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**Promotion and protection of all human rights, civil,
political, economic, social and cultural rights,
including the right to development**

Contemporary forms of slavery as affecting currently and formerly incarcerated people

Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Tomoya Obokata

Summary

In the present report, submitted pursuant to Human Rights Council resolution 51/15, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, examines to what extent States make use of compulsory labour for incarcerated individuals and which practices may amount to contemporary forms of slavery and to other human rights violations or abuses. The Special Rapporteur also assesses the risk of formerly incarcerated people being subjected to contemporary forms of slavery. He notes a variety of encouraging practices regarding labour during incarceration, and concerns regarding State-imposed forced labour and sexual exploitation of incarcerated or detained individuals. He also highlights issues relating to access to justice and remedies; educational and vocational training during incarceration; and the reintegration of formerly incarcerated individuals. The Special Rapporteur also draws conclusions and formulates practical recommendations regarding the prevention of contemporary forms of slavery in correctional settings.



I. Introduction

1. While the use of labour during incarceration is not forced labour per se under international human rights and labour standards, incarcerated individuals should be recognized as workers who can enjoy conditions with regard to wages, social security and occupational safety and health that are comparable to the conditions of workers outside correctional settings. In the present report, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, examines extent to which States make use of compulsory labour performed by incarcerated individuals and which practices may amount to contemporary forms of slavery and to other human rights violations. He also assesses the risk of formerly incarcerated people being subjected to contemporary forms of slavery. To inform his research, the Special Rapporteur issued a call for input to a wide range of stakeholders, including States Members of the United Nations, national human rights institutions, civil society organizations, United Nations entities and regional human rights bodies. He wishes to thank all entities that responded and welcomes the engagement demonstrated in this process.¹ The Special Rapporteur also drew on information gathered from desk research and consultations with multiple stakeholders. He also consulted the International Labour Organization (ILO) with regard to the applicable normative framework and other matters.

II. Activities of the Special Rapporteur

2. Since the presentation of his annual report to the Human Rights Council at its fifty-fourth session,² the Special Rapporteur has continued to engage, in person and virtually, with multiple State officials; national human rights institutions; civil society representatives; human rights defenders, including anti-slavery activists; trade unions; businesses; investors; representatives of international organizations; and other stakeholders. For instance, in the margins of the fifty-fourth session of the Council, he co-hosted a hybrid side event on homelessness and contemporary forms of slavery, in connection with his annual report, which was focused on that issue. The event was co-sponsored by Portugal, the United Kingdom of Great Britain and Northern Ireland and the Consortium for Street Children. Furthermore, he attended the International Uyghur Forum in Tokyo and presented a thematic report on the use of technology in facilitating and preventing contemporary forms of slavery³ to the General Assembly at its seventy-eighth session, in October. The Special Rapporteur also attended the 2023 Finance against Slavery and Trafficking annual stakeholder convening in November. He held several dialogues with civil society organizations and migrant worker coalitions based in Europe and Latin America on the situation of migrant workers in European countries, such as the United Kingdom, and in the United States of America. In addition, the Special Rapporteur attended numerous webinars and other events organized by civil society organizations, including at the margins of the sixty-eighth session of the Commission on the Status of Women, held in March 2024, and also met with grass-roots organizations combating discrimination based on work and descent in Asia.

3. The Special Rapporteur continued to engage with the Inter-Agency Coordination Group against Trafficking in Persons and regular meetings were held with ILO and other United Nations entities.

4. In terms of country visits, the Special Rapporteur visited Côte d'Ivoire, from 6 to 17 November 2023.⁴ He is due to visit Australia in November 2024 and Serbia in 2025. He wishes to thank all Governments for their invitations. The Special Rapporteur issued various statements and communications addressed to States and private companies, most of them jointly with other special procedure mandate holders.

¹ All submissions are available at <https://www.ohchr.org/en/calls-for-input/2024/call-input-contemporary-forms-slavery-affecting-currently-and-formerly>.

² A/HRC/54/30.

³ A/78/161.

⁴ A/HRC/57/46/Add.2.

III. International standards

5. International human rights and labour laws do not strictly prohibit the imposition of labour during incarceration. Article 2 (c) of the Forced Labour Convention, 1930 (No. 29) of ILO exempts from the definition of forced or compulsory labour any work or service exacted from any person as a consequence of a conviction in a court of law. Similar exemptions exist under the International Covenant on Civil and Political Rights,⁵ the Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)⁶ and the American Convention on Human Rights.⁷ It was originally thought that such labour benefited prisoners, in terms of facilitating rehabilitation and reintegration, as well as society at large, through the public works performed by the prisoners.⁸ It is therefore clear that labour during incarceration should not have a punitive purpose or effect.⁹

6. Certain conditions must be met in order for this exemption to remain valid. First, a person must be convicted in a court of law. The vast majority of Member States impose compulsory labour after convictions in one form or another.¹⁰ When persons who have not yet been convicted (e.g. persons in pretrial detention or detention without trial) are compelled to work without their explicit consent, however, such work is to be regarded as forced labour.¹¹ Labour imposed by administrative or non-judicial bodies, which include immigration authorities in the context of immigration detention, is also regarded as contrary to the Forced Labour Convention, 1930 (No. 29).¹²

7. The Special Rapporteur emphasizes further that detention or conviction must conform to the existing international norms and principles relating to procedural fairness and due process of law,¹³ which are stipulated in instruments such as the International Covenant on Civil and Political Rights and regional human rights treaties. Provision of access to effective remedies in the event of violations of these norms and principles is also important.¹⁴ Otherwise the deprivation of liberty would be regarded as arbitrary,¹⁵ and imposition of labour in the circumstances of arbitrary detention can be regarded as forced labour.¹⁶

8. Second, any work performed by incarcerated individuals must be supervised by a public authority.¹⁷ The reason for this is to “prevent the conditions under which prisoners work being determined otherwise than by the public authorities, in a situation in which the workers concerned do not enjoy the rights of free workers”.¹⁸ The public supervision and control must be effective, systematic and regular, and therefore cannot be based solely on periodic inspections.¹⁹ This is particularly important for correctional facilities that are run or

⁵ Art. 8 (3) (b).

⁶ Art. 4 (3) (a).

⁷ Art. 6 (3) (a).

⁸ Committee of Experts on the Application of Conventions and Recommendations, *Eradication of Forced Labour: General Survey concerning the Forced Labour Convention 1930 (No. 29), and the Abolition of Forced Labour Convention, 1957 (No. 105)* (ILO, 2007), para. 49. The exemption also applies to labour exacted through the imposition of other kinds of penalties, such as a sentence of community work.

⁹ Human Rights Committee, *Nyaya v. Nepal* (CCPR/C/125/D/2556/2015), para. 7.5.

¹⁰ Working Group on Arbitrary Detention, deliberation No. 4 (E/CN.4/1993/24, sect. II).

¹¹ Committee of Experts on the Application of Conventions and Recommendations, *Eradication of Forced Labour*, para. 51.

¹² ILO, *Hard to See, Harder to Count: Handbook on Forced Labour Surveys*, 3rd ed. (2024), p. 160.

¹³ Committee of Experts on the Application of Conventions and Recommendations, *Eradication of Forced Labour*, para. 52.

¹⁴ Human Rights Committee, general comment No. 35 (2014), para. 8.

¹⁵ Working Group on Arbitrary Detention, deliberation No. 4.

¹⁶ *Nyaya v. Nepal*, para. 7.5.

¹⁷ Article 2 (2) (c) of the Forced Labour Convention, 1930 (No. 29).

¹⁸ Committee of Experts on the Application of Conventions and Recommendations, *Report III (Part 1B)* (2007), para. 53.

