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特定群体和个人：移徙工人

移民人权问题特别报告员

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提交的报告<sup>\*</sup>

增 编

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\* 本访问报告是由罗德里格斯·皮萨罗女士向委员会第六十二届会议提交的，皮萨罗女士担任移民人权问题特别报告员的任期于 2005 年 7 月 28 日届满。

\*\* 本访问报告的内容提要以所有正式语文分发。报告本身附于内容提要之后，仅以原文和英文分发。

## 内 容 提 要

应布基纳法索政府的邀请，移民人权问题特别报告员于 2005 年 2 月 2 日至 9 日对该国进行了正式访问。她访问了瓦加杜古、瓦希古亚、邦弗拉和 Gaoua。这是一位专题特别程序任务负责人对布基纳法索的第一次访问，也是特别报告员前往撒哈拉以南非洲地区的第一次访问。

访问的目的是要评估布基纳法索在移徙者问题上的一般情况，以及从科特迪瓦回归布基纳法索的移徙者情况。

从实体上看，布基纳法索是一个移徙国家。它同时既是一个目的地国、也是原籍国和过境国。由于来自邻国(包括科特迪瓦)的移徙者而言，布基纳法索是一个目的地国，但由于居民向西部邻国迁移(多数是非正常的)，它便是一个原籍国和过境国。这些迁移造成了一些该国似乎无法靠自己解决的问题。

儿童贩运在布基纳法索是实际存在的现象。许多儿童离开家庭去寻找好一点的生活。他们多数在种植园工作、充当家佣、或被交给《可兰经》的传授者。为了改善这一局面，布基纳法索政府在该国建立了 73 个监察委员会，让地方社区的不同成员(例如行政和宗教管理机构、地方协会和非政府组织，以及公共汽车和卡车司机工会)聚集在一起。建立这些监察委员会是提醒地方社区认识到儿童贩运行为及其内在起因的有效方式。但是，特别报告员指出，这些个别的措施如果要产生真正的影响，还需要得到更加坚定的结构行动来支持。

有必要制定一项明确的移徙政策，以此为手段，不仅有效处理不正常的移徙流动，而且力图最佳利用跨国移徙可能对该国发展带来的利益。将散居国外的国民组织起来、促进有实际收效的政府投资以及联合开发方案，这些都是尚未在布基纳法索体制文化中生根的理念，尽管该国长期以来一直有着向外大规模迁移的传统。

特别报告员建议该国制定、通过并实施一项适当的移徙政策。她提议，这项政策应优先注意：

- (a) 与驱逐布基纳法索国民的国家(尤其是阿拉伯利比亚民众国)缔结双边协议，以便保障非正常移民有尊严地返回；
- (b) 积极参与区域内各种涉及移徙问题的进程；

- (c) 寻求最佳利用国际移徙的利益之方式，例如：(1)帮助政府将汇入的资金投资于可能推动地方和国家发展的活动；(2)支持旨在最佳利用散居外国国民人力资源的联合发展项目；
- (d) 在发放国民护照过程中，对使用的公民身份证件进行更严格的管制；
- (e) 在非正常移民领域里，采取安检人员日常工作中能够遵守的尊重人权的“透明”程序，尤其是那些涉及到无人陪伴未成年人状况的程序；
- (f) 采取保障布基纳法索国民投票权的措施。

2003年，由于科特迪瓦的危机，35万布基纳法索人重返家园，这次危机是一场人道主义和经济大震荡，随之导致了严重的侵犯人权行为，包括在科特迪瓦境内试图侵害布基纳法索人的生命和人身安全的行为。布基纳法索本国人口为1150万，另有居住在科特迪瓦的300万国民，这项危机对于布基纳法索造成了极为巨大的影响。

回返者的困境突显了某些基本权利，例如涉及到就业、社会保障、健康、住房、粮食和教育等方面的社会经济权利均不受尊重的情况。回返者一般都面临赤贫状况，于是又被迫冒着科特迪瓦持续的不安全局面而重返科特迪瓦。一般情况下，妇女均单独带着孩子，任其自生自灭，是首先遭受科特迪瓦危机影响的人。

布基纳法索政府决定不为回返者设立难民营，而是鼓励他们融入社区，看来这一做法似乎有一些积极的效果。

回返者在社会经济方面的重新安置是紧迫的优先事项。在这方面，特别报告员建议：(a) 紧急解决回国妇女儿童的状况；(b) 尤其支持有利于妇女回返者从事赚取收入活动的项目；(c) 考虑建立返回者援助基金的可能性；(d) 设置一项公民登记册，以便记录在科特迪瓦危机期间发生的侵权行为和损失；(e) 密切关注科特迪瓦危机的影响，以便应对危机给布基纳法索国民造成的有害影响。

特别报告员并向国际社会提出了一些建议。特别是，她建议：(a) 向回返者社会经济安置方案、尤其是为妇女带来利益的方案提供支持；(b) 为国家移民政策的通过、实施和监测提供帮助；(c) 保证国际援助能以透明和正当的方式向各方提供。

## Annex

**REPORT SUBMITTED BY MS. GABRIELA RODRÍGUEZ PIZARRO,  
SPECIAL RAPPOREUR ON THE HUMAN RIGHTS OF MIGRANTS  
ON HER VISIT TO BURKINA FASO (2-9 FEBRUARY 2005)**

