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## Consejo de Derechos Humanos

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**Promoción y protección de todos los derechos humanos,  
civiles, políticos, económicos, sociales y culturales,  
incluido el derecho al desarrollo**

### **Informe de la Relatora Especial sobre las formas contemporáneas de la esclavitud, incluidas sus causas y consecuencias, Gulnara Shahinian**

**Adición**

**Misión a Kazajstán\***

#### *Resumen*

El presente informe contiene las conclusiones formuladas por la Relatora Especial sobre las formas contemporáneas de la esclavitud, incluidas sus causas y consecuencias, Gulnara Shahinian, tras la misión oficial que realizó a Kazajstán del 24 de septiembre al 1 de octubre de 2012. Incluye información sobre la legislación vigente y sobre los mecanismos institucionales y los programas, planes y actividades existentes para combatir el trabajo forzoso, el trabajo en régimen de servidumbre y las peores formas de trabajo infantil. En el informe también se destacan las medidas positivas adoptadas, se llama la atención sobre los principales problemas experimentados y se formulan recomendaciones para tratar de solventar las lagunas legislativas existentes, reforzar la aplicación de la ley y la capacidad institucional e intensificar las medidas destinadas a combatir las formas contemporáneas de la esclavitud y ofrecer recursos efectivos a sus víctimas.

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\* El resumen del presente informe se distribuye en todos los idiomas oficiales. El informe propiamente dicho, que figura en el anexo del resumen, se distribuye únicamente en el idioma en que se presentó y en ruso.

## Anexo

[En inglés y ruso únicamente]

### Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinian, on her mission to Kazakhstan (24 September to 1 October 2012)

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## I. Introduction

1. In accordance with the mandate described by the Human Rights Council in its resolution 6/14, and at the invitation of the Government of Kazakhstan, the Special Rapporteur on contemporary forms of slavery, its causes and consequences, Gulnara Shahinian, conducted an official mission to Kazakhstan from 24 September to 1 October 2012. The main objective of the mission was to constructively examine, in a spirit of cooperation, the programmes implemented by the Kazakhstan Government to eradicate forced labour, bonded labour and the worst forms of child labour. To this end, the mission sought to obtain information on these issues of contemporary forms of slavery in the country, to review legislation relating to contemporary forms of slavery and to address the causes and consequences of this practice. During her mission, the Special Rapporteur had extensive consultations with senior government representatives, civil society organizations and the United Nations country team.

2. The Special Rapporteur obtained the views of victims of contemporary forms of slavery from Astana, Almaty, Shymkent, Maktaral and Enbekshikazahskiy district through consultations, personal interviews and open discussion forums.

3. The Special Rapporteur takes this opportunity to thank the Government of Kazakhstan for its invitation and for its assistance and cooperation prior to and during her mission. She greatly appreciated the contributions of the victims of contemporary forms of slavery who shared their stories with her, and of the civil society organizations, and the cooperation of the United Nations country team in Kazakhstan.

4. The Special Rapporteur shared her preliminary findings with the Government at the conclusion of her visit. She underscores her desire and intention to continue her dialogue with the Government.

## II. General background and context

5. Kazakhstan is a major destination for migrant workers, mainly from Uzbekistan, Kyrgyzstan and Tajikistan. Whilst highly skilled workers tend to migrate to Russia or countries outside the Commonwealth of Independent States (CIS), Kazakhstan attracts predominantly low-skilled workers from neighbouring countries. The main areas attracting migrant labour in Kazakhstan are: Almaty and Jambul regions (tobacco and vegetable plantations); South Kazakhstan (cotton and vegetables); Almaty, Astana and other major cities (construction, market and household workers); and West Kazakhstan (oil and gas, construction).

6. Current migration policy in Kazakhstan severely limits opportunities for legal employment and thus increases the vulnerability of migrants. The authorities have invoked the international economic crisis to justify slashing the quota for migrant workers by nearly half, and there is an explicit policy of national preference in employment. Under the quota system, individual work permits are granted to employers, rather than migrants themselves, making migrants dependent on employers and unable to legalize their situation by themselves or to seek work elsewhere when they suffer abuse. Despite the visa-free regime Kazakhstan enjoys with neighbouring CIS States, migrants still have to register with the migration police to live legally in the country, and permanent registration is a condition of access to social rights.

7. In order to have regular status, migrant workers need a migration card, to officially register their residency, and to have a work permit. Their employer must also have an official licence to hire foreign citizens.

### III. Normative framework

#### A. The international and regional legal framework

8. Kazakhstan has ratified six of the nine core international human rights treaties,<sup>1</sup> and has signed the Convention on the Rights of Persons with Disabilities. Kazakhstan is not a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.

9. Kazakhstan is a State party to the 1926 Slavery Convention, the Protocol amending the 1926 Slavery Convention, adopted in 1953, and the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery. However, these Conventions have not been incorporated into national legislation.

10. In 2008, Kazakhstan ratified the United Nations Convention against Transnational Organized Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

11. Kazakhstan is a party to a number of International Labour Organization (ILO) Conventions relevant to the prevention and/or the elimination of contemporary forms of slavery, including Convention No. 29 (1930) concerning Forced or Compulsory Labour, Convention No. 105 (1957) concerning the Abolition of Forced Labour, and Convention No. 182 (1999) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

#### B. Regional agreements

12. With regard to regional agreements, Kazakhstan is a party to a number of multilateral labour migration agreements concluded by members of CIS. They include the 1994 Agreement on Cooperation in the Sphere of Labour Migration and Social Protection of Migrant Workers and the 2004 Agreement on the Mutual Nostrification of Secondary (General), Primary Professional and Secondary Professional (Specialized) Education Certificates.

13. Kazakhstan has also signed bilateral and trilateral agreements on labour migration with Azerbaijan, Belarus, Kyrgyzstan, Mongolia, Tajikistan and Uzbekistan. For example: the 1997 Agreement between Kazakhstan, Kyrgyzstan and Uzbekistan on Creating Legal, Economic and Institutional Environments for the Free Workforce Movement; the 2002 Agreement between Kazakhstan and Kyrgyzstan on the Employment and Social Protection of Migrant Farm Workers Employed in the Border Regions; the 2006 Agreement between Kazakhstan and Kyrgyzstan on the Employment and Protection of the Rights of the Migrant Workers, Nationals of the Republic of Kazakhstan, Temporarily Employed on the Territory of the Kyrgyz Republic, and the Employment and Protection of the Rights of the Migrant Workers, Nationals of the Kyrgyz Republic, Temporarily Employed on the Territory of the Republic of Kazakhstan.

