

BURKINA FASO

SUBMISSION TO THE UNITED NATIONS
COMMITTEE ON ECONOMIC, SOCIAL AND
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INTRODUCTION

Amnesty International submits this briefing in advance of the examination of Burkina Faso's initial report on the implementation of the International Covenant on Economic, Social and Cultural Rights at the United Nations (UN) Committee on Economic, Social and Cultural Rights (the Committee)'s 58th session in June 2016.

This submission contains information in response to questions 6, 7, 8, 20, 27 and 28 in the List of Issues identified by the Committee in relation to the initial report of Burkina Faso.¹ It describes how women and girls still lack adequate protection from forced and early marriages and face structural and financial barriers in accessing contraceptive products, including emergency contraception. It also highlights how the lack of information about and access to safe abortions contributes to the number of unwanted pregnancies and puts at risk the lives of those women and girls who undergo unsafe and clandestine abortions.

This submission succinctly presents Amnesty International's findings on these issues. Amnesty International published a detailed report on these issues in April 2016, in *Coerced and Denied: Forced Marriages and Barriers to Contraception in Burkina Faso*, AI Index: AFR 60/3851/2016, available at: <https://www.amnesty.org/en/documents/afr60/3851/2016/en/>

The report was based on extensive research including four research missions to Burkina Faso in 2014 and 2015. Researchers conducted individual interviews and focus group discussions with 379 women and girls to gather information on the key obstacles they faced in exercising their sexual and reproductive rights, in both urban and rural settings. Researchers interviewed 56 health professionals. They met with officials of various ministries, the police, prosecutors, legal experts, religious representatives, village chiefs, teachers and school principals, organizations who run shelters and provide support services for women and children, other NGOs and international agencies.

Amnesty International also published a report on maternal health and mortality in 2009: *Giving life, risking death: Maternal mortality in Burkina Faso*, AI Index: AFR 60/001/2009, available at: <https://www.amnesty.org/en/documents/afr60/001/2009/en/>

ARTICLE 3: LEGAL VACUUM LEAVES GIRLS AND WOMEN UNPROTECTED FROM FORCED AND EARLY MARRIAGES

FORCED AND/OR EARLY MARRIAGES IN BURKINA FASO

Burkina Faso has some of the highest rates of forced and early marriages in the world, despite the fact that forcing someone to marry against their will is a criminal offence in the country.² Between 2009 and 2013, the Ministry of Social Affairs documented that 6,325 girls and 860 boys (more than 1,000 children a year) have been subjected to forced marriages across the country.³ The real figure will undoubtedly be much higher because of significant under-reporting. In the rural Sahel region, 51.3% of girls aged between 15 and 17 are married, as well as 24.7% of girls of the same age in the rural parts of the South West region.⁴

Amnesty International interviewed at least 35 women and girls in shelters and communities who had been subjected to, or threatened with, forced or early marriage. Their ages ranged from 13 to young women in their 20s who were being threatened with forced marriage. All the interviewees described how violence, threats of violence or other types of coercion were used against them. Many women and girls said that they were threatened that if they did not accept the marriage, another member of the family would be beaten or banished from the family home, especially if that family member advocated on behalf of the daughter. They also described how pressure would be brought to bear on them because of money or other goods being offered to their families.

Another practice linked to forced or early marriages in some parts of the country, often associated with the Mossi and Bissa ethnic groups, is the practice of "Pog-lenga" which means "woman gift", or "additional" or "bonus woman". In this tradition, a bride may also bring her niece to the family of her husband as an additional girl for marriage.

Once married, it is expected that the couple will have children as soon as possible. The risks incurred by early pregnancy and

¹ UN Doc. E/C.12/BFA/Q/1, 30 October 2015.

² UNICEF, *State of the world's children 2015: Reimagine the future*, November 2014, statistical table 9: Child protection according to UNICEF, the estimated figures for child marriages in Burkina Faso is even higher than those estimated by the state in its report *Stratégie Nationale de Prévention et d'élimination du mariage d'enfants 2016-2025*, with UNICEF estimating that over 52% of all women in Burkina Faso aged between 20 and 24 were married before the age of 18, and 10% before the age of 15.

³ UNICEF, *State of the world's children 2015: Reimagine the future*, November 2014, and Ministry of Social Action and National Solidarity, *Stratégie Nationale de Prévention et d'élimination du mariage d'enfants 2016-2025*, November 2015.

⁴ Ministry of Social Action and National Solidarity, *Stratégie Nationale de Prévention et d'élimination du mariage d'enfants 2016-2025*, November 2015, pp. 7-8.

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childbirth in Burkina Faso are well documented. Death during childbirth is the second biggest cause of death worldwide for girls aged 15-19.⁵ For this age group and younger, there are also higher risks of life-threatening and life-changing physical injuries, such as obstetric fistula, where a tear forms between the vagina and the rectum.⁶ Forced and early marriages also negatively impact girls' rights to education, with families pressurizing girls to drop out of school once they are married or become pregnant. The percentage of girls attending both primary and secondary level education is very low in Burkina Faso. Only 17.1% of girls, compared with 21.4% of boys, actively attend secondary school.⁷

The government of Burkina Faso has made important commitments towards addressing the problem of early and forced marriage and has prohibited forced marriages. However, there are significant gaps in the legal framework and weaknesses in the government's enforcement of the law.

The legal age for marriage in Burkina Faso is established in Article 238 of the Persons and Family Code. It identifies different legal ages at which marriage is permitted: 17 for girls and 20 for boys, although Article 238 stipulates that special dispensation can be sought from the court to allow girls above the age of 15 and boys above the age of 18 to get married.

