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مجلس حقوق الإنسان

الدورة السابعة والعشرون

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان، المدنية والسياسية والاقتصادية والاجتماعية والثقافية، بما في ذلك الحق في التنمية

تقرير المقررة الخاصة المعنية بأشكال الرق المعاصرة، بما في ذلك أسبابها وعواقبها، غولنارا شاهينيان

إضافة

بعثة متابعة إلى كازاخستان**

موجز

عملاً بالولاية المنصوص عليها في قرار مجلس حقوق الإنسان ٣/٢٤ وبناء على دعوة حكومة كازاخستان، أجرت المقررة الخاصة المعنية بأشكال الرق المعاصرة، بما في ذلك أسبابها وعواقبها، بعثة متابعة إلى كازاخستان في الفترة من ٢٥ إلى ٢٧ آذار/مارس ٢٠١٤. وتقيم المقررة الخاصة في هذا التقرير التطورات الجديدة التي استجّدت منذ زيارتها الأولى في أيلول/سبتمبر ٢٠١٢، والمبادرات التي اتخذتها الحكومة لمكافحة العمل

* يعمم موجز هذا التقرير بجميع اللغات الرسمية. أما التقرير نفسه، الوارد في مرفق هذا الموجز، فيُعَمَّم باللغتين التي قدّم بها وباللغة الروسية فقط.
** تأخر تقديم هذا التقرير.

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الرجاء إعادة الاستعمال



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القسري والسخرة، فضلاً عن أسوأ أشكال عمل الأطفال، كما تقدّم لمحة عامة عن التدابير المعيارية المتخذة وعن نظام تفتيش العمل. ورُحِّبَت المقررة الخاصة بالتدابير السريعة التي أُتخذت استجابة لبعض توصياتها ولكنها لاحظت أن بعض التحديات ما زال قائماً ويتطلب تدابير إضافية.

وتشهد كازاخستان طلباً متزايداً على اليد العاملة في مختلف القطاعات التي ما زالت تُمارَس فيها أشكال الرق المعاصرة والعمالة القسرية والسخرة، ولا سيما قطاع التبغ والقطن والبناء. وقامت الحكومة، وفقاً للتوصيات المقدّمة من المقررة الخاصة في نهاية زيارتها الأولى، بتبسيط العملية المتّبعة لإصدار رخص العمل وذلك من أجل تيسير تسوية أوضاع العمّال المهاجرين والموسميّين. ورأت المقررة الخاصة أن العملية لا تزال رغم ذلك مرهقة وأن بعض المتطلّبات الجديدة التي فُرضت قد تخلّف عن غير قصد آثاراً سلبية، بمعنى أنها تزيد من صعوبة وصول العمال المهاجرين إلى وضع وظيفي قانوني فتجعلهم بالتالي أكثر عرضة للأذى. كما أن التعديلات المدخلة على قانون مكافحة الاتجار المعتمد عام ٢٠١٣ تشير اليوم بصورة محددة إلى العمل القسري؛ إلا أن القانون الجنائي الجديد، الذي كان قيد الإعداد عند زيارة المقررة الخاصة، لا يتضمن مسؤولية جنائية عن العمل القسري. وفي إطار مكافحة أشكال الرق المعاصرة، لا بد من أن يذكر القانون الجنائي بوضوح الرق والممارسات الشبيهة بالرق بما فيها الاستعباد المتزلي والعمل القسري والسخرة والزواج القسري المبكر كجرائم يعاقب عليها القانون.

