



Réseau Ouest Africain des
Défenseurs des Droits Humains



West African Human Rights
Defenders Network



Republic of Burkina Faso

Joint Submission to the UN Universal Periodic Review

30th Session of the UPR Working Group

Submitted 5 October 2017

Submission by CIVICUS: World Alliance for Citizen Participation, NGO in
General Consultative Status with ECOSOC

And

Coalition Burkinabé des Défenseurs des Droits Humains (CBDDH)

And

Réseau Ouest Africain des Défenseurs des Droits Humains (ROADDH)

**CIVICUS: World Alliance for
Citizen Participation**

Ms Ine Van Severen, Email:
ine.vanseveren@civicus.org

Ms Susan Wilding, Email:
susan.wilding@civicus.org

Tel: +41 22 733 3435

Web: www.civicus.org

**Coalition Burkinabé des
Défenseurs des Droits
Humains (CBDDH)**

Mme OUATTARA P. C. Florence
Email:

cbddhcoordination@gmail.com
Tel: +226 70 24 96 91 / 00226 76

44 47 51

**Réseau Ouest Africain
des Défenseurs des
Droits Humains
(ROADDH)**

Mme Mélanie Damba N.
SONHAYE KOMBATE

Email:

sokomla@yahoo.fr

Tel: +228 90 30 02 85

M. Pierre-Claver Akolly
Amegnikpo DEKPOH

Email :

pierreclaver8@gmail.com

m

Tel: +228 90 05 64 93

1. Introduction

- 1.1 CIVICUS is a global alliance of civil society organisations (CSOs) and activists dedicated to strengthening citizen action and civil society around the world. Founded in 1993, we proudly promote marginalised voices, especially from the global south, and have members in more than 175 countries throughout the world.
- 1.2 Coalition Burkinabè des Défenseurs des Droits Humains (CBDDH ; Burkinabé Coalition of Human Rights Defenders) is a group of 20 associations working in the domain of human rights, created on 22 November 2016. CBDDH’s vision is to create an enabling environment for the work of Human Rights Defenders (HRD) in Burkina Faso and to strengthen their security. CBDDH is also the Burkinabé section of the Réseau Ouest Africain des Défenseurs des Droits Humains (ROADDH).
- 1.3 The Réseau Ouest Africain des Défenseurs des Droits Humains (ROADDH; West African Human Right Defenders Network), based in Lomé, Togo, aims at contributing actively to the promotion, protection and respect of human rights in general and the rights of human rights defenders in particular.
- 1.4 In this document, CIVICUS, CBDDH and ROADDH examine the Government of Burkina Faso’s compliance with its international human rights obligations to create and maintain a safe and enabling environment for civil society. Specifically, we analyse Burkina Faso’s fulfilment of the rights to the freedoms of association, peaceful assembly and expression, and unwarranted restrictions on human rights defenders (HRDs) since its previous UPR examination in April 2013. To this end, we assess Burkina Faso’s implementation of recommendations received during the 2nd UPR cycle relating to these issues and provide a number of specific, action-orientated follow-up recommendations.
- 1.5 During the 2nd UPR cycle, the Government of Burkina Faso received one recommendation relating to civic space, to “continue promoting and encouraging locally-based and member-driven civil societies in the country,” which was accepted by the Government of Burkina Faso. The recommendation was partially implemented. The law on freedom of association was reviewed, but certain provisions constitute a setback (see 2.3).
- 1.6 CIVICUS, CBDDH and ROADDH are deeply concerned by the violations of the freedom of expression and of the press.
- 1.7 As a result of these challenges, the space for civil society in Burkina Faso is currently rated as ‘obstructed’ by the CIVICUS Monitor.¹

¹ CIVICUS Monitor: [Burkina Faso](#), accessed 4 September 2017.

- Section 2 of this submission examines Burkina Faso’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of association.
- Section 3 examines Burkina Faso’s implementation of UPR recommendations and compliance with international human rights standards related to the protection of HRDs, civil society activists and journalists.
- Section 4 examines Burkina Faso’s implementation of UPR recommendations and compliance with international human rights standards concerning the freedom of expression, independence of the media and access to information.
- Section 5 examines Burkina Faso’s implementation of UPR recommendations and compliance with international human rights standards related to the freedom of peaceful assembly.
- Section 6 makes a number of recommendations to address the concerns listed.
- An annex of the implementation of the 2nd cycle of UPR recommendations related to civic space can be found in Section 7.