The Persons and Family Code prohibits forced marriages and Article 234 states: "Marriage must be entered by men and women, as a result of the free and conscious decision of the spouses". Article 376 of the Criminal Code punishes whoever "coerces someone to marry" and makes it an aggravating circumstance if the victim is a minor. Hence, a marriage whether either spouse was under the legal age (unless special dispensation has been granted by a court) would amount to a forced marriage.⁸

However, these provisions only apply to a legally recognized marriage, which is defined under the Persons and Family Code as a marriage conducted with the involvement of a state official (Articles 273 and 233) and excludes marriages conducted through traditional or religious ceremonies. Amnesty International was informed by prosecutors and the police, as well as by interviewees subjected to the practice or providing support to them, that the vast majority of early and forced marriages in Burkina Faso are conducted through religious or traditional ceremonies, without the presence of a state official.⁹ These "unions" are not recognized as legal marriages under the Persons and Family Code and therefore cannot amount to forced marriages within the meaning of Articles 234, 238 and 376, even if a person is coerced.¹⁰ Prosecutors and judges interviewed by Amnesty International confirmed this gap in the law and expressed regret about the restrictive definition of marriage under the law.

The legal provisions around early and forced marriages therefore fail to offer protection and effective remedies to women and girls who are coerced into a religious or traditional marriage. There is no penalty for coercing, facilitating or entering into a "union" with a woman or girl against her will and/or when the girl is under the legal age of marriage.

Prosecutors interviewed by Amnesty International stated that they are forced to attempt to prosecute perpetrators of forced or early marriage for the crime of rape, rather than the forced marriage. However, only happens if girls and their families are willing to file a complaint. Prosecutors and organizations working with women and girls pointed out that women and girls who have been subjected to forced or early marriage and/or their families are unwilling to file a complaint of rape due to the associated stigma and shame.

The differential minimum age of marriage for boys and girls also denies girls equal protection under the law. There is no objective justification for a differential legal age of marriage based on sex. These provisions are discriminatory, breaching Burkina Faso's obligations to ensure that there is no discrimination on the basis of sex and that all persons have equal protection under the law.¹¹ The minimum legal age of marriage should be the same for boys and girls, and should not be below 18, in line with the African Charter on the Rights and Welfare of the Child and the Convention on the Rights of the Child, which Burkina Faso is party to.

⁵ UNFPA, *Girlhood, not motherhood: Preventing adolescent pregnancy*, 2015, p. 10. Available at: www.unfpa.org/sites/default/files/pub-pdf/Girlhood_not_motherhood_final_web.pdf

⁶ UNFPA, *Girlhood, not motherhood: Preventing adolescent pregnancy*, 2015, p. 9. Available at: www.unfpa.org/sites/default/files/pub-pdf/Girlhood_not_motherhood_final_web.pdf

⁷ UNICEF, *Statistics for 2008-2012*. Available at: www.unicef.org/french/infobycountry/burkinafaso_statistics.html#117

⁸ Article 376 of the Criminal Code states that: "Anyone who forces a person to marry will face a prison sentence from six months to two years. The penalty is imprisonment for one to three years if the victim is a minor. The maximum penalty is incurred if the victim is a minor girl under thirteen. Whoever contracts a marriage or in such circumstances facilitates such a marriage is considered an accomplice". See: www.refworld.org/docid/3ae6b5cc0.html

⁹ Interviews conducted by Amnesty International with human rights defenders and prosecutors throughout the research during 2014 and 2015.

¹⁰ Interviews conducted by Amnesty International with prosecutors during research trips, including in Dori in May 2015.

¹¹ Articles 2,3 and 10, International Covenant on Economic, Social and Cultural Rights; Article 16, Convention of the Elimination of All Forms of Discrimination against Women; Article 26, International Covenant on Civil and Political Rights; Article 2, Convention on the Rights of the Child; and Articles 3 and 21, African Charter on the Rights and Welfare of the Child.

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NO LEGAL REQUIREMENT TO REGISTER OR CHECK TRADITIONAL AND RELIGIOUS MARRIAGES

Prior to undergoing a civil marriage, the bride and groom have to submit a number of documents to the Registrar (*officier d'état civil*) who conducts the marriage, including a birth certificate.¹² The Persons and Family Code requires the Registrar to verify that both parties consent to the marriage prior to it being undertaken/registered.¹³ Legal officers who marry two people in violation of the law (including lack of consent or underage) are criminally liable under Article 172 of the Criminal Code. The sentences which can be imposed range from two to six months' imprisonment and/or a fine of 50,000 CFA (about US\$86) to 150,000 CFA (about US\$260).¹⁴

There is no requirement under the law for religious and traditional marriages or "unions" to be registered by the persons who conduct such marriage ceremonies or the parties to them. There is also no requirement under the law on those conducting traditional or religious marriages or state officials, once they become aware of these "unions", to carry out checks on whether both parties are above the legal age of marriage and have given their full consent.¹⁵

LIMITED STATE INTERVENTIONS

The main state body that is relevant to the enforcement and protection of girls and women at risk of forced and early marriage is the Ministry of Social Affairs, which is represented by Social Affairs units in each district. They are responsible for the provision of shelters and psychosocial support for girls at risk. The police force and Gendarmerie Nationale are also key actors, with the former present mainly in cities and the latter mainly in rural areas. They have responsibility to enforce laws and to investigate and prevent crimes.

The government does not systematically record and make publicly available data on official complaints of forced or early marriage across the country, including whether any were successfully prosecuted and ended with a conviction. A senior official from the Ministry of Social Affairs told Amnesty International that between 2013 and 2014, 80 girls in primary education in the village of Banni, in Sanno province, were victims of forced marriage and that the education authorities failed to inform social services. They were thus unable to intervene in time. In the same village in 2014, 20 girls in secondary education were also victims. One boy was also a victim of a forced marriage, but he managed to escape.¹⁶ Prosecutors informed Amnesty International of a limited number of convictions in cases involving forced marriages.¹⁷

There are currently no programmes in place to disseminate information about the law on forced and early marriages in schools and communities, or to tell girls and boys at risk whom they can contact for assistance or protection. There are only two government-run shelters in the whole of the country, one located in Ouagadougou and another in Nocin district, which opened in December 2015 and has a capacity of 10 beds. In the absence of government-run refuges and places of safety, Amnesty International is aware of 10 other shelters across the country run by NGOs and religious orders. One of the NGO-run shelters in the north of the country provided refuge and support for 60 girls over the course of one year alone.¹⁸

¹² Article 253 of the Persons and Family Code.

