







BURKINA FASO: CONFLICT SCAN

HUMAN RIGHTS AND ACCESS TO JUSTICE IN BURKINA FASO

Sahel Region - Communes of Gorom Gorom, Dori, and Bani

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Acronyms

ABA ROLI:	American Bar Association
ALT	Transitional Legislative Assembly
CNDH	National Commission for Human Rights
CEDEAO	Economic Community of West African States
DHAJ	Human Rights and Access to Justice

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FDS: Defense and Security Force

FGD Focus Group Discussion

GEV Violent Terrorist Groups

KII Key Informant Interview

MPSR II Patriotic Movement for the Safeguarding and Restoration

PDI Internally Displaced Persons (IDPs)

OCS Civil Society Organization

ONG Non-Governmental Organization

TGI Court of First Instance

VDP Volunteers for the Defense of the Homeland

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1. Executive summary

The "Human Rights and Access to Justice in Burkina Faso" program implemented by the Rule of Law Initiative of the American Bar Association (ABA ROLI), Freedom House, Search for Common Ground and Pact, is funded by the United States Agency for International Development (USAID) for three years. It aims to "strengthen the state's capacity to prevent and punish human rights violations and increase public awareness and access to remedies leading to reparations." During the execution of this program, Search conducted a series of conflict scans in the 4 regions of intervention of the program. This scan was conducted in the Sahel region, specifically in the communes of Bani, Dori, and Gorom Gorom. Seventy-eight (78) people (28 men, 29 women, and 21 youth) were reached through a qualitative approach (8 focus group discussions and 12 individual interviews).

The security situation has not improved since May 2022¹, and has deteriorated further as the population suffers targeted attacks by the GEV. The massive arrival of IDPs in some areas of the region is seen as a factor amplifying the security situation because some IDPs are accused of being members of the GEV, which amplifies host communities' distrust of the IDP communities.

This deterioration in the security environment appears to be a response by the GEV to the offensive actions of the military forces against the GEV.

The conflict dynamics of the region are (1) marked by a persistent polarization around the Fulani community (strong accusations by the community against the Fulani for their role in the current security situation) with the result of a cycle of violence, revenge, and retaliation; (2) difficulties in cohabiting and integrating with IDPs due to competition over land and natural resources; and (3) social fragmentation caused by religious divergences.

Community conflicts and GEV actions further deteriorate the already fragile climate of trust between the communities. This deterioration in the security context obviously affects respect for human rights insofar as the closure of the TGI plunges the population into a situation of despair, not knowing where to complain because they are subjected to summary executions by both the GEV and the FDS/VDP. In response to the GEV attacks, the Defense and Security Forces (FDS), supported by the Volunteers for the Defense of the Homeland (VDP), are working to restore peace and security, but they are accused of human rights violations, abuses, and torture of the population in some areas. Faced with acts of violence and violations of rights, the populations feel helpless for fear of reprisals and revenge, but also because of their low confidence in the judicial authorities. The closure and relocation of the courts further accentuate rights violations and reinforce people's deference to judicial services.

Analysis of the context reveals a certain number of risks to be taken into account by the program actors when implementing activities, such as threats and intimidation by the FDS, the difficulty of accessing the prisons, the difficulty of accessing certain villages because the access roads are mined by IEDs, the risk of exposing victims, and the infiltration of people of dubious character. Recommendations were made to reduce the risks, including informing the authorities in advance about the conduct of the mission; building the capacity of state actors on human rights and conflict-sensitive communication; building the capacity of investigating agents in "protection" to initiate them to the protection mechanisms and ethics to be conducted; training focal points on security and conflict-sensitive communication; conducting awareness with their communities so that the focal points are accepted and recognized; creating a framework for collaboration between focal points and local actors (state representatives, community leaders, etc.).