2. Freedom of association

2.1 During Burkina Faso’s examination under the 2nd UPR cycle, the government received one recommendation on the right to the freedom of association and creating an enabling environment for CSOs. The government committed this recommendation, which states that “continue promoting and encouraging locally-based and member-driven civil societies in the country”. The recommendation was partially implemented.

2.2 Article 21 of the 1991 Constitution² guarantees the right to the freedom of association. Moreover, article 22 of the International Covenant on Civil and Political Rights (ICCPR), to which the Republic of Burkina Faso is a state party, also guarantees the freedom of association. However, although CSOs can form and operate freely, certain provisions of the law on freedom of association constitute a setback.

2.3 On 20 October 2015, the *Conseil national de la Transition* or National Transition Council³ adopted Law 064-2015/CNT on freedom of association,⁴ replacing law

² As amended in 1997, 2000, 2002, 2009 and 2012. The Constitution was revised by a Constitutional Commission consisting of 92 members, with a draft Constitution handed over to President Roch Marc Christian Kaboré on 19 July 2017.

³ The National Transition Council was the temporary legislative council created after the revolution and the fall of the Compaoré regime in October 2014, until 28 December 2015. The National Transition Council consisted of 90 members, including 25 representatives of civil society. General elections took place on 29 November 2015.

⁴ For the full text of the law, see: <https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/101523/122351/F-1724755500/BFA-101523.pdf>

10/92/ADP of 15 December 1992 on freedom of association. Civil society groups have raised concerns in particular on articles 13 and 56 on the law: article 13 allows authorities to delay the granting of legal personality in order to conduct a “morality” test on the petitioner when they deem such a test necessary. Article 56 establishes a “mediation commission” for conflict resolution, which civil society finds an intrusion into its affairs. However, many civil society organisations are concerned that the members of the commission are not entirely independent and may act against civil society organisations critical of government actions.

3. Harassment, intimidation and attacks against human rights defenders, civil society activists and journalists

3.1 Under Burkina Faso’s previous UPR examination, the government received no recommendations on the protection of HRDs, journalists and civil society representatives.

3.2 Article 12 of the UN Declaration on Human Rights Defenders mandates states to take necessary measures to ensure the protection of HRDs. The ICCPR further guarantees the freedoms of expression, association and peaceful assembly. Despite the enactment of the law on the protection of HRDs, attacks on journalists, HRDs and civil society activists have occurred, especially by members of the *Regiment de la Securite du President* (RSP) surrounding the popular uprising of 2014 and the failed coup of 2015. The RSP was disbanded on 25 September 2015.

3.3 We welcome the adoption of Law 039-2017/AN of 27 June 2017 on the protection of HRDs,⁵ making Burkina Faso the second country on the African continent to provide a legal basis for the protection of HRDs. Nevertheless, there is some room for strengthening the protection of HRDs in the current law. The 2017 law does not foresee a protection mechanism, while no specific provisions are dedicated to women HRDs, who face specific challenges. Article 16 states that HRDs are prohibited from being deported from the national territory subject to “national security,” a term that is overly broad and subject to abuse.

3.4 Journalists and civil society activists, often those critical of the government, have experienced threats, intimidation and physical attacks. These attacks have often come from security officials, with the majority of incidents occurring during the failed coup in September 2015.

⁵ For the full text of the law, see:

https://www.ishr.ch/sites/default/files/documents/loi_protection_des_defenseurs_des_droits_humains_bf.pdf

