensuring legal follow-up in that case, on 4 March 2014 the Cabinet adopted a decree authorizing the Sankara family to have the presumed remains of the deceased President and his 11 companions exhumed and autopsied under judicial supervision. The subsequent ballistic and DNA tests were unsuccessful insofar as it was not possible to conclusively identify the remains as those of President Thomas Sankara and his unfortunate companions. Nevertheless the military justice investigations office has charged approximately 10 soldiers, mostly from the former presidential security regiment (RSP) and including General Gilbert Diendéré, former personal chief of staff to Blaise Compaoré, for attempted murder, murder and concealment of a body. The military justice office also issued an international arrest warrant for former President Blaise Compaoré on 4 December 2015 for his alleged involvement in the death of former head of State Thomas Sankara, killed during the coup d'état of 15 October 1987.

6. In order to increase awareness of the Covenant among judges, lawyers and law enforcement personnel, the Ministry of Justice and the Ministry of Human Rights and the Promotion of Civic Values organized seminars on the human rights instruments in 2014 and 2015 for 160 judges and lawyers from the Bobo-Dioulasso and Ouagadougou courts of appeal. The seminars helped to:

- Teach legal professionals about the human rights instruments, in particular the International Covenant on Civil and Political Rights;
- Show them how to invoke human rights instruments in judicial proceedings;
- Promote best practices in invoking human rights instruments and also explain the role of legal professionals in the implementation of international human rights instruments;
- Increase access to the texts of those instruments by providing participants with USB flash drives containing copies of the treaties ratified by Burkina Faso.

7. As for abolition of the death penalty, in 2015 the department responsible for human rights organized awareness-raising meetings on the challenges involved in abolishing the death penalty in seven of the country's regions. The meetings were aimed at increasing public awareness and achieving consensus on abolition. The department, supported by civil society organizations, continues to advocate for abolition of the death penalty.

8. The National Human Rights Commission was established in 2001 by decree No. 628-2001/PRES/MJPDH of 20 November 2001. Establishing the Commission by decree was a violation of the Paris Principles. Following the first universal periodic review of Burkina Faso in 2008, a recommendation was made to bring the Commission into line with

the Paris Principles. Accordingly, Act No. 062-2009/AN establishing the Burkina Faso National Human Rights Commission was adopted on 21 December 2009.

9. The establishment of the Commission by legislative means marked a major step forward in terms of the Paris Principles. As the Commission embarked on the implementation of its mandate, it became clear that there were a number of inadequacies with regard to the fundamental principle of its independence and effectiveness in promoting and protecting human rights. Since its current structure was adopted in February 2013 the Commission has not been able to function as provided for in the law establishing it, owing to insufficient financial and material resources and its lack of financial independence (to date its budget comes from the Ministry of Human Rights) as well as the unwieldiness of getting so many members (28) working together, especially when only one, the Chairman, was a permanent member. The Commission also has an inadequate number of technical staff.

10. In order to address the situation, on 24 March 2016 the National Assembly adopted in plenary session a new law establishing a National Human Rights Commission which guarantees the Commission's independence and limits it to 11 permanent members. Implementation of the law will bring the Commission into line with the Paris Principles and enable it to request status A accreditation with the International Coordinating Committee of National Human Rights Institutions.

11. Commission activities in recent years relating to civil and political rights include:

- Public lectures;
- Training sessions for civil society organizations;
- Visits to detention centres (5 prisons and correctional establishments and approximately 10 police and gendarmerie stations);
- Monitoring the combined legislative and presidential elections of 29 November 2015.

12. In 2015 the Commission received 10 complaints, of which 6 related to civil and political rights and the remainder to economic, social and cultural rights. Of the six civil and political rights complaints, three were resolved and three are still under review.

Non-discrimination and equality between men and women (arts. 2, 3, 23, 25 and 26)

13. The need to eliminate discrimination against women has led to the adoption and review of a number of laws:

- Act No. 033-2012/AN of 11 June 2012 amending the Constitution, article 101 of which enshrines gender equality in the Constitution with a view to reducing inequality between men and women;
- Act No. 034-2009/AN of 16 June 2009 on rural land tenure, which enshrines the principle of equality between men and women in access to land in rural areas;
- Act No. 034-2012/AN of 2 July 2012 on agrarian and land reform, article 34 of which provides for fair and secure access to rural land for all parties;
- The Personal and Family Code, which is currently being reviewed with a view to eliminating provisions that discriminate against women.

14. In addition, with a view to increasing the participation of women in political and decision-making bodies, Burkina Faso has adopted Act No. 010-2009/AN of 16 April 2009

establishing quotas for legislative and municipal elections. Pursuant to article 3 of the Act, all political parties must ensure that each sex accounts for at least 30 per cent of the candidates on their electoral lists. Financial assistance is provided for any political party or group of parties that reaches or surpasses a minimum of 30 per cent for the representation of each of the sexes in the final election results (art. 6).

15. The Act ensures that any political group that does not follow this rule loses half of its public funding for election campaigns.

16. Article 182 of the Labour Code prohibits wage discrimination on the basis of origin, sex, age or status. A labour inspectorate has been established to ensure the effective implementation of these guarantees, and its powers are defined in articles 391 et seq. of the Code.