¹³ Article 252 of the Persons and Family Code.

¹⁴ Article 172 of the Criminal Code states: "*L'officier de l'état civil ou la personne par lui déléguée en vertu des dispositions légales, est puni d'un emprisonnement de deux à six mois et d'une amende de 50.000 à 150.000 francs ou de l'une de ces deux peines seulement, lorsqu'il célèbre un mariage en violation des conditions prescrites par la loi*".

¹⁵ Interviews conducted by Amnesty International with experts working with women and girls affected by forced and early marriage, as well as lawyers, law enforcement officials and judges during 2014 and 2015.

¹⁶ Interview conducted by Amnesty International with officials from the Ministry of Social Affairs in Dori in May 2015.

¹⁷ In May 2015, a Prosecutor told Amnesty International that four cases of forced marriage were brought to his attention via a teacher. Traditional marriage could not be raised as it is not recognized, but the parents and the husband were interrogated. The husband was convicted of statutory rape under Article 402 of the Penal Code and the officiant (the person who oversaw the wedding) was convicted as an accomplice. Two other people were charged in May 2015 for the forced marriage of a girl of 14. In another case in May 2015, a girl of 13 was forced to abandon her schooling to marry a farmer aged 55. A religious marriage was held after the husband paid a dowry of 160,000 CFA (around US\$274) to the grandmother, aged 79. According to the Prosecutor the girl stayed 36 days with the husband and she said that he raped her every two days during that time. The husband and the person who rented a house for the husband were each sentenced to six months' imprisonment and a fine of 300,000 CFA (around US\$514). The father of the girl denied any knowledge of the marriage when he spoke to the Prosecutor. Interview conducted by Amnesty International with a prosecutor in charge of child protection in the Sahel region in May 2015.

¹⁸ Interview conducted by Amnesty International with the director of the shelter in the North region of Burkina Faso in July 2015.

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NEW MEASURES INTRODUCED IN 2015

In November 2015, the Burkinabè authorities adopted the National Strategy for the Prevention and Elimination of Child Marriage 2016-2025 (the National Strategy).¹⁹ This is an important and welcome step. The National Strategy contains some crucial commitments along with an action plan to end child marriage by 2025.²⁰

For the purposes of implementation, the National Strategy defines a child as someone under the age of 18, and considers “marriage” to include all forms of unions between a man and a woman, whether it is celebrated by a public officer or a traditional or religious leader.²¹

One of the proposed actions under the National Strategy is to reform the law preventing and punishing early marriages. It does not spell out the exact reforms that will be undertaken. However, in a letter to Amnesty International of 28 December 2015, the Ministry of Justice stated that the legal age for marriage for girls will be reviewed. The National Strategy includes a goal to provide psychological, legal and financial support to victims.

The authorities have committed to undertaking a national study on “child marriage” in 2016, which will be publicly shared during meetings in the different regions. The Burkinabè authorities will also produce a communication plan in 2016 and implement it until 2018.

All of these are welcome and necessary steps. However, one of the weaknesses of the National Strategy is that, while its objective is to accelerate the elimination of child marriages, it only sets an expected result of reducing child marriages by 20% from 2016 to 2025.²² This target is not compatible with the government’s obligations under the Covenant and other international and regional human rights treaties, which Burkina Faso is a party to, which require immediate and sustained action to eliminate “child marriage” and the consequent flagrant abuses of girls’ human rights. The other major weakness is that although the National Strategy aims to reinforce the legal framework for prevention and prohibition of forced and early marriage, it does not set out the specific reforms that will be undertaken for these reforms, or a time-frame. There is also a need for a similar National Strategy to eliminate forced marriages of people above the age of 18.

The government adopted Law number 061-2015/CNT Concerning the Prevention, Punishment and Reparations of Violence against Women and victims care in October 2015. This law is currently in force and, among other provisions, it places a requirement on all persons to report cases of violence against women, which should be understood as including forced and early marriages. This provision, if actively implemented and disseminated, including among doctors, teachers and others who encounter cases of forced and early marriages, could help prevent them. However, it needs to be complemented by training and protocols for the police and Gendarmerie.

The government of Burkina Faso has taken some significant steps, including through the adoption of the National Strategy and its openness to reform the Criminal Code and the Persons and Family Code. However, the current legal framework and the systems for enforcement and protection are inadequate and violate the government’s obligations under Articles 2, 3, 10 and 12 of the Covenant to protect women and girls from, and prevent, forced and early marriages.

RECOMMENDATIONS

Amnesty International recommends that the government of Burkina Faso:

- **Urgently reform the Persons and Family Code and the Criminal Code to ensure that the prohibition on forced and early marriages applies to all forms of marriage, including traditional and religious marriages. Make it a criminal offence for any person to use violence, threats, or any other form of coercion for the purpose of causing another person to enter into a marriage, whether or not such a marriage is legally binding, without their free and full consent.**
- Amend the Persons and Family Code to set 18 years as the minimum age of marriage for both boys and girls in line with the African Charter on the Rights and Welfare of the Child and other international and regional human rights instruments.
- Adopt a legal requirement for all marriages, including traditional and religious marriages, to be mandatorily registered.

¹⁹ Ministry of Social Action and National Solidarity Stratégie Nationale de Prévention et d’élimination du mariage d’enfants 2016-2025, November 2015, p. 7-8.

²⁰ Ministry of Social Action and National Solidarity Stratégie Nationale de Prévention et d’élimination du mariage d’enfants 2016-2025, November 2015, p. 24.

²¹ Ministry of Social Action and National Solidarity Stratégie Nationale de Prévention et d’élimination du mariage d’enfants 2016-2025, November 2015, p. 1.

²² Ministry of Social Action and National Solidarity Stratégie Nationale de Prévention et d’élimination du mariage d’enfants 2016-2025, November 2015, p. 39

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Require state officials to check prior to registering any marriage that both parties are above the legal age of marriage and have given their full consent. If not, to refer the case to the police and social services to investigation and offer protection to any or both parties who have been married without their full and free consent. Establish appropriate penalties under the law for state officials who do not carry out adequate due diligence prior to registering a marriage.

