



Submission to the UN Special Rapporteur on Contemporary Forms of Slavery on the Role of Workers' Organizations in Preventing and Addressing Contemporary Forms of Slavery in Turkmenistan

April 5, 2024

Introduction

This submission is from Global Labor Justice-International Labor Rights Forum (GLJ-ILRF) on behalf of the Cotton Campaign, a global coalition united to end forced labor and promote decent work for cotton workers in Central Asia. This submission outlines the critical role that workers' freedom of association and collective bargaining rights play in eliminating state-imposed forced labor in Turkmenistan's annual cotton harvest. The analysis draws on independent civil society monitoring findings of the annual cotton harvest in Turkmenistan by the Cotton Campaign's frontline partners Turkmen.News and the Turkmen Initiative for Human Rights.

The role of workers' organizations in preventing and addressing contemporary forms of slavery in the context of state-imposed forced labor is distinct. In countries that impose forced labor on its citizens, such as Turkmenistan, workers face steep obstacles to organizing, operating trade unions, and do not have legal recourse or other grievance mechanisms for labor violations. The cost of activism is high — retaliation from the government can pose a risk to one's life, livelihood, and family. In order for workers' organizations to survive, it is incumbent on international and foreign bodies to pressure such governments to abolish forced labor policies from within and create an enabling environment for worker rights, especially fundamental labor rights such as freedom of association and collective bargaining.

The Turkmen government exerts control over all aspects of public life and severely represses all civic freedoms, including freedom of association, which is crucial to combating forced labor. No trade unions exist outside of the state-controlled National Center of Trade Unions (TKAMM).¹ The TKAMM does not protect workers from state-imposed forced labor — on the contrary, it actively promotes its role in providing “motivational activities” among workers in the sector to increase the amount of “white gold” produced for the “Motherland”.² Currently, there are no independent worker organizations or labor rights civil society organizations (CSOs) in the country.³ As detailed in this submission, freedom of association for workers' organizations is critical for addressing forced labor in Turkmenistan.

Background

¹ Freedom House, Turkmenistan: Freedom in the World 2024 Country Report.

² TKAMM, *Pagta Harmany Beýgelyär* (Sept. 30, 2020), <https://www.tkamm.gov.tm/tm/content/11382>.

³ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Turkmenistan 2022 Human Rights Report, p.24 (Feb. 2023), https://www.state.gov/wp-content/uploads/2023/02/415610_TURKMENISTAN-2022-HUMAN-RIGHTS-REPORT.pdf [hereinafter DOS, Turkmenistan 2022].

Turkmenistan is one of the most politically closed and repressive countries in the world. It is the tenth-largest producer of cotton in the world, and the government controls every aspect of all cotton production in the country. Corruption and extortion are endemic to the cotton production system. The industry relies on the forced labor of public sector workers and other vulnerable populations. Every year during the harvest, state employees are compelled to “pick or pay” — pick cotton, pay someone to replace them, or pay money to a supervisor to hire replacements for them. Those who refuse to pick or pay risk lost wages or job termination.⁴ Picking assignments can last for days or weeks, and workers must provide their own food, water, and accommodation.

In 2023, for the first time in ten consecutive years of independent civil society monitoring of the cotton harvest, the Cotton Campaign’s Turkmen partners recorded signs that the Turkmen government took steps to reduce forced labor in the harvest. Several weeks into the harvest, at the end of September, state institutions stopped mobilizing teachers and doctors or extorting them to pay for replacement pickers.⁵ In October, an ILO mission was in Turkmenistan to monitor the cotton harvest for the first time, after signing a Roadmap for Cooperation between the ILO and government of Turkmenistan in 2023.⁶

While these shifts in mobilization are encouraging, it is critical to note that the Turkmen government has not taken other actions that would point to any deeper policy changes, such as holding government officials who used forced labor accountable or making public statements condemning forced labor. Furthermore, other state employees, including technical staff of schools and hospitals, continued to be subjected to forced labor in the 2023 harvest.⁷ Children are no longer officially mobilized for the cotton harvest, but many children pick cotton after school and on weekends. Child labor is driven by poverty and by the state’s policy of forcing adults to pick cotton or pay for a replacement, since most children who pick cotton do so to earn money as replacement pickers or to replace relatives who are required to pick.⁸

⁴ Turkmen.News et al., Time for Change: Forced Labor in Turkmenistan Cotton 2022 (June 2023), https://static1.squarespace.com/static/618550501fe9be0ff3428860/t/64834274d914c53c30fc4538/1686323839498/Force_d_labor_Turkmenistan_2023_report+_LR.pdf [hereinafter Time for Change].

