Immigration and Refugee Board of Canada

Responses to Information Requests

Responses to Information Requests (RIR) respond to focused Requests for Information that are submitted to the Research Directorate in the course of the refugee protection determination process. The database contains a seven-year archive of English and French RIRs. Earlier RIRs may be found on the UNHCR’s Refworld website. Please note that some RIRs have attachments which are not electronically accessible. To obtain a PDF copy of an RIR attachment, please email the Knowledge and Information Management Unit.

20 April 2016

BFA105383.FE

Burkina Faso: Treatment of sexual minorities, including legislation, state protection and support services (2014-April 2016)
Research Directorate, Immigration and Refugee Board of Canada, Ottawa

1. Legislation

1.1 Criminalization

According to several sources, homosexuality is not criminalized in Burkina Faso (Le Quotidien 8 June 2015; Sweden Sept. 2012, 1; Rodenbough July 2014, 18). In addition, according to the US Department of State Country Reports on Human Rights Practices for 2014, “[t]he law does not discriminate on the basis of sexual orientation or gender identity in employment and occupation, housing, statelessness, or access to education or health care” (US 25 June 2015, 27).

Concerning acts of indecency or public nuisance, articles 410 and 411 of the Penal Code [Code penal] read as follows:

[translation]

Article 410

Any person who causes a public nuisance shall be punished with a term of imprisonment of between two months and two years and a fine of between 50,000 and 600,000 francs.

Any deliberate act that is contrary to good morals and is committed in public or in a private place visible to the public and that may offend the sense of decency of third parties who involuntarily witness the act shall constitute a public nuisance.

...

Article 411

Any act of a sexual nature that is contrary to good morals and is committed directly and deliberately on another person, with or without force, compulsion or surprise, shall constitute an offence against decency. (Burkina Faso 1996)

According to an independent research report authored by Philip P. Rodenbough as part of the Virtual Student Foreign Service Project of the US Department of State and titled “On Being LGBT in West Africa,” “although there are fears that these articles could be used to prosecute homosexuality, no such instances are documented” (Rodenbough July 2014, 18). Similarly, the Swedish International Development Cooperation Agency (SIDA), a government agency working in nearly 40 countries around the world, including Burkina Faso...
notes in a September 2012 report on LGBT rights in Burkina Faso that there have been no documented arrests under the public nuisance provisions (Sweden Sept. 2012, 1). In addition, in a report on the legal status of LGBT persons in francophone West Africa, the Queer African Youth Network (QAYN) states the following:

For Burkina Faso, people surveyed testify to the exceptional character of [arbitrary arrests of LGBT persons]. Only one person mentions an arbitrary arrest. (QAYN July 2015, 24)

QAYN also states that [QAYN English version] "[o]ffences are further punished when LGBTQ individuals perpetrate them. Two judgments given by tribunals in Burkina Faso demonstrate this practice, without, however, being able to demonstrate whether this practice is exceptional or common" (QAYN July 2015, 24). QAYN specifies that the following two cases were reported by media in Burkina Faso:

In a judgment by the High Court of BoboDioulasso on 7 January 2013, a young transvestite gay was sentenced for street solicitation whereas this offence is almost never referred to tribunals for other cases of street solicitation.

[A]n offence of corruption of a minor was used to sentence a young lesbian, whereas this offence is not used to protect heterosexual minors (ibid.).

Moreover, according to Rodenbough:

Burkina Faso does have laws against prostitution, and these have been used to prosecute same-sex acts, although it is unclear if the same-sex acts are bases of bona fide prostitution (July 2014, 18).

SOURCES also report that in February 2015, the Party for National Rebirth (Parti pour la renaissance nationale, PAREN) tabled a bill on the prohibition and prosecution of bestiality, homosexuality and pedophilia (Fasozine 9 Feb. 2015; Burkina 24 9 Feb. 2015) and same-sex marriage, designed to [translation] “prevent deviant behaviour resulting from Western personal freedoms” (ibid.). Burkina Faso’s interim government rejected the bill (Express du Faso 11 Nov. 2015; Burkina Online 9 Nov. 2015).

1.2 Marriage

Article 23 of the Constitution stipulates that [translation] “marriage shall be based on the free consent of the man and the woman” (Burkina Faso 1991). The SIDA report notes that the law prohibits same-sex marriage (SIDA Sept. 2012, 1).

