

# **Status of Human Rights in Burkina Faso for the 44<sup>th</sup> Session of the Universal Periodic Review**

## **Introduction**

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organization dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative status before the United Nations Economic and Social Council. This report discusses the status of human rights in the Republic of Burkina Faso (Burkina Faso) for the 44th session of the Universal Periodic Review (UPR).

## **Background**

2. Burkina Faso is located in western Africa and has a population of approximately 21.9 million people.<sup>1</sup> The population is predominately Muslim with approximately 63.2% of the population identifying as Muslim, 24.6% as Roman Catholic, 6.9% as Protestant, 4.2% as traditional/animist, 0.7% as none, and 0.4% as unspecified.<sup>2</sup> According to Open Doors, a watchdog organization that monitors religious persecution around the world, Burkina Faso is ranked as the 23rd worst country for Christians to live in.<sup>3</sup>

3. Burkina Faso's previous review was held on May 7, 2018.<sup>4</sup> As a result of the review, Burkina Faso received 204 recommendations, 184 of which were supported by Burkina Faso.<sup>5</sup> In particular, it was recommended by Canada, and supported by Burkina Faso, that the government "[e]nsure that security force operations within the framework of combatting extremism and terrorism are implemented in strict compliance with human rights."<sup>6</sup> It was further recommended by France, and supported by Burkina Faso, that the government "[e]nsure full respect for human rights by the defence and security forces, including in their struggle against terrorist groups."<sup>7</sup> It was also recommended by Rwanda, and supported by Burkina Faso that the government "[s]trengthen the implementation of legislation and policies aimed at ending harmful traditional practices, in particular child, early and forced marriages and female genital mutilation [FGM]."<sup>8</sup>

## **Legal Framework**

### *Religious Persecution*

4. Under Article 7 of the Constitution of Burkina Faso:

The freedom of belief, or non-belief, of conscience, of religious opinion, [of] philosophy, of exercise of belief, the freedom of assembly, the free practice of custom as well as the freedom of procession and of demonstration, are guaranteed by this Constitution, under reserve of respect for the law, for public order, for good morals and for the human person.<sup>9</sup>

5. Furthermore, Burkina Faso is a party to the International Covenant on Civil and Political Rights (ICCPR).<sup>10</sup> Under Articles 18 and 27 of the ICCPR:

### **Article 18**

1. Everyone shall have the right to freedom of thought, conscience and religion. This right shall include freedom to have or to adopt a religion or belief of his choice, and freedom, either individually or in community with others and in public or private, to manifest his religion or belief in worship, observance, practice and teaching.

2. No one shall be subject to coercion which would impair his freedom to have or to adopt a religion or belief of his choice.<sup>11</sup>

### **Article 27**

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.<sup>12</sup>

### *Female Genital Mutilation*

6. Under Article 2 of the Constitution of Burkina Faso, “services and mistreatments inflicted on children and all forms of the degradation of Man[,] are forbidden and punished by the law.”<sup>13</sup>

7. Article 380 of the Penal Code of Burkina Faso punishes an individual who “harms or attempts to harm the integrity of the female genital organ by total ablation, excision, infibulation, by desensitization or by any other means.”<sup>14</sup>

8. In 2018, legislation regarding FGM was revised to strengthen the law and more effectively combat FGM.<sup>15</sup> Changes were added that now criminalize the promotion of FGM on social media and if FGM results in death, the penalty was increased from eleven years in prison to twenty-one years in prison.<sup>16</sup>

9. Further, under Article 13 of Law No. 049-2005 on Reproductive Health:

Everyone, including adolescents and children, has the right to be protected from torture and from cruel, inhuman or degrading treatment of their body, in general, and of their reproductive organs, in particular. All forms of violence and sexual assault to the human body, especially of children and adolescents, are prohibited under the penalties prescribed by the Penal Code.<sup>17</sup>

10. Burkina Faso is a party to the Convention on the Rights of the Child (CRC).<sup>18</sup> Under Article 19 of the CRC:

1. States Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral,

investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.<sup>19</sup>

11. Furthermore, Article 7 of the ICCPR holds that “[n]o one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.”<sup>20</sup>

