


AFRICAN UNION		UNION AFRICAINE
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Concluding Observations and Recommendations on the Combined Periodic Report of Burkina Faso on the Implementation of the African Charter on Human and Peoples' Rights (2011 - 2013)

I. Introduction

1. Burkina Faso is a State Party to the African Charter on Human and Peoples' Rights (the African Charter), which it ratified on 6 July 1984.
2. Burkina Faso presented its Combined Periodic Report (3rd and 4th), in accordance with Article 62 of the African Charter and Article 26 of the Maputo Protocol, at the 57th Ordinary Session of the African Commission on Human and Peoples' Rights (the Commission) held from 4 to 18 November 2015 in Banjul, The Gambia.
3. The Report was presented by the delegation of Burkina Faso (the delegation), led by Ms Bibata NEBIE/OUEDRAOGO, Director of Cabinet at the Ministry of Justice, Human Rights and Civic Promotion. The delegation was composed of the following:
 - Mr Xavier BAYALA, Technical Adviser at the Ministry of Justice, Human Rights and Civic Promotion;
 - Ms Clarisse TRAORE/ANAGO, Technical Adviser at the Ministry of Agriculture, Water Resources, Sanitation and Food Security;
 - Mr Passida Pascal GOUBA, Director General for Human Rights Protection;
 - Mr Ousseni DOMBA, Director General for Human Rights Promotion;
 - Mr Dramane SANOU, Director for the Implementation of International Agreements at the Ministry of Justice, Human Rights and Civic Promotion;
 - Mr Guéhon Mathias ZIGANI, Head of Studies at the Ministry of Public Service, Employment and Social Security;

- Mr Harouna KADIO, Head of Studies and Legal Affairs at the Ministry of Health;
 - Ms Irène ZEBA, Head of Studies at the Ministry of Youth, Employment and Vocational Training;
 - Mr Nicodème OUEDRAOGO, Legal Expert at the Ministry of National Education and Literacy;
 - Ms Laure Léonne S. YAMEOGO, Human Rights Adviser at the Ministry of Mines and Energy.
4. The Report highlights the progress made in Burkina Faso in the area of human and peoples' rights, and the legislative, administrative and other measures taken to implement the provisions of the African Charter since the country presented its initial Combined Periodic Report (1st and 2nd) at the 49th Ordinary Session held from 28 April to 12 May 2011 in Banjul, The Gambia.
 5. The present Concluding Observations highlight the positive factors, the factors restricting the effective enjoyment of human rights, and the areas of concern regarding respect of the human rights protected under the African Charter and the Maputo Protocol. The report also contains the Commission's recommendations to the Burkinabe Government towards strengthening the enjoyment of human rights by the people of Burkina Faso.
 6. The Commission commends the delegation of Burkina Faso for the frank and constructive dialogue held during the presentation of the Combined Periodic Report and the information provided in response to the concerns expressed by the members of the Commission.

PART I: AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

7. The Commission takes note of the following positive aspects:

I. Positive Aspects

8. The Commission notes many positive aspects regarding Burkina Faso's compliance with its obligations under the African Charter.

Reporting obligation and cooperation with the Commission

9. The Commission:
 - i. Commends Burkina Faso for the political will demonstrated through the regular presentation of its periodic reports;

- ii. Notes with satisfaction the inclusive and participatory approach adopted in the preparation of the report, in particular the setting up of a multi-sector Committee to monitor the preparation of the report, comprising of representatives of ministries, institutions and civil society organisations (CSOs), and involving public and private institutions in the preparation and validation of the report in collaboration with the Inter-ministerial Committee for Human Rights and International Humanitarian Law;
- iii. Particularly welcomes the fact that the report was prepared in accordance with the Robben Island Guidelines and the Tunis Guidelines;
- iv. Welcomes the measures taken to implement the recommendations made by the Commission following the consideration of its initial report, at its 49th Ordinary Session (Banjul, 28 April to 12 May 2011), in particular the measures taken to combat impunity, measures for law enforcement officers to better handle demonstrations, measures taken to combat unemployment and to bring justice closer to the population, as well as measures to strengthen literacy programmes.