وقد أحرز بعض التقدم في مسألة القضاء على أسوأ أشكال عمل الأطفال. ففي عام ٢٠١٢، أصدرت وزارة التعليم الأمر رقم ٣٩٨ الذي سمح لأطفال العمّال المهاجرين، ومن بينهم العمّال الموسميّون، بالالتحاق بالمدرسة والتمتع بنفس الحقوق التي يتمتع بها أطفال كازاخستان. ولكن الأمر لم يعالج مسألة الحواجز التي تعيق الوصول إلى التعليم مثل مقتضيات تحديد الهوية بالنسبة لأطفال العمّال الموسميّين الذين لا يحملون وثائق هوية. وعلى نحو مماثل، يجب ضمان استفادة العمّال المهاجرين وأسرههم من خدمات الرعاية الصحية حتى في الحالات غير الطارئة وبغض النظر عن وضعهم كمهاجرين.

وينبغي مواصلة تقوية نظام تفتيش العمل الذي يشكّل عاملاً أساسياً للكشف عن الرق والممارسات الشبيهة بالرق، كما ينبغي فرض زيارات منتظمة غير منخطّط لها لمفتّشين مدربين. وعلاوة على ذلك، أعربت المقررة الخاصة عن قلقها إزاء الإعلان مؤخراً عن وقف عمليات تفتيش العمل بحلول كانون الثاني/يناير ٢٠١٥.

Annex

[English and Russian only]

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences on her follow-up mission to Kazakhstan (25 – 27 March 2014)

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I. Introduction

1. The Special Rapporteur on contemporary forms of slavery, including its causes and consequences conducted an official visit to Kazakhstan from 25 to 27 March 2014, to follow up on the mission she conducted in 2012,¹ to assess new developments and the initiatives taken by the Government in response to her recommendations. In particular, she sought to discuss the measures taken and their impact with regard to the eradication of slavery and slavery-like practices, such as forced and bonded labour. To that end, she also sought information on 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 engaged with various government authorities, law enforcement agencies, international and non-governmental organizations, trade unions, community members, business companies and others working in the area of combating all forms of slavery. She also had extensive consultations with the Minister for Internal Affairs, the Minister for Foreign Affairs, the Minister for Labour and Social Welfare, representatives of the Ministry of Justice and the General Prosecutor and other senior government representatives, and with civil society actors, trade unions, private business (Philip Morris Kazakhstan) and the United Nations country team.

2. The Special Rapporteur expresses her thanks to the Government of Kazakhstan for its invitation, and the assistance and cooperation provided prior to and during her mission. She sincerely appreciated all contributions and expresses her gratitude for the continuation of this anti-slavery dialogue, in a spirit of cooperation to work towards the eradication of contemporary forms of slavery, in particular forced labour, bonded labour and the worst forms of child labour, in Kazakhstan. She also greatly appreciated the assistance provided by the Ministry of Internal Affairs and the cooperation of the United Nations country team and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in facilitating the visit.

3. The Special Rapporteur shared her preliminary findings with the Government at the conclusion of her mission.

II. General context

4. The economy of Kazakhstan is considered to be the largest in Central Asia, mainly owing to its natural resources, in particular oil and natural gas, and its agricultural assets (vegetable, tobacco and cotton plantations). Economic growth has supported the development of other sectors as well, in particular the construction industry and domestic work, thereby creating a demand for labour that exceeds the national workforce. In the light of this economic success and the employment opportunities it offers, Kazakhstan became a major destination for migrant and seasonal workers, in particular from neighbouring Uzbekistan, Kyrgyzstan and Tajikistan, as well as from China.

5. Although no reliable data or statistics are currently available, it has been estimated that Kazakhstan hosts between 2 million and 3 million migrants. Given that most of the workforce is employed in plantations and construction, workers from neighbouring countries mostly come to work in sectors in which they are particularly exposed to contemporary forms of slavery.

¹ See A/HRC/24/43/Add.1.

6. The existing migration policy and its system of management is inchoate, administratively overburdened and still conceived and regulated according to parameters of safety and security, thereby severely limiting opportunities for authorized and lawful employment. Legal employment would be the best protection for seasonal and migrant workers from contemporary forms of slavery.