1.3 Protection Against Hate Crimes and Discrimination

Country Reports 2014 states

The country has no hate crime laws or other criminal justice mechanisms to aid in the investigation, prosecution, or sentencing of bias-motivated crimes against the LGBT community (US 25 June 2015, 28).

The SIDA report notes that there is no legislation “that protects LGBT persons from discriminatory treatment” (SIDA Sept. 2012, 1). The website of Le Quotidien in Burkina Faso mentions [translation] "internal pressure (religious, customary and sometimes political) that obstructs the implementation of a law" on LGBT rights (8 June 2015). However, Country Reports 2014 states, "The law and regulations prohibits discrimination regarding ... sexual orientation, and/or gender identity” (US 25 June 2015, 31). Country Reports 2014 adds, however, that the “government did not effectively enforce those laws and regulations. Discrimination [against LGBT persons] occurred based on the above categories with respect to employment and occupation” (ibid., 31-32).

2. Treatment by Society


Similarly, Country Reports 2014 states the following:

[US English version]
Other human rights problems included ... discrimination against members of the lesbian, gay, bisexual and transgender (LGBT) community (US 25 June 2015, 1).

*Country Reports 2014 adds*

[LUS English version]

LGBT persons were occasionally victims of verbal and physical abuse, according to LGBT support groups. (US 25 June 2015, 27)

Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

The Agence d’information du Burkina (AIB) explains that [translation] “homosexuality remains taboo in Burkina Faso society, primarily because of ancestral and religious values” (4 Mar. 2016). In an article on homosexuality in Africa published by the journal *Africa in Fact*, the African correspondent for the *Daily Maverick* in Johannesburg states the following:

Though [Burkina Faso] has no laws against homosexuality, it is still a difficult place to be gay. ... [T]he subject is still largely taboo. Gay people report being stigmatized, rejected, or hiding their practice. (Allison Aug. 2013, 4, 14)

Similarly, SIDA reports that LGBT persons face stigmatization by society (Sweden Sept. 2012, 2).

In the spring of 2015, numerous sources reported that, in Bobo-Dioulasso, a city in southwestern Burkina Faso, there were protests or events, some led by Western Islamic organizations, to support PAREN’s bill on the prohibition of homosexuality, or to speak out against the practice of homosexuality in their city (Les Échos du Faso 4 Mar. 2015; AIB 6 Mar. 2015; Le Faso 29 May 2015). The Burkina Faso news website Le Faso also reports that on 28 May 2015, protestors participating in a march against homosexuality in Bobo-Dioulasso went to the homes of [translation] “families suspected of sheltering homosexuals” and chanted slogans that were “hostile to homosexuals” (ibid.). The source notes that the protestors received support from local religious leaders (ibid.). The Burkina Faso daily newspaper *Sidwaya* also reports on this march (*Sidwaya* 28 Dec. 2015).

According to *Sidwaya*:

[translation]

[j]ounded from all sides, especially by religious communities, and closely monitored by their families, homosexuals are sentenced to living in secrecy in the city of Bobo-Dioulasso (ibid.).

On 12 September 2015, the Regional Coordination of Western Islamic Associations (Coordination régionale des associations islamiques de l’Ouest organized another meeting in Bobo-Dioulasso, with representatives of Christian churches, to reaffirm their stand against homosexuality and its legalization in Burkina Faso and for its punishment (*L’Opinion* 16-22 Sept. 2015; AIB 14 Sept. 2015; Les Échos du Faso 13 Sept. 2015).

According to a survey conducted in 2014-2015 by Afrobarometer [1] on homophobia in Africa, Burkina Faso is the 3rd most intolerant country in Africa, with 5 percent of its population saying that [Afrobarometer English version] “they would ‘strongly like,’ ‘somewhat like’ or ‘not care’ if they lived next to homosexuals” (Afrobarometer 1 Mar. 2016, 13).

3. State Protection

Information on state protection provided to LGBT persons was scarce among the sources consulted by the Research Directorate within the time constraints of this Response.

According to *Country Reports 2014*,

[UUS English version]

There were no reports that the government responded to societal violence and discrimination against LGBT persons (US 25 June 2015, 27).

