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U.S. Department of State

Burkina Faso Country Report on Human Rights Practices for 1996

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BURKINA FASO

President Blaise Compaore continued to dominate the Government of the Fourth Republic, assisted by members of his party, the Congress for Democracy and Progress (CDP). In spite of the existence of dozens of political parties, there is little viable opposition to the President and his Government, which includes one representative from a small self-described opposition party. The CDP controls the National Assembly with 86 of the 107 seats. Several opposition parties have token representation. In December 1995, the constitutionally mandated (though purely consultative) second chamber of the National Assembly was installed, completing the government structure envisaged in the 1991 Constitution. The Constitution provides for an independent judiciary; however, it is subject to executive influence.

The security apparatus consists of the armed forces, the paramilitary gendarmerie, controlled by the Ministry of Defense, and the police, controlled by the Ministry of Territorial Administration.

Over 80 percent of the population of 10 million engages in subsistence agriculture, which is highly vulnerable to rainfall variation. Frequent drought, limited communication and transportation infrastructure, in addition to a low literacy rate, are longstanding problems. The 50 percent devaluation of the cfa franc in 1994 added to the existing economic hardship of a structural adjustment program under way since 1991. That program seeks to limit government spending, especially on salaries and transfers, and open the economy to market forces, including privatization and reduction in the size of many inefficient state companies. Per capita income is about \$150 per year, in postdevaluation terms.

There was continuing progress in the move towards greater democratization. Despite a functioning parliament structure and elected local governments, citizens are unable to exercise fully the right to change their government, and serious human rights abuses persisted. The extrajudicial killing of a villager by the local police and a general climate of impunity fostered by failure to prosecute previous abusers tarnished the Government's record. Prison officials continued to torture and mistreat detainees, and prison conditions remained harsh. A libel suit brought by the President against a political foe for particularly harsh public criticism left some members of the press apprehensive about a resurgence of self-censorship. The most egregious instances of violence against women remain those involving female genital mutilation, although women continue to campaign against this practice as well as against other forms of discrimination. Killings of criminal suspects by vigilante mobs remained a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom from:

a. Political and Other Extrajudicial Killing

In May members of the police stationed in the town of Reo shot and killed an unarmed villager during an operation to fine owners of unregistered vehicles. This incident, which still has not resulted in any punitive action by the Government against those responsible, marred an otherwise improving record regarding the security forces.

The major problem with law enforcement is a general climate of impunity for human rights abusers fostered by the habitual failure of the Government's investigations to result in guilty findings or appropriate sanctions. Inquiries tend to drag until they are overshadowed by subsequent incidents, and then they are quietly shelved. Appeals by human rights organizations generally go unanswered. This failure to prosecute previous abuses remains a major hindrance to further human rights progress.

An official investigation into the May 1995 shooting to death of two unarmed high school demonstrators in Garango has yielded no results. The investigation into the July 1994 savage beating of two prisoners, who later died at the Maco prison in Ouagadougou, ended without calling for the punishment of those responsible. Nor were there any further developments regarding the July 1994 corruption scandal that led to the death in custody of two suspects under suspicious circumstances.

To date, the authorities have provided no explanation of the death of Doin Redan, who was found dead in 1994 a day after being detained by police. The Government continued to make no real effort to investigate the fate of a Ghanaian detainee, reportedly killed in 1993 while in police custody. Although international and local human rights groups pressured the official commission investigating the 1991 assassination of Clement Ouedraogo, a prominent opposition leader, to submit a report of preliminary findings to the Prime Minister, the report has not been made public. The case remains open, as do the cases of the 1989 "disappearance" of professor Guillaume Sessouma, detained for allegedly participating in a coup plot, and medical student Dabo Boukary in 1990, detained following student demonstrations. Credible reports indicated that security forces tortured and killed both.

Another disturbing trend was the persistence of vigilante killings by the public. There were numerous documented incidents of summary mob justice meted out to thieves caught by the citizenry, mostly in urban centers.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

While legally prohibited, torture and mistreatment of detainees, often to extract confessions, have been documented for a number of years. There are credible reports that officials at Maco prison continue to employ torture and degrading treatment, including beatings, cold showers, exposure to hot sun, and forcing persons to eat their own feces. The Government is not known to have taken any disciplinary action against those responsible, and the climate of impunity created by the Government's failure to prosecute abusers remains the largest obstacle to ending torture and other abuses.

