



## **UNIVERSAL PERIODIC REVIEW – FOURTH CYCLE**

Submission to the 44<sup>th</sup> session of the Human Rights Council’s Universal  
Periodic Review Working Group

October-November 2023, Geneva, Switzerland

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The Center for Family and Human Rights (C-Fam) is a nongovernmental organization which was founded in 1997 and has held Special Consultative Status with the UN Economic and Social Council since 2014. We are headquartered in New York and Washington, D.C. and are a nonprofit, nonpartisan research and advocacy organization that is dedicated to reestablishing a proper understanding of international law, protecting national sovereignty and the dignity of the human person.

## INTRODUCTION

1. In 2020, the ministers and high representatives of 34 countries met to launch the Geneva Consensus Declaration (GCD), in which they committed to promoting four objectives: improve women's health, protect human life, strengthen the family as the basic unit of society, and defend the sovereignty of nations with regard to their laws and policies to protect life.<sup>1</sup> Burkina Faso was one of the original signatories of the GCD. This report focuses on Burkina Faso's fulfillment of its commitments to human rights in the context of the four pillars of the GCD.

## THE GENEVA CONSENSUS DECLARATION

2. The language of the GCD is drawn exclusively from documents agreed by consensus, including core UN human rights treaties, the founding documents of the UN such as the Universal Declaration of Human Rights (UDHR), and major meeting outcomes such as the Beijing Declaration and Platform for Action and the Programme of Action of the International Conference on Population Development.

## PROTECTING WOMEN'S HEALTH

3. At the 1994 International Conference on Population and Development (ICPD), nations pledged "to enable women to go safely through pregnancy and childbirth and provide couples with the best chance of having a healthy infant."<sup>2</sup> This commitment is echoed in the GCD, alongside reaffirmations of the importance of women's equal rights and their contributions to society, both in terms of education, employment, and civic engagement and through the family. The unique and essential role of women as mothers was recognized in the Beijing Declaration and Platform for Action adopted at the 1995 UN Fourth World Conference on Women.<sup>3</sup> Both of these landmark conferences, as well as the subsequent Millennium Development Goals and Sustainable Development Goals, include commitments to reduce maternal and child mortality, and while significant progress has been made around the world, critical gaps remain, especially for those in the poorest, most remote, and resource-deprived areas.
4. According to the Maternal Mortality Estimation Inter-Agency Group (MMEIG), Burkina Faso has seen a reduction in its maternal mortality ratio from 516 to 320 deaths per 100,000 live births between 2000 and 2017.<sup>4</sup> Burkina Faso remains one of the poorest countries in the world, and inadequate nutrition remains a concern for many of its citizens, including pregnant women. This contributes to a high prevalence of anemia during pregnancy,<sup>5</sup> which in turn is associated with increased maternal mortality and morbidity. When women experience complications from pregnancy or birth, emergency obstetric care costs can cause significant financial hardship to mothers and their families, in many cases exacerbating existing poverty.<sup>6</sup> Meanwhile, Burkina Faso has achieved great successes in addressing HIV/AIDS, including making significant strides in reducing mother-to-child transmission of HIV.<sup>7</sup>
5. Education for girls continues to present challenges in Burkina Faso, where female secondary school enrollment as of 2020 stands at 32%, according to UNESCO.<sup>8</sup> Security fears, insufficient infrastructure, and lack of access to high quality schools and trained

instructors present barriers, while low education status is associated with child marriage. UNICEF reports that in 2010, 52% of Burkinabe girls were first married or in union before age 18, and 10% of girls before age 15.

6. In Burkina Faso, abortion is permitted under specific legal grounds: if the life or physical health of the mother is at stake, and in cases of rape, incest, or fetal impairment, according to the 1996 Penal Code. Apart from these exceptions, the law remains similar to the 1960 law in place when Burkina Faso gained its independence from France.<sup>9</sup>
7. Burkina Faso has seen improvements in maternal health in recent decades, but remains off track for meeting its target under the Sustainable Development Goals.<sup>10</sup> Nevertheless, these gains have been made without liberalizing the country's abortion law, despite pressure to do so. In keeping with Burkina Faso's affirmation of the Geneva Consensus Declaration, continuing to strengthen health systems, ensure adequate nutrition for pregnant women, and increasing girls' access to secure and high-quality education and enabling them to marry as adults will continue to reduce preventable maternal mortality, while also continuing to use its laws to protect the lives of the unborn.