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<sup>1</sup> The International Convention on the Elimination of All Forms of Racial Discrimination; the International Covenant on Economic, Social and Cultural Rights; the International Covenant on Civil and Political Rights; the Convention on the Elimination of All Forms of Discrimination against Women; the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and the Convention on the Rights of the Child.

14. Kazakhstan is also a member of the Organization for Security and Co-operation in Europe (OSCE) and of the Eurasia Foundation of Central Asia. However Kazakhstan has not signed the European Convention on Human Rights.

## C. The national legal framework

### 1. The Constitution of the Republic of Kazakhstan (1995)

15. Article 12 of the Constitution of the Republic of Kazakhstan guarantees human rights and freedoms as being “absolute and inalienable” and belonging “to everyone by virtue of birth” – citizens, foreigners and stateless persons are included.

16. Article 16 states that “every person detained, arrested and accused of committing a crime shall have the right to the assistance of a defence lawyer (defender) from the moment of detention, arrest or accusation.”

17. Article 17 states that “a person’s dignity shall be inviolable” and “no one must be subject to torture, violence or other treatment and punishment that is cruel or humiliating to human dignity.”

18. Article 24 guarantees that “everyone shall have the right to freedom of labour, and the free choice of occupation and profession. Involuntary labour shall be permitted only on a sentence of court or in the conditions of a state of emergency or martial law” and “have the right to safe and hygienic working conditions, to just remuneration for labour without discrimination, as well as to social protection against unemployment.” With regard to rest periods the Constitution states that “working labour agreements stipulating the length of working time, days-off and holidays, and paid annual leave shall be guaranteed by law”.

### 2. Legislation

#### (a) *Labour Code of the Republic of Kazakhstan*<sup>2</sup>

19. Article 4 of the Labour Code prohibits, inter alia, “discrimination, forced labour and the worst forms of child labour”. It guarantees the rights to: “working conditions meeting the safety and hygiene requirements”, “a fair remuneration for labour not below the minimum wage”, and to rest. It prioritizes “the life and health of the employee over the results of production activities and requires “State regulation of labour protection and labour safety”.

20. Article 8 of the Labour Code prohibits forced labour, with certain exceptions such as mandatory military service and as a result of a court sentence that has come into legal effect.

21. Article 30 states that the minimum age for work is 16 years. Exceptions are made for 15 and 14 year olds where they have the written consent of one parent, guardian or adoptive parents as long as the work does not interfere with their studies and is not detrimental to their health and moral development.

22. Article 77 states that working time should not exceed 40 hours a week. Article 81 sets out that the standard working week of five days with two days off is established for employees. In organizations where the nature of the production and the working conditions make the introduction of a five-day working week unfeasible, a six-day working week shall be established with one day off.

<sup>2</sup> Code of the Republic of Kazakhstan of 15 May 2007 No. 251 “Kazakhstan Pravda” of 22 May 2007 No. 76 (25321).

23. Article 82 details the duration of the working day (work shift). It states that “under a five-day working week, the duration of the working day (work shift) shall not exceed 8 hours against a weekly norm of 40 hours, 7 hours 12 minutes against a weekly norm of 36 hours and 5 hours against a weekly norm of 24 hours. Under a six-day working week, the duration of the working day (work shift) shall not exceed 7 hours against a weekly norm of 40 hours, 6 hours against a weekly norm of 36 hours and 4 hours against a weekly norm of 24 hours. The duration of the working week (work shift), the beginning and end of the working day (work shift), and the schedule of breaks from work shall be determined in observance of the established duration of the working week by the internal labour regulations of the organization, employment contracts and collective bargaining agreements.”

24. Article 120 of the Labour Code outlines State guarantees in the sphere of labour compensation of employees, which includes, inter alia: the minimum monthly wage; payment for overtime work; payment for work on public holidays and days off; payment for night work; and restrictions on withholdings from employee wages.

25. Article 122 defines the minimum monthly wage as being annually established “by the law of the Republic of Kazakhstan on the republican budget for the corresponding financial year shall not be less than the subsistence level and shall not include additions and mark-ups, compensatory and social allowances, bonuses or other incentive payments and shall be paid in proportion to the time worked”... and “the minimum standard labour compensation shall be determined on the basis of the minimum monthly wage established by the law of the Republic of Kazakhstan on the republican budget for the corresponding year, and branch multipliers determined by branch agreements and approved by the Government of the Republic of Kazakhstan”. The “minimum hourly wage of an employee fulfilling his job duties (work time standards), may not be less than the minimum monthly wage divided by the average number of working hours in the month according to the working time balance for the corresponding calendar year”. “The minimum monthly wage or monthly base rate of a first rank employee envisaged by the terms and conditions of the employment contract, collective bargaining agreement and (or) acts of the employer, may not be less than the minimum monthly wage established by the law of the Republic of Kazakhstan on the republican budget for the corresponding financial year, while for employees engaged in heavy work or work under harmful (particularly harmful) or hazardous working conditions, it shall not be less than the minimum standard labour compensation.”

26. Article 179 of the Labour Code prohibits “engaging employees under the age of eighteen years to perform heavy work or to work under harmful (particularly harmful) and (or) hazardous working conditions, as well as to perform work that might be harmful to their health and moral development”. It also prohibits children of less than 18 years from carrying or moving “weights above the maximum standards established for them”. The Article also states that “the list of jobs for which it is prohibited to engage employees under the age of eighteen years and the maximum weights for carriage and movement by employees under the age of eighteen years, shall be determined by the state labour authority on agreement with the state healthcare authority”.

27. Article 181 establishes that reduced working time is set for employees under the age of eighteen years. It states that for employees: “from the age of fourteen up to the age of sixteen years – not more than 24 hours a week; from the age of sixteen up to the age of eighteen years – not more than 36 hours a week; and for students of educational institutions combining study and work during the academic year and aged from fourteen to sixteen years – 2.5 hours a day; aged from sixteen to eighteen years – 3.5 hours a day.”

28. Article 183 of the Labour Code prohibits engaging “employees under the age of eighteen years to do night work, overtime work or work involving recording of cumulative hours worked, to send them on business trips and to work on a rotational basis, or to recall them from annual paid leave”.

29. Article 202 requires that employees engaged in heavy work or work under harmful (particularly harmful) and (or) hazardous working conditions, have a shorter working week of no more than 36 hours and that the list of such work “shall be determined by the state labour authority, on agreement with the state healthcare authority”.

