ОРГАНИЗАЦИЯ ОБЪЕДИНЕННЫХ НАЦИЙ **E**

ЭКОНОМИЧЕСКИЙ И СОЦИАЛЬНЫЙ СОВЕТ

Distr.
GENERAL

E/CN.4/2005/85/Add.2
14 January 2005

RUSSIAN
Original: ENGLISH

КОМИССИЯ ПО ПРАВАМ ЧЕЛОВЕКА
Шестьдесят первая сессия
Пункт 14 a) предварительной повестки дня

КОНКРЕТНЫЕ ГРУППЫ И ЛИЦА: ТРУДЯЩИЕСЯ-МИГРАНТЫ

Доклад Специального докладчика по вопросу о правах человека мигрантов г-жи Габриэлы Родригес Писарро

Добавление

Поездка в Исламскую Республику Иран*

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GE.04-16953 (R) 210105 070205

Резюме

Специальный докладчик Комиссии по правам человека по вопросу о правах человека мигрантов Габриэла Родригес Писарро посетила Исламскую Республику Иран 22-29 февраля по приглашению правительства.

Специальный докладчик встретилась с представителями, на уровне генерального директора, соответствующих управлений и подразделений следующих министерств: министерства иностранных дел, министерства внутренних дел, министерства занятости и социальных дел, министерства здравоохранения и министерства труда. Специальный докладчик встретилась с представителями афганских мигрантов, неправительственных организаций (НПО), а также с представителями учреждений и программ Организации Объединенных Наций, включая Программу развития Организации Объединенных Наций, Управление Верховного комиссара Организации Объединенных Наций по делам беженцев, Миссию Организации Объединенных Наций по содействию Афганистану и Мировую продовольственную программу, и Международной организации по миграции. Специальный докладчик также встретилась с представителями афганских мигрантов и НПО.

В период пребывания в Иране делегация провела однодневную поездку в Мешхед, а также посетила лагерь беженцев и центр содержания задержанных мигрантов в провинции Хурастан.

Специальный докладчик хотела бы выразить признательность иранским властям за содействие и помощь, оказанные ей в ходе всей поездки. В прилагаемом докладе отражены итоги поездки Специального докладчика в Иран.

Специальному докладчику известно об усилиях, предпринимаемых иранскими властями в целях размещения населения, бежавшего из своей страны в поисках мира и безопасности, и она должным образом отмечает гуманитарную помощь, предоставленную афганцам и иракцам, бежавшим из своей страны. Это представляет собой экономическое и социальное бремя для Ирана с учетом постоянного и большого числа таких лиц, находящихся на его территории. Однако очень часто наблюдается тенденция приравнивания ситуации мигрантов в неурегулированном положении к положению беженцев. Специальный докладчик считает, что такая путаница может быть пагубной для защиты прав мигрантов и лиц, ищущих убежище.

Специальный докладчик считает важным признать, что в стране насчитывается определенное число мигрантов, главным образом афганцев, и в качестве следующего шага

перейти к осуществлению национальной политики оказания помощи и защиты мигрантов. Эта политика должна найти свое отражение в конкретных программах и осуществляться в правозащитной перспективе. Следует рассмотреть вопрос о принятии мер по обеспечению практического пользования мигрантами правом на юридическую помощь во всех административных процедурах, связанных с их миграционным статусом.

Специальный докладчик считает, что трудности, связанные со сдерживанием незаконной иммиграции, вызваны многими факторами, включая сложное экономическое и политическое положение в странах происхождения и то, что мигранты рассматривают Иран как место, в котором у них будет больше возможностей; некоторых афганцев побуждают "попытать счастья" их родственники и друзья, уже живущие и работающие, на законных или незаконных основаниях, в Иране. Тот факт, что еще не имеется четких политических, законодательных и административных мер, регламентирующих законную миграцию из Афганистана в Иран, в большой степени способствует неурегулированному и нелегальному перемещению через границы и способствует использованию услуг контрабандистов и переброчиков людей.

Специальный докладчик рекомендует иранским властям начать и поощрять проведение в стране более широких исследований и оценки присутствия и условий работы иностранных трудящихся-мигрантов и их воздействия на экономику и общество Ирана. Это помогло бы лучше учитывать при планировании политики вопросы законной миграции, определять, где действительно требуется иностранная рабочая сила и какие сектора, возможно, нуждаются в защите от конкуренции со стороны труда мигрантов.

Annex

REPORT OF THE SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF MIGRANTS, GABRIELA RODRÍGUEZ PIZARRO, ON HER VISIT TO THE ISLAMIC REPUBLIC OF IRAN (22-29 FEBRUARY 2004)

CONTENTS

Introduction

1. At the invitation of the Islamic Republic of Iran, the Special Rapporteur on the human rights of migrants undertook an official mission to that country from 22 to 29 February.