7. Government authorities referred to the fact that, in their efforts to regularize and formalize the informal economy, regulations required that migration be managed by reducing the quota for migrant workers considerably (by nearly half) combined with an explicit policy of national preference in employment. Under the quota system, individual work permits are granted to employers rather than to migrants, which makes them dependent on employers and unable to legalize their situation by themselves or to seek work elsewhere in the event of abuse. Despite the visa-free regime that Kazakhstan enjoys with neighbouring members of the Commonwealth of Independent 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 economic and social rights.

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

III. Status of anti-slavery action

A. Forced and bonded labour and the worst forms of child labour

9. The complexity of the legal framework has led to illegal labour migration, which constitutes a serious problem in Kazakhstan, given that illegally working migrants are particularly vulnerable to forced and bonded labour.

10. Kazakhstan has a growing demand for workers in a variety of sectors in which contemporary forms of slavery exist; in particular, forced and bonded labour persists in the tobacco, cotton and construction industry. A majority of the migrants come for approximately six months to harvest tobacco and cotton.

11. Child labour persists among children of migrant workers and Kazakh children alike. In tobacco and cotton plantations, children account for more than half of the total workforce.²

12. Progress has been made in the fight against the worst forms of child labour and forced and bonded labour in tobacco plantations. Poor working conditions in tobacco farming, however, persist: these include long working hours with little rest, and limited access to accommodation, water, nutrition, sanitation and hygiene. Workers in the tobacco industry are moreover exposed to high temperatures in the summer period, as well as to pesticides and the risk of contracting green tobacco sickness, which is caused by the absorption of nicotine when the skin comes into contact with wet tobacco leaves. Children who work in the cotton and tobacco industry are particularly vulnerable to the hazardous conditions, which have a negative impact on their developing bodies. The health hazards associated with tobacco and cotton farming are of particular concern regarding migrant

² See International Labour Organization, International Programme on the Elimination of Child Labor, and Center for Study of Public Opinion, "Child labour in tobacco and cotton growing in Kazakhstan", rapid assessment report, Almaty, 2006.

workers without regular status owing to the fact that, since the introduction of the individual identification number, they and their family members only have access to emergency health care.

13. The confiscation of identity documents, though prohibited by Kazakh law, and the frequent delays in payment at the end of the season, a common practice in tobacco cultivation, also contribute to making migrant workers heavily dependent on their employers, given that, if they decide to leave the farm before the end of the harvest, they are forced to forfeit their earnings for the work already done.

14. The Special Rapporteur remains concerned that, despite the commitment and support of the tobacco industry and the steps taken to increase protection for migrant tobacco workers, the risk of debt bondage and cases of hazardous child labour persist on some farms.

15. In following up on her previous visit, the Special Rapporteur met with Philip Morris Kazakhstan (PMK) to continue the dialogue started with the company in 2012. PMK, a subsidiary of Philip Morris International, 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, and as such bears a special responsibility to ensure that there is no use of child labour, or forced or bonded labour, in tobacco plantations.

16. PMK pointed out that the visit by the Special Rapporteur in 2012 had helped to keep the issue of forced labour on the State's agenda, and had strengthened efforts to eradicate this form of slavery in the tobacco industry, the result of the joint action of several stakeholders, including the Government, PMK and non-governmental organizations.

17. PMK stressed its commitment to the fight against child labour, and bonded and forced labour, and described a number of measures taken in that regard. It added that there were certain issues that PMK could not address on its own.

18. PMK uses standard written contracts between PMK farmers and employees to ensure compliance with Kazakh legislation and to avoid the worst forms of child labour, forced labour and involuntary retention of workers' identity documents. The contracts included minimum wages and other labour standards.

19. Other PMK initiatives included the funding of child labour prevention programmes in the form of summer camps for children of migrant and non-migrant tobacco farmers, a kindergarten and a community centre with playgrounds in remote farming areas, and vocational training for children over the age of 15.

20. PMK highlighted its "best farmer" award, which is attributed annually to promote best practices among farmers in terms of quantity and quality, as well as in labour conditions. No child labour or written employment contracts are included in the selection criteria.

