

BURKINA FASO

CERD A/32/18 (1977)

259. Members of the Committee noted with satisfaction that the initial report of Upper Volta was comprehensive in scope; it supplied information on the application of the provisions of articles 2 to 7 of the Convention as well as the information envisaged by the Committee in general recommendation III and decision 2 (XI). The information given in the report dealt not only with legislative measures, but also with judicial, administrative and other measures, as required by article 9, paragraph 1, of the Convention. And the report supplied the actual texts of many of the legal provisions to which it referred.

260. The Committee took note of the statements that - notwithstanding the suspension of the Constitution in 1974 - the Convention, which took precedence over the laws of the reporting State, retained its validity, and that the principle of equality, and hence the rejection of all racial discrimination, continued to hold good as a general principle of law. Members of the Committee, while recognizing that the suspension of a State's Constitution was an internal matter which did not fall within the competence of the Committee to consider, were concerned with the continued validity of the obligations incurred by the State in question, in consequence of its accession to, or ratification of, the Convention. Some members, referring to the statement that the principle of equality continued to hold good as a general principle of law, asked: What were the "general principles" which replaced the Constitution when it was suspended? What legal provisions had taken the place of articles 20 and 21 of the Constitution? What legal justification did the Government of Upper Volta have for its statement that the Convention retained its full validity? Inasmuch as article 1 of Law 15-AL of 31 August 1959, providing penalties for acts of racial discrimination, opened with the words, "Under the Constitution of the Republic of Upper Volta", how had the penal provisions of that article remained in force since the suspension of the Constitution? In that connection, it was suggested that the actual text of the Proclamation of 8 February 1974 should be supplied to the Committee and that the representative of the reporting State should meanwhile inform the Committee whether the whole of the Constitution or only certain chapters of it had been suspended.

261. Members of the Committee were generally in agreement that the laws in force appeared to satisfy the requirements of article 4, paragraph (a), of the Convention. Some members were of the view that not all the requirements of article 4, paragraph (b), of the Convention were met by existing legislation, since the provisions of Law 20-AL of 31 August 1959 did not specifically prohibit racist organizations; other members, however, thought that the power to dissolve associations and groups, by decree of the President of the Council made in the Council of Ministers, in accordance with article 10 of Law 18-AL of 31 August 1959, satisfied the relevant requirements of article 4 of the Convention. In that connection, members of the Committee drew attention to the statement in the report that, "should any gaps or loopholes be discovered, new provisions to strengthen safeguards at the national level, as a result of the entry into force of the Convention, could be drawn up in connection with the preparation of the Penal Code of Upper Volta".

262. Note was taken of the brief statements that administrative measures had been taken to prevent

discrimination in the assignment of civil servants to posts regardless of their ethnic origin as well as to protect foreign workers, and hope was expressed that more detailed information on such measures would be provided in the second periodic report of Upper Volta.

263. Members of the Committee noted that measures had been taken in compliance with the provisions of article 7 of the Convention, and asked that further details on those measures be supplied in the next report, as envisaged in the Committee's general recommendation V.

264. The information on the decrees adopted in 1963, 1966 and 1967 banning trade relations with the racist régimes of southern Africa and "instituting sanctions against Southern Rhodesia" was noted with satisfaction by members of the Committee.

265. Some members asked that further particulars about the only case brought before Upper Volta Courts under instruments designed to punish racial discrimination be furnished in the next report, and in particular the nature of the act of racial discrimination of which the accused was found guilty and for which he was given a suspended prison sentence and ordered to pay one franc damages to each of the plaintiffs.

266. It was hoped that the text of article 27 of Law 20-AL of 31 August 1959, to which article 28 of the same Law refers, be supplied in the next report.