¹⁹ *Ibid.*, paras. 53 and 112.

managed by private entities, as the Forced Labour Convention, 1930 (No. 29) does not allow full delegation of supervision or control to private entities.²⁰

9. Third, incarcerated individuals cannot be hired to, or placed at the disposal of, private individuals, companies or associations.²¹ This applies to work performed in privately run prisons and work for private employers, both inside and outside prison premises.²² However, the ILO Committee of Experts on the Application of Conventions and Recommendations, which monitors the implementation of ILO conventions, has indicated that such arrangements are permissible: (a) when prisoners give formal, free and informed consent without being subjected to pressure or the menace of any penalty; and (b) when they perform work in conditions approximating a free employment relationship with regard to wages, social security and occupational safety and health.²³

10. Another relevant instrument is the ILO Abolition of Forced Labour Convention, 1957 (No. 105). Article 1 thereof makes clear that forced or compulsory labour cannot be imposed:

- (a) As a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system;
- (b) As a method of mobilizing and using labour for purposes of economic development;
- (c) As a means of labour discipline;
- (d) As a punishment for having participated in strikes;
- (e) As a means of racial, social, national or religious discrimination.

11. This is in line with wider jurisprudence on arbitrary detention. The Human Rights Committee has stated that persons deprived of their liberty (including incarcerated individuals) enjoy all the rights set forth in the International Covenant on Civil and Political Rights, subject to the restrictions that are unavoidable in a closed environment,²⁴ and that detention as punishment for the legitimate exercise of rights, including freedom of opinion and expression, of assembly, of association and of religion, is arbitrary.²⁵ The Working Group on Arbitrary Detention similarly held that detention for the purpose of political or cultural rehabilitation through self-criticism was inherently arbitrary, as it violated the freedom of thought and religion or belief.²⁶

12. While the imposition of labour that meets the above criteria may be in compliance with international labour standards, States still must promote decent work for incarcerated individuals. In that regard, the Committee on Economic, Social and Cultural Rights has stated that the obligation to respect the right to work requires States to refrain from denying or limiting access to decent work for all persons, including prisoners and detainees.²⁷ The underpinning principles for decent work include fair wages, dignity, equality and safe working conditions.²⁸ Furthermore, the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) clearly stipulate that prison labour must

²⁰ Ibid., para. 112.

²¹ Article 2 (2) (c) of the Forced Labour Convention, 1930 (No. 29).

²² ILO Committee of Experts on the Application of Conventions and Recommendations, observation concerning the ILO Forced Labour Convention, 1930 (No. 29) – United Kingdom of Great Britain and Northern Ireland, adopted in 2020. Available at http://ilo.ch/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P13100_COUNTRY_ID:4059792,102651:NO.

²³ *Giving Globalization a Human Face: General Survey on the Fundamental Conventions concerning Rights at Work in Light of the ILO Declaration on Social Justice for a Fair Globalization, 2008* (International Labour Office, 2012), paras. 278, 279 and 291.

²⁴ General comment No. 21 (1992), para. 3.

²⁵ General comment No. 35 (2014), para. 17.

²⁶ Deliberation No. 4.

²⁷ General comment No. 18 (2005), para. 23.

²⁸ ILO, “What is decent work?”. Available from <https://www.ilo.org/global/topics/decent-work/lang-en/index.htm>.

not be of an afflictive nature, and that the organization and methods of work in prisons are to resemble as closely as possible those of similar work outside of prisons.²⁹

13. Payment of wages for incarcerated individuals is a contentious issue. There is no clear legal obligation under international human rights and labour law to pay exactly the same amount of wages as regular workers outside of the incarceration setting. However, for wages to be “fair”, they should reflect, among other things, the quality of work performed, the level of education and skills of incarcerated individuals and the possible impact of the work on the health and safety of those individuals.³⁰ Equal remuneration should be paid for equal work performed without discrimination of any kind.³¹ Furthermore, wages should be sufficient in order for workers, including incarcerated individuals, and their families to be able to enjoy other human rights.³² Moreover, while deductions from wages in order to cover incarceration costs (such as board and lodging) and compensation for victims of crimes may be permissible, this should be strictly controlled by public authorities,³³ meaning that the imposition of deductions as retaliation or for other unacceptable reasons is to be regarded as arbitrary and contrary to international labour and human rights standards.

14. In addition to the above, the imposition of dangerous tasks and exposure to occupational hazards should be regarded as “undignified”. States therefore must take the steps necessary to prevent work-related accidents and illnesses.³⁴ In addition, equal and prompt access to health care³⁵ must be secured based on the principle of humane treatment of incarcerated individuals and the prohibition of inhuman or degrading treatment.³⁶ Appropriate remedies, such as compensation, should be provided in the event of accidents and illnesses.³⁷ Other unacceptable working conditions, including excessive working hours without breaks or rest days, intimidation and violence, including of a sexual nature, should be regarded as indicators of forced labour contrary to the Forced Labour Convention, 1930 (No. 29).³⁸

15. With regard to access to justice and remedies for incarcerated individuals who have experienced labour exploitation and sexual exploitation, the guiding principles are availability, accessibility, confidentiality, safety, effectiveness and traceability.³⁹ The relevant information on complaints procedures should be provided to all incarcerated individuals in languages that they understand, and they should be able to complain to competent authorities, lawyers, inspectors and others of their treatments confidentially and safely without the risks of retaliation, intimidation and other negative consequences.⁴⁰ Furthermore, all allegations must be investigated promptly and impartially and, where those allegations are substantiated, appropriate sanctions should be imposed on perpetrators and remedies provided for victims.⁴¹

16. In order to promote effective rehabilitation and reintegration and to prevent recidivism and contemporary forms of slavery, States should provide individually tailored educational, vocational and other relevant opportunities for incarcerated individuals. Article 10 (3) of the International Covenant on Civil and Political Rights emphasizes that the main aim of penitentiary systems is to be reformation and social rehabilitation, and rule 98 of the Nelson

²⁹ Rules 97 and 99.

³⁰ Committee on Economic, Social and Cultural Rights, general comment No. 23 (2016), para. 10.

³¹ *Ibid.*, para. 11.

³² *Ibid.*, para. 18.

³³ Committee of Experts on the Application of Conventions and Recommendations, *Eradication of Forced Labour*, para. 117.

³⁴ Committee on Economic, Social and Cultural Rights, general comment No. 23 (2016), para. 25.

³⁵ Committee on Economic, Social and Cultural Rights, general comment No. 14 (2000), para. 34.

³⁶ *Dafnis v. Greece* (CCPR/C/135/D/3740/2020), para. 8.5.

³⁷ Rule 101 of the Nelson Mandela Rules.

³⁸ ILO, “Indicators of forced labour” (2012).

³⁹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, “Complaints mechanisms” (2018). Available at <https://www.coe.int/en/web/cpt/complaints-mechanisms>.

⁴⁰ *Ibid.*, and rules 54–57 of the Nelson Mandela Rules.

⁴¹ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, “Complaints mechanisms” (2018). See also the Nelson Mandela Rules.

Mandela Rules further provides that States should provide useful work or vocational training opportunities that can maintain or increase the ability of incarcerated individuals to earn an honest living after release. It is of vital importance that these programmes are culturally, religiously, gender- and age-appropriate⁴² and also accessible to persons with physical and intellectual disabilities.

17. Once released, formerly incarcerated individuals are entitled to all human rights stipulated in international human rights and labour laws. Of particular relevance is non-discrimination with regard to access to education, training and decent work. The reality though, is that many formerly incarcerated individuals find themselves unemployed for extended periods of time because of discrimination, including its intersecting dimensions, owing to their criminal convictions. Provision of unemployment or wider social security benefits is particularly important in this regard. Under the International Covenant on Economic, Social and Cultural Rights, States are to pay special attention to prisoners and detainees in implementing social security.⁴³ The ILO Employment Promotion and Protection against Employment Convention, 1988 (No. 168) additionally provides that vulnerable categories of individuals, including released prisoners seeking work, are to receive social benefits.⁴⁴ In addition, the Special Rapporteur regards it as necessary to secure access to social housing or affordable private housing, as many formerly incarcerated individuals face discrimination in that area and often end up in a situation of homelessness, which in turn puts them at risk of contemporary forms of slavery and other human rights abuses.⁴⁵

18. Another emerging principle is the “right to be forgotten”. One relevant aspect of this is the deletion or expungement of criminal records after certain periods of time. In the context of Europe, the European Court of Human Rights held that the storage of personal information, including criminal records, comes under the right to private life, which might be considered to be breached when such storage is indiscriminate and open-ended without clear and sufficient safeguards.⁴⁶ In addition, deletion of information regarding one’s criminal prosecution and conviction on the Internet is a pertinent issue in the digital age. In a landmark case, the Court of Justice of the European Union, in considering key norms such as the right to private life and protection of personal data under the Charter of Fundamental Rights of the European Union, ruled that search engine operators must comply with requests to remove links that lead to personal data that are inadequate, irrelevant or excessive.⁴⁷ It remains to be seen how these principles will evolve globally over time, bearing in mind other equally important issues, such as the seriousness of offences committed, freedom of expression, public interest and human rights due diligence in the relevant sectors.