2. In Tehran, the Special Rapporteur met with representatives, at the Director-General level, from the relevant directorates and units of the following ministries: the Ministry for Foreign Affairs, the Ministry of the Interior, the Ministry of Employment and Social Affairs, the Ministry of Health and the Ministry of Labour. The Special Rapporteur met with representatives of Afghan migrants, non-governmental organizations (NGOs), as well as representatives of United Nations agencies and programmes, including the United Nations Development Programme (UNDP), the Office of the United Nations High Commissioner for Refugees (UNHCR), the United Nations Assistance Mission in Afghanistan (UNAMA), the World Food Programme (WFP) and the International Organization for Migration (IOM). The Special Rapporteur also met with representatives of Afghan migrants and NGOs.

3. Owing to an accident that occurred during her mission, the Special Rapporteur's programme was slightly modified. With the explicit consent of the Iranian authorities, the Special Rapporteur requested the staff member of the Office of the High Commissioner for Human Rights (OHCHR) accompanying her on mission to undertake a one-day visit to Mashed on her behalf. Accordingly, and with the full cooperation and assistance of the Iranian regional authorities, the staff member visited a refugee camp and a detention centre for migrants in Khourastan Province.

4. At the outset, the Special Rapporteur would like to extend her appreciation to the Iranian authorities for the cooperation and assistance extended to her throughout the mission. She would also like to thank representatives of the international organizations, NGOs, academic institutions and migrants with whom she met during her mission. This report describes the facts observed and the information received by the Special Rapporteur during her visit.

I. INTERNATIONAL LEGAL FRAMEWORK

5. Iran is a State party to four United Nations human rights treaties: the Convention on the Rights of the Child, ratified on 13 July 1994; the International Convention on the Elimination of All Forms of Racial Discrimination, ratified on 29 August 1968; the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, both ratified on 24 June 1975. When examining the periodic report of the Islamic Republic of Iran on 12 and 13 August 2003, the Committee on the Elimination of Racial Discrimination noted that the status of the Convention in the State party's domestic law was

unclear and wished to know whether the Convention had been endorsed by the Guardian Council. The Committee further noted that the Convention had never been invoked in domestic courts (CERD/C/163/CO/6, para. 10).

6. Iran has also ratified other human rights related treaties such as the 1951 Convention relating to the Status of Refugees, ratified on 28 July 1976; the 1967 Protocol to the Convention relating to the Status of Refugees (28 July 1976); the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (14 August 1956); the 1973 Convention on the Suppression and Punishment of the Crime of Apartheid (17 April 1985) and the Worst Forms of Child Labour, 1999 (Convention No. 182) (May 2002) of the International Labour Organization (ILO).

7. Iran has not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

II. DISCUSSION WITH IRANIAN OFFICIALS

8. The Special Rapporteur met with a number of Iranian officials within different ministries in charge of the issue of migrants in the country. The Director-General of the Ministry of Labour and Social Affairs informed the Special Rapporteur that his country had signed the following ILO Conventions related to the issue of migrant workers: the Discrimination (Employment and Occupation) Convention, 1958 (No. 111), the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions) Convention, 1975 (No. 143), and that the Iranian legislation is based on these conventions. The Director-General also referred to Iranian legislation, particularly the "Labour Law of the Islamic Republic of Iran", Division III related to "Employment of foreign citizens", sections 120-123 of which deal with the situation of foreign workers in Iran. He informed the Special Rapporteur that employment opportunities in Iran were rather limited and that there were also a limited number of foreign workers in the country. He stated that the majority of migrants in Iran were "refugees" who enjoyed little assistance from UNHCR but were taken care of by the Iranian authorities.

9. He updated the Special Rapporteur on the various steps taken by the Ministry of Labour to address the issue of Afghans with a work permit present in the country and informed her about initiatives aimed at increasing job skills through the establishment of vocational training centres. In 2004 a memorandum of understanding had been signed with ILO and IOM for technical cooperation which addressed the issue of assistance to foreigners in Iran as well as the situation of Iranians outside the country. He noted that Iranian authorities facilitated the issuance of working permits to Afghans and that they enjoyed full protection under the Iranian labour law,

together with their relatives, including access to health and education facilities. Finally, with regard to Iranians living outside the country, the director referred to a number of bilateral agreements with receiving countries (Australia/Japan, the United Arab Emirates and the Republic of Korea).