3.5 During the failed coup of 16 and 17 September 2015, members of the RSP opened fire on protesters, killing dozens of civilians (see sections 5.3 and 5.4); forced radio and television stations to suspend their programmes; destroyed journalists' motorbikes and the property of media houses; and attacked journalists and civil society activists. Radio Oméga, for example, was visited by a group of RSP members on 16 September 2015 with the threat that "you cut, or we burn down the radio," following the burning of six motorcycles owned by the station's journalists.⁶ Other media outlets were attacked, including Radio Laafi and Savane FM.⁷ The studio of rapper and activist Serge Bambara, known as Smockey, of the *Balai Citoyen* citizen movement, was destroyed after soldiers fired two anti-tank rockets at it according to witnesses. The studio caught fire and most of the production equipment was destroyed or stolen.⁸ On 18 September 2015, Jean-Jacques Konombo, a photographer for the daily *Sidwaya*, was kicked and beaten by several soldiers who had chased him a car. Mr Konombo was attacked while doing his job as a photographer. He lost consciousness in the attack, sustained eye and finger injuries, and his material was destroyed.⁹ Other violations that took place included the beating of a photographer of the news site *Lefaso.net* and of a journalist of the news site *Burkina24.com* at the offices of television station BF1 in the capital, Ouagadougou; a correspondent of the daily *Sidwaya* being hit by a bullet in Ouagadougou; and physical aggression being directed towards the managing director of *Editions le Pays* in Ouagadougou, among other examples.¹⁰

3.6 On 9 June 2016, the national gendarmerie confiscated the camera of William Somda, a reporter for *Télévision BF1*. Mr Somda was covering a protest of employees of the *Centre de la loterie nationale du Burkina* (LONAB).¹¹

3.7 On 9 January 2017, Ali Mamadou Compaoré, a journalist who is involved in *Presse echo*, a BF1 TV debate programme, was threatened by two unidentified people, who

⁶ Jeune Afrique (2 November 2015). *Au Burkina, Radio Oméga mise sur les accros de l'info*. Accessed on 22 September 2017 via <http://www.jeuneafrique.com/mag/272576/culture/au-burkina-radio-omega-mise-sur-les-accros-de-linfo/>

⁷ Lefaso.net (19 September 2015). *Halte aux attaques contre les médias et les journalistes !* Accessed on 22 September 2017 via : <http://lefaso.net/spip.php?article66967>

⁸ Aljazeera America (28 January 2016). *The soundtrack to Burkina Faso's revolution*. Accessed on 22 September 2017 via: <http://america.aljazeera.com/articles/2016/1/28/burkina-faso-a-rappers-role-in-revolution.html>

⁹ Les Echos du Faso (27 September 2017). *Putch manqué du RSP: témoignage d'un photographe de presse blessé lors d'une bastonnades*. Accessed on 22 September 2017 via : <http://lesechosdufaso.net/putsch-manque-du-rsp-temoignage-dun-photographe-de-presse-blesse-lors-dune-bastonnades/>

¹⁰ Lefaso.net (19 September 2015). *Halte aux attaques contre les médias et les journalistes !* Accessed on 22 September 2017 via : <http://lefaso.net/spip.php?article66967>

¹¹ Centre Nationale de la Presse – Norbert Zongo (24 June 2016). *Des gendarmes accusés de tentative d'intimidation à l'endroit d'un journaliste*. Accessed on 22 September 2017 via : <http://cnpress-zongo.org/spip.php?article311>

said they would “break his legs” if he did not refrain from insulting the president. He was previously threatened and intimidated by phone, and on a radio programme where a speaker said he would “take his responsibilities if the Higher Council of Communication did not take action.” Mr Compaoré was also alerted of a price tag on his head.¹²

3.8 On 12 May 2017, Guézouma Sanogo, a journalist for the national Radiodiffusion Télévision du Burkina (RTB) and president of the Association of Journalists of Burkina (AJB) was physically attacked by a presidential security guard during a ceremony to mark the official national day of the peasant in Kaya in north Burkina Faso, causing injuries.¹³

3.9 On 28 June 2017, a group of burkinabé artists from the collective *Coalition pour la renaissance artistique au Burkina Faso* invaded the offices of RadioOméga FM and threatened and attacked radio host Hamed Kossa as he was about to start his programme *Interconnexion*.¹⁴ The collective wanted to protest about the lack of local music played by the station. This act was condemned by professional media organisations, such as the Association of Journalists of Burkina Faso, and by the Minister of Communication, Rémis Fulgance Dandjinou.