IV. State practice

A. Labour during incarceration

19. A wide range of labour activities are performed by incarcerated individuals globally, such as maintenance of correctional facilities and other support services (e.g. cleaning,

⁴² Committee on the Elimination of Racial Discrimination, general recommendation No. 31 (2005), paras. 5, 26 and 38; Committee on the Rights of the Child, general comment No. 24 (2019), para. 95; United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules), rules 37 and 42; United Nations Rules for the Protection of Juveniles Deprived of Their Liberty (the Havana Rules), section IV.E; [A/HRC/51/27](#), paras. 16 and 49; [A/HRC/55/52](#), paras. 77 and 96; and Inter-American Court of Human Rights, Advisory Opinion OC-29/22, 30 May 2022, paras. 328–330.

⁴³ Committee on Economic, Social and Cultural Rights, general comment No. 19 (2007), para. 31.

⁴⁴ Art. 26.

⁴⁵ [A/HRC/54/30](#), para. 32.

⁴⁶ *M.M. v. the United Kingdom*, Application No. 24029/07, Judgment, 13 November 2012, paras. 187 and 199. See also *CATT v. the United Kingdom*, Application No. 43514/15, Judgment, 24 January 2019.

⁴⁷ *Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos and Costeja González*, Case No. C-131/12, Judgment, 13 May 2014.

cooking, laundry, plumbing and administrative work),⁴⁸ production of goods (e.g. office supplies and furniture) for public authorities, and public work (e.g. construction or maintenance of roads, parks and public buildings).⁴⁹ Labour for the benefit of private businesses and entities in various sectors, such as agriculture, the garment, assembly and food industries and other packaging and manufacturing industries, is also possible in a number of States, including Albania, Algeria, Australia, Austria, Azerbaijan, Botswana, Burkina Faso, Cameroon, the Comoros, Gabon, Iran (Islamic Republic of), Italy, Latvia, Mongolia, Poland, the Russian Federation, Saint Kitts and Nevis, Serbia, South Africa, Tajikistan, the United Kingdom, the United States and Uruguay.⁵⁰ This includes work release schemes where persons nearing release are able to work during the day outside of correctional facilities.⁵¹

20. Performance of labour during incarceration continues to be compulsory in a number of States, but it is recognized as voluntary in some, including Chile, Luxembourg, Romania, and Sao Tome and Principe.⁵² Montenegro and Uruguay⁵³ require explicit consent from prisoners, while France concludes an employment contract setting out working conditions, wages and deductions.⁵⁴ In other States, adjustments to, or exemptions from, labour are recognized for persons with disabilities and persons over the retirement age, pregnant women and prisoners with children.⁵⁵ In addition, in certain States it is possible for those held in preventive detention (e.g. pending investigation, prosecution or conviction) to perform labour, but on a voluntary basis.⁵⁶ In terms of work options, prisoners can apply for jobs on the basis of their skills and interests, or those are taken into consideration in assigning a job, in Albania, Maldives, Morocco, Spain and Sri Lanka,⁵⁷ while other States, including Brazil, Canada, Ecuador and Luxembourg, offer alternatives to work, such as educational and vocational training.⁵⁸

21. While acknowledging some positive examples of safeguards for the rights of incarcerated individuals in the context of performing labour, the Special Rapporteur wishes to raise a number of issues that must be addressed. To begin with, the voluntary nature of

⁴⁸ Submissions from Australia, Canada, Morocco and Worth Rises; *Prison Study by the Human Rights Commission of Sri Lanka* (2020), pp. 367 and 368; and Office of the Inspectorate Te Tari Tirohia, *Manawatū Prison: Announced Inspection April 2023* (Wellington, 2024), p. 62.

⁴⁹ Submissions by Taiwan Mad Alliance, Worth Rises, the Institute for Crime & Justice Policy Research at Birkbeck, University of London and Tanisha Cannon (Legal Services for Prisoners with Children) and Dylan O'Donoghue (Center for Urban Research and Education, Rutgers University-Camden). See also American Civil Liberties Union and University of Chicago Law School Global Human Rights Clinic, *Captive Labor: Exploitation of Incarcerated Workers* (2022), pp. 29 and 30.

⁵⁰ Committee of Experts on the Application of Conventions and Recommendations, observations and direct requests on ILO Conventions No. 29 and No. 105, issued between 2021 and 2024 (available at <https://normlex.ilo.org/dyn/normlex/en/f?p=1000:20015>). See also American Civil Liberties Union and University of Chicago Law School Global Human Rights Clinic, *Captive Labor*, p. 27 (on the United States); Anhelita Kamenska, Ilvija Pūce and Kristīne Laganovska, *Prison Conditions in Latvia* (European Prison Observatory, 2019); and Susanna Marietti, *Prison Conditions in Italy*, 2nd ed. (European Prison Observatory, 2019).

⁵¹ Submissions by Senator Kim Pate of Canada, Germany, Aix Global Justice, Hadassa Noorda (Faculty of Law, University of Amsterdam), and Virginia Mantouvalou (University College London, Faculty of Laws); and *Prison Study by the Human Rights Commission of Sri Lanka*, p. 373.

⁵² Submission from Luxembourg; and Committee of Experts on the Application of Conventions and Recommendations, observations and direct requests on ILO Conventions No. 29 and No. 105, issued between 2021 and 2024 (available at <https://normlex.ilo.org/dyn/normlex/en/f?p=1000:20015>).

⁵³ Law on the execution of prison sentences, fines and security measures of 2015 (Montenegro); and Decree No. 225/006 of 13 July 2006 (Uruguay).

⁵⁴ Law No. 2021-1729 of 22 December 2021 on building confidence in the justice system, supplemented by Decree No. 2022-655 of 25 April 2022 on the work of detainees and amending the Prison Code.

⁵⁵ Submissions by Germany, the Russian Federation, Spain and the Respect – Protect – Fulfill and Legal Initiative.

⁵⁶ Submissions by Ecuador, Germany, Guatemala, Luxembourg, Morocco, the Russian Federation and Spain.

⁵⁷ Submissions by the Attorney General of Maldives, Morocco and Spain; *Prison Study by the Human Rights Commission of Sri Lanka*, p. 363; and Act No. 81 of 25 June of 2020 on the rights and treatment of prisoners and detainees (Albania), which also prohibits the use of forced labour as a disciplinary action.

⁵⁸ Submissions by Canada, Ecuador, Luxembourg and the Institute for Crime & Justice Policy Research.

labour should be called into question in many cases. In that regard, instances of threats to impose, or the imposition of, penalties or disciplinary actions, including solitary confinement, loss of family visitation, access to telephone calls and recreational activities, the extension of incarceration periods and rejection of parole, have been reported in various States and areas.⁵⁹ Under those circumstances, it is clear that incarcerated individuals have no choice but to engage in labour.

