



The Status of HRD Protections in Burkina Fasoⁱ **By Ari Bental**

After spending twenty-seven years under Blaise Compaoré's autocratic rule, Burkina Faso conducted a free, fair, and democratic election and peaceful transition of power in 2015 when Roch Marc Christian Kaboré became President. The Burkinabé people reelected President Kaboré in 2020. Despite this recent democratic progress, over the past several years, Burkina Faso has endured ~~an uptick in~~ increasingly frequent terrorist attacks, which have threatened the country's political stability and led the government to sacrifice progress on human rights in the name of national security. The Burkinabé government has invoked permanent emergency powers in the wake of terrorist attacks to halt citizens' ability to assemble, as well as to arbitrarily detain individuals whom the government suspects are connected to the perpetrators of such attacks.

A 2019 amendment to the criminal code included prior restraints on individuals' freedom of expression and the freedom of the press for speech concerning terrorist attacks that undercuts troops' morale. As Freedom House has noted, Burkinabé journalists have refrained from publishing on these restricted topics to avoid prosecution and retribution from terrorist groups against which the government ostensibly offers no defense when the retaliation results from unprotected speech. Local industry groups have contributed to violence against Burkinabé human rights defenders (HRDs) too. On May 31, 2019, gunmen killed Fahadou Cissé and Hama Balima, two members of the Democratic Youth Organization, who were traveling to meet with the high commissioner of Yagha province. Cissé and Balima were known as outspoken critics of artisanal mining in the region and the harm to the environment and human rights that small-scale mining in Yagha has precipitated. To properly assess the effectiveness of the Kaboré Administration and

hold the government accountable ~~for its response to~~ in combatting extremism, Burkinabé citizens need access to information regarding their national security and personal safety. The freedoms of expression, the press, and assembly are all essential to ensuring human rights for all citizens and ~~enabling safeguarding HRDs to avail themselves of~~ all forms of communication necessary for HRDs to conduct their work.

In 2017, the Burkinabé legislature passed a law intended to protect HRDs. The law includes a broad definition of HRD to capture anyone pursuing the work typical of an HRD without requiring those individuals to register as HRDs to ~~conduct their work~~ practice or qualify for protection under the law. The lack of a registration requirement allows the HRDs to preserve some anonymity—at least as far as the government is concerned—which translates to an increased capacity to ~~conduct their~~ work free from government harassment. While the law expressly vests the power to review HRDs' claims in the National Human Rights Commission (NHRC) and prohibits reprisals against, arbitrary detentions of, and executions of HRDs, the law ~~fails to~~ does not provide a processes through which HRDs may vindicate their rights ~~or~~ or guidelines regarding how the NHRC should evaluate HRDs' claims for redress. The Burkinabé government must provide implementing regulations for the HRD law to establish a formal review process for HRDs to seek remedies for violations of the HRD law from an independent, impartial adjudicative body.

Additionally, the NHRC lost its accreditation from the Global Alliance of National Human Rights Institutions (GANHRI) in 2012 for failing to satisfy GANHRI's filing requirements~~;~~. ~~thus~~ Thus, no independent international organization can confirm whether the NHRC has continued to implement the Paris Principles, which promote access to some form of judicial review for human rights complaints, as well as proactive governmental support for human rights through education, media, and other avenues. Through the NHRC, the Burkinabé government should submit the

required documentation to GANHRI to renew its accreditation to demonstrate Burkina Faso's ~~belief in~~commitment to human rights. If the NHRC's work since 2012 is insufficient to regain GANHRI accreditation immediately, the Burkinabé government should seek guidance from GANHRI on the concrete steps the NHRC can take to bring itself back into compliance with GANHRI's standards and the Paris Principles. The Burkinabé government should add a provision to its HRD law that expressly conditions approval for both public and private projects on consultation with HRDs to simultaneously legitimize HRDs, promote public participation, and support the NHRC's readmission to GANHRI.

Burkina Faso's HRD law also lacks separate, express provisions to support the work of women HRDs (WHRDs). WHRDs experience particularly acute threats of sexual violence, and their families also often suffer harassment from conservative groups and religious extremists who oppose WHRDs' efforts to promote gender equality and reproductive rights. The Burkinabé legislature should amend the HRD law to reflect the heightened and ~~different~~distinct risks ~~facing~~that WHRDs face, as well as the ~~tailored~~ ways in which the law specifically protects WHRDs confronted with gender-based harm.

Burkina Faso possesses a framework to protect HRDs, but the HRD law requires a broader array of protections and more substantive implementation provisions to meet international standards and support the needs of HRDs. To afford HRDs the protection they need to conduct their work without fear of death or serious bodily harm, Burkina Faso must: (1) curb its use of emergency powers to stifle citizens' freedom of assembly, which is a crucial communication and accountability mechanism; (2) amend its criminal code to remove prior restraints on expression and the press pertaining to national security matters; (3) codify the independent NHRC review process through which HRDs may assert their rights under the HRD law; (4) take steps to ensure

that the NHRC complies with the Paris Principles and regain GANHRI accreditation; (5) expressly include HRD organizations, such as the Burkina Faso Coalition of Human Rights Defenders, in government decision-making processes to mitigate the environmental, social, and economic harms to local communities ~~as-that~~ result ~~of-from~~ government initiatives; and (6) add explicit legal protections for WHRDs to deter gender-based violence and persecution.

¹ This blog post is based primarily on the Green Advocates International report, *West Africa Frontline Grassroots Environmental and Human Rights Defender (HRD) Baseline Report*, published in February 2021.