Soumission du Haut-Commissariat des Nations Unies pour les réfugiés

Pour la compilation du rapport du Haut-Commissariat pour les droits de l'homme

Examen périodique Universel: *3ème Cycle, 30ème Session*

BURKINA FASO

I. CONTEXTE GENERAL

Le Burkina Faso a adhéré à la *Convention de 1951 relative au statut des réfugiés* ainsi qu'à son *Protocole de 1967* le 18 juin 1980 (ci-après dénommés conjointement la *Convention de 1951*). La *Convention de l'O.U.A. régissant les aspects propres aux problèmes de réfugiés en Afrique* de 1969 a été ratifiée le 16 août 1978. Le Burkina Faso a également adhéré à la *Convention relative au statut des apatrides de 1954* (*Convention de 1954*) le 12 mai 2012 et à la *Convention de 1961 sur la réduction des cas d'apatridie* (*Convention de 1961*) le 03 août 2017. La *Convention de Kampala sur la protection et l'assistance aux personnes déplacées internes* (*Convention de Kampala*) a quant à elle été ratifiée en 2012.

Le corpus juridique de protection des réfugiés est constitué de la *Loi n°042-2008 du 23 octobre 2008 portant statut des réfugiés au Burkina Faso*, du *Décret n°2011-118 portant attributions, composition, organisation et fonctionnement de la Commission Nationale pour les Réfugiés* et du *Décret n°2011-119 relatif aux modalités d'application de la loi portant statut de réfugié au Burkina Faso,* adoptés le 10 mars 2011.

Depuis le début de la crise malienne, le Burkina Faso a maintenu sa politique de « portes ouvertes ». L'UNHCR a toujours salué le gouvernement pour sa forte volonté et son engagement à remplir ses obligations concernant la protection des réfugiés se trouvant sur son territoire. Toutefois, à la suite des attaques terroristes et de l'insécurité grandissante au nord du pays depuis 2016, le gouvernement exprime des préoccupations face aux mouvements pendulaires des réfugiés maliens vers le Mali.

Au 31 mai 2017, le Burkina Faso accueillait environ 33,501 réfugiés, en majorité Maliens. Ces réfugiés maliens résident principalement dans deux grands camps dans la région du Sahel (Goudoubo à Dori et Mentao à Djibo), ainsi qu'en dehors des camps dans la même région. Une centaine de réfugiés maliens et une centaine de réfugiés de diverses nationalités résident à Ouagadougou et à Bobo-Dioulasso. Les demandeurs d'asile sont au nombre de 149.

Par note verbale n°000863 du 22 mars 2012, le gouvernement a procédé à la reconnaissance *prima facie* du statut de réfugié aux maliens fuyant le conflit au Nord du Mali. La Commission nationale pour les réfugiés (CONAREF) a également mis en place une procédure simplifiée d'examen des demandes individuelles provenant des demandeurs d'asile centrafricains. Les demandeurs d'asile d'autres nationalités, quant à eux, suivent la procédure habituelle de détermination du statut de réfugié (DSR), l'examen individuel des requêtes par la CONAREF.

En ce qui concerne l'apatridie, il n'y a pas encore de statistiques sur les personnes apatrides ou à risque d'apatridie au Burkina Faso. Cependant, plusieurs facteurs portent à croire que

certains groupes de population pourraient être à risque d'apatridie en l'absence de mesures correctives.

II. REALISATIONS ET DEVELOPPEMENTS POSITIFS

Développements positifs en lien avec les recommandations de l'EPU du 2ème cycle

En lien avec la recommandation de l'UPR no 135.38: «Redoubler d'efforts pour sensibiliser aux droits de l'homme toutes les catégories sociales (Soudan);».

Depuis le début de la crise au Mali, le Burkina Faso accueille des réfugiés maliens issus d'une société fortement hiérarchisée. En effet, dans les sociétés touarègues au Mali, il existe une distinction, souvent fondée sur la race, entre les hommes libres (appelés illelan) et les esclaves (dénommés iklan)[1], souvent désignés comme Tamasheks noirs ou comme bella.

Face à la discrimination dont étaient victimes les iklan[2], le Gouvernement, le HCR ainsi que leurs partenaires ont intensifié les séances de sensibilisation auprès des communautés et de leurs leaders sur le respect des droits humains et sur l'interdiction de toutes formes de discrimination. Cette stratégie a encouragé les réfugiés maliens à peau noir à revendiquer de plus en plus leur droit à l'égalité de traitement. Ainsi, les femmes ont été prises en compte dans des projets inclusifs d'autonomisation (*Seeds for Solutions* et autres projets) et collaborent dans un esprit de cohésion et d'entraide mutuelle. De plus, grâce à une sensibilisation continue, les enfants fréquentent les mêmes écoles et ont développé des interactions positives. Toutefois, en raison du fort ancrage culturel de ces pratiques, il s'agit d'un travail de longue haleine.