Ratification of regional and international human rights instruments and enactment of laws for the implementation of regional and international instruments ratified

10. The Commission commends Burkina Faso for:

a) Ratification of international instruments

- i. The consultations conducted towards the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty.

b) Ratification of regional instruments

- i. The ratification, on 6 July 2012, of the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa.

c) Enactment of laws for the implementation of regional and international instruments ratified

- i. The law on the prevention and punishment of the sale of children, child prostitution and child pornography, enacted on 17 April 2014;
- ii. The law on the protection of delinquent children and children in danger, enacted on 13 May 2014;
- iii. The law on the prevention and punishment of torture and similar practices, enacted on 27 May 2014;
- iv. The law on the prevention and repression of corruption, enacted on 3 March 2015;
- v. The law establishing the Mining Code, enacted on 26 June 2015;

- vi. The recent amendment of the Constitution establishing the non-amendable character of the provision on the limitation of the number of presidential terms, as well as the right of Burkinabe citizens to submit individual complaints to the Constitutional Council about human rights violations;
- vii. The amendment of the Criminal Code to include crimes under international conventions and the review of the scope of offences in order to exclude the death penalty.

Economic, social and cultural rights

11. The Commission commends Burkina Faso for:

- i. The establishment of an early warning system (EWS) to ensure food security, the quality of healthcare in public health centres, as well as access to medicines and certain medical procedures;
- ii. The measures taken to curb unemployment, including the adoption of the National Employment Policy, the Special Employment Creation Programme for the Youth and Women 2012-2014, employment programmes for underprivileged persons and groups, the reclassification of workers, the promotion of employment in the informal sector, and technical and vocational training programmes;
- iii. The efforts made by the Government to increase, in the national budget, the budget of the health sector, from 8.9% in 2010 to 12.7% in 2014.

Justice

12. The Commission commends Burkina Faso for the various measures taken in the justice sector, notably:

- i. The re-opening of symbolic cases such as the Norbert ZONGO case, pursuant to the ruling of the African Court on Human and Peoples' Rights, and the Thomas SANKARA case before the military court;
- ii. The operationalisation of the High Court of Justice before which some members of government have been indicted for economic, financial and violent crimes;
- iii. The establishment of an Independent Commission of Inquiry to clarify the circumstances of the deaths following the popular uprising of 30 and 31 October 2014;
- iv. The establishment of a National Commission of Inquiry following the coup d'état of 16 September 2015;
- v. The efforts made to "educate" citizens by providing them with reliable and reassuring information on the justice system, particularly by improving access to justice through measures aimed at reducing certain legal expenses;

- vi. The existence in the Burkinabe Criminal Code of alternative measures applicable to minors under 18 who are found guilty, to ensure their education, rehabilitation, placement under supervision and rehabilitation assistance, in particular:
 - Handing-over of minors to their families;
 - Placement of minors under the care of a relative or a trustworthy person;
 - Placement of minors in a charitable, religious or private institution;
 - Placement of minors in a specialized public institution.
- vii. The sensitization and training sessions conducted for criminal court personnel in order to give effect to the law on the protection of delinquent children and children in danger, and the increase in the number of juvenile court judges from two in 2011 to seven in 2015.

Civil and political rights

7. The Commission commends Burkina Faso for:

- i. The establishment on 28 January 2015 of the National Observatory for Religious Affairs mandated to oversee religious media contents, monitor the implementation of the regulation on cultural practices, promote tolerance and inter-religious dialogue and strengthen the capacity of religious leaders and media presenters with a religious and secular background;
- ii. The establishment on 2 September 2015 of the National Observatory for the prevention and management of community conflicts in Burkina Faso, with the aim to pool the efforts of the various stakeholders, raise awareness and empower the population towards conflict prevention and the peaceful management of conflict.

Right to freedom of expression and access to information

8. The Commission commends Burkina Faso for:

- i. The enactment of 3 (three) laws, which contain major innovations, on the legal status of the print media, radio and television broadcasting and on-line media;
- ii. The adoption of a status for on-line media, the elimination of custodial sentences for press offences committed by professional journalists which is replaced with monetary penalties;
- iii. The enactment of the law of 30 August 2015 on the right of access to public information and administrative documents, which establishes the principle that all citizens have the right of access to information unless it impedes

the conduct of a legal procedure, endangers the safety of a person or reveals confidential police information;

- iv. The establishment of an oversight body, the National Authority for Access to Public Information (ANAIP), with the mandate to facilitate access to public information by citizens and bring the administration closer to the population.

Death penalty

9. The Commission commends Burkina Faso for the efforts made to protect the right to life, in particular by observing a moratorium on the death penalty since 1988, for military offences, and since 1978 for ordinary offences, and the bill on the abolition of the death penalty prepared by Parliament which provides for the commutation of the death sentence to life imprisonment.