### *Child Marriages*

12. The Code des Personnes et de la Famille 1989 establishes seventeen as the minimum age of marriage for girls and twenty as the minimum age for boys.<sup>21</sup> However, civil courts can authorize girls as young as fifteen and boys as young as eighteen to be married.<sup>22</sup>

13. On May 31, 2018, the Burkina Faso National Assembly revised the Penal Code to penalize all forms of child marriage.<sup>23</sup>

14. Child marriages are also prohibited under international treaties such as the CRC and the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW), to which Burkina Faso is also a party.<sup>24</sup> Article 1 of the CRC defines a child as “every human being below the age of eighteen years,”<sup>25</sup> and Article 16 of the CEDAW prohibits child marriages.<sup>26</sup>

### **Religious Persecution**

15. In Burkina Faso, “[j]ihadist violence has been rapidly increasing in recent years, and extremists have exploited the government’s weakness during the COVID-19 crisis to gain control of the country’s infrastructure.”<sup>27</sup> This violence has resulted in more than one million people becoming internally displaced (IDP) and “has led to hundreds of church closures.”<sup>28</sup> Below we have highlighted some of the attacks being carried out against Christians and civilians in Burkina Faso.

16. On January 2, 2023, a Catholic priest was killed by armed men.<sup>29</sup> According to a report, “the shooters proceeded to take the priest’s vehicle and other belongings after they had killed him.”<sup>30</sup>

17. On the night of July 3, 2022, terrorists riding motorbikes began “threatening the villagers in the square in front of the church.”<sup>31</sup> As the villagers were begging the attackers to spare their lives, the attackers opened fire and killed fourteen people.<sup>32</sup> The attackers then proceeded “further into the centre of the village and killed 20 others, among them many Christians and followers of traditional African religion.”<sup>33</sup>

18. Muslim extremists have been carrying out attacks particularly in the northern and eastern regions, forcing Christians to leave the regions for safety.<sup>34</sup> According to a report, “Christians in the north and east of the country experience [the] most pressure and violence, particularly outside the main cities.”<sup>35</sup>

19. On May 25, 2022, a group of armed men killed fifty people of the Madjoari community in eastern Burkina Faso.<sup>36</sup> In addition to this attack, “[t]wo other attacks in the Madjoari commun[ity] occurred in May, one attack killing seventeen people and the other killing eleven soldiers.”<sup>37</sup>

20. On June 4, 2021, “scores of jihadists linked to al-Qaeda and the Islamic State (IS) group swarmed the village of Solhan, located near the border of Mali and Niger, and staged a ruthless attack on civilians, including women and children.”<sup>38</sup> The attack resulted in the deaths of “at least 160, including 20 children.”<sup>39</sup> According to an eyewitness, “I saw them arrive on their motorcycles. There were over a hundred – so many I couldn’t count them. They killed a baby who wasn’t even crawling yet and left its mother alive.”<sup>40</sup> As a result of the attack, “at least 3,000 people, including 2,000 children and 500 women fled to nearby towns to seek refuge after the attack.”<sup>41</sup>

21. In February 2020, during a church attack, “[g]unmen killed 24 civilians, including a church pastor, and kidnapped three others.”<sup>42</sup> The attackers also burned down a church.<sup>43</sup>

22. In December 2019, fourteen people were killed as a result of an attack on an evangelical church in eastern Burkina Faso.<sup>44</sup> According to a report:

The attack occurred at the end of the service as the members were leaving the church. There were approximately 12 attackers that created a circle around the members and separated the men from the women. The men were ordered to get down on the ground. Their heads were covered with a cloth and then they were killed one by one. 14 were killed but their identities have not been able to be confirmed.<sup>45</sup>

23. In April 2019, gunmen killed six people at a church in the northern region of Burkina Faso.<sup>46</sup> According to witnesses, “the attackers arrived on seven motorbikes at the end of Sunday’s service, and killed Pastor Pierre Ouédraogo, two of his sons and three other worshippers.”<sup>47</sup>

### **Female Genital Mutilation**

24. According to UNICEF, approximately 76% of women between the ages of fifteen to forty-nine have undergone FGM in Burkina Faso.<sup>48</sup> FGM is deeply rooted in the culture and is viewed as a rite of passage.<sup>49</sup> Furthermore, “social acceptance, preserving virginity, better marriage prospects as well as religious reasons” are all reasons for this practice continuing to be carried out despite being banned in 1996.<sup>50</sup>

