



REFERENCE: BD/follow-up/Burkina Faso/65

6 December 2016

Excellency,

In my capacity as Rapporteur for Follow-up on Concluding Observations of the Committee on the Elimination of Discrimination against Women (CEDAW), I have the honour to refer to the examination of the sixth periodic report of Burkina Faso at the Committee's forty-seventh session, held in October 2010. At the end of that session, the Committee's concluding observations were transmitted to your Permanent Mission (CEDAW/C/BFA/CO/6). You may recall that in the concluding observations, the Committee requested Burkina Faso to provide, within two years, written information on the steps undertaken to implement the recommendations contained in paragraphs 22 and 50 of the concluding observations.

The Committee welcomes the follow-up report received with a 43-months delay in May 2016 (CEDAW/C/BFA/CO/6/Add.1) under the CEDAW follow-up procedure. At its sixty-fifth session, held in November 2016 in Geneva, the Committee examined this follow-up report and adopted the following assessment.

Regarding the recommendation made in **paragraph 22** of the concluding observations, reiterating that the State party “Enact legislation on violence against women, including domestic violence, so as to ensure that violence against women is prohibited and sanctioned, that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished”: The State party mentioned that, in 2015, it enacted a law on the prevention, punishment and reparation of violence against women and girls and care for victims (Law No. 61-2015/CNT). The objective of this law is to ensure the prevention of violence, the punishment of perpetrators, and the protection, assistance and care of victims. The State party further mentioned that an initial draft of a law revising the Penal Code was prepared in 2012 concerning “family violence; family ostracism of girls on grounds of extramarital pregnancy or rejection of forced marriage; social exclusion on grounds of witchcraft; spousal rape; and sexual harassment” (pages 8-9 of the State party's follow-up report). The Committee welcomes the efforts of the State party to enact legislation on combatting violence against women, which includes reparation of violence against women and girls and care for victims. The Committee considers that the State party has taken concrete steps to implement the recommendation. It considers that the recommendation **has been implemented**.

Her Excellency
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In regards to the recommendation that the State party “Give high priority to putting in place comprehensive measures to address all forms of violence against women and girls”: The State party indicated that the law on the prevention, punishment and reparation of violence against women and girls and care for victims calls for measures to put an end to all forms of violence against women and girls, including the establishment of mechanisms to elaborate, evaluate and monitor a national strategy and action plan to combat violence against women and girls, and to carry out training and capacity-building (pages 8-9 of the State party’s follow-up report).

The Committee commends the measures foreseen by Law No. 61-2015/CNT to address all forms of violence against women and girls, including the establishment of mechanisms to elaborate, evaluate and monitor a national strategy and action plan to combat violence against women and girls. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

With respect to the recommendation “To ensure that legal aid is provided to assist victims”: The State party mentioned that it adopted a decree, on 22 July 2009, creating a programme of legal assistance in Burkina Faso, and another one, dated 11 June 2013, establishing a legal assistance fund. It added that access to the fund is open to any Burkinabe citizen or (subject to reciprocity) any foreigner living in Burkina Faso whose income is not sufficient to allow exercise of his or her judicial rights. It stressed that, between 2010 and 2012, many women had recourse to Government’s legal services and benefited from support and counselling, even if they are still reluctant to pursue action through the courts. Nevertheless, it stated that, in cases where monetary compensation is awarded the assisted plaintiff, all expenses borne by the State party will be refunded to it from the amount of the award, which is unlikely to encourage vulnerable persons such as impoverished women and girls (pages 11-12 of the State party’s follow-up report). More importantly, the Committee on Economic, Social and Cultural Rights, in June 2016, stated in its concluding observations (E/C.12/BFA/CO/1, para. 27), its concern regarding the difficulties faced by female victims of violence in obtaining access to justice and receiving the necessary support. The Committee welcomes the establishment of a legal framework for the provision of legal aid. However, it notes that, in cases where monetary compensation is awarded the assisted plaintiff, all expenses borne by the State party will be refunded to it from the amount of the award, which is unlikely to encourage vulnerable persons such as impoverished women and girls. It also notes the recent information that female victims of violence are still facing difficulties in obtaining access to justice and receiving the necessary support. The Committee therefore notes that although the State party took some steps to implement the recommendation, it considers that the recommendation **has been partially implemented**.

Regarding the recommendation “To carry out educational and awareness-raising trainings for the judiciary and public officials, in particular law enforcement personnel, health service providers and social workers, community leaders and the general public so as to raise awareness and sensitization that all forms of violence against women are unacceptable and to provide adequate support to victims of all forms of violence against women”: The State party described the extensive educational and awareness-raising activities undertaken on violence against women, which targeted, inter alia, the judiciary and public officials, judicial police officers, paralegal workers, customary and religious leaders, as well as the public at large. It also indicated that it organized specialized training for members of the defence and security forces, social workers and health care providers, help centre personnel and civil society organizations. It further mentioned the provision of care for 65 victims suffering the consequences of excision, as well as of psycho-medical care for 50 female victims of rape in 2011 (pages 10-11 of the State party’s follow-up report). The Committee welcomes the various educational and awareness-raising trainings undertaken by the State party for, inter alia, the judiciary, law enforcement personnel, health care providers, social workers, customary and religious leaders, and the general public, in order to sensitize them and build their capacity to prevent and combat violence against women. It further notes the provision of care to a number of victims of female genital mutilation as well as victims of rape. While noting that such care has not been provided to victims of all forms of violence

against women, the Committee considers that the State party took significant steps to implement the recommendation. It considers that, for the period under consideration, the recommendation **has been implemented**.