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¹ Compared to the last conflict scan in May 2022

2. Context

2.1 Introduction

The program "Human Rights and Access to Justice (DHAJ)", funded by the U'S Agency for International Development (USAID) for three years (3), aims to *«reinforce the capacity of the state to prevent and punish human rights violations, and to increase awareness and access of the population to remedies leading to reparations.*"

Since 2015, the country has been experiencing an unprecedented security and humanitarian crisis caused by repeated armed violence, particularly against civilians, which has resulted in massive population displacement, loss of life, material damage, closures of essential social services, and a negative impact on socio-economic development. The multidimensional crisis affects all sectors of state governance. The human rights sector and access to justice are thus affected by the fragile situation. The dysfunction of the state apparatus due to the relocation of almost all state and private services throughout the province, particularly the closure and relocation of the Diapaga court of first instance, the absence of financial and banking institutions for more than two years, the reduction of telephone coverage to a single network since January 2022, the reduction in the population mobility, the loss or abandonment of the means of production, and the subsequent continuous decline in the purchasing power of the population, the tensions between host communities and IDPs over land and shared resources, are part of the population's daily life. Anything that constitutes a violation and infringement of human rights.

The latest conflict scan² in the Sahel showed that the region is experiencing an upsurge in GEV abuses, which has intensified since the political change on January 24, 2022, for various reasons, especially the weak presence of state authority in the areas. This growth has led to a significant displacement of the population to perceived safer areas such as Dori in the Sahel. These displacements amplify the already recurring community tensions between the host communities and IDPs or between different ethnic groups over access to economic resources. The exacerbation of conflicts in the region has amplified the population's lack of trust in the State, denouncing the absence of state authority through the closure of public services, including the judicial administration, leaving the population prey to forms of private justice, often characterized by violence, violations, and human rights abuses. In areas where there is still the presence of judicial bodies or conflict management mechanisms, some members of the surveyed communities no longer trust the actors involved in conflict management, who are perceived as partisan. They criticize them for their low level of integrity and the absence of an impartial and independent jurisdiction.

2.2. Purpose of the conflict scan

As part of this program, Search has been conducting a series of conflict scans since 2021 to ensure conflict sensitivity. This is the fourth conflict scan conducted in the Sahel region. It aims to understand the evolution of conflicts since May 2022 and their interactions with the" Human Rights and Access to Justice" program to provide relevant recommendations for adapting the program and ensuring conflict sensitivity.

Specifically, it aims to:

² May 2022

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- understand how the conflict dynamics have evolved in each region since May 2022;
- identify how these conflicts may affect the implementation of activities (and vice versa), the project staff, and the program participants in each implementation area;
- propose recommendations to the actors implementing the DHAJ program to ensure the protection of the participants and the staff involved and the sensitivity to conflicts.

2.3 Methodology

This conflict scan is based on a qualitative approach combining focus group discussions (FGD) and individual interviews. In the 3 collection communes (Bani, Dori, Gorom-Gorom), 12 KIIs and 8 FGDs were conducted with seventy-eight (78) people (28 men, 29 women, and 21 youth).

3. Results

3.1. Evolutions of the context

3.1.1. Continued deterioration of the security situation.

The security situation, which was already deteriorated, has remained the same according to the populations surveyed since May 2022. It has remained unchanged, or has even deteriorated further, because the population still suffers attacks that are sometimes targeted, such as "the assassination in broad daylight of a healer, the attack on the Yakouta water station."

The massive arrival of IDPs in some areas of the Region was again cited (compared to the January 2022 conflict scan) by the host community respondents as a factor amplifying the security situation because some host community members accuse some IDPs of being members of the GEV. This assumption would explain the distrust and lack of confidence between the host communities and IDP communities.

"The security situation has deteriorated significantly due to the massive arrival of IDPs. The terrorist groups have forced people to leave their respective villages to find themselves without reference in Gorom Gorom"⁴.

However, some members of the host community show empathy for the IDPs, believing that the arrival of IDPs in the safer localities of the Sahel Region demonstrates the difficult living conditions in the areas of origin of these IDPs, often under the control of the GEV.

This deterioration in the security situation obviously affects the respect for human rights insofar as "the armed groups kill without any trial...they engage in acts of rape." In addition to these cases, people feel that individual freedoms, the right to education, access to health care, and the right to food are denied. In addition to the closure of the TGI, they are in a situation of despair and suffer summary executions by both the GEV and the FDS/VDP. "Individuals are arrested and even killed sometimes on mere suspicion or allegations from others accusing them of complicity in terrorism".