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## **Introduction**

1. The Special Rapporteur on the human rights of migrants paid an official visit to Burkina Faso from 2 to 9 February 2005, after receiving an invitation from the Government of Burkina Faso in 2004 during the sixtieth session of the Commission on Human Rights. This is the first visit to Burkina Faso by the holder of a thematic special procedures mandate and the first visit by the Special Rapporteur to sub-Saharan Africa. The purpose of the visit was to assess the situation of migrants returning from Côte d'Ivoire and the state of migratory flows from and to other countries of Africa, Europe and the United States of America.
2. The Special Rapporteur wishes to thank the Ministry for the Promotion of Human Rights, which organized the visit for her. She also wishes to thank the United Nations Development Programme (UNDP) for its logistic support. The Representative of the International Organization for Migration (IOM) in Burkina Faso, Ms. Salomé Kombéré, provided valuable assistance for the visit by supplying information and documentation to the Special Rapporteur and by facilitating meetings with civil society representatives. Ms. Awa N'Deye Ouedraogo, a member of the Committee on the Rights of the Child, made some useful suggestions regarding meetings with institutions.
3. The Special Rapporteur's mission took her to Ouagadougou, Ouahigouya, Banfora and Gaoua. She had 25 direct interviews and contacts with over 450 persons, one third of whom were women. She had the honour in particular to meet the Minister for the Promotion of Human Rights, the Minister for Foreign Affairs and Regional Cooperation, the Minister for Justice, the Minister for the Economy and Development, the Minister for Information, the Minister for Social Action and National Solidarity, the Minister for Labour, Employment and Youth, the Minister for Defence, the Minister for the Interior and the President of the National Assembly. She also met local authorities, including Governors, high commissioners and the mayors of the villages she visited. The Special Rapporteur also had meetings with civil society, the customary authorities, returnees from Côte d'Ivoire and associations of repatriated women.

## **I. GENERAL BACKGROUND OF MIGRATION IN BURKINA FASO**

### **A. Burkina Faso as a country of emigration**

#### **1. Migration to neighbouring countries**

4. The migration of Burkina Faso nationals to Côte d'Ivoire dates back to the colonial period, when the territory of Burkina Faso was known as the colony of Upper Volta and its population provided a reserve of labour for the plantations of Côte d'Ivoire. As a result Burkina Faso nationals make up the largest group of foreigners in Côte d'Ivoire, which is also the main destination of Burkina Faso migrants. As migratory movements to Côte d'Ivoire are now a historic phenomenon reaching the third generation (or even further in most cases), many such migrants have never returned to their country of origin.
5. In the region the traditional host countries are those bordering on Burkina Faso, particularly Côte d'Ivoire, which has taken in most of the Burkina Faso migrants of the diaspora. In 1996 there were an estimated 3 million migrants from Burkina Faso in Côte d'Ivoire, compared with 1.5 million in Ghana, 400,000 in Sudan and 300,000 in Mali.

6. Burkina Faso emigration to western countries is a much more recent phenomenon, with 3,000 Burkina Faso emigrants living in Italy and about the same numbers in France and Belgium.<sup>1</sup>

## **2. Migration to western countries**

7. Burkina Faso is a country of very intensive migratory movements, especially to bordering countries, mainly Côte d'Ivoire. Migration northward and to western countries is an increasingly frequent phenomenon, however, not only for Burkina Faso nationals but also for those of other countries in the region, who cross Burkina Faso on their way northwards. Burkina Faso is therefore a country of origin and transit for northward-bound migration.

8. Intercontinental migration has become considerably diversified since the mid-1980s. Migrants going to Europe used to head mainly for France and the United Kingdom, as well as Germany. More recently, West African immigration has considerably increased in Scandinavian countries and the countries of Southern Europe. The latter, especially Spain, Italy and Portugal, are often used as springboards for the traditional host countries of Northern Europe. The United States has also become an increasingly popular destination.

9. The migrants' choice of destination is no longer determined solely by language, cultural or commercial considerations (depending on historic factors, socio-economic opportunities, etc.). Nowadays this choice depends much more on legal aspects, such as the migration policies and legislations of host countries concerning the free movement of persons.<sup>2</sup>

## **B. Burkina Faso as a country of transit and destination**

10. Historically speaking Burkina Faso is a country of migration. The Special Rapporteur notes, however, that it is increasingly becoming a country of transit and, to a lesser extent, of destination for migratory flows. This means there is a definite need for national and regional policies to regulate such flows, which have not yet been introduced for lack of any real debate on the subject.

11. The routes followed by migrants across national frontiers tend to vary. Many of them proceed in stages. The migrants who use Burkina Faso as a transit country generally come from Cameroon, Ghana, Nigeria, or English-speaking Africa and are heading for Europe, either via Mali and then Algeria, or passing through Niger to continue on towards the Libyan Arab Jamahiriya.

### **1. Irregular migration in Burkina Faso**

12. In recent years irregular migration has become a real problem, as the security personnel in charge do not have sufficient means to control it.

13. The problem of migrants returning from the Libyan Arab Jamahiriya illustrates the difficulties experienced by Burkina Faso in trying to manage migratory flows in the region, as well as the urgent need to develop an appropriate regional migration policy.

## **2. Interception and deportation of migrants**

14. The Libyan Arab Jamahiriya has set up detention camps for irregular migrants. Between 2000 and 2004, some 10 groups at least of Burkina Faso nationals expelled from the Libyan Arab Jamahiriya were flown back to Burkina Faso. Officially 939 persons returned to the country, to which should be added those who were unable to take advantage of the operations provided.<sup>3</sup> After they have been brought back to their home communities, the returnees generally leave again for other countries. They are then once again exposed to the dangers of irregular migration (insecurity, transnational organized crime networks, expulsion, detention) in a vicious circle.

15. It is clear that the Libyan Arab Jamahiriya is sending more and more nationals of other countries to Burkina Faso. When they arrive in Burkina Faso, the authorities take them back to the border. The Special Rapporteur was informed of one case of a flight from the Libyan Arab Jamahiriya, including nationals from Togo, Mali, Côte d'Ivoire and Mauritania, who as a result of the authorities' indecision were allowed to leave freely.