30. Article 126 of Law no. 167 of 16 July 1997 of the Criminal Code of the Republic of Kazakhstan prohibits the illegal deprivation of freedom for, inter alia, “the purpose of sexual or other exploitation of a person (child or adult)”. Such an act is punishable by “deprivation of freedom for a maximum of 10 years, with forfeiture of property or without it.”

31. Article 148 of the Criminal Code states that “repeated delay by a person, who carries out managerial functions, of payment of wages in full volume and within the established periods in relation to the use of funds for other purposes, – shall be punished by a fine... by deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to five years”.

32. Article 152 requires that a “violation of technical safety rules, or industrial sanitation, or other rules of labour safety, committed by a person who bears obligations to organise or provide for the compliance with those rules, which entailed by negligence the causation of severe or medium gravity damage to health, – shall be punished by a fine ... or in an amount of wages or other income of a given convict for a period from two to five months, or by correctional labour for a period up to two years, or by imprisonment for the same period with deprivation of the right to hold certain positions or to engage in certain types of activity for a period up to three years”.

(b) *Trafficking*

33. Article 128 of the Criminal Code punishes all forms of trafficking of persons (adults and children) for the purpose of their sexual or other exploitation. The maximum punishment for such acts is eight years, with forfeiture of property or without it.

## **IV. Contemporary forms of slavery in Kazakhstan**

### **A. Forced and bonded labour**

#### **1. Manifestations**

34. Those found in forced and bonded labour are migrants. Although it is the employer’s responsibility to obtain a work permit for each worker, migrant workers will still face the legal consequences if they work without one. As the report will show, the complexity of the legal framework has led to many working illegally. In the Kazakh National Human Rights Action Plan, it was noted that illegal labour migration and the search for effective methods for its regulation is “one of the most serious problems of Kazakhstan’s immigration politics”.<sup>3</sup>

<sup>3</sup> Kazakhstan National Human Rights Action Plan.

35. Due to a significant labour shortage, migrant workers constitute the backbone of the Kazakh tobacco industry, which is concentrated in Almaty and Dzhambul. Every year, thousands of migrant workers, and often their children, find seasonal work in tobacco farming in Kazakhstan. Philip Morris Kazakhstan (PMK), a subsidiary of Philip Morris International (PMI), one of the world's largest tobacco companies, is the sole purchaser of tobacco in the Enbekshikazakh district of Almaty province, the main tobacco farming area of Kazakhstan.

36. Forced and bonded labour occurs in the tobacco, cotton and construction industry. A majority of the migrants come for approximately six months to harvest the tobacco and cotton.

37. The Special Rapporteur received information that in Almaty forced labour mainly occurs in private construction companies which usually attract young migrant men. In some of the cases the employer is a family relative. Sometimes a middleman is involved who, for a price, arranges the recruitment of the construction workers from their country of origin. The middlemen's charges leave the workers indebted to him and they work to pay off this debt. The middlemen get 30-40 per cent of their earnings.

38. The Special Rapporteur also heard of a case of 11 undocumented migrant adults and children who were found in forced labour in the brick-making industry.

#### *Women migrant workers*

39. Labour migration in CIS is generally perceived as primarily a male phenomenon. However, women represent a growing proportion of labour migrants. Their specific challenges have been analysed in a survey published by the United Nations Development Fund for Women (UNIFEM).<sup>4</sup> Its assessment found that the majority of women migrant workers work illegally and as a result often become victims of criminal organizations. UNIFEM documented a higher proportion of recruitment through intermediaries among women migrants going to Kazakhstan. There are no precise data about the number of women migrants.

40. Migrating women usually occupy low-skilled jobs in trade or service industries (domestic work, catering, hotels, cleaning, child-minders, carers). The Special Rapporteur received information indicating that domestic workers sometimes end up in bonded labour or domestic servitude. They are unable to leave as they are undocumented, have been threatened that they will be reported to the police or are forcibly detained, or else are staying in the hope that they will be paid. In some cases, when their services are no longer required, the employer takes away their passports and takes them to the police, when they are detained and subsequently deported.

41. In 2009, UNIFEM noted that "in rural areas of the Southern Kazakhstan region, women from Uzbekistan are mainly engaged in the agricultural sector (cotton and vegetable production); whereas, in Almaty region, women from Kyrgyzstan are mainly employed in the agricultural sector (tobacco and vegetable production)".<sup>5</sup> Their particular needs are not usually taken into account. For example, there are no separate facilities for women to stay in and no provision is made to accommodate small children, including those who are being breastfed.

42. The Migration Police, based in the Ministry of Interior, is responsible for issuing visas. The Minister of Interior confirmed that there are many labour migrants from CIS.

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<sup>4</sup> UNIFEM, "A needs assessment of women migrant workers: Central Asia and Russia" (2009).

<sup>5</sup> *Ibid.*, p. 64.



## 2. Consequences

### (a) *Poor working conditions*

43. Migrant workers in tobacco farming have to endure long working hours with little rest, and exposure to high heat and sun during the summer months. The short-term effects of pesticide exposure include nausea, headaches, vomiting, and dizziness and the long-term effects can include brain damage and cancer.

44. Another risk in tobacco farming is green tobacco sickness (GTS), which is caused by the absorption of nicotine when the skin comes into contact with wet tobacco leaves. It is characterized by “nausea, vomiting, headache, muscle weakness, and dizziness”. Workers often have poor access to accommodation, water, nutrition, sanitation and hygiene.

### (b) *Delayed payment*

45. In tobacco cultivation, it is common practice to have an end-of-season payment system, by which the landowner makes one lump sum payment at the end of the harvest season to the head of the family, usually the eldest male, even if a written contract stating otherwise has been signed. This system makes migrant workers heavily dependent on the landowners who employ them, as workers are only paid once the crops have been delivered to PMK and the landowner has received payment based on the volume and grade of the tobacco. Due to the end-of-season payment system, migrant workers can find themselves trapped because if they attempt to leave an exploitative situation before the end of the season, they forfeit their earnings for the work they have done. Some workers, however, prefer being paid at the end of the season, as it helps them to avoid overspending, rather than saving money and then losing it during raids by the Migration Police.

46. In some cases of forced labour on tobacco farms, landowners oblige the workers to carry out additional tasks without pay, such as farming other crops, cleaning the house or doing renovation work on the farm.

### (c) *Confiscation of identity documents*

47. Although the involuntary retention of workers’ identity documents is prohibited by Kazakh law, migrant workers sometimes have their passports confiscated. The Special Rapporteur received information that employers hold passports to protect against loss or theft and as a security for advance payments.

