



International Convention on the Elimination of All Forms of Racial Discrimination

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Committee on the Elimination of Racial Discrimination

Eighty-third session

Summary record of the 2246th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 20 August 2013, at 10 a.m.

Chairperson: Mr. Avtonomov

Contents

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twelfth to nineteenth periodic reports of Burkina Faso (continued)

The meeting was called to order at 10.10 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention (*continued*)

Combined twelfth to nineteenth periodic reports of Burkina Faso (continued) (CERD/C/BFA/12-19; CERD/C/BFA/Q/12-19)

At the invitation of the Chair person, the delegation of Burkina Faso took places at the Committee table.

Ms. Somda-Nigna (Burkina Faso) said that traditional social institutions played a significant role in preventing serious inter-ethnic conflict and in maintaining peace, stability and social cohesion in the country. In 2012, Burkina Faso had held the 12th edition of the “day of foreign communities”, a major cultural event that involved symposiums on issues relating to peace, social cohesion and integration, and artistic activities.

The Office of the Ombudsman, established in 1994, was an independent authority that protected citizens through mediation against abuses by the public administration. It received complaints of discrimination and could, ex officio, examine issues within its competence if it considered that a person or group of persons had been harmed by an act or omission by a public body. Acts of discrimination committed by individuals or groups of individuals fell under the jurisdiction of the competent courts. The Government made considerable efforts to raise awareness of the Convention, thereby ensuring that victims were aware of the complaints mechanisms available to them. No complaints of discrimination had been received thus far.

The Ministry of Human Rights and Citizen Participation had been established in its current form in 2012, with an emphasis on promoting responsible citizenship through a culture of values and respect for human rights. It consisted of seven regional directorates comprising information and counselling centres, while further centres were to be set up as part of the Ministry’s decentralization strategy. The centres provided assistance to individuals in court proceedings or referred them to the bodies competent to deal with their grievances. The national policy on human rights and citizen participation involved awareness-raising efforts among target groups to combat racial discrimination. Its first action plan provided for activities to disseminate knowledge of the Convention among health and education personnel, judges and defence and security forces. Awareness-raising activities to combat discrimination and promote a culture of tolerance and peace had also been carried out in refugee camps.

The National Human Rights Commission, which had previously operated under the auspices of the Ministry of Human Rights, was responsible for advising public authorities on issues relating to the promotion and protection of human rights, including the elimination of racial discrimination. Further measures would be taken as of 2014 to enable it to operate as an independent and financially autonomous body, pursuant to the Paris Principles.

The Strategy for Accelerated Growth and Sustainable Development, which promoted local economic development, was based on the principles of equality, non-discrimination and equitable distribution of wealth.

The right to participate in the conduct of public affairs was not determined by ethnicity and political parties were representative of the diverse ethnic composition of the country’s population. All citizens, including nomadic peoples, had equal access to basic social services, such as health, education, drinking water and sanitation, regardless of their ethnic or geographical origin.

A national population policy and action plan had been adopted in 2012 in the light of concerns at the high rate of demographic growth in Burkina Faso. Harmful traditional practices such as the caste system, levirate and sororate, had almost completely disappeared through education, literacy and urbanization.

Conflicts between farmers and herders were a source of significant social unrest. They were the result of land scarcity and competition for space, and were not confined to any particular ethnic group, as was often assumed. In the light of the human rights violations taking place, the Ministry of Human Rights and Citizen Participation had reviewed its human rights policy through cooperation with other ministries, the broadcast of radio messages promoting peace, the organization of meetings with law enforcement officials and the implementation of a preventive and conflict resolution mechanism.

As noted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, following his recent visit to Burkina Faso, the country had not suffered from acts of terrorism thus far. While no terrorists operated in the territory, the Government was fully committed to preventing and combating terrorism through international judicial cooperation. In recent years, it had worked closely with the United Nations Counter-Terrorism Committee and had adopted appropriate legislative measures to prevent acts of terrorism. The State party also regularly cooperated with the police authorities of neighbouring countries.

