



World Bank Should Postpone the South Karakalpakstan Water Resource Management Improvement (P127764) and Horticulture Development Project (P133703)

Given the real possibility that funding under the new projects could support the Uzbek government's forced labor system of cotton production, the World Bank should postpone decisions on the South Karakalpakstan Water Resource Management Improvement (P127764) ["Karakalpakstan Project"] and Horticulture Development Project (P133703) ["Horticulture Project"] until the Uzbek government takes concrete steps to end its use of forced labor in the cotton sector.

State-Orchestrated Forced Labor Pervades the Cotton Sector

In Uzbekistan, farmers that produce cotton are subject to "state order system" of forced labor.¹ The Uzbek government owns all land and coerces the farmers living on the land to produce annual quotas of cotton, and farmers must sell it to the government at state-established, artificially low procurement prices. If it is a good year and the farmer is able to meet the quota, then he or she is often free to use or sell the surplus, but more often than not farmers must share their surplus to help friends and family members meet their own portion of the government-mandated quota. If farmers fail to meet the government-mandated quota, they risk losing their lease to farm the land, criminal charges and physical abuse. The government exerts full control over the industry through a monopoly, and farmers are compelled to sell their cotton to the government, or face the menace of penalty, including fines and loss of their lease to farm the land. The government also contractually requires farmers to produce annual quotas of wheat, controls financial flows in both cotton and wheat sectors, and has demonstrated it will allocate funds to cotton production even if the World Bank designed the loan to support non-cotton agriculture. In the case of cotton production, the government also forcibly mobilizes 16-17 year-old students, university students, teachers, health-care and other public-sector workers, private-sector workers and pensioners to harvest the cotton each fall.

Despite severe restrictions placed on monitors from the International Labour Organization (ILO) during the cotton harvest in 2013, the ILO recognized that cotton is produced in a forced labor system.² The ILO also

¹ Kramer, Andrew and Mansur Mirovalev, "In Uzbekistan, the Practice of Forced Labor Lives On During the Cotton Harvest," *The New York Times*, 17 December 2013, 6 May 2014. <<http://www.nytimes.com/2013/12/18/world/asia/forced-labor-lives-on-in-uzbekistans-cotton-fields.html? r=0>>. and Cotton Campaign, "Review of the 2013 Cotton Harvest in Uzbekistan," November 2013, 6 May 2014. <http://www.cottoncampaign.org/wp-content/uploads/2013/11/2013CottonHarvest_end_report.pdf>.

² International Labour Organization (ILO), Report of the Committee of Experts on the Application of Conventions and Recommendations, ReportIII(1A)-2014-[NORME-140107-1]-En.docx, at page 172 (reviewing the Government of Uzbekistan's implementation of the Forced Labour Convention 105), stating: "the Committee observes the monitoring report which states that the monitors were in a position to note other issues relevant to the mandate of the ILO. The report also states that, importantly, among these issues is the framework and various practices under which the entire cotton production is conducted. This pertains to the campaign and recruitment of the labour force to harvest the cotton, the potential and consequences of mechanization on the labour market, and the realization of fundamental rights of the workers, including the respect for the effective implementation of the Convention.", <[http://www.ilo.org/public/libdoc/ilo/P/09661/09661\(2014-103-1A\).pdf](http://www.ilo.org/public/libdoc/ilo/P/09661/09661(2014-103-1A).pdf)>

reported that the Uzbek government's continued to deny that it operates a forced labor system.³ The Uzbek government's reluctance to acknowledge the problem, let alone institute reforms, is indicative of the strategic importance of its state-order system of agriculture.

Forced Labor and Benefiting from Forced Labor Are Crimes

By investing in, or doing business with, the agriculture sector in Uzbekistan, the World Bank may be promoting illegal business practices by companies involved in project implementation, and any company that participates in the World Bank projects in the agriculture sector in Uzbekistan risk exposure to legal liability. The World Bank cannot ensure that any investment in agriculture is not used by the Uzbek government in its forced-labor system of cotton production. Investing in a forced labor system of production is a violation of US law, which makes it a crime for any person to "knowingly benefit[], financially or by receiving anything of value, from participation in a venture which has engaged in the providing or obtaining of [forced labor]. 18 U.S.C. §1589. It is also a crime for any person to bring goods made "in whole or in part" with forced labor into the United States, including products containing cotton from Uzbekistan, 19 U.S.C. §1307 (1930), and, appropriately, the US Departments of Homeland Security and Justice are moving forward with investigations into violations of these laws by companies trading in goods made with Uzbek cotton.⁴ Furthermore, under the international normative framework of the United Nations Guiding Principles for Business and Human Rights and the Organisation for Economic Cooperation and Development Guidelines for Multinational Enterprises, companies must "identify, prevent, and mitigate" "actual and potential" human rights violations that are linked to their operations, products, or services even when the companies have not "contributed to" or caused the human rights violation.⁵ In Uzbekistan, the largest cotton processor Daewoo International has publicly stated its awareness of forced labor in cotton production and its inability to address it.⁶