17. Burkina Faso law, in particular the Constitution, prohibits discrimination of any kind. Article 1 of the Constitution states: "All citizens of Burkina Faso are born free and equal in rights. All are equally entitled to enjoy all the rights and freedoms guaranteed by this Constitution. Discrimination of any kind, in particular on the basis of race, ethnicity, regional provenance, colour, sex, language, religion, caste, political opinion, property or birth, is prohibited."

18. Measures taken by Burkina Faso to combat and prevent the stigmatization of and discrimination against:

(a) Persons infected with or affected by HIV/AIDS

19. In order to combat discrimination against HIV-positive persons or persons affected by HIV/AIDS Burkina Faso adopted Act No. 038-2008/AN of 20 May 2008 on combating HIV/AIDS and protecting the rights of persons living with HIV/AIDS. Article 16 the Act grants all persons living with HIV/AIDS the right to full enjoyment of their civil, political and social rights without discrimination, as well as the right to specialized assistance, basic care and treatment. That protection is strengthened once HIV-positive persons or persons suffering from AIDS register their HIV status. They are then entitled to specialized care and psychosocial, nutritional, medical and material support in accordance with the national norms and procedures in force.

20. Article 21 of the Act sets out penalties for individuals guilty of discriminating against persons living with HIV.

(b) Persons with disabilities

21. Burkina Faso has adopted a number of measures to protect the rights of persons with disabilities. Act No. 12-2010/AN on the protection and promotion of the rights of persons with disabilities provides a legal basis for full enjoyment of all human rights and fundamental freedoms by persons with disabilities and guarantees their inherent right to dignity. As part of the application of the Act, the Government had recruited 100 persons with a disability into the civil service by 2014.

22. Awareness and training activities are organized with a view to promoting the rights of the vulnerable, including persons with disabilities.

(c) The lesbian, gay, bisexual and transgender community

23. Protection of lesbians, gays, bisexuals and the transgender is guaranteed in the general framework of the fight against discrimination. Article 1 of the Constitution protects all persons against any type of discrimination. Decree No. 97-050/PRES/PM/MS of 15 January 1997 on a code of ethics for medical practitioners prohibits any discrimination in the treatment of patients. Article 3 of the decree requires a doctor to provide the same level

of care to all patients, whatever their sex, race, nationality, social status, religion or reputation and whatever the doctor's personal opinion of them.

Right to life (arts. 6 and 14)

24. With a view to abolishing the death penalty, awareness-raising activities were organized in 2015 for the defence and security forces, judges, civil society organizations, media and religious leaders across the country. There have also been other initiatives, the most recent being a bill submitted by the Speaker of the National Transition Council (National Assembly) in September 2015 to eliminate the death penalty from Burkina Faso law. However, the bill did not receive the support of a majority of those involved in the legislative process. As at 1 March 2016 the number of persons sentenced to death and incarcerated was 11.

25. Inmates sentenced to death have an individual cell, are subject to the internal regulations of the prison and receive food and medical care in the same way as other prisoners. Family members may visit them; they have the same right as other prisoners to temporary absences.

26. In implementation of the Convention on the Rights of the Child and its two Protocols, under article 78 of Act No. 015-2014/AN on protection of children in conflict with the law or in danger, "no child may be sentenced to the death penalty".

27. Courts nonetheless continue to impose the death penalty because it still exists in the Criminal Code; no execution has, however, been carried out since 1988.

28. Summary and extrajudicial executions are prohibited by law. The defence and security forces act in a professional manner and in accordance with a code of ethics. Their actions in the performance of their duties are subject to review by the Procurator of Faso and the military hierarchy. Improper behaviour may be considered professional misconduct and as such subject to disciplinary and criminal penalties for those involved.

29. Lynchings of alleged thieves and other criminals by the population remains a source of concern for the authorities. These are isolated incidents but can happen often. Public awareness-raising campaigns have been organized to eliminate this phenomenon. There have been prosecutions of those responsible for lynchings. For example, in 2012, 10 individuals were charged with assault and battery by the *tribunal de grande instance* (court of major jurisdiction) of Fada N'Gourma. Charges laid in cases of lynching are generally for assault and battery. The penalty is set out in articles 318 to 347 of the Criminal Code. Any person participating in or suspected of having participated in a lynching is prosecuted before the appropriate court.

30. In order to shed light on allegations of the use of excessive force by the defence and security forces, in particular in 2011, 2014 and 2015, the Cabinet adopted a decree in February 2016 establishing a commission of inquiry into those allegations. An investigation is under way and, once concluded, any findings relating to those responsible will be announced.

31. Article 168.1 of the Act of 11 June 2012 granted full and complete amnesty to the heads of State of Burkina Faso for the period between 1960 and the date of adoption of the Act. However, the sociopolitical crisis together with the popular revolt of 30 and 31 October 2014 led to the establishment of a transitional authority and the amendment of certain provisions of the basic law, in particular article 168. In order to guarantee equal justice and combat all forms of impunity, the new article 168 of the amended 2015 Constitution states that: "The people of Burkina Faso reject any notion of personal power.

They also reject any oppression of one group by another.” That provision therefore rescinds the constitutional guarantees relating to the presidential amnesty.

