



Submission by the United Nations High Commissioner for Refugees

For the Office of the High Commissioner for Human Rights Compilation Report -

Universal Periodic Review:

BURKINA FASO

I. BACKGROUND INFORMATION

Burkina Faso is a State party to the *1951 Convention Relating to the Status of Refugees* and to the *1967 Protocol* (hereinafter referred to jointly as the *1951 Convention*) and to the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (hereinafter referred to jointly as the *1969 OAU Convention*).

The Government adopted a Refugee Law in 2008¹ and two implementing decrees in 2011.²

The 2008 Refugee Law has incorporated most of the provisions of the *1951 Convention* and the of the 1969 OAU Convention and provides that the *Commission Nationale pour les Réfugiés* (CONAREF) is the responsible government institution in charge of refugee issues. In addition, it contains provisions on the refugee definition, the derivative refugee status and its cessation, refugees' rights and obligations, and the exclusion from refugee protection. It also contains provisions on asylum-seekers, in terms of definition and protection measures.

According to the National Constitution (1991), treaties take precedence over national laws. Certain international human rights instruments and treaties even have constitutional rank and must be interpreted as complementary to the rights and guarantees recognized in the Constitution.

Burkina Faso generally respects the *non-refoulement* principle and has demonstrated its commitment to ensure the protection of refugees' fundamental rights.

Prior to February 2012, Burkina Faso had recognized 546 persons of various nationalities as refugees through an individual refugee status determination process. Since then, thousands of

¹Loi no. 042-2008/AN portant statut des Réfugiés au Burkina Faso du 23 octobre 2008

²Décret no. 2011-118/PRES/PM/MAECR portant attributions, composition, organisation et fonctionnement de la Commission Nationale pour les Réfugiés- CONAREF and Décret no. 2011-119/PRES/PM/MAECR relatif aux modalités d'application de la loi portant statut des Réfugiés au Burkina Faso.

refugees from Mali crossed over into Burkina Faso and the Government granted them refugee status on a *prima facie* basis, in accordance with article 9 of Decree no. 2011-119. The total number of Malian refugees is yet to be released by the Government as the Level 2 registration has just been completed on the 23rd of September 2012.

Malian refugees are predominantly scattered in the arid Sahel region. A smaller number of them are living in urban areas of the capital city Ouagadougou and in Bobo Dioulasso. The Government established an encampment policy and expects refugees to relocate to camps. Six official sites have been provided by the Government, considered as relocation camps. However, some refugees are still hesitant and/or reluctant to move from the unofficial sites, which are closer to the border. UNHCR and CONAREF are still continuing joint sensitization in this regard to explain the protection risks to which refugees are exposed to by remaining in bordering areas and encourage them to move to official sites.

According to the first observations in refugee camps, the majority of refugee children, do not have a birth certificate, often due to negligence or ignorance by the parents and due to the fact that the Malian refugees in the Sahel region are mostly nomadic people without any firm residence. The law in Burkina Faso provides for the registration and issuance of birth certificates to children born in Burkina Faso whose births were not declared within a period of 60 days (Article 106 of the *Code des Personnes et de la Famille, 1989*). However, in this case, the parents have to file a case in court to obtain an auxiliary judgment that will stand for birth certificate. UNHCR had discussions with its Governmental counterpart for refugee children born in their country of origin to enjoy the same rights under the above mentioned legal provision. The issue is under discussion with the Ministry of Justice and results are still expected.

Refugees in Burkina Faso have benefited from the general relative political stability of the country for more than 20 years and from a socio-cultural environment that is conducive to their integration.

II. ACHIEVEMENTS AND BEST PRACTICES

1. Refugees

UNHCR welcomes the adoption of the 2008 Refugee Law, which replaced a law dating back from 1988. The Refugee Law provides for an Eligibility Committee, which includes the Ministry of Human Rights among a total of 10 institutions that are represented.³ Although the implementing decree does not give any role to UNHCR, a representative of UNHCR participates in the deliberations in an observer capacity. UNHCR also receives notifications of the decisions reached.

³ The institutions represented at the Eligibility Committee include the Ministry of Human Rights, the “*Etat Major particulier de la Presidence*”, the Cabinet of the Prime Minister, the Ministry of Foreign Affairs, the Defense Ministry, the Ministry for Territorial Administration, the Ministry for Security, the Ministry of Justice, the Ministry of Health and the Ministry of Social Action and National Solidarity.