## PROTECTING HUMAN LIFE

8. Abortion is a highly controversial issue in Burkina Faso, and while there is public support for efforts to treat the complications resulting from abortions, including illegal or clandestine procedures, there has not been a concerted effort to liberalize the country's abortion laws.<sup>11</sup> This is in keeping with the 1994 International Conference on Population and Development (ICPD), which that urged countries to take steps to mitigate the harmful effects of abortion on women while asserting that "any measures or changes related to abortion within the health system can only be determined at the national or local level according to the national legislative process."<sup>12</sup>
9. In its previous UPR sessions, Burkina Faso has received one recommendation directly related to abortion: in its third UPR, it was recommended by Belgium: "Implement a strategy that ensures the sexual and reproductive health and rights of young people by fighting against female genital mutilation and by reducing maternal mortality related to unsafe abortions." This recommendation was marked as "noted" by Burkina Faso. The term "sexual and reproductive health and rights" (SRHR) does not enjoy global consensus and has not been defined in any internationally negotiated resolution or treaty. To the extent that it has been defined at all, advocates point to a Lancet-Guttmacher Institute commission<sup>13</sup> which defines SRHR as including abortion as a right, in contrast to global agreements including ICPD, as noted in the Geneva Consensus Declaration.
10. While abortion advocates point to Burkina Faso's abortion law as being derived from its colonial past, it would be erroneous to assume that prior to colonization, the people of Burkina Faso regarded abortion as tantamount to a right or an integral component of medicine. Furthermore, in the decades since its independence, the people of Burkina Faso have not chosen to drastically change the provisions of their penal code with regard to abortion apart from creating narrow exceptions.
11. No global human rights treaty ratified by Burkina Faso asserts a human right to abortion, or could reasonably be interpreted as including such a right.<sup>14</sup> Furthermore, to the extent that Burkina Faso's current law on abortion derives from its colonial past, for Burkina

Faso to pass laws further enhancing protections for the unborn would be consistent with the principle of self-determination as well as national sovereignty.

## SUPPORT FOR THE FAMILY

12. The GCD reaffirms the obligations of States in regard to the family enshrined in international law, including the definition of the family as “the natural and fundamental group unit of society” and recognition that it is “entitled to protection by society and the State.” Signatories to the GCD further committed to “support the role of the family as foundational to society and as a source of health, support, and care.”<sup>15</sup> In its Constitution, Burkina Faso states that the family is the basic unit of society and that the State has the duty to protect it. The Constitution also states that marriage is founded on the free consent of the man and of the woman.<sup>16</sup>
13. In Burkinabe law, there is no recognition of same-sex relationships, although homosexual behavior between both men and women has never been criminalized. In Burkina Faso’s previous Universal Periodic Reviews, it has received recommendations to create novel categories of nondiscrimination on the grounds of sexual orientation and gender identity, and all of these have been marked as “noted” rather than “supported.” This position of Burkina Faso reflects the fact that these issues are not subjects on which global consensus exists; nor are they included as rights in any binding international legal instrument to which Burkina Faso is a party. As summarized in the Family Articles, a project of the coalition Civil Society for the Family, the right to found a family is based on the union of a man and a woman, and “Relations between individuals of the same sex and other social and legal arrangements that are neither equivalent nor analogous to the family are not entitled to the protections singularly reserved for the family in international law and policy.”<sup>17</sup>

## NATIONAL SOVEREIGNTY

14. As stated in the GCD, with regard to the legal status of abortion and the protection of the unborn, it is a matter of longstanding consensus that “each nation has the sovereign right to implement programs and activities consistent with their laws and policies.” However, opposition to this sovereign right of countries has become increasingly commonplace in those parts of the United Nations system governed more by expert opinion or bureaucratic oversight than by the standard of negotiated consensus. There is no global mandate to pressure countries to liberalize their abortion laws or expand the categories for non-discrimination as a matter of international human rights law with regard to, for example, sexual orientation or gender identity, and to the extent that mandate-holders engage in such behavior, they do so *ultra vires*.
15. Nevertheless, the frequency of such pressure has only increased toward countries whose laws restrict abortion in order to protect the unborn, or which maintain a traditional view of marriage and the family, in line with the human rights obligations expressed in the binding treaties they have ratified. Such nonbinding opinions have been further elevated in many parts of the UN, although they have never been accepted nor adopted by consensus in the General Assembly.

16. The GCD, by anchoring its every assertion in a document adopted by consensus, reaffirms the centrality of the family, the rights of women and children and the fact that these rights are not upheld by abortion, and the importance of national sovereignty, especially in those places where global consensus does not exist.
17. Unlike other UN human rights mechanisms, the UPR provides a space for sovereign nations to speak to each other and provide encouragement to fulfill their human rights obligations. To the extent that this venue has been used to exert further pressure on countries to liberalize their abortion laws or redefine the family as a matter of national law and policy, it is important that global consensus on these matters be upheld and promoted in the UPR as well, particularly by those countries that have already taken a stand in this regard by signing the GCD.

