



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Concluding observations on the twelfth to nineteenth periodic reports of Burkina Faso, adopted by the Committee at its eighty-third session (12–30 August 2013)

1. The Committee on the Elimination of Racial Discrimination considered the twelfth to nineteenth periodic reports of Burkina Faso, submitted in a single document (CERD/C/BFA/12-19), at its 2245th and 2246th meetings (CERD/C/SR.2245 and 2246), held on 19 and 20 August 2013. At its 2259th meeting (CERD/C/SR.2259), held on 28 August 2013, the Committee adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission, in a single document, of the twelfth to nineteenth periodic reports of the State party, and the opportunity this provided for a renewed dialogue with the State party. It regrets, however, that the State party submitted its reports very late and encourages it to meet the deadlines for submitting its future reports.

3. The Committee was satisfied with the frank and constructive dialogue it held with the high-level multisectoral delegation sent by the State party. The Committee takes note with satisfaction of the oral presentation and detailed replies given by the delegation during the consideration of the report.

B. Positive aspects

4. The Committee notes with interest the legislative and institutional progress made by the State party since its last periodic report, which should contribute to combating racial discrimination, particularly:

(a) The adoption of Act No. 042-2008/AN of 23 October 2008, the Refugees Act;

(b) The adoption of Act No. 029-2008/AN of 15 May 2008 on combating human trafficking and related practices;

(c) The adoption of Act No. 062-2009/AN of 21 December 2009 establishing the National Human Rights Commission;

(d) The adoption of Act No. 028-2008/AN of 13 May 2008, the Labour Code, which prohibits all forms of racial discrimination in the areas of employment and occupation;

(e) The establishment in 2012 of the Ministry for Human Rights and the Promotion of Civic Responsibility;

(f) The establishment in 2011 of the National Council of Civil Society Organizations;

(g) The adoption of the National Policy on Human Rights and the Promotion of Civic Responsibility 2013–2022.

5. The Committee notes with interest that since it last considered a periodic report from the State party, the latter has ratified the following international instruments:

(a) The International Covenant on Economic, Social and Cultural Rights;

(b) The International Covenant on Civil and Political Rights;

(c) The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

(d) The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;

(e) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography;

(f) The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families;

(g) The Convention on the Rights of Persons with Disabilities;

(h) The International Convention for the Protection of All Persons from Enforced Disappearance;

(i) The Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

C. Concerns and recommendations

Definition of racial discrimination

6. The Committee notes that the State party's Criminal Code and Labour Code contain some elements of the definition of racial discrimination. Nevertheless, the Committee is concerned about the fact that the State party's legislation has no specific definition of racial discrimination that is fully in line with article 1 of the Convention (art. 1).

The Committee recommends that the State party include in its legislation a definition of racial discrimination that is in line with article 1 of the Convention.

Definition of racial discrimination as an offence

7. The Committee is concerned that, although some provisions of the State party's legislation define certain acts related to racial discrimination as criminal offences (for example, article 132 of the Criminal Code, article 47 of Act No. 10/92/ADP on freedom of association, and article 112, paragraph 2, of the Information Code), these provisions do not cover all the elements set out in article 4 of the Convention and therefore do not comply with the latter (art. 4).

The Committee recalls its general recommendations Nos. 1 (1972) on States parties' obligations, 7 (1985) on the application of article 4 of the Convention and 15 (1993) on article 4 of the Convention, which state that the provisions of article 4 are of a mandatory and preventive nature, and recommends that the State party amend its

current legislation, and the Criminal Code in particular, to include provisions that give full effect to all the elements set out in article 4 of the Convention.

Discrimination based on descent

8. While taking note of the information provided by the State party, the Committee is concerned at the survival of the caste system in certain ethnic groups, which leads to discrimination against certain categories of people and impedes their full enjoyment of the rights enshrined in the Convention (arts. 3 and 5).

The Committee, recalling its general recommendation No. 29 (2002) on discrimination based on descent, recommends that the State party:

(a) **Take specific measures to combat and eradicate all caste practices, including through the effective implementation of the current legislation on racial discrimination;**

(b) **Consider adopting special legislation on discrimination based on descent;**

(c) **Strengthen and continue with public awareness and education campaigns, particularly among the ethnic and other groups concerned and among traditional and religious leaders, on the harmful effects of the caste system and the situation of victims;**

(d) **Include this issue in the appropriate programmes, policies and strategies adopted by the State party;**

(e) **Provide the Committee with detailed additional information on the impact of the measures taken to abolish this system.**

Customary practices that are harmful to women

9. The Committee takes note of the measures taken by the State party, including those set out in the Criminal Code and the Personal and Family Code, to combat harmful customary practices. Nevertheless, the Committee is concerned that harmful customary practices, such as forced marriages, female genital mutilation, levirate and sororate, persist in certain ethnic groups and impede women's full enjoyment of the rights enshrined in the Convention. The Committee is also concerned about the social exclusion of women accused of witchcraft (arts. 2 and 5).