The Law spells out the rights of refugees, upholds the non-discrimination principle; and provides for same treatment as nationals with regards to education, access to employment, freedom of movement, etc. It also for the first time creates an appeal board.

Whereas the Government has responded to cyclic influxes of Malians to its territory on previous occasions, this is the first time that Burkina Faso is confronted with an influx of this magnitude. The Government should be commended for its rapid reaction of recognizing Malian refugees on a *prima facie* basis in March 2012 and for setting up refugee camps in 6 locations.

2. Internally Displaced Persons

On 5 July 2012, Burkina Faso became a State party to the October 2009 *African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa* (the *Kampala Convention*).

3. Statelessness

UNHCR welcomes the Government's accession to the *1954 Convention related to the status of stateless persons* (hereinafter referred to as the *1954 Convention*) on 1 May 2012. The *Code des Personnes et de la Famille* of 1989 provides for equal rights, regardless of marriage, for women and men to transmit their own nationality to their children. The law contains a complete safeguard against statelessness at birth, as citizenship is granted to children born in Burkina Faso who cannot avail themselves of another nationality, foundlings, as well as to children born to parents who were themselves born in Burkina Faso. Article 140 of the *Code des Personnes et de la Famille* provides for equal rights of women and men to transmit the Burkinabe nationality to their children. Deprivation of citizenship, in case of court conviction is also provided for by the *Code des Personnes et de la Famille*, but has no effect on the citizenship acquired by the spouse and the child in situations of mixed marriages.

III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

Issue 1: Refugee status determination

The decree 2011-119 regulating the implementation of the 2008 Refugee Law has not yet become fully operational and contains several procedural shortcomings.

In the first place, the appeal board that should have been set up as part of the new refugee protection framework has not yet started to function, despite the fact that all members of the appeal board have been trained on refugee status determination. This has resulted in the delays in the adjudication and in the growing backlog of pending asylum claims. Approximately 665 asylum-seekers in Burkina Faso have been awaiting a decision on their asylum applications for over a year.

Another concern related to the implementing decree is the fact that an asylum-seeker can be denied refugee status, if the first rejection decision was based on an issue of State security or if the asylum-seeker commits a "serious offence". This article is not in conformity with the exhaustive reasons provided for exclusion of refugee status, as spelled out in Art. 1 F of the 1951

Convention. The prosecution or conviction by the court for an offence should not prevent a proper assessment of the asylum claim and the recognition of refugee status when the asylum-seeker has been found to be in need of international protection.

Recommendations:

- Establish a more efficient and expedient asylum procedure.
- Consider revision of the 2011-119 decree to further strengthen the refugee protection framework

Issue 2: Prevention of statelessness

Whereas Burkina Faso is a State party to the *1954 Convention relating to the Status of Stateless Persons*, it has not yet acceded to the *1961 Convention on the Reduction of Statelessness* (hereinafter referred to as the *1961 Convention*). The *1961 Convention on the Reduction of Statelessness* establishes an international framework to ensure the right of every person to a nationality by establishing safeguards to prevent statelessness at birth and later in life. This treaty is therefore complementary to standards contained in other human rights treaties. An increase in the number of State parties is essential to strengthening international efforts to prevent and reduce statelessness and ensuring full enjoyment of a number of these rights.

UNHCR welcomed the accession by Burkina Faso to the 1954 Convention on 1 May 2012. At the same time, it recalls the recommendation made by CEDAW in its concluding observations on Burkina Faso at its 47th session that the country also accedes to the 1961 Convention.⁴

The relevant legislation on nationality in Burkina Faso is the 1996 *Code des Personnes et de la Famille*, which is generally in line with international standards on prevention of statelessness, including those relating to prevention of statelessness at birth. Article 186.1, read together with Articles 140, 144 and 188 of the law, allow, however, nationals to renounce their nationality without possessing or having an assurance to acquire another nationality, which may lead to statelessness. Secondly, the provisions on deprivation of nationality set out in Article 189 of the Code allow persons to be deprived of their nationality on various grounds without consideration as to whether it will result in statelessness. These grounds include situations where citizens have been sentenced to at least 5 years of imprisonment for a crime committed in Burkina Faso or abroad; and, second, where a person is sentenced to a minimum of 3 months imprisonment for tax fraud or fraud related to price regulations. These grounds go beyond the standards set by the 1961 Convention, which do not permit deprivation of nationality on the basis of commission of crimes of a general nature.