En lien avec la recommandation de l'UPR no 135.1 : « Adhérer à la Convention de 1954 relative au statut des apatrides et à la Convention de 1961 sur la réduction des cas d'apatridie (Slovaquie). »;

Le Burkina Faso a adhéré à la *Convention de 1961* le 03 août 2017. Le Burkina Faso a également élaboré un Plan d'action national de lutte contre l'apatride, adopté par décret le 02 août 2017. En outre, le Burkina Faso a mené plusieurs campagnes d'information sur le phénomène de l'apatridie (caravane d'information et de sensibilisation des populations dans les 13 régions administratives du pays, production de films documentaires et de panneaux d'information, organisation de débats interactifs et radiophoniques, conférences au bénéfice de journalistes, d'étudiants, d'ONG de défense des droits humains et de structures gouvernementales, émissions de télévision). De surcroît, plusieurs échanges entre des magistrats et d'autres cadres du Ministère en charge de la justice ont eu lieu en vue d'harmoniser les pratiques relatives à la délivrance du certificat de nationalité burkinabè. Les compétences des autorités administratives et judiciaires des régions frontalières de l'Est et du Sahel ont également été renforcées afin de mieux répondre au phénomène de l'apatridie. Finalement, le gouvernement a prévu d'inclure certaines questions ciblées sur l'apatridie dans les outils de collecte du Recensement général de la population initialement prévu pour 2017 afin d'évaluer le phénomène.

En lien avec la recommandation de l'UPR no 135.18 : «Accélérer les travaux visant à mettre en place un système national d'enregistrement gratuit et universel des naissances

[1] Edmund Bernus and Suzanne Bernus, "L'evolution de la condition servile chez les tuaregs sahelien » in Claude Meillassoux, ed. « L'esclavage en Afrique Precoloniale » (Paris : Maspero), 1975.
[2] Lors des activités au bénéfice des réfugiés, les réfugiés de peau claire exigeaient d'avoir la préséance. Par ailleurs, les enfants Tamasheq noirs travaillaient pour les familles touaregs en vivant parfois séparés de leurs parents biologiques. Ils étaient appelés à s'occuper des enfants, de la cuisine ou du bétail et étaient, de ce fait, exclus du système scolaire.

sur l'ensemble du territoire, y compris dans les zones reculées, et renforcer l'action de sensibilisation à l'importance que revêt l'enregistrement des naissances (Uruguay)».

Le Gouvernement, le HCR et ses partenaires poursuivent les efforts de sensibilisation pour l'enregistrement systématique des enfants réfugiés. A ce jour, sur 3 303 enfants réfugiés maliens enregistrés, 2 135 disposent d'un acte de naissance soit 65 pour cent. En ce qui concerne les naissances ayant lieu dans les camps, l'augmentation de la taille des ration est assujettie aux premières démarches relatives à la délivrance d'actes de naissance. En outre, des audiences foraines sont organisées afin de faciliter la délivrance des actes de naissance. Finalement, le centre de santé du camp de réfugiés de Mentao a été érigé en centre secondaire d'état civil, et les mêmes démarches sont en cours à Goudoubo. Le HCR poursuit sa collaboration avec le ministère de l'administration du territoire pour l'organisation des audiences foraines pour la délivrance d'acte de naissance aux populations des régions du Sud-Ouest, des Cascades et de l'Est, qui n'ont pas été déclarées depuis leur naissance.

III. PRINCIPAUX PROBLEMES DE PROTECTION, DEFIS ET RECOMMANDATIONS

Point 1: Prévenir et réduire l'apatridie

Bien que des efforts considérables aient été entrepris, de nombreux défis restent à relever afin d'éradiquer l'apatride d'ici 2024 notamment la réforme du *Code de Personnes et de la Famille*, l'obtention de données statistiques sur l'ampleur du phénomène, la mise en application effective des décisions de la Cour internationale de justice qui ont modifié les frontières entre le Burkina et le Niger[3] ainsi qu'entre le Burkina et le Mali[4], ainsi que la documentation des nombreux burkinabè à risque d'apatridie vivant en Côte d'Ivoire.

Recommandations:
Le HCR recommande au Gouvernement du Burkina Faso de:

(a) Assurer l'intégration des dispositions de la *Convention de 1954* et la *Convention de 1961* dans les textes de lois au niveau national pour prévenir l'apatridie à la naissance et réduire les cas d'apatridie, à travers l'adoption d'une loi sur l'apatridie et/ou la révision de la loi sur la nationalité qui est contenu dans le*Code de Personnes Famille* ;
(b) Garantir la mise en œuvre effective du Plan d'action national de lutte contre l'apatridie et la réalisation des missions de documentation des burkinabè à risque d'apatridie suite aux délimitations frontalières entre le Burkina Faso et le Niger, et le Mali ainsi que ceux à risque d'apatridie en Côte d'Ivoire, à travers le renforcement de la coopération avec le Gouvernement de la Côte d'Ivoire ;
(c) Continuer à s'investir dans l'enregistrement des naissances conformément aux engagements pris à travers l'adoption de la Déclaration d'Abidjan en février 2015 et du Plan d'Action de Banjul en mai 2017.

