AMNESTY INTERNATIONAL

BURKINA FASO

AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

30TH SESSION OF THE UPR WORKING GROUP, MAY 2018

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 independence of the judiciary,[5] and investigating allegations of torture and other ill-treatment by law and order forces.[6]

However, it rejected 27 recommendations,[7] including on ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights,[8] prohibiting corporal punishment in all settings,[9] and abolishing the death penalty,[10] although the government accepted a recommendation to prohibit the death penalty for minors.[11]

THE NATIONAL HUMAN RIGHTS FRAMEWORK

[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, 135.107 (UK), 135.108 (USA), 135.110 (Ethiopia), 135.111 (Germany).

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

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

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

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

[10] 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).

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

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,[12] and strengthening the independence of the judiciary.[13]

Law to Combat Violence against Women
Burkina Faso accepted eight recommendations to adopt laws to eliminate violence against women.[14] In September 2015, a law was adopted on the prevention, punishment and reparation of violence against women and girls and support for victims.[15] 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.[16]

National Commission for Human Rights
Burkina Faso accepted recommendations to establish a national human rights institution in compliance with the Paris Principles.[17] In March 2016, a new law was approved establishing such a commission and guaranteeing its administrative and financial independence.[18] Its members were appointed in August.

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.[19] 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.[20] In addition, the state will be given the right to recruit personnel to replace workers on strike in essential sectors.[21]

High Court of Justice
A new law governing the High Court of Justice was adopted in July 2017.[22] It allows for appeals and for the participation of civil parties throughout the procedure.[23] Previously victims were unable to file claims for compensation for crimes or offenses pursued before the High Court.[24]

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[12] Article 29 of the draft constitution.

[13] 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.

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

[15] Act No. 061-2015/CNT of 6 September 2015.

[16] Meetings with Procurer du Faso and Minister for Women in June 2017.

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

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

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

[20] Articles 4 and 16 of the draft bill on the right to strike.

[21] 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.

[22] 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.

[23] 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).*

Military tribunals
A new bill governing military tribunals was adopted in July 2017[25] permitting the military prosecutor to initiate public prosecutions. It also allows for a two-step appeals process[26] and enables non-Burkinabe lawyers to be a part of proceedings.[27] Amnesty International is concerned, however, that it allows for civilians to be tried before military courts and that it operates independently of the High Council of Magistrates (*Conseil Supérieur de la Magistrature*).[28]

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.[29] It accepted a recommendation to abolish the death penalty for minors.[30] This was adopted into law in 2014.[31] As of 31 December 2016, 12 people remained on death row.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

Torture and other ill-treatment

During the previous review, Burkina Faso claimed that torture and other ill-treatment does not exist in the country.[32] 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.[33] His hands were handcuffed to his ankles and a wooden bar was put under his knees and he was

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[24] 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) ;*

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

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

[27] 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.

[28] 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).*

[29] 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).

[30] A/HRC/24/4, accepted recommendation: 135.11 (Belgium).

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

[32] A/HRC/24/4 Interactive dialogue and responses by the State under review, paragraph107.

[33] Prison visit in Ouagadougou, November 2014.

suspended in a squatting position between two tables. Another 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.

The use of torture is facilitated by the widespread disregard of initial custody periods,[34] which legally cannot exceed three days.[35] 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.

Conditions of detention

Many prisons in Burkina Faso are overcrowded.[36] 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.[37] 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.

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.[38]

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.[39] 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.[40]

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

[35] 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).*

[36] 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.

[37] 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.

[38] 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.

[39] 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).

[40] Interviews with officials from the Department of Justice, July 2017.

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.[41] This was confirmed by the judicial authorities. 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.[42]

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.[43] The report has yet to be made public.

In June 2017, the trial of former President Blaise Compaoré was suspended following a decision by the Constitutional Council that the absence of an appeals procedure was unconstitutional. [44]

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.[45] The latest available data indicates 371 maternal deaths for every 100,000 births.[46] At least 2,700 women die in childbirth annually in Burkina Faso,[47] with some estimates suggesting that more than a quarter of maternal deaths may be attributed to unsafe abortions. [48] 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.[49] Equipment, medication and staffing are insufficient.[50] Overworked midwives perform up to 25

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

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

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

[44]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).*

[45] 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).

[46] 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.

[47] 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.

[48] 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

[49] Interview with medical practitioner in Ouagadougou, June 2017.

caesarean sections a day, basic medicines are unavailable and the bedding is inadequate leading to women sleeping on the floor.[51] The lack of basic hygiene and equipment place women and new-born babies at risk of infection. A women and her baby died in early 2016 when a delivery table collapsed while she was giving birth.[52]

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.[53] 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.[54] 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.[55] In the same year, there only 48 legal abortions were performed.[56]

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 free of charge and free medicines being sold to private enterprises, forcing patients to purchase these medicines on the private market.[57]

Women, social workers and medical professionals, including midwives, have repeatedly highlighted a number of factors preventing them from accessing contraception,[58] 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.[59] Amnesty International learned of multiple cases of women suffering violence by their husbands when attempting to use or simply discuss contraception.

Early and forced marriage

Burkina Faso accepted seven recommendations to end early and forced marriage.[60] However, rates of early and forced marriage in Burkina Faso remain among the highest in the world.[61] Early and forced marriage has a range of human rights

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[50] 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).

[51] Interview with medical practitioner in Ouagadougou, June 2017.

[52] Interview with medical practitioner in Ouagadougou, June 2017.

[53] 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).

[54] 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.

[55] Ministère de la santé, Direction générale des études et des statistiques sectorielles, Annuaire statistique 2014, p. 132.

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

[57] 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.

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

[59] 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)

[60] 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).

impacts, including early pregnancy and pregnancy complications,[62] to the detriment of young girls and women's health and lives,[63] and their lack of access to education.

In 2014, 2015 and 2016, dozens of women and girls told Amnesty International that they were victims of early and forced marriage,[64] 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.[65]

In November 2015, Burkina Faso finalized a National Strategy to End Child Marriage by 2025.[66] 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.[67]

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,[68] 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.

In June 2017, the National Assembly amended the Code of Criminal Procedure[69] to combat financial, organized crime and terrorism. The amendments permit searches and home visits, under certain circumstances, without the consent of the

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[61] 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/)

[62] 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.

[63] 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).

[64] 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: Reimagine 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.

[65] 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.

[66] 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

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

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

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

persons concerned and at any time.[70] These provisions are contrary to Article 17 of the International Covenant on Civil and Political Rights.[71]

RECOMMENDATIONS 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

[70] 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.

[71] 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

- 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;[72]
- 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 Development Gaol 5, target 5.3;[73]

[72] 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).

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

- 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.