48. Workers without access to their passports are particularly vulnerable and dependent on the landowner or employer, especially as they are often living in remote areas and would have to travel a long distance for any assistance.

49. In some cases migrant workers who have had their identity documents confiscated and been made to work unpaid for a number of months have been dismissed, sent home or reported to the Migration Police when the employer no longer requires their services.

### (d) *Lack of access to health care*

50. Irregular migrants and their children have no access to medical care unless they have an acute or life-threatening disease. All regular migrants have to undergo HIV testing and the Government is concerned about tuberculosis, polio and malaria.

51. Migrants without regular status and without written contracts are particularly vulnerable to other forms of exploitation such as lack of rest days, confiscation of passports, and non-payment of salaries.

### 3. Policies to combat forced and bonded labour

52. In 2006 the Government conducted a large-scale migration amnesty aimed at legalizing migrant workers with irregular status from other CIS countries. The migration amnesty was aimed at people who were already working in Kazakhstan without work permits, giving them the opportunity to register their status as migrant workers and continue their work legally for a period of up to three years. However, the remaining administrative obstacles in the country do not permit any significant reduction in illegal labour migration.

53. The Government has introduced a new bill to counter trafficking. The Special Rapporteur was informed that there have been no instances of trafficking.

### 4. Programmes to combat forced and bonded labour

#### (a) Government response

54. The Migration Police regularly conduct raids to find irregular migrants in order to understand who they are and how they got into the country. In situations of forced labour the police bring actions against employers. However, the Special Rapporteur did not receive any statistics relating to investigations or prosecutions.

#### (b) Response by Philip Morris Kazakhstan

55. PMK informed the Special Rapporteur that it has developed a standard contract between employers and employees to ensure that it complies with Kazakh legislation. They stated that contracts between PMK and landowners would prohibit the worst forms of child labour, forced labour and involuntary retention of workers' identity documents. Their contracts also include requirements for minimum standards of living, minimum wage, working hours, hours of rest and safe and hygienic conditions regarding the use and storage of fertilizers and pesticides and access to clean water.

56. PMK also stated that, if necessary, farmers could ask the company for advance payments to enable them to pay their employees on this basis. This is better than the end-of-season payment structure, which can trap workers in abusive employment situations.

57. PMK stated that it has stringent rules with regard to the worst forms of child labour in the tobacco industry and that it trains agronomists on topics such as child labour, passport retention, living conditions and access to education for children.

58. In 2011 PMK introduced a new Agricultural Labour Practices Code, which is based on a drive for continuous improvement. If there is no clear commitment to improvement and necessary action is not taken by employers then PMK will terminate the contract.

59. PMK informed the Special Rapporteur that it has established the Local Community Foundation (LCF) which is a non-governmental organization (NGO). The Foundation has a hotline which was set up in March 2012 and is available to all migrants working in tobacco and on vegetable crops. The staff running the hotline are trained to deal with the calls that they receive. LCF mediates between workers and employers. A mobile team handles complaints such as unfair payment. Since its establishment in March 2012, the mobile team has carried out 32 follow-up visits. The Special Rapporteur was not able to speak to any victims who attested to knowing about or using this hotline. LCF also ran an information campaign to raise awareness among farmers and workers about their rights and responsibilities. The campaign was run in different languages.

60. PMK is of the opinion that labour violations take place because the victims do not know how to calculate their wages and are unaware of what is required in a contract.

61. PMK employs agronomists who monitor the quality of the tobacco and also labour standards. In addition they check the wage records to ensure that workers are not in bonded labour. There are two record books: one for workers and the other for the employer, which the agronomist checks to make sure that they tally. If there is a discrepancy, PMK is usually informed via the hotline. The price that PMK pays for tobacco is based on an agreement between farmers and workers. PMK agronomists visit farmers at least twice a week. PMK reports that workers on the farms they monitor normally get a minimum wage of US\$110 per person per month. They are also given a piece of land to cultivate during the low season and share the crop with the farmer. Many of the workers stay for 12-15 years. The majority of them are from Kyrgyzstan and work in the Almaty region.

62. PMK has also introduced a “best socially responsible farmer” competition which is held annually in January/February to motivate best practice amongst farmers. The long-term aim is for PMK to provide farmers with the knowledge and tools to comply with migrant employment legislation.

63. PMK has also co-sponsored a round table with the Ministry of Labour (MoL) which included representatives from the Ministry of Education, NGOs, farmers and international agencies (ILO, the International Organization for Migration [IOM], USAID) to discuss how best to tackle the problems in the tobacco industry.

(c) *Other programmes*

64. A hotline number for victims of trafficking and forced labour was set up by IOM with the help of the Ministry of Interior. The hotline is run by Sana Sezim, an NGO which works with the Government and provides victims of forced and bonded labour with shelter, and psychological and legal support.

## 5. Challenges

65. Corruption within the police, customs, and border officials places migrants at constant risk of extortion and deportation. Such violations are generally committed with complete impunity. The authorities are reluctant to assist irregular workers as they are seen to have no rights due to their lack of legal status. Irregular migrants who are victims of forced labour cannot turn to the police because they fear deportation as they have no work permits. Employers often threaten to hand migrant workers over to the migration police. Migrants are more at risk than employers, who are rarely prosecuted.

Additional challenges faced by migrants

(a) *Strict quota system for work permits*

66. In 2009, changes in government policy rendered migrant tobacco workers especially vulnerable to abuse because it became impossible for them to secure regular employment status. As a result, many workers find themselves in an irregular employment situation and are thus more vulnerable to exploitation by employers and are more reluctant to seek redress through official channels because they fear possible fines or expulsion from Kazakhstan. The quotas are set annually by government decree.

67. The Special Rapporteur was informed by the Government that the annual legal quota of migrants is approximately 1 million. However, many come into Kazakhstan irregularly. MoL informed the Special Rapporteur that it hoped to tackle this problem through the introduction of the common economic zone with the Russian Federation and Belarus. This allows 30 days for the citizens of these countries to register – whether or not they are employed. They also have 15 days in which to change jobs. However, the Special Rapporteur noted that the most vulnerable workers, who are from Kyrgyzstan, Uzbekistan

and Tajikistan, are not included in this economic zone. Nationals from these countries can stay up to 90 days without a residency visa. However, to obtain a work permit one must register within five days of entering Kazakhstan. Many coming for up to six months in order to harvest tobacco or cotton do not have work permits.

