



Burkina Faso's Compliance with the International Covenant on Civil and Political Rights: The Death Penalty

Submitted by The Advocates for Human Rights

a non-governmental organization in special consultative status with ECOSOC since 1996
and

The World Coalition Against the Death Penalty

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The Advocates for Human Rights (The Advocates) is a volunteer-based non-governmental organization committed to the impartial promotion and protection of international human rights standards and the rule of law since its founding in 1983. The Advocates conducts a range of programs to promote human rights in the United States and around the world, including monitoring and fact finding, direct legal representation, education and training, and publication. The Advocates is the primary provider of legal services to low-income asylum seekers in the Upper Midwest region of the United States. The Advocates is committed to ensuring human rights protection for women around the world. The Advocates has published more than 25 reports on violence against women as a human rights issue, provided consultation and commentary of draft laws on domestic violence, and trained lawyers, police, prosecutors, judges, and other law enforcement personnel to effectively implement new and existing laws on domestic violence. In 1991, The Advocates adopted a formal commitment to oppose the death penalty worldwide and organized a death penalty project to provide pro bono assistance on post-conviction appeals, as well as education and advocacy to end capital punishment. The Advocates currently holds a seat on the Steering Committee of the World Coalition against the Death Penalty.

The World Coalition Against the Death Penalty is a volunteer-based non-government organization committed to strengthen the international dimension of the fight against the death penalty. Established in 2002, its ultimate objective is to obtain the universal abolition of the death penalty. To achieve its goal, the World Coalition advocates for a definitive end to death sentences and executions in those countries where the death penalty is in force. In some countries, it is seeking to obtain a reduction in the use of capital punishment as a first step towards abolition.

EXECUTIVE SUMMARY

1. Burkina Faso abolished the death penalty in 2018 and subsequently made commitments to ratify the Second Optional Protocol. Despite these assurances, authorities have not made substantive progress toward ratification and some officials have suggested that the country should reinstate the death penalty. Moreover, authorities are increasingly engaging in intimidation and subjecting to conscription orders people who criticize the government and magistrates who are involved with cases against people supporting the government.

Burkina Faso fails to uphold its obligations under the International Covenant on Civil and Political Rights

I. Authorities have threatened to reinstate the death penalty and have not made progress toward ratification of the Second Optional Protocol (List of Issues Prior to Reporting para. 12).

2. The Committee requested “information on the number of persons remaining on death row and their detention conditions” as well as “the number of persons sentenced to death who have had their sentences commuted.”¹ The Committee also asked whether Burkina Faso “intends to ratify the Second Optional Protocol.”²
3. Burkina Faso’s reply confirms that no person is currently on death row and that the death sentences of all 12 people on death row in 2018 had been “automatically commuted to life imprisonment” under article 900-1 of the Criminal Code.³
4. Burkina Faso’s reply also reiterates its commitment during the third Universal Periodic Review to ratify the Second Optional Protocol, stating that, “[t]o give effect to this commitment, a meeting dedicated to exchange and consultation was organized between public and private stakeholders on 9 December 2019 to examine the advisability of ratifying the Protocol. The meeting recommended ratification, and steps are being taken to this end.”⁴
5. Despite these assurances and the passage of more than five years since the consultation, Burkina Faso has neither signed nor ratified or acceded to the Second Optional Protocol. In its fourth-cycle UPR in 2023-2024, Burkina Faso accepted most recommendations to ratify the Second Optional Protocol, noting, however, Ukraine’s recommendation to do so and “take appropriate measures to abolish the death penalty in law for all crimes,” contending that article 2(1) of the Protocol did not so require.⁵

¹ Human Rights Committee, *List of issues prior to the submission of the second periodic report of Burkina Faso*, (1 Sept. 2020), U.N. Doc. CCPR/C/BFA/QPR/2, ¶ 12.

² *Ibid.*

³ Human Rights Committee, *Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021*, (2 Feb. 2024), U.N. Doc. CCPR/C/BFA/2, ¶ 94.

⁴ Human Rights Committee, *Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021*, (2 Feb. 2024), U.N. Doc. CCPR/C/BFA/2, ¶ 95.

⁵ Human Rights Council, *Working Group on the Universal Periodic Review: Burkina Faso, Addendum*, (23 Feb. 2024), U.N. Doc. A/HRC/55/5/Add.1, at 2.

6. In November 2024, a government source announced to the media that authorities want to reinstate the death penalty.⁶ Justice Minister Rodrigue Bayala confirmed that “the issue of death penalty, which is being discussed, will be implemented in the draft criminal code.”⁷ According to Human Rights Watch’s sources, “the government is considering applying the death penalty to terrorism-related cases.”⁸ According to one observer, after the government finalizes its decisions on amending the criminal code, “it will make a proposition to the Transitional Legislative Assembly,” a majority of whom were appointed by the current government.⁹
7. On December 17, 2024, Burkina Faso voted in favor of the UN General Assembly resolution calling for a moratorium on the death penalty,¹⁰ as it has done in every vote on the resolution since 2007.¹¹
8. **Suggested recommendations** relating to the death penalty:
 - Take immediate steps to implement the recommendation of the 2019 consultation and additional UPR recommendations to ratify the Second Optional Protocol.
 - Declare definitively that Burkina Faso will not reinstate the death penalty.