Respect for the rule of law and conditions of detention

10. The Commission commends Burkina Faso for:
 - i. The establishment on 2 September 2015 of the centre for the education and social rehabilitation of delinquent minors with the aim to admit delinquent minors between 13 and 18 years who are being convicted for criminal offences, and to educate, monitor and ensure their social rehabilitation;
 - ii. The increase in the number of detention centres from 23 in 2009 to 24 in 2012, as well as the completion of the construction of the maximum security prison; the standardization of places of detention through the building of various facilities in the Diébougou, Orodara, Manga, Bogandé and Ouahigouya prisons; the construction of quarters for women and minors; the increase in the capacity of detention facilities and in the budget for feeding, health and sanitation; and the organisation of recreational, sports and awareness-raising activities for detainees;
 - iii. The implementation of the National Justice Policy 2010-2019 and the National Human Rights and Civic Promotion Policy 2013-2022 which provide for measures to improve the management of prison facilities, promote and protect the rights of prisoners, promote the social rehabilitation of prisoners and the humanisation of places of detention;
 - iv. The sensitization and training sessions conducted for criminal court personnel in order to give effect to the law on the protection of delinquent children and children in danger, and the increase in the number of juvenile court judges from two in 2011 to seven in 2015;
 - v. The ongoing preparation of a human rights training manual for law enforcement officers, with the aim of harmonising the contents of the human rights programme in police training centres, as well as efforts to provide initial and in-service human rights training to police officers.

Refugees, IDPs and migrant workers

11. The Commission commends Burkina Faso for taking measures to assist refugees, in particular regarding the repatriation and voluntary return of refugees.

Older persons and persons with disabilities

12. The Commission commends Burkina Faso for:
 - i. The enactment on 21 April 2010 of the law to promote and protect the rights of persons with disabilities in order to promote and ensure the full and equal enjoyment by the disabled of all human rights and fundamental freedoms and guarantee respect for their inherent dignity;
 - ii. The introduction of a disability card that provides certain benefits, including free healthcare and tuition for persons with disabilities;
 - iii. The enactment of the law to promote and protect the rights of persons with disabilities and its implementing decree adopting social measures in favour of people with disabilities in the areas of vocational training, employment and transport, which provides in Article 10 that a “quota of 10% in the public service and in government institutions” shall be reserved for people with disabilities according to their qualifications and in accordance with the texts governing the various professions;
 - iv. The preparation of a bill in August 2015 on the protection and promotion of the rights of older persons;
 - v. The government subsidies granted to organisations and institutions working for older persons as part of social measures taken by the Government in 2014 to address the specific needs of older persons and contribute to the management of public resources;
 - vi. The establishment of the National Council on Older Persons (CNPA) to provide older persons with a consultation platform for the promotion and implementation of a coherent policy for older persons.

Prohibition of torture and cruel, inhuman and degrading treatment

13. The Commission takes note of the establishment of the National Observatory for the prevention of torture and other similar practices, through Law No. 022-2014/AN of 27 May 2014 on the prevention and punishment of torture and similar practices.

Extractive industries and environment

14. The Commission notes with appreciation the following:
 - i. The enactment of Law No. 036/CNT of 26 June 2015 on the Mining Code, establishing the right of local communities directly affected by mining activities, through the mining local development fund, to participate in

decision-making regarding the distribution of revenue from extractive industries;

- ii. The provisions of the Environment Code and the Mining Code which obligate mining operators to conduct, prior to the start of any activity, an environmental and social impact study and to develop an environmental and social management plan. Operators are also obliged to set up a fund for rehabilitation and mining site closure lodged in a bank account.

HIV/AIDS

15. The Commission appreciates the efforts made by the Government to manage people living with HIV/AIDS by providing free healthcare, since January 2010, in 99 private and public health facilities.

II. FACTORS RESTRICTING THE ENJOYMENT OF RIGHTS GUARANTEED IN THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

16. The lack of awareness, by the majority of the population, of the national, as well as regional and international legal instruments on the promotion and protection of human rights ratified by Burkina Faso, restricts the effective exercise and enjoyment of human rights in the country.
17. The sociological and cultural factors, persistence of customary practices and deep-rooted prejudice, particularly against women, which continue to restrict the full enjoyment of women's rights.
18. The limited financial resources for the effective implementation of government programmes for the realization of some rights.