More than 3,000 teachers were recruited annually in primary schools. All teaching staff were qualified and received in-service training. Contract teachers were offered indefinite appointments. Educational legislation provided that all residents of Burkina Faso had the right to education without discrimination on any grounds. The education system sought to impart values such as responsible citizenship, democracy, solidarity, integrity, justice, tolerance, peace, gender equality and respect for linguistic, religious and cultural diversity. No specific measures had been taken to combat racial discrimination, as the issue did not particularly arise in Burkina Faso, but the issue of human rights was being integrated into educational curricula. The availability of education in rural areas was based on local needs and special attention was paid to the most disadvantaged areas. As a result, the enrolment rate had almost doubled in the past 10 years. Up to 9 languages were taught in schools in the national education system, and more than 15 languages were used in the non-formal education system.

Although begging was punishable by law, among “garibou” children that practice remained a challenge for the Government because of its links to religious beliefs. Together with civil society partners, the Ministry of Social Action and National Solidarity was carrying out initiatives targeting Koranic teachers and all the parties concerned to ensure the social reintegration of children. Act No. 29-2008 on trafficking in persons and related practices had been adopted in 2008. In cases in which the victim of trafficking was a child aged under 15 years, the perpetrator was punishable by a prison sentence of 10 to 20 years. The exploitation of children for begging purposes was an aggravating circumstance that carried the maximum penalty prescribed for the offence. A recent border control had led to the rescue of 387 children and the capture of 10 traffickers. It was currently impossible to cross a border with a child without a parental consent form delivered by the police.

Forced marriage and female genital mutilation were punishable by law and, on the initiative of Burkina Faso and several other countries, a United Nations resolution had recently been adopted on the elimination of female genital mutilation. Effective border controls were also crucial in preventing the transportation of girls — and excisers — outside the country for the purpose of excision.

There was extensive legislation prohibiting discrimination in employment and salary. The National Health Development Plan was based on values of equity, solidarity and respect for the cultural identity of patients. The only criterion used to determine the location of new health facilities was population density. Health and social welfare centres were built in areas with more than 150,000 inhabitants and regional hospital centres in areas with more than 500,000 inhabitants. However, those criteria were difficult to meet, given the low population density in the Sahel and in the east of the country. The State had therefore also adopted a strategy that provided for health personnel to travel to patients requiring health care.

Maternal mortality was caused primarily by either haemorrhage, infection or retention of the placenta. Other causes included delays in health-care provision, malaria and malnutrition. Measures taken to address the problem included the development of maternal health and reproduction strategies, deliveries attended by skilled personnel, State refunding of 80 per cent of the costs of emergency neonatal care and free blood transfusions. Statistics were compiled in order to assess the progress achieved.

Studies suggested that there was a significant gap between the number of registered births and the actual number of births in Burkina Faso, which left many women and children without civil-status documents. To address the problem, the Government had adopted and implemented a national strategy on civil registration, which was already showing positive results.

Defamation was punished under the Criminal Code, regardless of the circumstances of the offence, in accordance with article 4 of the Convention. In addition, the Information Code recognized defamation on grounds of religious affiliation, race or region of origin as aggravating circumstances.

The mining sector was booming in Burkina Faso, which was beneficial for the economy but could pose a threat to social peace and the environment. Measures taken by the Government to minimize that risk included: the protection of land rights; legislation governing natural resources and the protection of the cultural heritage; promotion of respect for environmental regulations and human rights; increased Government responsibility for the preparation, adoption and implementation of mining conventions; reform of the Mining Code to take into account the needs of affected populations, including a resettlement plan and compensation for victims; and acceptance of international mining regulations.

All individuals who participated in racist activities committed by an association were liable to prosecution and additional legal provisions were applicable to association leaders.

Lastly, she wished to clarify that the Official Gazette was published once a week although official acts were published some time after their adoption. The Government, however, was endeavouring to reduce the time lag between the adoption of acts and their publication.

Mr. Cali Tzay said that it would be useful to have the delegation’s comments on reports that members of the State party’s nomadic population had been murdered. He asked what steps the Government was taking to prevent such occurrences and whether the

instigators or actual perpetrators had been identified and punished.

Ms. Somda-Nigna (Burkina Faso) said that there were no truly nomadic groups in her country. Sometimes tensions arose, however, between herders and farmers owing to the scarcity of land, and those tensions could escalate into grave human rights violations. The Government was working with civil society to raise awareness of those problems and prevent such occurrences. It also planned to set up an observatory to resolve conflicts. All the perpetrators of criminal acts were prosecuted; several such cases were currently ongoing.

Mr. Vokouma (Burkina Faso) said that the conflicts between herders and farmers were economic in nature. The Government had been installing cattle routes in order to avoid the need for herders to drive their cattle over farmland, which destroyed crops and ruined harvests. As a result of the overexploitation of land on the central plateau, there had been significant internal displacement, which had also caused conflicts.