22. The Special Rapporteur is also concerned by a lack of meaningful, motivating employment opportunities and sufficient choices in reality. This is a result of, among other things, overcrowding in correctional facilities and limited partnerships with businesses and service providers. Consequently, many prisoners are assigned tasks based not on their skills or competencies, but on whatever options are available.⁶⁰ Furthermore, it has been highlighted that available jobs do not always enhance the prospect of employment after release because they are not designed to provide marketable skills, qualifications and knowledge.⁶¹

23. With regard to wages, there is divergence among States, but it is evident that the majority of incarcerated individuals receive salaries that are much lower than respective national minimum wages. In the Kingdom of the Netherlands, the average wage of incarcerated individuals is around €0.95 per hour,⁶² and similar wages are paid in Germany (€1.59–€2.65 per hour).⁶³ In the United States, the average hourly rates are between \$0.13 and \$0.52 for non-industry jobs, and between \$0.30 and \$1.30 for jobs in State-owned correctional industries.⁶⁴ However, other States provide more favourable wages. In Armenia, Colombia and Romania, and in Mexico City, legal minimum wages are paid.⁶⁵ By law, working incarcerated individuals in Italy are to receive a salary equivalent to two thirds of the pay for the same job in the open and free market;⁶⁶ working prisoners in Brazil are to be paid three quarters of the national minimum wage.⁶⁷ Other States have incentive schemes that provide higher wages for certain jobs or reduce the periods of imprisonment.⁶⁸

24. It is common practice to deduct a certain amount from wages in order to cover food, lodging and other maintenance costs, and other items such as compensation for crime victims. Here too, there are discrepancies among areas. The deduction rate is 40 per cent in England and Wales and in Taiwan Province of China,⁶⁹ and deductions are between 50 and 60 per cent in the Cook Islands and Mozambique.⁷⁰ The deduction amounts are much higher in other areas, such as in Austria (up to 75 per cent) and in the United States (up to 80 per cent).⁷¹ Furthermore, it has been pointed out that the rising costs of living, which also affect

⁵⁹ See Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia, statement on her visit to the United States (2023), available at <https://www.ohchr.org/sites/default/files/documents/issues/racism/sr/statements/2023-11-14-EOM-SR-Racism-usa-en.pdf>; and submissions by Anti-Slavery Australia, Respect – Protect – Fulfill and Legal Initiative, Hadassa Noorda, Institute for Crime & Justice Policy Research, Taiwan Mad Alliance, American Civil Liberties Union, Worth Rises, and Tanisha Cannon and Dylan O'Donoghue.

⁶⁰ Submissions by Penal Reform International, Aix Global Justice and Ambika Satkunanathan.

⁶¹ A/HRC/55/52, para. 46. See also submissions by Anti-Slavery Australia, Penal Reform International and Ambika Satkunanathan; and Ben Jarman and Catherine Heard, *Labouring Behind Bars: Assessing International Law on Working Prisoners* (2023), p. 12.

⁶² Submission by Hadassa Noorda.

⁶³ Submission by Germany.

⁶⁴ Submission by American Civil Liberties Union.

⁶⁵ Section 87 of the Penitentiary Code of 2004 (Armenia); government decisions No. 157/2016 and No. 500165/2017 (Romania); and submissions by Colombia and the Human Rights Commission of Mexico City.

⁶⁶ Marietti, *Prison Conditions in Italy*, p. 24.

⁶⁷ Submission by the Institute for Crime & Justice Policy Research.

⁶⁸ A/HRC/54/51/Add.2, para. 57; and submissions by Colombia, Luxembourg and the Institute for Crime & Justice Policy Research.

⁶⁹ Submissions by the Institute for Crime & Justice Policy Research and Taiwan Mad Alliance.

⁷⁰ Committee of Experts on the Application of Conventions and Recommendations, observations and direct requests on Conventions No. 29 and No. 105, issued between 2021 and 2024 (available at <https://normlex.ilo.org/dyn/normlex/en/f?p=1000:20015>).

⁷¹ *Ibid.*; and submission by the American Civil Liberties Union.

incarcerated individuals, are not always reflected in wages⁷² and there are disturbing reports of incarcerated individuals being poorly remunerated, or not remunerated at all.⁷³

25. The Special Rapporteur is seriously concerned by the current practices among States with regard to wages and deductions, as many incarcerated individuals are not able to buy necessities, contribute to social security, support their loved ones outside and save for their future. Financial insecurity significantly enhances the risks of recidivism and contemporary forms of slavery once they are released. This in turn increases economic and social costs to the society in the long run. The Special Rapporteur therefore takes a firm view that States must pay fairer and sufficient wages regardless of the type of labour performed by incarcerated individuals. In that regard, the national minimum wage, which rises with inflation, is a reasonable starting point. Incarcerated individuals are more likely to appreciate the value of the work they perform, and this enhances its rehabilitative nature. Furthermore, while acknowledging the need to cover the costs of maintaining correctional facilities, the Special Rapporteur recommends that States reduce the amounts of deduction, which, in most cases, appear excessive.

26. In other issues relating to the working conditions, it is worth noting that many working incarcerated individuals are covered by labour and social security legislation in various parts of the world. In Morocco, Mozambique and Türkiye, they enjoy the same entitlements with regard to occupational health and safety protection as other individuals,⁷⁴ and social security legislation is applicable in Albania, the Congo and Spain.⁷⁵ France additionally provides maternity and disability insurance,⁷⁶ and incarcerated individuals in the Russian Federation are entitled to old age pension schemes.⁷⁷ Various States also regulate other issues, such as working hours, rest periods and holidays for prisoners, in their domestic legislation.⁷⁸ With regard to labour relations with private employers, in Burkina Faso, Ecuador, Iraq, Germany, Montenegro and Serbia,⁷⁹ employment contracts covering wages, working conditions, occupational health and safety and other pertinent issues are signed between prisoners and prison authorities or private employers themselves.

27. Another area worth noting is support provided to families of incarcerated persons. Australia and Ireland provide financial support for parents separated by imprisonment, and child allowances are available in Fiji, Namibia and Viet Nam.⁸⁰ Brazil provides pension benefits for dependants of incarcerated individuals.⁸¹ Given that most incarcerated individuals globally do not receive sufficient wages, such support is crucial; it can help

⁷² Submission by Penal Reform International; and Canada, Office of the Correctional Investigator, *Annual Report 2022–2023*, pp. 9 and 10.

⁷³ Submissions by the Russian Federation, the Maat for Peace, Development and Human Rights Association, the Committee for Human Rights in North Korea, the Corporate Accountability Lab, and Claudia Alejandra Cardona, of the Corporación Mujeres Libres, and Angela Marcela Olarte Delgado, of the centre for research in criminal policy of Universidad Externado de Colombia; Prisoners Defenders, “Brief report on forced labour in Cuban prisons” (2024); European Committee of Social Rights, “Conclusions 2022: France” (2023), pp. 16 and 17; and American Civil Liberties Union and University of Chicago Law School Global Human Rights Clinic, *Captive Labour*, pp. 34 and 35.

⁷⁴ Submission by Morocco; sections 53 and 54 of the Code for the Implementation of Sentences, approved through Act No. 26/2019 (Mozambique); and United States, Social Security Administration, *Social Security Programs Throughout the World: Europe, 2018*, p. 368 (on Türkiye).

⁷⁵ Submission by Spain; section 54 of the General Prison Regulations of 2015 (Albania); and Act No. 10-2022 of 20 April 2022 (Congo).

⁷⁶ Law No. 2021-1729, supplemented by Decree No. 2022-655; and submission by Aix Global Justice.

⁷⁷ Submission by the Russian Federation.

⁷⁸ Submissions by Colombia, Luxembourg, Morocco and Spain.

⁷⁹ Committee of Experts on the Application of Conventions and Recommendations, observations and direct requests on Conventions No. 29 and No. 105, issued between 2021 and 2024 (available at <https://normlex.ilo.org/dyn/normlex/en/f?p=1000:20015>); and submission by Germany.

⁸⁰ United States, Social Security Administration, *Social Security Programs Throughout the World: Asia and the Pacific, 2018* (2019), pp. 47, 90 and 290; *Social Security Programs Throughout the World: Africa, 2019*, p. 203; and *Social Security Programs Throughout the World: Europe, 2018*, p. 180.

⁸¹ United States, Social Security Administration, *Social Security Programs Throughout the World: The Americas, 2019*, p. 92.

prevent families of incarcerated individuals from falling deeper into financial insecurity or poverty, which are key drivers of contemporary forms of slavery.