III. AREAS OF CONCERN

19. In spite of the Government's efforts to promote and protect human rights, the Commission is still concerned about:

Reporting obligation and cooperation with the Commission

20. The Commission appreciates the responses of Burkina Faso relating to its initial Combined Periodic Report (1st and 2nd) of 2011. However, the Commission notes that the recent report does not provide precise and detailed responses to some of the concerns that were raised by the Commission.
21. The report does not provide concrete information on the harmonisation of national laws with the principles of the African Charter on Human and Peoples' Rights and other regional and international instruments ratified by Burkina Faso.

Ratification of regional/international human rights instruments

22. The Commission is concerned about the delay in ratifying the Second Additional Protocol to the International Covenant on Civil and Political Rights, concerning the abolition of the death penalty, and in abolishing the death penalty in the laws in force, in particular the Criminal Code.

Respect for the rule of law and conditions of detention

23. The Commission is concerned about:

- i. The lack of a special police oversight mechanism accessible to the civilian population;
- ii. The lack of detailed information on conditions of detention.

Economic, social and cultural rights

24. The Commission is concerned about:

- i. The major challenge of the right to access to water for the socio-economic development of the country;
- ii. The fact that human rights education is yet to be accessible to all the relevant stakeholders;
- iii. The need for a reform of the education system in order to make it more effective;
- iv. The fact that the specific needs of older persons are not taken into account;
- v. The lack of information on measures taken to alleviate poverty.

Civil and political rights

25. The Commission is concerned about the lack of information on youth involvement in the management of the affairs of the country, in particular youth movements that participated in the popular movement of September 2015.

Right to freedom of association

26. The Commission is concerned about the lack of information on the legal framework governing the activities of civil society and laws to protect human rights defenders, in particular women human rights defenders.

IV. RECOMMENDATIONS OF THE COMMISSION ON THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

27. In the light of the foregoing, the Commission recommends to the Government of Burkina Faso the following:

Reporting obligation

28. Burkina Faso should continue to comply with its obligations under Article 62 of the African Charter, including by implementing the Commission's recommendations.

Ratification of regional/international human rights instruments

29. Burkina Faso should:

- i. Take the necessary measures to expedite the ratification of the Second Additional Protocol to the International Covenant on Civil and Political Rights, concerning the abolition of the death penalty, and to abolish the death penalty in the laws in force, in particular the Criminal Code;
- ii. Harmonise the provisions of national laws with the provisions of the African Charter and other regional and international human rights instruments ratified by the country.

Respect for the rule of law and conditions of detention

30. Burkina Faso should:

- i. Make use of the Guidelines on Conditions of Arrest, Police Custody and Pre-Trial Detention in Africa and provide training to police officers, as well as prepare or amend laws and policies on arrest, police custody and pre-trial detention;
- ii. Establish an independent police oversight body to which civilians can be free to report cases of human rights violations committed by police officers;
- iii. Increase the number of hours devoted to human rights education in institutions for law enforcement officers (judge, national police force, gendarmerie and prison services) and introduce human rights lessons at all levels of education;
- iv. Provide more information on the conditions of detention in its next periodic report.

Economic, social and cultural rights

31. Burkina Faso should:

- i. Take appropriate measures to reduce the imbalance in access to water between the urban and rural areas, and facilitate the access of all Burkinabe citizens to healthy drinking water by allocating substantial funds to the water sector;

- ii. Make human rights education accessible to all the relevant stakeholders;
- iii. Reform the education system in order to make it more effective;
- iv. Provide information on measures taken to alleviate poverty;
- v. Set up a system similar to that of the “disability card” (for people with disabilities) to fight against poverty among the elderly;
- vi. Continue efforts in the health sector towards attaining the rate recommended in the Abuja Declaration.

Civil and political rights

32. The Government should systematically involve the youth in the management of the affairs of the country, in particular youth movements that participated in the popular movement of September 2015.

Right to freedom of association

33. The Government should introduce legislative measures to protect human rights defenders and ensure the smooth and effective conduct of their activities.

General

34. Burkina Faso should provide in its next periodic report detailed information on the effective implementation of the recommendations made in the present Concluding Observations.

PART II: MAPUTO PROTOCOL

35. Regarding the implementation of the Maputo Protocol, the Commission notes the following positive aspects:

I- POSITIVE ASPECTS

36. The Commission notes that there are many positive aspects regarding Burkina Faso's compliance with its obligations under the Maputo Protocol.

Reporting obligation and cooperation with the Commission

37. The Commission welcomes the fact that the report was presented in two parts, including a section on the implementation of the Maputo Protocol.