10. The Special Rapporteur held several meetings with representatives from different departments of the Ministry of the Interior. The Director-General of the International Affairs Division told the Special Rapporteur that his department was in charge of security issues as well as social affairs, the economy of the Iranian provinces and the situation of foreigners living in Iran. With regard to the particular situation of Afghans, all of them possessed an ID card; he referred to the collaboration with UNHCR and the repatriation programme put in place by the Iranian authorities and UNHCR. He recalled that just over 200,000 Afghan students were enrolled in educational institutions, 4,000 of whom were in higher education. A special Decision of the Cabinet of Ministers in 1981 guaranteed that Afghans would be able to follow postgraduate studies. He stated that the Afghans could no longer be considered refugees and therefore Iran alone could not bear the economic and social costs related to such a huge presence. Economically, in addition to providing free services to Afghans, Iran was also engaged in developing programmes in Afghanistan aimed at facilitating their return. Socially, he referred to the fact that a number of Afghans were involved in illegal activities such as drug smuggling and trafficking in persons which had an impact on national security. Accordingly, Iran was revising its own legislation to address these issues and enhance its cooperation with neighbouring and European countries. When asked to provide information on the situation of migrants in detention centres, the Director-General regretted that he had no information on that subject, which fell under the authority of the police department.

11. Other representatives from the Ministry of the Interior informed the Special Rapporteur that the police department was not under the authority of the Ministry or of the executive branch, but under the leadership of the Supreme Guide. The role of the police vis-à-vis migrants in Iran was explained: they controlled the entry to and exit from Iran of foreigners and the borders and were responsible for law enforcement within the country, and therefore also dealt with migrants in much the same way as with Iranian citizens.

12. Owing to its geographical location, a number of persons, mainly from Bangladesh, Afghanistan and Pakistan, cross the border to try to settle irregularly in Iran or to transit irregularly through Iran, the main entry points being Baloushistan Province or the Oman sea for those wishing to go to neighbouring Arab States. If caught at the border, the irregular migrants are initially detained by the police in “special camps” or “closed camps” prior to being deported and handed over to the authorities of the country of origin. If caught within Iran, they are brought before a judge and might face a fine prior to being deported. According to Iranian

authorities, UNHCR is allowed to meet with those persons at the border prior to their deportation. When asked by the Special Rapporteur whether those persons have access to lawyers, the representative from the Ministry of the Interior suggested that she discuss this issue with a representative from the judiciary.

13. The Special Rapporteur met with the Secretary-General of the Islamic Human Rights Commission, an Iranian institution established in 1996 with the aim of promoting and protecting human rights within the country. He informed the Special Rapporteur that the issue of migrant workers was not really discussed in Iranian society and very little information on the subject appeared in the media. This was partly due to the fact that there were a number of other human rights issues of concern to all Iranians. Nevertheless, he recalled the steps taken by the Iranian authorities to host Afghans and Iraqis when they had to leave their respective countries, and briefed the Special Rapporteur about the situation of Iranians living abroad.

14. The Adviser to the President on Women's Affairs and Head of the Centre for Women's Participation informed the Special Rapporteur about the steps taken in the legislative field to promote women's rights since the Islamic revolution. She also briefed the Special Rapporteur on decisions taken by the authorities to enhance the representation of women in the administration, including at the provincial level, with the creation in every ministry of a unit in charge of women's affairs. Finally, she informed the Special Rapporteur that one of the main tasks of the Centre she headed was to support and protect the work of Iranian NGOs working in the field of women's rights as well as addressing the issue of Iranian women living abroad. The question of women migrants in Iran was not an issue that was directly dealt with by the Centre.

15. Most of the representatives of the Iranian authorities with whom the Special Rapporteur met informed her that given the change of regime in Afghanistan, the presence of Afghans on their territory could no longer be justified. They stressed that the Afghan refugees posed a significant social and economic burden. Economically, the services provided to Afghans amounted to a considerable part of the Government's budget and it was time for them to go back to Afghanistan. This attitude is partly motivated by the significant levels of unemployment in Iran, as well as concern over increasing drug smuggling. At the same time, however, Afghans continue to provide much-needed labour in agriculture and the construction industry. Afghan refugees themselves readily state that they feel they are no longer welcome in Iran.

III. IRAN AS A COUNTRY OF IMMIGRATION

16. When voluntary repatriation from Iran started in March 2002, there were approximately 2.3 million Afghans officially registered in Iran. Later, in 2003, the Iranian authorities conducted a re-registration of the Afghan population, which concluded that

some 1,450,000 Afghans were living in Iran. In addition, it was estimated that 202,000 Iraqis (up to 70,000 of whom were thought to have repatriated spontaneously) lived in Iran, as well as some 300,000 unregistered Afghans.

The situation of Afghans

17. Differences in levels of economic development between Iran and Afghanistan have long contributed to significant levels of labour migration from Afghanistan to Iran. This has been made easier by the fact that large numbers of Afghans share a language (Dari) and religion (Shi'ah Islam) with the Iranians. With the Afghan revolution and the war in Afghanistan after 1978-1979, networks that had already been formed in Iran made it easier for the new and now very mixed flow of Afghan refugees and labour migrants to establish themselves in Iran.