21. Another means to tackle the problems in the tobacco industry was the national round table, which is co-sponsored by PMK and the Ministry of Labour, and includes participants from the Ministry of Education, non-governmental organizations, farmers and international agencies.

22. In spite of the above-mentioned efforts, PMK acknowledged that cases of child labour were still reported on tobacco plantations, even though their number had decreased. PMK promised to provide the Special Rapporteur with detailed figures and data for her information, although she has yet to receive anything to date. PMK explained that, in proven cases of child labour, the land cultivated by the PMK farmer concerned would be reduced by 10 per cent in the coming year as a penalty. Moreover, non-governmental organizations

had a critical role to play, not only in preventing the occurrence of child labour, bonded or forced labour but also in reacting to alleged cases.

23. Notably, the Local Community Foundation, a non-governmental organization network, is the “ears and eyes” of non-governmental organizations, monitoring the situation on the ground on the basis of a peer-to-peer approach. The Foundation also mediates between workers and employers and offers a hotline, which was set up in March 2012, for all migrant workers in the tobacco and vegetable crops industry. It also has a mobile team that addresses complaints received by conducting follow-up visits on the ground.

24. PMK moreover employed field forces and agronomists, who receive training on child labour, passport retention, living conditions and access to education for children, and also monitor tobacco quality and labour standards. They carry out inspections or unannounced visits on tobacco farms. They also check wage records to ensure that workers are not in bonded labour. PMK recognized, however, that labour inspections were insufficient, and that the time constraints faced during inspections left a margin for error.

25. Given the lack of awareness by migrant workers of the necessary legal documents and the programmes available to them if they require assistance, PMK had also undertaken awareness-raising activities and published pamphlets on slavery conventions and inform migrant workers about their rights.

26. Only some 10 per cent of the projects under the plan of action for the period 2012-2014 had been implemented to date. As a donor, PMK could not select its implementing partners, but had to follow a complicated State bidding process to select the least expensive tender.

27. Some advances had been made in eliminating the worst forms of child labour since the Special Rapporteur’s previous visit. In 2012, the Ministry of Education issued Order No. 398, which allows children of migrant workers, including seasonal workers, to attend schools with the same rights as Kazakh children.³

28. The Special Rapporteur notes, however, that Order No. 398 still does not address barriers to access to education, such as identification requirements for children of undocumented seasonal workers. National legislation should be brought into line with the State’s international obligations with regard to the universal and unimpeded right to education.

29. In 2012, the National Coordinating Council on Child Labour approved a joint plan of action and joint work plan for the elimination of the worst forms of child labour and the implementation of the Worst Forms of Child Labour Convention, 1999 (No. 182) of the International Labour Organization (ILO) in Kazakhstan for the period 2012-2014. The Council also finalized the mapping of legislation and policies in Kazakhstan, such as plans of action and State and national programmes on child labour and youth employment, to facilitate future collaboration between the Government and its partners on these issues.

30. The Special Rapporteur was also informed that, in 2013, child labour monitoring systems had been piloted in five villages, and that direct services had been provided for children at risk of, or involved in, the worst forms of child labour.

31. The Government had also conducted a public awareness-raising campaign on hazardous child labour in the Almaty and South Kazakhstan regions.

32. In May 2013, a regional workshop was held on improving the regulation of migration policies at the local level. The event was co-organized by the Administration of

³ See A/HRC/24/43/Add.1, para. 97.

the Southern Kazakhstan Region, the Ministry of Labour and Social Protection the Organization for Security and Cooperation in Europe, the United Nations Educational, Scientific and Cultural Organization and the United Nations Entity for Gender Equality and the Empowerment of Women. In November 2013, the first Regional Migration Forum was held in Almaty with a view to strengthening regional cooperation and partnership with Kyrgyzstan in the implementation of bilateral agreements on labour migration.