68. The documents for obtaining a work permit must be submitted by the employer. To apply for a work permit, the employer must submit, inter alia, a letter of invitation by the employer supported by a document from the Migration Police granting the employer permission to hire a worker, a certificate attesting to the absence of a criminal record and a medical certificate.

69. Many employers do not declare workers because of the amount of bureaucracy involved and also because they do not want to pay the taxes associated with hiring labourers.

(b) *Lack of effective, accessible monitoring or redress mechanisms*

70. There are no effective, accessible monitoring or redress mechanisms for migrant workers and the Government does not investigate complaints of violations made by migrant workers rigorously enough.

71. There is a strong focus on trafficking by government officials, international agencies and NGOs. Consequently, there is a tendency to treat all victims of forced labour as trafficking victims – even when the trafficking criteria have not been met. When victims are rescued from forced labour and do not meet the trafficking criteria, they receive no legal, financial or social support. Victims of forced and bonded labour are therefore not identified and recognized as such and are often treated at best as vulnerable migrants or at worst as victims of bad employment practices.

72. The Special Rapporteur also learned that the Ministry of Labour and its inspectors do not identify victims of trafficking as they believe that trafficking is a criminal activity which should be dealt with by the Migrant Police and therefore does not fall under their remit.

73. The Kazakh Labour Code guarantees an employee's right "to appeal to the State labour authority and its territorial subdivisions to inspect the working conditions and labour safety at his place of work" (art. 314). There are a number of agencies and mechanisms in place that can assist workers in a complaint procedure. They can appeal to the prosecutor's office, the police or migration police, or directly to the courts for certain issues. However, action is rarely taken in response to legal violations involving migrant workers because they are not guaranteed this right due to their irregular status.

74. Rather than indicating an absence of abuse, the fact that migrant workers do not report cases of exploitation to official agencies reveals their inaccessibility. The Special Rapporteur received information that the government authorities deport any migrant workers without official status in Kazakhstan, rather than investigating their complaints. No one would investigate violations against workers and they will not report violations because the victims fear a fine from government, and deportation and punishment from their employers.

75. Although there are a number of NGOs that provide legal assistance, migrant workers rarely approach them because they do not know they exist, are unable to travel to the towns or cities where the organizations are located or are unfamiliar with the services they provide. Migrant workers may also be afraid to approach them or are discouraged from doing so because they are irregular, the judicial processes take a long time, and they are seasonal workers. However, the assistance that NGOs can offer is limited as the rights of irregular migrants are not recognized by law in Kazakhstan.

76. Although the Ministry of Labour is present in all provinces and has the responsibility of monitoring to ensure compliance with labour legislation, it does not do so with regard to forced and bonded labour.

77. Kazakhstan has signed bilateral agreements with Uzbekistan and Kyrgyzstan with regard to migrant workers but it is not clear how these agreements are being implemented and whether they actually work to protect migrant workers from slavery-like situations. No such agreement has been signed with Tajikistan.

78. Despite the work being done with companies and entrepreneurs, the Government has acknowledged that the main perpetrators of slavery practices are usually private individuals, who are harder to monitor.

(c) *Lack of awareness*

79. The migrant workers who arrive in Kazakhstan have little understanding or awareness of the necessary legal documents and programmes that they can access if they require assistance. In various discussions with NGOs and government officials, the Special Rapporteur noted that there seemed to be a lack of clarity as to the distinction between forced labour and trafficking and how the two may be linked.

(d) *Absence of contracts*

80. In many cases the agreements between employer and labourer are oral and not formalized in a written contract. Consequently, the labourers are not aware of their rights and work for lower pay.

(e) *Lack of rehabilitation*

81. The Special Rapporteur received information that victims of forced labour from Tajikistan, Uzbekistan and Kyrgyzstan are often found in shelters for the homeless. They had been employed but were unpaid and did not leave their employers because they were afraid or their employers threatened to report them to the police because of their irregular status. The victims are mainly men exploited in the construction and tobacco industry. Women who are exploited are normally domestic workers. There are no services for victims of forced labour as such and some organizations have chosen to assist them as victims of trafficking so that they can access legal and rehabilitation services. There are no specific shelters for victims of forced labour.

82. Those in shelters do not have any documentation, which makes it difficult to assist the victims. The Special Rapporteur was informed that the Kyrgyz embassy assists victims in obtaining travel documentation to return to their countries.

## **B. Worst forms of child labour**

### **1. Manifestations**

83. Child labour has been identified both among children of migrant workers and among Kazakh children in agriculture and other sectors.<sup>6</sup> A rapid assessment report conducted concluded that children may have constituted up to 50-60 per cent of the total workforce in tobacco and cotton fields in the villages surveyed. The report found that the

<sup>6</sup> See ILO-IPEC and the Center for Study of Public Opinion (CSPO), "Child Labour in Tobacco and Cotton Growing in Kazakhstan," Almaty, 2006; and concluding observations of the Committee on the Rights of the Child: Kazakhstan (CRC/C/KAZ/CO/3), paras. 63-66; and ILO-IPEC, "CAR Capacity Building Project, Project Document".

number of girls and boys working in these areas was almost equal. The working children came mainly from large, low-income families or migrant families from neighbouring poorer countries.<sup>7</sup>

84. The Special Rapporteur was informed by the Ministry of Labour that whenever it carries out inspections it looks at the type of jobs the children perform. The Ministry of Labour did not have statistics on the number of children working in the worst forms of child labour because they said it was hard to monitor tobacco and cotton fields. Migrant children who work receive approximately US\$1 a day, which Kazakh children would not accept.

85. Children are employed in the cotton fields because of their small hands, which harvest what is perceived to be “purer” cotton than the cotton harvested by machines. The employers range from small- to medium-scale farmers who sell to cotton millers/cotton purchasing centres which in turn sell to companies abroad.

86. MoL believes that the root causes of the worst forms of child labour are lack of legal awareness and that in many instances parents force their children to work. The Special Rapporteur found that despite the law prohibiting the worst forms of child labour, there is a general feeling that as Kazakh parents work in the tobacco and cotton fields then there is no harm for their children or the children of migrants in doing the same.

87. The Special Rapporteur was informed that another cause for Kazakh children working was poverty, as families were able to earn enough to sustain themselves.

## 2. Consequences

### (a) Long hours

88. According to the International Labour Organization International Programme on the Elimination of Child Labour (ILO-IPEC), the average length of the working day in the tobacco fields for children under 10 was about five hours (35 hours a week); for children aged 11 to 15 years it was six hours (42 hours a week), while 16-17 year-olds were working for eight hours per day (56 hours a week).<sup>8</sup> ILO-IPEC also found that in cotton picking children under 10 worked on average 8 hours a day (56 hours a week), with a maximum of 10 hours a day (70 hours a week), while children aged 11 and over worked on average 10 hours a day (70 hours a week) and up to 12 hours a day (84 hours a week).