The Proposed Karakalpakstan (P127764) and Horticulture (P133703) Projects Would Perpetuate Forced Labor

The World Bank acknowledges forced labor in Uzbekistan's cotton sector is a serious problem in its project documents. Further, in 2013, the Inspection Panel found that "the Bank's support [for loans for modernization

³ *Ibid*, at page 171 ["The Committee notes that the Government...states that workers called upon to participate in agricultural work are paid," "that all the cotton produced in the country is grown by private farmers," and "pickers are engaged through individual employment contracts, generally motivated by a desire to earn additional income"]

⁴ See Letter from U.S. Department of Homeland Security, Immigration and Customs Enforcement to Matthew M. Fischer-Daly, regarding ICE FOIA Case Number 2014FOIA08532, 7 March 2014, ["You have requested any and all determinations from the United States Customs and Border Protection (CBP) concerning cotton and cotton products from Uzbekistan. Any and all records for actions taken by United States Immigration and Customs Enforcement to detain, hold, and/or investigate cotton products from Uzbekistan..." "I have determined that the information you are seeking relates to an ongoing law enforcement investigation."]

⁵ See OECD, *OECD Guidelines for Multinational Enterprises*, 2011, OECD Publishing, <http://dx.doi.org/10.1787/9789264115415-en>, Ch. II (A)(10)ö and United Nations Human Rights Council, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework*, 21 March 2011, <http://www.ohchr.org/documents/issues/business/A.HRC.17.31.pdf>.

⁶ Daewoo International, "Daewoo International response," 11 June 2013, stated: "We hope you would understand that it is very difficult for private companies like Daewoo Textiles to have any direct influence or impact on the Uzbekistan government's policies." "We hope you would understand that it is very difficult for private companies like Daewoo Textiles to have any direct influence or impact on the Uzbekistan government's policies." <http://business-humanrights.org/media/documents/company_responses/daewoo-re-ilrf-petition-11-06-13.pdf>

and diversification of Uzbekistan’s agriculture sector] may be contributing to a perpetuation of the alleged harm [of forced labor].”⁷ Yet both of the World Bank’s proposed projects in the agriculture sector in Uzbekistan will benefit and perpetuate the forced labor system, and the measures proposed by the World Bank to address these problems are insufficient to prevent the projects contributing to human rights violations in a forced labor system of cotton production that is directed and prioritized among all agriculture sectors by the beneficiary, the Uzbek government.

South Karakalpakstan Water Resource Management Improvement (P127764)

The South Karakalpakstan Water Resource Management Improvement Project (P127764) is an agriculture sector project to be undertaken in the region of South Karkalpakstan and is financed by the World Bank with a commitment of \$260 million. It is aimed at “restor[ing] irrigation and improv[ing] water management in the project area in a sustainable and financially efficient manner.” The project finances moving from pump irrigation to gravity irrigation which will, in theory, lower the costs of operation and maintenance and provide a more reliable water supply, allowing farmers to grow higher value crops. It includes two primary components, the first of which, “Modernization of Irrigation Network” focuses on investing in infrastructure to restore the irrigated area in South Karakalpakstan. The second component, Modernization of Agriculture, focuses on “improving agricultural production so that farmers take advantage of improved water management. Diversification of agriculture beyond cotton and wheat is a primary goal of the project, but it is clear that the project will directly invest in improving cotton and wheat production across the entire South Karakalpakstan region.

The project also acknowledges the fact that cotton is produced using a forced labor system and includes a number of measures that the World Bank argues will “fully eliminate the occurrence of child and forced labor in the project area.” These include a covenant in the Financing Agreement requiring compliance with national legislation prohibiting child and forced labor, exemption from the state’s cotton procurement system, and, most notable, a third party monitoring mechanism and feedback mechanism “financed through a separate trust fund and focused on child and forced labor issues in connection with the project activities”. For reasons articulated below, these measures are wholly inadequate to prevent the project from perpetuating the forced labor system of cotton production in Uzbekistan.