16. The Special Rapporteur received information concerning the case of some 15 Nigerian nationals who were found dead after losing their way in the desert of Burkina Faso, while attempting to migrate northwards.

17. The Special Rapporteur was also informed of a case of several unaccompanied minors repatriated from Saudi Arabia, who arrived at Ouagadougou airport without knowing where they came from and speaking only Arabic. The security officials, who had no clue as to the whereabouts of their parents, ended up taking personal care of the children, providing them with food and temporary accommodation.

18. These are just some typical cases which illustrate the migration problem affecting Burkina Faso and the vulnerability of migrants, especially unaccompanied minors.

19. As far as identity documents are concerned, the Ministry of the Interior informed the Special Rapporteur that the problem of forged passports arose only indirectly, since the underlying civil status documents could themselves be forged.

## **II. GENERAL COMMENTS**

### **A. Framework for the protection of migrants' rights**

#### **1. International framework**

20. Burkina Faso has ratified the international instruments dealing with the protection of migrants' rights. The Special Rapporteur welcomes the ratification by the Government in 2003 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as the United Nations Convention against Transnational Organized Crime and two related protocols.

21. Regarding the application of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the right to participate in public affairs of their State of origin and to vote and to be elected, in accordance with article 41, is not applied in practice.

22. Burkina Faso has also ratified the conventions of the International Labour Organization on the rights of migrants and child labour, including the Migration for Employment Convention (No. 97), the Migrant Workers (Supplementary Provisions) Convention (concerning migrations in abusive conditions and the promotion of equality of opportunity and treatment of migrant workers) (No. 143), the Minimum Age Convention (admission to employment) (No. 138) and the Worst Forms of Child Labour Convention (No. 182).

## **2. National and bilateral framework: agreements with Côte d'Ivoire**

23. The 1991 Constitution of Burkina Faso guarantees the protection of the rights and liberties of all workers living on Burkina Faso territory, including both nationals and foreigners.

24. Regarding the rights of Burkina Faso workers in Côte d'Ivoire, in 1961 the two countries signed the Agreement on the recruitment and employment of Burkina Faso workers in Côte d'Ivoire. This agreement sets out mechanisms for the control and protection of working conditions in Burkina Faso and Côte d'Ivoire. Unfortunately the Agreement is not applied by the two countries, whence the difficulties outlined above.<sup>4</sup>

25. In Côte d'Ivoire there are only three offices which represent Burkina Faso. This is clearly not sufficient to protect the rights of so many nationals, especially in view of the crisis prevailing in Côte d'Ivoire and the threats to which Burkina Faso nationals are exposed in that country.

## **B. Regional integration**

26. Under the aegis of regional organizations, several agreements on the free movement of persons in West Africa have been signed since the early 1960s. All these agreements allow the citizens of the signatory countries the right to move, to reside and to settle, regardless of the reasons for their movement.

27. These agreements include the 1961 Agreement of the African and Malagasy Union (UAM), which subsequently became the Common African and Mauritanian Organization (OCAM), on the status of persons and conditions of establishment, the 1978 Agreement on the free movement of persons between member States of the Economic Community of West African States (ECOWAS) and the 1979 ECOWAS Protocol relating to free movement of persons, residence and establishment.

28. The 1979 Protocol set out stages leading to total free movement of persons and allowed a period of 15 years for the gradual introduction in practice of the rights of entry, residence and establishment of ECOWAS citizens. In fact only stage one of the Protocol was ever completed,

namely the entitlement to travel without a visa among member countries for up to 90 days. The right of residence, which is stage two of the Protocol, related to the right to employment, has still not been made operational. Similarly the right of establishment, which is the objective of stage three, has not yet been applied.

29. None of the above-mentioned agreements has really been applied so far, any more than the Treaty setting up the West African Economic and Monetary Union (WAEMU), adopted in 1994, which included the principle of the free movement of persons, services and capital.

30. It is not easy to evaluate the real nature of migration flows within the region, since most of them occur outside the framework of regional agreements on the movement of labour. Many migrants do not cross official border posts.<sup>5</sup> This means that most migrants either enter or leave Burkina Faso without proper papers and become irregular immigrants, de facto and de jure.

31. As in other African regions, inter-State initiatives seeking dialogue and cooperation in the area of migration have tended to proliferate. In West Africa regional consultations started in 2001 with the West African Regional Ministerial Conference on the Participation of Migrants in the Development of their Countries of Origin, the main outcome of which was the adoption of the Dakar Declaration.<sup>6</sup>

32. As with other processes of this kind, regional consultations in West Africa are informal. Migration policies undoubtedly still remain a prerogative of sovereign States, despite the need to coordinate and harmonize the migration policies of countries of origin, transit and destination.

### **C. Joint development programmes**

33. Even though the definition of migration policies remains a State prerogative, there is still a need to adopt bilateral, regional and international measures to ensure a more effective management of migration. This is particularly essential for a country of strong immigration such as Burkina Faso. For several years international discussions on migration have shown the benefits of certain major initiatives, such as the establishment of observatories on international migrations, the organization of the diaspora, the promotion of productive investments, official projects and joint development programmes.

34. The key to joint development consists in a control of immigration in northern countries combined with aid for the development of countries of origin. Several programmes aim to coordinate joint development initiatives. Among these the Special Rapporteur mentions the MIDA programme (Migration for Development in Africa) for Burkina Faso, the implementation of which will depend on the financing available.