Birth registration helps prevent statelessness by establishing a legal record of where a child was born and who his or her parents are. As such it serves as a key form of proof of whether a person has acquired nationality by birth or by descent. In order to obtain a birth certificate in Burkina Faso, a birth declaration must be presented to the Civil Registration Authority at the municipal level within 60 days following the child's birth. Beyond this time, a "*jugement supplétif*"

⁴ See the Annex below, concluding observations of CEDAW 47th session, paragraphs 47 and 48, also available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/463/85/PDF/G1046385.pdf?OpenElement>

(auxiliary judgment) must be obtained in Court. The auxiliary judgment is not free of charge and the majority of refugees do not have the means to bear the costs.⁵ The court procedure is not well known to the refugees and can be cumbersome. Moreover, if the parents do not have proper identity documents, a birth certificate cannot be issued.⁶ In addition, the majority of refugees in Burkina Faso are from Mali and their children do not have birth certificates. Neither the law nor the implementing decree moreover contain any provision to address the protection needs of children born to nationals of Burkina Faso abroad in terms of birth registration and issuance of birth certificates.

UNHCR supports the recommendation made by the CRC in its concluding observations on Burkina Faso at its 53rd session: ***The Committee urges the State party to strengthen its efforts to establish a national system of free birth registration, which should be sustainable and available, including in the most remote areas of the State party, through the provision of decentralized registration offices with the necessary human, material and financial resources. The Committee also recommends the State party to strengthen its awareness-raising activities about birth registration. The Committee further urges the State party to ensure that refugee children are provided with a birth certificate and that unregistered children are not deprived of access to social services.***⁷

Recommendations:

- Accede to the *1961 Convention on the Reduction of Statelessness*.
- Include questions specifically targeting the identification of stateless persons and persons at risk of becoming stateless in the census forms. The next census is scheduled to take place in 2016.
- Revise *Titre V of the Code des Personnes et de la Famille*, which relates to nationality issues, with a specific focus on article 186.1 on renunciation of nationality and article 189 (1), (2) (4) and (5) relating to deprivation of nationality due to justice conviction for ordinary crimes or crimes against state security. These articles apply irrespective of whether the person possesses another nationality or not.⁸
- Insert provisions in the 2008 Refugee Law ensuring the issuance of birth certificates to refugee children who have not received one from their country of origin pursuant to article 25 of the *1951 Refugee Convention*.

⁵ Parents have to declare the birth of their newborns to the civil status agent at the maternity service where the mother delivered. This agent has the authority to issue the birth declaration document that will enable the parents to obtain the birth certificate from the Civil Registration Authority irrespective of whether the child is born at the hospital or not, provided that the declaration is done within a period of 60 days.

⁶ In order to declare the birth of a child, the parents have to present their own identity documents (some parents do not have any which makes it difficult to declare their new born children). This will no longer apply for Malian refugees, as they have been issued refugee attestations following the level 2 registration. However, the concern remains for children who do not possess a birth certificate and for whom an auxiliary judgment is required.

⁷ See the Annex below, concluding observations of CRC, 53rd session, paragraphs 34 and 35, also available at: <http://www2.ohchr.org/english/bodies/crc/docs/CRC-C-BFA-CO-3-4.pdf>.

⁸ Should the person only have the Burkinabè nationality, he/she will become stateless after having been deprived of it and even after having served his sentence

- Implement the Universal Birth Registration strategy, in order to include refugee children who would otherwise be at risk of becoming stateless.

Issue 3: Access to gainful employment and lack of knowledge on documentation

Article 11 of the 2008 Refugee Law stipulates that refugees have the same treatment as nationals with respect to the right to work. However, in practice, this is not always the case. A number of refugees have reported instances in which potential employers were not familiar with the refugee identity cards and the rights of the holders of such documents, often resulting in rejection of their job applications. Despite efforts undertaken by UNHCR to focus on vocational training and education as part of the local integration process, refugees are often unable to secure a proper job. In addition to the lack of awareness of potential employers regarding the refugees' situation and their legal entitlements, refugees may face obstacles due to discrimination and rejection.

