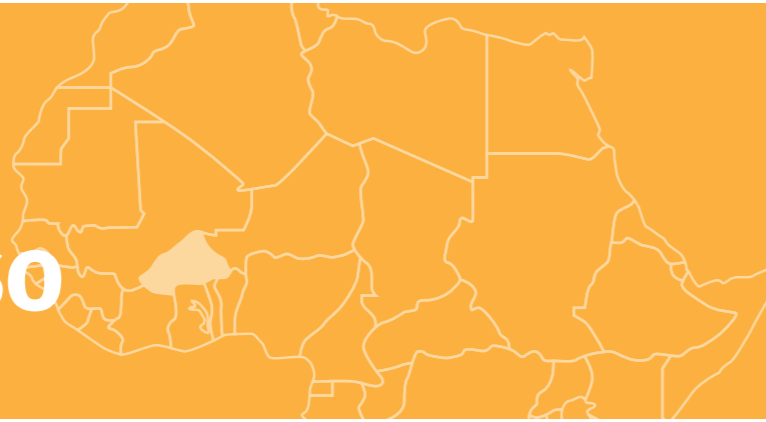


BURKINA FASO



Burkina Faso is a diverse country with a number of ethnic groups of different religions; approximately 60 percent of the population is Muslim. Because of the multiplicity of customary and religious observances, it has been difficult to establish a unitary state. To safeguard the unity of the state, Burkina Faso instituted a unique law in 1990 providing for equality between the spouses called the Code des Personnes et de la Famille (CPF) (Personal and Family Code). However, many people practise traditional customs instead of contracting legal marriages under the CPF, thus denying women the rights granted by the law.

Equality in the Family is Necessary

- ▶ Muslim family practices include the dowry, forced marriage, polygamy and a perception of the superiority of men over women. Various rights granted to women in the Qur'an do not exist in practice. There is confusion between traditional customs and religion such that men consider certain practices to be religious even though the Qur'an does not mention them.
- ▶ Husbands generally have decision-making power regarding the management of the relationship, the number of children and how to educate them. Women have little or no voice in these decisions.
- ▶ Custody of children is usually given to men for economic reasons, since women are generally poorer than the men. However, nothing prevents the judge from giving custody to a woman and allocating her a living allowance necessary to care for the child.
- ▶ Unmarried mothers have great difficulties attaining maintenance for their children. If an unmarried mother dares to claim a living allowance from the father, he will react by claiming custody of the child, which is allowed under the patriarchal system that regards the child as the property of the father.
- ▶ Local customs permeate all aspects of the marital institution, despite the provisions in the Code des Personnes et de la Famille. A marriage of two persons is considered to be a marriage of two families. In most cases a widow is not allowed the right to remarry, but is obliged to marry a member of her deceased husband's family, who gains control of the deceased husband's estate.

Key Challenges

- ▶ Because men often refuse to get a legal marriage, many marriages are customary, with women having no access to the rights provided in the Code des Personnes et de la Famille (CPF).
- ▶ Men whose marriages are under the monogamist regime in which subsequent marriages are not allowed will change their locality in order to marry again.
- ▶ Some religious leaders convey ideas that are contrary to the CPF, such as claiming that religious marriages have the same status as legal ones under the CPF.
- ▶ Seventy-five percent of women in Burkina Faso are illiterate, and many are not aware of their rights. Even those who are aware will often accept their situations quietly if it seems to be more beneficial for their children's future.

Equality in the Family is Possible

- ▶ The Constitution provides for equality in the rights of all citizens and prohibits any forms of discrimination based on sex.
- ▶ The Code des Personnes et de la Famille (CPF) was promulgated in 1990, in part due to the work of the women's movement and human rights organisations. Many people consider it to be a 'Women's Law'.
 - Full and free consent of the spouses;
 - Equality between the husband and wife in their rights and duties and their legal capacity;
 - Joint management of the family and shared parental power replacing the notion of the husband as the head of household with paternal authority;
 - Both husband and wife can sign a contract on his or her own behalf or on behalf of his or her spouse;
 - Both husband and wife can own a bank account or have a job without the consent of his or her spouse;
- ▶ The government and non-governmental organisations (NGOs) are encouraging couples to contract marriages under the CPF by organising collective weddings with a large number of couples in one town marrying on the same day. These celebrations are shown on television.
- ▶ NGOs are also trying to popularise the law through awareness raising and public education.
- Legal separation and divorce;
- The right to request a living allowance and visits and lodging upon divorce;
- Equality between children, notably with respect to inheritance;
- Automatic guardianship of children by the surviving parent on the death of one parent, without the requirement of a judicial decision to this effect;
- Inheritance rights of widows, including the provision that if there is no other heir, the widow can inherit the entire estate.

Source: Report submitted to Musawah in French by l'association Maïa, based on meetings with L'Action Sociale, Mouvement Burkinabe des Droits de l' Homme et des Peuples (MBDHP), Kebayina : Association pour la promotion des droits des femmes, REVS+ : Association de lutte contre le Sida and Associations de femmes Musulmanes.