35. The MIDA programme, under the aegis of the IOM, was set up at the initiative of 20 countries meeting in Libreville in April 2001. The aim of the project is to match know-how requirements with the skills of volunteer migrants in African countries. In the beneficiary countries of the project, the authorities have to appoint a national correspondent who will be responsible for establishing contacts with the bodies concerned (whether ministries, universities, enterprises or associations). In the host countries, a coordinator is responsible for

relations with the administrations, the institutions and the associations formed as a result of the diaspora. Participation can take various forms, including the launch of occasional projects based on cooperation with local human resources, audits or distance learning. In this way migrants' skills and incomes can be set to work for the development of their countries of origin.<sup>7</sup>

### **III. THE CRISIS IN CÔTE D'IVOIRE AND THE SITUATION OF BURKINA FASO RETURNEES**

#### **A. Characteristics of the crisis**

36. The conflict in Côte d'Ivoire has had a devastating impact on Burkina Faso. Following the crisis which began there on 19 September 2002, when the attempted coup d'état in Abidjan degenerated into an armed uprising, more than 350,000 Burkina Faso nationals who were living in Côte d'Ivoire returned home in very difficult circumstances. During the crisis Burkina Faso nationals in Côte d'Ivoire suffered grave human rights violations, including attempts on their lives and physical integrity, which is why a large majority decided to return to their country of origin.

37. By returning to Burkina Faso, 49 per cent of them lost both their belongings and their papers. The Special Rapporteur interviewed a student repatriated from Côte d'Ivoire in July 2003 with his young sisters in an IOM convoy. Their father had been killed in the conflict and all their belongings had been burnt.<sup>8</sup>

38. This large-scale return of Burkina Faso nationals, driven out of their host country by waves of xenophobia in the name of "*ivoirité*", led to a humanitarian crisis of major proportions for Burkina Faso, to the detriment of the socio-economic resettlement of returnees.

39. Burkina Faso has taken in not only its own nationals but also people from other countries, such as Gabon, Ghana and Nigeria, trying to escape from the conflict in Côte d'Ivoire. Nationals from Mali and Niger fleeing from Côte d'Ivoire have also transited through Burkina Faso to return to their home countries, thereby placing an extra burden on humanitarian aid organized in Burkina Faso.<sup>9</sup>

40. In view of the seriousness of the situation, the Government of Burkina Faso set up a crisis unit with the help of international organizations. The Bayiri humanitarian aid operation transported thousands of Burkina Faso nationals back to their country of origin. More nationals were able to return to Burkina Faso by their own means. The Special Rapporteur met the president of an association of returnees, a former business manager in Côte d'Ivoire, who returned from Burkina Faso with his car laden with 15 Burkina Faso nationals who were working in his company.

41. The humanitarian operation provided first aid to the returnees, who were initially received in five reception centres set up in the country, then at transit sites. The Bayiri operation provided food aid and emergency relief (especially the vaccination of children). Many children were in a poor state of health when they returned, as the proportion of those vaccinated was relatively low.

42. One of the positive aspects of the management of the humanitarian crisis recognized by the Special Rapporteur has been the decision by the Government of Burkina Faso not to set up camps for returnees. In fact such camps would probably have caused the returning population to

be even more marginalized. The policy followed was to resettle returnees in their home villages wherever possible. Migrants of the third or more generation having no more direct roots in Burkina Faso mostly stayed near frontier regions, such as Gaoua, which has taken in most of the returnees from Côte d'Ivoire.<sup>10</sup>

43. Despite the fact that the decision taken by the Government of Burkina Faso (not to set up camps for returnees and to give preference instead to resettling them in the communities) is to be welcomed, several authorities have drawn attention to the ineffectiveness of the policy from the point of view of obtaining funding from the international community for socio-economic resettlement programmes. After initial humanitarian relief has run out, the difficulties faced by returnees in the host communities is less apparent than it would have been if they had been kept in camps.

## **B. Current situation of returnees and impact of the crisis**

44. The mass return of Burkina Faso migrants from Côte d'Ivoire to Burkina Faso has had and still has extremely negative consequences for the country. The effects have been felt on several levels: by the returnees themselves, by the country's economy and by the communities taking in returnees. In terms of human rights, the impact of the crisis has meant that migrants have been deprived of certain basic rights, especially socio-economic rights related to food, employment, health, housing and education.

45. The returnees currently make up a very diversified group of migrants. Their situation differs according to their activity and their social background. For example, their needs differ according to whether they are in farming or in business. Two groups, however, have been particularly affected by the impact of the crisis in Côte d'Ivoire: women returnees and children.

### **1. Impact of the crisis on Burkina Faso's economy**

46. Before the crisis in Côte d'Ivoire, the funds sent back by Burkina Faso migrants to their country of origin accounted for some 35 per cent of the country's balance of payments. After the crisis, the figure had fallen to no more than 6 per cent. This shift has had very harmful structural effects on the country's economy.

47. Repatriated migrant funds provide a significant source of revenues, not only for the families they left back home, but also for the country itself (macroeconomically speaking they constitute a significant source of foreign currency). For instance, the "Italian villages" in the province of Boulgou were entirely built with the income of Burkina Faso emigrants living in Italy.

48. The fact that Western Union agencies operate even in the smallest villages of Burkina Faso shows how important foreign transfers are as a source of income for Burkina Faso. It also illustrates the dominant role played by international banking services, thanks to the reliability and rapidity of their operations.

49. Owing to its long tradition of emigration, Burkina Faso for a long time was the country in the region which benefited most from these international transfers. In 2000 the total amount of funds repatriated by Burkina Faso nationals living abroad was greater than all foreign direct investment (FDI) in the country. Owing to the drop in FDIs and other sources of foreign

currency, migrant fund transfers have become a dominant factor, representing about 3 per cent of gross domestic product and 20 per cent of export revenues.<sup>11</sup>

50. In a country affected by extreme poverty, which, according to the UNDP,<sup>12</sup> has one of the lowest human development indices in the world, the large drop in the amount of funds transferred back by Burkina Faso nationals living in Côte d'Ivoire to their country of origin has sparked off a real economic crisis. In addition a major humanitarian crisis has been caused by the mass return and the socio-economic resettlement of returnees.

