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Sessio n :

***The emerging concern for data protection
in Burkina Faso***

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Introduction

The tragedy that recently hit the United States prompted observers to redefine the configuration of our planet and its inhabitants. Some sketched out a Manichean presentation of the world in which we live. Surely our world is more than ever bipolar. However, the criteria of today's division are numerous. They could be broken down between those who have internet access, and those who don't.

Our era is introduced as one of global human values. Never were human rights, justice and equality between the inhabitants of the planet so magnified. *"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood"* (article 1 of the UDHR). Actually, the fast circulation of information regarding specific or massive breaches of human rights in such and such country helps open consciences onto the universal value of the rights and dignity of the human person, and prompt increasingly demanding citizen claims, compelling States into providing a better protection of their populations' rights. The universal nature of Human Rights rules out postponing compliance therewith based on cultural differences or inadequate resources.

The term « global village » conveys the impression that one has of living in a village from one end of the world to the other, due to fast and efficient communication means. However, only a minority of the inhabitants of this planet has such a privilege. To some farmers in Burkina Faso, the capital city Ouagadougou can seem as far away as Paris or Tokyo. In those conditions, Internet access, provided they've heard about it, is more like a mission to the Moon.

Burkina Faso is open to the changing world, and has signed and ratified most international and regional human right protection agreements, such as the United Nations' International Pacts relating to civil and political rights, and relating to economic, social and cultural rights, as well as the Agreement against torture, the Convention relating to children's rights and the agreement relating to the elimination of any form of discriminations against women, as well as the African Charter of Human and People's Rights. The consecration of the Citizen's fundamental rights

and duties in Burkina Faso, by the Constitution dated June 11, 1991, is reflective of the country's will to materialise its international undertakings and provide people living in the Burkina Faso territory with effective legal guarantees protecting their fundamental rights.

To an emerging country like Burkina Faso, it is essential to have mass information organisations, enabling citizens to have access to windows opening onto the worlds and its reality, as part of their recognised human rights. Simultaneously, the issue of data protection is a concern to Burkina Faso authorities, for several reasons :

- ***Computers and new technologies are expanding fast, here like everywhere else ;***
- ***The use of these new technologies is now borderless, and the most fragile countries are the least well equipped, like Burkina Faso ;***
- ***The Government of Burkina Faso is using computerised data processing more and more;***
- ***Data protection is an issue of fundamental human right protection.***

First section : Review of data processing in Burkina Faso

Data processing was officially introduced in Burkina Faso in 1970 with the establishment of the Centre National de Traitement de l'Informatique (CENATRIN)¹, (Order n° 070/060/PRES/MFC dated December 09, 1970).

The CENATRIN's basic task was :

- To acquire and manage data processing centres ;
- To complete any work necessary for processing data, as ordered by Government departments, local authorities, public, semi-public and private companies and organisations ;
- To unify and standardise data entering and processing methods and resources ;

¹ See *Plan de développement de l'infrastructure nationale d'information et de communication du Burkina Faso 2001 – 2005*, a document prepared by the General Data Processing Department, with the help of the CEA and of CRDI-Canada ; 01 BP 1332 Ouagadougou. (hereinafter Development Plan)

- Professional training of data processing personnel based on its own needs and that of departments using data processing techniques ;
- To initiate and train the non data processing personnel of departments using data processing techniques to data processing techniques ;
- To inform the public on data processing techniques and on the new management methods it allows ;
- To collect any information required for the development of a data processing policy in Upper-Volta and implement the policy decided by the government.

The establishment of the CENATRIN fulfilled a need to rationalise the data processing equipment (the cost of which was very high at the time) and the rare human resources the existing. The purchase and importation of data processing products were subjected to a special procedure, which gave a de facto data processing monopoly to the CENATRIN.

With the arrival of less costly and easier-to-use micro-computing, the data processing centralisation policy was put aside in the late eighties, and changed for a policy bringing together users and data processing tools. Two new structures were then set up :

1. The High Faso Data Processing Commission, whose task is to define the main lines of the national data processing policy.
2. The General Data Processing Department (DELGI), established in 1990, whose task is :
 - ◆ To plan, regulate and control data processing ;
 - ◆ To plan and monitor data processing training and research ;
 - ◆ To issue approvals for supplied data processing equipment and services ;
 - ◆ To assist and technically control data processing departments, ministerial departments and State institutions, data processing centres, data processing training centres and any other public entity with an activity within its scope of powers ;
 - ◆ To supervise and approve ministries' and public institutions' data processing policies ;
 - ◆ To promote and popularise the data processing tool ;

- ◆ To give its opinion on any of the State's and its departments' data processing agreement.