18. The Government of Iran took formal responsibility for the refugee population and worked closely with UNHCR and other international organizations to address the situation. Iran received a large number of refugees, and was generally considered to be a supportive host country. The vast majority of Afghan refugees were not required to settle in camps but were largely integrated into Iranian society. Most lived in the larger urban areas of the country where they could find work, such as the capital, Tehran, although seven refugee camps are still in existence. They also had access to health care, basic education and subsidized food on the same terms as Iranian citizens. However, there were considerable restrictions on their physical movement, and government permits were required for travel within the country.

19. Following the arrival of the Taliban regime in 1994, a new outflow of Afghans sought safety and work in Iran in the period 1994-2001, though these were not granted refugee status. As a result, all non-official movement across the border during those years was considered illegal labour migration.

20. The status of Afghans is seen as having changed profoundly since the fall of the Taliban. The Iranian authorities believe that despite instability in Afghanistan, refugees no longer fear persecution and therefore they should not enjoy the vast financial and social support they have received as refugees. Accordingly, their presence is re-emerging as an important issue on the domestic political agenda. There is significant unemployment in the country, and there have been calls for an accelerated return of Afghans to their country and stricter enforcement of the laws governing their access to work and public services.

21. Many refugees/migrants informed the Special Rapporteur that the Iranian authorities are increasingly "encouraging" refugees to leave the country. The benefits they used to enjoy are being continually cut by the Government.

22. By mid-2003, all Afghans residing in Iran were asked to re-register with the authorities. Those with refugee documents were obliged to hand in their refugee cards and received in return only temporary residence permits, with no time for staying or leaving specified. The number of registered Afghans at that time totalled 2.3 million. Since the 2003 re-registration, UNHCR has agreed that 1,450,000 Afghans were of concern to the Office and since then, more than 600,000 Afghans have returned home. The re-registration process entailed payment of a fee of roughly US$ 5 per person and was only available to Afghans who had already registered with the authorities in 2001. The procedure for obtaining or extending a residence permit is becoming increasingly cumbersome because it lacks transparency and requires the agreement of a number of official departments. The ID cards that are issued are valid for six months.

23. Afghan migrants are blamed by the Government of Iran for the 15 per cent unemployment rate. According to the Director of the Foreign Nationals Employment Department, the foreigners working illegally in Iran are mainly Afghans. However, they have been performing jobs that are unlikely to be filled by Iranian citizens, mainly on construction sites and in agriculture. There are no minimum wages for Afghan migrants and they are reportedly paid less than Iranian citizens without benefiting from social protection.

24. Restrictions on refugees' access to employment were tightened so that all refugees except those with old work permits were classified as illegal workers and thereby subject to expulsion. A new policy of fining and imprisoning the employers of undocumented workers was also introduced, causing in some instances loss of jobs and more restricted access to social services. Many refugees were immediately fired from their jobs, and thereby also lost their homes and all entitlement to medical care. They had absolutely no access to State social security or any other safety net. Little or no compensation is paid when workers in the construction sector are killed or disabled in accidents. Informed reports have suggested that there has been an increased use of drugs to sustain long and hard working days as well as increased use of child labour in informal sectors. Iranian entrepreneurs will also be heavily penalized for employing illegal Afghan workers.

25. Opportunities for higher education were closing in 2003 and Afghans living in refugee camps told the mission that they had very few opportunities to attend university. Although it was decreed that even undocumented children would be permitted to attend school, an NGO representative mentioned that some local authorities continued to deny refugee children entrance to public schools. Representatives of Afghan communities also informed the Special Rapporteur that Iranian authorities were cutting educational assistance to the 250,000 Afghan children in Iran. In the past, Afghan families had to pay one third of the education fees but as of the end of 2003, Afghan families would have to pay the totality of the fees.

26. The authorities also progressively reduced assistance for health care throughout 2004. For instance, it became obligatory to subscribe to health insurance schemes at full cost. From September 2004 school fees were compulsory for all Afghan children.

27. If an Afghan marries an Iranian woman, their children have no legal status because the presence of the Afghan man is irregular and the marriage is not recognized officially. The Special Rapporteur was told that in Khourastan Province, over 10,000 children are facing this situation. At the same time, other groups, after 10-15 years' stay in Iran, have now integrated into Iranian society to the extent that they are reluctant to uproot themselves and their children born in Iran and face an uncertain future in Afghanistan.

Torbat-e-Jam Refugee Camp

28. Built in 1994, Torbat-e-Jam refugee camp looks like a housing complex; with wide shrub-lined avenues, several parks, a football field, a gym and a bazaar, it is often described as one of the best refugee camps in the world. Currently, it hosts some 5,500 refugees (2,623 women and 2,817 men) living in 928 houses. Some 1,500 students attend the camp school, which has 170 Iranian teachers for primary and secondary levels. Forty-two students from the camp are currently pursuing their studies at Universities of Mashed and Tehran.