267. The representative of Upper Volta commented on some of the observations and inquiries made by members of the Committee and summarized in the preceding paragraphs. He stated that "suspension of the Constitution really involved only the dissolution of Parliament and the banning of political activities"; that "all legal measures deriving from the Constitution remained valid and were being implemented"; and that "measures to eliminate racial discrimination were unaffected by the suspension of the Constitution". He pointed out that the Government was in the process of examining a new draft constitution, which would be put to a referendum in due course. Referring to the sentence passed in the case mentioned in paragraph 7, he explained that it was a merely symbolic one, since the plaintiffs had requested only a symbolic one franc for damages. He assured the Committee that he would convey to his Government the comments made during the consideration of the initial report of Upper Volta.

CERD A/34/18 (1979)

234. The second periodic report of the Upper Volta (CERD/C/51), which contained the text of the new Constitution adopted on 27 November 1977 and that of the Proclamation of 8 February 1974, was introduced by the representative of the reporting State.

235. It may be recalled that during the consideration of that country's initial report, some members of the Committee had expressed concern about the suspension of the Constitution of 29 June 1970. The representative stressed, in his introductory statement, that since the time when the previous report had been submitted, an event of capital importance had occurred in the Upper Volta, namely, the adoption of a new Constitution in 1977 and the Proclamation of 1974. He stated that those two basic documents of the State showed that the Government of the Upper Volta was endeavouring to respect all its international commitments, particularly those assumed upon its accession to the Convention.

236. Members of the Committee were favourably impressed by the important legislative measures described in the report and introduced by the representative, and considered that the various provisions mentioned in the report fully met the requirements of the Convention.

237. With reference to article 4 of the Convention, the report contained annexes VI, VII and VIII, respectively reproducing in extracts Act No. 15 AL of 31 August 1959 concerning crimes and offences that are contrary to the Constitution and that constitute a breach of the peace; Act No. 18 AL of 31 August 1959 concerning associations; and Act No. 20 AL of 31 August 1959 concerning the press and offences by the press. It was noted with satisfaction that those Acts were essentially in keeping with the stipulation of article 4 of the Convention. A member, however, pointed out certain inadequacies in Acts No. 15 and 18 and stated that Act No. 15 might usefully be enlarged in the light of the requirements of article 4, as the words "any demonstration against freedom of conscience and freedom of worship" could be deemed to be too restrictive. Another member stated that he found it curious that a person who perpetrated or incited an act of racial or ethnic discrimination, regionalist propaganda or a demonstration against freedom of worship, could be prosecuted simply as an accomplice.

238. With respect to articles 5 and 6 of the Convention, it was emphasized that the legal status of the new Constitution seemed to be fully consonant with the requirements of those articles. A member praised the effort clearly being made by the Government of Upper Volta to conform to the provisions of article 5, despite the huge difficulties to be overcome, in particular in the fields of public health and education.

239. In connection with paragraph XX of the preamble to the Constitution, which stipulated that persons inhabiting the national territory who wish to leave had to discharge all their legal obligations, particularly in regard to the payment of taxes, it was asked whether they had to apply for exit visas. If such was the case, that would no doubt constitute a violation of the provisions of article 5 of the Convention on the right to freedom of movement and of article 13 of the Universal Declaration of Human Rights. Members of the Committee, commenting on the statement in the report that citizens might lodge a complaint on the ground that the Constitution had been infringed,

noted that that was not generally the case in countries whose legal system was based on French law. However, since the organization of the judiciary was determined by the Constitution on lines similar to those of the French model, it was presumed that the remedies provided were in conformity with the requirements of article 6 of the Convention.

240. It was regretted that the report gave no information concerning the application of article 7 of the Convention.

241. Finally, information was requested by some members concerning the demographic composition of the population, since the 1974 Proclamation expressly mentioned existence of rival and tribal factions. A member, in particular, wished to know whether various laws promulgated in the past were still in force, particularly the law of 16 December 1965 on the right of aliens in regard to settlement and the ordinance of 18 July 1962 prohibiting all body marks serving to identify an individual's tribe or ethnic group.

