

Burkina Faso

Law No. 029-2008/AN on the Fight against Trafficking in Persons and Similar Practices

Adopted May 15, 2008

THE NATIONAL ASSEMBLY

Pursuant to the Constitution;

Pursuant to Resolution No. 001-2007/AN of June 4, 2007, approved by the Office of representatives, which deliberated at its meeting on May 15, 2008 and adopted the law, which reads as follows:

CHAPTER I: THE TRAFFICKING IN PERSONS AND SIMILAR PRACTICES

Section I: Trafficking in Persons

Article 1: For the purposes of this Law, trafficking in persons means the recruitment, transportation, harboring, or receipt of persons, by resorting to the use of threats, force, or other forms of coercion, abduction, fraud, deception, abuse of power or of a position of vulnerability, or the giving or receiving of payments or benefits to achieve consent of a person having control over another person for the purpose of exploitation.

Exploitation shall include, in particular, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude, or the removal of organs.

Article 2: Each of the following constitutes the offense of human trafficking: recruitment, transportation, transfer, harboring, or receipt of a minor for purposes of exploitation, even if none of the means listed in Article 1 is used.

Article 3: The consent of a victim to human trafficking as defined in Article 1 above shall be inoperative.

Article 4: Any person who commits an act referred to in Articles 1, 2, and 3 of this Law is guilty of trafficking and is sentenced to 5 to 10 years of imprisonment.

Article 5: The imprisonment of 10 to 20 years is incurred if the offense was committed in one of the following circumstances:

- If the victim is a minor of fifteen years or less;
- If the victim is particularly vulnerable because of physical or mental deficiency due to pregnancy, old age, or the state of health;

- If the offense is committed by fraud or violence through the use of false representation, false or forged documents, or false or altered authorization;
 - If the offender used narcotic drugs or any other substances likely to affect the will of the victim;
 - If the offender is carrying a weapon apparent or concealed;
 - If the offender is a relative or a person having control over the victim;
 - If the victim is kidnapped, deprived of food, or put at risk in a public or private place of recruitment;
 - If the victim is exposed to hazardous or painful labor, or the worst forms of child labor;
- or
- If the offender sexually abuses the victim.

Article 6: The penalty is life imprisonment if:

- The victim is deceased;
- The crime results in a mutilation or permanent disability; or
- The trafficking is committed for organ removal.

Section II: Similar Practices

Paragraph 1: Exploitation for Begging

Article 7: Any person who organizes and operates a person's begging, entices or leads away a person to engage in begging, exerts pressure on a person to beg and continues to do so, or is accompanied by one or more young children to draw a direct or indirect financial benefit, material, or other benefit, is guilty of exploitation for begging.

Article 8: Any person who commits an act outlined in Article 7 above is guilty of exploitation for begging and shall be punished with imprisonment of 2 to 5 years and/or a fine of five hundred thousand (500,000) to two million (2,000,000) francs CFA.

Article 9: The maximum penalties provided for in Article 8 above are incurred if the offense is committed against:

- A minor;
- A person particularly vulnerable because of physical or mental deficiency due to pregnancy, old age, or the state of health; or
- A person subject to coercion, violence, or deceit to force him or her to engage in begging.

Paragraph 2: Illicit Trafficking in Migrants

Article 10: The illicit trafficking in migrants refers to the act of a person or a group of people to organize the transportation (by land, sea, or air), accommodation, or transit of illegal migrants to obtain, directly or indirectly, a financial or any other material benefit, with the country serving as the area of origin, transit or destination.

Article 11: Any person who commits an act in Article 10 of this Law is guilty of illicit trafficking in migrants and shall be punished by imprisonment of 5 to 10 years.

Article 12: The same penalties provided for in the previous Article apply to fraud or forgery, as well as to the counterfeiting of visas, documents, or travel papers, or other documents certifying the status of a resident or national of Burkina Faso or a foreign country; the penalties also apply to the counterfeiting of documents granting the advantage of refugee status, stateless status, displaced person status, or the status of victims of human trafficking.

CHAPTER II: THE PROCEDURE

Article 13: The search and detection of offenses under this Law shall be governed by the Code of Criminal Procedure, subject to the following provisions.

Visits, searches, and seizure can be made at any time of day and night at the shelters for victims or those places used for the preparation of the offense.

They cannot be done at night for search and detection of offenses under this Law for any other reason that would otherwise void the established procedure.

The evidence may be presented by any means including audio, video, or any other electronic recording device.

Article 14: Any alien who, in the territory of Burkina Faso, is guilty either as a perpetrator or as an accomplice to a crime or offense under this Law committed in whole or in part in Burkina Faso shall be prosecuted and tried according to the national laws if he or she is arrested in Burkina Faso, or if the government obtains his or her extradition.

Article 15: Any alien who, outside the territory of Burkina Faso, is guilty either as a perpetrator or as an accomplice of the offenses under this Law may be prosecuted under the provisions of the laws of Burkina Faso if the victim of the offenses is a citizen of Burkina Faso, and if the offender is arrested in Burkina Faso or if the government obtains his or her extradition.

Article 16: For specific offenses under Articles 1, 7, and 10 of this Law, a stay of execution of sentence may be granted if the offense is committed by a person called to participate through his professional duties in the issuance of travel documents, identification and other evidence of establishment, or enforcement or border control.

Article 17: The penalty of an attempted offense is that of the offense itself.

Article 18: The court may also order in its verdict or sentence:

- The confiscation of the means of committing the offense and the products of the offense;
- The destruction of the securities, travel documents, and identification documents that facilitated the committing of the offense; and
- The final withdrawal of license, certification, or other authorization or administrative document to any entity regardless of its legal form or to any person whose activity has contributed to the committing of the offense.

Article 19: In every case under the provisions above, the court may also order a travel ban and/or prohibit the exercise of certain civil rights—civil or family.

Article 20: Any person who took part in an association or conspiracy to commit an offense under this Law is exempt from punishment if, by revealing the existence of such association or conspiracy to the judicial authority, he or she allows the identification of others involved and/or prevents the realization of the offense.

CHAPTER III: THE PROTECTION OF VICTIMS AND WITNESSES

Article 21: To protect the identity and privacy of victims and witnesses, the trial court may order a private/closed session.

The trial court may excuse the victims or witnesses from appearing at the hearing or take appropriate measures to protect their identity and privacy.

Article 22: The victims of the offenses under this Law may apply for protection within national territory on a temporary or permanent basis.

Article 23: The victims of the offenses under this Law, if they present a particular vulnerability or are minors, shall be assisted at court for investigation and trial by an appointed attorney or an attorney of their choice.

Article 24: To exercise civil action, the Crown may seek guardianship or legal administration of minor victims whose legal representative is not known or where there are no guarantees for the protection of their rights and well-being.

Article 25: There shall be established by decree of the Council of Ministers a national body for vigilance and surveillance in the fight against human trafficking and related practices.

CHAPTER IV: FINAL PROVISIONS

Article 26: This Law repeals all earlier contrary provisions, including Law No. 038-2003/AN of May 27, 2003 on the definition and suppression of the trafficking in

child(ren).

Article 3: This Law shall be enforced as State law.

Thus decided and deliberated in open session

Ouagadougou, May 15, 2008.

For the President of the National Assembly,

the Second Vice-President

Maria Goretti B. DICKO/AGALEOUE ADOUA

The Recording Secretary

Armand Louis Mihyemba OUALI