3.10 We welcome the re-opening of some past cases of impunity, in particular the re-opening, in April 2015, of the murder of investigative journalist Norbert Zongo. The body of Zongo was found on 13 December 1998, together with the bodies of three other people. Mr Zongo had been investigating the death in detention of the driver of François Compaoré, the brother of the former President of Burkina Faso.¹⁵ Three suspects, former RSP members, were arrested and charged on 12 December 2015¹⁶,

¹² Bref24.com (24 January 2017). *Agression du journaliste Ali Compaoré de la RTB/Télé : L'Association des journalistes du Burkina dénonce*. Accessed on 22 September 2017 via : <http://bref24.com/agression-du-journaliste-ali-compaore-de-la-rtbtele-lassociation-des-journalistes-du-burkina-denonce/>

¹³ Burkina24.com (18 May 2017). *Affaire Guézouma Sanogo : Dix organisations professionnelles condamnent*. Accessed on 22 September 2017 via <https://burkina24.com/2017/05/18/affaire-guezouma-sanogo-dix-organisations-professionnelles-condamnent/>; aOuaga.com (16 May 2017). *Agression du journaliste Guézouma Sanogo : déclaration de l'Association des blogueurs du Burkina*. Accessed on 22 September 2017 via : <http://news.aouaga.com/h/108382.html>

¹⁴ Burkina24.com (28 June 2017). *Affaire HK : Radio Oméga s'insurge, Bam Radi fit un « mea culpa »*. Accessed on 22 September 2017 via: <http://burkina24.com/2017/06/28/affaire-hk-radio-omega-sinsurge-bam-radi-fait-un-mea-culpa/>

¹⁵ The African Court on Human and Peoples' Rights ruled on 8 March 2014 that Burkina Faso failed to properly investigate the murder of Zongo and three other people, and ruled a second time, on 5 June 2015, ordering the state of Burkina Faso to implement remedies, damages and re-open the investigation. See Media Foundation for West Africa (11 June 2015). *Burkina Faso: Massive Victory for Justice and Fight against Impunity*. Accessed on 22 September 2017 via: <http://www.mfwa.org/burkina-faso-massive-victory-for-justice-and-fight-against-impunity/>

¹⁶ aOuaga.com (14 December 2015). *Affaire Norbert Zongo: inculpation de trois militaires de l'ex RSP*. Accessed on 22 September 2017 via : <http://news.aouaga.com/h/85469.html>

while an international arrest warrant was issued for François Compaoré in May 2017¹⁷. The trial was suspended due to articles 21 and 33 of the Organic Law on the formation and functioning of the High Court of Justice, which was deemed unconstitutional. This law was revised in July 2017 in order to make it conform to the constitution.

4. (D) Freedom of expression, independence of the media and access to information

- 4.1 Under the 2nd UPR cycle, the Government of Burkina Faso received no recommendations relating to the freedom of expression and access to information.
- 4.2 Article 19 of the ICCPR guarantees the right to the freedom of expression and opinion. Article 8 of the Burkinabé Constitution of 1991¹⁸ also guarantees the right to the freedoms of opinion, expression and media, and the right to information.
- 4.3 The National Transitional Council, after the fall of the Compaoré regime in 2014, passed some laws to advance the freedom of expression and access to information. Most press offenses were decriminalised on 4 September 2015 with the adoption of three laws, which replace the 1993 Information Code: Law 057-2015/CNT on the legal regime of the written press in Burkina Faso, Law 058-2015/CNT on the legal regime of the online press in Burkina Faso and Law on Law 059-2015/CNT on the legal regime of sound and television broadcasting. However, while press offences of opinion and against persons such as contempt, insults (*l'outrage et injure*), defamation and other offences no longer lead to prison sentences,¹⁹ hefty fines can still be applied. Due to pressure from media groups, such as the *Centre Nationale de la Presse – Norbert Zongo* and *Société des éditeurs de la presse privée*²⁰ the original fines stipulated in the laws - from 1 million to 5 million francs CFA, equivalent to US\$1,820 to US\$9,100 - were reduced to fines if between 500,000 francs CFA

¹⁷ Africanews (27 July 2017). *Burkina: mandat d'arrêt international lancé contre François Compaoré dans l'affaire Norbert Zongo*. Accessed on 22 September 2017 via: <http://fr.africanews.com/2017/07/27/burkina-mandat-d-arret-international-lance-contre-francois-compaore-dans-l/>

¹⁸ As amended in 1997, 2000, 2002, 2009 and 2012

¹⁹ The offences of 'provocation to crimes' and 'calls for ethnic and racial hate' can still lead to prison sentences, and were not decriminalized.