The Committee, recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination, recommends that the State party take urgent measures to put a stop to harmful customary practices that impede women's full enjoyment of their rights in certain ethnic groups. It also recommends that the State party intensify its campaigns to raise awareness among the general public, and among traditional and religious leaders in particular, and that it make women aware of their rights by disseminating the relevant legislation. Lastly, the Committee recommends that the State party expedite the inclusion in the Criminal Code of a provision to protect women accused of witchcraft. It further recommends that the State party give this issue priority in its national policy on human rights and the promotion of civic responsibility, its national strategy for girls' education for 2012–2021 and its national gender policy for 2009–2017.

Refugees and asylum seekers

10. The Committee takes note of the major effort made by the State party to take in a very large number of Malian refugees in its territory and its initiatives to promote tolerance between refugees and local communities. However, the Committee is concerned at reports

that most child refugees have no birth certificate, even though the State party's legislation provides for a late registration procedure that allows every child whose birth is not declared within 60 days to be registered and receive a birth certificate. The Committee notes with concern that, despite the adoption of the Refugees Act in 2008 and its implementing decrees in 2011, the appeal body provided for therein has not yet been set up, thereby impeding the full implementation of the Act. Lastly, the Committee is concerned at reports that refugees encounter obstacles in their efforts to access the labour market, as potential employers are not familiar with the identity cards issued to refugees (art. 5).

The Committee, recalling its general recommendations Nos. 22 (1996) on article 5 and refugees and displaced persons and 30 (2004) on discrimination against non-citizens, recommends that the State party take measures to ensure that child refugees are registered free of charge and issued with birth certificates. To this end, the Committee recommends that the State party improve refugees' access to registry offices and continue to conduct awareness campaigns for parents in camps, to inform them of their right to register their children. It also recommends that the State party ensure, as a matter of urgency, that the appeal body established under the Refugees Act becomes operational so that pending asylum applications can be considered. Lastly, the Committee recommends that the State party facilitate refugees' access to the labour market with the implementation of the 2008 Refugees Act and raise employers' awareness of this issue.

Garibou children

11. The Committee notes with interest the attention paid by the State party to the problem of the exploitation of *garibou* children, who come from neighbouring countries or are from certain ethnic groups, and the measures taken for their protection and education. However, the Committee is concerned about the fact that this phenomenon persists despite the ban on all forms of begging set out in articles 242 to 245 of the Criminal Code. It is worried that such children may be at risk of being trafficked, exploited or abused in some way (art. 5).

The Committee recommends that the State party take new measures or strengthen existing ones to protect *garibou* children from neighbouring countries or from certain ethnic groups from exploitation, abuse and trafficking. To this end, it recommends that the State party strictly enforce the legislation relating to begging and Act No. 029-2008/AN of 15 May 2008 on combating human trafficking and related practices and that it prosecute and punish the marabouts responsible. It also recommends that the State party step up its efforts to raise awareness among parents and the people in charge of Koranic schools.

Enjoyment of economic, social and cultural rights by different ethnic groups

12. The Committee takes note of the information supplied by the State party on the enjoyment of economic, social and cultural rights by the people living in its territory. However, the Committee is concerned that certain groups, including nomads, migrants and people living in rural areas, may not be sufficiently taken into account in the development programmes and policies drawn up by the State party (art. 5).

The Committee recommends that the State party take the necessary measures to avoid the marginalization of certain ethnic groups or certain regions and to ensure that they are included when implementing its development programmes and policies, particularly those related to basic public services.

Legal action over racial discrimination

13. The Committee is concerned about the fact that the State party's report gives no information on complaints or court judgements related to racial discrimination. It is also concerned about the lack of information from the National Human Rights Commission and the Ombudsman on cases of racial discrimination in Burkina Faso. Moreover, the Committee regrets that neither the Ministry for Human Rights and the Promotion of Civic Responsibility nor its outreach and counselling centres have received any complaints about cases of racial discrimination (art. 6).