28. Despite some positive examples of maintaining decent working conditions for incarcerated individuals, the Special Rapporteur is concerned by the indicators of forced labour evidenced within correctional facilities globally. In this regard, long working hours without food and water, guaranteed breaks or rest days or holidays, and hazardous working conditions (e.g. physically and mentally exhausting work, exposure to toxic substances and the operation of dangerous equipment and tools) without sufficient and prompt access to occupational health and safety training and protection⁸² and to medical facilities, including mental health support⁸³ and reproductive and sexual health services,⁸⁴ have been reported globally. There are also instances of prisoners being forced to work when they are ill,⁸⁵ have disabilities⁸⁶ or are above the retirement age,⁸⁷ or for private businesses, without having given explicit consent.⁸⁸ It is also worth highlighting that incarcerated individuals faced increased risks of exploitation during the coronavirus disease (COVID-19) pandemic.⁸⁹ In this regard, many were allegedly forced to produce personal protective equipment with threats of disciplinary actions for refusal. Part of the problem causing these exploitative working conditions is that incarcerated individuals are not recognized as workers and therefore are exempted from relevant labour and social protection laws and regulations in many cases,⁹⁰ despite the examples of good practice noted above. In addition, given the extent of power or control exercised by the correctional authorities over incarcerated individuals, where the latter has no choice but to submit, the Special Rapporteur takes the view that certain instances may amount to slavery contrary to the Slavery Convention of 1926 and other human rights instruments. What is needed is a more robust inspection regime that has the capacity, expert knowledge and skills to identify labour exploitation promptly.

29. Another concern relates to intersecting forms of discrimination experienced by incarcerated individuals. Globally, certain groups of people, including people of African descent and other ethnic minorities, and Indigenous persons, are overrepresented in correctional facilities and are more often subjected to labour without just and favourable conditions. In this regard, there are reports of Caucasian prisoners benefiting from more favourable and higher paid jobs.⁹¹ Those with social influence also have increased chances of being assigned easy jobs,⁹² while others from lower social status have to undertake harder or harsher work.⁹³ Persons with disabilities are paid less,⁹⁴ and women are typically assigned

⁸² Submissions by Aix Global Justice, Worth Rises, Respect – Protect – Fulfill and Legal Initiative, the Intervene Project, the National Council for Incarcerated and Formerly Incarcerated Women and Girls, the Committee for Human Rights in North Korea, the Corporate Accountability Lab, Claudia Alejandra Cardona and Angela Marcela Olarte Delgado; and Prisoners Defenders, “Brief report on forced labour in Cuban prisons”.

⁸³ [CCPR/C/KOR/CO/5](#), para. 41; [CCPR/C/LSO/CO/2](#), para. 37; [CCPR/C/ZMB/CO/4](#), para. 27; [CCPR/C/IRQ/CO/6](#), para. 22; [CCPR/C/ARM/CO/3](#), para. 25; [CAT/C/CRI/CO/3](#), para. 14; [CAT/C/DNK/CO/8](#), para. 18; [CAT/C/NZL/CO/7](#), para. 27; [CAT/C/ESP/CO/7](#), para. 23; [CAT/C/COL/CO/6](#), para. 24; [CAT/C/SVK/CO/4](#), para. 17; [CAT/C/SLV/CO/3](#), para. 22; and [CAT/C/BEL/CO/4](#), para. 19.

⁸⁴ [CEDAW/C/URY/CO/10](#), para. 41; and [CEDAW/C/CRI/CO/8](#), para. 43.

⁸⁵ *Prison Study by the Human Rights Commission of Sri Lanka*, p. 381.

⁸⁶ Submissions by the American Civil Liberties Union and Tanisha Cannon and Dylan O’Donoghue.

⁸⁷ Submission by the Canadian Human Rights Commission.

⁸⁸ ILO, Walk Free and the International Organization for Migration, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (2022), p. 54.

⁸⁹ See, for example, Rachel Ellis, “Prison labor in a pandemic”, *Contexts*, vol. 19, No. 4 (Fall 2020), pp. 90 and 91.

⁹⁰ Submissions by Virginia Mantouvalou and the Intervene Project.

⁹¹ Submissions by the American Civil Liberties Union, Penal Reform International, Worth Rises and the National Council for Incarcerated and Formerly Incarcerated Women and Girls.

⁹² *Prison Study by the Human Rights Commission of Sri Lanka*, p. 364; and submission by Ambika Satkunanathan.

⁹³ Submission by the Citizens’ Alliance for North Korean Human Rights.

⁹⁴ Submission by Taiwan Mad Alliance.

gender-stereotypical jobs such as sewing and making handcrafts,⁹⁵ which do not always enhance their economic reintegration. Furthermore, different rules may also be applied to migrants with regard to labour and social protection.⁹⁶ These situations constitute clear violations of the principle of non-discrimination.

B. State-imposed forced labour

30. State-imposed forced labour, including during administrative detention, has been reported in Belarus, Brazil, China, Côte d'Ivoire, the Democratic People's Republic of Korea, Kazakhstan, Myanmar, the Philippines, Poland, the Russian Federation, Turkmenistan, Viet Nam, Zimbabwe and other States.⁹⁷ The existence of domestic laws and regulations allowing compulsory labour for expressing political views or taking part in strikes also remains a concern in a large number of States, such as Angola, Azerbaijan, Bangladesh, Botswana, Bulgaria, Burundi, Cambodia, Cameroon, the Congo, Cuba, Czechia, the Democratic Republic of the Congo, Dominica, the Dominican Republic, Egypt, Eritrea, Fiji, Guatemala, Iran (Islamic Republic of), Iraq, Israel, Kenya, Kuwait, the Republic of Moldova, Rwanda, Saint Kitts and Nevis, Uganda and the United Arab Emirates.⁹⁸ Those practices are in violation of the Abolition of Forced Labour Convention, 1957 (No. 105).

C. Sexual exploitation of incarcerated or detained individuals

31. The Special Rapporteur is alarmed by instances of sexual exploitation and abuse within correctional and other detention facilities globally.⁹⁹ In the United States, for instance, it has been reported that sexual abuse against incarcerated women occurred in at least two thirds of federal prisons between 2012 and 2022.¹⁰⁰ Sexual violence in detention settings is also said to be serious in Canada,¹⁰¹ and there are reports of incarcerated or arbitrarily detained individuals in Burundi, Ethiopia, the Democratic People's Republic of Korea, Iran (Islamic Republic of), Libya, Myanmar, the Philippines and Trinidad and Tobago being subjected to rape and other severe forms of sexual abuse.¹⁰² It is important to recognize intersectional dimensions with regard to sexual exploitation and violence within correctional facilities. Children, persons with disabilities, Indigenous persons, persons belonging to minority groups, migrants, including asylum seekers and refugees, and persons of diverse

⁹⁵ A/HRC/55/52, para. 68; A/68/340, para. 68; A/HRC/53/39/Add.1, para. 80; and submission by Senator Kim Pate of Canada.

⁹⁶ Submission by Aix Global Justice.

⁹⁷ A/HRC/51/26, para. 24; CEDAW/C/CHN/CO/9, para. 31; A/77/522, para. 19; A/HRC/55/65, para. 70; E/C.12/BLR/CO/7, para. 17; A/HRC/55/61, para. 33; submissions by the Jubilee Campaign, the Coalition to End Forced Labour in the Uyghur Region, the Committee for Human Rights in North Korea and the Citizens' Alliance for North Korean Human Rights; "OHCHR assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, Peoples' Republic of China" (August 2022); ILO, Walk Free and International Organization for Migration, *Global Estimates of Modern Slavery*, pp. 54 and 56; and Walk Free, *The Global Slavery Index 2023*, p. 49.

⁹⁸ Committee of Experts on the Application of Conventions and Recommendations, observations and direct requests on Conventions No. 29 and No. 105, issued between 2021 and 2024 (available at <https://normlex.ilo.org/dyn/normlex/en/f?p=1000:20015>).

⁹⁹ See, for example, A/HRC/53/36/Add.2, paras. 66 and 68; CCPR/C/UZB/CO/5, para. 24; CEDAW/C/BHR/CO/4, para. 46; CEDAW/C/ZWE/CO/6, para. 45; CEDAW/C/ERI/CO/6, para. 47; and CAT/C/COL/CO/6, para. 28.

¹⁰⁰ United States Senate, Permanent Subcommittee on Investigations, *Sexual Abuse of Female Inmates in Federal Prisons: Staff Report* (2022), p. 4.

¹⁰¹ Canada, Office of the Correctional Investigator, *Annual Report 2019–2020*, p. iii.