242. The representative of the reporting State replied to a number of questions raised by members of the Committee. With reference to paragraph XX of the preamble to the Constitution, he stated that its essential aim was to prevent the clandestine emigration of Upper Volta nationals to Europe. The observation regarding the inadequacies in Acts No. 15 and 18 and the need to amend them were perfectly justified and he would transmit them to his Government for its consideration. Referring to comments on the ethnic composition of the population, he stated that the population was indeed somewhat mixed, but the efforts made by his Government to ensure the full equality of all citizens had done much to bring the various ethnic groups together.

CERD A/36/18 (1981)

374. The third periodic report of the Upper Volta (CERD/C/47/Add.3) was considered by the Committee together with the introductory statement of the representative of the reporting State.

375. Members of the Committee took note of the substantive answers given in the report to a large number of questions raised by them in connection with the previous report of the Upper Volta and, in particular, the explanations provided with regard to the suspension in the country of the successive constitutions. However, they wondered whether the provisions of the Convention could be implemented under the circumstances existing in the Upper Volta and requested more specific information with regard to precise constitutional provisions which had been suspended. It was recalled, in this connection, that in 1974 a proclamation had been issued suspending the 1970 Constitution and stating that only certain rights were preserved, and it was asked whether the new régime of the Upper Volta had issued a proclamation suspending the 1977 Constitution and if so, whether the Committee could have the text of that proclamation so that it could see what rights and freedoms had been preserved and which had been suspended. With regard to the statement that the state of law remained unaffected, it was asked, in particular, whether there was a special body in the Upper Volta to which persons could appeal in the event of illegal administrative action or whether it was only the Supreme Court to which a citizen could appeal against an unconstitutional law or act, in accordance with article 5 of the 1970 Constitution. Clarification was also requested with regard to the statement that the suspension of the Constitution merely meant that the Executive had arrogated to itself the powers of the legislature.

376. Members of the Committee also renewed their request for information on the demographic composition of the country and asked, in this connection, whether there were any tensions between various groups of the population.

377. In connection with article 4 of the Convention, one member of the Committee wished to know whether the broad interpretation given to the word "demonstration" contained in the provisions of Act No. 15/AL and referred to in the report was that of the Upper Volta Government alone, or whether it was shared by the courts.

378. With regard to article 5 of the Convention, members of the Committee requested clarification about the statement in the report that whereas political rights had been suspended on account of the recent events, that measure in no way prejudiced the actual existence of such rights. They wished to know, in particular, what the actual impact of that suspension had been on political activities, whether the suspension was a temporary measure, whether the right of assembly, the freedom of speech and of the press had been suspended, whether all persons in the Upper Volta had the right to run for public office and whether they enjoyed trade union rights. Furthermore, reference was made to the rules which applied to persons wishing to leave the Upper Volta, and it was asked whether there was similar provisions for persons wishing to migrate to neighbouring countries for employment. Information was also requested on what the Government's policy to fulfil the vital economic needs of the various segments of the population was. Also, no information on the country's implementation of article 7 was supplied.

379. Replying to questions raised by members of the Committee, the representative of the Upper Volta stated, with regard to the suspension of the Constitution, that while the executive had taken over the functions of the legislature and political parties had had their activities suspended, the new Government had undertaken to protect the social rights set forth in the Constitution. Trade unions, for example, continued to function as they had before the Constitution had been suspended, and the judiciary had kept all its previous powers. While the Constitution had been suspended as a text, there were other texts to replace its provisions and thus safeguard the rights of citizens. His Government was quite willing to provide the Committee with those texts. The judicial system and the protection of constitutionality still functioned as there was a constitutional chamber in the Supreme Court where a citizen could request a certain act to be declared unconstitutional.

380. Turning to the demographic composition of the Upper Volta, he stated that his country comprised approximately 20 different ethnic groups and assured the Committee that, despite the changes of régime, racial tensions were unknown in his country.

381. He also explained that in order to maintain good relations with its neighbours, the Upper Volta had signed agreements to control emigration to those States. The need for visas could be seen from the difficulties created in the host countries by unauthorized emigrants who were often unqualified and sought unskilled manual work in towns, while those who left in accordance with the law tended to go outside the cities.