Prison conditions are harsh, overcrowded, and can be life threatening. The federal prison in Bobo-Dioulasso, built in 1947, housed about 1,000 prisoners, although designed to hold less than half that number. The prison diet is poor, and inmates must often rely on supplemental food from relatives.

According to human rights monitors, prison visits are granted at the discretion of prison authorities. Permission is routinely granted, and advance permission is not required.

d. Arbitrary Arrest, Detention, or Exile

The Constitution provides for the right to expeditious arraignment and access to legal counsel, and the law limits detention for investigative purposes without charge to a maximum of 72 hours, renewable for a single 48-hour period. In practice, however, police rarely observe these provisions. The average time of detention without charge is 1 week.

A few intellectuals, military officers, and former Government officials remain in self-imposed exile abroad following the October 1987 coup that brought Compaore to power, but most desiring to do so have repatriated themselves.

The Government does not use forced exile.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary; however, in practice it is subject to executive influence.

The Constitution stipulates that the Head of State is also the President of the Superior Council of the Magistrature which nominates and removes some high-ranked magistrates and can examine the performance of individual magistrates.

The Constitution provides for the right to public trial, access to counsel, and has provisions for bail and appeal. While these rights are generally respected, the ability of citizens to obtain a fair trial remains circumscribed by ignorance of the law (80 percent of the population is illiterate) and by a continuing shortage of magistrates. A new penal code more relevant to modern requirements was adopted by Parliament and was expected to take effect in early 1997.

The Constitution provides that the Supreme Court is the highest court in the country. Beneath it are 2 courts of appeal and 10 provincial courts ("de grande instance"). There is also a High Court of Justice, with jurisdiction to try the President and senior government officials for treason and other serious crimes. The President has extensive appointment and other judicial powers. In 1995 the National

Assembly passed legislation reforming the military court system, which had been susceptible to considerable executive manipulation, but there have been no further developments.

In 1995 the Government announced the creation of the Office of Ombudsman, called "Mediateur du Faso." Retired General Marc Garango was appointed to the position, which is responsible for mediating disputes between the State and its citizens. In addition to the formal judiciary, customary or traditional courts, presided over by village chiefs, handle many neighborhood- and village-level problems, such as divorce and inheritance disputes. These decisions are generally respected by the population, but citizens may also take a case to a formal court.

At year's end, there were no political prisoners in Burkina, according to local human rights organizations.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution provides for these rights, and, in practice, the authorities generally do not interfere in the daily lives of ordinary citizens. In national security cases, however, a special law permits surveillance, searches, and monitoring of telephones and private correspondence without a warrant. By law and under normal circumstances, homes may be searched only with the authority of a warrant issued by the Minister of Justice. Except in certain cases, such as houses of prostitution and gambling dens, such warrants must be executed during "legal hours," defined as between 6 a.m. and 9 p.m.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The 1990 Information Code provides for freedom of speech and the press. In practice, these freedoms still remain circumscribed by a certain degree of self-censorship. The President and his Government remain sensitive to criticism. Provisions in the Code granting the Government strong legal powers to intimidate the press through a broad interpretation of defamation were removed in December 1993. As a result, journalists now charged with libel may defend themselves in court by presenting evidence in support of their allegations. Perhaps as a consequence, the independent press continued to exercise greater freedom of expression.

In February Bloc Socialiste Burkinabe (BSB) leader Nongma Ernest Ouedraogo was released after serving 5 months of a 6 month sentence for libel. In an August 1995 statement carried by a Ouagadougou daily, Ouedraogo alleged, among other things, that the President was corrupt and suggested that he fed human flesh to lions on his property. Ouedraogo was expeditiously tried under the law in a civil suit brought by President Compaore, at which he provided no evidence of his allegations. His appeal was turned down and he was fined a symbolic 1 franc and sentenced to 6 months in jail. The President's lawyer told the court that his client was not suing the paper over publication of the statement because he believes in freedom of the press. But the case reinforced a tendency toward self-censorship.