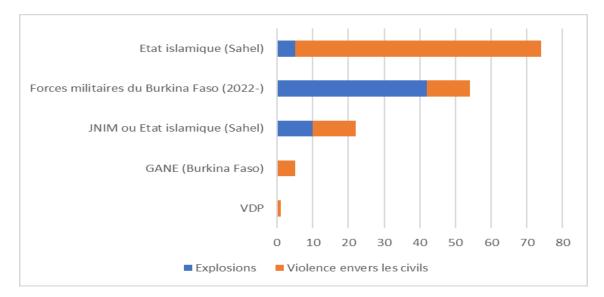
Whether stable or in a phase of continuous deterioration in various communes of the region, the situation remains worrying because of the killings, kidnappings, and looting, and the vulnerability of the population, which is increasing because of the security context, which also influences other sectors of development (education, health care, socio-economic opportunities)

• Increased physical violence due to the increase in GEV actions

³ FGD Participant - Male IDP

⁴ FGD Participant - Host Community Male

The Sahel region has been under regular attack by Violent Extremist Groups (GEVs) for several years. From May to December 2022, there were 65 explosions and 112 cases of violence against civilians in the Sahel Region⁵. The Islamic State of the Grand Sahara (EIGS), the support group for Islam and Muslims/Jamā'at nuṣrat al-islām wal-muslimīn (JNIM), and the defense and security forces (FDS) were reported to be the perpetrators of the violence.



• Offensive actions of the FDS against the GEV caused massive displacement of the population and an accusation of violation of the HR by the FDS and VDP

Faced with the increase in GEV incidents, the Defense Forces have intensified their resistance and increased their offensive actions. Although most groups do not generally target the communities living in the target areas, such as Gorom-Gorom, Dori, and Bani, nevertheless, it impacts the lives of the people who often remain collateral victims of the fighting between the GEV and FDS.

These GEV attacks cause massive displacements of populations without natural defenses who hope to find peace in urban centers like Dori and Gorom-Gorom. In response to the GEV attacks, the Defense and Security Forces (FDS), supported by the Volunteers of Defense for the Homeland (VDP), are working to restore peace and security. However, the FDS and the VDP are accused of human rights violations, abuses, and torture of the population living in certain areas. For example, a man trying to cross a fence in Dori was shot near the military camp after a warning. Some community members claim that under pressure from the deteriorating security situation, the FDS is using violence to deal with the increase in GEVs and is not respecting human rights. As a result, there is an increased distrust of the population towards the FDS and the FDS towards certain community members whom the FDS suspect of being allied with the GEV. Paradoxically, respondents in the commune of Bani felt that the security context was evolving positively: "In Bani, there is no problem of insecurity, but nevertheless, there is the problem of land.6" However, on the evening of February 4, 2023, the commune of Bani was the object of an attack by the GEV.

⁶ Indeed, no major security incident had been noted in Bani since the beginning of the collection until February 3, 2023.

⁵ Source ACLED: Data Export Tool - ACLED (acleddata.com) - February 2023

Faced with the continuous deterioration of the security context, the current government has intensified the actions of response and offense using aerial means (drones). These new military orientations cause the movement of populations toward the urban centers.

• Women accused of collaborating with GEV

Some women are accused of collaborating with the GEV to entrap the FDS. "During a patrol, the FDS encountered a group of women in the shadows. The FDS wanted to make them aware of the dangers of their presence in these places and at nightfall. To the surprise of the FDS, the women mobilized a group of GEV who ambushed the FDS. They illuminated the GEVs by showing them with torches the precise location of the FDS. The place of women is, therefore, no longer neutral in this context of insecurity⁷. These mothers, wives, or sisters of combatants can have a definite negative⁸ influence on young people (boys and girls) by providing information on the different geographical positions of the FDS and the VDP. They are now the focus of recruitment and engagement strategies by the armed forces (FDS or GEV). More and more, women, in a strategic way, are solicited by conviction. They integrate armed groups and serve as scouts for these groups by exposing and revealing information capable of defeating opposing parties.