- Ensure that the law provides for protection orders and other measures for the safety of people who are at risk of forced and early marriages and that all victims of forced and early marriages have access to effective remedies and reparation. Train the police, Judges, Gendarmerie, and state officials involved in the registration of marriages to detect and respond effectively to cases where people are at risk or have undergone forced and early marriages. Develop a protocol for the police and gendarmerie – working with social affairs officials, teachers and health professions – to detect, monitor, prevent, and as appropriate investigate, such cases and to offer adequate protection to persons at risk.
- Increase the number of shelters available to people at risk of forced and early marriages, and the availability of expert staff to support young people at risk. Conduct a national consultation in order to identify and develop programmes to provide better psychological, legal and financial support to people at risk of forced and early marriages.
- Make available disaggregated data on complaints of forced and early marriages, investigations undertaken, protection measures, prosecutions and convictions.

ARTICLE 12: SEXUAL AND REPRODUCTIVE HEALTH

BARRIERS IMPEDING WOMEN'S AND GIRLS' ACCESS TO CONTRACEPTION

Abuses of girls' and women's rights to choose whether, when and whom to marry are accompanied by interference with their rights to choose whether and when to have children, and how many. There is a high unmet need for contraception in Burkina Faso.²³ The estimates for 2015 put this unmet need at 27.4%,²⁴ and the rate of women of reproductive age who are using (or whose partner is using) a modern method of contraception at 15.7%.²⁵

Women and girls across the country report a lack of access to modern contraceptive health care information, services and goods, as well as high rates of forced and early marriage. Both are particularly high in the Sahel region, in the north of the country, which is also the zone with the highest rates of maternal deaths.²⁶ A government-commissioned study from 2013 found that “more than two in five women (43%) said they were not aware of contraceptive methods. This lack of information is particularly high among women's health districts Djibo (51%) and Gorom-Gorom (44%) where the contraceptive use and prevalence rates were lowest.”²⁷ It is well documented that women and their partners who rely on traditional methods for contraception²⁸ have a much higher probability of unplanned pregnancy than those using modern methods.²⁹

Expert agencies have frequently highlighted the vital contribution that increased access to modern contraceptive information services and goods can make towards reducing maternal deaths.³⁰ For example, the UNFPA has stated that contraceptive use could reduce maternal deaths by up to an estimated 35%.³¹ A policy brief by the Guttmacher Institute from 2011 estimated that the deaths of at least 400 women and girls could be prevented each year if the unmet contraceptive need was addressed.³²

²³ WHO defines the term unmet contraceptive need as follows: “Women with unmet need are those who are fecund and sexually active but are not using any method of contraception, and report not wanting any more children or wanting to delay the next child.” See:

www.who.int/reproductivehealth/topics/family_planning/unmet_need_fp/en/

²⁴ See p. 1, indicator number 4 of the FP2020 Core indicator summary sheet published in November 2015:

www.track20.org/download/summaries/english/Burkina%20Faso%20FP2020%20Core%20Indicators.pdf

²⁵ See p. 1, indicator number 4 of the FP2020 Core indicator summary sheet published in November 2015:

www.track20.org/download/summaries/english/Burkina%20Faso%20FP2020%20Core%20Indicators.pdf

²⁶ Evaluation Finale du projet de lutte contre les Fistules Obstétricales dans le Sahel, March 2013, Ministry of Health, Burkina Faso.

²⁷ Evaluation Finale du projet de lutte contre les Fistules Obstétricales dans le Sahel, March 2013, p. 66, Ministry of Health, Burkina Faso.

²⁸ UNFPA and Guttmacher Institute, *Adding it up: Costs and benefits of contraceptive services estimates for 2012*, June 2012, p. 7. Available at:

www.guttmacher.org/pubs/AIU-2012-estimates.pdf

²⁹ UNFPA and Guttmacher Institute, *Adding it up: Costs and benefits of contraceptive services estimates for 2012*, June 2012, p. 4. Available at:

www.guttmacher.org/pubs/AIU-2012-estimates.pdf

³⁰ See for example UNFPA and Guttmacher Institute, *Adding it up: Costs and benefits of contraceptive services estimates for 2012*, June 2012. Available at:

www.guttmacher.org/pubs/AIU-2012-estimates.pdf

³¹ UNFPA, *State of world population 2005: The promise of equality*, 2005, p. 6. Available at: www.unfpa.org/publications/state-world-population-2005

³² *Benefits of meeting women's contraceptive needs in Burkina Faso*, Guttmacher Policy Brief, Series 1, 2011, pp. 1 and 8. Available at:

www.guttmacher.org/pubs/contraception-Burkina-Faso.pdf

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According to a World Health Organization (WHO) study published in 2015, an estimated 2,700 women and girls across the country died during pregnancy or childbirth,³³ a rate of 371 women for every 100,000 births.³⁴ Even these high figures are likely to be an underestimate, as many deaths of women and girls are not registered: a) because they die in their homes in unassisted births; or b) because they die of complications beyond the 42-day post-birth period used to determine the statistics. The unregistered deaths may include, for example, some women and girls who die later as a result of infection or complications such as obstetric fistula.³⁵ In a 2015 report by the WHO, Burkina Faso was deemed to have made “insufficient progress” on the reduction of the number of women and girls dying unnecessarily during pregnancy and childbirth.³⁶

AFFORDABILITY

During Amnesty International's research missions in 2014 and 2015, researchers conducted individual interviews and focus group discussions with 379 women and girls to gather information on the key obstacles they faced in exercising their sexual and reproductive rights, in both urban and rural settings. Nearly all these women and girls told Amnesty International that they suffer verbal abuse or physical violence when they raise the issue of contraception with their partners. Many women said that such conversations were forced upon them as they had to ask for money from their partners to buy contraceptive products due to the lack of control over their own financial resources. Amnesty International interviewed 56 health professionals, including doctors, specialist gynaecologists and obstetricians, midwives, nurses and other health workers. Health workers also told Amnesty International that they witnessed husbands and other relatives abusing and being violent with women and girls because they used contraception. Some health workers even suffered threats and confrontations themselves; men were often angry when they discovered that their wives or female relatives were using contraception, and visited the clinic insisting that the implant or injection be reversed or removed.