32. Abortion is prohibited and penalized under article 383 et seq. of the Criminal Code. It can, however, be authorized in the following situations:

- If it is certified that the continuation of the pregnancy will endanger the mother’s health;
- If it is very probable that the baby will suffer from a particularly serious condition which is acknowledged to be incurable at the time of diagnosis;
- If the pregnancy is the result of rape or incest, leading to distress confirmed by the public prosecutor.

33. No other exception is recognized under the law.

34. According to the statistical yearbook of the Ministry of Health, health-care facilities registered 48 therapeutic abortions in 2014.

35. With a view to reducing maternal mortality, Burkina Faso has adopted measures to reduce the risks some women may face during their pregnancies, for example:

- A prenatal examination, which is essential to prevent, identify and manage complications during pregnancy. In 2014 a Ministry of Health survey found that 90 per cent of health facilities provided prenatal services. According to 2014 statistics 828,854 women had at least one prenatal examination, a coverage rate of 84.8 per cent, 29.8 per cent of whom were in the first trimester of their pregnancy;
- Family planning, one of the most important strategies for reducing maternal mortality. The 2014 survey showed that 91 per cent of health facilities offered family planning services and 1,452,671 women, or 34.3 per cent, were using contraception;
- Birth assisted by a midwife, which also helps reduce the risk of maternal mortality. In 2014, 88 per cent of health facilities provided assisted vaginal delivery. The rate of assisted delivery in health facilities was 86.2 per cent;
- Vaccination, which greatly improves women’s and children’s quality of life by significantly reducing morbidity and mortality linked to illnesses that can be avoided thanks to vaccination. In 2014, 86 per cent of health facilities offered vaccination services. The Expanded Programme of Immunization targets children under 1 year old and women of reproductive age.

36. Other actions include training of midwives and birth attendants, with a view to providing women with better care, as well as creation of awareness among community health units and village birth attendants in order to ensure better management of obstetrical and neonatal emergencies at the local level.

37. Since 2006 the Government has subsidized 80 per cent of pregnant women’s health-care costs, extending 45 days after delivery. As of 2 April 2016 the Government will provide completely free care for pregnant women in three regions, the Centre, Sahel and Hauts-Bassins, in the first phase of a project to be extended to the entire country beginning on 2 May 2016.

38. Burkina Faso has adopted a number of measures to improve low-cost access to methods of contraception including:

- A law on reproductive health and an implementing decree currently being adopted;
- A planning document for boosting family planning for the period 2011-2015;

- Development of a new action plan to step up family planning for the period 2016-2025;
- State subsidies for contraceptives through a budget allocation of 500 million CFA francs for the purchase of contraceptive products;
- An annual national family planning week, with awareness-raising activities to improve the target audience's knowledge of the different methods, and advocacy work with partners;
- Capacity-building for health workers in contraceptive use and monitoring;
- Provision of medical and technical equipment to health centres.

Harmful traditional practices and violence against women (arts. 3 and 7)

39. A number of steps have been taken to eliminate traditional practices which are harmful to women.

40. With regard to combating early and forced marriages, article 240 of the Personal and Family Code stipulates that a marriage cannot take place without the consent of the future spouses, as expressed at the time of the marriage ceremony. Marriage can be entered into only by a man over the age of 20 and a woman over the age of 17. Article 376 of the Criminal Code criminalizes anyone who forces another person into marriage, an offence punishable by a prison sentence of between 6 months and 2 years. A sentence of between 1 and 3 years is handed down if the victim is a minor. The maximum penalty is applied if the victim is a girl aged under 13. Under article 8 of Act No. 061-2015/CNT on the prevention, punishment and reparation of violence against women and girls and support for victims, the act of forcing a woman or girl into a marriage or union without her consent constitutes abduction. Anyone found guilty of abduction is liable to a prison sentence of between 6 months and 5 years and/or a fine of 500,000 to 1 million CFA francs. Accomplices face the same penalties. Where the perpetrator has sexually abused or raped a victim, the penalty is between 5 and 10 years in prison.

41. In the area of *confiage* (delegation of parental responsibilities to persons other than the child's biological parents), articles 509 et seq. of the Personal and Family Code stipulate that children remain subject to the authority of their mother and father until they reach the age of majority or are emancipated. Rights of parental authority may be exercised only in the interests of the minor. Parental authority encompasses both rights and responsibilities in respect of custody, guidance, supervision, upkeep and education.

42. Burkina Faso has adopted Act No. 43/96/ADP on combating the practice of female genital mutilation. The practice is also covered by articles 380 et seq. of the Criminal Code. A hotline has been set up so that cases can be reported. As regards proceedings brought against perpetrators of the practice, between 2008 and 2015 a total of 429 people were convicted or sentenced in 102 cases.

43. In addition to these convictions, the defence and security forces have been trained to engage in patrols, awareness-raising and deterrence.

44. During 2015, seven radio and television programmes were broadcast in several languages, and forum theatre performances to promote the abandonment of harmful customary practices were organized as part of a press caravan. Skills have been upgraded in five provinces and manuals have been produced on integrating female genital mutilation modules into primary and secondary education, thus ensuring personnel are skilled in teaching them. Training was also organized for six networks on gender-based violence.