89. Parents rely on their children’s participation in tobacco farming due to the end-of-season payment system, which is based on the volume of tobacco produced. In certain agrarian areas, children of locals and migrant workers may be expected to help their parents in some of the tasks involved in tobacco farming (sowing, irrigation, weeding, picking, sorting, stringing and pressing) or cotton farming (weeding, worm collection and cotton gathering).

90. The children may also perform other chores around the farm, such as attending to vegetable crops for the family, cooking meals, doing laundry, taking care of siblings, hauling water or doing repairs.

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<sup>7</sup> “Child Labour in Tobacco and Cotton Growing in Kazakhstan” (see note 6 above).

<sup>8</sup> *Ibid.*, p. 12.

*(b) Impact on physical well-being*

91. Children who work in the cotton and tobacco industry are particularly vulnerable to the hazardous conditions, which negatively impact on their developing bodies. For example, children working in tobacco cultivation are especially vulnerable due to their small body size in relation to the dose of nicotine they absorb.

92. Children working in tobacco farming do so without the use of special clothes, respiratory masks and other means of protection against unfavourable weather conditions, agricultural chemicals and the hazardous components in tobacco leaves.

93. In cotton picking children have complained of headaches, sunburn, and backache, as their work requires them to bend and pick up the cotton, and fatigue. Children use and breathe in the pesticides used on the cotton. During harvest children work in temperatures that go up to 40 degrees Celsius, which further exacerbates their complaints.

94. Children working in both tobacco and cotton have reported an absence of sources of drinking water, toilets, places to have meals and rest, and first aid equipment. There are also reports of high humidity, dirt, poor ventilation and lighting; low temperatures in tobacco processing facilities; children carrying heavy weights; long working hours and lack of time for rest; and unbalanced and insufficient nutrition.

95. In the cases of work accidents most children – particularly migrants – are treated by parents or adults – few seek medical treatment unless it is an emergency.

*(c) Violation of the right to education*

96. Children who work are likely to have limited access to education, drop out and have lower school attendance and performance.

97. Children of migrant workers who work in the agricultural sector are particularly at risk and rarely attend school. Order 468 prevents children of seasonal migrant workers from attending school. The reason behind this is that they attend school for only three to four months in a year. The Special Rapporteur received information that some school directors are sanctioned when children of migrants are found in schools. In order for a child to go to school the child must show that he or she has been registered and that his or her parents have work permits. At the time of writing, the Special Rapporteur has received information that the new Order 398 had been issued stating that “children of foreigners and stateless persons living in Kazakhstan permanently and persons living in Kazakhstan temporarily (refugees, asylum-seekers, consular officers, staff of diplomatic missions, labour migrants working in Kazakhstan in accordance with migration legislation) are admitted to education facilities for pre-school, primary, main secondary and general secondary education and are entitled to the same rights as Kazakhstani citizens”. This new Order still does not allow the children of migrant seasonal workers who may be undocumented to access schools.

**3. Policies to combat worst forms of child labour**

98. In May 2011 there was a meeting in South Kazakhstan with all relevant partners to discuss with ILO how to address the worst forms of child labour in the cotton fields.

99. In 2012 a Joint Action Plan to combat Worst Forms of Child Labour was set up. The aim was to teach teachers and employers about the worst forms of child labour.

#### **4. Programmes to combat worst forms of child labour**

##### *(a) Government programmes*

100. National Action Plan on the Worst Forms of Child Labour (2009-2011), implemented by the Ministries of Labour and Social Protection, Education, Interior, Justice, Culture, and the Prosecutor General's Office: the plan includes action to develop a child labour monitoring system, awareness-raising on child labour issues among government officials and the public, educational programmes, and efforts to strengthen and enforce child labour laws and policies. Among the educational programmes, it outlines programmes to prevent migrant children from engaging in the worst forms of child labour.

101. MoL informed the Special Rapporteur that there are four regions where the Government has rehabilitation centres. Children who suffer from any form of abuse go to these crisis centres. There are lawyers and psychologists who work with the children. Migrant children do not go to these centres. The Government has a hotline for receiving reports of any slavery-like practices.

102. In order to create awareness, the National Committee for Children has national campaigns to fight child labour. Campaigns usually last for 12 days and include activities for teachers, parents and children.

103. In South Kazakhstan, the labour inspectors and juvenile police carry out regular raids and the Special Rapporteur was informed that, since 2005, the number of children found working has decreased.

104. In order to address poverty, which is a root cause of the worst forms of child labour, the Government provides social protection for those living below the poverty line. This is in the form of social and housing benefits and sometimes food baskets. Parents also receive child benefits when they have more than one child. The local authorities are able to identify those that need help.

##### *(b) Other programmes*

105. The ILO-IPEC regional programme for the elimination of the worst forms of child labour: this involves creating a system for monitoring child labour; raising awareness about child labour; putting alternative educational programmes in place; holding biannual meetings of the National Coordinating Council; and developing and implementing policies and laws.

106. PMK affirms its policy against the worst forms of child labour in tobacco farming and has taken the following action to address the issue of child labour in tobacco in Kazakhstan:

##### *(i) Monitoring of compliance with Good Agricultural Policies (GAP)*

107. PMK agronomists visit each tobacco farm two to three times a month for inspections and unannounced audits. As PMK agronomists reported 54, 36 and 22 instances of the worst forms of child labour in 2007, 2008 and 2009 respectively, PMK believes that its policies and procedures have had a direct impact on reducing the worst forms of child labour on tobacco farms. PMK also recognized that these figures may not be entirely accurate as migrant workers might conceal the use of child labour during the inspections. However, given the limited number of inspections that are conducted, because of the low ratio of inspectors to farms, and the inevitable time restrictions for each visit due to the heavy workload of the agronomists, any inspections that do take place leave a margin of error. Some migrant workers reported that they only saw the agronomist once or twice a season or not at all.



## (ii) Training sessions

108. PMK agronomists run four training sessions a year for their farmers, which include a focus on the prevention of child labour. According to PMK, agronomists also conducted 500 training sessions for PMK farmers and their employees in 2009.

## (iii) Funded child labour prevention programmes

109. In 2007, PMK funded four 15-day camps for 337 children of migrant workers and 263 children of local tobacco farmers.