While a few women did report getting the permission or support of their husband, most of the 379 women and girls described having to use contraception in secret. Many said they preferred to use one of the most discreet methods, such as an implant or injection, despite it being more expensive than the contraceptive pill, female condom or other methods. Health workers also confirmed that women's primary concerns in consultations for contraception were the discreetness of the method and the cost, rather than what they preferred or was best suited to them and their health.

The government of Burkina Faso has recognized for some time that cost creates a significant obstacle for women and girls to access contraception.³⁷ The government has halved the price of contraceptive products, with some being subsidized by up to 80% with the help of international and regional agencies.³⁸ Amnesty International was informed by the Ministry of Finance in May 2015 that the government contributes 500,000,000 CFA (US\$836.454) per year towards the cost of contraceptives. UNFPA informed researchers that donors contribute US\$1 million to match the government's contribution.³⁹

Health workers told Amnesty International that there were various reasons why the new reduced prices were not always made available, including because a pharmacy has to exhaust past stock before selling the products at official new prices.⁴⁰ There were also major differences in pricing and availability between the public and private sectors. For example, a packet containing three months' supply of the contraceptive pill costs a woman from 150 CFA (US\$0.26) in the public sector to 1,750 CFA (US\$3) in a private chemist; the injectable contraceptive costs between 500 CFA (US\$0.86) and 800 CFA (US\$1.37) and lasts two or three months; and the durable contraceptive methods (intrauterine devices and implants) are not available through private chemists and cost 1,000 CFA (about US\$2) everywhere. The situation is the same for the “collier du cycle” (a small beaded bracelet women use

³³ WHO, *Trends in maternal mortality: 1990 to 2015 – estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, 2015, p. 51. Available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/http://apps.who.int/iris/bitstream/10665/194254/1/9789241565141_eng.pdf?ua=1

³⁴ WHO, *Trends in maternal mortality: 1990 to 2015 – estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, 2015, p. 51. Available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/http://apps.who.int/iris/bitstream/10665/194254/1/9789241565141_eng.pdf?ua=1

³⁵ Interview conducted by Amnesty International with expert gynaecologist and surgeon who operates on women and girls to repair obstetric fistula July 2014.

³⁶ WHO, *Trends in maternal mortality: 1990 to 2015 – estimates by WHO, UNICEF, UNFPA, World Bank Group and the United Nations Population Division*, 2015, p. 70. Available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/http://apps.who.int/iris/bitstream/10665/194254/1/9789241565141_eng.pdf?ua=1

³⁷ Ministry of Health, *Plan national de relance de la Planification Familiale 2013-2015*, janvier 2013.

³⁸ This was explained to us in several meetings by government officials and international assistance and co-operation involved in the funding of this specific component of health care provision conducted during 2014 and 2015. For a further and detailed overview of the process, see T. Gandaho, C. Streifel, M. Maiga et A. Chen, *Repositionnement de la Planification Familiale au Burkina Faso: La Politique de Tarification des Contraceptifs*, Washington, DC, Futures Group, Health Policy Project, 2014. Available at: www.healthpolicyproject.com/pubs/447_FINALBURKINAPRICINGreport.pdf

³⁹ Interview conducted by Amnesty International with officials in May 2015.

⁴⁰ Interviews conducted by Amnesty International with nurses during the two research trips.

to count the days of their cycle), which sells at 500 CFA (US\$0.86).⁴¹ A male condom costs 10 CFA (US\$0.016) in the public sector. Female condoms are sold for 100 CFA (US\$ 0.16), but are not available at all private chemists.

However, in all the locations where Amnesty International conducted its research, including Ougadougou, Dori, Bobo-Dioulasso, Kaya, Ouahigouya and surrounding areas, women and girls and health professionals repeatedly told researchers that despite the subsidy, the residual cost remains a crucial barrier to women and girls accessing the services and care they need and are entitled to. The issue of cost was raised as a major concern in every focus group and interview. Women and girls described the cost of contraception as an obstacle or difficulty that made them unable to use contraception, or led to their using it inconsistently or sporadically, leading to unwanted and sometimes high-risk pregnancies. The cost of contraception was in itself a barrier, as was the additional cost of travelling to the clinic.

The impact of the cost of contraceptives, even when subsidized, for women on low incomes or who do not control financial resources, can be seen by the significant increase in demand during Burkina Faso's annual "free contraception week". During the week, which is organized by the government and UNFPA, women are offered free contraceptives through NGOs and local health centres. According to UNFPA, 25% of the women who obtain contraceptives during the free contraception week are new users.⁴² One health centre in Kaya reported to Amnesty International that demand during that week was five times higher than normal.

PHYSICAL ACCESSIBILITY

Many of the 379 women and girls and the 56 health professionals interviewed by Amnesty International expressed concern about the long distances women and girls have to travel to get to health care facilities where sexual and reproductive information, services and goods are provided. Such facilities are often far from people's homes, especially in rural areas, and transport is unreliable and expensive. This is particularly acute for women and young girls who do not have their own money and must rely on their husbands or families. The lack of a public transport network and the poor road conditions, especially during the rainy season, increase the difficulties. Although the authorities have increased the number of health facilities around the country over the last five years, there are nevertheless enormous disparities between urban and rural areas. Facilities are inequitably distributed, especially the CSPS. Regions such as the Sahel continue to have a high ratio of inhabitants to CSPS and people have to travel larger distances to access CSPS. According to the 2014 Annual Statistics published by the Ministry of Health, there is a ratio of one CSPS for every 13,706 inhabitants in the Sahel region, in comparison with one CSPS per 6,696 inhabitants in the Centre-South region.⁴³

The official map of health facilities for 2015 showed that the districts containing the largest cities had far shorter average distances to health facilities than remote areas in the East and the Sahel regions. For example, in the Central region, the proportion of people living more than 10km from a health facility was less than 1% – a figure that rose to 28% in the more rural Central North region, and over 47% in the Sahel region.