3.1.2. Evolution of recent conflicts

Tensions related to the access to natural resources and land

 Persistent polarization around the Fulani community with a corollary cycle of violence, revenge, and retaliation

As reported previously, insecurity remains critical in various parts of the Sahel. According to some claims, the Fulani are at the root of the security situation in the country. A perception that tends to generalize or be inclined to simplify the current situation by blaming the entire Fulani community. While the latest scans of the conflict show the presence of some Fulani among the armed Islamist groups in the Sahel, this has led to the stigmatization of the whole Fulani community and has totally undermined inter-community trust between Fulani and other ethnic groups (Fulsés, Songhaïs, Tamasheks, Touaregs, etc.). Rumors about the involvement of some Fulani in various attacks reinforce this polarization against them. "It is the Fulani, by being complicit in the assassination of a Fulsé chief, who called in the police for an organized massacre of the Fulsé. Since then, this group has suffered unprecedented reprisals from armed men."9

While previous conflict scans (and the current conflict scan) relate to tensions between Fulani herders and other communities regarding access to land and natural resources, this conflict scan refers more to the community's strong accusation of the role of the Fulani in the current security situation. Indeed, some Fulani joined Islamist groups for a variety of reasons, such as to fight against the abuses of which they are victims, to earn money and put an end to their misery¹⁰ or simply because the Sahel was the gateway to extremist violence in Burkina because of a Fulani preacher. Thus, the Fulani are subject to unprecedented stigmatization, even though the radicals are only a tiny part of their community and are in no way representative of it. The Peuhl community is the victim of threats and reprisals from other

⁸ They manifest themselves through parental authority, supported by the acceptance and sharing of GEV ideologies and the acquisition of income from the war economy.

⁹ Extract of KII data

¹⁰ Source: Understanding Fulani perspectives on the Sahel Crisis - African Center for Strategic Studies (africacenter.org)

communities and even from state defense structures. "A few months ago, we received a displaced Peuhl family who stated that they had received threats from a Songhai VDP."¹¹

• The difficulty of cohabitation and integration with IDPs due to competition for land and resources

The competition for access to land and resources remains recurrent compared to past conflict scans. The causes of these conflicts are essentially the non-respect of the traditional norms of land occupation. The land conflict between host communities and the IDPs manifests itself in the abusive installation of IDPs on host community property without prior authorization from the latter. Also, the illegal sale of plots of land to IDPs is manifested by the fact that some individuals from the host community clandestinely offer land for sale to IDPs seeking land for resettlement, creating conflicts between the new IDP buyers and the landowners.

The provision of potable water is also a fundamental cause of conflict between women in the host community and IDP women. Indeed, the time allocated to collecting water is increasing, exasperating the women of the host community; for their part, the IDPs assert that everyone can have water and that the arrogant attitude of the women of the host community as if they are "the owners of the water holes" does not favor cohabitation.

"The women of the host community and the internally displaced women fight a lot over the water holes and even come to blows because each one wants to have a little water, and some exaggerate the number of cans."¹²

• Religious differences at the root of social fragmentation

The data collected mentions an intra-religious conflict concerning Muslims. This conflict is manifested by the divergence of dogmas and principles between the Sunnis, who advocate a strict Islam, and the Tidjanias who are more flexible in their practice. In the commune of Gorom-Gorom, the Sunnis, because of their large number (majority religion), exert psychological pressure to have the minority Tidjanias adhere to their ideological current. The latter group is subjected to verbal attacks from Sunnis, who consider they do not practice the faith correctly and thus question their practice.

3.2. The human rights situation and access to justice

3.2.1. Influence of conflict and security dynamics on the human rights situation

• Fear of reprisal and retribution for reporting human rights violations

Community conflicts and GEV actions further deteriorate the already fragile climate of trust between the communities. Stigmatization of the Fulani community, polarization over their role in the GEV, competition for resources among the IDPs/hosts, abuse of power, and accusations of violence by the FDS and VDP are all factors that lead to human rights violations. The respondents state that the population does not dare to denounce the various violations committed by the different protagonists for fear of reprisals and revenge.