4. LGBT Support Organizations

According to Rodenbough:

There are several LGBT rights groups in Burkina Faso. One of the most prominent is the Queer African Youth Networking Center (QAYN), which stylizes itself as a regional network of LGBT youth in West Africa. ... The
organization is particularly noteworthy because of its strong focus on lesbians, who the organization claims are often overlooked in the context of MSM HIV/AIDS programs (July 2014, 20).

According to an article from *Le Quotidien*, QAYN was founded in 2010, is led by Mariam Sako, alias Armisen, and is based in Ouagadougou (*Le Quotidien* 8 June 2015). The article notes that [translation] "social rejection forces [QAYN] to operate ... in absolute secrecy" (ibid.).

Rodenbough also mentions the existence of another LGBT organization called LAMBDA (July 2014, 20); the Swedish organization Sida describes this organization as follows:

The LGBT group LAMBDA is registered to work for the "protection of marginalised and estranged individuals," and not as an LGBT organisation, due to fear of persecution from the authorities.

... LAMBDA works primarily with counselling and support, helping people to deal with their sense of guilt caused by the stigma from the society. ... Thus, the organisation works mainly towards a long-term improvement within their member base, as they do not at this point have the capacity to reach out to the public or to advocate for the rights of LGBT people. Their first priority is to raise funds to create a safe meeting space for their members. This has so far been a challenge (Sweden Sept. 2012, 2).

In July 2014, Rodenbough also mentioned that LAMBDA’s contact information was difficult to obtain (July 2014, 20). More recent information on LAMBDA could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

*Country Reports 2014* states the following:

[US English version]

LGBT organizations had no legal status in the country but existed unofficially. Repeated attempts by LGBT organizations to register with the Ministry of Territorial Administration, Decentralization, and Security were not approved, and no explanation was provided for the refusals. There were no reports of government or societal violence against such organizations, although incidents were sometimes not reported due to stigma or intimidation (US 25 June 2015, 27-28).

According to an article by Simon Allison published in the journal *Africa in Fact*:

Gay rights organizations struggle to find a safe meeting place for members and are also hamstrung by the lack of funding (Allison Aug. 2013, 14).

The QAYN report on the legal status of LGBT persons

[QAYN English version]

identifies two organizations/groups: Alternative Burkina and Queer African Youth Network (QAYN). QAYN, which applied for registration as a LGBTQ organization, was denied recognition by the administration without any explanation. To be recognized, Alternative Burkina had to place its social purpose under HIV/AIDS control, specifically targeting "vulnerable groups" (MSM). (QAYN July 2015, 15)

This Response was prepared after researching publicly accessible information currently available to the Research Directorate within time constraints. This Response is not, and does not purport to be, conclusive as to the merit of any particular claim for refugee protection. Please find below the list of sources consulted in researching this Information Request.

**Note**

[1] Afrobarometer is described as [Afrobarometer English version] "a pan-African, nonpartisan research network that conducts public attitude surveys on democracy, governance, economic conditions, and related issues across Africa" (Afrobarometer 1 Mar. 2016, 2). Afrobarometer conducts interviews with [Afrobarometer English version] "nationwide representative samples," which yield results with a margin of sampling error of +/-2 to 3 percent at a 95 percent confidence level (ibid.).

**References**


Additional Sources Consulted

Internet sites, including: 76 Crimes; ABYZ; Africa1.com; Africa Confidential; Africa Research Online; Afrique Actualité; Afro Santé LGBT; Amnesty International; Arc International; Association Lgbt Militante & Friendly, Poitou-Charentes; Burkina-Faso.ca; Columbia.edu; ecoinet; Faso News; Faso Press; Fédération internationale des ligues des droits de l'homme; Franciscan International; Gay Afrique; GayLawNet; GlobalGayz; The Guardian; Homophobia.org; Human Rights Watch; Human Rights Without Frontiers; nter-lgbt.org; Jeune Afrique; Lgbtnet.dk; Le Monde; Moussaweb; Mulabi.org; Omegabf.net; Ouaga.com; Passop.co.za; LePays bf; Refugee Legal Aid Information; Slate Afrique; Spartacus International Gay Guide; United Nations – Refworld, Human Rights Council.

Tips on how to use this search engine.

Date modified: 2016-01-05