45. Many different steps have been taken towards eliminating discrimination against women in access to land:

- The National Policy on Land Security Rural Areas was adopted in September 2007. One of the guiding principles of this policy is the mainstreaming of gender and of the needs and concerns of vulnerable groups, especially those that are particularly disadvantaged, such as women and young people;
- Act No. 034-2009/AN, adopted on 16 June 2009, established the system governing State land and land tenure in rural areas as well as land security for all stakeholders in rural landownership;
- Rural land commissions, which must include representatives of social and professional associations or groups of women, have been established at village level
- Training has been introduced for municipal councillors under the Millennium Challenge Account, with the requirement of ensuring women's participation;
- Projects have been set up to help women acquire land titles — for example, the “land security” project carried out under the Millennium Challenge Account-Burkina Faso, which focused on issuing land security documents to women;
- Quotas have been set for the allocation of plots on developed sites in certain valleys;
- Information and awareness-raising activities have been organized for all stakeholders, including both men and women, on rural land tenure.

46. The Government has taken a number of measures to facilitate access to land for women. In 2014 and 2015, a total of 4,094,090,011 CFA francs was provided to 690 groups and associations and 478 individual women through the Burkina Faso Economic and Social Development Fund. An advocacy paper was also drawn up leading to women's inclusion through the operation of the women's business promotion unit.

47. Many provisions have been adopted to protect women against accusations of sorcery. Through the implementation of the 2012-2016 national action plan to combat the social exclusion of persons accused of sorcery, all stakeholders have been mobilized around the issue. Strategies to involve and gain the support of men and communities in the effort to eliminate social exclusion are promoted in collaboration with all stakeholders in the field. This is evidenced by the public statements issued by major figures such as His Majesty the Mogho Naaba Baongho, the Supreme Leader of the Mossi, calling on communities to abandon and eradicate this practice. Indeed, religious and traditional leaders play a major role in changing attitudes and behaviours among those communities.

48. Through the implementation of the road map for the rescue and reintegration of women excluded from society because of accusations of sorcery, most of the victims have received medical and psychosocial care. The road map has helped to mitigate and resolve some conflicts between the victims and their families or communities. To date, it has resulted in the rescue and reintegration of some 30 women accused of sorcery.

49. Lastly, Act No. 061-2015/CNT on the prevention, punishment and reparation of violence against women and girls and support for victims, adopted on 6 September 2015, protects women against accusations of sorcery. They now have the possibility of lodging a complaint and instituting legal proceedings against their accusers.

50. As a result of all these measures, 98 women excluded from their communities because of accusations of sorcery have been reintegrated into their original environment.

51. Another achievement in efforts to combat violence against women and girls is the adoption by the National Transition Council on 6 September 2015 of Act No. 061-2015/CNT on the prevention, punishment and reparation of violence against women and

girls and support for victims. Under its article 14, paragraph 2, in the case of repeated rape of an intimate partner with whom the perpetrator has had stable and continuous sexual relations, or where the partner is physically incapable of having sexual relations, the punishment shall be a fine of between 100,000 and 500,000 CFA francs.

52. With respect to data on victims of spousal abuse, in 2015 the counselling centre run by the Ministry for the Advancement of Women and Gender registered 34 cases of abuse (all forms combined). The victims were given legal aid and follow-up, making it possible to put an end to the abuse and reintegrate some of the victims into their families. In 2014, the legal clinic run by the Association of Women Lawyers of Burkina Faso registered 247 cases, of which 14 were cases of domestic violence. In 2015 there were 268 cases, including 13 cases of spousal abuse.

Prohibition of torture and cruel, inhuman or degrading treatment or punishment (arts. 3, 7 and 24)

53. The Act on the Prevention and Punishment of Torture and Related Practices, adopted on 27 May 2014, has been disseminated across all regions of the country. Training sessions on human rights and combating torture were held in 2014 for criminal justice system stakeholders, and professional visits to places of detention took place in 2015. Sessions on ownership of international human rights conventions were also held for legal professionals in 2014 and 2015.

54. Article 10 of Act No. 022-2014/AN of 27 May 2014 on the Prevention and Punishment of Torture and Related Practices provides that “any statement made as a result of torture or related practices may not be used as evidence in any proceedings, except in order to establish the responsibility of the perpetrator”.

55. The Act sets up a mechanism for the prevention of torture known as the National Observatory for the Prevention of Torture and Related Practices. The Observatory is an autonomous public authority with legal personality and is governed by the principles of independence, impartiality, complementarity and cooperation. A decree setting out the organization and workings of the Observatory has been drafted and is awaiting adoption by the Government.

56. Gendarmerie officers in Soaw were accused of torturing Alaye Diallo, a young local herder. When the State prosecutor brought the case against the gendarmes before the Koudougou *tribunal de grande instance* (court of major jurisdiction), it was initially classified as a minor offence. At a hearing on 10 June 2015, the court declared that the case was outside its jurisdiction owing to the seriousness of the offence, and ordered the arrest of the gendarmes implicated in the case. This decision was appealed before the Ouagadougou court of appeal by counsel for the gendarmes. During the court of appeal hearing on 16 October 2015, the gendarmes’ lawyers withdrew their appeal, and the Court took note of its withdrawal on 6 November 2015. The case was returned to the Koudougou court for reclassification of the offence by the State prosecutor.

57. National legislation prohibits and sets out penalties for corporal punishment and abuse in any location. In the family and educational spheres, specific laws have been adopted to this effect, namely Act No. 061-2015/CNT on the prevention, punishment and reparation of violence against women and girls and support for victims, adopted on 6 September 2015, and the 2004 Education Act, which prohibit physical abuse in homes and in schools.