¹⁰² A/HRC/55/62, para. 45; A/HRC/55/65, para. 73; A/HRC/53/36/Add.2; conference room paper of the International Commission of Human Rights Experts on Ethiopia on comprehensive investigative findings and legal determinations, para. 488, available at <https://www.ohchr.org/en/hr-bodies/hrc/ichre-ethiopa/index>; CCPR/C/BDI/CO/3, para. 27; CCPR/C/TTO/CO/5, para. 35; and submissions by the Maat for Peace, Development and Human Rights Association and the Committee for Human Rights in North Korea. See also A/HRC/50/20, para. 18.

sexual orientations and/or gender identities are also particularly vulnerable to sexual exploitation and abuse.¹⁰³

32. In terms of perpetrators, employees of correctional facilities may take advantage of the vulnerability of incarcerated persons and seek sexual favours in exchange for better job assignments and other benefits, and may threaten to retaliate if the person refuses or reports the incident.¹⁰⁴ There are also instances of inter-prisoner sexual violence, abuse and exploitation.¹⁰⁵ Sexual abuse and exploitation within correctional facilities remain underreported or underinvestigated owing to fears of retaliation and revictimization,¹⁰⁶ thereby promoting a culture of impunity. When the exercise of power or control by perpetrators over victims is significant, sexual exploitation and abuse may amount to sexual slavery.

D. Access to justice and remedies

33. Access to justice and remedies is crucial when incarcerated individuals suffer from labour or sexual exploitation or both. States have various systems in place to facilitate such access. Costa Rica recently introduced the System of Registration, Communication and Comprehensive Care for Victims of Institutional Violence in Prisons, which provides for, among other things, regular visits, including follow-up visits, to penitentiaries, and for the implementation of urgent judicial, administrative and medical measures.¹⁰⁷ Many national human rights institutions, ombudspersons, correctional inspectorates¹⁰⁸ and other national preventive mechanisms established in line with the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment¹⁰⁹ are also empowered to receive complaints or investigate allegations of human rights abuses, including labour exploitation and sexual exploitation. In addition, in States such as South Africa and Spain, specialized penitentiary courts exist to monitor prison administration and secure the rights of incarcerated individuals.¹¹⁰

34. However, incarcerated individuals around the world face particular and distinct challenges in accessing justice and remedies. Insufficient or ineffective investigations,¹¹¹ a lack of independent investigative mechanisms,¹¹² impunity or lack of accountability,¹¹³ cultural insensitivity, structural discrimination,¹¹⁴ and legal, administrative and other hurdles, including limited access to compensation,¹¹⁵ have been reported. As noted previously, many prisoners are said not to report instances of exploitation and abuse owing to a fear of reprisal

¹⁰³ A/HRC/55/80, para. 66; A/HRC/55/55/Add.1, para. 36; CAT/C/SLV/CO/3, para. 24; CAT/C/NIC/CO/2, para. 13; CAT/C/CHE/CO/8, para. 29; CAT/C/AUS/CO/6, para. 29; CAT/C/BRA/CO/2, para. 23; A/HRC/53/36/Add.2, para. 39; A/HRC/56/49/Add.3, para. 61; and CCPR/C/TTO/CO/5, para. 35.

¹⁰⁴ CAT/C/KAZ/CO/4, para. 23; and submission by the National Council for Incarcerated and Formerly Incarcerated Women and Girls. See also United States Senate, Permanent Subcommittee on Investigations, *Sexual Abuse of Female Inmates*, p. 4.

¹⁰⁵ CAT/C/ETH/CO/2, para. 34; and CAT/C/KEN/CO/3, para. 17. See also CCPR/C/TTO/CO/5, para. 35.

¹⁰⁶ Submissions by the National Council for Incarcerated and Formerly Incarcerated Women and Girls, and the Maat for Peace, Development and Human Rights Association; and Canada, Office of the Correctional Investigator, *Annual Report 2019–2020*, p. 23.

¹⁰⁷ See, for example, CAT/C/CRI/CO/3, para. 4.

¹⁰⁸ Submissions by Colombia, the Russian Federation, the Attorney General of Maldives, the Canadian Commission on Human Rights, and the Human Rights Commission of Mexico City; and A/HRC/52/30, para. 58.

¹⁰⁹ A list of States parties to the Optional Protocol and of national preventive mechanisms is available from <https://www.ohchr.org/en/treaty-bodies/spt/national-preventive-mechanisms>.

¹¹⁰ See <http://jics.dcs.gov.za/jics/> (South Africa); and submission by Spain.

¹¹¹ CAT/C/COL/CO/6, para. 30; CAT/C/ESP/CO/7, para. 13; and CAT/C/SRB/CO/3, para. 19.

¹¹² CAT/C/URY/CO/4, para. 30; CAT/C/CUB/CO/3, para. 32; and A/HRC/46/26/Add.1, para. 57.

¹¹³ CAT/C/ETH/CO/2, para. 40; and CAT/C/IRQ/CO/2, para. 12.

¹¹⁴ A/HRC/42/37, paras. 33–41.

¹¹⁵ Submission by the American Civil Liberties Union; and CAT/C/NZL/CO/7, para. 49.

by both prison officials and inmates.¹¹⁶ Others, particularly foreign nationals who face language barriers, are not aware of their rights with regard to access to justice and remedies.¹¹⁷ There is therefore an urgent need for States to review the existing mechanisms and ensure that victims of labour exploitation and sexual exploitation understand and are able to access reporting channels effectively and without fear.

E. Educational and vocational training during incarceration

35. Meaningful educational and vocational training opportunities are essential for successful reintegration of incarcerated individuals, and many States already have various programmes in place to that end. The African Prisons Project, for instance, offers incarcerated individuals in Kenya and Uganda an opportunity to study law under the University of London's international programme.¹¹⁸ The University of Panama, in cooperation with the United Nations Office on Drugs and Crime, established the first university programme at the Women's Rehabilitation Centre, providing opportunities for incarcerated women to enhance their career prospects.¹¹⁹ Mexico and New Zealand offer targeted educational programmes for Indigenous persons, including materials published in their native languages, in close cooperation with Indigenous communities and organizations.¹²⁰

36. In relation to vocational training, Ecuador, the Gambia, Guatemala, Samoa, Togo and Zambia provide courses or workshops in a range of professions, such as engineering, plumbing, carpentry, textiles/clothing, hairdressing, jewellery-making, gardening, ceramics, handcrafting and farming.¹²¹ It is also worth highlighting the efforts to train incarcerated individuals to start their own businesses. In the United States, the programme known as Transforming Prisoners into Entrepreneurs is an eight-week training course through which incarcerated individuals are taught the basics of establishing a business. Out of 100,000 individuals engaged in the programme, a notable 30 per cent have successfully launched entrepreneurial projects.¹²² Similar training is also offered in Morocco through the Dar Al Moukawil programme.¹²³

37. Tailored programmes, instead of one-size-fits-all approaches, are needed in order to meet the individual needs of incarcerated individuals, and there are encouraging examples in that regard. Correctional Service Canada, for instance, produces a correctional plan for each incarcerated person, taking into account individual educational, vocational and other needs.¹²⁴ In Germany, Norway and Spain, incarcerated individuals are enrolled in daily programmes of training, work or education after individual assessments.¹²⁵ Mauritius recently opened a new farm for training in hydroponics and agroponics specifically targeting women,¹²⁶ and incarcerated Aboriginal peoples in various parts of Australia receive culturally appropriate support with the involvement of the Aboriginal community.¹²⁷ It is important to recognize the role played by educational institutions, civil society, private employers and other relevant

¹¹⁶ CAT/C/ETH/CO/2, para. 40; CAT/C/ROU/CO/3, para. 27; CAT/C/KAZ/CO/4, para. 29; and submission by Ambika Satkunanathan.

¹¹⁷ Submission by Aix Global Justice.

¹¹⁸ See <https://onpurpose.org/en/our-community/african-prisons-project/>.

¹¹⁹ Penal Reform International and the Thailand Institute of Justice, *The Rehabilitation and Social Integration of Women Prisoners: Implementation of the Bangkok Rules* (2019), p. 31.

¹²⁰ Submission by Mexico; and A/HRC/42/37, para. 92.

¹²¹ Submissions by Ecuador and Guatemala; Committee of Experts on the Application of Conventions and Recommendations, observations and direct requests on Conventions No. 29 and No. 105, issued between 2021 and 2024 (available at <https://normlex.ilo.org/dyn/normlex/en/f?p=1000:20015>); and REFORM Alliance and Perseus Strategies, *Upholding Rights and Unlocking Potential: A Global Approach to Social Reintegration* (2024), pp. 199 and 204.