25. Despite the practice being illegal, many people who are seeking to continue this harmful practice travel to neighboring countries. An organization working to combat FGM in the region warns that “cutters and families are increasingly crossing the border with Mali, where there is no law on FGM, and Ivory Coast, where the law is not enforced as strongly. To avoid detection, those practicing FGM are also moving away from group ceremonies to individual cutting in private.”<sup>51</sup>

26. FGM is extremely dangerous and can have long-lasting health effects that can seriously impact the health of women and girls. FGM has been shown to cause the following complications:

Immediate complications include severe pain, shock, haemorrhage, tetanus or infection, urine retention, ulceration of the genital region and injury to adjacent tissue, wound infection, urinary infection, fever, and septicemia. Haemorrhage and infection can be severe enough to cause death.

Long-term consequences include complications during childbirth, anaemia, the formation of cysts and abscesses, keloid scar formation, damage to the urethra resulting in urinary incontinence, dyspareunia (painful sexual intercourse), sexual dysfunction, hypersensitivity of the genital area and increased risk of HIV transmission, as well as psychological effects.<sup>52</sup>

27. In September 2018, fifty girls were sent to a hospital in Burkina Faso after undergoing FGM.<sup>53</sup> Police were able to arrest two women as well as a few of the girls' relatives for their roles in carrying out FGM.<sup>54</sup>

28. As stated above, in 2018, the law was amended to help strengthen the fight against FGM by increasing the penalty when FGM results in death as well as criminalizing promoting FGM on social media.<sup>55</sup>

### **Child Marriages**

29. In Burkina Faso, 52% of girls are married before they turn eighteen, and 10% are married before they turn 15.<sup>56</sup> In fact, between 2019 and 2021, “there were over 650 cases of forced marriage and 2,200 child marriages” in Burkina Faso.<sup>57</sup>

30. The traditional practices of Litho and Pog-legna are contributing factors to child marriages in Burkina Faso. Litho is the practice of “girls being exchanged and married off between families.”<sup>58</sup> These agreements between families can even take place as early as the girl's birth.<sup>59</sup> Pog-lenga is practiced among some in the Mossi and Bissa ethnic groups and “involves brides bringing nieces to wedding ceremonies as extra girls to be married, either to the groom or a family member or friend.”<sup>60</sup>

31. One victim of child marriage shared her story of how she was forced to marry an older man at the age of thirteen: “I never got to finish attending even the first year of primary school, I don't know why my parents took me out of school... My dad married me to a 70-year-old man who already has five wives. My dad threatened me saying, ‘[i]f you don't go to join your husband I will kill you.’”<sup>61</sup>

32. The prevalence in which girls are married at such a young age can be extremely harmful to girls and have a lasting impact on their lives.

Child marriage robs girls of their childhood and threatens their lives and health. Girls who marry before 18 are more likely to experience domestic violence and less likely to remain in school. They have worse economic and health outcomes than their unmarried peers, which are eventually passed down to their own children, further straining a country's capacity to provide quality health and education services.

Child brides often become pregnant during adolescence, when the risk of complications during pregnancy and childbirth increases – for themselves and their infants. The practice can also isolate girls from family and friends and exclude them from participating in their communities, taking a heavy toll on their physical and psychological well-being.<sup>62</sup>

33. As we stated above, in 2018, the Burkina Faso National Assembly adopted a Penal Code that “penalises all forms of child marriage.”<sup>63</sup> In addition, the Penal Code also strengthened “provisions to improve the protective environment of girls in

schools against abuse and to punish perpetrators, including teachers.”<sup>64</sup> Unfortunately, the Penal Code failed to change the minimum age for marriage.<sup>65</sup>

## Recommendations

34. Burkina Faso must increase its efforts to stop the violence being carried out against Christians and innocent civilians across the country. We have seen the type of violence such groups are capable of carrying out in other African countries such as Nigeria. Meaningful action must be taken now to stop the spread of senseless violence.

35. Further, Because FGM is engrained in the society and culture of people in Burkina Faso, the government must work to educate people on the dangers of FGM and encourage people to stop this cultural practice. To truly put an end to this dangerous practice, there must be a shift in the culture away from FGM.

36. We also urge Burkina Faso to ensure all its marriage laws meet international norms by raising the minimum age to eighteen for girls and eliminating the provision that allows for girls as young as fifteen to be married if approved by a civil court.