Recommendations:

- Ensure the recognition of the official refugee ID cards by all segments of the society.
- Continue training and mass awareness-raising activities to promote the respect for the rights of refugees.

**Human Rights Liaison Unit
Division of International Protection
UNHCR
September 2012**

ANNEX

Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies and Special Procedure Reports

- Universal Periodic Review:

BURKINA FASO

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations and the Human Rights Council's Special Procedure Reports, relating to issues of interest and persons of concern to UNHCR with regards to Burkina Faso.

1. Treaty Body Reports

CEDAW/C/BFA/CO/6

**COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN,
47th session**

5 November 2010

Trafficking and exploitation of prostitution

27. The Committee welcomes the adoption of a new law aimed at combating trafficking in human beings and other relevant laws related to similar practices and the protection of victims, as well as multilateral agreements to combat trafficking, especially in women and children. The Committee also notes with interest the ongoing study carried out by the Ministry of Social Action and National Solidarity on the situation of trafficking in women with a view to taking specific action. Nevertheless, the Committee expresses its serious concern over the trafficking in girls for domestic work and labour into neighbouring countries as well as trafficking in foreign women for the purpose of exploitation of prostitution. It further regrets the lack of available information about this matter.

28. **The Committee recommends that the State party put the necessary coordinating mechanisms in place in order to reinforce the implementation of new legislation and multilateral agreements to combat trafficking in girls and women for labour and sexual exploitation. The Committee encourages the formulation and implementation of a national plan of action against trafficking which ensures the prosecution and punishment of offenders and which enhances the necessary legal and psychosocial assistance and reintegration initiatives to victims of trafficking. The Committee also reiterates its recommendation to continue preventive measures aimed at improving the economic situation of girls and women and their access to land, gainful employment and other resources to eliminate their vulnerability to traffickers. The Committee requests that the State party include information on the results of the study on human trafficking carried**

out by the Ministry of Social Action and National Solidarity and action strategy in its next periodic report.

Refugees and stateless women

47. While commending the State party for its efforts relating to the status of asylum-seekers and refugees, including the adoption of laws and regulations in this regard and the fact that the State party is host to asylum-seekers and refugees from neighbouring countries, the Committee is concerned that asylum-seeking and refugee women and girls remain in a vulnerable and marginalized situation, in particular with regard to conferring nationality and statelessness at birth. It is also concerned that the State party has not yet acceded to the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

48. The Committee urges the State party to ensure protection for asylum-seeking and refugee women and their children in line with international standards. It recommends that the State party consider accession to international instruments to address the situation of stateless persons, namely the 1954 Convention Relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.

CRC/C/BFA/CO/3-4

COMMITTEE ON THE RIGHTS OF THE CHILD, 53rd session

9 February 2010

Data collection

18. While noting the establishment of a permanent data collection system in 2002, the Committee expresses concern that this system is not yet operational, as reflected by the lack of up-to-date, comprehensive and disaggregated data and information in the report of the State party on all the areas covered by the Convention. The Committee is also concerned that the population census of 2006 was not used to collect data on children, including children in need of special protection.

19. The Committee encourages the State party to continue to strengthen its data collection system with the support of its partners and to use this data as a basis for assessing progress achieved in the realization of child rights and to help design policies to implement the Convention. The Committee reminds the State party of its previous recommendation (CRC/C/15/Add.193 para. 18) that the data should cover all children up to the age of 18 years and be disaggregated by sex, age, and urban and rural area, with specific emphasis on groups of vulnerable children, including child victims of abuse, neglect or ill-treatment, children with disabilities, refugee and asylum-seeking children, children in conflict with the law, working children, and street children.

Non-discrimination

26. The Committee reiterates the concern previously expressed at the persistence of de facto discrimination against children belonging to the most vulnerable groups, such as children with disabilities and children living in rural areas, amongst whom girls are often disproportionately affected.

27. The Committee recommends that the State party increase its efforts to review, monitor and ensure implementation of legislation guaranteeing the principle of non-discrimination and full compliance with article 2 of the Convention, and adopt a proactive and comprehensive strategy to eliminate discrimination on gender, ethnic, religious or any other grounds, and against all vulnerable groups of children throughout the country.