## **2. Loss of documents**

51. Many Burkina Faso nationals have either lost or been deprived of their identity documents, some of which, for instance, were burnt on their way back from Côte d'Ivoire. For these migrants, access to a number of basic rights, such as the right to education or to social security, then becomes extremely difficult or is even excluded, and they are prevented from claiming their rights in Côte d'Ivoire. For Burkina Faso nationals born in their own country, having identity documents reissued appears to be easier thanks to the availability of records in the country. For Burkina Faso nationals born in Côte d'Ivoire, on the other hand, reconstituting personal records appears to be much more laborious. The loss of documents raises serious problems in terms of ensuring socio-economic rights, especially with regard to employment and social security. For instance, the partnership between social security funds in Burkina Faso and those in Côte d'Ivoire is not operational. Many wage earners who left Côte d'Ivoire without being properly documented cannot have access to social security services, even though they may have paid in contributions over many working years in Côte d'Ivoire. Similar problems arise with pensions. Since 1963 the two countries have reached an agreement to provide pensions for their citizens, based on contributions paid in either country. The Special Rapporteur points out, however, that many returnees have lost their documents, which makes it difficult to reconstitute their records and even more so to protect their benefit entitlements.

52. The local authorities of Ouahigouya told the Special Rapporteur that they were awaiting instructions from the central administration on how to settle this kind of problem. In this respect the Government reports that the administration has provided guidance regarding the restoration of civil status documents, such as the birth certificates of children born in Côte d'Ivoire, so as to enable them to gain admittance to the school system in Burkina Faso.

## **3. Employment and social security**

53. The population of Côte d'Ivoire returnees is relatively young, with 33 per cent under the age of 15.<sup>13</sup> About 50 per cent of returnees are aged between 20 and 40 and most of these between 20 and 24.

54. It is therefore a population of working age, made up chiefly of men who in Côte d'Ivoire were employed in farming, while their wives mostly looked after the home. The occupations which are the most popular with returnees are therefore farming (50 per cent), small trade (27 per cent) or stock raising (12 per cent).<sup>14</sup>

55. As far as possible returnees who were employed in farming in Côte d'Ivoire have tried to continue doing the same type of work in Burkina Faso. Occasionally local authorities have tried to give them plots of land. For two main reasons, however, this type of measure has not provided employment for all returnees trying to return to farming: (a) the quality of land; (b) the insufficient area of plots, which are unable to supply a decent source of revenue. In some regions, moreover, one way out of the problem has been to engage in deforestation, which raises the further issues of environmental protection and the depletion of already scarce natural resources.

56. Many returnees used to be businessmen or plantation owners in Côte d'Ivoire. But despite their spirit of initiative and the means available to undertake new economic activities in Burkina Faso, these people complain of lack of support on the part of the public authorities. "The authorities have given preference to short-term activities at the expense of medium- and long-term plans. The Bayiri operation has brought people back to the villages and then has left them to fend for themselves. We are not beggars. Our plight is to be blamed on the Government of Burkina Faso", according to the president of an association of returnees, formerly a businessman in Côte d'Ivoire. "There is no public employment policy", he added, "the authorities are merely waiting for people to leave again".

57. Most of the men do go back to Côte d'Ivoire in the hope of a better life, leaving their wives and children behind in Burkina Faso in view of the political and socio-economic unrest prevailing in Côte d'Ivoire. Very often they are unable to send their families who have stayed at home sufficient money for their needs, thus leaving them in conditions of extreme hardship.

58. The Bayiri operation was aimed at humanitarian assistance and socio-economic resettlement. This is the Operational Plan to support the socio-economic resettlement of returnees, which was adopted in July 2003 by the Council of Ministers of the Government of Burkina Faso. It is a three-year programme centred on the communities rather than on the returnees in order to avoid favouring some groups at the expense of others.

59. The Government has told the Special Rapporteur that it did not have sufficient support from the international community for the socio-economic resettlement programme, although this is one of its top priorities.

60. The Special Rapporteur received a number of proposals for economic resettlement projects which deserve consideration. For instance, the IOM has developed a project to assist the resettlement of returnees from Côte d'Ivoire, whose general objective is to provide backing for the Government's Operational Plan to support the socio-economic resettlement of returnees, as well as assist 2,000 families through microprojects and income-generating activities.<sup>15</sup>

#### **4. Food, health, housing, education**

61. In the course of her meetings with civil society, the Special Rapporteur gathered many testimonies of the precarious situation of returnees. Women and children, for instance, are those

most affected by malnutrition. “The children go to school without food”, the representatives of civil society in Ouahigouya told the Special Rapporteur.

62. A student repatriated with his younger sisters comments: “We are reduced to extreme hunger since we have to make do with only one plateful a day, which is kindly provided by a neighbour. When she is not there, we rely on luck. We often go without food for two days.”

63. Many returnees have arrived back in Burkina Faso in a very poor state of health, the most vulnerable groups being women and children (with several cases of measles and meningitis). There are more people affected by AIDS in Côte d’Ivoire than in Burkina Faso, which increases the risk of spreading the virus, owing to ignorance and inadequate prevention.

64. The poverty of returnees also affects their ability to find housing, especially migrants who have no family left in Burkina Faso.

65. Readmission in schools is also a problem, especially for children who have no papers, since in order to be admitted they require a birth certificate. Repatriated children often do not have such a document, however, besides which school fees often constitute an insurmountable obstacle. Further dangers arise from overcrowding in classrooms and a lack of infrastructures. “The children are practically sitting on the floor”, the local authorities of the province of Banfora told the Special Rapporteur.

#### **5. The situation of repatriated women**

66. Repatriated women are the most affected by the crisis, since their husbands are often the first to go back to Côte d’Ivoire, leaving their wives and children in Burkina Faso with no source of income. This means that these women are most affected by the problems described above regarding employment, food, housing and health.