CERD A/40/18 (1985)

213. The fourth and fifth periodic reports of Burkina Faso, submitted in one document (CERD/C/105/Add.5), were considered by the Committee at its 711th meeting, on 12 March 1985 (CERD/C/SR.711).

214. The document was introduced by the representative of Burkina Faso, who referred to the difficulties his country had in submitting its reports, due not only to problems of development but also to the serious political upheavals his country had suffered in 1982 and 1983 which had brought into being the National Revolutionary Council. More than 60 ethnic groups, 67.8 per cent of which were animist, 27.5 per cent Muslim and 3.7 per cent Catholic, lived together in the country. Racial discrimination was incompatible with the very nature of the Revolution, and the constituent ethnic groups, despite their differences, formed a single nation. He also referred to relevant parts of the document and to new educational measures taken by the National Revolutionary Council.

215. The Committee welcomed the constructive dialogue with the Government and took note of the fact that the country was in a state of revolutionary change and reconstruction. The document submitted by Burkina Faso was comprehensive and followed the Committee's general guidelines (CERD/C/70/Rev.1). The information on the ethnic diversity of the country and on measures to improve the welfare of the masses were particularly useful. Members of the Committee asked for further clarification as to whether the provisions of the Convention could be invoked before, and directly enforced by, the courts, other tribunals or administrative authorities, or whether they had to be implemented by enacting domestic legislation in order to be enforced by the authorities. In that context, they emphasized how important it was for the new Government to review all the laws of the country and to enact the necessary legislation in order to implement the mandatory provisions of the Convention. The members observed that reference had been made in a previous report to the country's 1974 proclamation, which abrogated its 1970 constitution, and asked what other instruments safeguarded the rights of individuals. The Committee hoped that the next report would provide information regarding legislative and other measures to implement the Convention.

216. With respect to article 2 of the Convention, the Committee noted that the Government was restructuring ethnic relations on a new basis, which meant that new legislation would be needed. It indicated that further measures to prevent friction between ethnic groups were particularly necessary in a country whose great heterogeneity would inevitably cause problems that would not disappear as a result of the Revolution alone. The Committee also took note of the policy of the National Revolutionary Council to promote economic development of the various regions as part of its efforts to combat prejudices among ethnic groups.

217. In relation to article 3, members of the Committee welcomed the Government's stand on apartheid and asked for information on its policy regarding relations with South Africa.

218. Concerning article 4 of the Convention, the Committee took note of the statement in the report to the effect that the provisions of the Convention, particularly those relating to punishable offences, must be expressly incorporated in a text of municipal law. Members pointed out that the requirements of article 4 of the Convention were satisfied only partially and for a transitional period

by Act No. 15 AL of 1959. In that connection, the Committee stressed that the provisions of article 4 of the Convention must be incorporated in the domestic legislation of Burkina Faso and members said that they would welcome evidence of progress on that matter in the next report.

219. Referring to article 5 of the Convention, members of the Committee commended the efforts being made by the reporting State. They requested further clarification on the right of citizens to participate in elections and asked how the people were represented in the Revolutionary Defence Committees. They also wished to know what role and power trade unions had in the country. Members pointed out that the fact that more than 20 percent of the budget was allocated to education was an eloquent testimony to the Government's priorities. They asked what policies were being applied to reduce the disparity in school attendance between regions, mentioned in the report. They were interested to know what plans the Government had for allowing the ethnic groups to preserve their own language, bearing in mind the need to integrate them in national development.

220. With regard to article 6 of the Convention, members of the Committee requested information on the procedures governing the revolutionary tribunals and their functions, particularly whether they replaced prosecutors and whether persons appearing before those tribunals had the right to counsel.

221. Regarding article 7 of the Convention, members of the Committee noted that young lawyers were being alerted to the importance of human rights. They would welcome more information on specific measures which were being taken in the areas of training and information on measures to promote tolerance and understanding among the country's ethnic groups and towards other nations.