Point 2: Réduction de l'espace de protection, caractère civil et humanitaire des camps, stigmatisation des réfugiés maliens

A la suite des attaques et menaces terroristes enregistrées au Burkina Faso depuis 2016, les réfugiés maliens font l'objet de stigmatisation au motif que certains d'entre eux seraient soupçonnés de connivence avec les groupes terroristes. Considérant la culture nomadique des réfugiés maliens, le gouvernement a exprimé certaines préoccupations face aux mouvements pendulaires des réfugiés maliens vers le Mali en raison des pâturages qui s'y trouvent et malgré de nombreuses séances de sensibilisation.

[3] *Frontier Dispute (Burkina Faso/Niger)*, Judgment, I.C.J. Reports 2013, p. 44, available at: http://www.icj-cij.org/files/case-related/149/149-20130416-JUD-01-00-EN.pdf.
[4] *Frontier Dispute (Burkina Faso/Republic of Mali)*, Judgment, I.C.J. Reports 1986, p. 554, available at: *http://www.icj-cij.org/files/case-related/69/069-19861222-JUD-01-00-FR.pdf.*

Afin de garantir l'intégrité nationale et la protection des réfugiés maliens dans le Sahel, un comité de réflexion sur les questions relatives aux réfugiés a été mis en place pour conseiller le gouvernement. Le HCR partage la préoccupation légitime du Gouvernement de s'assurer qu'il n'y ait aucun moyen pour ceux qui soutiennent ou commettent des actes de terrorisme d'avoir accès au territoire que ce soit pour y trouver refuge, pour éviter des poursuites pénales ou pour y commettre d'autres attentats. Toutefois, le HCR s'inquiète des mesures drastiques que pourrait prendre le gouvernement, notamment la relocalisation des réfugiés maliens hors camps vers les zones loin de la frontière. Cette relocalisation risquerait de compromettre les efforts de résilience de la population réfugiée en termes d'autonomisation, d'intégration sociale (éducation pour les enfants), de gestion du bétail et de cohésion sociale avec la population hôte. En outre, un engagement fort et soutenu du gouvernement est nécessaire en cette période particulièrement difficile afin de dédramatiser et de dépolitiser les défis humanitaires liés à la protection des réfugiés et d'assurer une meilleure compréhension de la situation des réfugiés et du droit de demander l'asile.

Recommandations
Le HCR recommande au Gouvernement du Burkina Faso de:

(a) Continuer de s'assurer que ceux qui sont forcés d'abandonner leurs foyers en raison de persécutions, des conflits et de l'insécurité aient toujours accès à la protection internationale tout en préservant l'intégrité des systèmes d'asile ;
(b) Renforcer son mécanisme de surveillance et d'identification des non réfugiés potentiellement engagés dans des activités subversives afin de maintenir le caractère civil et humanitaire de l'asile ; et,
(c) Augmenter l'intégration des réfugiés dans les programmes nationaux qui facilitent l'interaction, la cohésion sociale avec la population hôte ainsi que l'autonomisation de deux communautés.

Point 3: <u>Documentation des réfugiés</u>

En 2014, le Gouvernement a signé un accord avec le HCR permettant la délivrance de Carte d'identité de réfugiés (CIR). Cette carte présente des caractéristiques proches de la carte d'identité nationale et est produite et délivrée par la même agence nationale soit l'Office National d'Identification. Avec la délivrance des nouvelles CIR, des actions de sensibilisation se poursuivent auprès des forces de défense et de sécurité et des structures bancaires et de transfert d'argent afin d'assurer la reconnaissance de ces documents. Toutefois, ces actions demeurent insuffisantes et devraient être étendues au grand public afin d'améliorer leur impact. Par ailleurs, le délai de validité de 2 ans des CIR oblige les réfugiés à les renouveler fréquemment tandis que la prise en charge des coûts de production de ces derniers est assurée par le HCR, car la plupart des réfugiés n'ont pas les moyens de le faire.

Par ailleurs, les Titres de voyage de la Convention (TVC) actuellement délivrés par le Burkina Faso ne sont plus conformes aux normes de l'Organisation de l'aviation civile internationale. Cette situation, alliée à la faible disponibilité des TVC manuels produits par le HCR, restreint la liberté de circulation des réfugiés qui se voient parfois refuser des visas de voyage. A ce sujet, un projet de délivrance de passeports biométriques à puces est en cours de mise en œuvre au Burkina Faso et prévoit d'intégrer les réfugiés qui disposeraient alors de TVC biométriques à puces.