Birth registration

34. The Committee, while noting significant efforts of the State party to increase birth registration, in particular the activities conducted in 2009, declared as Universal and Free Birth Registration Year, remains concerned that one third of children remain unregistered at birth, owing mainly to the geographical distance from registration services, the insufficient resources allocated to them and the cost of birth registration. The Committee is also concerned that children born outside the State party may not have birth certificates, or other substitute certificates, which may prevent their access to social services.

35. The Committee urges the State party to strengthen its efforts to establish a national system of free birth registration which should be sustainable and available, including in the most remote areas of the State party, through the provision of decentralized registration offices with the necessary human, material and financial resources. The Committee also recommends the State party to strengthen its awareness-raising activities about birth registration. The Committee further urges the State party to ensure that refugee children are provided with a birth certificate and that unregistered children are not deprived of access to social services.

Follow-up to the United Nations Study on Violence against Children

42. The Committee, while commending the national surveys on violence against children and women conducted in 2008, expresses concern that while these surveys revealed widespread violence throughout the State party and especially in the family environment and the school system, the capacity of the Government to respond to violence against children has remained very limited. It also notes with concern the emergence of new forms of violence, in particular paedophilia, child pornography, cybercrimes and itinerant pimps.

43. The Committee encourages the State party to prioritize elimination of all forms of violence against children. With reference to the United Nations Study on Violence against Children (A/61/299), the Committee recommends that the State party:

(a) **Take all necessary measures to implement the recommendations of the Study, taking into account the outcome and recommendations of the regional consultations for west and central Africa (held in Bamako, from 23-25 May 2005). In particular, the Committee recommends that the State party pay particular attention to the following recommendations:**

Prohibit all forms of violence against children

Strengthen national and local commitment and action

Promote non-violent values and awareness-raising

Enhance the capacity of all who work with and for children

Ensure accountability and end impunity;

(b) **Use the recommendations of the Study as a tool for action in partnership with civil society and, in particular, with the involvement of children to ensure that all children are protected from all forms of physical, sexual and psychological violence and to**

gain momentum for concrete and time-bound actions to prevent and respond to such violence and abuse;

(c) Provide a 3-digit, toll-free, 24-hour national helpline for children, in collaboration with UNICEF and other partners;

(d) Seek technical cooperation in this respect from the Special Representative of the Secretary-General on Violence Against Children, OHCHR, UNICEF, the World Health Organization (WHO) and other relevant agencies, inter alia, the International Labour Organization (ILO), the United Nations Educational, Scientific and Cultural Organization (UNESCO), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations Office on Drugs and Crime (UNODC), as well as NGO partners.

Repatriated children

66. The Committee expresses serious concern at the insufficient measures taken to support the thousands of children and their families repatriated from Côte d'Ivoire between 1999 and 2004. The Committee is concerned that repatriated children who have suffered several forms of psychological trauma have not been provided with psychosocial assistance. The Committee is also concerned that repatriated children suffer extreme poverty and malnutrition owing mainly to their families' limited access to land in the State party. The Committee is further concerned that family disintegration has led to a high proportion of repatriated children living in foster families where they are subjected to various forms of violence and neglect.

67. The Committee urges the State party to take concrete action to support the integration of repatriated families and children and in particular to:

(a) Provide social services with the necessary human and financial resources for them to effectively support the psychosocial integration of repatriated children;

(b) Ensure access to land of repatriated families for them to live a full and decent life;

(c) Take the necessary measures to combat stigmatization of repatriated children and promote their integration in their communities;

(d) Seek assistance from UNHCR, UNICEF and WHO in this regard.

Children in street situations

70. The Committee takes note of the strengthening of the Non-Institutional Educational Action (AEMO), a programme that provides assistance to boys living on the streets of the main cities of the State party. It also notes as positive the creation of a National Committee for Combating Begging by Children. However, the Committee expresses concerns at:

(a) The increasing number of children living on the streets and at their limited access to health, education and other social services;

(b) The fact that children living on the streets are subjected to police brutality, sexual abuse and economic exploitation;

(c) Girls living on the streets who do not benefit from the AEMO protection programme;

(d) The insufficient resources allocated to the AEMO programme, which undermines the effective protection, rehabilitation and social integration of children living in the street;

(e) The increasing number of *garibous* children who are forced by religious leaders to beg in the street or are trafficked to neighbouring countries for the same purpose;

(f) Parents sending out twins for begging in the street under the pretext of tradition.