⁵ Turkmen.News, *Teachers and Doctors in Turkmenistan Exempt from Cotton Picking – Could This Be Permanent?* (Sept. 21, 2023), <https://en.turkmen.news/news/teachers-and-doctors-in-turkmenistan-exempt-from-cotton-picking-could-this-be-permanent/>; Radio Azatlyk, *All for cotton! In the regions of Turkmenistan, state employees are sent to pick cotton* (Aug. 21, 2023), <https://rus.azathabar.com/a/vse-na-hlopok-v-regionah-turkmenistana-byudzhethnikov-pogolovno-otpravlyayut-sobirat-hlopok/32557407.html>.

⁶ ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR), Application of International Labour Standards 2024, pp.435–37 (2024), ILC.112/III(A), https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_911183.pdf.

⁷ Information on file with the Cotton Campaign; report on the 2023 harvest forthcoming, based on evidence collected from independent labor monitors in four out of the five regions in Turkmenistan (Dashoguz, Balkan, Mary, and Lebap) between August and December 2023.

⁸ Time for Change, p.22.

Question 1: Are trade union rights, as protected by ILO Conventions Nos. 87 and 98, recognized in domestic legislative frameworks in Turkmenistan?

In practice, there is no right to establish independent trade unions in Turkmenistan.⁹ While Turkmenistan recognizes some trade union rights protected in C087 and C098 in the text of its Labor Code, Law on Trade Unions, and Law on Public Associations, in practice these rights are not implemented or respected.¹⁰ Furthermore, there are no penalties to deter violations of freedom of association or collective bargaining.¹¹

In particular, the Law of Public Associations oppresses trade union activity, and the Labor Code fails to protect the right to strike, in contravention of C087.¹² There are no protections against anti-union discrimination.¹³ Additionally, as the US State Department has observed, “[t]here are no mechanisms for resolving complaints of discrimination, nor does the law provide for reinstatement of workers fired for anti-union activity.”¹⁴ The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted that the law “give[s] the authorities powers of control which go beyond those acceptable under the Convention” by requiring public associations to report on decisions made by governing bodies, and reports on their operations.¹⁵ The Law on Trade Unions has a similar provision.¹⁶

Question 2: How workers’ organizations have played a role in preventing workers from being subjected to forced labor.

Trade unions in Turkmenistan are unable to operate freely, and therefore are unable to oppose state-imposed forced labor, illustrating the need for freedom of association. Forced labor of cotton pickers is driven by state policy, centrally-imposed, and enforced by all levels of government. Labor unions for state employees are not independent from government control and cannot offer recourse from this practice. Forced labor is often organized at workplaces, where employers order their employees to pick cotton involuntarily. Employees of state organizations must pick cotton or pay for a replacement picker, or contribute money for their institution to hire

⁹ UN Committee on Economic, Social and Cultural Rights, Concluding Observations on the Second Periodic Report of Turkmenistan (Oct. 31, 2010), UN Doc. E/C.12/TKM/CO/2, <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4slQ6QSmIBEDzFEovLCuW03A33tcdQ330CHkuB%2bgNug51ZqtSNOq62w0Ss6LZcvKy4S2u4eJPEA1KsReQYsFao8K%2f9nGJ5AOIT5VjAYLSrmkL6H7sgMvSDVVHayUWv5%2f>.

¹⁰ U.S. Department of State, Bureau of Economic and Business Affairs, Investment Climate Statements, *Custom Report d615aeb6e4* (2016), <https://www.state.gov/report/custom/d615aeb6e4/> (“The 2009 Labor Code ... protected workers’ rights by promoting the role of trade union[.]”).