Recommandations:
Le HCR recommande au Gouvernement du Burkina Faso de:

(a) Augmenter la validité des CIR à 5 ans ;
(b) Renforcer les opérations d'information et de sensibilisation de grande envergure sur les CIR ; et,

(c) Assurer la mise en œuvre rapide du projet e-passeport pour la dotation de e-TVC aux réfugiés.

Point 4: <u>Protection dans la migration mixte</u>

Les réfugiés, les demandeurs d'asile, les apatrides et autres personnes qui ont besoin de protection se trouvent parmi ceux qui cherchent à entrer illégalement en Europe via la Libye ou l'Algérie en passant par le Burkina Faso, considéré comme l'un des principaux pays de transit et premier pays d'asile pour de nombreux réfugiés maliens et une centaine des réfugiés urbains d'autres nationalités. De surcroît, la route migratoire allant du Burkina Faso au Niger et empruntée parmi les individus cherchant à se réfugier en Europe passe par la ville de Dori, où sont installés de nombreux réfugiés maliens. En dépit de l'absence de données sur ces flux migratoires pour le moment, le HCR est inquiet du fait que ces réfugiés maliens pourraient être tentés de se joindre à ce flux migratoire en direction de la Libye. En outre, Le HCR est très préoccupé par ces flux mixtes, par lesquels les migrants et les réfugiés se déplacent ensemble, de manière irrégulière, en empruntant au péril de leurs vies les mêmes itinéraires dangereux, à savoir la traversée du désert et des voies maritimes dans des bateaux de fortune. Du fait de leur caractère mixte et irrégulier ainsi que des causes profondes à l'origine de ces mouvements (désespoir/absence de solutions durables en vue/pauvreté), ces flux présentent des difficultés particulières pour les États et la communauté internationale.

Recommandations:
Le HCR recommande au Gouvernement du Burkina Faso de:

(a) Mettre en œuvre des mesures législatives et administratives visant à lutter contre le trafic humain et à identifier les personnes ayant besoin d'une protection internationale au sein des flux mixtes de migration ; et,
(b) Élaborer une stratégie nationale afin d'augmenter la capacité et la coordination entre les agences nationales dans le but d'assurer une meilleure gestion des flux migratoires mixtes importants pouvant inclure des personnes vulnérables nécessitant une protection internationale.

Point 5: <u>Intégration des réfugiés dans les programmes nationaux de développement.</u>

L'asile de la majorité des réfugiés maliens se trouvant sur le sol burkinabè s'inscrit dans la durée prolongée et les conditions de rapatriement durable dans la sécurité et la dignité ne se sont pas encore réunies. Les activités d'autonomisation de ces réfugiés doivent être renforcées afin de réduire leur vulnérabilité et notamment de prévenir les risques de recrutement par divers groupes terroristes. Ainsi, pour lutter contre ces facteurs dans la Région du Sahel, les 5 pays membres du G5 Sahel ont mis en place un programme qui prévoit des activités d'autonomisation pour les populations et surtout les jeunes. Dans ce même cadre, le gouvernement vient de bénéficier d'un financement pour la mise en place d'un programme d'urgence pour le Sahel (PUS) visant à renforcer la présence de l'Etat burkinabè et les services sociaux de base, à améliorer les conditions de vie des populations frontalières, à stabiliser le pays et prévenir la radicalisation dans les espaces frontaliers.

Recommandations:
Le HCR recommande au Gouvernement du Burkina Faso de:

(a) Améliorer l'intégration des réfugiés, en particulier les jeunes, dans les stratégies nationales de réduction de la pauvreté ou dans toute autre stratégie nationale de développement, de manière à appuyer les stratégies visant à améliorer les moyens de subsistance des réfugiés et des communautés hôtes.

UNHCR Burkina Faso
Octobre 2017

ANNEX

Excerpts of relevant Recommendations from the 2nd cycle Universal Periodic Review, Concluding Observations from UN Treaty Bodies and Recommendations of Special Procedures mandate holders

BURKINA FASO

We would like to bring your attention to the following excerpts from the 2nd cycle UPR recommendations, UN Treaty Monitoring Bodies' Concluding Observations, and recommendations from UN Special Procedures mandate holders' reports relating to issues of interest and persons of concern to UNHCR with regards to Burkina Faso.