Legal framework for the promotion of women's rights in Burkina Faso

38. The Commission commends Burkina Faso for the following:

- i. The enactment of Law No. 034-2012/AN of 2 July 2012 on Agrarian and Land Reform, under which sustainable land use planning and development, management of forestry and other natural resources, as well as the regulation of real estate rights are governed, among others, by the principles of gender, respect for human rights and equity;
- ii. Law No. 033-2012/AN of 11 June 2012 to amend the Constitution, which takes into account the promotion of gender;
- iii. Law No. 0034-2009/AN of 24 July 2009 on Rural Land Tenure, under which men and women have equal rights of access to and possession of land;
- iv. Law No. 010-2009/AN of 16 April 2009 establishing quotas for legislative and municipal elections;
- v. Law No. 029-2008/AN of 15 May 2008 on the fight against trafficking in persons and similar practices, which provides for severe sanctions in the event where the victim is a vulnerable person (pregnant woman, child) or where it results in mutilation or permanent disability;
- vi. Law No. 028-2008/AN of 13 May 2008 on the Labour Code, under which men and women have equal opportunities in the area of access to employment. Special protection is also given to pregnant women who enjoy the rest that is necessary for their well-being;
- vii. Law No. 055-2004/AN of 21 December 2004 on the General Code of Local Authorities, under which men and women have equal rights of

- participation to public activities and the management of community affairs;
- viii. Law No. 013-98/AN of 28 April 1998 as amended by Law No.019-2005/AN of 18 May 2005 on the legal status applicable to employment and civil servants, which guarantees access to public employment for all persons without any discrimination based on gender;
 - ix. The Persons and Family Code of 1989, which aims to improve the legal status and social protection of women and children, and establishes the legal bases for social justice within the family.

Government institutions dealing with issues related to the Protocol

39. The Commission takes note of the establishment of the following institutions:

- i. The Ministry of Women's Affairs and Gender, established on 10 June 1997 by Decree No. 97-270/PRES/PM. Its main mission consists of ensuring the implementation and monitoring of government policies in the area of the socio-economic development of women. In 2012, the gender aspect was included and its name changed to the Ministry of Women's Affairs and Gender (MPFG). The MPFG has thirteen (13) regional offices responsible for the implementation and monitoring of the missions assigned to the Ministry within their territorial jurisdictions. There are also Women's Centres in all the provinces of Burkina Faso, established to assist in promoting the development of Burkinabe women through provision of support for setting up projects, implementing economic activities, etc. Facilitators from the MPFG are in charge of the supervision of women;
- ii. The Ministry of Justice, Human Rights and Civic Promotion, which is responsible for the implementation of the government's human rights policies and civic development. Through its agency responsible for protection against human rights abuses, the Ministry ensures the promotion and protection of the rights of certain categories of persons, including the rights of women;
- iii. The institutional and ministerial units for the promotion of gender, which are under the Ministry of Women's Affairs and Gender (MPGF) and exist in all government ministries and institutions across the country. They are responsible for ensuring the integration of the gender dimension into the plans and programmes of their respective institutions or ministries, with the technical support of the Permanent Secretariat of the National Gender Promotion Council (SP/CONAP-Genre);
- iv. The Regional and Communal Gender Promotion Councils, which promote gender at the community level, with the mandate to:
 - Implement the national gender policy at the level of the regions;
 - Integrate gender into local development plans;
 - Systematically integrate gender into all planning documents;

- Effectively address all issues of gender inequality in their respective regions;
 - Hold annual sessions;
 - Participate in the sessions of CONAP-Genre.
- v. The Information, Training and Research Action Centre for Women (CIFRAFG), which is under the Ministry of Women's Affairs and Gender and is responsible for the development and implementation of a policy of constant exchanges in analysing and producing relevant and reliable information. Its main mandate is to:
- Ensure the training of women and any other target public by incorporating the gender dimension;
 - Carry out research/activities in order to improve the socio-economic situation of women;
 - Provide decision-makers with comprehensive studies on all issues relating to women.
- vi. The National Gender Promotion Council (CONAP Genre), which is a national institution for decision-making and guidance on gender issues, and brings together representatives of the government, national institutions and development partners (civil society, religious and customary communities, private sector, local stakeholders and technical and financial partners).
- vii. The National Women's Forum, which is a forum for biennial consultation instituted in 2008 to enable women to exchange directly with the President of Faso on their development concerns and to make recommendations to the Government towards the improvement of the living conditions of women.
- viii. The establishment of collaboration with other ministries and partnership with institutions and civil society organisations, which has led to:
- The registration of associations under the Ministry of Women's Affairs and Gender;
 - The inclusion of representatives of associations in working committees and in institutions;
 - The exchange of information through brainstorming sessions, seminars and round-table discussions;
 - Joint missions.
- ix. The existence of bilateral and multilateral cooperation relations (embassies, international organisations). They are generally occasional and include:
- Financial support for local government projects;
 - Participation in common networks and consultation forums;
 - Exchange of information;
 - Meetings and participation in seminars and workshops.