33. The Special Rapporteur welcomes the initiatives taken by the Government of Kazakhstan to address the demand side of forced labour and slavery-like working conditions at the regional level. Regional cooperation, dialogue and the sharing of best practices are crucial elements to curb the exploitation of migrants.

B. Normative action

34. There are two broad categories of migrants: ethnic Kazakhs abroad who have repatriated to their historical homeland (*oralman*); and unskilled and semi-skilled migrant workers, essentially from neighbouring countries. The latter category is commonly referred to as *gastarbeitery* (“guest workers”), the Russified plural form of the German *Gastarbeiter*. Unlike in the German context, however, the *gastarbeitery* do not have any legal status or social protection.⁴

35. There are currently no data to reflecting the actual number of migrant workers in Kazakhstan owing to methodological shortcomings in the documentation of migrants. The Ministry of Internal Affairs calculates the number of migrants on the basis of entries and exits on the migration card, and makes no distinction between those transiting through the country and those who stay. Moreover, the fact that migrants are mobile and whose status fluctuates between documented and undocumented, sometimes without their knowledge, further complicates the collection of data on migrants. There is a need for sound methodology and reliable data and statistics.

36. The Special Rapporteur was pleased to note that her recommendation on the need to change the complex and lengthy process of issuance of work permits, which significantly constrained the opportunities for legal employment and hence increased the vulnerability of migrants, had been accepted by the Government. She welcomes the Government’s initiative to amend the legislation on migration. As she pointed out in her previous report, the simplification of the work permit issuance process is essential to allow for the legalization of migrant workers.

37. In 2009, changes in government policy rendered migrant tobacco workers especially vulnerable to abuse because they were no longer able to secure regular employment status. Moreover, many employers did not declare workers because of the amount of bureaucracy involved, besides being unwilling to pay the taxes associated with hiring labourers.

38. In 2013, a new law on amendments and additions to certain legislative acts concerning labour migration, which was prepared by the Ministry of Internal Affairs in

⁴ The term *Gastarbeiter* has in Germany a very specific connotation and cannot be transposed to the juridical and sociocultural context of Kazakhstan. The *Gastarbeiter* were legal workers actively brought to Germany in the 1950s to work as contract labourers and who enjoyed legal and social protection. See also Institute of Developing Countries/Japan External Trade Organization, “Exploring Informal Networks in Kazakhstan: A Multidimensional Approach”, 2013 (available from www.ide.go.jp/Japanese/Publish/Download/Report/2012/pdf/C24_contents.pdf), chap. II.

order to regulate the activities of migration workers, was adopted. The proposed law made changes to the Labour Code, the Code on taxes and other obligatory payments, and the law on migration.

39. A work permit is issued to a migrant worker, who is citizen of a State with which there are agreements on visa-free entrance and stay, for a period of up to three months, with the possibility of extension up to one year. According to the amendments made to the law on migration, it is now possible for up to five migrant and seasonal workers to be hired at the same time, without having to go through the whole administrative process each time. While this measure is intended to facilitate the regularization of migrant workers, there are concerns that the limitation to five migrant workers may contribute inadvertently to corrupt practices.

40. The amendments also made changes to the taxation of migrant workers, whose income is no longer taxable at the source of income. It in fact introduced the requirement of advance payment of income tax, equivalent to twice the monthly calculation index, in order to obtain a work permit. The amendment could have the effect of increasing the number of undocumented workers and making them more vulnerable to bonded labour.

41. With the exception of the right to apply for an extension of a work permit, only the obligations of migrant workers, including seasonal workers, are laid down in the law. The law should also specify, in accordance with international human rights standards, the right to enjoy just and favourable work conditions,⁵ including fair wages and remuneration, safe and healthy working conditions, equal promotion opportunities and rest, reasonable working hours and leave. The right to establish and join trade unions should also be included in the law.