I. Universal Periodic Review (Second Cycle – 2013)

Recommendation[5]	**Recommending State/s**	**Position**
Statelessness and birth registration		
135.1 Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the reduction of statelessness	Slovakia	Supported
135.18 Speed up efforts to establish a national system for free universal birth registration throughout the country, including remote areas and strengthen awareness on the importance of birth registration	Uruguay	Supported
135.19 Strengthen the rights of the child, particularly by ensuring the registration of all children on the Civil Register	Austria	Supported
135.20 Continue its commitment to establishing a free birth registration system at national level in order to allow children to demand their rights during their life and to access to public services	Turkey	Supported
Trafficking in persons		
135.90 Take further strong measures to prevent trafficking and exploitation of women and children	Australia	Supported
135.91 Renew its efforts to combat all forms of trafficking of children, and formulate a policy of child protection to ensure a better system for safeguarding children's rights	Luxembourg	Supported
135.92 Further step up its efforts to prevent and eradicate trafficking in persons and consider the possibility of developing a national action plan and of inviting the Special Rapporteur on trafficking in persons, especially in women and children	Belarus	Supported
135.93 Intensify efforts in the fight against trafficking in persons, in particular women and children	Republic of Moldova	Supported
135.94 Ensure effective implementation of its national action plan against human trafficking by law enforcement officials with the aim to dismantle illicit networks, whilst reintegrating children victims back in school and preventing revictimization	Thailand	Supported
135.97 Intensify efforts to combat child trafficking and international child abduction in order to conserve the gains already achieved by the Government in this area	Nigeria	Supported

[5] All recommendations made to Burkina Faso during its 2nd cycle UPR can be found in: "Report of the Working Group on the Universal Periodic Review of Burkina Faso" (8 July 2013), A/HRC/24/4, available at: http://www.ohchr.org/EN/HRBodies/UPR/Pages/BFIndex.aspx.

135.98 Continue its efforts, in cooperation with UNICEF and relevant United Nations agencies, to combat trafficking in persons and child abduction	Singapore	Supported
135.113 Hire and train additional labour inspectors and equip them with necessary resources to adequately enforce relevant labour and trafficking laws	United States of America	Supported
Children's rights		
135.66 Continue taking appropriate measures to protect the most vulnerable children, particularly girls, children with disabilities and children living in rural areas and to ensure effective protection of children especially against sexual abuse, trafficking and child labour	Cyprus	Supported
135.12 Promote further internal consultations to ensure the adoption of a code of protection of children in conformity with the Convention on the Rights of the Child	Brazil	Supported
Sexual and gender-based violence		
135.3 Take measures to adopt specific legislation to prohibit violence and discrimination against women in conformity with the Convention on the Elimination of All Forms of Discrimination against Women	Brazil	Supported
135.4 Introduce appropriate legislative measures criminalizing all forms of violence against women	Burundi	Supported
135.6 Consider adopting a specific legislation to eliminate violence against women, including domestic violence	Chile	Supported
135.84 Further strengthening national efforts to eliminate all forms of violence against women, including FGM, and taking all the necessary measures to enable women to participate in public and private life on an equal footing with men	Slovenia	Supported

II. Treaty Bodies

Committee on the Elimination of Racial Discrimination

Concluding Observations, (23 September 2013), CERD/C/BFA/CO/12-19

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.

Committee on the Protection of the Rights of All Migrant Workers and Members of their Families

Concluding Observations, (8 October 2013), CMW/C/BFA/CO/1

28. The Committee welcomes the free birth registration campaign introduced by the State party, but regrets that the campaign has ended, and is concerned about the problems encountered by migrant workers in registering the birth of their children in the State party.

29. The Committee recommends that the State party step up its efforts to ensure that all children of migrant workers are registered at birth and provided with personal identity documents in accordance with article 29 of the Convention, and encourages the State party to relaunch the free birth registration campaign if at all possible. The Committee also recommends that the State party continue to facilitate the presence of the civil registry services in maternity wards, particularly in rural areas, and to raise the awareness of migrant workers and members of their families, particularly those in an irregular situation, of the importance of birth registration

40. The Committee congratulates the State party on the measures it has taken in response to the crises in Côte d'Ivoire and Libya and also for the action it recently took to help refugees from Mali. The Committee is, however, concerned about the fact that the identity cards issued to refugees are not recognized, or are poorly recognized, in the State party, preventing the refugees from fully enjoying their rights. In particular, the Committee notes the absence of information on specific measures taken with a view to facilitating the regularization of migrant workers in an irregular situation.

41. The Committee recommends that the State party ensure that the identity cards issued to refugees are fully recognized in the State party and urges it to take all appropriate measures to regularize the situation of migrant workers and members of their families who are in an irregular situation, to avoid them remaining in that

situation for an extended period and to ensure that they have effective access to information on the procedures in force for the regularization of their situation.

Committee against Torture

Concluding Observations, (2 January 2014), CAT/C/BFA/CO/1

Prison conditions
19. Despite the efforts made by the State party to build new prisons, the Committee remains deeply concerned by the poor conditions in the country's prisons, including insanitary conditions which reportedly have caused several deaths. It also regrets that the State party has not made sufficient use of non-custodial measures to ease overcrowding in prisons. The Committee is also concerned that there is no effective system for separating inmates by category (arts. 2, 11 to 14 and 16).