- x. The establishment of a National Gender Fund (FNG), which is aimed at financing gender-related activities within the framework of the implementation of the National Gender Policy. The FNG is managed by a Management Board comprising 11 members from ministries, institutions, CSOs and technical and financial partners.
- xi. The inclusion of 5 million CFAF in the budget of every ministry to ensure the functioning of gender units.

Policies and capacity building

40. The Commission commends Burkina Faso for:

- i. The implementation of the Accelerated Growth and Sustainable Development Strategy (SCADD) of 2010, which is a reference framework for all types of development interventions, including the promotion of gender at all levels.
- ii. The adoption of the National Gender Policy (PNG) of 8 July 2009, which is the Government's response to commitments made at the regional and international levels, to promote and institutionalise gender by including gender at all levels of policy planning, budgeting and implementation systems.
- iii. The adoption of a National Human Rights and Civic Promotion Policy (PNDHPC 2013-2022) and its first Plan of Action (2013-2015) which takes into account the promotion and protection of the rights of certain categories of persons, including the rights of women.
- iv. The implementation of a National Micro-Finance Strategy and its Plan of Action 2012-2016 adopted by the Government in order to promote access by a large part of the population, in particular women, to diversified and adapted financial products and services provided by Decentralised Sustainable and Supervised Financial Systems (SFD) operating within a favourable legal, regulatory and fiscal environment.

Right to participate in the political and decision-making process

41. The Commission commends Burkina Faso for:

- i. The establishment, under Article 12 of the Constitution of 1991, of the equal rights of all Burkinabe citizens without any distinction whatsoever to participate in the management of the affairs of the State and the society and the right to vote and to be elected under conditions laid down by law.
- ii. The Government has taken several positive measures for the promotion of women and girls following the enactment of Law No. 10-2009 of 16 April 2009 establishing quotas for legislative and municipal elections in Burkina Faso, including:

- The preparation of Note No. 2012-0027/MATDS/SG/DGLPAP on the implementation of Law No. 10-2009/AN of 16 April 2009 establishing quotas for legislative and municipal elections in Burkina Faso;
- The conduct of advocacy for political leaders towards increasing the number of women on electoral lists in 2012;
- The organisation of a workshop to popularise the law on quotas in the 13 (thirteen) regions for administrative, customary and religious authorities, as well as political leaders in 2012;
- The organisation of a training workshop on women's leadership for female candidates in the 45 (forty-five) provinces of Burkina Faso in 2012;
- The conduct of a study on the monitoring of the law on quotas in the 2012 elections.

Elimination of discrimination against women

42. The Commission commends Burkina Faso for:

- i. Prohibiting all forms of discrimination, including gender-based discrimination, in its Constitution (Article 1), Labour Code (Section 48) and Penal Code which, under Section 132, provides for an imprisonment of 1 to 5 years for all acts of gender discrimination.
- ii. Organising several awareness-raising campaigns aimed at popularising the provisions of national and international instruments for the promotion of women. In this regard, in 2011 the MPFG disseminated 2,000 copies of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

Right to dignity

43. The Commission notes with satisfaction the following:

- i. The measures taken by the Government, as part of efforts to combat violence against women, to rehabilitate women's dignity, through the activities of the ministries of women's affairs, social protection and national solidarity, and justice and human rights which have units for the reception, guidance and counselling of victims of human rights violation, including women.
- ii. The existence, at the Ministry of Territorial Administration and Security, of a unit for the reception, guidance and handling of cases of women or children who are victims of human rights violation.
- iii. The establishment, at the Ministry of Women's Affairs and Gender, of a unit in charge of cases of women victims of gender-based violence.
- iv. The prohibition and punishment of sexual harassment in the workplace (Section 37 of the Labour Code), prostitution by soliciting and procuring (Sections 423 et seq. of the Penal Code).

Right to life, integrity and security

44. The Commission commends Burkina Faso for prohibiting all forms of exploitation and inhuman and degrading treatment and punishment in its Constitution, Penal Code and the law to combat the practice of excision.