42. Article 128 of the Criminal Code of 1997 punishes all forms of trafficking of persons for the purpose of sexual or other exploitation. This is the only general *corpus delicti* of exploitation, with no specific definition of the different contemporary forms of slavery and slavery-like practices. Forced marriage, forced continuation of marital cohabitation and obstructing the entry of a woman into a marriage of her choice are not punishable acts under the Criminal Code.

43. In 2013, Kazakhstan amended its trafficking legislation. The law on the introduction of amendments and addenda to some legislative acts of the Republic of Kazakhstan on issues related to the fight against trafficking in human beings spells out what is construed as “exploitation” in articles 126, 128 and 133, and includes forced labour, which it defines as “forced labour that is understood as any work or service demanded from a person by means of the use of force or threat thereof and for the performance of which the person has not offered their services voluntarily, with the exception of cases stipulated by the laws of the Republic of Kazakhstan.”

44. The Supreme Court ruled in 2012 that trafficking victims could not be prosecuted for crimes committed as a result of being trafficked. In practice, however, the response of law enforcement authorities is often inadequate; investigations remain incomplete, while trafficking victims are ignored and discounted, or even treated like criminals and either prosecuted for immigration violations and/or deported. A lack of enforcement hampers any attempt to enact effective rules and regulations.

45. Labour inspectors do not identify victims of trafficking, as they believe that trafficking is a criminal activity that should be addressed by the Migrant Police and therefore does not fall within their remit.

⁵ International Covenant on Economic, Social and Cultural Rights, art. 7.

46. The Special Rapporteur was informed by the General Prosecutor that a new Criminal Code and Criminal Procedure Code were under preparation. According to non-governmental sources, no explicit criminal liability for forced labour is provided for under the new code. In the fight against contemporary forms of slavery, it is essential that slavery and slavery-like practices, including domestic servitude, forced and bonded labour and forced early marriage, are clearly designated as crimes in the Criminal Code. On 9 April 2014, the Lower House of Parliament adopted the new Criminal Code and Criminal Procedure Code, which will come into force in January 2015.

C. Labour inspections

47. Labour inspectors in Kazakhstan monitor compliance with labour legislation and inform employers of breaches of law. They are also mandated to identify the reasons for such violations and to make recommendations on how to remedy them.

48. Labour inspectors do not have the authority to visit enterprises on their own initiative; they may only carry out inspections on the basis of planned visits or in response to complaints from individuals, legal entities or State authorities concerning violations of labour legislation, or in cases of threats posed to the life or health of employees. Anonymous complaints are not considered grounds for an unplanned visit. Moreover, it is rare that labour inspectors conduct follow-up visits to verify compliance.

49. The Labour Code limits the number of inspection visits that companies can receive. Large enterprises can only be inspected once a year, while small- and medium-sized enterprises may be inspected only once every three years. In 2008 and the first half of 2009, a moratorium was declared on planned inspection visits (including those conducted by other bodies).

50. Planned visits for the following year are determined on the basis of a “black list” of enterprises published by the State Labour Inspectorate. Companies may be removed from the list if they are able to show that conditions have improved (this was reportedly the case for PMK).

51. A decree of The President of Kazakhstan declared a new moratorium on inspections of small- and medium-sized businesses from 2 April 2014 until 1 January 2015. The justification provided to the Special Rapporteur for the measure was that inspections slow down economic development and that the moratorium will improve the conditions for doing business in Kazakhstan. The Special Rapporteur disagrees with this rationale.

IV. Conclusions and recommendations

52. **The Special Rapporteur commends the Government of Kazakhstan for its cooperative commitment and efforts to fight all forms of slavery and slavery-like practices. She hopes that the Government will continue along this path of cooperation. The Special Rapporteur is also pleased that the Government has not only acknowledged but also accepted and implemented some of her recommendations in the short time since her first mission to the country, in September 2012.**

53. **The Government should adopt a comprehensive and systemic legal and policy approach to the eradication of contemporary forms of slavery. A holistic, sustainable and efficient approach should be taken, involving a review and analysis of all current relevant laws, policies, programmes and practices to ensure subsequent streamlined action. The Special Rapporteur also stresses the need for a substantive survey and for**

the collection of disaggregated data and statistics by means of a methodology that captures the complexity of all forms of slavery and slavery-like practices to the extent possible, while protecting personal information and the right to privacy.