222. Replying to questions raised and comments made by members of the Committee concerning the interpretation of international treaties in Burkina Faso, the representative of the reporting State said that he hoped the next report would demonstrate that progress had been made in that respect.

223. In relation to article 2 of the Convention and the question whether there was still any legislation that perpetuated racial discrimination, he said that his Government was working to ensure that the Convention was observed and to make even the inhabitants of remote areas aware of the related problems.

224. Turning to questions regarding the implementation of article 5 of the Convention, the representative of Burkina Faso said that since August 1983, the authorities had been making a determined effort to establish the well-being of the people as a main priority and associating them in national development. Efforts were being made to provide education in the various languages, in addition to the existing radio broadcasts in all languages. The use of the national languages would increase with time since they had recently all been given written form. The principal role of the Revolutionary Defence Committees, whose members were elected democratically, was to defend the new social system of justice and equality, which also meant defending the material interest of the workers.

225. Regarding questions dealing with article 6 of the Convention, he said that the revolutionary tribunals were special courts which had been established to deal with corruption among public officials. Persons brought before those courts were given an opportunity to prove that they had

performed their functions unselfishly and to the best of their ability. Many of them had been acquitted; those found guilty could appeal to the President.

226. Responding to questions in relation to article 7 of the Convention, he said that the authorities had taken steps to promote understanding among the different ethnic groups and to demonstrate that they had the same rights and duties. The Government hoped that, given time, people's attitudes and habits would change. Radio was the principal means of informing people about the provisions of the Convention and much use was made of the radio service of the United Nations.

CERD A/47/18 (1992)

284. At its 949th and 952nd meetings, on 10 and 12 August 1992 (see CERD/C/SR.949 and 952), the Committee reviewed the implementation of the Convention by Burkina Faso, on the basis its previous reports (CERD/C/105/Add.5) and their consideration by the Committee (see CERD/C/SR.711). The Committee noted that no report had been received since 1984.

285. Members of the Committee recalled that, subsequent to the consideration of the previous report, the Committee had asked whether various laws promulgated in the past were still in force; whether there was a special recourse body against illegal administrative action; and whether tensions existed between various groups of the population.

286. Members of the Committee noted the political instability and difficult conditions that Burkina Faso had been facing since the submission of the previous report. They stressed the need to receive up-to-date information on the current status of the Constitution and other legislative provisions. They requested clarification as to whether provisions introduced to meet certain of the requirements of articles 2 to 7 of the Convention were currently in force and effective. Members wished to know whether any prosecution had taken place following ethnic conflicts; whether ethnic conflicts also had political dimensions; and to what extent existing remedies were being used. Clarifications were also sought on the situation of health and other social services and on measures taken to reduce disparities between various regions in that regard. Members of the Committee also wished to receive further information on the implementation of the policy aiming at joining together the various ethnic groups, and on any obstacles encountered.

Concluding observations

287. In concluding the review, the Committee regretted that Burkina Faso had not been able to respond to its invitation to participate in its meeting and to furnish relevant information. The Committee wished to draw the attention of the Government of the State party to the possibility of requesting technical assistance from the Centre for Human Rights in the preparation of its reports. It hoped to receive a new report shortly.

288. When the previous periodic report was considered, the Committee noted many gaps in Burkina Faso's legislation in respect of the Convention. So far as the Committee is aware, those gaps remain.

CERD A/51/18 (1996)

456. At its 1166th meeting, held on 12 August 1996 (see CERD/C/SR.1166), the Committee reviewed the implementation of the Convention by Burkina Faso based upon its previous reports (CERD/C/105/Add.5) and its consideration by the Committee (see CERD/C/SR.711, 949 and 952). The Committee noted with regret that no report had been submitted to the Committee since 1984, although it welcomed the submission by the State Party in 1993 of the initial part of its report (see HRI/CORE/I/Add.30).