¹²² Submission by the Maat for Peace, Development and Human Rights Association.

¹²³ Submission by Morocco.

¹²⁴ Submission by Canada.

¹²⁵ Submissions by Germany and Spain; and A/HRC/55/52, para. 49.

¹²⁶ Thailand Institute of Justice and Penal Reform International, *Global Prison Trends 2023*, p. 40.

¹²⁷ Submission by Australia.

actors in delivering educational and vocational training,¹²⁸ as many States depend heavily on their support.

38. However, there remains much scope for improvement. The general lack of meaningful training or educational opportunities within correctional facilities has been raised as a serious issue around the world.¹²⁹ In part, such deficiencies may be attributed to a lack of investment or resources. Intersectional dimensions are important in this context, as there are reports of persons incarcerated in maximum and other high-security facilities, foreign nationals, members of minority groups, Indigenous persons, persons of diverse sexual orientations and/or gender identities, younger or older persons and persons with disabilities experiencing discrimination in gaining access to rehabilitation programmes.¹³⁰ The quality of programmes has also been called into question, as many such programmes are reportedly not designed to equip incarcerated individuals with knowledge and skills needed for more effective reintegration¹³¹ or are not culturally appropriate or gender sensitive.¹³² It is in the interest of States to increase investment in rehabilitation and reintegration programmes, as individually tailored high quality programmes can reduce recidivism and instances of contemporary forms of slavery.

F. Reintegration of formerly incarcerated individuals

39. Deep-rooted discrimination against and stigmatization of formerly incarcerated individuals, in addition to frequent economic precariousness, continue to enhance the risk of the exploitation of those individuals in contemporary forms of slavery. For one, they still have limited opportunities for decent work. In the United States, for instance, one study indicated that one third of individuals released from federal correctional facilities in 2010 were not able to find employment in the four years after their release.¹³³ This picture, however, is a reality across the world. Many employers are still reluctant to hire formerly incarcerated persons, with some employers acknowledging that they would automatically reject individuals who declare convictions.¹³⁴ Consequently, formerly incarcerated individuals are more likely to work in the informal economy,¹³⁵ where labour and social security protections are limited or non-existent, thereby increasing the risk of labour exploitation. They also tend to experience obstacles in accessing adequate and affordable long-term housing and social welfare benefits.¹³⁶

40. Intersecting forms of discrimination once again play a part in this context. Gender stereotypes are often reflected in reintegration policies and programmes, many of which are

¹²⁸ Submissions by Colombia, Ecuador, Mexico and Spain, the Attorney General of Maldives and the Human Rights Commission of Mexico City.

¹²⁹ CAT/C/BDI/CO/3, para. 29; CAT/C/URY/CO/4, para. 14; CAT/C/EGY/CO/5, para. 21; CAT/C/ROU/CO/3, para. 11; CAT/C/CHE/CO/8, para. 25; CAT/C/BRA/CO/2, para. 21; CAT/C/ETH/CO/2, para. 34; CAT/C/TCD/CO/2, para. 27; CAT/C/MWI/CO/1, para. 17; CAT/C/IRQ/CO/2, para. 24; CEDAW/C/BOL/CO/7, para. 37; and CEDAW/C/SEN/CO/8, para. 39.

¹³⁰ A/HRC/53/39/Add.2, paras. 54 and 55; A/HRC/51/27, para. 49; CAT/C/KAZ/CO/4, para. 31; CAT/C/SVN/CO/4, para. 14; CEDAW/C/DOM/CO/8, para. 45; CEDAW/C/PER/CO/9, para. 47; CRPD/C/BHR/CO/1-2, para. 30; and submission by Claudia Alejandra Cardona and Angela Marcela Olarte Delgado.

¹³¹ Submissions by the Canadian Human Rights Commission and Penal Reform International.

¹³² A/HRC/54/31/Add.2, para. 43; and Special Rapporteur on contemporary forms of racism, racial discrimination and xenophobia, statement on her visit to the United States.

¹³³ United States Department of Justice, “Employment of persons released from federal prison in 2010” (2021), p. 1.

¹³⁴ Working Chance, “Progress and prejudice: shifts in UK employer attitudes to hiring people with convictions” (2022), p. 4.

¹³⁵ Holly Nguyen, Takuma Kamada and Anke Ramakers, “On the margins: considering the relationship between informal work and reoffending”, *Justice Quarterly*, vol. 39, No. 1 (2022).

¹³⁶ Submissions by the Canadian Human Rights Commission, Tanisha Cannon and Dylan O’Donoghue, and Claudia Alejandra Cardona and Angela Marcela Olarte Delgado; American Civil Liberties Union and University of Chicago Law School Global Human Rights Clinic, *Captive Labor*, p. 60; European Observatory on Homelessness, *Leaving Prison and Homelessness* (2023), pp. 59–69.

limited to traditionally gendered roles with no prospect of developing new skills.¹³⁷ There are reports of formerly incarcerated women resorting to sex work and other low-paid jobs in order to earn their living, owing to a lack of options. Members of minority groups, Indigenous persons, older persons and persons with disabilities also experience further marginalization in accessing reintegration support, including suitable housing, employment, and health and social care. There is therefore an urgent need to tackle intersecting forms of discrimination and provide tailored support in order to prevent recidivism and exploitation in contemporary forms of slavery.

41. The Special Rapporteur wishes to highlight encouraging examples of reintegration measures designed to address these challenges and obstacles. The implementation of “spent convictions” is a case in point. Simply put, after a period of rehabilitation, which is typically determined by the length of the sentence and/or the seriousness of the offence, one’s conviction is regarded as “spent”.¹³⁸ This means, among other things, that formerly incarcerated individuals do not have to disclose their convictions to prospective employers. This is a reasonable step, as the existence of criminal records continues to serve as a major obstacle in accessing education, decent work and housing and other services. This is also an example of the “right to be forgotten” mentioned above.

42. The rules on spent convictions differ among States and regions. In Singapore, the rehabilitation period is 5 years,¹³⁹ whereas it is 7 years in Ireland¹⁴⁰ and 10 years in South Africa¹⁴¹ and in Victoria, Australia.¹⁴² In a number of States, spent convictions apply only to minor offences. In Seychelles, for instance, offences carrying up to five years’ imprisonment may be regarded as spent,¹⁴³ and New Zealand excludes convictions with custodial sentences.¹⁴⁴ However, more serious offences are included in some countries. The United Kingdom recently made it possible for custodial sentences of over four years to be spent, although serious sexual, violent and terrorist offences are excluded.¹⁴⁵ Similar exclusions are recognized in Cyprus¹⁴⁶ with regard to drug and fraud offences. In other States, such as Colombia, Honduras¹⁴⁷ and Spain,¹⁴⁸ criminal records are expunged altogether after completing sentences or rehabilitation periods. In addition, some have gone further to specifically prohibit discrimination based on criminal records. Ecuador and 35 states of the United States have passed legislation banning employers from inquiring about jobseekers’ criminal records,¹⁴⁹ and states in Australia¹⁵⁰ similarly prohibit discrimination based on irrelevant and/or spent convictions.

43. In the area of employment, public or private job referral services are available for formerly incarcerated individuals, and various States have developed partnerships with private and public employers to promote access to work for those individuals. In Panama, individuals who participate in a vocational training programme, known as EcoSólidos, during incarceration are able to work for a recycling company after release, and a similar programme

¹³⁷ See, among others, Inter-American Commission on Human Rights, *Women Deprived of Liberty in the Americas* (2023), para. 236.

¹³⁸ Submission by Unlock.

¹³⁹ Registration of Criminals Act 1949.

¹⁴⁰ Criminal Justice (Spent Convictions and Certain Disclosures) Act 2016.

¹⁴¹ Criminal Procedure Act 51 of 1977.

¹⁴² Spent Convictions Act 2001.

¹⁴³ Rehabilitation of Offenders Act of 1996.

¹⁴⁴ Criminal Record (Clean Slate) Act 2004.

¹⁴⁵ Police, Crime, Sentencing and Courts Act 2022.