110. In July and August 2010, they also worked jointly with the NGO Karlygash to set up a summer camp for 6-14 year olds. Three hundred and ninety-seven children attended. However, the camp was attended by only 54 per cent of all children on the farms, but by 85 per cent of all school-age children, Kazakh and Kyrgyz combined.

111. In 2011, PMK offered vocational training for youth over fifteen. PMK has also offered sports equipment and provided a play area for youth in remote farming areas.

112. PMK also sponsored the "Road to School" programme, which is supported by the Department of Children's Rights, distributing 141 school packs for Kazakh children and children of migrant tobacco workers to help them start the academic year in September 2010. Unfortunately, as the project targeted children of tobacco migrants, children of other migrant workers could not take advantage of this initiative.

## 5. Challenges

### *Right to education*

113. A gap exists between the international obligations of Kazakhstan regarding the universal right to education and its national legislation, which does not recognize this right for children of irregular migrants. Although migrant workers often do not send their children to school because they expect them to work, in some cases parents are willing to enrol them in a local school; however a number of obstacles prevent them from being able to do so. The Special Rapporteur noted that the fact that a government order had gone out to prevent children of seasonal workers from attending school was a major obstacle. Schools have therefore been reluctant to take migrant children who cannot show proof of residency. Both teachers and parents are reluctant to infringe the law and incite investigation and perhaps detention (in the case of parents who have irregular residency status) by the migration police.

114. Children of irregular migrant workers often do not have the correct documentation and parents avoid enrolling them in a local school because it increases their visibility, which could result in deportation.

115. The Special Rapporteur was informed that every school had a police inspector who protects the rights of children and helps to prevent offences from taking place. However the presence of the police inspector is another deterrent for irregular migrants taking their children to school.

116. Other obstacles include: distance to schools, as these are located far away from farms, which also means that girls are less likely to attend as they may not be allowed to travel alone; and the cost of school equipment such as uniform and books.

## V. Conclusions and recommendations

117. Kazakhstan has committed itself to human rights protection in its Constitution and by ratification of international legal instruments related to slavery and slavery-like practices. However, there is limited understanding of the different forms and manifestations of slavery. No distinction is made between forced labour and trafficking for forced labour, existing forms of bonded labour and serfdom. The Special Rapporteur found that there is more in-depth knowledge of contemporary forms of slavery at the Oblast level and that those in the Oblasts have been proactive in trying to tackle the issues of slavery.

118. The knowledge gap and the variety of interpretations with regard to the existence of slavery show the insufficient level of understanding of the phenomenon and its very dynamic nature. Consequently, the complex processes of detection – identification, prevention, prosecution and provision of measures to protect and reintegrate victims – are rendered almost impossible. In order to provide proper protection to the victims of forms of slavery such as forced and bonded labour and trafficking and to adequately prosecute perpetrators, clear understanding of the concepts is important. International conventions that have been ratified by Kazakhstan provide important conceptual clarity in relation to these phenomena: specifically, definitions provided in the Slavery Conventions, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol), and ILO Conventions No. 29 concerning Forced or Compulsory Labour, 105 concerning the Abolition of Forced Labour, and 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

### A. Recommendations

#### 1. Legislation and policies

119. The existing slavery legislation needs to be revised in order to bring it in line with international standards and develop clear criteria for a definition of all forms of slavery. The provision for punishment should be commensurate with the crime committed and the law should provide strong human rights protection mechanisms for the victims of slavery, including rights to compensation and reintegration. It is also important for protection, compensation and reintegration schemes to be enshrined in law. Additionally the definition of trafficking in article 128 of the Criminal Code needs to be revised in order to incorporate the definition of all the elements of offence and all the means used by perpetrators, as set out in article 3 of the Palermo Protocol.

120. The importance of quotas has been stressed by employers and officials in Akimats. However, quotas are not always fulfilled due to difficulties in legally registering workers. Employers, government officials and migrants have all stressed the need to simplify the process for obtaining work permits. Currently, this process is cumbersome. Simplification is also necessary in recognition of the fact that the majority of farmers are smallholders who do not understand or want to go through complex bureaucratic procedures in order to recruit a worker. It is estimated that by the time a work permit is issued, there is no longer a need for the labourer. The work permits must be beneficial for all involved in the process. Farmers need labourers; governments need to ensure security and collect taxes; while the labourers need to receive their wages. Working towards an easier application process for migrants from Kyrgyzstan and Uzbekistan could be beneficial for all involved.

121. Contracts should outline the rights and protections for both employer and employee.
122. Workers should register directly with the State labour agency, which should be responsible for all interrelations with migrant workers, including regularization of their stay.
123. In compliance with ILO Convention No. 182, Kazakhstan has developed a list of types of work that fall under the definition of worst forms of child labour. The list is a very important legal tool to protect children from involvement in jobs that are dangerous to their health, morals and physical integrity. However, few people, even from State agencies, are aware of the work listed and of the dangers of the work specified in the list, such as work on cotton plantations, which in the past has been considered acceptable work for children. It is important to develop an awareness campaign including talk shows, media articles and television clips, to change the mentality and outmoded patterns of thinking.
124. Although the Constitution of Kazakhstan declares equal rights for all, and Kazakhstan is party to the Convention on the Rights of the Child and other international instruments, an Order from the Ministry of Education prohibits children of irregular migrant workers from accessing schools. While in many areas this gap has been met through the goodwill of teachers and school administration, this clause in the legislation constitutes a serious human rights violation. An order should be issued to guarantee access to school for all children living within Kazakhstan regardless of their migration status. This should be prioritized and adopted at the earliest opportunity.
125. Kazakhstan should allow for undocumented workers to access medical care. In the past, they could pay for care received; however with the recent introduction of individual ID numbers, an undocumented worker and his or her family can only receive medical care in case of emergency. This has consequences, particularly for children and women. Children need to be immunized and pregnant women require regular check-ups. Ratification by Kazakhstan of the Convention on the Rights of the Child means that it has a legal obligation to guarantee equal health for all within its borders.
126. Bilateral agreements on the regulation of labour migration should be negotiated and signed. The bilateral agreement with Kyrgyzstan should be prioritized. Similar agreements should be prepared and signed with the Government of Uzbekistan and other countries from which migrant workers originate. These bilateral agreements should be based on the principles of the protection of the human rights of workers, and international standards contained in the International Convention on the Protection of the Rights of Migrant Workers and the Members of Their Families, and include provisions providing for access to social assistance for workers, access to health, education and social protection and justice. The agreements must take into consideration gender specifics and age, contain specific articles on prohibition of forced labour and correspond to the ILO standards on child labour.
127. The Government should ratify the International Convention and the ILO Conventions that also cover Migrants, i.e. ILO Conventions No. 97 (1949) concerning Migration for Employment and No. 143 (1975) concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers.