Mr. Ewonsan (Country Rapporteur) said that, while the main grounds for discrimination between sectors of the population might well be economic, it did not necessarily follow that there was no racial element. The State party should take further steps to eliminate the de facto discrimination that was occurring owing to the scarcity of land. The State party had data enabling it to identify the population groups in which school enrolment was low; it should use those data to design policies targeting those populations in particular and to ensure that they did not remain in a socially disadvantaged situation by not receiving an education. Statistical data in all areas were extremely important in order to highlight inequalities, and to enable the Government to take preventive action before conflict ensued. While the Government did not have a policy of discriminating between population groups, there was de facto racial discrimination worldwide; the State party was no exception.

Ms. Somda-Nigna (Burkina Faso) said that statistical data were available on education and many other areas. They had not been included in the periodic report because they had already been reproduced in the report for the universal periodic review (A/HRC/WG.6/16/BFA/1), and did not seem particularly relevant to combating racial discrimination. The 10-year Development Plan for Basic Education 2001–2010 and other measures had helped to raise the gross enrolment rate in primary school from 46.5 per cent in 2001/02 to 79.1 per cent in 2011/12. The residents of the Sahel region had complained to the Government that mining companies there were recruiting more staff outside the region than locally. The Government had pointed out that, since many parents in the Sahel had refused for many years to send their children to school, preferring to have them work as shepherds, now that qualified staff were needed to work in the mining companies, there were not enough people with the right educational level within the region. That had raised awareness among the local population and school enrolment had increased significantly, as had enrolment in adult literacy courses and vocational training. The Government was aware of the need to prevent tensions due to scarce land resources from escalating into conflict and was taking the necessary measures.

Ms. Kinda (Burkina Faso) added that the Government had set up mobile school units with a curriculum specially designed to meet the needs of children who worked as shepherds. There were also several informal education centres run by local communities.

Mr. Vázquez requested additional information on the concept of defamation as interpreted in the Information Code. It would be useful to know whether the prohibition of defamation primarily targeted the activities of journalists. The concept of group defamation was not entirely in line with the provisions in article 4 of the Convention, which made specific reference to the dissemination of ideas based on racial superiority or hatred and incitement to racial hatred. It would therefore be useful to know what conduct was prohibited by the defamation laws in the State party and whether the burden of proof in defamation cases lay on journalists rather than the State. He also asked whether the law implementing article 4 of the Convention provided for an aggravated circumstance for violations of the general defamation law.

Ms. Somda-Nigna (Burkina Faso) said that article 132 of the Criminal Code contained a general provision on discrimination, as indicated in paragraphs 36 and 37 of the periodic report. Defamation was defined and prohibited in paragraphs 361 and 364 of the Criminal Code. Defamation committed by journalists was prohibited in the Information Code. She recalled that the Information Code was currently under revision with a view to decriminalizing press offences.

Mr. Zerbo (Burkina Faso) added that, under the Information Code, the editor in chief of any publication found guilty of defamation was held responsible for that offence. Individuals accused of having committed defamation were responsible for providing evidence that their statements were true. If the individual provided such proof, the *exceptio veritatis* was accepted and legal proceedings were terminated. As part of the revision of the Information Code, consideration was being given to imposing fines rather than prison sentences on journalists found guilty as perpetrators of or accomplices in acts of defamation.

Mr. Lindgren Alves said that the State party was endeavouring to strengthen unity in the country and the Committee should not encourage the delegation to introduce cultural divisions. While all social phenomena could be interpreted from the viewpoint of culture, conflicts between herders and farmers had always existed and did not necessarily stem from ethnicity.

Mr. Saidou, referring to the activities of mining companies, said that responsibility for human rights lay with subsidiary companies, which should be monitored. In Africa, subsidiaries of transnational companies could create division in the societies in which they worked. The State party's accession to the World Trade Organization was positive because the imbalances between different regions needed to be addressed. Inspiration for the bill on the decriminalization of press offences could be drawn from the Declaration of Table Mountain; it was important for inspiration to be drawn from African instruments.

Mr. de Gouttes asked what traditional justice practices existed in the country, how they were exercised and whether the State recognized them.

