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Submission for the Universal Periodic Review of Turkmenistan, (3rd cycle – 30th session)

I. INTRODUCTION

1. This is a joint submission by Alternative Turkmenistan News (ATN), Anti-Slavery International and the Cotton Campaign.
2. This submission focuses on **forced labour** in Turkmenistan. Specifically, **1) State-sponsored forced labour in the cotton sector**, and **2) Harassment and imprisonment of journalists and Human Rights Defenders who monitor and report on forced labour in the cotton sector**.
3. This information is structured in line with the Matrice of recommendations provided by the OHCHR in the ‘Matrice of recommendations, UPR of Turkmenistan’¹, with evidence on **1) State-sponsored forced labour in the cotton sector** submitted under Theme D27 Prohibition of Slavery, Trafficking. The information submitted herein on **2) Harassment and imprisonment of journalists and human rights defenders who monitor and report on forced labour in the cotton sector** is relevant to Theme D27 Prohibition of Slavery, Trafficking, as well as Theme D33 Arbitrary arrest and detention, Theme D43 Freedom of opinion and expression, and Theme H1 Human rights defenders.
4. The evidence in this submission was collected by a network of monitors in all four cotton-growing provinces of Turkmenistan. They include cotton producers (tenant farmers), civil servants from various spheres and trained labour rights monitors that visit cotton fields to record their findings and personal accounts of forced labour. Due to extreme limitations on freedom of expression in Turkmenistan, these monitors provided this evidence at great personal risk, and ATN does not disclose their identities.

II. EXECUTIVE SUMMARY

5. The cotton sector in Turkmenistan is underpinned by state-sponsored forced labour. Each year during the cotton harvest the Government forces tens of thousands of public sector workers including teachers, doctors and nurses to pick cotton, pay a bribe, or hire a replacement worker to pick cotton under threat of punishment including loss of wages and termination of employment. People forced to pick cotton are also compelled to sign

¹OHCHR Matrice of recommendations, UPR of Turkmenistan (2nd cycle – 16th session), Thematic list of recommendations,
http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/TM/TurkmenistanMatriceRecommendations_E.docx

declarations of ‘voluntary’ participation in the harvest, stating that they pick cotton due to patriotic motivations. Officials also force private businesses to contribute workers, or contribute financially or in-kind, under threat of closing the business.

6. The Government maintains total control of cotton production and forces farmers to deliver state-established, annual cotton production quotas under threat of penalty including loss of their land.

7. Journalists and human rights defenders who attempt to document and report upon forced labour do so at great personal risk and face intimidation, harassment, arrest and imprisonment. Forced labour monitor Gaspar Matalaev was arrested on 4 October 2016, two days after he published a report on the extensive use of forced labour in the 2016 cotton harvest. He remains imprisoned, convicted on politically motivated charges of minor fraud, to which he confessed under torture. In April 2017, the United Nations Human Rights Committee called on the Government of Turkmenistan to end the harassment, torture and detention of those “seeking to document forced labour in the cotton harvest such as Gaspar Matalaev.”²

8. The forced mobilisation of farmers, public- and private-sector workers to produce and pick cotton violates national laws prohibiting forced labour, including Article 8 of Turkmenistan’s Labour Code. It also violates Turkmenistan’s obligations under international law, including the International Covenant on Civil and Political Rights (ICCPR) and ILO Conventions Nos. 29 and 105 on forced labour.

9. State-sponsored forced labour takes place in a climate of widespread human rights violations in the country. The Government is also responsible for forced disappearances, and denies freedom of association, movement, expression and religion. Despite supporting several second cycle recommendations relating to access for Special Procedure mechanisms³, including issuing a standing invitation⁴, the Government has not granted access to a Special Procedure mechanism since 2009, let alone issued a standing invitation.