The independent press now includes four dailies, a dozen weekly newspapers, and a monthly news magazine. Although the official media, including the daily newspaper Sidwaya and the national radio, display progovernment bias, the presence of independent competition led government media to give more coverage to the political opposition. There are a half dozen thriving radio stations, one with eight branches, and one private television station.

Academic freedom is respected.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association. Permits must, however, be obtained from municipal authorities for political marches. Applicants must indicate date, time, duration, and itinerary of the march or rally, and authorities may alter or deny requests on grounds of public safety. Denials or modifications may be appealed before the courts. Since early 1990, political parties and labor unions have usually been permitted to organize and hold meetings and rallies without seeking government permission. However, in March police broke up a student demonstration at Burkinabe University with tear gas, and in May security forces intimidated participants in a march by a labor union and forced them to change their route. The union had never received a response to its application for permission to march.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government respects this right in practice. Burkina Faso is a secular state. Islam, Christianity, and traditional religions operate freely without government interference. Neither social mobility nor access to modern sector jobs are linked to, or restricted by, religious affiliation.

d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for freedom of movement and authorities respect this right in practice. Gendarmes routinely stopped travelers within the country for identity and customs checks and the levying of road taxes at police and military checkpoints. There is no restriction on foreign travel for business or tourism.

Refugees are accepted freely in Burkina Faso. Due to civil unrest in neighboring countries, there are nearly 30,000 refugees and displaced persons, mostly Tuaregs from Mali and Niger. The Government cooperates with the Office of the United Nations High Commissioner for Refugees (UNHCR) and other humanitarian organizations in assisting refugees. The Government provides first asylum and provided it to over 20,000 refugees in 1996. The vast majority of those refugees were Tuaregs from Mali. There were no reports of forced return of persons to a country where they feared persecution. There were no reports of forced expulsion of those having a valid claim to refugee status.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens have the constitutional right to change their government through multiparty elections. In practice, however, they have been unable to exercise that right fully. Power remained in the hands of President Compaore and the CDP, most of whose members also played prominent roles in previous ruling parties. The Government includes a strong Presidency, a Prime Minister, a Council of Ministers presided over by the President, a two-chamber National Assembly, and the judiciary.

The legislature is independent, but it remains susceptible to external influence from the executive branch.

The first municipal elections took place in 1995. The President's party secured over 1,100 of some 1,700 councillor seats being contested. On the whole, the balloting, which was monitored by representatives of several local human rights groups, proceeded freely and fairly. The Compaore Government faces legislative elections in 1997 and presidential elections in 1998.

In 1994 the Supreme Court ruled that an elected deputy in the National Assembly is not bound to the political party under which that person was elected and may change party affiliations as a representative in the legislature. This practice has been labeled "political nomadism" and is responsible for much of the factionalism in opposition parties.

There are no restrictions in law or practice on the participation of women or minority group members in politics. However, there are few women in positions of responsibility; 3 of the 23 ministers and 6 of the 107 National Assembly deputies are women.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The Government's attitude toward local human rights groups has been mixed. It continued to tolerate the activities of the Burkinabe Movement for Human Rights (MBDHP), an independent group with representation in all 30 provinces. The Government is responsive to investigations by international nongovernmental

organizations. However, the report of the special investigative committee into the 1995 killings in Garango has not been released, and the Government has not provided any information on the results of the inquiry.

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on the basis of race, religion, or ethnic origin. Minority ethnic groups are, like the majority Mossi, represented in the inner circles of the Government, and government decisions do not favor one group over another.

Women

Violence against women, especially wife beating, occurs occasionally. Cases of wife beating are usually handled through customary law and practice. The Government is attempting, using education through the media, to change attitudes toward women. The new penal code explicitly prohibits sexual harassment and female genital mutilation.

The Constitution provides for respect of human rights including those of women, but there is no specific constitutional protection for women, who face extensive discrimination. In general women continue to occupy a subordinate position and experience discrimination in such areas as education, jobs, property, and family rights. Overall, women represent 45 percent of the work force. In the modern sector, however, women make up one-fourth of the government work force, although usually in lower paying positions. Women still do much of the subsistence farming work.

Children

The Constitution nominally protects children's rights. The Government has demonstrated its commitment to improving the condition of children by adopting a national policy to revitalize primary health care through the privatization of hospitals, which provided greater autonomy in hospital management. The Government has stated its commitment to improve access to primary education and has raised the literacy rate from 16 percent to 23 percent in recent years.