Mr. Zerbo (Burkina Faso) said that traditional justice was not formally defined and mainly consisted of mediation and negotiation through dialogue. In many African countries, traditional justice had re-emerged after they had gained independence, alongside State-administered justice. Recent studies had shown that basic disputes in rural and suburban areas were resolved where possible by

traditional authorities. The policy on national justice recognized the need to promote traditional justice as an alternative means of conflict resolution. Traditional authorities played a significant role in land disputes and they resolved the majority of conflicts relating to natural resources. When traditional justice failed, disputes could be taken to State authorities. The Government was examining how best to identify, support and promote traditional justice authorities.

Ms. Somda-Nigna (Burkina Faso) said that traditional justice worked via mediation and reconciliation. Decisions were not enforced and participation was not mandatory. Both parties could benefit from a decision made by a traditional authority and compromises were sought where possible.

Mr. Diaconu said that, despite the positive presentation of the situation in the previous day's meeting, it was clear that the Government was aware of the difficulties and challenges it faced and was prepared to take the necessary measures. Data should be disaggregated by region in order to ensure that appropriate measures were taken, because discrimination was caused by many factors. In order to achieve unity in the country, it was necessary to monitor the real situation on the ground. The teaching of native languages, both formally and informally, was useful, both for specific groups and for the country, because racism was no longer based solely on physical traits, but also on cultural differences. The idea that cultural differences prevented coexistence did exist, but such pronouncements led to intolerance. Cultural differences were, in fact, vital. The law on defamation did not correspond to article 4 of the Convention. He asked whether judges in a criminal case invoked the Information Code and requested examples. The definition of defamation given by the State party referred to attributing an untrue fact to a person, while article 4 of the Convention focused on the idea of incitement to hatred or discrimination.

Ms. Somda-Nigna (Burkina Faso) said that she recognized that problems existed in Burkina Faso. The Government was taking the necessary measures to resolve them and required the support of the international community. Nevertheless, tolerance was widespread and all possible measures were being taken to ensure that citizens lived in a tolerant environment. The Government had already collected data disaggregated by region that allowed it to implement measures addressing the problems of specific groups. Those data, however, which had been collected throughout the country by the National Institute of Statistics and Demography, had been included in the universal periodic review report.

Mr. Kemal praised the delegation's responses to the Committee's questions.

Mr. Anir asked why paragraph 101 of the State party's report, referring to right of access to all public places, had been included given that there seemed to be no problems relating to the matter in Burkina Faso.

Mr. Murillo Martínez said that the delegation reflected the Government's commitment to addressing the challenges it faced. Cultural change was a matter affecting many African countries and would take time to be resolved.

Mr. Thornberry requested information on the enforcement of the defamation law, as well as a copy of the relevant legislation. He asked whether the burden of proof lay with the prosecution in criminal cases. Although the Committee preferred a methodology that allowed for self-identification, it did not dictate how data on ethnicity should be collected. A good information base was vital to a focused public policy and understanding of the country, but there was a risk of encouraging the grouping of identities around ethnic categories. Given that grounds for conflict were likely to be deep-rooted, a public policy of data collection was unlikely to cause a problem. It was impossible to know if a policy was effective without an adequate database that was in line with human rights principles and adapted to local needs.

Ms. Somda-Nigna (Burkina Faso) said that the report contained information concerning the implementation of the previous concluding observations. The paragraph on access to public places had been included in accordance with the instructions for the preparation of reports. More information could be provided regarding defamation and the relevant provisions in the Criminal Code. In defamation cases relating to the press, journalists had to prove that their assertions were true, an exception to normal practice. Burkina Faso was far from perfect, but efforts were being made in the fight against discrimination. Mediation and reconciliation processes were implemented at the national and regional levels.

Mr. Ewonsan (Country Rapporteur) said that he appreciated the State party's self-critical approach. The Committee's aim was to help Burkina Faso and, during the examination of its report, it had highlighted some shortcomings and asked pertinent questions in order better to ascertain its progress and determine what remained to be done. The concluding observations would be drafted with the information provided by the delegation in mind, and the State party would continue to be encouraged to redouble its efforts in the fight against discrimination.

Ms. Somda-Nigna (Burkina Faso) thanked the Committee for its comments and questions and said that they would be taken into account along with the concluding observations. Burkina Faso would continue to address any issues that arose and was committed to ensuring that its population lived peacefully.

The Chairperson thanked the delegation for their responses.

The meeting rose at 1 p.m.