<sup>1</sup> *Burkina Faso*, THE WORLD FACTBOOK, <https://www.cia.gov/the-world-factbook/countries/burkina-faso/> (last updated Feb. 3, 2023).

<sup>2</sup> *Id.*

<sup>3</sup> *Burkina Faso*, OPEN DOORS US, <https://www.opendoorsus.org/en-US/persecution/countries/burkina-faso/> (last visited Feb. 13, 2023).

<sup>4</sup> *Universal Periodic Review – Burkina Faso*, OHCHR, <https://www.ohchr.org/en/hr-bodies/upr/bf-index>.

<sup>5</sup> *Burkina Faso Infographic 30th*, OHCHR, [https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/BF/BURKINA\\_FASO\\_Infographic\\_30th.pdf](https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/BF/BURKINA_FASO_Infographic_30th.pdf).

<sup>6</sup> OHCHR, UPR of Burkina Faso (3rd Cycle – 30th Session): Thematic List of Recommendations, <https://www.ohchr.org/sites/default/files/lib-docs/HRBodies/UPR/Documents/Session30/BF/MatriceRecommendationsBurkinaFaso.docx>.

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> CONSTITUTION OF BURKINA FASO, art. 7, [https://www.constituteproject.org/constitution/Burkina\\_Faso\\_2015.pdf?lang=en](https://www.constituteproject.org/constitution/Burkina_Faso_2015.pdf?lang=en).

<sup>10</sup> *Ratification Status for Burkina Faso*, OHCHR, [https://tbinternet.ohchr.org/\\_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=27&Lang=EN](https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?CountryID=27&Lang=EN) (last visited Mar. 1, 2023).

<sup>11</sup> International Covenant on Civil and Political Rights art. 18, *adopted* Dec. 16, 1966, 999 U.N.T.S. 171, <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights> [hereinafter ICCPR].

<sup>12</sup> *Id.* art. 27.

<sup>13</sup> CONSTITUTION OF BURKINA FASO, art. 2.

<sup>14</sup> *Burkina Faso: The Law and FGM*, 28 TOO MANY (Sept. 2018).

<sup>15</sup> *What is the Situation in Burkina Faso?* THE COMMUNITY OF PRACTICE ON FEMALE GENITAL MUTILATION, <https://copfgm.org/2020/02/what-is-the-situation-in-burkina-faso> (last visited Feb. 13, 2023).

<sup>16</sup> *Id.*

<sup>17</sup> *Burkina Faso: The Law and FGM*, *supra* note 14.

<sup>18</sup> *Ratification Status for Burkina Faso*, *supra* note 10.

<sup>19</sup> Convention on the Rights of the Child art. 19, *adopted* Nov. 20, 1989, 1577 U.N.T.S. 3, <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-rights-child>.

<sup>20</sup> ICCPR art. 7, *supra* note 11.

<sup>21</sup> *Burkina Faso*, GIRLS NOT BRIDES, <https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/regions-and-countries/burkina-faso/> (last visited Feb. 13, 2022).

<sup>22</sup> *Id.*

<sup>23</sup> *2018 Annual Report: Country Profiles*, UNICEF (2018).

<sup>24</sup> *Ratification Status for Burkina Faso*, *supra* note 10.

<sup>25</sup> Convention on the Rights of the Child art 1, *supra* note 19.

<sup>26</sup> Convention on the Elimination of All Forms of Discrimination Against Women art. 16, *adopted* Dec. 18, 1979, 1249 U.N.T.S. 1.

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<sup>27</sup> OPEN DOORS US, *supra* note 3.

<sup>28</sup> *Id.*

<sup>29</sup> *Catholic Priest Murdered in Burkina Faso*, INTERNATIONAL CHRISTIAN CONCERN (Jan. 9, 2023), <https://www.persecution.org/2023/01/09/catholic-priest-murdered-in-burkina-faso/>.

<sup>30</sup> *Id.*

<sup>31</sup> *At Least 22 Killed in Jihadist Attack on Village in Burkina Faso*, CATHOLIC NEWS AGENCY (Jul. 6, 2022), <https://www.catholicnewsagency.com/news/251730/at-least-22-killed-in-jihadist-attack-on-village-in-burkina-faso>.