Right to liberty and security of persons, right to a fair trial and independence of the judiciary (arts. 9 and 14)

58. The right to freedom of peaceful demonstration and assembly is enshrined in the Constitution of Burkina Faso. The use of law enforcement agencies to prevent peaceful assemblies is governed by regulations that prohibit the excessive use of force against demonstrators. Security forces therefore act in accordance with Order No. 2004-077/SECU/CAB of 27 December 2004 on the code of conduct of the national police force. Additionally, the heads of the different forces have issued instructions ordering units to respect human rights in the performance of their duties.

59. Some provisions of Act No. 26 of 8 May 2008 punishing acts of vandalism committed during street protests, particularly article 15, undermine the right to demonstration recognized in article 7 of the Constitution. Consequently, the Act does not appear to be consistent with article 21 of the International Covenant on Civil and Political Rights. However, it should be noted that article 151 of the Constitution provides that duly ratified or approved treaties and agreements shall have primacy, once promulgated, over laws. Therefore, the provisions of the Covenant take precedence over the Act and may be invoked by any citizen before the courts of Burkina Faso.

60. Since adopting its Constitution on 2 June 1991, Burkina Faso has been firmly committed to building a State that respects the rule of law and human rights. Consequently, the country's authorities have not led any campaign of intimidation against human rights defenders. To demonstrate its firm resolve to protect human rights defenders, the Government has begun the process of adopting a law to that end.

61. Police custody is a form of pretrial detention and is provided for by the Criminal Code and the Code of Criminal Procedure. Its use is governed by a legal framework. There are legal guarantees that allow detained persons and those in police custody to access information on the proceedings against them. Under article 63 of the Code of Criminal Procedure, a person in police custody may see a doctor at any time. Article 5 of Regulation No. 5/CM/UEMOA provides that, from the moment a preliminary investigation is initiated, all arrested persons have the right to counsel. These provisions also allow anyone with a legitimate interest in the matter to obtain information about the person's detention.

62. The national justice policy for the period 2010-2019 and the National Pact for Justice Reform were adopted in order to better defend the right to access to justice and a fair trial.

63. As part of the implementation of the national justice policy, four new courts were created in 2014. These are the Second Ouagadougou *tribunal de grande instance* (court of major jurisdiction), the Pô *tribunal de grande instance*, the Koupéla *tribunal de grande instance* and the Fada appeal court. In order to make the legal assistance fund operational, in 2014 the Government established legal aid commissions within the 24 *tribunaux de grande instance*. The Government also implemented the policy by providing specific public record materials to the departmental and district courts in all provincial capitals and in eight rural communes and covering the costs of some departmental and district courts during 2015.

64. To implement the commitments made in the National Pact for Justice Reform, laws on the organization, composition, duties and functions of the Higher Council of the Judiciary and on the status of the judiciary were adopted on 25 August 2015. Their implementing decrees were adopted on 23 March 2016.

65. The adoption of those laws aims not only to ensure the independence of the justice system and respect for codes of ethics and legal regulations, but also to enhance the

operation of the Higher Council of the Judiciary. As such, judges' careers are managed by the Council, and they are evaluated and graded by their superiors, rather than the Minister of Justice, and nominated by decree of the President, who informs the Council of Ministers of his or her decision.

66. Furthermore, the Higher Council of the Judiciary is no longer chaired by the country's President, but by the First President of the Court of Cassation, which helps to strengthen the independence of the judiciary.

Treatment of persons deprived of their liberty (arts. 7 and 10)

67. The rights of persons deprived of their liberty are guaranteed by national, regional and international legal instruments.

68. The total detainee population in all civilian prisons on 31 December 2014 was 6,827. Those prisons have a capacity of 4,000 detainees; the occupancy rate was therefore 170.7 per cent.

69. In 2015, in order to implement the recommendations from the universal periodic review relating to the improvement of detention conditions and detainees' right to a fair trial, and to adopt the United Nations norms on the treatment of female detainees, the Ministry of Justice, Human Rights and the Promotion of Civic Values organized visits to places of detention across the 13 regions of Burkina Faso. These visits ascertained detainees' living conditions, highlighted the constraints on the protection of detainees' rights, raised officials' awareness of the regulations concerning the promotion and protection of detainees' fundamental rights and resulted in recommendations intended to humanize places of detention. The visits recorded the following figures for each category of detainee in all prison establishments:

- No juvenile wing was overcrowded, with the exception of the short-stay prison and correctional facilities in Tenkodogo, which had a capacity of 10 detainees and a population of 17, an occupancy rate of 170 per cent, and in Ouagadougou, which had a capacity of 50 minors and a population of 76, an occupancy rate of 152 per cent. Overall, juvenile wings had a capacity of 510 detainees and a population of 231, an occupancy rate of 45.29 per cent;
- No women's wing was overcrowded, with the exception of the short-stay prison and correctional facility in Ouagadougou, which had a capacity of 50 detainees and a population of 53, an occupancy rate of 106 per cent. Overall, these wings had a capacity of 590 detainees and a population of 131, an occupancy rate of 22.2 per cent;
- Of the men's wings, 84.61 per cent were overcrowded. Overall, these wings had a capacity of 3,724 detainees and a population of 7,134, an occupancy rate of 191.56 per cent. The most overcrowded establishment was the short-stay prison and correctional facility in Tenkodogo, which had a capacity of 100 detainees and a population of 400, an occupancy rate of 400 per cent.