II. Authorities have escalated repression of civil society (List of Issues Prior to Reporting paras. 6, 22).

9. The Committee asked the State Party to “respond to allegations that the measures taken as part of the state of emergency have a disproportionate impact on freedom of expression,” and “allegations that journalists and human rights defenders are subjected to threats, intimidation, harassment, arbitrary detention and physical assaults by law enforcement authorities.”¹²
10. Burkina Faso’s reply asserts that state of emergency provisions “compl[y] with the Covenant” and that “[c]itizens may continue to exercise the rights not suspended by the Act [on States of Siege and States of Emergency in Burkina Faso].”¹³ The reply further reiterates constitutional

⁶ *Burkina wants to reinstate death penalty, government source says*, Agence France Presse, Voice of America, Nov. 9, 2024, <https://www.voanews.com/a/7858302.html>.

⁷ *Burkina wants to reinstate death penalty, government source says*, Agence France Presse, Voice of America, Nov. 9, 2024, <https://www.voanews.com/a/7858302.html>.

⁸ Ilaria Allegrozi, *Burkina Faso Plans to Reinstate Death Penalty*, Human Rights Watch, Nov. 11, 2024, <https://www.hrw.org/news/2024/11/11/burkina-faso-plans-reinstate-death-penalty/>.

⁹ Conor Doran, *Burkina Faso considers reintroduction of death penalty*, Jurist, Nov. 12, 2024, <https://www.jurist.org/news/2024/11/burkina-faso-considers-reintroduction-of-death-penalty/>.

¹⁰ *Two thirds of the United Nations General Assembly vote in favor of the 10th resolution for a moratorium on the death penalty*, World Coalition Against the Death Penalty, Dec. 20, 2024, <https://worldcoalition.org/2024/12/20/two-thirds-of-the-united-nations-general-assembly-vote-in-favor-of-the-10th-resolution-for-a-moratorium-on-the-death-penalty/>.

¹¹ International Commission Against the Death Penalty, UNGA Moratorium Resolution: Voting Records, <https://icomdp.org/unga/> (last visited Jan. 24, 2025).

¹² Human Rights Committee, *List of issues prior to the submission of the second periodic report of Burkina Faso*, (1 Sept. 2020), U.N. Doc. CCPR/C/BFA/QPR/2, ¶¶ 6, 22.

¹³ Human Rights Committee, *Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021*, (2 Feb. 2024), U.N. Doc. CCPR/C/BFA/2, ¶¶ 48, 51.

provisions recognizing the right to freedom of expression and opinion but does not respond to the allegations the Committee raised in the List of Issues Prior to Reporting.¹⁴

11. In December 2024, Civicus Monitor downgraded Burkina Faso’s civic space to “repressed” due to the administration’s deployment of its state of emergency law to silence human rights defenders, journalists, and members of the opposition.¹⁵ Civicus reports that authorities are invoking their ability to conscribe civilians to combat Islamic groups in retaliation against criticism of the government.¹⁶ According to Civicus, “[m]agistrates—judges and prosecutors—who have initiated proceedings against supporters of the military junta also received conscription orders in August 2024,” despite a court ruling that conscription orders are not legal.¹⁷

12. Suggested recommendations relating to repression of civil society:

- Ensure that any human rights defenders or civil society organizations expressing opposition to the death penalty or support for ratification of the Second Optional Protocol do not face threats, intimidation, harassment, or other consequences for expressing their opinions.
- Prohibit the use of conscription orders to target civilians for expressing their opinions or criticizing the government and to target magistrates involved with proceedings against supporters of the military authorities.

¹⁴ Human Rights Committee, *Second periodic report submitted by Burkina Faso under article 40 of the Covenant, due in 2021*, (2 Feb. 2024), U.N. Doc. CCPR/C/BFA/2, ¶¶ 193, 192-196.

¹⁵ Civicus, *The Civicus Monitor downgrades Burkina Faso’s civil space to “repressed” as military junta silences critics and censors media amid a prolonged transitional period*, Dec. 4, 2024, https://monitor.civicus.org/press_release/2024/burkina_faso/.

¹⁶ Civicus, *The Civicus Monitor downgrades Burkina Faso’s civil space to “repressed” as military junta silences critics and censors media amid a prolonged transitional period*, Dec. 4, 2024, https://monitor.civicus.org/press_release/2024/burkina_faso/.

¹⁷ Civicus, *The Civicus Monitor downgrades Burkina Faso’s civil space to “repressed” as military junta silences critics and censors media amid a prolonged transitional period*, Dec. 4, 2024, https://monitor.civicus.org/press_release/2024/burkina_faso/.