¹¹ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, Human Rights Reports, *Custom Report e79fc706cb* (2020), <https://www.state.gov/report/custom/e79fc706cb>.

¹² ILO CEACR, Observation regarding Convention No. 87 (2023), https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4318177,103551:NO.

¹³ Freedom House, Turkmenistan: Freedom in the World 2024 Country Report (2024), <https://freedomhouse.org/country/turkmenistan/freedom-world/2024>.

¹⁴ U.S. Department of State, Bureau of Democracy, Human Rights, and Labor, 2020 Country Reports on Human Rights Practices: Turkmenistan (2021), <https://www.state.gov/reports/2020-country-reports-on-human-rights-practices/turkmenistan/>.

¹⁵ ILO, CEACR, Direct Request on Convention No. 87 (2019), https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:3962856,103551.

¹⁶ *Ibid.*

pickers. Sometimes state-aligned labor unions are involved in organizing the collection of money to hire pickers to be sent to the fields.

Enabling rights for Turkmen workers is critical to developing and introducing sustainable reforms to eliminate forced labor. As TKAMM does not independently or democratically represent workers, the involvement of international worker organizations and Turkmen civil society organizations working from exile have filled the gap, but without being able to operate in the country, their power to work to eliminate forced labor is limited. As the Turkmen government has begun engagement with the ILO — an important step in the work to end state-imposed forced labor — emphasis on freedom of association and the right to organize is critical for the development of reforms to end forced labor and empower workers.

Question 5: What are the challenges or limitations experienced by workers' organizations that prevent forced labor and protect victims?

Legal Challenges

Turkmenistan's Law of Public Associations discourages labor advocacy and allows government control over the affairs of trade unions. For example, national organizations cannot be founded or operated with fewer than 500 members, the law prescribes burdensome registration requirements, and failure to register with the government is a legal violation.¹⁷ The government can deny registration if an organization's charter contravenes any Turkmen law, which permits arbitrary governmental decision making.¹⁸

Practical Challenges

Turkmenistan's government severely punishes public criticism and dissent. It is illegal for unregistered organizations to participate in any activities, and penalties for violations include fines, short-term detention, and property confiscation.¹⁹ Reporting labor violations to government agencies is "deterred by the required inclusion of names, addresses, and signatures in complaints" due to fear of retaliation.²⁰ Under the Labor Code, remedies for labor disputes are handled by the courts, but in practice courts do not undertake any labor dispute resolution actions.²¹ Independent labor monitors, journalists, and other advocates face reprisals for their work, including harassment, arrest, and detention.²²

The Turkmen government has often denied that it uses forced labor in the cotton harvest, claiming that extensive use of mechanized harvesters has displaced the need for handpicking — implying that there is no need

¹⁷ Organization for Security and Cooperation in Europe, Comments on the Law of Turkmenistan on Public Associations (June 22, 2010), https://unece.org/DAM/env/pp/compliance/CC-32/Inf_3_OSCE_ODIHR_Comments_Eng.pdf.

¹⁸ *Ibid.*

¹⁹ DOS, Turkmenistan 2022, pp.11–12.

²⁰ *Ibid.*

²¹ U.S. Department of State, Investment Climate Statements, *Custom Report d615aeb6e4* (2016), <https://www.state.gov/report/custom/d615aeb6e4/>.

²² DOS, Turkmenistan 2022, pp.11–12.

for worker organizations or reforms to address forced labor.²³ While there has been an increase in mechanization of sowing, handpicking remains widespread and prevalent for various reasons.²⁴ Nevertheless, imposing “technical” instead of rights-based solutions to state-imposed forced labor, such as machine harvesting, can lead to other forms of exploitative labor, including private-sector forced labor. Reforms to end forced labor should prioritize fundamental enabling rights, such as freedom of association.

This is especially important given that similar state-imposed forced labor systems have shown resilience despite reforms that have not included freedom of association. For example, in Uzbekistan, systemic state-imposed forced labor was eliminated in 2021, but ongoing restrictions on freedom of association and collective bargaining at state organizations and in the privatized cotton sector make workers vulnerable to forced and exploitative labor. In the 2023 harvest, despite the Uzbek central government having a clear policy prohibiting forced labor, local government officials resorted to forced labor of state employees in districts where there was a shortage of voluntary labor, and state employees continued to face penalties for refusing involuntary work. The Uzbek example shows that effectively addressing forced labor must include prioritizing the empowerment of workers to organize and assert collective agency, and for legitimate social dialogue and bargaining.