The DELGI has set up :

- An inter-ministerial training centre to train users to office equipment and to the Internet and improve computer specialists ;
- And an inter-ministerial application software development centre.

From **1000** micro-computers in 1990, ***the number of computers*** in Burkina Faso rose to **2700** in 1995, and to **10 000** units in October 1999², i.e. ***0.1 computer for 100 people*** with an average annual growth rate of 35% over the past four years. As one can see, the expansion of computers is extremely quick, here like everywhere else and its impact on our economy is also fast growing. Thus the « computer equipment value / GDP » ratio, which was 0.68 % in 1990 reached 1% in 1999, this figure being considered as the threshold beyond which the effect of computer equipment on a country's economy can become significant.

In addition, through numerous training campaigns, the number of people with computer skills is constantly increasing. Over 20% of the public administration personnel has received data processing training.

As to the Internet, free access is given to all civil servants who so request.

Second section : Data protection in Burkina Faso

In October 2000, the third ordinary session of the Computer Commission (“Conseil Supérieur de l’Informatique”) reviewed a national information and communication infrastructure development programme, which includes the implementation of *national regulations on electronic information and exchange safety, taking into account technical, organisational and legal aspects, in order to win the trust of the administrations, companies and individual who will use the national information and communication infrastructure.*

² See Development Plan p 34.

In November 2000, a Secretary of State in charge of Human Rights promotion was appointed under the responsibility of the Minister of Justice. Backing the will to make computerised data safer, the Secretary of State put forward a bill relating to people protection in the area of personal data.

A bill providing for the creation of a new Burkina Faso identity card called the Secretary of States' attention on the need to pass a text on computer data protection. The bill is currently under consideration and is inspired by the French Act of 1978, but also of the French bill on the *protection of individuals relating to the processing of personal data* that is to amend the 1978 Act.

With a view to improving the overall efficiency of the Administration, many data processing files are being created in Burkina Faso, some of which, if uncontrolled, could lead to abuse. The computerisation is due to include :

- The criminal system in various jurisdictions, to keep criminal records and keep track of sentences ;
- Data management for the fight against crime, which is upstream from the criminal court system and will be used by police department ;
- Civil records ;
- Passports,
- Electoral files, etc...

The purpose of the project to quickly set up a system producing identity cards and permits of high safety residence is to centralise data. The Burkina Faso identity card will be mandatory for all Burkina Faso citizens over fifteen. Simultaneously to the issuance of identity cards, setting up a national database on identity data and civil record data, useable by all administrative departments, including safety departments. The goal of the project is to set up a reliable civil record file, control demography data for planing, crime control and electoral preparation purposes ...

The risks associated with the processing of such personal data are obvious. That is why we immediately suggested the elaboration of a bill to protect such data.

Though the concept and the need were not easily understood by some people, dialogue enabled to gain widespread acceptance. Development partners, called upon to finance the setting up of the computerised production of the new identity card,

expressed their reluctance if legal data protection was not ensure. That factor strengthened the proposal of the Secretary of State.

The main source of inspiration of the bill relating to data processing, files and freedom is the French Act of 1978, and the recent French bill on the protection of individuals relating to the processing of personal data, amending Law n° 78-17 dated January 6, 1978 relating to privacy protection.

Some issues have not been addressed yet, and I count on this convention and its opportunity to share experience to gain a better grasp on possible solutions. One of these issues is : should we set up a privacy protection commission like in France ?

In closing

Economic growth relies less and less on tangible items such as natural resources. Competitiveness is now based on intangible elements including new information and communication technologies. In this respect, a country like Burkina Faso should be able to develop an ability to adjust to the upcoming in-depth, fast and unforeseeable changes.

Burkina Faso's ambition, which we believe is legitimate, is to take advantage of Information Technologies, which are unquestionably an excellent way to open up, in order to acquire and pass on knowledge and know how and work to set up the basic services that are vital for the right to education, to information, for democracy, community growth, competitiveness and growth management.

However, the advantages of new technologies should not conceal the risks they generate. The best way to ensure a safe use of new information technologies is a permanent assessment and management of risks. We need to gain the ability to manage risks. We emerging countries can take advantage of the experience of those who have pioneered the matter, to elaborate national risk management strategies. But here more than anywhere else, the world « globalisation » is not vain. We need to increase co-operation in order to harmonise standards, regionally and even internationally.

People around the world are hopeful that new technologies will provide better lives, with better health, more freedom, more knowledge. Unfortunately, so far, there has been great disparity in the circulation of such technologies.

Considering world justice as a right for the most powerless and excluded people requires a moral commitment and a radical change in behaviours and mindsets, nationally and internationally. Our vision of mankind should go beyond Nation-State borders so the concern for Human Rights is the same everywhere in the world (PNUD 2000 report on Human Development).

Thank you.