70. The visits revealed that 69.23 per cent of short-stay prisons were experiencing high occupancy rates, ranging from 112.52 per cent in Kongoussi to 352.5 per cent in the short-stay prison and correctional facility in Tenkodogo. With the exception of women's and juvenile wings, short-stay and correctional facilities are experiencing significant overcrowding in Burkina Faso.

71. Occupancy rates in the short-stay prisons and correctional facilities vary, from 54.16 per cent in Nouna to 352.5 per cent in Tenkodogo.

72. The total prison population recorded during the teams' visits was around 7,394. Given the prisons' capacity of 4,860 detainees, the overall occupancy rate was 152.14 per cent in 2015.

73. In December 2014 there were 969 detainees on remand in prison establishments, of whom 950 were men and 19 were women.

74. Domestic legislation provides for the separation of different categories of detainees in prison establishments. Under article 10 of the Decree (Kiti) of 1 December 1988, "Detainees shall be divided into categories, separating: women from men, minors aged under 18 years from adults, pretrial detainees from convicted prisoners when the same facility is used as a short-stay prison and a correctional facility." However, prison overcrowding often forces the managers of short-stay prisons and correctional facilities to hold pretrial detainees and convicted prisoners in the same cells.

75. Under article 12 (4) of the 2014 law on the protection of children in conflict with the law and children in danger, minors who are under judicial restraint, in police custody or detained should be placed in special establishments or facilities reserved solely for children.

76. Similarly, article 37 of the Decree of 1 December 1988 provides for special arrangements for convicted minors aged under 18 that take their age and rehabilitation needs into account. In order to ensure the reintegration and rehabilitation of convicted persons, a committee has been established in each prison to monitor education and reintegration activities, in accordance with article 5 of the Decree of 1 December 1988. Convicted persons are thus treated in such a way as to ensure their social rehabilitation.

77. In order to improve detainees' living conditions, the State, with the support of several partners, has adopted various measures within its prisons. These include:

- Food production projects in all prisons to promote self-sufficiency among detainees through gardening activities;
- The earmarking of part of the budget for food for detainees;
- Training for detainees in income-generating activities, such as joinery, soldering and soap-making for women;
- The establishment of infirmaries in short-stay prisons and correctional facilities.

78. The State has taken steps to ease prison overcrowding and thus provide better protection for detainees, including:

- The adoption of Act No. 006-2004/AN of 6 April 2004 defining the community service orders that may be handed down by the courts in the place of prison sentences, involving unpaid work by convicted persons for the benefit of the community;
- Training to encourage judges to use community service orders rather than custodial sentences;
- The creation of reception facilities for detainees given community service orders;
- The granting of reduced sentences and pardons by the State to some offenders;
- The construction of women's and juvenile wings;
- The construction of a high-security prison in Ouagadougou with a significantly higher capacity than other short-stay prisons and correctional facilities.

79. In accordance with rules 54 and 55 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules), every prisoner on admission shall be provided with written information about the regulations governing the treatment of

prisoners of his category, the disciplinary requirements of the institution, the authorized methods of seeking information and making complaints, and all such other matters as are necessary to enable him to understand both his rights and his obligations and to adapt himself to the life of the institution. If a prisoner is illiterate, the aforesaid information shall be conveyed to him orally. Similarly, before admission to his or her cell, every detainee meets the head of security of the short-stay prison or correctional facility, and in some cases the governor, who informs him or her of the regulations to be observed in the facility. Furthermore, governors of such institutions facilitate communication between detainees and the public prosecutor's office and investigating courts, in line with rule 56 (3) of the Mandela Rules. Detainees may also communicate with their family and friends in the outside world thanks to the standing visiting permit granted to their close relatives and the temporary permits given to anyone else wishing to visit them.

80. Although there are conditions that must be met in order to enter and remain in Burkina Faso that are set out in Order 84-49 of 1984, in practice no sanctions are imposed on undocumented migrants living in the country. In fact, the State's priority is always to regularize their situation, in keeping with the country's tradition of hospitality.

Elimination of slavery and servitude (arts. 8 and 24)

81. In Burkina Faso, trafficking in persons affects children first and foremost. As part of efforts to combat trafficking in persons and in implementation of Act No. 029-2008/AN on combating human trafficking and related practices, the Government adopted Decree No. 2009-529/PRES/PM/MASSN/MATD/SECU of 17 July 2009 on the establishment, mandate, functioning and composition of the National Watchdog and Monitoring Committee on trafficking in persons and related practices. The Committee has offices at the regional, provincial and departmental levels. It is an anti-trafficking body that proposes actions and strategies to combat trafficking and related practices, such as exploitation of the prostitution of others, sexual exploitation of minors, exploitation of begging by others, forced labour or service and clandestine migration.

82. As a result of the actions undertaken, in 2012 the government authorities identified 1,910 child victims of trafficking, 1,554 of whom were victims of domestic trafficking. In 2013, 1,146 child victims of trafficking were identified (949 victims of domestic trafficking and 197 victims of cross-border trafficking).