Question 6: Practical recommendations to concerned stakeholders to enable workers’ organizations to more effectively prevent and address forced labor.

To the Government of Turkmenistan:

1. Take urgent action to end the practice of state-imposed forced labor, involving addressing the root causes, and ensure that forced labor reforms involve the enabling of freedom of expression and freedom of association.
2. Ensure that forced labor reforms involve the enabling of freedom of expression and freedom of association, and allow independent civil society organizations, including democratic trade unions, to operate freely.
3. Allow the unimpeded operation of labor rights activists, independent labor monitors, trade unions, journalists, and other individuals and organizations to document and report labor conditions without fear of reprisal, and ensure that their findings are meaningfully included in forced labor reforms.
4. Invite and allow unhindered access to the country to UN agencies and independent human rights monitors, such as the ILO, the Special Rapporteur on contemporary forms of slavery, and all other UN Special Procedures — including during the cotton harvest.

²³ Including during ILO and UN reviews in 2023: ILO Committee on the Application of Standards, CAN/PV.15/Turkmenistan-C.105 (June 12, 2023), Abolition of Forced Labour Convention, 1957 (No. 105) p. 12; OHCHR, *In Dialogue with the Turkmenistan, Experts of the Human Rights Committee Praise Measures to Review Judicial Independence, Raise Issues Concerning Corruption and Targeting of Human Rights Defenders* (Mar. 3, 2023) <https://www.ohchr.org/en/news/2023/03/dialogue-turkmenistan-experts-human-rights-committee-praise-measures-revie-w-judicial>; see also SNG.Today, *Туркменистан почти полностью механизировал труд хлопкоробов* [Turkmenistan has almost completely mechanized the labor of cotton growers] (Mar. 25, 2021), <https://sng.today/ashkhabad/16284-turkmenistan-polnostju-mehaniziroval-trud-hlopkorobov.html>.

²⁴ Time for Change, p.14.

5. Fully implement the recommendations made by UN Treaty Bodies, Special Procedures, and ILO supervisory mechanisms, including the CEACR 2022 Observation, and the 2021 communication of the UN Special Rapporteur on contemporary forms of slavery.²⁵

To the ILO:

1. As recommended by the Committee on the Application of Standards (CAS), the ILO should consult with international worker and employer organizations (such as ACTRAV and ACTEMP) in all stages of its monitoring work and roadmap implementation.²⁶
2. In its monitoring methodology, it should define workers to include *all* workers negatively impacted by the forced labor system, including those who are extorted for payments to cotton pickers, to ensure that all work or service exacted from any person under the menace of any penalty, explicit or implied, for cotton production is reported as forced labor.
3. Ensure meaningful engagement with international trade unions and other independent labor stakeholders, including exiled Turkmen civil society partners, in the development and implementation of all ILO activities in Turkmenistan.
4. Report on all ILO Indicators of Forced Labor in ILO monitoring of the cotton harvest, adapted to the unique context of Turkmenistan and the particularities of state-imposed forced labor.
5. In discussions with the government of Turkmenistan, the ILO should make clear that ending state-imposed forced labor in Turkmenistan requires a broader enabling of labor rights, including freedom of association, collective bargaining, and other civil and political rights such as freedom of expression.

²⁵ ILO CEACR, Observation adopted 2021, published 110th ILC session (2022) Abolition of Forced Labour Convention, 1957 (No. 105) - Turkmenistan (Ratification: 1997); UN Special Rapporteur on contemporary forms of slavery, Concerns raised regarding allegations of forced labor in the cotton picking harvest of 2019 and 2020 (Aug. 30, 2021), AL TKM 2/2021.

²⁶ ILO Committee on the Application of Standards, Extracts from the Record of Proceedings (Geneva, 2016), para. 43, https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_526940.pdf.