²⁰ ...who denounced the high level of these fines, certainly taking into account that in the previous 1993 Code of Information the maximum fine for press offenses was 1 million francs CFA, except for offence of the Head of State, which was set at 2 million francs CFA. *Le Pays* (9 September 2015). *Nouvelle loi sur la presse nationale: les organisations professionnelles des médias dénoncent et rejettent*. Accessed on 22 September 2017: <http://lepays.bf/nouvelle-loi-sur-la-presse-nationale-les-organisations-professionnelles-de-medias-denoncent-et-rejettent/#dW5E2gxCSL2Cz5Bu.99>

(US\$910) and 3 million francs CFA (US\$5,460) for press offences.²¹²² The decriminalisation followed a ruling by the African Commission on Human and Peoples' Rights on 5 December 2014, in which the complainant Lohe Issah Konaté, editor of newspaper *l'Ouragan*, sought to overturn a one-year prison sentence and a fine and damages equivalent to US\$11,500 for charges of libel of a state prosecutor, Placide Nikiema.²³ The African Commission ruled that Mr Konaté's right to the freedom of expression was violated, and called on the Government of Burkina Faso to abolish its criminal libel laws to conform to the international human rights treaties of which it is a party.²⁴ Burkinabé journalist syndicates believe that it would be appropriate to reduce the penalties for fines in cases of defamation. The penalties are disproportionate to the economic power of the media.

4.4 Prior to the decriminalisation in 2015, the use of criminal defamation law stifled the freedom of expression. For example, on 23 July 2015, Boureima Ouédraogo, editor of the *Le Reporteur* newspaper, received a prison sentence of three months and a fine of 300,000 francs CFA (approximately US\$546) for charges of libel against a Belgian businessman.²⁵

4.5 Although the new laws decriminalise press offences, prosecutors still at times request prison sentences for press offences. Lookmann Sawadogo, the director of publications for the *Le Soir* newspaper, was acquitted by the Court of First Instance in Ouagadougou after facing charges of defamation under the Penal Code on 10 August 2017.²⁶ The charges stem from a *Le Soir* Facebook post he wrote on 5 April 2017, and were initiated by six judges of the Commission of Inquiry set up by the Conseil Supérieur de la Magistrature to investigate corruption within the judiciary in Burkina Faso. The social media post claimed that there was a cover up of a corruption complaint against one of the members of the Commission. During the

²¹ Radiodiffusion Télévision du Burkina (18 December 2015). *Délits de presse :le CNT revoit les peines pécuniaires à la baisse*. Accessed on 22 September 2017 via <http://www.rtb.bf/2015/12/delits-de-presse-le-cnt-revoit-les-peines-pecuniaires-a-la-baisse/>

²² The media laws were adjusted on 17 December 2015: Law 085-2015/CNT on the modification of Law 057-2015/CNT on the legal regime of the written press in Burkina Faso and Law 086-2015/CNT modifying law 058-2015/CNT on the legal regime of the online press in Burkina Faso

²³ Media Foundation for West Africa (12 February 2016). *Burkina Faso: Major Boost for Press Freedom – Media Offenses Decriminalised*. Accessed on 22 September 2017 via: <http://www.mfwa.org/country-highlights/burkina-faso-major-boost-for-press-freedom-media-offenses-decriminalised/>

²⁴ Burkina24.com (12 December 2014). *Le Burkina condamné par la Cour africaine des Droits de l'Homme pour violation de la liberté d'expression*. Accessed on 22 September 2017 via: <https://burkina24.com/2014/12/12/le-burkina-condamne-par-la-cour-africaine-des-droits-de-lhomme-pour-violation-de-la-liberte-dexpression/>

²⁵ aOuaga.com (13 August 2015). *Des associations de journalistes burkinabè dénoncent la condamnation du responsable du bimensuel 'Le Reporter'*. Accessed on 22 September 2017 via : <http://news.aouaga.com/h/73563.html> ; Media Foundation for West Africa (12 August 2015). *Burkina Faso: Journalist sentenced to three months for defamation*. Accessed on 22 September 2017 via: <http://www.mfwa.org/burkina-faso-journalist-sentenced-to-three-months-for-defamation/>

²⁶ aOuaga.com (11 August 2017). *Verdict du procès pour diffamation de Lookman Sawadogo : Le doute a bénéficié au journaliste*. Accessed on 22 September 2017 via : <http://news.aouaga.com/h/110194.html>

judicial process, the prosecutor of the Court of First Instance requested a suspended prison sentence of 12 months and a fine of 300,000 francs CFA (US\$546). Mr Sawadogo was charged under the Penal Code.²⁷