67. Groups of repatriated women have clubbed together in an attempt to deal with these problems. The Special Rapporteur visited a plot of land offered to an association of repatriated women by local authorities in the neighbourhood of Banfora. This is a group of 11 women set up within the Faso Ka Fisa Market Garden Association, presided over by Ms. Sita Soulama. The women launched a project for the growing and marketing of market garden produce. They have been trying to cultivate a field in the locality of Nafona; they have managed to grow vegetables but lack the most basic equipment which might make the activity really profitable. For instance, the water pump does not work; they have no fencing to put round their field, nor any cultivator, nor any way of transporting their produce.

68. In Ouahigouya, the Special Rapporteur met the Teg-Taaba Association of repatriated women for the survival of women repatriated from Côte d’Ivoire (A.TE.TA.S.R.), to which some 400 women belong. In Côte d’Ivoire these women were engaged in farming activities,

especially the cultivation of cassava. If they had sufficient land and resources, these women would continue their farming activities. They have developed a project to transform cassava into different types of flour which can be marketed, such as gari, atieke, placali and cocode. Another of their projects is for the hand crafted production of karite butter.

69. The A.TE.TA.S.R. Association has also launched a project to build 150 lodgings for women seeking accommodation, particularly women with children.

70. The Association for the development of women and children of Koulpelogo (ADFEK) also presented projects aimed at sponsoring income-generating activities, such as local crafts, the manufacture of karite butter, ground nut oil, soumbala and local soap.

71. These are simple, small projects to assist the development of income-generating activities. Despite the situation of extreme poverty in which these women find themselves and the traumatic experiences they have been through as a result of the crisis in Côte d'Ivoire, they have preserved the wish to manage their lives and a determination to seize any opportunities which will enable them to rebuilt their future. It appears both necessary and urgent to support these initiatives.

## **6. The situation of repatriated children**

72. Children account for about a third of the people repatriated from Côte d'Ivoire. Just like women, children are often denied their most fundamental rights.

73. Many repatriated children suffer the effects of the disintegration of the family, when at least one of the parents has gone back to Côte d'Ivoire. The children are then left with other members of their families, such as grandparents or uncles, but it sometimes happens that they have no relative at all to look after them.

74. The problems of schooling have already been mentioned. A further point in this connection is the more general problem of the need to adapt or readapt to a different sociocultural situation, which is in most cases unknown, since the repatriated children have never lived in their country of origin. Despite the many expressions of solidarity towards returnees which the Special Rapporteur received from the people she interviewed, there are still remaining tensions between the local communities and returnees, which give rise to many obstacles to their socio-economic integration.

## **IV. CHILD TRAFFICKING**

75. Authorities such as the Ministry of the Interior and representatives of civil society interviewed by the Special Rapporteur mentioned child trafficking as one of the major problems affecting Burkina Faso.

76. Burkina Faso is at once a country of origin, of transit and of destination. As a country of destination, it chiefly takes in child workers from south-eastern Mali, who take up domestic service in Burkina Faso.<sup>16</sup> As far as child trafficking to other countries is concerned, the main destinations are Côte d'Ivoire and to a lesser extent Benin, Nigeria and Ghana.<sup>17</sup>

77. It is very common for people in Burkina Faso to want to leave their village and their families in order to “seek a better life” elsewhere. Of all Burkina Faso children 9.5 per cent (330,000) aged between 6 and 17 do not live with their parents. Of these 29 per cent (95,000) live abroad, mostly in Côte d’Ivoire (73,000).<sup>18</sup>

78. These children work mainly in the primary sector (agriculture) and secondary sector (domestic service in the case of girls). There is also a widespread tradition of placing children with Koranic teachers.

79. The Koranic teachers are known as “marabouts” and the children “talibes”, students of God, or pejoratively “garibouts”. Most of the time the parents entrust their children to Koranic teachers as a result of conditions of extreme poverty, in the belief that this might give them the opportunity to receive some education. The talibes have to gather a minimum amount of money, which they must hand over to the marabout or be punished. They beg or do odd jobs in small trade, catering or agriculture. They are easy to recognize because they wear white hats and carry 5-kilo tomato tins, which they use as begging bowls throughout the day. The talibes themselves describe their living conditions as miserable: they are not sufficiently fed; the marabouts ill-treat them and they have to spend their whole day begging.<sup>19</sup>

80. Many children work on the plantations of Côte d’Ivoire. Working conditions vary from region to region but are often akin to forced labour.

81. Girls leave their families mainly to take up domestic service. This is either internal migration (from the countryside to the towns) or from neighbouring countries like Mali.

82. For instance, in the province of Sourou in the north-west of the country, most children leave the villages to go and work in towns, either in Ouagadougou or in Bobo-Dioulasso. Young girls tend to leave home for the first time when they are between 10 and 12 years old, and more girls tend to leave home than boys. Most children take their own decision to leave. Most of them have had no schooling before they go. Many parents agree to their decision. There is a minority, however, who are not keen to leave the village. They are often persuaded to do so by pressure from the parents, especially the mother, or they are influenced by friends who have already left or are preparing to leave. Girls employed in domestic service face considerable risks of exploitation. Many girls give accounts of being subjected to physical, psychological or sexual abuse. Besides the children’s physical integrity, some of their fundamental rights are also disregarded, on account of being made to work too early, being exposed to harsh living conditions, etc. The problem of education is ever-present too; in the towns, children who work do not attend school.<sup>20</sup>

83. Thanks to the coordination provided by the Ministry for Social Action and National Solidarity, the Government of Burkina Faso has set up 73 local watchdog committees in the country, made up of various members of the local community, such as administrative and religious authorities, local associations and non-governmental organizations, and unions of bus drivers and truck drivers. The establishment of these watchdog committees is very helpful in creating awareness among local communities of the phenomenon of child trafficking and of its underlying causes.<sup>21</sup> For instance, in 2004 watchdog committees in the region of Ouahigouya intercepted some 100 children who had been trafficked. These were mainly children on their way to Mali to live with Koranic teachers.