29. An advisory council composed of refugees living in the camp manages all aspects of life through different committees established for that purpose, such as the Committee on Health, Cultural Affairs and Development.

30. Residents in the camp speak Dari and most of them have been living there for seven years or more. They enjoy free access to education, health facilities and basic food. They also have the opportunity of earning a living within the camp by setting up small businesses, or outside the camp, working mainly in agriculture and on construction sites.

31. Most of the young residents living in the camp do not have a clear idea of whether they would like to stay in Iran or go to Afghanistan. The majority of them never lived in their country of origin and feel that prospects in Iran and in Afghanistan are rather limited. In Iran, a number of professions are not available to them and economic conditions in Afghanistan do not provide them with opportunities in terms of employment or earning a living.

Sephid Sang Screening Centre

32. Iranian authorities have established screening centres for illegal migrants who are arrested in the street. They are regrouped in those centres prior to their deportation if their situation in the

country is found to be illegal. If they can provide valid reasons for their stay in Iran, a judge might decide to release them and allow them to resume their daily lives in Iran. The delegation visited Sephid Sang Screening Centre, located in Mashed Province.

33. Twenty-five people were living in the Centre at the time of the visit. Most of them had been arrested for crimes committed on Iranian territory and/or for not possessing proper documentation when checked in the streets. Officials informed the delegation that most of those arrested had been involved in drug trafficking, fights, theft and immoral acts. During their maximum four-day stay in the camps, they are interviewed by Iranian officials before being brought before a judge.

34. Very few women pass through the Centre; those involved in crimes stayed in the Centre while the Iranian authorities tried to locate their relatives before either releasing them or deporting them to Afghanistan. Iranian authorities informed the delegation that they were not allowed to release a woman if there were no male relatives willing to take care of her once she was released. If a woman is deported, Iranian authorities would not leave her on her own at the border, as they do for men, but rather put her in the hands of the Afghan authorities.

35. Street children and unaccompanied children are sent to juvenile centres while their relatives are located.

36. From 21 March 2003 to February 2004, about 8,000 migrants passed through Sephid Sang Screening Centre. Of these, 6,711 were deported to Afghanistan and 1,807 were released and allowed to remain in Iran. During their short stay in the Centre, they had access to basic commodities, health and food services. Information sessions on Afghanistan and problems associated with landmines are also organized for the migrants.

37. According to information received from migrants interviewed in situ, living conditions for irregular migrants are very precarious. Migrants nearly always live in working-class districts on the outskirts of towns or in remote agricultural areas. Most of them live with relatives from the same community and one person interviewed said that he was sleeping in the street. Their irregular status forces them to live in the shadows, performing work that Iranians do not want to do.

38. Some of the Afghans interviewed claimed that they had families in Iran and some of them said that they had been living in the country for over 20 years. None of them was willing to go back to Afghanistan. They were waiting for help from their families living in Iran. Many migrants told the delegation that if they were to go back to Afghanistan, they would try to return

to Iran because they had no opportunities to earn a living in Afghanistan and the security situation was not conducive to leading a normal life.

39. Iranian authorities in the Centre informed the delegation that Iran allowed UNHCR to veto deportations of illegal migrants who feared persecution upon return, and that all deportees were entitled to an interview with UNHCR at the border. That gave undocumented deportees a chance to present a claim for refugee status. However, UNHCR did not have access to Afghans whose deportation had been ordered by a court of law.

IV. THE SITUATION OF IRANIANS OUTSIDE THE COUNTRY

40. There have been several waves of Iranian emigration. The first period was from 1978 to 1979 and consisted mainly of high-ranking officials, influential industrialists, investors, financiers, and persons related to the previous regime. The second period began in February 1979; during this period, military commanders as well as religious and ethnic minorities fled the country. Another period began during the 1980-1988 Iran-Iraq war, when a number of young men wanted to avoid being sent to fight or to avoid mandatory military service.

41. Iranians are also leaving the country because of economic necessity. The Iranian unemployment rate is very high and even after finishing their university studies, young people find that there are few jobs available. A large number of university scholars who go abroad on sabbatical are reluctant to return to Iran. This is mainly due to low salaries and lack of opportunities.

42. Iranians abroad seeking refugee status invoke the fact that they have engaged in anti-Government actions, such as demonstrations, handing out leaflets, or shouting or painting slogans; others claim that they are members of organizations not recognized in Iran. A few asylum-seekers say they are members of the Mujahedin Khalq Organization (MKO) or that they have been persecuted for helping members of the MKO. Religion and social relations are also among the reasons that Iranians give for seeking asylum. Some women claim that they committed adultery or are seeking a divorce and fear that their husbands might harm them.