The absence of judicial institutions and difficulties in functioning formal dispute resolution mechanisms reinforces this situation of trivializing human rights violations.

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¹¹ Extract of KII data

¹² Extract of data FGD men Dori

Access to justice and the protection of human rights thus remain significant challenges in the region despite various interventions for the promotion of human rights, which remain insufficient given the complexity of the situation.

• Low confidence in the judiciary and the emergence of mob justice

"People are afraid to denounce certain things for fear of being attacked. On the other hand, some people say they no longer trust the justice system because innocent people are beaten, locked up, or killed every day in our localities without any respect for human rights."

The conflicts cause and sustain human rights violations as the protagonists transgress legal norms and procedures to take justice into their own hands (the law of retaliation). The spiral of conflict dynamics generates violence that has an impact on the human rights situation and is manifested by:

- The deadly attacks
- Targets are spotted rightly or wrongly and can be shot without judgment.
- Clashes over natural resources are also taking their toll of victims.
- The summonses to displace populations that infringe on several rights (right to decent housing, right to food, right to education, right to health, etc.).
- The displaced populations are exposed to the inaccessibility of basic social services.
- Children of school age who do not have a learning environment walk the streets to beg.
- The right to physical integrity is ignored by gender-based violence. Women and girls are considered vulnerable targets. They face various forms of gender-based violence, such as forced marriages, abduction, and rape.
- The rights to liberty, freedom of expression, and movement of goods and people are very limited in the areas besieged by the GEV. People who advocate ideals contrary to those of the GEV are subject to abduction and repression. Arrests and roadside checks are recurrent in these areas under GEV control.

Closure and relocation of courts

The situation of the closure and relocation of the district courts in the region still stands, as mentioned in past scans. The judicial actors, fearing the repression of the GEVs, preferred to close their services and relocate them to Ouagadougou. One of the direct consequences is the distance of justice from the people in a context of armed conflict and community polarization. To adapt to this situation, which is perceived as "abandonment" by the communities, some people are forced to join and collaborate with the GEVs to have their protection. Also, the lack of confidence of the population in the justice system remains a challenge that contributes to increasing the distance between justice and the population. Despite this, the human rights actors are trying to maintain the balance by setting up conflict management committees, "Yes, there is even a conflict management committee on our site." However, these initiatives cannot compensate for the absence of a public justice service in the region.

3.3. Analysis of "Do no harm"

3.3.1. Risk analysis and mitigation measures

The context analysis reveals a certain number of risks to be considered by the program actors when implementing the activities.

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¹³ KII 4 Sahel

The following table presents the risks and recommendations developed from the conflict scan analyses and a brainstorming session with program partners.

Principal activities of the	Risks	Mitigation Measures/Recommendations
- Conduct investigative missions on the allegations of human rights violations in the four target regions.	- Threats and intimidations by the FDS,	 Inform the authorities in advance regarding the conduct of the mission;
 Visit prisons in the four target regions to monitor prison conditions. 	- Refusal of judicial authorities because of the sensitivity of the information and its use (linked to the lack of a clear protection and accountability mechanism)	 Strengthen communication and advocacy with authorities on the objectives of the visit. Implement a data protection mechanism (consent - anonymous - etc.)
Train village focal groups to collect data on human rights violations.	 Threats and intimidation of focal points as they may be misunderstood by state actors and their communities Kidnapping of trainers or participants GEV attacks on the participants Assassinations of the participants by the GEV; Infiltration of the GEV; Prohibition of the activity by the GEV. 	 Train the focal groups in security and conflict-sensitive communication; Conduct outreach to their communities so that the focal points are accepted and recognized; Create a framework for collaboration between focal points and local actors (government representatives, community leaders, etc.)
- Interview (the trained focal points) victims and witnesses of human rights violations and abuses to collect evidence of violations and abuses to produce documentation reports (including with GBV victims and witnesses)	because of a lack of understanding by the population of the work of the human rights actors and fears that the	capacity of the focal points on the protection mechanisms (various points related to the collection or processing of evidence, ethics); - Create a confidential complaints