Regarding the recommendation that the State party “Establish shelters and counselling services for victims of violence”: The State party acknowledged that victims of violence have access to various services, such as shelters, health care, psychosocial support, counselling and guidance in judicial proceedings, but that those services are still inadequate both in number and in capacity. It also mentioned the existence of specialized units within the gendarmerie brigades and police stations to take care of women and girls who are victims of violence. It further indicated that the new law on violence against women and girls foresees the creation of comprehensive care centres and guarantees access to all victims of violence, and also provides for the establishment of local help and support units for women and children exposed to violence (pages 11-13 of the State party’s follow-up report). The Committee commends the existence of specialized units within the gendarmerie brigades and police stations to take care of women and girls who are victims of violence. It further notes that victims of violence have access to various services, including shelters, health care, psychosocial support, counselling and guidance in judicial proceedings. Noting the steps taken by the State party to implement the recommendation, and the acknowledged inadequacy both in number and in capacity of such services, the Committee considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to paragraph 22 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to

- 1) Review the law on the prevention, punishment and reparation of violence against women and girls and care for victims to include all forms of violence against women, including marital rape;
- 2) Ensure that women and girls who are victims of violence have access to immediate means of redress and protection and that perpetrators are prosecuted and punished;
- 3) Implement the measures foreseen by Law No. 61-2015/CNT on the prevention, punishment and reparation of violence against women and girls and care for victims to address all forms of violence against women and girls, including the establishment of mechanisms to elaborate, evaluate and monitor a national strategy and action plan to combat violence against women and girls;
- 4) Ensure that legal aid is provided to assist victims, including by reviewing the policy that allows expenses borne by the State party to be refunded to it from the amount of the monetary compensation awarded to the plaintiff; and
- 5) Ensure the adequacy both in number and in capacity of shelters and counselling services for victims of violence.

In regards to the recommendation made in **paragraph 50** of the concluding observations “To repeal all laws relating to family life that are discriminatory towards women, and reiterates its previous recommendation that the State party eliminate those provisions in the Individual and Family Code relative to polygamy (arts. 257-262 of the Code) in accordance with article 16 of the Convention and article 14 of the Convention on the Rights of the Child, and in light of the Committee’s general recommendation No. 21 (1994) on equality in marriage and family relations”: The State party mentioned that, in December 2012, a study was commissioned by the Government to identify the provisions of the Individual and Family Code that are discriminatory to women. That study recommended the repeal of provisions of the Code relating to polygamy (articles 257 to 263, article 272), and the results were transmitted to the Review Committee, which noted that repealing the provisions on polygamy will require a national consensus, as the issue is a

delicate one and it has not yet received the consent of all sociocultural categories (pages 14 of the State party's follow-up report). The Committee commends the study commissioned by the State party to identify discriminatory provisions in the Individual and Family Code, as well as its recommendations to repeal provisions relative to polygamy. It notes, however, that although the State party has taken significant steps towards the repeal of the provisions of the code that are discriminatory against women and those relative to polygamy, the study recommended the repeal of the provisions relating to polygamy only and the Review Committee's position that such a repeal will require a national consensus which has not materialised. The Committee also notes that there is no information on the fate of all laws relating to family life that are discriminatory towards women, and also that four years after the study, the provisions have not been repealed. The Committee considers that the recommendation **has been partially implemented**.

Regarding the recommendation "To accelerate the legislative reform of the Individual and Family Code so as to standardize the minimum legal age of marriage at 18 years for both women and men (art. 238 of the Code) (CEDAW/C/BFA/CO/4-5 para. 26) to ensure equality in family laws" and "to take all legal and other necessary measures to combat child marriages": The State party mentioned that, with respect to marriage, the above-mentioned study recommended setting the minimum age of the intended spouses at 18 years for both sexes, but did not provide a timeline for the repeal of the relevant provisions of the Individual and Family Code. Moreover, the State party indicated that it has undertaken information and awareness-raising activities to combat forced and/or underage marriage of girls. It further cited a project to enhance the security of adolescent girls who are married or at risk of an early marriage, through a comprehensive multisectoral approach to improving their education, health and social status (pages 15-16 of the State party's follow-up report). According to information before the Committee, the process of legislative reform is slow and the government faces serious resistance from influential groups, including religious and traditional leaders. The Committee commends the study's recommendation to standardize the minimum legal age of marriage at 18 years for both women and men and the various measures taken to combat child marriages. Noting that the steps taken by the State party and the legislative reform are slow, and that the State party faces serious resistance from religious and traditional leaders, the Committee however considers that legislative reform to standardize the minimum legal age of marriage at 18 years for both women and men (art. 238 of the Code) to ensure equality in family laws has not been undertaken. The Committee considers that the State party took some steps to implement the recommendation. It considers that the recommendation **has been partially implemented**.

The Committee recommends that, in relation to paragraph 50 of the concluding observations, the State party provide, **in its next periodic report**, information on further actions taken to:

- 1) Urgently repeal all laws relating to family life that are discriminatory towards women, and to eliminate those provisions in the Individual and Family Code relative to polygamy (arts. 257-262 of the Code); and
- 2) Accelerate the legislative reform of the Individual and Family Code so as to standardize the minimum legal age of marriage at 18 years for both women and men (art. 238 of the Code) to ensure equality in family laws, and take all legal and other necessary measures to combat child marriages.



The Committee looks forward to pursuing its constructive dialogue with the authorities of Burkina Faso on the implementation of the Convention.

Please accept, Excellency, the assurances of my highest consideration.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Xiaoqiao Zou'.

Xiaoqiao Zou
Rapporteur on follow-up
Committee on the Elimination of Discrimination against Women