First, as a key component to the state-order system of agriculture, the government has absolute control over the sale and purchase of wheat and cotton, and the only legally allowed infrastructure for the sale and purchase of cotton and wheat is through government institutions established to squeeze profits from the forced labor system. From cotton alone, the government earns at least \$1billion USD annually, and the official national budget does not account for this income.⁸ Instead, cotton income goes to the extra-budgetary “Selkcofond (Agricultural Fund),” to which only the highest level government officials have access and knowledge of its use. The Selkcofond is housed in the Ministry of Finance, which would be the recipient of the World Bank loans.⁹

⁷ The World Bank Inspection Panel, “Report and Recommendation: Republic of Uzbekistan- Second Rural Enterprise Support Project (P109126) and Additional Financing for Second Rural Enterprise Support Project (P126962), 9 December 2013,” < [http://ewebapps.worldbank.org/apps/ip/PanelCases/89-Eligibility%20Report%20and%20Recommendation%20\(English\).pdf](http://ewebapps.worldbank.org/apps/ip/PanelCases/89-Eligibility%20Report%20and%20Recommendation%20(English).pdf) > at paragraph 80. See also paragraph 31 [“Management acknowledges that a residual risk remains that participating farmers may become subject to labor deployments in connection with the cotton harvest”]

⁸ Open Society Foundations, “Uzbekistan’s Cotton Sector – Financial Flows and Distribution of Resources,” 2014, publication forthcoming.

⁹ *Ibid.*

Second, the project relies in part on a proposed agreement with the Government of Uzbekistan to exempt farmers in the project area from the state-order system. Past efforts to secure similar agreements have failed. The US-based Central Asia Cotton Seed Company (CASC) has produced cotton fiber and cotton seed in Uzbekistan since 1997, with some financial support from the World Bank. The US Embassy in Uzbekistan reported the Government failed to fulfill the agreement: "Local [government of Uzbekistan] authorities are interfering in the management of [Central Asia Seed Company's] farms by keeping farmers under state production plans, even though the original business plan, approved by the GOU, states the company's farms are exempt from state orders."¹⁰

Third, each year, hundreds of millions of dollars from cotton sales goes into a fund controlled by a small circle of senior officials with absolutely no transparency or public accountability as to its use.¹¹ By failing to include these funds in the state budget, the government limits funding available for improvements of the agriculture sector, including irrigation and equipment, as well as for social purposes, including education. By providing money to the Uzbek government while it maintains its forced labor of cotton production, the World Bank would in fact help perpetuate the crime of forced labor. World Bank Management acknowledged that it could not account for the use of its finance under the current Rural Enterprise Support Project II despite its designs to avoid the cotton sector, as reported by the Inspection Panel:

"Management highlights that the Project "was carefully designed to include a range of mitigation measures and binding provisions (e.g., monitoring and training, loan covenants for credit line beneficiaries) to address and exclude child labor at the project level." Management adds that the Requesters' concerns of forced labor and child labor in cotton harvesting "derive from Government practices in labor deployment for cotton harvesting" that have to do with "factors outside the scope of the project, and are therefore beyond the reach of Bank safeguards and other policies."¹²

"Management acknowledges that a residual risk remains that participating farmers may become subject to labor deployments in connection with the cotton harvest and that equipment (namely tractors and tillers) financed under the credit line may potentially be used in cotton production."

Horticulture Development Project (P133703)

The World Bank also proposes to invest another \$150 million into Uzbekistan's agriculture sector through the Horticulture Development Project (P133703) which is aimed at "enhance[ing] the productivity and profitability of horticulture sector in the project sector." In order to achieve increased productivity and profitability the project focuses on crop diversification as well as "decreased production losses due to improved storing, cooling and packing facilities; and improved water management by introducing water saving technologies." The two primary components of this project are agriculture support services, which intend to enhance the capacity of farmers and research institutions to respond to "emerging market opportunities", and access to credit, which provides access to financial services for farmers and agribusiness to "enable them to undertake the investments to strengthen their productivity and competitiveness." It is worth noting that this project explicitly builds on the work of the RESP-II project which resulted in the World Bank Inspection Panel Report referenced herein.

¹⁰ US Department of State, Cable from AMEMBASSY TASHKENT to RUEHC/SECSTATE. *2008 Report on Investment Disputes and Expropriation*, at para 4. (June 18, 2008) (Unclassified)

¹¹ Open Society Foundations, *Ibid.*.