III. THEME D27 PROHIBITION OF SLAVERY, TRAFFICKING⁵ FORCED LABOUR IN TURKMENISTAN

1. STATE-SPONSORED FORCED LABOUR IN THE COTTON SECTOR

Annual forcible mobilisation of private and public sector workers to pick cotton during the harvest

² UN Human Rights Committee, Concluding Observations on the second periodic report of Turkmenistan, CCPR/C/TKM/CO/2, 20 April 2017, para 42 (d)

³ Supported recommendations 113.30 (Uruguay), 113.31 (State of Palestine), 113.32 (Slovakia), 113.33 (Brazil), 113.34 (Costa Rica), 113.35 (Iraq), 113.36 (Montenegro), 113.37 (France), 113.38 (Switzerland), 113.39 (Hungary), 113.40 (Spain), 113.41 (Ireland), 113.44 (Kyrgyzstan), 113.45 (Latvia),

⁴ Supported recommendations 113.32 (Slovakia), 113.33 (Brazil), 113.34 (Costa Rica), 113.35 (Iraq), 113.36 (Montenegro)

⁵ As outlined in UPR of Turkmenistan (2nd cycle – 16th session), Thematic List of recommendations. Accessed at http://lib.ohchr.org/HRBodies/UPR/Documents/Session16/TM/TurkmenistanMatriceRecommendations_E.docx

10. Each year in the four cotton-growing regions (Ahal, Dashoguz, Lebap and Mary), the Government of Turkmenistan forces tens of thousands of workers from the public and private sector, including teachers, doctors, nurses and civil servants, to pick cotton during the cotton harvest, or to pay a bribe or hire a replacement worker to pick cotton instead. This takes place under the threat of punishment including public censure, wage deductions, termination of employment, and loss of state benefits. Officials force cotton pickers to sign written statements of consent, declaring that they agree to participate in the harvest for ‘the people and the motherland’. The Government treats refusal to contribute to the cotton harvest as insubordination, incitement to sabotage, lack of patriotism, and even ‘contempt of the homeland.’

11. Officials also force small, medium and large private businesses to contribute workers to pick cotton or to contribute financially or in-kind during the harvest, under threat of sanction including closing the business. Private bus companies are forced to transport cotton pickers to the fields.

12. Despite measures taken by the Government to prohibit the involvement of children in harvesting cotton, the pressure to fulfil cotton picking quotas leads to children picking cotton alongside their parents, particularly during the school holidays. Some children are hired as replacement workers by people mobilised for the cotton harvest, picking cotton for small sums of money to help supplement their family income.

13. Members of the military also report mandatory participation in the cotton harvest. Officials also forcibly mobilise students from agricultural universities and technical colleges to pick cotton under the guise of internships. However the students have no choice; either they pick cotton or are expelled.

14. In 2017, the cotton harvest began on 15 August. First to be mobilised to the fields were school support staff, janitors and guards, followed by teachers at the start of the school year. Like previous years, they were instructed to arrive at collection points at 6 a.m., and then boarded buses which took them to the fields. This was organised by school principals and local education authority staff, with both plain clothes and uniformed police monitoring the process.

15. “When they took us, we were 37, from different schools and kindergartens. They sent us to the Vekilbazar district,” a source from the Mary region said. “Nothing changed from the past years: we carried special clothing, aprons and a packed lunch. Our salary is maintained during the harvest. The only difference with previous years was the fee they gave us for the collection. We now receive 0.40 manats [about 11 US cents at the official rate, or about 5 cents at the market rate] per kilogram of cotton collected. Last year it was half that.” The source also noted that due to the current high rate of inflation in Turkmenistan, food prices in the markets have more than doubled.

16. Each cotton picker is assigned a quota of cotton to pick each day. In 2016, the most common quota assigned to pickers was 50 kilograms of cotton per day. Workers often failed to meet this very high quota. However, fraudulent reporting was widespread, with workers paying a bribe to receive a receipt certifying their fulfilment of the quota, demonstrating the fear of repercussions for a failure to fulfil the prescribed quota. Bribes for exemption from a day of the cotton harvest in 2016 were generally around 20 manats (approx US\$6), and paid to

the director of the worker's institution. Heads of institutions kept records as to who had picked cotton themselves and who had hired a replacement worker.