Females constitute approximately one-third of the total student population in the primary school system

and are represented in the secondary and higher educational systems--although the percentage decreases dramatically beyond the primary level. Schools in rural areas have disproportionately fewer female students than schools in urban areas.

Female genital mutilation (FGM), which is widely condemned by international health experts as damaging to both physical and psychological health, is still widely practiced, especially in many rural areas, and is usually performed at an early age. The percentage of females who have undergone this procedure may be as high as 70 percent. The Government has made a strong commitment to eradicate FGM through educational efforts, and a national committee campaigns against the practice. The projected new Penal Code makes FGM a crime whose perpetrators are subject to 6 months' to 3 years' imprisonment and a significant fine. Nevertheless, FGM is still widely practiced. The Government has launched a sensitization campaign regarding the deleterious effects of this practice. Another form of mutilation, scarification of the faces of both boys and girls of certain ethnic groups, is gradually disappearing.

People with Disabilities

While there is a modest program of government subsidies for workshops for the disabled, there is no Government mandate or legislation concerning accessibility for the disabled. There is no legislation to protect people with disabilities from discrimination. Programs to aid the disabled are limited, but human rights groups are not aware of any discrimination against the disabled.

Section 6 Worker Rights

a. The Right of Association

Drafted in 1995, a new labor code remains before the National Assembly for review. Notwithstanding this pending legislation, workers, including civil servants, traditionally have enjoyed a legal right of association, which is recognized under the Constitution. There are 4 major labor confederations and 12 autonomous trade unions linked together by a National Confederal Committee. They represent a wide ideological spectrum, of which the largest and most vocal member espouses Socialist doctrine. Essential workers--police and fire workers--may not join unions.

The Constitution provides for the right to strike, and workers use strike actions to achieve labor goals. Employees of the largest commercial bank in the country went on strike for 2 days in September. In November health workers staged a 72-hour

strike to demand better pay and working conditions.

Labor unions may affiliate freely with international trade unions.

b. The Right to Organize and Bargain Collectively

Unions have the right to bargain for wages and other benefits, both directly with employers and with industry associations. These negotiations are governed by minimums on wages and other benefits contained in the Interprofessional Collective Convention and the Commercial Sector Collective Convention, which are established with government participation. If no agreement is reached, employees may exercise their right to strike. Either labor or management also may refer an impasse in negotiations to labor tribunals. Appeals may be pursued through the Court of Appeal to the Supreme Court, whose decision is binding on both parties. Collective bargaining is extensive in the modern wage

sector but encompasses only a small percentage of workers.

The Labor Code prohibits antiunion discrimination. The Labor Ministry handles complaints about such discrimination, which the plaintiff may appeal to a Labor Tribunal. If the Tribunal sustains the appeal, the employer must reinstate the worker. Union officials believe that this system functions adequately.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced labor, and it is not practiced.

d. Minimum Age for Employment of Children

The Labor Code now in effect sets the minimum age for employment at 14 years, the average age for completion of basic primary school. However, the Ministry of Employment, Labor, and Social Security, which oversees labor standards, lacks the means to enforce this provision adequately, even in the small wage sector. Most children actually begin work at an earlier age on small, family subsistence farms, in the traditional apprenticeship system, and in the informal sector.

e. Acceptable Conditions of Work

The Labor Code mandates a minimum monthly wage, a standard workweek of 40 hours with at least one 24-hour rest period, and establishes safety and health provisions. The current minimum monthly wage in the formal sector, about \$48 (cfa 24,000), does not apply to subsistence agriculture, which employs about 85 percent of the population. The Government last set the minimum wage in 1995. It is not adequate for an urban worker to support a family. Wage earners usually supplement their income through reliance on the extended family and subsistence agriculture.

A system of government inspections under the Ministry of Labor and the Labor Tribunals is responsible for overseeing health and safety standards in the small industrial and commercial sectors, but these standards do not apply in the subsistence agricultural sector. Every company is required to have a work safety committee. If a workplace has been declared unsafe by the government labor inspection office for any reason, workers have the right to remove themselves from dangerous work without jeopardy to continued employment. In practice there are indications that this right is respected, but such declarations are relatively rare.

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