43. According to Iranian officials, there are about 3 million Iranian citizens living outside their country. This figure includes those who left the country in irregular conditions as well as Iranian refugees. Iranian officials informed the Special Rapporteur of the steps taken by the authorities to protect Iranian migrants abroad as well as steps taken to facilitate the return of those who left the country irregularly and are now willing to come back to Iran, either to settle permanently or for family visits. Bilateral agreements have been signed with receiving countries and a Centre for Iranians Abroad has been established under the authority of the President of Iran with the

participation of all relevant ministries. The Centre coordinates all activities related to Iranians living outside the country and is managed by a directorate within the Ministry for Foreign Affairs. Its aim is "to defend the rights of Iranians abroad and to ensure a better coordination within Iran" to facilitate their return.

44. The Director-General of the Centre for Iranians Abroad estimates that 2,750,000 Iranians live outside the country (3 million if irregular migrants and those who have changed their citizenship are included). The majority of the Iranians living abroad reside in the United States, Canada, the United Kingdom, Germany, France, the United Arab Emirates and Sweden. The inter-ministerial committee is aware that a number of Iranians living abroad are reluctant to return. Accordingly, one of the tasks of the committee is also to investigate the causes of the brain drain and it takes measures to reduce, and ultimately reverse it. The Special Rapporteur was told of recent efforts undertaken to attract Iranians, and that more and more had been coming back since the late 1990s. For instance, in the 1990s it became possible to buy temporary exemptions from military service. This affected about 30,000 Iranians who could therefore come back to their country to live for up to three months. An amnesty decree had also been issued for all Iranians who had left the country illegally in the past. More than 11,440 persons benefited from that amnesty. Seized family properties had been restored and those Iranians willing to return to their country could also benefit from a number of financial grants aimed at facilitating their reintegration.

45. Some observers feel that the pace at which Iranians were returning is too slow. The Government often is not keen to take back people who state outright that they had sought asylum. Emigration is unlikely to stop until adequate employment, coupled with more comfortable living conditions, becomes available.

46. Finally, the Special Rapporteur was also told that the inter-ministerial committee was also monitoring the treatment by receiving States of Iranian migrants, with a view to enhancing their protection. Reference was made to Iranians living in Western countries who were facing discrimination on the basis of their religion and citizenship. Mention was also made of an Iranian detained in Thailand for drug trafficking, sentenced to 100 years' imprisonment.

V. THE WORK OF INTERNATIONAL ORGANIZATIONS

A. Office of the united nations high commissioner for refugees

47. The Special Rapporteur met with the Chief of Mission of UNHCR in Iran, who stated at the outset of her briefing that it was the largest United Nations presence in Iran and the only agency with field offices outside Tehran - UNHCR had 9 suboffices and 11 offices dealing

with the repatriation programme. UNHCR's programme was largely implemented through government departments, public institutions affiliated with the Government, and a few local non-governmental organizations (there are very few international NGOs present in the Islamic Republic of Iran).

48. UNHCR has noted that the Iranian authorities no longer consider that Afghans should enjoy the same status as previously and was concerned at the continued arrival of economic migrants from Afghanistan. Whilst aware of the ongoing changes in cross-border movements, UNHCR had continued to advocate for the introduction of formal mechanisms to identify persons of concern to it. It had also drawn attention to the need to respect the voluntary character of repatriation and to take account of Afghanistan's absorption capacities.

49. For the past two years, UNHCR had been actively facilitating the voluntary repatriation of Afghan refugees through the provision of information and a series of other activities. In two years, UNHCR had repatriated 660,000 Afghans. However, fewer returned from Iran in 2003 than in 2002. According to UNHCR, there were many reasons why Afghans might be reluctant to repatriate. Socio-economic conditions still appeared to be better for refugees in Iran than in many areas of origin in Afghanistan. Despite rehabilitation and development efforts under way in Afghanistan, refugees were concerned about access to job opportunities, education, health and other basic services. The deterioration of the security situation in certain parts of Afghanistan, or for certain groups of Afghans, was an additional concern for some refugees.

50. Nevertheless, UNHCR continued to focus on phased, voluntary repatriation as the durable solution for the vast majority of the Afghan refugees in Iran. With that in mind, UNHCR had gradually reoriented its limited resources so as to provide increased support for assistance and services to returnees in Afghanistan, while decreasing its refugee assistance programmes in asylum countries. At the same time, UNHCR was initiating discussions with the authorities to search for alternative solutions for those refugees who were unable or unwilling to return on account of their personal situation.

51. The Afghan repatriation programme offered free transportation for returnees and their belongings, medical assistance in the voluntary repatriation centres, and mine-awareness training at the border exit points. However, the food component (packages of food provided to returnees for the journey home) would be phased out in 2004.