- 4.6** Apart from the forced suspensions of media houses mentioned above (section 3.5) by RSP members during the failed coup of 16 and 17 September 2015, other suspensions have taken place. In an official communiqué of 7 May 2015, the Higher Council of Communication (*Conseil Supérieur de la Communication*), the media regulatory authority in Burkina Faso, announced the suspension of live segments of radio and TV programmes for a period of three months, apart from health, recreational, romantic and cultural programmes. This was done on the grounds of protecting “social cohesion” in the run-up to the general elections in November 2015.²⁸ The suspension was later withdrawn.
- 4.7** On 18 February 2016, the Higher Council of Communication suspended *L'Évènement*, an investigative magazine, for one month²⁹, without any hearing. The Council accused *L'Évènement* of “revealing of military secrets” in a report published on 10 February 2016, which claimed that former RSP members attacked an army depot in the district of Yimdi. Director of Publications, Germain Nama Bitiou, and Editor, Newton Hamed Barry, were previously, on 18 February 2016, summoned to the military court for a hearing, after which they were discharged. ³⁰ On 3 May 2016, the administrative court of Ouagadougou annulled the decision of the High Council of Communication. ³¹
- 4.8** We welcome the adoption of Law 051-2015/CNT on the access to public information and administrative documents by the National Transitional Council On 30 August 2015. The Law establishes an Authority, with members that include a representative from the human rights community and one from the media, among others.

5. (E) Freedom of peaceful assembly

²⁷ActuBurkina (8 August 2017). *Procès Lookmann Sawadogo: des organisations apportent leur soutien constant au journaliste*. Accessed on 22 September 2017 via: <http://actuburkina.net/proces-lookmann-sawadogo-organisations-apportent-soutien-constant-journaliste/>

²⁸ Media Foundation for West Africa (8 May 2015). *ALERT: Media regulatory body suspends live phone-in segments on radio and television*. Accessed on 22 September 2017 via: <http://www.mfwa.org/burkina-faso-alert-media-regulatory-body-suspends-live-phone-in-segments-on-radio-and-television/>

²⁹ LeFaso.net (19 February 2016). *Le CSC la publication suspend la publication du journal L'Évènement pour un mois*. Accessed on 22 September 2017 via : <http://lefaso.net/spip.php?article69586>

³⁰ Media Foundation for West Africa (8 March 2016). *Regulatory Body Suspends Magazine despite Military Discharge*. Accessed on 22 September 2016 via: <http://www.mfwa.org/burkina-faso-regulatory-body-suspends-magazine-despite-military-discharge/> Other source needed

³¹ Sidwaya (3 March 2016). *Procès L'Évènement obtient gain de cause*. Accessed on 4 October 2017 via <http://www.sidwaya.bf/m-10295-proces-l-evenement-contre-csc-l-evenement-obtient-gain-de-cause.html>

- 5.1** During Burkina Faso's examination under the 2nd UPR cycle, the government received no recommendations on the right to the freedom of peaceful assembly.
- 5.2** Article 21 of the ICCPR guarantees the freedom of peaceful assembly. In addition, article 7 of the 1991 Constitution³² guarantees the right to the freedom of assembly. The freedom of assembly is further regulated by Law 22/97/II/AN of 21 October 1997 on the freedom of assembly and demonstration on the public road. Limitations on the freedom of assembly, including time and place restrictions, occur through regulations from local and central authorities. For example, Decree No 2010-011/CQ/SG/DAJC established areas in Ouagadougou, so-called "red zones" where activities could not be held.³³ Law 026-2008/AN of 8 May 2008 on the repression of acts of vandalism perpetrated during demonstrations on public roads contains restrictions on the freedom of assembly as it considers the organisers of an assembly to be liable for every criminal offence committed during a demonstration, whether they are the perpetrators or not. The UN Human Rights Committee noted with concern in its session of 11 July 2016 that "article 15 of Act No. 26 of 8 May 2008, on the punishment of acts of vandalism committed during demonstrations on the public highway, is not in conformity with the International Covenant on Civil and Political Rights (ICCPR), and notably with the principle of the presumption of innocence and individual criminal responsibility, as it allows for every member of a group to be held criminally responsible, regardless of whether the perpetrator of the offence has been identified or not (arts. 14 and 21)."³⁴
- 5.3** Protests were violently repressed during the popular uprising of 2014 and during the failed coup of September 2015. During the popular uprising, RSP members used live ammunition against unarmed protesters, killing at least 24 protesters, and injuring more than 600.³⁵ A national Commission of Inquiry was set up, and a trial of cabinet members, senior officials and former President Compaoré started on 27 April 2017, but was suspended due to due to articles 21 and 33 of the Organic Law on the formation and functioning of the High Court of Justice, which were deemed unconstitutional. 32 members of the former government are charged with the