457. The Committee regretted that Burkina Faso had not responded to its invitation to participate in the meeting and to furnish relevant information. The Committee decided that a communication should be sent to the Government of Burkina Faso setting out its reporting obligations under the Convention and urging that the dialogue with the Committee should be resumed as soon as possible.

458. The Committee suggested that the Government of Burkina Faso avail itself of the technical assistance offered under the advisory services and technical assistance programme of the Centre for Human Rights, with the aim of drawing up and submitting as soon as possible an updated report drafted in accordance with the reporting guidelines.

459. The Committee recommends that the next periodic report to be submitted by Burkina Faso provide comprehensive information responding to the concerns expressed by the Committee when it reviewed the situation in the State Party in 1992. 11/

11/ [Official Records of the General Assembly, Forty-seventh Session, Supplement no. 18 (A/47/18)], paras 284-288.

CERD A/52/18 (1997)

619. At its 1236th and 1237th meetings, held on 18 and 19 August 1997, the Committee considered the sixth to eleventh periodic reports of Burkina Faso, submitted as one document (CERD/C/279/Add.2), and at its 1242nd meeting, held on 21 August 1997, adopted the following concluding observations.

Introduction

620. The Committee welcomes the presentation of the State party's report and the presence of its delegation and appreciates the opportunity to resume the dialogue with the State party. The Committee regrets, however, that the report did not follow the guidelines established by the Committee for the presentation of reports and that it lacked concrete information on the practical implementation of the Convention or on laws bearing on issues concerning the Convention. The Committee appreciates the delegation's oral presentation, which substantially supplemented the written report.

Factors and difficulties impeding the implementation of the Convention

621. It is noted that the country's difficult economic situation may affect the full implementation of the Convention in Burkina Faso.

Positive aspects

622. The spirit of tolerance in Burkina Faso, the State party's active policy of equality and non-discrimination and the process of democratization embarked upon since the last report are commended.

623. It is noted with satisfaction that the Convention has superior authority over national legislation and can be directly invoked before the courts.

624. It is noted with appreciation that the prohibition of discrimination on any ground, in particular race, ethnic origin, colour, religion and caste, is contained in the Constitution, which makes it an excellent basis for the implementation of the Convention in Burkina Faso.

625. The recent enactment of provisions in the Criminal Code to make racial discrimination a criminal offence is welcomed.

626. The measures taken by the State party to favour the use of and instruction in national languages in education, as well as in the media, are also welcomed.

627. The establishment of the office of Mediator, to consider complaints by any individual against arbitrary acts of the administration, is appreciated.

Principal subjects of concern

628. Concern is expressed over the lack of legal provisions required in order to fully implement the State party's obligations under article 4 of the Convention.

629. The lack of data on the demographic composition of the population and on the representation of ethnic groups at various levels of public life is regretted.

630. Concern is expressed over the absence of data on the enjoyment of economic, social and cultural rights by different sections of the population and their access to projects and programmes of development in different fields.

Suggestions and recommendations

631. The Committee wishes to receive more precise information about the provisions of article 132 of the Criminal Code and of Law 10/92/ADP of 15 December 1992 concerning freedom of association, and in particular whether and how the law provides for the prohibition of all acts of racial discrimination and of organizations which promote racial discrimination.

632. The Committee requests the State party to provide in its next report information in accordance with paragraph 8 of the reporting guidelines on the composition of the population and on the representation of ethnic groups at various levels of public life, as well as on their enjoyment of economic, social and cultural rights.

633. More information is also requested with regard to the progress made in the promotion of national languages and the education of all the population.

634. The Committee also requests information on the powers and functioning of the institution of Mediator and other institutions promoting respect for human rights and multicultural and multi-ethnic understanding.

635. The Committee recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention.

636. It is noted that the State party has not made the declaration provided for in article 14 of the Convention, and some members of the Committee requested that the possibility of such a declaration be considered.

637. The Committee recommends that the State party's next periodic report, due on 17 August 1999, be a comprehensive report and that it address all the points raised in the present observations.