Elimination of harmful practices

45. The Commission commends Burkina Faso for the following:

- i. The punishment, under Sections 376 to 383 of the Penal Code, of marital offences, female genital mutilation and unsafe abortion.
- ii. The Government's commitment in its fight against harmful practices such as female genital mutilation, forced marriage and levirate marriage, which includes the following measures:
 - The training of 500 paralegals in 2012, comprising members of civil society organisations working in the area of the promotion and protection of women's rights, on the protection of women and men victims of domestic violence;
 - The training of 60 employees of the Ministry of Women's Affairs and Gender on women's rights, and the management of victims of violence;
 - The training of 30 employees in 2010 on listening skills and communication techniques for the provision of improved services to victims of violence;
 - The transformation of the National Excision Control Committee into a Council, in order to give new impetus to combating excision. The Government has also conducted awareness-raising campaigns against this phenomenon, involving traditional chiefs and religious leaders across the country;
 - The penalty of six months to three years imprisonment and a fine of 150,000 to 900,000 CFAF for female genital mutilation (Section 380 of the Penal Code);
 - A national excision control committee has been established;
 - The prohibition and punishment of violence against women and girls in the Penal Code, in particular Section 417 which provides for 5 to 10 years imprisonment for rape;
 - The Penal Code also provides punishment for violence, assault and battery and indecent assault against a person of either sex.
 - The official launch on 13 September 2011 of a telephone hotline, 80 00 11 52, to facilitate the reporting of cases of violence against children.

Economic rights and social protection

46. The Commission notes with satisfaction the following progress made:

- i. The measures taken to promote women's access to credit through the establishment of micro-credit institutions such as the Women's Income-Generating Activities Assistance Fund (FAARF) and the Assistance Fund for Income-Generating Activities for Women Farmers (FAAGRA), and the establishment of the Special Assistance Fund for Women Entrepreneurship which has a budget of 5 billion CFAF;
- ii. The provision of social protection for occupational risks, healthcare, family benefits and old-age insurance under conditions provided for by law, etc., and equal pay for all workers irrespective of their origin, sex, age or status (Section 182 of the Labour Code);
- iii. The National Health Policy of 2000, implemented through the National Health Development Plan (PNDS) 2001–2010, which was amended in 2011 with the aim to improve the welfare and health of the population by 2020. The implementation of the Plan produced results which tend to the improvement of health coverage, quality and use of services, provision of health services in the area of assistance to childbirth, management of emergency obstetrical care, fight against epidemics, and immunisation with the introduction of new vaccines, including care for endemo-epidemic diseases. The PNDS pays special attention to the health of vulnerable groups (women, children, older persons ...) affected by transmissible and non-transmissible diseases and characterised by high morbidity and mortality.

Right to health and control of reproduction functions

47. The Commission notes the progress made in this area, including:

- i. The setting up of free subvention mechanisms through health training for vulnerable groups such as orphans and vulnerable children (OVC), pregnant women and people living with HIV/AIDS (PLWHIV);
- ii. The existence of other types of community-based social security such as insurance schemes;
- iii. The conduct of a brainstorming exercise on the establishment of a national health insurance scheme for all, through the "Universal Health Insurance" sub-project.

Right to adequate housing

48. The Commission commends Burkina Faso for promoting a non-discrimination policy in the area of housing, ensuring that men and women have equal rights of access to housing.

Right to a favourable cultural environment

49. The Commission notes that in Burkina Faso men and women have equal rights to participate in recreational activities, sports and all aspects of cultural life, including:
- Benefiting from scientific progress and its applications;
 - Participating in the protection of intellectual property for scientific, literary and artistic productions of which they are the authors.

Widows' right to inheritance

50. The Commission notes the following:

- i. The guarantee of the widow's right to inherit the husband's properties in accordance with Section 741 of the Persons and Family Code (CPF), under which the surviving spouse who does not have a judgement for divorce having the force of res judicata enjoys the right to inherit even when there are relatives.

Right to peace

51. The Commission takes note of the development and validation in December 2012 of an action plan for the implementation of UN Security Council Resolution 1325 of 2000 (women, peace and security) and Resolution 1820 of 2008 (sexual violence against civilians - weapon of war), and the training on women's contribution to conflict resolution organised by ECOWAS and attended by 2 (two) Burkinabe women.