17. Cotton picking is arduous work and conditions in the fields are often poor. Cotton pickers were expected to provide their own food and water. Access to fresh drinking water is often limited, and workers report having to drink stagnant water from irrigation ditches. Every year, cotton pickers report illnesses such as fainting from the heat, and intestinal infections. Conditions for those picking cotton in more remote areas, where they have to stay overnight are worse.

18. As a result of the mass mobilisation of public sector workers to pick cotton, many services are disrupted during the harvest including education, healthcare and public transportation.

International concern about state-sponsored forced labour in the cotton sector

19. In 2017, the Human Rights Committee expressed its concern about "...the reported widespread use of forced labour of farmers, students, public and private sector workers during the cotton harvest under threat of penalties such as loss of land, expulsion from university, loss of wages or salary cuts, termination of employment and other sanctions (art. 8)." ⁶It stated that **"The State party should promptly put an end to forced labour in the cotton sector, inter alia, by fully enforcing the legal framework prohibiting forced labour. It should clearly communicate to public officials and the public at large that mobilisation of persons to pick cotton under coercion or threats is unlawful, prosecute those responsible for such violations, and provide full reparation to victims."**⁷

20. In 2017, Turkmenistan was kept in Tier 3 in the US Department of State *Trafficking in Persons* report, the lowest possible ranking a country can receive. The report states that "To meet government-imposed quotas for the cotton harvest, local authorities require university students, private-sector institutions, soldiers, and public sector workers (including teachers, doctors, nurses, and others) to pick cotton without payment and under the threat of penalty. Government officials threatened public sector workers with dismissal, reduced work hours, or salary deductions. Authorities threatened farmers with loss of land if they did not meet government-imposed quotas. In addition, the government compulsorily mobilized teachers, doctors, and other civil servants for public works projects, such as planting trees".⁸

21. In 2016, the International Labour Organization (ILO) Committee of Experts on the Application of Conventions and Recommendations noted with **"*deep concern*"** the widespread use of forced labour in cotton production which affects farmers, businesses and private and public sector workers, including teachers, doctors and nurses, under threat of losing their jobs, salary cuts, loss of land and extraordinary investigations". It urged the Government **"...to take effective measures without delay to ensure the complete elimination of the use of compulsory labour of public and private sector workers in cotton farming, and requests the**

⁶ UN Human Rights Committee, Concluding Observations on the second periodic report of Turkmenistan, CCPR/C/TKM/CO/2, 20 April 2017, para 26

⁷ *Ibid.*, para 27

⁸ US Department of States, 2017 Trafficking in Persons report, Turkmenistan, <https://www.state.gov/j/tip/rls/tiprpt/countries/2017/271304.htm>

Government to provide information on the specific measures taken to this end, in both law and practice, and the concrete results achieved.”⁹

22. The widespread publication of reports documenting forced labour has led several large international companies to boycott the purchase and use of cotton from Turkmenistan. Global apparel multinationals H&M and Inditex publicly ban cotton from Turkmenistan because of the ongoing forced labour and child labour in its cotton production. IKEA has also placed a ban on cotton from Turkmenistan, stating that “the overall development in the country in terms of reports on forced and bonded labor doesn’t progress in the right direction... We want to see more concrete development examples of the decent work agenda in the entire cotton industry, in addition to an increase in transparency and openness of monitoring working conditions by independent international and local civil society organizations.”¹⁰

A forced labour system imposed and administered by the Government

23. The Government uses systematic and widespread coercion to produce cotton, annually forcing farmers to fulfil cotton production quotas and other citizens to fulfil cotton picking quotas. The Government uses a strict chain of command to mobilise farmers and other citizens to work in the cotton fields. The state-owned enterprise Turkmenpagta assigns annual production quotas to each farmer in the land lease contract. Farmers Associations, the local-level government agencies responsible for overseeing agricultural production, directly manage the farmers and report to the regional governors.