Proportion of population against the distance to a hospital

	2014 ⁴⁴		
	Proportion of the population in %		
Region	0-4km	5-9km	10km or +
Centre	96.4	2.7	0.9
Centre-East	52.3	27.1	20.6

⁴¹ Several interviews conducted by Amnesty International with government officials and international agencies involved in the funding of this specific component of health care provision. For a further and detailed overview, see T. Gandaho, C. Streifel, M. Maiga et A. Chen, *Repositionnement de la Planification Familiale au Burkina Faso: La Politique de Tarification des Contraceptifs*, Washington, DC, Futures Group, Health Policy Project, 2014. Available at: www.healthpolicyproject.com/pubs/447_FINALBURKINAPRICINGreport.pdf

⁴² Interview conducted by Amnesty International with UNFPA representatives in May 2015.

⁴³ Ministère de la Santé, Direction générale des études et des statistiques sectorielles, *Annuaire statistique 2014*, mai 2015, p. 61.

⁴⁴ Ministère de la Santé, Direction générale des études et des statistiques sectorielles, *Annuaire statistique 2014*, mai 2015, p. 12.

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Centre-North	45.6	26.2	28.2
East	33.4	25.4	41.2
Sahel	35.6	16.6	47.8

Looking at trends since 2010, it also appears that while there has been some progress towards reducing distances to health facilities in the Central region, there has been little change in the Eastern region, and a growth in those living further away than 10km in the Sahel region.

Proportion of population against the distance to a hospital (comparing 2010 and 2014)

	2010 ⁴⁵			2014 ⁴⁶		
	Proportion of the population in %			Proportion of the population in %		
Region	0-4km	5-9km	10 km or +	0-4km	5-9km	10km or +
Centre	79.4	14.4	6.2	96.4	2.7	0.9
East	33.4	23.9	42.7	33.4	25.4	41.2
Sahel	34.8	24.8	40.4	35.6	16.6	47.8

The government of Burkina Faso decided in March 2016 to lift some key specific financial barriers facing pregnant women to access health care. For example, costs relating to caesarean sections and delivery, amongst other key health care services required by women and girls during pregnancy, were addressed. This is a significant and positive development for women’s and girls’ ability to access life-saving health care and prevent unnecessary maternal deaths and morbidity. In line with this shift in policy, the government should consider making available – free of charge – at least some categories of contraceptive products, which women are able to use safely and discreetly. This could help remove one of the most significant barriers that currently impedes women’s and girls’ ability to access family planning services. The government should seek international assistance and co-operation, as needed, to do so.

In 2015, the government adopted Law number 061-2015/CNT Concerning the Prevention, Punishment and Reparations of Violence against Women and victims care. This law makes it a criminal offence for men and boys to infringe or limit their partners’ sexual and reproductive rights, through violence, coercion, corruption or manipulation, including through prohibiting their access to contraception.⁴⁷ The recognition of the denial of sexual and reproductive autonomy as a criminal offence is a significant and welcome step. However, the adoption of the law must be accompanied by strengthened enforcement capacity within the criminal justice system and awareness-raising to ensure that it can prevent and end the abuses suffered by thousands of women and girls in Burkina Faso.

INFORMATION ACCESSIBILITY

Although the right to information about family planning is established in the 2005 Law on Reproductive Health, the government has yet to launch the nationwide, comprehensive awareness campaign needed to make this a reality. In its national plan on

⁴⁵ Ministère de la Santé, Direction générale des études et des statistiques sectorielles, Annuaire statistique 2010, 2011.

⁴⁶ Ministère de la Santé, Direction générale des études et des statistiques sectorielles, Annuaire statistique 2014, mai 2015, p. 12.

⁴⁷ Article 13 of the 2015 Law on Violence against Women states:

“The person who commits any of the following acts is guilty of moral and psychological violence against a girl: the infringement on sexual and reproductive rights of the woman or the girl; the limitation of the full exercise of these rights, through coercion, blackmail, corruption or manipulation, in particular by prohibiting the use of contraceptive methods;...These actions could result in a fine ranging from fifty thousand (50,000) to five hundred thousand (500,000) francs [about US\$86 or US\$860 respectively].”

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family planning, the Plan national relance de la Planification Familiale 2013-2015, the government set out plans to conduct outreach and sensitization with community leaders, religious leaders and “maisons de femmes” (local groups of women) in rural areas.⁴⁸ The Plan National committed to targeting young people. For urban populations, mass media campaigns were run on TV and radio, as well as billboards between 2013 and 2015. The government also planned to post family planning messages on the internet, especially social networks, during 2014 and 2015 as well as add a family planning message to unrelated national events.

Activities were planned to last throughout 2014 and 2015. As of publication of this report, no assessment report had been released showing the impact of the Plan National, which focuses on the provision of information about reproduction and family planning rather than sexual health and sexually transmitted diseases, with the exception of HIV/AIDS.⁴⁹

Many of the 379 women and girls, interviewed by Amnesty International in 2014 and 2015, frequently stated that the first time they heard about contraception was after giving birth. Several of them, particularly those living in rural areas, said they had not attended school, or only for short periods, and had not received community outreach information or education on sexual and reproductive health.

The lack of information on sexual and reproductive rights and contraception is especially fundamental for young people, many of whom told Amnesty International that they did not have the information they needed about family planning. They were concerned that their lack of access to information or knowledge that sexual intercourse could lead to pregnancy and sexually transmitted infections meant that they were unable to prevent pregnancy.

This absence of information and education fosters a climate for myths about contraception as well as negative stereotypes of women and girls. Women, told us, that they were often accused of wanting to have affairs if they raised the issue of contraception with their partners. A number of women and girls also explained that when they discovered that they were pregnant, they were compelled to leave the family home to give birth.⁵⁰ The birth of a child within the home outside marriage was believed by some to lead to the death of the woman's or girl's father, which meant the girl was banished by her family, fled herself, or sought a clandestine abortion. This practice of banishment in the belief that the birth would cause the death of the father in the household was relayed to the Amnesty International delegation by most of the people interviewed, including village chiefs and directors of shelters.⁵¹ Women and girls across the country described the stigma attached to using contraception. For example, participants in a discussion group in Bama told Amnesty International that some women were shunned by their community after they started to use contraception during the free contraception week in May.