The State party should step up its efforts to improve prison conditions in line with international standards and with the Standard Minimum Rules for the Treatment of Prisoners. It should inter alia:

(a) **Significantly reduce prison overcrowding, in particular in the prisons of Bobo-Dioulasso, Fada N'gourma, Ouagadougou and Tenkodogo, by making greater use of non-custodial measures, in the light of the United Nations Standard Minimum Rules for Non-custodial Measures (the Tokyo Rules);**
(b) **Ensure that prisoners have access to health care, a proper and varied diet and hygienic conditions;**
(c) **Ensure that young prisoners are kept separate from adults, untried prisoners from convicts and women from men;**
(d) **Establish an effective, independent and confidential mechanism for lodging complaints about conditions of detention, including any ill-treatment, and ensure that thorough, impartial and independent investigations are conducted into any and all complaints;**
(e) **Strengthen judicial supervision of prison conditions; and**
(f) **Guarantee that the National Human Rights Commission, non-governmental organizations and the future mechanism for the prevention of torture have unhindered access to all places of detention through, in particular, unannounced visits and the ability to speak with prisoners in private.**

Customary practices that are harmful to women and violence against women
21. The Committee takes note of the increased efforts made by the State party to combat female genital mutilation. However, it remains concerned that neither this practice, nor other discriminatory practices that are harmful to women, such as forced and early marriages and levirate and sororate marriages, have stopped. The Committee also remains concerned by reports that some elderly women have been accused of witchcraft and thus subjected to physical and verbal violence and rejected by their community, and are now housed in shelters (arts. 2, 12 to 14 and 16).

The State party should intensify its efforts to combat customary practices that are harmful to women, including female genital mutilation and forced marriage, inter alia by stepping up campaigns to alert the public to the harmful effects of certain customs that are detrimental to women. It should continue its efforts to provide care for elderly women who are accused of witchcraft and ensure that all possible measures are taken to help such women reintegrate into society. The State party should also prosecute the perpetrators of violence against women and compensate the victims.

Violence against children
22. While noting the efforts of the State party to protect children's rights and, in particular, to protect children against trafficking and similar practices, the Committee remains concerned by the lack of information about measures taken to combat the exploitation of *talibé* and *garibou* street children in begging and the economic exploitation of children in gold mines and in private homes. The Committee also remains concerned by reports that children continue to be subjected to corporal punishment in the home (arts. 2, 12 and 16).

The State party should:
(a) **Prosecute any persons who force children to beg and apply the penalties on them that are set out in the Criminal Code, establishing a monitoring, complaints and assistance mechanism for such children and organizing campaigns to raise awareness among parents and those who run Koranic schools of the harmful effects of begging on children;**
(b) **Put an end to the economic exploitation of children in gold mines and in private homes by taking all necessary measures to combat and eliminate these practices;**
(c) **Conduct campaigns to raise awareness of the harmful effects of corporal punishment on children; and**
(d) **Revise its legislation to include a prohibition on corporal punishment in the home.**

Committee on Economic, Social and Cultural Rights

Concluding Observations, (12 July 2016), E/C.12/BFA/CO/1

Non-discrimination
11. The Committee is concerned at the absence of a general law against discrimination covering all the rights under the Covenant and at the absence of effective measures, legislative or otherwise, to combat discrimination. It notes with concern the disparities that exist between rural and urban areas in the enjoyment of economic, social and cultural rights, which affect most significantly the most marginalized and vulnerable individuals and groups (art. 2 (2)).

12. The Committee recommends that the State party adopt and implement a comprehensive general law against discrimination that will apply to all grounds of discrimination provided for under article 2 of the Covenant and prohibit any form of direct or indirect discrimination. Such a law should also authorize the implementation of temporary special measures to benefit disadvantaged or marginalized groups, including minority groups such as the Silanko, Mossi and Fulani, indigenous peoples such as the Tuareg, Mbororo and Wodaabe, persons with albinism and persons suffering from a disability. It recommends that the State party take all necessary measures to address the regional disparities that prevent the whole population from enjoying economic, social and cultural rights on an equal footing. In that connection, the Committee invites the State party to refer to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.

Equal rights between men and women
15. The Committee regrets that, in spite of amendments made to legislation to ensure equality of the sexes, inequalities between men and women persist in practice, chiefly owing to the persistence of stereotypes relating to the role of women and men. The Committee also notes with concern that women living in rural areas are even more disadvantaged (arts. 3 and 7).

16. The Committee recommends that the State party carry out, in conjunction with civil society organizations and the media, campaigns to raise public awareness with a view to eliminating gender stereotypes in the family and in society at large in the interest of both women and men. It recommends that the State party enforce legislation combating discrimination against women and adopt specific measures to eliminate the persistent inequalities between men and women, particularly women in rural areas, and promote their full access to education, health care and land. The Committee would draw attention in this connection to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3).