52. In line with the policy of focusing spending on Afghanistan and reducing it in asylum countries, in 2004 UNHCR decided to phase out its assistance to the approximately 40,000 Afghans residing in camps as well as its educational activities, in line with repatriation objectives. Medical assistance would also be more restrictive and its support to help camp

refugees meet their hospital costs and settle other refugees' hospital bills would be phased out completely. UNHCR would also reduce the scope of the One Time Assistance (OTA) programme for vulnerable refugees through the introduction of more restrictive criteria.

53. Faced with a situation where the Government of Iran was taking measures to deport Afghans who were not officially registered with the authorities and were therefore considered to be irregular migrants, UNHCR had convinced the Iranian authorities about the need to screen those who wished to raise protection issues. Accordingly, UNHCR and the Government had reached agreement on the establishment of screening facilities in the border areas so that those who had a fear of persecution if they returned could be identified and accorded temporary asylum in a refugee camp. In order to do this, UNHCR was developing screening facilities for deportees in the border areas.

B. International Organization for Migration

54. The IOM representative a.i. in Tehran told the Special Rapporteur about the organization's activities with regard to the issue of migrants. An agreement had been reached for the establishment of an "Academy for Migration and Refugee Studies" to strengthen the capacity of the Government to manage migration and refugee issues and to facilitate the formulation of legislation and policies regarding migration and refugee issues.

55. The main activities foreseen in this regard were conducting research on migration and refugee issues, the organization of seminars, workshops and other activities on migration and refugee issues, and the establishment of a documentation unit and a database on migration issues. Training activities were also envisaged, especially for law enforcement personnel dealing with migrants.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

56. **The Special Rapporteur is aware of the efforts authorities of the Islamic Republic of Iran have made to accommodate populations which have fled their country in search of peace and security. The humanitarian assistance provided to Afghans and Iraqis fleeing their country has been duly noted. For Iran, this represents an economic and social burden, given the constant and huge number of persons residing on its territory.**

57. **The Special Rapporteur notes that very often there is a tendency to equate the situation of irregular migrants with that of refugees. The Special Rapporteur considers**

that this confusion may be prejudicial to the protection of the rights of both migrants and asylum-seekers.

58. **The Special Rapporteur notes that Iranian authorities are not at this stage making substantial efforts to identify in a serious and self-critical manner the situation of the human rights of migrants and the problems they are facing. During her mission, she noted that the Iranian authorities preferred to refer to refugees when discussing the situation of migrants. This was particularly the case with regard to the situation of the Afghan population in Iran, which the Special Rapporteur believes consists of both refugees in the legal sense and also labour migrants.**

59. **The Special Rapporteur notes that there are a considerable number of migrant workers, mainly Afghans, in some sectors of the Iranian economy, such as the construction and agricultural sectors, and that many irregular migrants are exploited in the black market.**

60. **The Special Rapporteur considers that the difficulties involved in curbing irregular immigration are due to many factors, including the difficult economic and political situation of the countries of origin and the fact that the migrants see Iran as providing more opportunities; some Afghans are therefore encouraged to try their luck by relatives and friends already living and working legally or irregularly, in Iran. The fact that there are not yet clear policy, legislative and administrative measures in place for legal migration from Afghanistan to Iran contributes greatly to irregular and extralegal cross-border movements and encourages the use of smugglers and traffickers.**

61. **The Special Rapporteur notes that there are a number of ministries and departments within ministries involved in dealing with the issue of migrants without a clear delimitation of responsibilities or perceived coordination. This may lead to a risk of discrepancies between the migration control programmes and policies under the responsibility of the Ministry of the Interior, and the assistance, education and integration programmes and policies that are the responsibility of the Ministry of Labour and Social Affairs.**

62. **The Special Rapporteur notes that integration efforts of migrants are being frustrated by the obstacles which irregular status places in the way of the full integration of the migrant and the migrant's enjoyment of his rights.**

63. **The Special Rapporteur notes a lack of knowledge of the guarantees and rights which international human rights law accords and recognizes for migrants. This situation may result in cases of arbitrary decisions and possible violations of human rights. In the**

contexts of interception, return, expulsion and detention in particular, migrants run the risk of possible abuses and violations, against which they are defenceless, owing to the absence or insufficiency of legal assistance.

64. **The Special Rapporteur notes that there are very few or almost no national NGOs dealing with the issue of migrants. The very few Iranian NGOs with whom she met during her stay in the country did not deal with the issue of migrants.**

65. **The Special Rapporteur considers that the work of Afghan associations to assist and protect the rights of migrants should be commended and supported.**

B. Recommendations

66. **The Special Rapporteur considers that it is important to acknowledge that there are a number of migrants in the Islamic Republic of Iran, most of whom are Afghans, and on this basis to proceed to the implementation of a national policy of assistance and protection for migrants. This policy must be put into effect from the human rights standpoint and reflected in concrete programmes. Measures to ensure that migrants enjoy in practice the rights to legal assistance in all administrative proceedings relating to their migration status should be considered.**