³² As amended in 1997, 2000, 2002, 2009 and 2012

³³ The decree existed until the transition period. RESOCIDE (July 2014). *Evaluation nationale de l'Environnement favorable des Organisations de la Société Civile*, p. 32-33. Accessed on 19 September 2017 via : http://www.civicus.org/images/EENA_BurkinaFaso_FR.pdf

³⁴ CCPR/C/BFA/CO/1. UN Human Rights Committee – International Covenant on Civil and Political Rights (17 October 2016). *Concluding observations on the initial report of Burkina Faso*. Accessed on 19 September 2017 via:

http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/BFA/CO/1&Lang=En

³⁵ According to the official ad hoc committee during a press conference on 25 November 2014, a total of 24 people were killed, and 625 people were injured. See LeFaso.net (26 November 2014). *Insurrection populaire au Burkina: 24 morts 625 blessés*. Accessed on 4 October 2017 via <http://lefaso.net/spip.php?article61980>

authorisation of the use of lethal force against protesters and with killing at least 24 protesters.³⁶

- 5.4** During the failed coup d'état between 16 and 20 September 2015, at least 14 unarmed protesters and bystanders, including two children, were killed by RSP officers, who used live ammunition with automatic rifles, beat protesters and injured 271 people, according to official government figures. According to Amnesty International investigations, at least 6 of the 14 deaths were peaceful protesters against the coup, who were unarmed and did not pose any threats.³⁷ A second Commission of Inquiry was established for those responsible for the attempted coup.
- 5.5** After a sit-in on 28 June 2017 by the Syndicat national des administrateurs civils, des secrétaires et adjoints administratifs du Burkina (SYNACSAB ; the National Union of civil administrators, Secretaries and Administrative Assistants of Burkina), SYNACSAB registered reprisals through a decision of the Conseil of Ministers, which released 76 préfets of their duties in July 2017. SYNACSAB states that 70 of the 76 préfets participated in the sit-in on 28th June.³⁸
- 5.6** Concerns exist regarding a draft law on the right to strike for public sector employees, which would limit the right to strike to "collective industrial demands" and "the defence of legitimate professional and collective interests." The *Union d'Action Syndicale* (UAS), received a draft law on 21 April 2017 via correspondence 2017-048/AN/CAGIDH of the Commission of General Institutional Affairs and Human Rights. According to the UAS this would exclude certain categories of workers - such as customs officials, fire brigade personnel, police officers, water and forestry sector workers, and some administrative staff - from exercising the right to strike. Further, the draft law would impose an obligation of prior negotiation and allow for the recruitment of staff to replace workers on strike. The proposed draft law would violate ILO conventions 87 and 98.³⁹

³⁶ LeFaso.net (11 April 2017). *Insurrection populaire au Burkina : Le dernier gouvernement de Blaise Compaoré à la barre le 27 avril 2017*. Accessed on 4 October 2017 via : <http://lefaso.net/spip.php?article76598> ; VOA (9 May 2017). *Trial of Burkina Faso's Ex-leader,, Ministers Begin After Delays*. Accessed on 4 October 2017 via: <https://www.voanews.com/a/trial-burkina-faso-ex-leader-ministers-begins-after-delays/3843968.html>

³⁷ Amnesty International (14 October 2015). *Burkina Faso: no amnesty for soldiers who killed unarmed civilians*. Press Release. Accessed on 4 October 2017 via <https://www.amnesty.org/en/press-releases/2015/10/burkinafasonoamnestyforsoldiers/>