¹² The World Bank Inspection Panel, *Ibid*, at paragraphs 39 and 30.

As with the South Karakalpakstan Water Resource Management Improvement Project, the Horticulture Development Project documents reference the problems of child and forced labor, although these documents argue that this problem is limited to the cotton sector which will not be the target of this project. However, the World Bank Inspection Panel Report on the RESP II Project, also intended to support non-cotton agriculture, is clear that the Bank cannot be sure that loans intended for one part of the agriculture sector are not used for cotton:

“The Panel notes that a listing of expenditure items supported by the sub-loans through PFIs [Participating Financial Institutions] that the Panel received during its visit, and subsequent information received from Management, identifies many instances of support for tractors and other machinery which, the Panel has learned, may be potentially used in cotton fields. The Panel also has heard from other stakeholders that all farms may be subject to cotton quotas, including farms receiving support under the Project, and heard of one alleged example. In addition, it cannot be excluded that activities under Component 2 of the project support cotton production, including through improved irrigation and drainage.”

Additionally, the Uzbek Government’s history of exerting full control over economically successful activities has not been limited to the large scale cotton and wheat growing systems, and its use of forced labor has not been limited to cotton production. In fact, the Government has demonstrated a particular ability and intention to exert control and coercion over small-scale agriculture. For example, the Government strictly controls silk production for export to world markets. Residents of Fergana province report that local authorities coerce farmers to produce silk and penalize farmers with fines for failure to deliver the silk.¹³ The arrangement subjects the farmers’ families to work for no compensation for their labor, and in many cases, give up sections of their home for the silk worms to grow. This suggests that, were horticulture to become economically successful, as is the aim of this project, it could also come under the full control and forced-labor practices of the Uzbek Government, an eventuality that the World Bank is not in a position to prevent.

The World Bank has recognized the capricious investment environment in Uzbekistan by moving Uzbekistan down in the World Bank’s index for protecting investors from 2013 to 2014.¹⁴ The US Government reports similar concerns, stating, “Several of the rights, such as converting and repatriating profits and conducting business without government interference, are routinely violated by government action.”¹⁵ Recent cases demonstrate the cause for such concerns. Since 2006, ten companies have been pushed into bankruptcy and succumbed to hostile takeovers, including Newmont Mining Corporation, Oxus Gold, Metal-Tech Ltd., Daewoo UZDEUAvto, Spentex Toshkent Toytepa, Faberlic Tashkent, Oriflame, Carlsberg Uzbekistan, United Cement Group, MTS.¹⁶

¹³ Ashurov, Sadridin and Farangis Najibullah, "Uzbeks Toil To Keep Silk Industry's Traditions Alive," Radio Free Europe, Radio Liberty, 12 March 2013, <http://www.rferl.org/content/uzbekistan-silk-industry/24926469.html>.

¹⁴ See <http://www.doingbusiness.org/data/exploreeconomies/uzbekistan/>

¹⁵ U.S. Department of State, “2013 Investment Climate Statement – Uzbekistan,” February 2013, <http://www.state.gov/e/eb/rls/othr/ics/2013/204758.htm>.

¹⁶ See Lillis, Joanna, “Telecom Scandals Touch President’s Daughter,” *EurasiaNet*, 24 September 2012 and “Head of Russian company arrested in Uzbekistan,” *UzNews*, 19 May 2014.

The Uzbek government has demonstrated that it will exert full control over any successful economic sector and use forced labor in disregard of its laws and international commitments, and there is no way to prevent this from occurring if Horticulture products become economically successful.

Third-party monitoring for forced labor is not possible in Uzbekistan

While the World Bank is correct to identify the importance of independent, third-party monitoring with periodic, unannounced visits, public reporting, and a government commitment not to interfere with monitors, grievance processes, and a feedback mechanism in ensuring that projects do not contribute to human rights violations, these safeguard mechanisms will not be effective in Uzbekistan for several reasons.