The Committee, referring to its general recommendation No. 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, reminds the State party that the absence of complaints or legal action by victims of racial discrimination may reveal a lack of relevant legislation, insufficient awareness of existing legal remedies, a reluctance on the part of the authorities to prosecute those who commit such acts, a lack of confidence in the criminal justice system or victims' fear of reprisals. The Committee requests the State party to ensure that its legislation contains appropriate provisions and that the general public, including people living in refugee camps, nomadic or semi-nomadic groups and people living in rural areas, know their rights and are aware of all the legal remedies available to them in cases of racial discrimination.

National human rights institution

14. The Committee notes that the members of the National Human Rights Commission were named on 27 March 2013. However, it is concerned that the Commission still does not have resources of its own sufficient to ensure its operation (art. 2).

The Committee recommends that the State party finalize the measures designed to give the National Human Rights Commission resources of its own sufficient for its operation, in accordance with the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights (the Paris Principles). It also recommends that the State party work to ensure that the National Human Rights Commission is reaccredited with the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights.

Conflicts between herders and farmers

15. The Committee takes note of the explanations provided by the State party on the conflicts between herders and farmers, as well as the initiatives taken to resolve these conflicts. However, the Committee is concerned by the communitarian and sometimes ethnic dimension of these conflicts, especially those involving the Fulani people, and by the human rights violations they entail (arts. 2, 5 and 7).

The Committee recommends that the State party implement and build on the initiatives it has taken to resolve and put an end to the conflicts between herders and farmers and to prevent them from turning into ethnic conflicts, including through the preventive and mediation activities of the Ministry for Human Rights and the Promotion of Civic Responsibility, the conflict prevention and resolution mechanism and the system for monitoring conflicts between herders and farmers and that the State party continue its efforts to raise awareness among the communities or ethnic groups concerned. The Committee also recommends that the State party investigate the human rights violations committed in the course of these conflicts and that it prosecute and punish the perpetrators and compensate the victims.

Training and awareness-raising in the area of human rights and the Convention

16. The Committee takes note of the human rights training and awareness-raising activities organized by the State party. The Committee regrets that the State party has not provided information on human rights education, in particular regarding training on the Convention, in schools and in academic programmes (art. 7).

The Committee recommends that the State party take measures to ensure that human rights education is offered in schools and in academic programmes. It also urges the State party to pay particular attention to the training of teachers, civil registry staff and law enforcement officers.

D. Other recommendations**Follow-up to the Durban Declaration and Programme of Action**

17. In light of its general recommendation No. 33 (2009) on follow-up to the Durban Review Conference held in Geneva in April 2009, the Committee recommends that, when incorporating the provisions of the Convention into its domestic legislation, the State party take into consideration the Durban Declaration and Programme of Action (A/CONF.189/12 and Corr.1, chap. I), adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, as well as the outcome document of the Durban Review Conference (A/CONF.211/8, chap. I). The Committee requests that the State party include in its next periodic report specific information on action plans and other measures adopted to implement the Durban Declaration and Programme of Action at the national level.

Dialogue with civil society

18. The Committee recommends that the State party continue consulting and expanding its dialogue with civil society organizations working in the area of human rights protection, in particular those combating racial discrimination, when preparing its next periodic report.

Competence of the Committee to consider individual complaints

19. The Committee encourages the State party to make the optional declaration provided for in article 14 of the Convention.

Common core document

20. The Committee encourages the State party to regularly update its core document, last submitted in 2012 (HRI/CORE/BFA/2012), in accordance with the harmonized guidelines on reporting under the international human rights treaties, in particular those on the common core document, as adopted at the fifth inter-committee meeting of the human rights treaty bodies held in June 2006 (HRI/GEN/2/Rev.6, chap. I).

Follow-up to concluding observations

21. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of these concluding observations, on its follow-up to the recommendations contained in paragraphs 10, 14 and 15, above.

Recommendations of special importance

22. The Committee also wishes to draw the attention of the State party to the particular importance of the recommendations contained in paragraphs 8, 9 and 11 above, and

requests the State party to provide detailed information in its next periodic report on the specific measures taken to implement them.

Dissemination

23. The Committee recommends that the State party's reports be made readily available to the general public when they are submitted and that the Committee's concluding observations with respect to these reports be similarly publicized in the official and other commonly used languages, as appropriate.

Preparation of the next report

25. The Committee recommends that the State party submit its twentieth, twenty-first and twenty-second periodic reports in a single document by 17 August 2017, taking into account the treaty-specific reporting guidelines adopted by the Committee at its seventy-first session (CERD/C/2007/1) and addressing all the points raised in these concluding observations. The Committee also urges the State party to observe the page limit of 40 pages for treaty-specific reports and 60–80 pages for the common core document (see HRI/GEN/2/Rev.6, chap. I, para. 19).