Right to work
19. The Committee notes with concern that, despite the efforts of the State party, the unemployment rate remains high, particularly among young people and women, and even more markedly (of the order of 30 per cent) among young adults living in urban centres (arts. 3 and 6).

20. The Committee recommends that the State party take the necessary measures to implement the national employment policy more effectively by introducing specific targets, with a particular focus on young people and women, and by improving the quality of education and technical and occupational training, which must meet the needs of the labour market. The Committee draws attention in this respect to its general comment No. 18 (2005) on the right to work.

Forced eviction
36. The Committee is concerned at the forced eviction of a large number of families in rural areas, in Kounkoufouanou, Essakane and elsewhere, as a result of gold-mining operations and agro-industry (art. 11).

37. The Committee recommends that the State party adopt effective measures against forced eviction, in line with international human rights standards, and guarantee the victims of forced evictions an effective remedy to obtain restitution of their property or the grant of adequate compensation. The Committee would refer the State party to its general comment No. 7 (1997) on the right to adequate housing: forced evictions.

Human Rights Committee

Concluding Observations, (17 October 2016), CCPR/C/BFA/CO/1

Discrimination based on sexual orientation or gender identity
13. The Committee is concerned about the stereotyping of lesbians, gays, bisexuals and transgender persons, and about reports of discriminatory acts and hate speech aimed at them, including by politicians. It also notes with concern the absence of legislation expressly prohibiting discrimination based on sexual orientation or gender identity (arts. 2 and 26).

14. **The State party should organize awareness campaigns and redouble its efforts to combat and condemn stereotyping, hate speech and violence in relation to homosexuality, bisexuality or transsexuality. It should also review its legislation to ensure that discrimination based on sexual orientation or gender identity is prohibited.**

Violence against women
17. The Committee remains concerned about the prevalence of violence against women, including marital and sexual violence, and about the inadequacy of victim support services and shelters. The Committee also notes with concern that marital rape, as defined in article

14 (2) of Act No. 061-2015/CNT, is a criminal offence only if committed “repeatedly” or when the partner exhibits “any physical incapacity to engage in a sexual relationship”, and that it is punishable only with a fine (arts. 3 and 7).

18. **The State party should ensure the effective enforcement of Act No. 061-2015/CNT by making sure that cases of violence against women are thoroughly investigated, the perpetrators are prosecuted and convicted, and victims have access to effective remedies. The State party should step up awareness campaigns on this issue, improve victim support services and shelters and collect disaggregated data on the extent of violence against women. Lastly, the State party should amend article 14 (2) of Act No. 061-2015/CNT so as to make any act of marital rape a punishable offence and provide for penalties that are commensurate with the seriousness of the act.**

Prohibition of torture and ill-treatment

27. The Committee is concerned about allegations of torture and ill-treatment inflicted by law enforcement officials, members of the armed forces and prison officers, including at the Wemtenga regional headquarters of the criminal investigation police. The Committee also remains concerned about reports that the legal provisions establishing the inadmissibility of confessions obtained by torture as evidence in court are not always respected. It also regrets that the national observatory for the prevention of torture and related practices provided for in Act No. 22-2014/AN is not yet operational (arts. 7, 10 and 14).

28. **The State party should: (a) take steps to prevent torture, including by strengthening the training of justice, defence and security officials; (b) ensure that alleged acts of torture and ill-treatment committed by law enforcement officials, members of the armed forces and prison officers are thoroughly investigated, that the perpetrators are prosecuted and, if found guilty, sentenced appropriately, and that victims are duly compensated and offered rehabilitation assistance; (c) ensure that confessions obtained by torture are systematically rejected by the courts, in accordance with the State party’s legislation and article 14 of the Covenant; and (d) adopt, as soon as possible, decrees to make the national observatory for the prevention of torture and related practices operational.**

Prison conditions

33. The Committee is concerned about the inadequate detention conditions in almost all prison facilities in the State party and, particularly, about the very high rate of prison overcrowding and the high percentage of prisoners in pretrial detention. The Committee is further concerned about reports of unsatisfactory sanitary conditions, inadequate medical care and the poor quality of food served to prisoners. Lastly, the Committee is concerned that, because of the overcrowding, prisoners in pretrial detention are not separated from convicted prisoners. It regrets that there is no proper mechanism for receiving complaints from prisoners (arts. 9 and 10).