24. During the cotton harvest, the President personally holds the regional governors of each cotton growing province accountable for fulfilment of their cotton harvest quota. In turn, the regional governors instruct their deputies and the heads of districts in their provinces to mobilise a specific number of cotton-pickers to the fields. They then order administrators of the regional organisations under their supervision to mobilise their staff to pick cotton, including from education, healthcare, and culture and sporting institutions, as well as manufacturing, construction and transportation companies. In each organisation, a person is appointed to organise and oversee the mobilisation of staff to the cotton fields, to document which staff picks cotton and which staff hires replacement workers, and to monitor each worker’s progress towards their assigned harvest quota.

25. The Government uses coercion to ensure compliance with the cotton production plan. The President threatens regional governors with the loss of their positions if they fail to fulfil their regional cotton target. Regional and district-level officials threaten the heads of farmers associations with the loss of their jobs if they do not fulfil their cotton quotas. Heads of farmers associations threaten farmers with the loss of their land for failure to deliver their cotton quotas. The first time a farmer falls short of the production quota he is likely to be reprimanded, but on a subsequent occasion the likely penalty is the loss of his lease to farm the land. Cotton pickers work in the fields under threat of punishment such as loss of pay or termination of employment.

26. RECOMMENDATIONS TO THE GOVERNMENT OF TURKMENISTAN:

⁹ ILO Committee of Experts on the Application of Conventions and Recommendations, Individual Observation concerning the Abolition of Forced Labour Convention, 1957 (No.105), Turkmenistan, Published 2016

¹⁰ <http://newsroom.inter.ikea.com/about-us/our-view-on/our-view-on-cotton-from-turkmenistan/s/1d484403-d3b8-49cb-a4ce-41ac35d9ca75>

- Enforce national laws that prohibit the use of forced labour and child labour, and fully implement its obligations under ILO Conventions No. 29 and No. 105 on forced labour.
- Make public, high-level policy statements condemning forced labour, including in the cotton sector, and make clear that all work should be voluntary and fairly compensated.
- Instruct government officials at all levels, and individuals that act on behalf of the Government, not to use coercion to mobilise anyone for work.
- Establish and implement a time-bound national action plan to address forced labour in the cotton sector and its root causes. This should include ending the use of penalties for failure to pick cotton, abolishing mandatory production and labour quotas, and granting farmers autonomous management of agricultural land.
- Respond positively to outstanding country visit requests from Special Procedures, and invite the Special Rapporteur on contemporary forms of slavery to conduct a country visit as a matter of priority.
- Implement the recommendations made by UN Treaty Bodies and the ILO Supervisory mechanisms, including the 2017 Concluding Observations of the Human Rights Committee.

2. HARRASSMENT AND IMPRISONMENT OF JOURNALISTS AND HUMAN RIGHTS DEFENDERS WHO MONITOR AND REPORT ON FORCED LABOUR IN THE COTTON SECTOR (This information is relevant also to Theme D33 Arbitrary arrest and detention, Theme D43 Freedom of opinion and expression, and Theme H1 Human rights.)

27. Journalists and human rights defenders seeking to monitor and report on forced labour in the cotton harvest cannot operate openly and risk intimidation, harassment, arrest and detention. The Government has completely failed to implement the raft of recommendations it supported at its second cycle UPR to guarantee the right to freedom of expression, association and opinion¹¹, including to end arbitrary detention, harassment and other acts of intimidation against journalists, media workers and human rights defenders¹², and allow independent media and civil society to operate freely.¹³

28. The autumn 2016 cotton harvest saw unprecedented measures by the government to prevent documentation, and the authorities undertook significant efforts to identify those responsible for taking photographic evidence of forced labour. It is likely that this was in response to the publication of reports on the 2015 cotton harvest, which resulted in several large international companies boycotting the purchase and use of cotton from Turkmenistan.