		 Actively promote the safety and well-being of those participating in the activities, Ensure that all internal or external program communications follow the fundamental principles of best interest: Do No Harm, Conflict Sensitivity. Ensure that ethical and protective principles are followed in the conduct of the activity so as not to expose the participants.
- Hold meetings with authorities and community leaders to present the main findings of the documentation and recommendations prepared for better protection of human rights.	 Refusal to participate by some actors due to a lack of understanding of the activities The particularity of the current conflicts that have a community connotation can generate misunderstandings between the participants, or the actors implementing the project can be threatened or intimidated; 	authorities; - Awareness of the community leaders;
- Hold community awareness sessions, particularly for IDPs, on basic human rights concepts, the functioning of justice institutions, and the actors offering legal and judicial assistance to vulnerable people.	 Tension between IDPs and host populations; Non-adherence of IDPs to the sessions because the issue of human rights may be relegated to the background by the IDPs due to their priority for the issue of food. 	populations in the different awareness sessions, - Consider the IDPs and host
- Promote a legal clinic in Dori, Kaya, Ouahigouya, and Fada to provide legal advice to community members and legal assistance to victims of human rights violations, including victims of GBV.	 Non-participation of community members due to a poor perception of human rights and GBV Risk of exposition of the victims; Risk of being accused of bias. 	 Raise community awareness on the promotion of human rights Facilitate access to specific texts by translating them into local languages;
- Organize radio programs on basic human rights concepts and the importance of the work of human rights defenders.	 Threats and retaliation from violent extremist groups; Infiltration of people of bad faith; Language differences in interactive emissions; Threats/intimidation/kidnapping of media personnel 	 Train journalists in conflict-sensitive journalism before conducting interactive programs Avoid interactive radio programs (risk of infiltration or attacks regarding the context)

- Attack against the radio station	
- Refusal of the radio station to host this type of program	

3.3.2. Opportunity

High confidence in religious and traditional leaders to manage the conflicts

The closure of the TGI in Dori has left a vacuum in judicial matters that reinforces the recourse to customary and religious authorities to settle disputes. Respect for traditional chieftaincy is such that communities prefer to go to notable authorities to settle conflicts. "We settle our problems in large families" and "the wise men such as the imam and others can calm conflicts, especially since he is very influential" or "We also turn to our religious and customary leaders, and this contributes to the resolution of many conflicts and to a better way of living together."

• Existing initiatives in conflict transformation

National Observatory for the Prevention and Management of Community Conflicts This structure is organized with branches down to the village level but suffers from some capacity weaknesses related to their role. They are not able to fully play their role in conflict prevention and management, according to the respondents.

4. Conclusion

This conflict scan of the Human Rights and Access to Justice program provided an opportunity to assess the evolving security and conflict context in the Sahel region. The data analysis shows that the security context and conflict dynamics are steadily deteriorating in most municipalities in the Sahel region. To face it, the present Government has intensified the actions of response and offensives with mobilization and aerial methods. This situation of intensified clashes leads to population movements from rural areas to urban centers. Waves of IDPs are flooding into urban centers in search of better living conditions. In addition to this deteriorating security situation, there are community conflicts that highlight the physical violence observed on the one hand among the GEV, who impose their norms and values in the localities they control, and on the other hand, the FDS/VPD, who fight the GEV by committing acts of extorsion. The retaliation to attacks and reprisals with its corollary of collateral victims feeds the vicious circle of violence. In addition, ethnic and religious differences further amplify the fragmentation of the social fabric. Frustrations stemming from historical backgrounds and religious intolerance weaken the foundation of community life. Rivalries, frustrations, and divisive comments thus become dominant characteristics of the communities. The relational difficulties between the IDPs and the host populations are not isolated from this general situation of social fragility in which human rights are violated at the whim of the parties in conflict. These challenges to human rights protection are exacerbated when the judicial institutions cannot function.

Faced with this situation, the risks remain, and taking them into account allows us to reflect on the continuity of the remaining activities of the Human Rights and Access to Justice program to achieve the objectives and results in a spirit of conflict awareness and "Do no harm".