LACK OF ACCESS TO EMERGENCY CONTRACEPTION

Emergency contraception is on the Burkina Faso government's Essential Medicine List.⁵² When a drug is on this list, it should be stocked by all health centres throughout the country at all times and be available, affordable and accessible without discrimination. Emergency contraception can be, and is, prescribed by doctors and midwives who treat rape victims, although it is also available without prescription at those pharmacies that stock it.⁵³ All the doctors and health professionals interviewed by Amnesty International said that provided a rape victim sought assistance within the relevant time period, they would explain emergency contraception to her and supply her with a prescription.

However, the emergency contraceptive pill is far from affordable, costing between 3,000 and 3,650 CFA (US\$6 or US\$7).⁵⁴ This cost is not waived for rape victims. None of the hospitals, regional clinics or CSPS visited by Amnesty International stocked the product. Of the 56 health professionals interviewed, those who had provided services to victims of rape all said they left it up to women and girls themselves to locate a pharmacy where emergency contraception was stocked and to travel there at their own expense. Of the 56 health professionals interviewed, those who had provided services to victims of rape all said they left it up to women and girls themselves to locate a pharmacy where emergency contraception was stocked and to travel there at their own expense.

⁴⁸ Ministry of Health of Burkina Faso, Plan national de relance de la Planification Familiale 2013-2015. Available at: advancefamilyplanning.org/sites/default/files/resources/Plan%20de%20relance%20PF_2013-2015_final.pdf

⁴⁹ Ministry of Health of Burkina Faso, Plan national de relance de la Planification Familiale 2013-2015. Available at: advancefamilyplanning.org/sites/default/files/resources/Plan%20de%20relance%20PF_2013-2015_final.pdf

⁵⁰ Interviews conducted by Amnesty International in shelters with girls and women as well as experts in Ouagadougou in July 2014 and May 2015.

⁵¹ Interviews conducted by Amnesty International in shelters with girls and women as well as experts in Ouagadougou in July 2014 and May 2015.

⁵² See 18.2 of the Burkina Faso Essential Medicine List from 2007 at: www.remed.org/html/politique_pharmaceutique_burki.html

⁵³ This was stated in interviews with doctors and midwives conducted in 2014 and 2015. Further, see: www.cecinfo.org/country-by-country-information/status-availability-database/countries/burkina-faso/ and www.npr.org/templates/story/story.php?storyId=5599022

⁵⁴ Interviews conducted by Amnesty International in 2014 and 2015 with doctors and midwives in public hospitals, CSPS confirmed this cost.

For girls and women victims of rape who are not working, live in poverty, or who are dependent on their husbands or families for the funds, this may be an insurmountable barrier to overcome. This obstacle may be further exacerbated if the rapist is her husband, father or other relative.

The lack of availability of information about emergency contraception and the huge obstacles to it being accessible and affordable is of great concern, not only for women and girls whose contraceptive method has failed or not been used, but also for rape victims. Radical improvements by the government of Burkina Faso are needed in the provision of information about and access to emergency contraception, as well as measures to address the key obstacles to ensuring this. Without these, women's and girls' health, as well as their right to be free from inhuman and degrading treatment, will be at risk.

BARRIERS TO ACCESSING SAFE AND LEGAL ABORTION SERVICES

Article 387 of Burkina Faso's Criminal Code criminalizes abortion. However, there are exceptions to this, and abortion is permitted when a woman's life or physical or mental health is at risk, or when the foetus has a serious condition or incurable impairment.⁵⁵ Abortion is also permitted in cases of rape or incest, but only within the first 10 weeks of pregnancy, and the woman must follow the procedure for seeking a judicial authorization. In order to access an abortion, a legal/procedural requirement must be fulfilled by a prosecutor establishing that a crime of rape or incest has been committed. An additional barrier to accessing a legal abortion is the requirement that the public prosecutor must establish that a crime has been committed in cases of rape or incest; this is particularly problematic given the short gestational limits referenced earlier.⁵⁶ A prosecutor told Amnesty International that since rape is a crime, the legal proceedings can be extremely long (up to 10 years), especially since the relevant Court – the Criminal Court – does not sit permanently. Any delay, such as waiting for judicial approval, can prove critical in the provision of, and access to, time-bound health services such as abortion.

Despite the government's efforts to increase the provision of post-abortion care through the introduction of protocols, training and service provision, little appears to have been done to inform the general population of the legal provisions allowing abortion.⁵⁷ A study conducted by the Guttmacher Institute into unsafe abortion in Burkina Faso also highlighted the lack of information provided by the government to women and girls about circumstances in which they can access legal abortions.⁵⁸ Most of the women Amnesty International met in rural and urban areas were not aware of the circumstances in which they could access abortion services. The very low numbers of women accessing safe and legal abortion services every year, compared with those women and girls requiring post-abortion care due to clandestine procedures, speak for themselves. In 2014, 2,377 clandestine abortions were recorded by the government and 50 deaths were registered resulting from complications related to abortion. There were just 48 legal abortions performed in the same year.⁵⁹

The lack of information about, and access to, sexual and reproductive health information services and modern contraception methods leads to a high number of unwanted pregnancies that sometimes end in unsafe abortion. These abortions are performed outside public health centres, often in unhygienic conditions and by untrained practitioners.

The Guttmacher Institute documented the scale of preventable deaths from unsafe abortions, finding that women in rural areas resort to the most risky methods to self-induce an abortion, are the most likely to suffer serious complications, and also are the least likely to have services accessible geographically and of sufficient quality to preserve their life and health.⁶⁰

Amnesty International interviewed eight women and girls who had obtained and survived clandestine and unsafe abortions, all of whom were unmarried.⁶¹ They had used various methods, including traditional medicine and a terrifying and painful clandestine abortion in a private house. They all told Amnesty International of the intense pressure on women and girls to not

⁵⁵ See Article 387 and 386 of the Criminal Code and the Burkina Faso Ministry of Health's *Prévention et Prise en Charge des Avortements à Risque, Politique Normes et Protocoles*. The gestational limit for health and life exceptions is detailed as being 28 weeks. In the case of rape victims it is 10 weeks.