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> OPEN DOORS US, *supra* note 3.

<sup>35</sup> *World Watch List 2022*, OPEN DOORS (2021).

<sup>36</sup> *50 People Killed in Burkina Faso*, INTERNATIONAL CHRISTIAN CONCERN (Jun. 5, 2022), <https://www.persecution.org/2022/06/05/50-people-killed-burkina-faso/>.

<sup>37</sup> *Id.*

<sup>38</sup> *Survivor of Burkina Faso Massacre: 'They Killed a Baby and Left its Mother Alive'*, FRANCE 24 (June 14, 2021), <https://www.france24.com/en/africa/20210614-survivor-of-burkina-faso-massacre-they-killed-a-baby-and-left-its-mother-alive>.

<sup>39</sup> *At Least 160 Killed in Deadliest attack in Burkina Faso Since 2015*, FRANCE 24 (Jun. 5, 2021), <https://www.france24.com/en/africa/20210605-dozens-of-civilians-killed-in-attack-on-northern-burkina-faso-village>.

<sup>40</sup> *Survivor of Burkina Faso Massacre: 'They Killed a Baby and Lefts its Mother Alive'*, *supra* note 38.

<sup>41</sup> *Id.*

<sup>42</sup> Sam Mednick, *Latest Burkina Faso Church Attack Kills 24, Including Pastor*, CHRISTIANITY TODAY (Feb. 17, 2020), <https://www.christianitytoday.com/news/2020/february/burkina-faso-church-attack-pansi-yagha.html>.

<sup>43</sup> *Id.*

<sup>44</sup> Kate Shellnutt, *Sunday Church Attack Kills 14 in Burkina Faso*, CHRISTIANITY TODAY (Dec. 2, 2019), <https://www.christianitytoday.com/news/2019/december/burkina-faso-church-attack-hantoukoura.html>.

<sup>45</sup> *Id.*

<sup>46</sup> *At Least Six Christians Killed in a Church Attack in Burkina Faso*, EVANGELICAL FOCUS (Apr. 30, 2019), <https://evangelicalfocus.com/world/4414/at-least-six-christians-killed-in-a-church-attack-in-burkina-faso>.

<sup>47</sup> *Id.*

<sup>48</sup> *FGM in Burkina Faso*, EQUALITY NOW, [https://www.equalitynow.org/fgm\\_in\\_burkina\\_faso/](https://www.equalitynow.org/fgm_in_burkina_faso/) (Mar. 2, 2023).

<sup>49</sup> *Id.*

<sup>50</sup> *Id.*

<sup>51</sup> Rebecca Ratcliffe, *Burkina Faso Botched FGM Leaves 50 Girls in Hospital*, THE GUARDIAN (Sep. 18, 2018), <https://www.theguardian.com/global-development/2018/sep/18/burkina-faso-mass-botched-fgm-leaves-50-girls-hospitalised>.

<sup>52</sup> *Female Genital Mutilation (FGM) Frequently Asked Questions*, UNFPA (Feb. 2022), <https://www.unfpa.org/resources/female-genital-mutilation-fgm-frequently-asked-questions>.

<sup>53</sup> Ratcliffe, *supra* note 51.

<sup>54</sup> *Id.*

<sup>55</sup> *What is the Situation in Burkina Faso*, BUILDING BRIDGES TO END FGM, <https://copfgm.org/2020/02/what-is-the-situation-in-burkina-faso> (last visited Dec. 15, 2022).

<sup>56</sup> *Married at 13 – Thousands of Girls in Burkina Faso Denied a Childhood Against Their Will*, AMNESTY INTERNATIONAL (May 18, 2020).

<sup>57</sup> Anne Mimault, *Escaping Forced Marriage, Burkina Faso Girls Find Refuge in Education*, REUTERS (Mar. 15, 2022).

<sup>58</sup> GIRLS NOT BRIDES, *supra* note 21.

<sup>59</sup> *Id.*

<sup>60</sup> *Id.*

<sup>61</sup> *Married at 13 – Thousands of Girls in Burkina Faso Denied a Childhood Against Their Will*, *supra* note 56.

<sup>62</sup> *Child Marriage*, UNICEF (Jun. 2020).

<sup>63</sup> GIRLS NOT BRIDES, *supra* note 21.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.*