71. The Committee urges the State party to study the causes and scope of the phenomenon of street children and ensure that:

(a) Children living on the streets are provided with adequate nutrition, clothing, housing, health care and educational opportunities, including vocational and life-skills training, in order to support their full development;

(b) Children living on the streets are provided with protection from police brutality and services for reconciliation with their families, and that perpetrators of violence against street children are prosecuted and punished;

(c) AEMO provides all boys and girls living on the streets with protection, recovery and reintegration services;

(d) Additional resources are allocated to the AEMO programme for its effective implementation;

(e) The National Committee for Combating Begging by Children develops a comprehensive strategy to curb the practice of sending children to beg in the street;

(f) Religious leaders and parents who send children to beg in the streets, as well as those who perpetrate abuse against those children, are brought to justice.

Sexual exploitation and abuse

72. The Committee, while welcoming the ratification by the State party of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography and the adoption of a National Action Plan against Trafficking in Human Beings which covers sexual violence against children, expresses concern that child prostitution is on the rise in all provinces of the State party and that children are increasingly trafficked from rural to urban areas and from neighbouring countries for sexual exploitation. The Committee also expresses deep concern at the extremely low level of sanctions pronounced against persons committing paedophilia.

73. The Committee recommends that the State party:

(a) Intensify its efforts to tackle child prostitution and child trafficking for sexual exploitation;

(b) Take appropriate measures to ensure that those who perpetrate sexual offences against children are effectively punished with sanctions proportionate to their crime;

(c) Ensure that child victims of sexual exploitation or abuse have access to free, child-sensitive complaints mechanisms and provide support to children denouncing sexual abuse;

(d) Continue to implement appropriate policies and programmes for the prevention, recovery and social reintegration of child victims, in accordance with the outcomes of the first, second and third World Congresses against Commercial Sexual Exploitation of Children of 1996, 2001 and 2008, as well as the outcome of other international conferences on this issue.

Sale, trafficking and abduction

74. The Committee welcomes the adoption of Act No. 029-2008 on Combating Trafficking in Persons and Related Practices of 15 May 2008 and of a National Plan of Action against Trafficking in Persons in April 2007. The Committee also notes with satisfaction that several multilateral cooperation agreements were signed between 2004 and 2006 with neighbouring

countries and the establishment of vigilance and supervision committees, the increased number of children intercepted and trafficking offenders brought to justice. However, the Committee notes that in spite of these efforts:

(a) Trafficking in children within and from the State party for domestic servitude, sexual exploitation, forced labour in gold mines, stone quarries and the agriculture sector remains widespread;

(b) Police do not exhibit any systematic effort to identify trafficking victims, among them women and girls in prostitution;

(c) Very minor sentences are pronounced against those trafficking children;

(d) No legal alternatives to the removal of foreign victims to countries where they face hardship or retribution are provided;

(e) The 2007 National Action Plan against Trafficking in Persons has been insufficiently implemented due to a lack of appropriate funding.

75. The Committee recommends that the State party:

(a) **Undertake awareness-raising educational measures to prevent and eliminate women and child trafficking, in particular by supporting the current efforts undertaken by NGOs;**

(b) **Ensure proper investigation in cases of child trafficking, in particular by training police and government social workers to identify trafficking victims;**

(c) **Ensure systematic prosecution of the perpetrators and impose adequate sentences for such crimes;**

(d) **Provide foreign victims with legal alternatives to removal to countries where they may face hardship and retribution, and establish a regional prevention and response mechanism including comprehensive data collection;**

(e) **Provide adequate resources for a full implementation of the National Action Plan against Trafficking in Persons;**

(f) **Strengthen its efforts to support physical and psychological recovery for all children, victims of sale or trafficking;**

(g) **Establish a 3-4 digit, toll-free, 24-hour national helpline for children, with an outreach component for the most remote areas of the State party, and ensure that it is provided with adequate financial and human resources for its effective functioning.**

2, Special Procedure Reports

E/CN.4/2006/73/Add.2

COMMISSION ON HUMAN RIGHTS, 62nd session

Report submitted by Ms. Gabriela Rodríguez Pizarro, Special Rapporteur on the human rights of migrants

5 January 2006

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)ⁱ 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.

ⁱ 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.
