



International Service for Human Rights

The Reports in Short

ISHR's summaries of documents for the UN Commission on Human Rights
62nd Session and Human Rights Council 2nd Session

The Special Rapporteur on the human rights of migrants¹

Mandate Holder

Jorge A. Bustamante

Mandate

In recent years we have seen increasing migration, concurrent with rising manifestations of racism, xenophobia and other forms of discrimination and inhuman and degrading treatment against migrants. The special procedure was therefore created in 1999² to examine means to overcome obstacles to the protection of the human rights of migrant workers, including problems related to the return of migrants who are undocumented or in an irregular situation. The Special Rapporteur is mandated to study, collect and exchange information on the main causes of violations of the human rights of migrants and promote the effective application of relevant norms and standards. The mandate covers a range of issues such as the rights of migrant domestic workers, migrants deprived of their liberty, discrimination, the situation of women migrants, and irregular migration.

Activities

- The Special Rapporteur met with staff of OHCHR, the Secretariat of the Committee on the Protection of All Migrant Workers and Members of their Families, the Inter-Governmental Organisations Group on human trafficking and migrant smuggling, the Chairperson of the commission on Human Rights, the Global Commission on International Migration, and participated in the Fourth Coordination Meeting on International Migration;
- The Special Rapporteur sent 34 communications to 24 countries, of which 15 were sent jointly;
- Mission to Burkina Faso from 2 to 9 February 2006.

Annual Report³

Scope

To review the activities undertaken, describe the mandate, issues for future consideration, and a program of work.

Summary and key conclusions

Summary of mandate

- **Scope:** emphasis on the conditions of migrant children, and the importance of working within a broad framework to avoid a restrictive interpretation of mandate;
- **Legal framework:** *Universal Declaration of Human Rights* and other applicable international instruments;
- **Methods of work:** letters of allegation and urgent action procedures; program of visits; follow-up activities to communications transmitted and country visits; cooperation and consultation with other special procedures mandate holders, human rights bodies, and other organisations;

¹ Summaries prepared by Cléa Thouin, Intern, ISHR, supervised and edited by Meghna Abraham, Information Program, ISHR.

² Commission *Resolution 2005/47*.

³ E/CN.4/2006/73, 30 December 2005.

- **Situations** calling for the mandate: border problems; detention; legislation or administrative policies; expulsion procedures; racist attacks; abuses by private individuals; attacks on members of NGOs.
- **Continued consultation** and coordination with all relevant actors is necessary;
- Priority should be given to violations by State and non-State actors, as well as practices increasing the vulnerability of migrants such as subcontracting;
- There should be a particular initial focus on **the question of demand for labour**;
- Active participation in the ongoing analysis within the United Nations system on migration and development, and global, regional and sub-regional consultation processes on migration is needed.

Issues for further consideration

Reluctance to recognise demand for the labour of migrant workers though this may be linked to the appearance of anti-immigrant ideologies; abuses suffered by migrants with irregular administrative status; abuses by private individuals with impunity; inadequacies in the expulsion processes; human rights violations in the case of legal migration; particularities of some host countries' immigration policies; protection of migrants by countries of origin; legal restrictions on migrants' participation in unions; discrimination; underlying factors include failure of States to act in legislating, enforcing the law, and protecting migrants' human rights in all spheres; multiple dimensions of discrimination; role of the media; economic, social and developmental issues.

Mission to Burkina Faso⁴ (carried out by the previous Special Rapporteur, Ms. Gabriela Rodríguez Pizarro)

Scope

The report was submitted by the previous Special Rapporteur, Ms. Gabriela Rodríguez Pizarro, and covers a mission that she undertook to Burkina Faso from 2 to 9 February 2005. During the mission she met with Government officials, local authorities, civil society, returnees from Côte d'Ivoire and associations of repatriated women.

Summary and key conclusions

- Burkina Faso is a land of migratory movements, and a country of **destination, origin or transit**. These migratory movements raise an increasing number of problems that the country is unable to deal with on its own;
- Côte d'Ivoire is the main destination of migrants from Burkina Faso, while migration to western countries is a much more recent phenomenon;
- In recent years, **irregular northbound migration** has become a real problem with an increasing number of migrants, including nationals of other countries, being intercepted and deported back to Burkina Faso;
- There is **no clearly defined migration policy** addressing issues such as organisation of the migrant diaspora, promotion of productive government investments and joint development programmes;
- Burkina Faso has concluded a number of **bilateral agreements**, most notably with Côte d'Ivoire and is part of the **area of free movement** of persons, residence and establishment of member States of the Economic Community of West African States. The provisions of these agreements are however not fully applied in practice;
- The Migration for Development in Africa (MIDA) for Burkina Faso is a **joint development initiative** that aims to match the know-how requirements with the skills of volunteer migrants in African countries. Its implementation depends on the availability of finance.

Child trafficking

- Child trafficking is one of the major problems affecting Burkina Faso, both in terms of origin, transit and destination. A large percentage of children from Burkina Faso leave their families in search of a better life to work in agriculture, domestic service or for Koranic teachers;
- The Government has set up **73 watchdog committees** bringing together different members of the local community, in order to raise awareness of this practice and its underlying causes.

The crisis in Côte d'Ivoire

- In 2003, 350,000 Burkina Faso nationals returned home in very difficult circumstances as a result of the crisis in Côte d'Ivoire. A large number lost their belongings and papers, creating difficulties in terms of claiming **socio-economic rights** in Burkina Faso, notably those related to employment, social security, health, housing, food and education;

⁴ E/CN.4/2006/73/Add.2, 5 January 2006.

- This influx of returnees has led to a **humanitarian crisis** of major proportions, which the Government dealt with by setting up a crisis unit. The Government's policy not to set up camps for returnees and to encourage their reintegration into communities, especially by resettling returnees in their home villages wherever possible, appears to have had positive effects;
- Returnees in general are faced with conditions of **extreme poverty** and the Operational Plan to support their socio-economic resettlement has suffered from a lack of sufficient funds. This has driven many men, despite the persistent insecurity, back to Côte d'Ivoire;
- Repatriated **women** are therefore often the most affected as they are left without income after their husbands return to Côte d'Ivoire. Groups of repatriated women have clubbed together in an attempt to deal with these problems;
- The crisis has also had a **major effect on Burkina Faso's economy** as the funds sent back by Burkina Faso migrants to their country of origin accounted for approximately 35 per cent of the country's balance of payment.

Key recommendations

- The Government should establish a **national migration policy** incorporating bilateral agreements with countries that deport nationals to Burkina Faso; actively participate in regional migration processes; and support initiatives aimed at optimising the benefits of international migration, such as the MIDA program;
- The Government should give priority to **socio-economic resettlement programs** for returnees, perhaps through a returnee assistance fund, and **address the situation of repatriated women and children**, including by supporting income-generating activities;
- The **international community** should support socio-economic resettlement programs and facilitate the adoption, implementation and monitoring of a national migration policy, especially by supporting the MIDA program.