**2. Strengthening institutional capacity**

128. There is no institutional mechanism or interagency commission to coordinate or oversee the policies and programmes for eradicating all forms of slavery and monitor implementation. Although the Committee for Control and Social Protection under the Ministry of Labour and Social Protection of Population apparently has a role to play with regard to labour inspection and how it works to protect labourers from slavery-like practices such as forced and bonded labour, the institution did not see this as its role – particularly with regard to migrant workers. However the National Committee for Child Protection has been effective in working for the protection of children’s rights. The Special Rapporteur noted that its policies and actions have been translated all the way down to the local level. The Ministry of Interior has also taken a leading role and decisive action has been taken by its officials in order to combat slavery-like practices.

129. The existing interdepartmental committee on human trafficking chaired by the Ministry of Justice must expand its scope of work including, alongside the fight against trafficking, other forms of slavery such as domestic servitude, and forced and bonded labour in various areas: construction, agriculture and services. This intergovernmental commission should be made up of relevant officials from the Ministries of Interior, Education, Health, Justice and Labour and Social Protection, Foreign Affairs, Agriculture, and the Office of Ombudsperson. The National Committee on Child Protection should also be included in the Commission. CSOs and private sector actors in these areas should be members of the Commission, together with international organizations working in the area, such as IOM, ILO and OSCE. The establishment of a commission will allow for the problem to be addressed in a holistic way. The commission should be in charge of developing and implementing a Plan of Action to combat contemporary forms of slavery in Kazakhstan. Similar commissions should be established at the level of the Akimats, specifically in the regions with high levels of agricultural production and construction and in border towns.

130. As the Committee for Control and Social Protection under the Ministry of Labour and Social Protection of Population has a clear mandate to monitor labour laws, it is necessary to enhance the mandate of this entity and task it with making regular and unannounced inspections of agricultural, construction and services sites to identify potential victims of slavery, including those on private property if a violation has taken place there. It is important that the Committee analyses its mandate from the perspective of more effective incorporation of anti-slavery work and conducts regular monitoring of the sites. Tools should be developed to receive urgent individual complaints and provide appropriate responses. The knowledge base and technical capacity of the entity should be enhanced. Materials and information on their activities in the area of slavery and rights of local workers and migrants should be developed and distributed on a regular basis. This work should be carried out in collaboration with the Ministry of Interior.

**3. Awareness-raising**

131. Awareness-raising campaigns should be established in order to educate the general public and relevant government officials about what constitutes slavery, the different forms of slavery and what protection mechanisms are in place for victims.

132. The lack of awareness and understanding about slavery laws means that it is harder for police to collect evidence and carry out investigations and also for court rulings to be made on the basis of slavery laws. The department in the Ministry of Internal affairs tasked with counter-trafficking work, and departments of internal

affairs in Akimats and cities, should be provided with intensive training on forced and bonded labour, and the difference between this and trafficking, together with special investigative techniques to detect and protect victims of contemporary forms of slavery. Training should provide gender- and child-sensitive information and methodologies for dealing with underage labour and trafficking. These departments should be provided with additional technical capacities to be able to respond to the situations related to forced and bonded labour. Close cooperation should be established between NGOs working with the police, labour inspectorate and social protection and other State bodies to provide concerted assistance to the victims.

133. Special training for judges and investigators is necessary for the identification of forced and bonded labour. In analyzing the existing information on forced and bonded labour and the worst forms of child labour in Kazakhstan, together with the discussions with Government officials in the capital and regions and NGOs, it became evident that the victims of slavery are citizens of Kazakhstan as well as migrant workers from Uzbekistan, Kyrgyzstan, and Tajikistan.

134. The training conducted on trafficking in human beings for the law enforcement agencies should be expanded to include intensive training on forced labour, bonded labour and the worst forms of child labour. Training is necessary for all frontline actors: labour inspectors, social workers, border guards, police, employers, teachers, civil society, government officials etc.

135. Training is required for “hotline” staff and for NGOs. The training programme must include the identification of victims of contemporary forms of slavery and the provision of human rights-based protection, as well as necessary information to refer them for assistance to the relevant bodies.

## **B. Programmes**

136. An extensive study on the nature and incidence of forced and bonded labour should be conducted on the basis of the definition contained in international law. A study of this type would provide a strong basis for developing policy and programmes to comprehensively address challenges to the eradication of slavery.

137. Those based in the regional provinces, the Oblasts, had knowledge and experience of slavery-like practices and provided many valuable concrete ideas for combating these practices. It is important to adopt a “bottom-up” approach when forming policies and programmes, as considerable experience has been accumulated in the regions. It is with this in mind that the Special Rapporteur recommends consultation on forced and bonded labour and the worst forms of child labour. This will identify the existing gaps and must cover legislation, programmes related not only to bonded labour, forced labour and the worst forms of child labour. Trafficking should also be covered as it is important that all stakeholders are aware of the difference between trafficking in humans in all its forms and other forms of slavery. Trafficking is also one of the forms of slavery. The Consultation should be attended by Government officials from the oblasts and districts, civil society organizations and the private sector. An action plan for combating contemporary forms of slavery in Kazakhstan would be the main outcome of the Consultation. The recommendations referring to legislative changes emerging from this consultation can be incorporated into the Ministry of Justice’s action plan amending certain national legislation. The National Plan arising from the consultation should also contribute to the National Plan for Human Rights of 2014 to 2016. The Action Plan for combating contemporary forms of slavery in Kazakhstan should have clear time-bound programmes identified

by State and non-State actors and funding provided from the State and international donor agencies.

138. As there is no clear mechanism for victims to make complaints or to provide for victim protection, an effective system of direct complaints for migrant workers and all who suffer from labour rights violations has to be established and applications rigorously addressed. Information about the mechanism should be disseminated throughout the country and specifically in the regions with a higher percentage of migrant workers. It should be provided in the languages understood by them. The National Ombudsman's office should provide support to victims of slavery in obtaining redress.

139. Hotlines are currently run by NGOs to support victims and are monitored by the police. The experience in many countries demonstrates that it is preferable either for the hotlines to be run by the Government under the supervision of the police or the Ministry of Social Protection or to be independently run by NGOs.

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