84. Despite the positive results achieved by such committees, however, the Special Rapporteur recommends that these individual measures should be backed up by more thorough structural actions in order to make a real impact on the problem.

## V. CONCLUSIONS

85. For Burkina Faso, which has a population of 11.5 million and about 3 million nationals living in Côte d'Ivoire, the unrest in the latter country has taken on enormous proportions, causing a humanitarian and economic crisis and serious human rights violations for returnees from Côte d'Ivoire and for the communities to which they have returned.

86. The situation of the returnees shows that they are deprived of some of their fundamental rights, such as socio-economic benefit entitlements in terms of employment, social security, health, housing, food and education. Most returnees are faced with conditions of extreme insecurity, which, especially in the case of the men, encourages them to return to Côte d'Ivoire, despite the insecure conditions that prevail there. Women who are left alone with their children are those who are most affected by the crisis in Côte d'Ivoire. The Special Rapporteur pays tribute to the great determination shown by these women to reorganize their lives and to defend their rights, despite the dramatic conditions with which they are confronted in their daily lives.

87. The Special Rapporteur welcomes the decision by the Government of Burkina Faso not to set up camps for returnees, instead pursuing a policy of encouraging socio-economic reintegration in the communities of origin. She notes, however, that once the first stage of humanitarian assistance has passed, a considerable effort must still be made to ensure the effective socio-economic resettlement of the returnees.

88. The consular protection afforded to Burkina Faso nationals in Côte d'Ivoire is inadequate. Three consulates are not enough to cater for the needs of 3 million Burkina Faso nationals living in Côte d'Ivoire, especially in view of the prevailing insecurity in that country.

89. Burkina Faso is at the same time a country of origin, of transit and of destination. Migrants that leave Burkina Faso head chiefly for neighbouring countries, especially Côte d'Ivoire. The Special Rapporteur wishes to note, however, that Burkina Faso is also tending to become a country of origin and transit to western countries. This mainly irregular migration is causing more and more problems, which the country is unable to resolve on its own but which require a framework of regional consultations and bilateral agreements with key countries (such as the Libyan Arab Jamahiriya), in order to ensure that irregular migrants are repatriated in dignified and humane conditions. In no event should migration issues be dealt with by security personnel alone.

90. A migration policy needs to be established, not only in order to manage irregular migration flows (including those transiting by Burkina Faso), but also in order to optimize the benefits which international migration can bring to the country's development. Notions such as organizing the diaspora, promoting productive investments supported by government projects and joint development programmes have still not been incorporated in Burkina Faso's institutional culture, despite the country's historic tradition as a land of migration. Nevertheless, its citizens undertake initiatives to organize their lives outside the institutional framework and in this way are already contributing to their country's development; one example of such initiatives is the "Italian villages". The time has now come for public policies to fill in this institutional

void, which has until now been offset to some extent by the individual initiatives of Burkina Faso migrants.

91. Child trafficking is a major phenomenon affecting Burkina Faso. Either of their own free choice or driven by their parents, many children leave their families “in search of a better life”. Most of them start working in plantations, take up domestic service or are placed with Koranic teachers. In most cases they are exposed to the danger of trafficking and end up by being exploited. The establishment of watchdog committees has been a useful way of creating awareness among local communities of the problem of child trafficking and its underlying causes. Despite the positive results achieved by such committees, however, the Special Rapporteur recommends that these individual measures should be backed by more determined structural actions aimed at combating the practice of child trafficking effectively.

## VI. RECOMMENDATIONS

92. **With regard to the crisis in Côte d’Ivoire and the situation of returnees, the Special Rapporteur recommends:**

- (a) **Giving priority to socio-economic resettlement programmes;**
- (b) **Expressly addressing the situation of repatriated women and children;**
- (c) **Giving particular support to projects promoting income-generating activities for women returnees. The project proposals mentioned in this report already provide a practical idea of the sort of initiative which can be launched with fairly limited initial investments. Despite their lack of resources, the associations of repatriated women show that they are well organized and would be quite able to undertake income-generating projects if they are given sufficient support to initiate their activity;**
- (d) **Considering the possibility of establishing a returnee assistance fund;**
- (e) **Setting up a civil registry to take in complaints of human rights violations experienced during the crisis in Côte d’Ivoire. This registry could serve as a basis for obtaining reparations, either through the courts or through international diplomacy;**
- (f) **Strengthening consular protection for Burkina Faso nationals in Côte d’Ivoire, which is in the interest of nationals not only in Côte d’Ivoire but also in their country of origin (recognition of their contribution for Burkina Faso);**
- (g) **Monitoring the situation in Côte d’Ivoire more closely, in order to respond more positively to the dangers facing Burkina Faso nationals. This initiative should include an efficient warning system to mobilize the international community. Lastly Burkina Faso should seek ways of making its voice heard in the international community regarding the problems of its nationals in Côte d’Ivoire.**

93. **In view of the growing problems arising from the flows either leaving Burkina Faso or transiting through the country and heading for western countries, the time has come to establish an appropriate national migration policy. The Special Rapporteur advocates incorporating the following elements in such a policy:**

(a) The conclusion of bilateral agreements with countries expelling nationals to Burkina Faso, so that repatriation may be conducted with due regard for the rights of irregular migrants. An agreement of this kind is particularly necessary with the Libyan Arab Jamahiriya;

(b) The active participation of the country in regional migration processes, in order to ensure that Burkina Faso's concerns and requirements are taken into account in regional migration policies. Parliamentary committees specializing in migration issues could be set up in order to encourage political debate on migration within the Parliament and to assist the development of appropriate national migration policies;