67. **The Special Rapporteur recommends to the Iranian authorities that they initiate and encourage more domestic research and evaluation of the presence, working conditions and impact of foreign migrant workers on the Iranian economy and society. This would help policy planners to better address issues of legal migration, to identify where foreign labour is genuinely required and, as a corollary, to determine which sectors may require protection against competition from migrant labour.**

68. **The Special Rapporteur recommends that the Government of the Islamic Republic of Iran sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. In the meantime, the Special Rapporteur invites the Government to initiate a process of harmonizing national legislation and public policies with the Convention and amending relevant legislation where appropriate to ensure that the human rights of migrants and asylum-seekers are not jeopardized.**

69. **The Special Rapporteur supports the views of Afghans with whom she met and requests the Government to extend the duration of residence permits from six months to one or two years, as was done in the past. The Special Rapporteur would also support the**

call she heard from migrants with whom she met to request the Iranian authorities to maintain free access to education, social and health services to all migrants.

70. **The Special Rapporteur notes with concern the situation of irregular migrants in Iran in the cities, who suffer stigmatization and discrimination. In that regard, she deems it important that the State should guarantee migrants who have no papers access to basic educational and health services without discrimination.**

71. **The Government of Iran should provide adequate resources, adopt policies and implement programmes to ensure the application of international human rights standards concerning the apprehension of irregular migrants, deportation, family reunion and conditions of detention; training of officials responsible for enforcing legislation on migration to ensure its conformity with international human rights standards could be envisaged.**

72. **Irregular migrants detained in Iran pending deportation should be given adequate access to courts and lawyers and their cases reviewed by competent authorities without undue delay, and steps taken to ensure that victims of trafficking are not criminalized.**

73. **Since the vulnerability of migrants is primarily due to their irregular situation, the Special Rapporteur considers it important for the authorities to continue to provide migration regularization programmes, with the support of civil society and Afghan associations, and ensuring that they are accompanied by extensive information campaigns.**

74. **The Special Rapporteur considers that the strengthening of control systems should not disproportionately affect previously existing measures, in particular those relating to family reunification and integration of migrants who have been in Iran for several years. The Special Rapporteur is of the view that it is necessary to pay particular attention to Iranian women who have married Afghans as well as to their children. Particular attention should also be devoted to those Afghans who were born in Iran and have been living there since birth. The Government should consider providing a legal status to Afghan children born in Iran as well as to Afghans married to Iranian women as well as to their children. Measures to ensure the full and effective implementation of legislation relating to unaccompanied minors in relation to reunification and documentation should also be foreseen and implemented.**

75. **The Government should pursue its efforts, in cooperation with the Government of Afghanistan, UNHCR and IOM, to better monitor deportations from "deportation centres" and ensure adequate assistance and protection to deportees, to avoid abuses**

during the deportation proceedings and detention up to the moment of departure for Afghanistan; a UNHCR presence in the "deportation centres" and "detention centres" would effectively safeguard the right to asylum and the voluntary nature of repatriation.

76. **The Special Rapporteur considers that frontier control per se does not ensure the orderly management of migration in accordance with international human rights standards. She appreciates the fact that the question of migration is the subject of an ongoing dialogue with the countries of origin. The focus on safe, orderly migration in decent conditions should be reflected in a dialogue, which goes beyond labour matters, with the countries of origin. In the case of Afghanistan, the Special Rapporteur acknowledges efforts by Iranian authorities to work with the Afghan authorities and considers it essential that the dialogue between the two Governments be maintained. The focus of this dialogue should be the prevention of irregular migration and co-development in the countries of origin; greater international cooperation efforts are needed to assist migrants in Iran, and those returning to Afghanistan.**

77. **Afghan associations should continue providing support, in terms of knowledge, awareness-raising and development of skills, to Afghans residing in Iran in order to strengthen family structures, prevent abuses and exploitation and facilitate reintegration.**

78. **The Special Rapporteur considers it important that civil society organizations should look into issues related to the human rights of migrants and initiate a dialogue with the State to protect and promote the human rights of migrants. In that regard, she considers it important that existing Afghan organizations should share their knowledge and experience and provide the Iranian authorities with advice. She encourages organizations of migrants and their families to continue to step up their advocacy for protection of their rights.**

79. **The United Nations Country Team and other international agencies such as IOM and ILO should strengthen their support to the Government of Iran in dealing with issues related to migrants. The Special Rapporteur also considers that it is of fundamental importance to provide assistance to members of migrant families in the areas where irregular migration originates.**

80. **The Special Rapporteur encourages the Government of Iran to continue its policy aimed at improving the conditions of Iranians who wish to return to Iran and facilitating the return of those Iranians residing outside the country. She also notes that Iranian authorities are engaged in a dialogue with other States to conclude bilateral agreements to regulate migration abroad by its nationals and to coordinate among all relevant ministries all matters relating to migrant workers.**