Protection of women in armed conflict

52. The Commission welcomes the following:

- i. The conduct, by the Ministry of Women's Affairs and Gender, of assessment missions to Malian refugee sites to collect, among others, information on the specific needs of women and girls.
- ii. The implementation of a Government response plan, in collaboration with the Ministry of Women's Affairs and Gender, through the following activities:
 - Training on: the reproductive rights of women, gender-based violence in crisis situations, early and forced marriage, as well as modules on the protection of the civilian population in times of war, especially women and children;
 - Donation of materials and hygiene kits;
 - Granting of micro-credits.

Right to redress

53. The Commission notes with satisfaction that women have equal rights of access to the courts, and that there are many public and private institutions which assist in providing protection and guidance to victims of violence, including:
- The Ministry of Social Welfare and National Solidarity;
 - The Ministry of Women's Affairs and Gender;
 - The Ministry of Justice, Human Rights and Civic Promotion;
 - The courts, police stations and gendarmerie brigades;
 - Civil society organisations (especially the Burkinabe Movement for Human and Peoples' Rights, Promo-Women, Association of Widows and Orphans, Women's Voices, Association of Burkinabe Women Lawyers, WILDAF, PUGSADA Association).

II. FACTORS RESTRICTING THE ENJOYMENT OF THE RIGHTS GUARANTEED IN THE MAPUTO PROTOCOL

54. The full enjoyment of the rights guaranteed in the Maputo Protocol is restricted by several factors, including the lack of awareness about the laws enacted for the implementation of the Protocol.
55. There are challenges in implementing some laws, in particular as a result of the international economic and political situation, as well as the challenging national environment which includes sociological and cultural factors, the persistence of customary practices and deep-rooted prejudices, especially against women, which continue to restrict women's full realisation of their rights in accordance with the principles guaranteed in the Maputo Protocol.
56. Moreover, the limited financial resources allocated for the effective implementation of government policies also restrict the realisation of women's rights.

IV. AREAS OF CONCERN

57. In spite of the Government's efforts to promote and protect the rights of women, the Commission is concerned about the following:

Reporting obligation and cooperation with the Commission

58. The Commission appreciates the responses provided by Burkina Faso to the various questions on the implementation of the Maputo Protocol. However, the Commission notes that the report does not provide precise and detailed responses to some of the concerns raised.

Respect for the rule of law and conditions of detention

59. The Commission is concerned about the lack of detailed information on the conditions of detention of women, in particular women with children.

Administration of justice

60. The Commission is concerned about maintenance of severe penalisation provided for women in the Penal Code with regard to abortion or attempted abortion.

Reproductive health

61. The Commission is concerned about the lack of information in the report on the implementation of Law No. 049-2005 AN of 21 December 2005 on reproductive health, in particular concerning the protection of women's reproductive health through access to adequate and affordable health services.

Elimination of harmful practices

62. The Commission is concerned about:

- i. the persistence of the practice of clandestine excision which increasingly affects girls of an early age, despite the existence of a law prohibiting Female Genital Mutilation;
- ii. The continuation of early marriages.

Right to redress

63. The Commission is concerned about:

- i. the difficulty to provide evidence of violence suffered by women and girls, without which evidence there cannot be any prosecution;
- ii. lack of psychological support for victims;
- iii. the absence of a law and a fund for the effective implementation of the right to redress for the victims.

V - RECOMMENDATIONS

64. In view of the foregoing, the Commission makes the following recommendations to the Government of Burkina Faso:

Reporting obligation

65. The Government should continue to comply with its obligations under Article 26 of the Maputo Protocol, including by implementing the Commission's recommendations.

Reproductive health

66. The Government should ensure the protection of women's reproductive health and ensure women's access to adequate and affordable health services.

Respect for the rule of law and conditions of detention

67. The Government should provide, in its next periodic report, detailed information on the measures taken to provide conditions of detention which take into account the specific needs of women, in particular pregnant women and women with children.

Administration of justice

68. The Government should envisage decriminalising abortion and attempted abortion.

Elimination of harmful practices

69. The Government should increase efforts aimed at combating the practice of clandestine MGF, in particular by instituting harsh penalties for all persons involved, including parents and family members.

Right to redress

70. The Government should establish:

- i. units for victims of sexual violence in police stations and hospitals; units that are capable of collecting evidence of assault towards the effective prosecution and sentencing of perpetrators of violence;
- ii. a compensation fund for victims;
- iii. a psychological support service
- iv. Include a budget line for the operationalization of the right to redress for victims.

General

71. Burkina Faso should provide in its next periodic report detailed information on the effective implementation of the recommendations made in the present Concluding Observations.

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