⁵⁶ Code de Procédure pénale and interviews conducted by Amnesty International with prosecutors, including the then Procureur du Faso, in Ouagadougou, in 2014 and 2015.

⁵⁷ In interviews conducted by Amnesty International, few people other than the medical health professionals had information about the circumstances in which abortion is legal.

⁵⁸ A. Bankole, R. Hussain, G. Sedgh, C. Rossier, I. Kaboré, G. Guiella, *Unintended pregnancy and abortion in Burkina Faso: Causes and consequences*, Guttmacher Institute, 2014, p. 48. Available at: www.guttmacher.org/pubs/unintended-pregnancy-Burkina-ENG.pdf

⁵⁹ Ministère de la santé, Direction générale des études et des statistiques sectorielles, *Annuaire statistique 2014*, p. 132.

⁶⁰ A. Bankole, R. Hussain, G. Sedgh, C. Rossier, I. Kaboré, G. Guiella, *Unintended pregnancy and abortion in Burkina Faso: Causes and consequences*, Guttmacher Institute, 2014, p. 18.

⁶¹ The fact that the problem of unsafe abortion disproportionately affects single women and girls in Burkina Faso was also found by the 2014 study by the Guttmacher Institute. See A. Bankole, R. Hussain, G. Sedgh, C. Rossier, I. Kaboré, G. Guiella, *Unintended pregnancy and abortion in Burkina Faso: Causes and consequences*, Guttmacher Institute, 2014.

become pregnant outside marriage. They reiterated the findings detailed above that if they do, they risk being banished from the family home and village. Women and girls frequently told Amnesty International that they did not have information about how pregnancy happened, how to prevent it, or how to access safe and legal abortion services. Finding oneself pregnant was consequently a shock for many.⁶²

Professional medical bodies, government authorities and agencies have tried to improve the provision of, and access by, women and girls to post-abortion care.⁶³ Important progress has been made by the government, for example with the development of protocols for, and delivery of, post-abortion care, including the development of protocols, procedures and training among health professionals.⁶⁴ However, the governments need to remove the barriers which still impede women's and girls' ability to access safe and legal abortion services in accordance with the law and in accordance with its obligations under the Covenant.⁶⁵ These barriers include lack of information, the distance to a clinic with trained staff to provide the services, the cost, the requirement of judicial authorization, which is difficult to obtain within a 10-week period.

RECOMMENDATIONS

Amnesty International recommends that the government of Burkina Faso:

- Remove financial and structural barriers which impede women's and girls' ability to access contraceptive products and services, including emergency contraception. Consider making available free of charge at least some categories of contraceptive products, which women and girls are able to use safely and discreetly.
- Ensure the equitable distribution of health facilities, goods and services throughout the country. When choosing locations for new health facilities, prioritize the most marginalized sections of the population, who face the greatest barriers in accessing health facilities. Increase community outreach and mobile clinic services to provide family planning services and information in regions where people have to travel the largest distances to access CSPS, such as in the Sahel. Increase access to emergency contraception, by ensuring that all health centre throughout the country stock emergency contraceptives, by making it more affordable, and publicizing its availability.
- Take all necessary measures to ensure that safe and legal abortion services are available, accessible, acceptable, and of good quality for all women who require them in the circumstances as set out in national legislation. Amend the Criminal Code to remove the requirement for victims of rape to seek judicial approval before they can access legal abortions. Ensure that any victims of rape are offered emergency contraception and testing and treatment for sexually transmitted diseases, by health professions, without charge, and informed that they can avail of legal abortions.
- Provide training to health professionals to ensure that women, girls and boys at risk or who have been subjected to violence receive the information, health care and psycho-social support they need and have a right to. Develop youth-friendly services available at primary health care level, targeting areas where there are particularly high rates of forced and early marriage.
- Undertake information and education campaigns aimed at both women and men to provide accurate, evidence-based and comprehensive information about contraceptives and to correct commonly held misconceptions. Such efforts should include sexual education aimed specifically at adolescents, increase awareness of sexual and reproductive rights, including relevant protections under the laws and how to access such protection if any person faces the risk of abuse. Guarantee women, girls, men and boys access to quality and acceptable information and comprehensive sexuality education in communities and schools.

⁶² Interviews conducted by Amnesty International with women and girls across Burkina Faso in 2014 and 2015.

⁶³ K.T. Storeng and F. Ouattara., "The politics of unsafe abortion in Burkina Faso: The interface of local norms and global public health practice", *Global Public Health* 9.8 (2014): 946–959, PMC, Web, 31 January 2016. Available at: www.ncbi.nlm.nih.gov/pmc/articles/PMC4285657/#cit0002 as well as A. Bankole, R. Hussain, G. Sedgh, C. Rossier, I. Kaboré, G. Guiella, *Unintended pregnancy and abortion in Burkina Faso: Causes and consequences*, Guttmacher Institute, 2014.

⁶⁴ K.T. Storeng and F. Ouattara. "The politics of unsafe abortion in Burkina Faso: The interface of local norms and global public health practice", *Global Public Health* 9.8 (2014): 946–959, PMC, Web, 31 January 2016. Available at: www.ncbi.nlm.nih.gov/pmc/articles/PMC4285657/#cit0002 as well as A. Bankole, R. Hussain, G. Sedgh, C. Rossier, I. Kaboré, G. Guiella, *Unintended pregnancy and abortion in Burkina Faso: Causes and consequences*, Guttmacher Institute, 2014.

⁶⁵ UN Committee on Economic, Social and Cultural Rights, General Comment No. 22 on the right to sexual and reproductive health (article 12 of the International Covenant on Economic, Social and Cultural Rights), UN Doc. E/C.12/GC/22, 2 May 2016.

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