29. Civil society activist Gaspar Matalaev was arrested on 4 October 2016, two days after publishing a report on the extensive use of forced labour in the cotton harvest that was underway at the time. He was convicted on false charges of minor fraud and bribery, to which he confessed under torture including electric shock treatment. His entire interrogation was focused on his activities monitoring forced labour in the cotton harvest, including how he had transferred photos to Alternative Turkmenistan News (ATN) and whether he was paid for

¹¹ Recommendations 113.70 (Spain), 113.60 (Canada), 112.85 (Belgium), 113.87 (Australia), 113.78 (Poland), 113.84 (United Kingdom), 112.59 (Czech Republic), 113.86 (Switzerland), 113.88 (France), 113.85 (Sweden), 112.60 (Slovenia), 112.61 (Chile), 112.62 (Germany), 112.63 (Switzerland), 112.64 (Norway), 113.89 (Hungary), 113.59 (Germany)

¹² Recommendation 113.59 (Germany)

¹³ Recommendation 113.87 (Australia)

this. Despite other prisoners convicted of the same minor fraud offence having been released or pardoned on the occasion of national days and for Eid al-Adha, Gaspar Matalaev remains imprisoned.

30. In 2017, the Human Rights Committee expressed concern about the imprisonment of Gaspar Matalaev, noting that “The Committee remains concerned about laws and practices severely restricting freedom of opinion and expression, including...continuous use of harassment, intimidation, torture and arbitrary arrests, detention and convictions on reportedly politically motivated charges as a retaliation tool against journalists, human rights activists, dissidents, members of religious groups and ethnic minorities, and members of nongovernmental organizations... and **those seeking to document forced labour in the cotton harvest such as Gaspar Matalaev.**”¹⁴ (emphasis added).

31. In 2016 and 2017, a Radio Free Europe/Radio Liberty Turkmenistan correspondent Ms. Soltan Achilova, was questioned by police and assaulted by unknown assailants as an attempt to silence her critical journalistic work.¹⁵ Ms Achilova reported on forced labour in the cotton harvest in 2013 and 2016.

32. Previously, in 2015, Saparmamed Nepeskuliev, a journalist for RFE/RL and Alternative Turkmenistan News, who had reported on state corruption and human rights abuses, including forced labour in the cotton sector, was arbitrarily arrested. He was held incommunicado for weeks, before being sentenced to prison. The United Nations Working Group on Arbitrary Detention (UN WGAD) concluded that the detention of Nepeskuliev was arbitrary and in retaliation for exercising his right to freedom of expression, and expressed concern over a pattern of incommunicado detention, closed trials, lack of legal defence, torture and ill-treatment in detention facilities.¹⁶

33. RECOMMENDATIONS TO THE GOVERNMENT OF TURKMENISTAN:

- Allow independent journalists, human rights defenders, and others to document and report on concerns about the use of forced labour in the cotton sector without fear of reprisals.
- Immediately release Gaspar Matalaev, who is imprisoned on politically motivated charges of fraud and bribery in retaliation for his legitimate activities as a human rights defender documenting forced labour in the cotton sector.
- Investigate and hold accountable any officials responsible for reprisals against independent journalists and human rights defenders.

¹⁴UN Human Rights Committee, Concluding Observations on the second periodic report of Turkmenistan, CCPR/C/TKM/CO/2, 20 April 2017, paragraph 42 (d):

¹⁵ Radio Free Europe/Radio Liberty, “Journalist Suffers Repeat Attack In Turkmenistan”, November 14, 2016: <http://www.rferl.org/a/28116700.html> and “RFE/RL Correspondent Achilova Threatened With Death In Turkmenistan”, July 31, 2017: <https://pressroom.rferl.org/a/28651354.html>

¹⁶ United Nations Working Group on Arbitrary Detention, “Opinion No. 40/2015 concerning Saparmamed Nepeskuliev (Turkmenistan),” A/HRC/WGAD/2015, available at <http://www.ohchr.org/EN/Issues/Detention/Pages/Opinionsadoptedin2015.aspx>