First, the Uzbek government has an abysmal human rights record across a wide spectrum of violations, which include the total lack of the rights to freedom of speech, association, and assembly.¹⁷ Torture and ill-treatment are endemic to the criminal justice system, which suffers from a systemic lack of due process rights. Many Uzbek citizens risk politically-motivated charges to expose the harsh realities of the government's forced labor system and document other human rights abuses for which they are routinely harassed, detained, imprisoned, and ill-treated in custody. For example, imprisoned journalist and peaceful political opposition activist Muhammad Bekjanov, was a pioneer in the effort to document and report about the government's practice of forced labor and child labor. He is been imprisoned since 1999 on charges that appear politically-motivated, making him currently the world's longest imprisoned journalist according to the Committee to Protect Journalists. Reporters Without Borders honored Mr. Bekjanov with its Press Freedom Prize in 2013. The crackdown on journalists and human rights defenders continued in 2013 when Uzbek authorities imprisoned Bobomurad Razzakov, a farmer and regional chairman of Uzbekistan's only legally registered human rights organization, *Ezgulik*, for his human rights work on behalf of farmers and agricultural communities in the Bukhara region¹⁸ In the autonomous republic of Karakalpakstan authorities continue to crackdown on local civil society and have imprisoned dozens of peaceful Karakalpak activists, imposing strict controls on the freedom of expression, association, and assembly. The Uzbek government continues to hold dozens of human rights activists, journalists, political opposition activists, and other perceived government critics for no other reason than their legitimate and peaceful civil society work. Thousands of other individuals are imprisoned on overly broad and vague politically-motivated charges of "anti-constitutional activity" and "extremism." In this environment, the inclusion of a covenant in the loan agreement preventing the government from interfering with third party monitoring lacks credibility.

Second, the Uzbek government continues to demonstrate that it is not willing to allow independent monitoring in Uzbekistan. Most recently, the government severely restricted ILO monitors during the cotton harvest by refusing to allow the ILO to monitor for forced labor. Then, when the ILO monitors arrived, they were accompanied at all times by representatives of the Uzbek government and the official state union and employers' organizations, whose presence had a chilling effect on Uzbek citizens' willingness to speak openly

¹⁷ Human Rights Watch, World Report 2014: Uzbekistan, (New York: Human Rights Watch, 2013), <http://www.hrw.org/world-report/2014/country-chapters/uzbekistan>.

¹⁸ "Uzbekistan: Trial of Activist on Trumped-Up Charges," Human Rights Watch, September 24, 2013, <http://www.hrw.org/news/2013/09/24/uzbekistan-trial-activist-trumped-charges>.

with the ILO monitors.¹⁹ In advance of the arrival of the monitoring teams, the government moved children around to prevent monitors from observing forced child labor and instructed people to lie to monitors.²⁰

Third, the Uzbek government refuses to grant autonomy to the Federation of Trade Unions of Uzbekistan (FTUU) and Chamber of Commerce and Industry of Uzbekistan (CCIU) and has created a state-controlled pseudo-NGO sector. In 2013, the Federation of Trade Unions of Uzbekistan (FTUU) took control over the teachers union, including its budget and leadership. The FTUU does not constitute a legitimate representation of workers and continues to have a member of Uzbekistan's Cabinet of Ministers as its head.

Fourth, while acknowledging the grave human rights risks, the World Bank presents no details of how it will remediate victims of forced labor, child labor or other human rights abuses committed with the financial support of its loans.

Conclusion

Under the forced labor system, the Uzbek government coerces farmers to grow and children and adults to harvest cotton that is exported around the world. If it proceeds to provide loans to finance new machinery, improve irrigation systems, or develop other agriculture products, the World Bank would be subsidizing and perpetuating the government's forced labor system for cotton production and the myriad human rights abuses committed against Uzbek citizens every year. Therefore, the World Bank must postpone decisions on these loans to the Uzbek government to support its agriculture sector until it ends its forced labor system for cotton production.

¹⁹ Uzbek citizens have reported that authorities have instructed them to tell international monitors 'we came to pick cotton voluntarily in order to help our government, to raise the economy of the country and work hard for our motherland.' (Uzbek-German Forum for Human Rights, *Chronicle of Forced Labor*, Issue 4, September 19, 2013, <http://uzbekgermanforum.org/wp-content/uploads/2013/09/4-Cotton-Chronicle-2013.pdf> (accessed 23 September 2013).

²⁰ Uzbek-German Forum for Human Rights, "Forced Labor in Uzbekistan: Report on the 2013 Cotton Harvest in Uzbekistan," forthcoming, and Cotton Campaign, "Review of the 2013 Cotton Harvest in Uzbekistan," November 2013, 6 May 2014. <http://www.cottoncampaign.org/wp-content/uploads/2013/11/2013CottonHarvest_end_report.pdf>.