34. **The State party should redouble its efforts to improve living conditions and the treatment of prisoners, including by giving them access to proper medical care and by separating prisoners according to their detention regime, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules). It should also continue its efforts to remedy the problem of prison overcrowding, including by putting in place a genuine policy on the use of alternatives to the deprivation of liberty.**

Human trafficking and child labour

35. The Committee remains concerned about human trafficking for the purposes of sexual exploitation or forced labour in the State party, and about the lack of official data on the extent of the problem. The Committee is also concerned about the provisions of Act No. 011-

2014/AN on the punishment of the sale of children, child prostitution and child pornography, which allow a person found guilty to pay a fine rather than go to prison. The Committee is further concerned about the extent and persistence of the use of children for begging and forced labour, particularly as domestic workers or in dangerous work, including small-scale mining operations, farm work and selling drinks (arts. 8 and 24).

36. **The State party should: (a) continue its efforts to make the general public and those who work in the criminal justice system aware of the problem of trafficking and the risks of economic and sexual exploitation; (b) strictly enforce the laws and regulations related to child trafficking, child labour and the exploitation of children, with a view to eliminating these practices and strengthening monitoring mechanisms; (c) amend Act No. 011-2014/AN so as to ensure that the penalties handed down for sex offences involving children are commensurate with the seriousness of such offences; and (d) collect disaggregated data on the extent of trafficking for purposes of the sexual and economic exploitation, forced labour and exploitation of children.**

Community conflicts

41. The Committee is concerned about the resurgence of conflicts between pastoralists and farmers, which have affected the Fulani (*Peulh*) communities in particular, and which have led to physical injuries and deaths, the destruction of property and housing, and population displacement. The Committee also notes with concern reports that the Fulani community has been regularly targeted by vigilante groups (arts. 6, 9 and 27).

42. **The State party should continue its efforts to protect pastoralists and put a stop to the violations of which they are victims. It should promote intercommunal dialogue and try to reduce tensions between pastoralists and farmers, including by taking into consideration the root causes of the conflicts, such as the increased competition for land and land-tenure insecurity among indigenous peoples and other communities that follow customary land-tenure systems. The State party should also continue its efforts to ensure that human rights violations committed in the context of such conflicts are promptly investigated, prosecute and punish those responsible with sanctions commensurate with the crime and compensate the victims.**

III. Special Procedures Mandate Holders

Report of the Special Rapporteur on the promotion and protection of human rights while countering terrorism

Addendum: Mission to Burkina Faso (4 February 2014) A/HRC/25/59/Add.1

28. As a result of the conflict in Mali, Burkina Faso is home to approximately 50,000 refugees. They have fled the fighting and are currently living in three consolidated refugee camps in Goudébou, Mentao and Saag Nioniogo, following relocation from sites close to the northern border as well as areas outside the camps in the provinces of Oudalan and Soum. The Government has taken considerable care to screen new arrivals and separate genuine refugees from non-civilians. The Special Rapporteur was informed that the Office of the United Nations High Commissioner for Refugees has no indication that there are former combatants in refugee camps in Burkina Faso. Nevertheless, the Special Rapporteur was informed that a significant number of former combatants associated with the Mouvement national pour la libération de l'Azawad and other groups involved in the conflict in Mali are among the refugees within its borders, and are organized into identifiable groups. Government officials maintain a close watch on those groups and individuals in order to identify and prevent security risks that may arise from their presence on the territory of Burkina Faso.

B. Recommendations

70. **In a spirit of cooperation, the Special Rapporteur wishes to make the following recommendations to the Government of Burkina Faso.**

71. **Burkina Faso should implement its national justice policy (2010–2019) in order to create a justice system that is credible, fair, independent, transparent, decentralized, competent and accessible to all. In that regard, the Special Rapporteur recommends that the Government of Burkina Faso:**

(a) **Undertake a comprehensive review of sentencing policy to ensure that the judiciary does not impose prison sentences that the Government is unable to administer in humane conditions;**

(b) **Strive to significantly decrease the average time taken to process criminal cases;**

(c) **Ensure, as an immediate means of easing prison overcrowding, that any person on pretrial remand for a non-violent offence is urgently considered for conditional release.**

72. **Burkina Faso should take all possible measures to ensure that GDP growth results in a proportional decrease in the poverty level of its population. The Special Rapporteur urges the Government not to spare any effort in that regard, as poverty and inequality are conditions conducive to terrorism.**

73. **Notwithstanding the fact that Act No. 60-2009/AN of 17 December 2009 punishing acts of terrorism has not been applied to date, Burkina Faso should ensure that it will not be misused, particularly in application of the offence of "criminal conspiracy" in article 2.**

74. **While commending the Government for its efforts to protect its borders, the Special Rapporteur recommends that Burkina Faso pursue those and related efforts further. In order to enable Burkina Faso to remain a haven of peace in the region, the Special Rapporteur also calls upon the international community to spare no effort in providing it with international assistance for border security maintenance.**

75. **While welcoming the assistance the Government of Burkina Faso provides to the many thousands of people who flee there from conflict in neighbouring countries.**