## CONCLUDING RECOMMENDATIONS

18. We encourage Burkina Faso to continue protecting the natural family and marriage, formed by a husband and a wife, as the fundamental unit of society.
19. Burkina Faso should continue to improve maternal and child health outcomes, including by ensuring adequate nutrition for pregnant women and affordable maternal health care, including emergency obstetric care, with special attention to those in rural and remote areas and for those in low-resource settings. In accordance with Burkina Faso's commitments in the Geneva Consensus Declaration, this does not require the inclusion of abortion.
20. Burkina Faso should continue to ensure that women and girls have access to secure and high-quality education, including secondary education.
21. Burkina Faso should continue to assert the fact that abortion is not a human right in the context of multilateral negotiations, as well as in the Universal Periodic Review, in accordance with the Geneva Consensus Declaration, and call on its fellow signatories to do likewise.

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<sup>1</sup> Geneva Consensus Declaration on Promoting Women's Health and Strengthening the Family, 2020. Available at <https://undocs.org/en/A/75/626>

<sup>2</sup> United Nations International Conference on Population and Development. (1994). "Programme of Action of the International Conference on Population Development," Cairo.

<sup>3</sup> United Nations Fourth World Conference on Women. (1995). "Beijing Declaration and Platform for Action" (Annex II, Paragraph 29). Beijing.

<sup>4</sup> World Health Organization, UNICEF, UNFPA, World Bank Group, and United Nations Population Division. Maternal mortality in 2000-2017: Burkina Faso. Available at [https://cdn.who.int/media/docs/default-source/gho-documents/maternal-health-countries/maternal\\_health\\_bfa\\_en.pdf](https://cdn.who.int/media/docs/default-source/gho-documents/maternal-health-countries/maternal_health_bfa_en.pdf)

<sup>5</sup> Ilboudo B, Savadogo LGB, Traoré I, Meda CZ, Kinda M, Sombié I, Dramaix-Wilmet M, Donnen P. Effect of Personalized Support at Home on the Prevalence of Anemia in Pregnancy in Burkina Faso: A Cluster Randomized Trial. *Am J Trop Med Hyg.* 2021 Jun 7;105(1):207-216. doi: 10.4269/ajtmh.20-1043. PMID: 34097646; PMCID: PMC8274762.

<sup>6</sup> Storeng, Katerini Tagmatarch; Baggaley, Rebecca F.; Ganaba, Rasmané; Ouattara, Fatoumata; Akoum, Mélanie S.; Filippi, Véronique Paying the price: The cost and consequences of emergency obstetric care in Burkina Faso, *Social Science & Medicine*, Volume 66, Issue 3, 2008, Pages 545-557, ISSN 0277-9536, <https://doi.org/10.1016/j.socscimed.2007.10.001>.

<sup>7</sup> Ghoma Linguissi LS, Sagna T, Soubeiga ST, Gwom LC, Nkenfou CN, Obiri-Yeboah D, Ouattara AK, Pietra V, Simpre J. Prevention of mother-to-child transmission (PMTCT) of HIV: a review of the achievements and

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challenges in Burkina-Faso. HIV AIDS (Auckl). 2019 Jul 24;11:165-177. doi: 10.2147/HIV.S204661. PMID: 31440104; PMCID: PMC6664853.

<sup>8</sup> See <https://data.worldbank.org/indicator/SE.SEC.NENR.FE?locations=BF>; data from <http://uis.unesco.org/>

<sup>9</sup> Storeng KT, Ouattara F. The politics of unsafe abortion in Burkina Faso: the interface of local norms and global public health practice. *Glob Public Health*. 2014;9(8):946-59. doi: 10.1080/17441692.2014.937828. Epub 2014 Aug 18. PMID: 25132157; PMCID: PMC4285657.

<sup>10</sup> <https://dashboards.sdgindex.org/profiles/burkina-faso/indicators>

<sup>11</sup> Storeng, KT, Outtara F. 2014, *ibid*.

<sup>12</sup> United Nations International Conference on Population and Development, *ibid*.

<sup>13</sup> Starrs AM, Ezeh AC, Barker G, Basu A, Bertrand JT, Blum R, Coll-Seck AM, Grover A, Laski L, Roa M, Sathar ZA, Say L, Serour GI, Singh S, Stenberg K, Temmerman M, Biddlecom A, Popinchalk A, Summers C, Ashford LS. Accelerate progress—sexual and reproductive health and rights for all: report of the Guttmacher-Lancet Commission. *Lancet*. 2018 Jun 30;391(10140):2642-2692. doi: 10.1016/S0140-6736(18)30293-9. Epub 2018 May 9. PMID: 29753597.

<sup>14</sup> See the San Jose Articles, 2011, available at [www.sanjosearticles.com](http://www.sanjosearticles.com)

<sup>15</sup> Geneva Consensus Declaration, *ibid*.

<sup>16</sup> Burkina Faso's Constitution of 1991 with Amendments through 2015. Available at [https://constituteproject.org/constitution/Burkina\\_Faso\\_2015.pdf](https://constituteproject.org/constitution/Burkina_Faso_2015.pdf)

<sup>17</sup> Civil Society for the Family. The Family Articles. Available at <https://civilsocietyforthefamily.org/>