83. Identified victims of trafficking are taken to multipurpose transit centres that provide food, medical care and counselling to children prior to reuniting them with their families.

84. Burkina Faso signed a cooperation agreement with Côte d'Ivoire on combating cross-border trafficking of children on 17 October 2013.

85. As part of efforts to combat violence against women, Act No. 061-2015/CNT of 6 September 2015 on the prevention, punishment and reparation of violence against women and girls and support for victims was adopted. The Act contains provision for special procedures, the establishment of specific mechanisms and the assignment of judges to take urgent protective measures, where necessary, under both civil and criminal law. It also sets up a legal aid fund to provide support in judicial proceedings for women and girls who have been the victims of violence.

86. On the ground, the Government is continuing work to bring into operation the 116 hotline for reporting cases of trafficking and related practices. Four hotline centres were set up in four regions — Centre, Hauts-Bassins, Plateau-Central and Sahel — in 2014.

87. A counselling centre and shelter for victims of violence against women was set up in 2014.

88. As part of stepped-up efforts to combat the exclusion of women, a road map for the removal and reintegration of persons who have been ostracised on the basis of allegations of sorcery was approved on 15 October 2015. In implementation of the road map, 30 women are in the process of leaving the shelters and solidarity centres.

89. As part of efforts to suppress the practice of female genital mutilation, 25 persons were convicted in 2014 and 20 more in 2015.

90. Regarding measures taken for the effective implementation of Act No. 011-2014/AN on combating the sale of children, child prostitution and child pornography, workshops to raise awareness and promote ownership of the Act and the provisions of the Criminal Code criminalizing the practice were organized for legal professionals and members of the defence and security forces in 2015.

91. The phenomenon of street children is a fact of life in Burkina Faso, despite the existence of procedures to punish persons who encourage it, including Koranic teachers and parents.

92. Nonetheless, the Government is making efforts to eradicate the practice and reintegrate street children. For example, it has supported revenue-generating activities for the benefit of 620 children in street situations, vocational training for 850 children and the social reintegration of 900 children in street situations.

93. With a view to combating the phenomenon of child labour, the Government adopted Decree No. 2009-365/PRES/PM/MTSS/MS/MASSN establishing a list of dangerous occupations prohibited to children in Burkina Faso on 28 May 2009. Under this Decree, children are prohibited from doing work that exposes them to physical abuse, work that involves handling or carrying heavy loads, work carried out in an unhealthy environment that could expose them to hazardous substances, agents or processes, work that could have an adverse impact on their development and reproductive capacity, etc. There are prohibited activities in all sectors, particularly agriculture, livestock-raising, industry, mining, quarrying, gold panning, the informal sector, handicrafts, and human and animal health.

94. According to the 2006 national survey on child labour in Burkina Faso conducted by the National Institute of Statistics and Demography, 41 per cent of children aged between 5 and 17 are economically active and spend between 19 and 25 hours per week working. At gold-panning sites, 37.5 per cent of workers are children (aged 6 to 17) and one in two of those children live on-site.

95. In view of the rise in child labour, the Government has conducted awareness-raising campaigns and adopted a number of action plans to remove children from gold-panning sites. A national action plan to combat the worst forms of child labour for the period 2011-2015 was adopted on 15 February 2012. As a result, 5,459 child victims of the worst forms of child labour were removed from employment and provided with support between 2011 and 2013.

96. A national programme to combat child labour at gold-panning sites and artisanal quarries in Burkina Faso for the period 2015-2019 has also been adopted. A road map for the prevention of child labour and the removal and reintegration of children from gold-panning sites and artisanal quarries over the same period was developed in 2015. Following the pilot phase, 44 children were removed from employment in the Centre-Nord region and reintegrated in schools and vocational training centres.

97. As a result of the 2009-2015 project to combat child labour in artisanal mines and quarries, 20,403 children were removed from sites in five regions of Burkina Faso.

Right to be recognized as a person before the law (arts. 7, 13, 16 and 24)

98. With a view to achieving universal birth registration enabling all persons to be recognized as persons before the law, Burkina Faso has implemented the Operation JDAN programme, under which birth certificates have been issued to children who did not previously have any. In order to consolidate the results of this programme, a capacity-building programme for civil registry offices has been implemented, involving:

- The provision of 236,000 forms for recording judgments establishing date of birth, 235 packets of 20 registers, reams of printing paper and certificates of non-registration;
- The provision of 100 office computers for 100 civil registry offices;
- The training of 400 civil registry officials.

99. These measures have resulted in a significant increase in the birth registration rate.

100. With regard to the children of refugees, under the legal instruments in force in Burkina Faso in relation to births, all children born in the country are entitled to a birth certificate. Accordingly, the National Commission for Refugees has facilitated the issue of birth certificates to more than 1,000 Malian refugee children born in Burkina Faso since January 2012. Between 1 January and 30 June 2015, 417 birth certificates were issued. Furthermore, refugee camps have health-care facilities that provide childbirth services and automatically register newborns.

101. With regard to the prevention of statelessness, articles 140 et seq. of the Personal and Family Code provide that any child born in Burkina Faso who cannot claim any nationality is automatically entitled to Burkina Faso nationality. In order to strengthen legislation on statelessness, Burkina Faso accepted the recommendation from the universal periodic review that it should ratify the 1961 Convention on the Reduction of Statelessness. National consultations were held on 17 and 18 November 2015, and the ratification process has begun.