A. Recommendations for the Government

1. Legislation, policies and programmes

54. The Special Rapporteur reiterates her view that existing slavery legislation should be revised to bring it into line with international standards, with a clear and delineated corpus of all forms of slavery, inter alia, forced and bonded labour, and the worst forms of child labour and domestic servitude. Provisions for punishment should be commensurate with the crime committed, while strong human rights protection mechanisms should be provided for the victims of slavery, including the rights to compensation and reintegration. It is also important that protection, compensation and reintegration schemes be enshrined in law. The Special Rapporteur also underlines the need to urgently put in place enforcement and monitoring mechanisms to implement fully laws and policies aimed at eliminating all forms of slavery in the country.

55. With regard to the protection and rehabilitation of trafficked persons, the Government should invest in support services and protection mechanisms, and provide financial support to help victims to recover from the experience of trafficking and to rebuild their lives. The enforcement of anti-slavery legislation should take a victim-centred approach, focusing not only on the investigation and prosecution of traffickers but also support for victims.

56. There is a lack of certainty and predictability with regard to the legal framework in Kazakhstan. Article 2 of the new law on migration, for instance, refers to “other laws” dealing with migration issues, but does not specify which ones. Such lack of clarity leads to difficulties in the implementation and enforcement of laws. It is therefore essential that this be rectified and that laws, when referring to “other laws” regulating migration-related matters, list them by specifying the name of the law and, when applicable, the concrete provision. Legal provisions need to be predictable, defined and conform to the principle of legal certainty. There is furthermore a need to clarify in the laws the concrete circumstances in which other legislation may take precedence. Limitations of the scope of primary legislation should constitute an exception, and take precedence over related provisions in other laws. The Special Rapporteur was pleased to learn that the Government recognized the need to revise existing legislation in order to provide for a systematized protection mechanism, and notes that it expressed the desire for expertise in the law-making process in this regard.

57. Although the law on amendments and additions to certain legislative acts concerning labour migration has simplified the issuance of work permits, it remains cumbersome and should be revised further. The list of documents required is still very long. The amendments also provide for the possibility of hiring five migrant workers without having to repeat the whole administrative process each time. Migrant workers hired under this arrangement will enjoy regular status. The Special Rapporteur is, however, concerned that the limitation of hiring up to five workers may contribute inadvertently to corrupt practices. Moreover, the amendments introduce the requirement of advance payment of income tax in order to obtain a work permit, which could force migrant workers to stay with an employer against their will. If payment is made by the employer, it could create an impression of worker ownership, which should be avoided.

58. The new law on migration should specify the rights of migrant workers and seasonal workers in accordance with international human rights standards, the right to enjoy just and favourable work conditions, including fair wages and remuneration, safe and healthy working conditions, equal promotion opportunities and rest, reasonable working hours and leave. The right to establish and join trade unions should also be included in the law.

59. The Special Rapporteur is extremely concerned at the moratorium on inspections of small- and medium-sized businesses until 1 January 2015.

60. The Government should strengthen the labour inspection system, in particular the mandate of the Committee for Control and Social Protection of the Ministry of Labour and Social Protection, and sufficient human, financial and technical resources should be allocated to ensure regular visits of labour inspectors and systematic investigation of allegations of forced labour. Tools should be developed to receive urgent individual complaints and to provide appropriate responses. The number and scope of impromptu labour inspections of agricultural, construction and services sites should be increased and conducted regularly as an essential element in the fight against slavery and slavery-like practices, in particular forced labour and the worst forms of child labour. Such inspections should not be scheduled in advance, nor should the businesses concerned be informed of inspections beforehand. Inspections should be carried out by adequately trained inspectors and without prior notification, in accordance with the State's international obligations. In order to tackle hazardous child labour, labour inspectors should follow the relevant ILO instruments relating to international labour standards and guiding principles on labour administration and labour inspections, and provide information on hazardous child labour to employers and workers, including advice on how to eliminate it. Follow-up visits to monitor progress and compliance are also necessary. Moreover, as part of awareness-raising efforts, information on the activities of labour inspectors in the area of slavery and the rights of local workers and migrants should be developed and distributed on a regular basis.