(c) Initiatives aimed at optimizing the benefits of international migration, such as: (1) promoting official fund transfers (for instance through a State bank which would replace or reduce the use of international banking services offered by Western Union); (2) promoting the productive investment of fund transfers in sectors likely to stimulate local and national economic development; (3) supporting joint development initiatives, such as the MIDA programme, aimed at making best use of the human resources of the diaspora;

(d) Stricter controls of civil status documents used in the preparation of national passports;

(e) The introduction of transparent procedures respectful of human rights in the area of irregular migration, which security personnel can follow in their daily work, especially those concerning the situation of unaccompanied minors. Security personnel should receive appropriate training, which would cover the human rights of migrants, as well as international obligations arising from international instruments ratified by Burkina Faso;

(f) The introduction of measures to safeguard the voting rights of Burkina Faso nationals.

94. With regard to child trafficking, stricter measures are necessary to support the action of watchdog committees. In this respect the Special Rapporteur refers to the recommendations put forward by the Committee on the Rights of the Child (CRC/C/15/Add.193, para. 55)<sup>22</sup> and the studies mentioned in the bibliography of that report (particularly notes 16 to 21).

95. The Special Rapporteur asks the international community to assist Burkina Faso with the implementation of the recommendations contained in the present report. She suggests in particular:

(a) Supporting socio-economic resettlement programmes for returnees, especially those in favour of women;

(b) Facilitating the adoption, implementation and monitoring of a national migration policy. Supporting the MIDA programme would be an excellent step in the right direction;

(c) Ensuring that international community aid is distributed transparently;

**(d) Monitoring the situation in Côte d'Ivoire in order to take all possible steps to ensure that Burkina Faso nationals are not exposed to further large-scale human rights violations.**

### Notes

- <sup>1</sup> Estimates supplied by the Permanent Secretariat of Burkina Faso Nationals Abroad. Pacere, T.F. (dir. publ.), *Burkina Faso: migration et droits des travailleurs (1897-2003)*, UNESCO, Paris, 2004, pp. 54 and 55.
- <sup>2</sup> Ammassari S., *Gestion des migrations et politiques de développement: optimiser les Bénéfices de la migration internationale en Afrique de l'Ouest*, International Labour Office, Geneva, 2004, pp. 15 and 16.
- <sup>3</sup> Ministry for Social Action and National Solidarity, *Document de projet d'appui à la réinsertion socioéconomique des migrants burkinabè rapatriés de Libye*, January 2005, p. 3.
- <sup>4</sup> Pacere, op. cit. (see above note 1), pp. 73 and 74.
- <sup>5</sup> Ammassari, op. cit. (see above note 2), pp. 36 and 37.
- <sup>6</sup> Signed by all ECOWAS countries except Nigeria.
- <sup>7</sup> Ammassari, op. cit. (see above note 2), pp. 56 and 57.
- <sup>8</sup> Apart from the loss of belongings for 49 per cent of returnees, there was also widespread loss of plots of land and plantations (26 per cent) and loss of production (coffee, cocoa and rice) (8 per cent) as well as cash losses (7 per cent). Five per cent of returnees said they had lost at least one relative in the Ivorian crisis (either killed or disappeared). Four per cent said their house had been burnt or destroyed (SP/CONASUR, UNICEF, WFP, *Analyse des données sur les rapatriés de Côte d'Ivoire*, September 2004, p. 22).
- <sup>9</sup> Of all the people fleeing the combat zones and seeking shelter in Burkina Faso, 91.4 per cent are Burkina Faso nationals. The presence of other nationalities is due mostly to transit. They include nationals from Niger (2.3 per cent), Benin (0.5 per cent) and Mali (0.4 per cent) [SP/CONASUR, UNICEF, WFP, op. cit. (see above note 8)], p. 17.
- <sup>10</sup> Twenty-nine thousand and sixty-four returnees are living in the region of Gaoua, according to figures supplied to the Special Rapporteur by local authorities.
- <sup>11</sup> Ammassari, op. cit., p. 23-25.
- <sup>12</sup> UNDP, *Human Development Report 2004*, Paris, Economica, 2004.
- <sup>13</sup> SP/CONASUR, UNICEF, WFP, op. cit. (see above note 8), p. 11.
- <sup>14</sup> Ibid., pp. 15 and 34.

<sup>15</sup> Project document submitted to the Special Rapporteur by the IOM Representative in Burkina Faso.

<sup>16</sup> ILO/IPEC, *Combating trafficking in children for labour exploitation in West and Central Africa*, Geneva, 2001, p. 9.

<sup>17</sup> Ibriga, L.M. and Ouedraogo, F., *Étude relative au trafic d'enfants au Burkina Faso*, 2001, p. 3.

<sup>18</sup> Kielland, A. and Sanogo, I., *Burkina Faso: child labor migration from rural areas*, Ouagadougou, 2002, p. 3.

<sup>19</sup> Hauge Riisøen, K. and Hatløy, Bjerkan, L., *Travel to uncertainty: A study of child relocation in Burkina Faso, Ghana and Mali*, Tøyen, 2004, pp. 19-21.

<sup>20</sup> Terre des Hommes, *Les fillettes domestiques au Burkina Faso: traite ou migration?*, 2003, pp. 6, 14 and 15.

<sup>21</sup> UNICEF, *Child Trafficking in West Africa - Policy Responses*, Florence, 2002, p. 16.

<sup>22</sup> The Rapporteur welcomes the fact that Burkina Faso has implemented recommendation (c) of the Committee concerning ratification of the Protocol to prevent, suppress and punish trafficking in persons, especially women and children, supplementing the United Nations Convention against Transnational Organized Crime.

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