102. The expulsion of foreigners is an administrative measure that can be ordered by the competent authorities. The decision can be appealed before the administrative courts if it is considered an abuse of power or unlawful for any other reason. An appeal has suspensive effect on an expulsion decision. The appeal body provided for under Act No. 042-2008/AN of 23 October 2008 on the status of refugees is operational, and held its first session of 2016 on 29 March.

Freedom of expression and the right to freedom of assembly and association

103. In the context of political debates, certain newspapers are reported to have been subject to threats or intimidation. For instance, the premises of the *Opinion* newspaper were allegedly broken into and professional material stolen from them on 10 February 2014, and a similar incident happened at the bimonthly *Complément d'enquête* on 16 August 2014. The editor-in-chief of the newspaper *L'Événement* has received several death threats via anonymous telephone calls as well as being subjected to acts of aggression and intimidation. On 30 July 2014, the premises of *L'Événement* were allegedly invaded by unidentified individuals who stole the editor-in-chief's computer as well as some documents and money.

104. Consequently, the editor-in-chief lodged a complaint of intimidation and threats with the competent authorities. The investigations did not enable the alleged perpetrators to be identified.

105. In accordance with article 19, subparagraphs 3 (a) and (b), of the Covenant, which provide for respect of the rights or reputations of others and the protection of national security or of public order (*ordre public*), or of public health or morals, the Higher Council for Communication suspended certain live broadcasts and closed newspapers following numerous breaches observed in the conduct and content of those broadcasts. The broadcasts were suspended with the purpose of limiting serious defamation and attacks on the dignity of others and public order. The decision was taken in the interests of ensuring a peaceful environment conducive to social cohesion during this difficult period in the country's history.

106. No specific measures have been taken to repeal the provisions on defamation that restrict the exercise of the right to freedom of expression and information in view of the decision of the African Court on Human and Peoples' Rights in the case of *Konaté v. Burkina Faso*. However, the National Transition Council adopted a law on the decriminalization of press offences in 2015. From now on, journalists will no longer face prison for defamation, but they can still be fined.

107. In order to guarantee freedom of association and assembly and ensure that any limitations on those freedoms are consistent with the provisions of the Covenant, article 21 of the Constitution of 2 June 1991 provides that: "Freedom of association is guaranteed. All persons have the right to form associations and participate freely in the activities of the associations established. Associations must operate in compliance with the laws and regulations in force. The right to organize is guaranteed. Trade unions carry out their activities free from constraints or restrictions other than those prescribed by law." Article 2 of Act No. 10/92/ADP of 15 December 1992 on freedom of association stipulates the same. In order to ensure that this freedom can be effectively enjoyed, Burkina Faso revised the law on freedom of association in 2015 through Act No. 064-2015/CNT on freedom of association of 20 October 2015. Inter alia, this Act extends the deadline for making a declaration to the administrative authorities to 15 days, compared to 8 days under the previous law. The authority that receives the request must issue an acknowledgement of receipt within 30 days.

108. The content of article 135, under which persons who have "supported an unconstitutional change in violation of the rotation of power" are considered ineligible to stand for election, applied only to the 2015 elections. This means that for future elections, all citizens will be able to participate without any restrictions based on that article.

109. With regard to measures taken to investigate and hold accountable the persons responsible for the coup attempt of 15 September 2015, all of the persons involved have either been remanded in custody or are the subject of international arrest warrants. Proceedings are continuing, and a court decision is imminent.

Rights of persons belonging to minority groups (art. 27)

110. The Peulh are not a minority in Burkina Faso. They are the second-largest majority group after the Mossi and made up almost 11 per cent of the population. The Ministry of Justice, Human Rights and the Promotion of Civic Values conducted a study in the light of the recurrent community conflicts, which identified the causes of the various conflicts. These are related to rural land management and the exploitation of land by farmers and pastoralists and the devolution of traditional leadership. In order to prevent and manage such conflicts, on 2 September 2015 the Government adopted a decree on the establishment, responsibilities and operation of the National Observatory for the Prevention and Management of Community Conflicts. The Observatory is tasked with collecting, processing, analysing and disseminating data on community conflicts; periodically evaluating the situation of community conflicts in the different regions of the country;

activating the early warning procedure in the event of community risk, and taking preventive action to pre-empt conflicts; contributing to the resolution of community conflicts; and taking all other measures in the context of prevention and management of community conflicts.

111. Legal action has been taken in respect of all conflicts that have arisen. The perpetrators of human rights violations have been prosecuted and convicted in accordance with the law.

Dissemination of information on the Covenant (art. 2)

112. Many awareness-raising sessions have been held on the Covenant and its first Optional Protocol in the form of workshops to foster ownership of these instruments among legal professionals and the defence and security forces. A compilation of instruments, including the Covenant and the Optional Protocol thereto, has been published and disseminated by the ministry with responsibility for human rights.

113. This initial report has been prepared in a participatory manner with the involvement of representatives of ministerial departments and institutions, civil society, NGOs and the National Human Rights Commission. The report was reviewed in a workshop involving 80 participants, 40 of whom represented civil society. Most civil society organizations participated. The report was then examined by the Inter-ministerial Committee on human rights and international humanitarian law, and was adopted by the Council of Ministers.