³⁸ aOuaga (26 July 2017). *70 préfets relevés de leur postes pour avoir pris part à un sit-in ?* Accessed on 4 October 2017 via <http://news.aouaga.com/h/109891.html>

³⁹ LeFaso.net (10 May 2017). *Proposition de loi sur le droit de grève : L'Unité d'action syndicale fermement opposée*. Accessed on 4 October 2017 via <http://lefaso.net/spip.php?article77075>

6. (F) Recommendations to the Government of Burkina Faso

CIVICUS, ROADDH and CBDDH call on the Government of Burkina Faso to create and maintain, in law and in practice, an enabling environment for civil society, in accordance with the rights enshrined in the ICCPR, the UN Declaration on Human Rights Defenders and Human Rights Council resolutions 22/6, 27/5 and 27/31.

At a minimum, the following conditions should be guaranteed: the freedoms of association, expression and peaceful assembly, the right to operate free from unwarranted state interference, the right to communicate and cooperate, the right to seek and secure funding, and the state's duty to protect. In the light of this, the following specific recommendations are made:

6.1 Regarding the freedom of association

- Review the law on associations, in particular articles 13 and 56, with a separate statute for trade unions.
- Take measures to foster a safe, respectful, enabling environment for civil society, including through removing legal and policy measures, which unwarrantedly limit the right to association.
- Promote a meaningful political dialogue that allows and embraces diverging views, including those of CSOs, HRDs, journalists, political activists and others.

6.2 Regarding the protection of human rights defenders

- Provide civil society members, journalists and HRDs with a safe and secure environment to carry out their work. Conduct impartial, thorough and effective investigations into all cases of attacks, harassment and intimidation against them, and bring the perpetrators of such offences to justice.
- Ensure that HRDs are able to carry out their legitimate activities without fear or undue hindrance, obstruction or legal, media or administrative harassment.
- Strengthen Law 039-2017/AN of 27 June 2017 on the protection of HRDs, to conform with the UN Declaration on Human Rights Defenders of 9 December 1998. In particular, implement a protection and follow-up mechanism, remove article 16 regarding the broadly stated exception made on grounds of “national

security” in the law and introduce specific provisions on the protection of women HRDs.

6.3 Regarding the freedom of expression, independence of the media and access to information

- Ensure that journalists and writers may work freely and without fear of retribution for expressing critical opinions or covering topics that the government may find sensitive.
- Take adequate steps to adopt a framework for the protection of journalists from persecution, intimidation and harassment.
- Enhance the implementation of the law on access to information in order to promote fully the exercise of the right to the freedoms of expression and opinion.
- Organise inclusive consultations with journalists and the media in order to resolve disputes that exist concerning media freedoms.
- Ensure that all cases of threats, intimidations and attacks against journalists are thoroughly investigated, and perpetrators brought to justice, including past injustices against journalists, notably the murder of journalist Norbert Zongo.
- Implement the commitments made to the media during the transition period, in particular the improvement of the living and working conditions of journalists and increase the independence of the media;
- Concerning the freedom of information: operationalise the authority of access to administrative documents.

6.4 Regarding the freedom of assembly

- Ensure that local and central authorities do not place unwarranted restrictions on the place and time of protests.
- Amend law 026-2008/AN of 8 May 2008 on the repression of acts of vandalism perpetrated during demonstrations on public roads, in order to ensure that everyone can fully enjoy the rights set out in article 21 of the ICCPR, including the right to be presumed innocent and individual responsibility as set out in article 14, and as was recommended by the Human Rights Council.

- Ensure that all cases of the killings of protesters during the popular uprising in 2014 and the failed coup of September 2015 are thoroughly investigated, and perpetrators brought to justice.

6.5 Regarding access to UN Special Procedures mandate holders

- The Government should extend a standing invitation to all UN Special Procedure mandate holders and prioritise official visits by the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.

6.6 Regarding State engagement with civil society

- Implement transparent and inclusive mechanisms of public consultations with CSOs on all issues mentioned above and enable more effective involvement of civil society in the preparation of law and policy.
- Systematically consult with civil society on the implementation of the UPR, including by holding periodical comprehensive consultations with a diverse range of civil society sectors.
- Incorporate the results of this UPR into its action plans for the promotion and protection of all human rights, taking into account the proposals of civil society, and present a midterm evaluation report to the Human Rights Council on the implementation of the recommendations of this session.