61. Forced and bonded labour persists in the tobacco, cotton and construction industry. Some progress has been made in the tobacco industry as a result of the commitment and support of the tobacco industry and the steps taken to increase protection for migrant tobacco workers. The Government should extend its efforts to other sectors, in particular the cotton and the construction industries. The Special Rapporteur also wishes to remind the Government and companies of the need to implement the Guiding Principles on Business and Human Rights.

62. The Special Rapporteur welcomes the issuance of an order to guarantee access to school for all children living in Kazakhstan, thus allowing children of seasonal workers to attend school. She notes, however, that the order has not been fully implemented given that it does not address barriers to access to education, such as identification requirements for children of undocumented seasonal workers. Similarly, access to health-care services for migrant workers and their families, beyond emergency cases, needs to be ensured irrespective of migration status. National legislation should be brought into line with the State's international obligations with regard to the universal and unimpeded right to education and to guarantee equal health for all within its borders, in accordance with the Convention on the Rights of the Child.

63. The Government should ratify the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families and relevant ILO conventions on migrants, namely, the Migration for Employment Convention (Revised), 1949 (No. 97) and the Migrant Workers (Supplementary Provisions)

Convention, 1975 (No. 143) (1975). The Government should also re-consider its stance and ratify the ILO Domestic Workers Convention, 2011 (No. 189).

64. The Special Rapporteur reiterates her view that an effective system of direct complaints for migrant workers and all who are subject to violations of their labour rights should be established and applications rigorously addressed. Information about the complaint mechanism should be disseminated throughout the country and specifically in the regions with a larger proportion of migrant workers; it should also be provided in the languages understood by them. The National Ombudsman's office should provide support for victims of slavery when they seek redress.

65. It is necessary to establish a dedicated compensation facility, including a special fund, for victims of contemporary forms of slavery.

2. Awareness-raising and training

66. The Special Rapporteur reiterates the importance of educating the general public and relevant government officials about what constitutes slavery and other slavery-like practices and the protection mechanisms that are in place for victims. Anti-slavery laws should be popularized and made publicly available, and slavery conventions should be published in the official gazette. Awareness-raising needs to be complemented by special training for judges, investigators, prosecutors, the police force and labour inspectors, including on human rights education, to build the knowledge required to identify slavery and slavery-like practices. The Special Rapporteur was pleased to learn that the Government recognized this need and expressed its desire for assistance in this regard.

B. Recommendations for the business community

67. The Special Rapporteur remains concerned about the prevalence of forced and bonded labour, as well as the worst forms of child labour, in the tobacco, cotton and construction industry, and calls upon business enterprises to adhere to international standards preventing the use of child labour and forced labour, as well as to the Guiding Principles on Business and Human Rights. Businesses should include human rights principles, including provisions on the prevention of and protection against slavery and slavery-like practices, in all contracts with farmers, suppliers and subcontractors.

C. Recommendations for the international community

68. The Special Rapporteur noted the positive and substantial role of the international community in working with all stakeholders in Kazakhstan to combat slavery and slavery-like practices. She calls upon the international community to continue to support its work and that of civil society in Kazakhstan. She also urges the international community to assist Kazakhstan in bridging the knowledge gap by assisting it in information analysis on contemporary forms of slavery and slavery-like practices. The Special Rapporteur calls upon the international community to respond positively to the Government's requests for assistance, particularly with regard to training and law-making assistance, as well as to rights-based normative action.