¹⁴⁶ Law on the rehabilitation of convicted persons (Law 70/1981).

¹⁴⁷ Decree Order No. 019/2012 (Colombia) and Agreement 11-2014 (Honduras), as cited in Leandro Gastón and Carlos Carnevale, “Criminal records and employment restrictions in Argentina: between post-sentence discrimination and resistance strategies”, *Criminology & Criminal Justice*, vol. 23, No. 4 (September 2023).

¹⁴⁸ Article 136 of the Criminal Code.

¹⁴⁹ Executive Order No. 1166 of 2012 (Ecuador); and American Civil Liberties Union and University of Chicago Law School Global Human Rights Clinic, *Captive Labor*, p. 80.

¹⁵⁰ See for instance, section 19 of the Anti-Discrimination Act 1996 (Northern Territory), section 16 of the Anti-Discrimination Act 1998 (Tasmania) and section 6 of the Equal Opportunity Act 2010 (Victoria).

exists in Guyana.¹⁵¹ Kuwait and Malaysia offer internship opportunities in cooperation with private employers,¹⁵² and the Mohammed VI Foundation for the Reintegration of Prison Inmates in Morocco provides financial assistance to formerly incarcerated individuals so that they can start their own businesses.¹⁵³ Uruguay established a company whose workforce consists entirely of formerly incarcerated individuals.¹⁵⁴

44. Some States provide incentives to businesses or employers in order to encourage them to hire formerly incarcerated individuals. In Singapore, employers receive an “uplifting employment credit”, which covers up to 20 per cent of the monthly wages of formerly incarcerated individuals for the first nine months under the community-based Yellow Ribbon initiative.¹⁵⁵ Incentive payments and/or subsidies for employers are also utilized in Cyprus, Estonia and Japan¹⁵⁶ and the Federal Bonding Program in the United States protects employers from losses caused by employees.¹⁵⁷ There is research showing that employers are more willing to hire formerly incarcerated individuals if there are incentive measures,¹⁵⁸ and this should be considered and implemented by all States.

45. Aside from access to decent work, financial inclusion is another important area that should be strengthened for formerly incarcerated individuals. Access to bank accounts is important in order to receive wages and social security benefits, and yet there are often obstacles in this regard for formerly incarcerated individuals owing to a lack of identification documents and proof of address, among other things. According to recent research conducted in several regions, partnerships among public authorities, financial institutions and others, such as civil society, have produced positive results in allowing currently and formerly incarcerated individuals to open bank accounts.¹⁵⁹ For instance, the charity organization Unlock in the United Kingdom implemented a pilot project – Unlocking Banking – which connected formerly incarcerated individuals with high street banks, resulting in, among other things, the creation of nearly 6,000 bank accounts in the final year of the project.¹⁶⁰ In Argentina, the national bank offers credits of up to 50,000 pesos to formerly incarcerated individuals, and Nepal and Uzbekistan, as well as Taiwan Province of China, implement a range of measures, such as subsidization of medical expenses and small loans to start new businesses.¹⁶¹

46. In addition, access to decent housing is crucial, as formerly incarcerated individuals without family or friends to rely on are at a heightened risk of being pushed into homelessness, which in turn can lead to exploitation in contemporary forms of slavery.¹⁶² Many States provide temporary accommodations, which are often provided in cooperation with non-State stakeholders,¹⁶³ where additional services such as education and vocational training are provided. Efforts to secure long-term housing are also undertaken by some States.

¹⁵¹ REFORM Alliance and Perseus Strategies, *Upholding Rights*, pp. 233, 243 and 244.

¹⁵² *Ibid.*, pp. 64 and 261.

¹⁵³ Submission by Morocco; and REFORM Alliance and Perseus Strategies, *Upholding Rights*, pp. 189 and 190.

¹⁵⁴ REFORM Alliance and Perseus Strategies, *Upholding Rights*, pp. 244 and 245.

¹⁵⁵ See <https://www.yellowribbon.gov.sg/what-we-do/employment-assistance>.

¹⁵⁶ Japan, Ministry of Justice, Employment Support in Offenders Rehabilitation, available at https://www.moj.go.jp/EN/hogo1/soumu/hogo02_00030.html; REFORM Alliance and Perseus Strategies, *Upholding Rights*, p. 253; and David Coady and others, “Guaranteed minimum income schemes in Europe: landscape and design”, IMF Working Paper (International Monetary Fund, 2021), p. 28.

¹⁵⁷ See <https://bonds4jobs.com/about-us>.

¹⁵⁸ Zoë Cullen, Will Dobbie and Mitchell Hoffman, “Increasing the demand for workers with a criminal record”, *The Quarterly Journal of Economics*, vol. 138, No. 2 (February 2023); and Emmanuel Agyapong Wiafe, “Willingness of employers to employ ex-convicts among selected SMEs in the western region of Ghana”, *Cogent Social Sciences*, vol. 7, No. 1 (2021).

¹⁵⁹ Victoria Stace and John Sibanda, *Paying the Price: A Report into Issues Prisoners Face around Access to Banking* (FinCap, 2023).

¹⁶⁰ Unlock, “Unlocking Banking impact report” (2014).

¹⁶¹ REFORM Alliance and Perseus Strategies, *Upholding Rights*, pp. 235, 249, 258, 259 and 281.

¹⁶² A/HRC/54/30, para. 32.

¹⁶³ Submission by Colombia; and European Observatory on Homelessness, *Leaving Prison and Homelessness*, pp. 59–69.

Ireland assists incarcerated individuals in applying for social housing ahead of their release and recently implemented a pilot Housing First service for some formerly incarcerated individuals.¹⁶⁴ The need for a Housing First-like approach has also been recognized in Finland, the Kingdom of the Netherlands and Portugal.¹⁶⁵

47. Equally important is the provision of social security or welfare benefits, particularly when formerly incarcerated individuals are not able to access and maintain stable employment and a regular income. In this regard, many States already provide support, such as unemployment, disability and old-age pension benefits, after release. One initiative worth mentioning is the provision of guaranteed incomes. In the United States, the cities of Durham in North Carolina and Gainesville in Florida,¹⁶⁶ and non-profit organizations such as the National Council for Incarcerated and Formerly Incarcerated Women, Community Spring and Equity and Transformation, have implemented pilot projects providing guaranteed incomes to some formerly incarcerated individuals for limited periods of time.¹⁶⁷ Such initiatives can promote the financial inclusion of formerly incarcerated individuals more effectively and sustainably and thereby prevent their exploitation.

48. Finally, there are a number of services tailored for particularly vulnerable populations. For instance, Japan has started a special programme for older persons and persons with disabilities in which community volunteers work with probation officials to secure access to housing, social and other support.¹⁶⁸ There are a number of healing lodges run by, or in partnership with, Indigenous communities for formerly incarcerated Indigenous persons in Canada,¹⁶⁹ which provide safe and culturally appropriate environments to promote reintegration. The Lila Thai Massage Ex-Inmate Employment and Skill Development Centre in Chiang Mai, Thailand, offers employment to women who have completed a massage-training programme during incarceration, allowing them to earn twice the average monthly income in the country.¹⁷⁰

49. The Special Rapporteur hopes that these and other important and innovative reintegration measures continue to be strengthened globally in order to prevent recidivism and contemporary forms of slavery among formerly incarcerated individuals. For the measures to be effective, it is clear that a multi-stakeholder approach is needed. The Special Rapporteur urges all States to work collaboratively with businesses and employers, workers' organizations, civil society, educational and vocational institutions, community leaders and other relevant stakeholders by providing financial and other much needed support. Incarcerated people themselves should be able to play an active role in shaping reintegration and rehabilitation policies, programmes and strategies, as they are most familiar with peoples' needs in such contexts.

V. Conclusions

50. The imposition of compulsory labour for incarcerated individuals is a common practice among States. While this does not automatically constitute forced labour, in the present report the Special Rapporteur highlighted various practices that are clearly in contravention of the existing international human rights and labour standards. There is generally a lack of meaningful work opportunities, and wages are by and large insufficient, as incarcerated individuals are not able to pay for necessities, support their

¹⁶⁴ European Observatory on Homelessness, *Leaving Prison and Homelessness*, p. 65.

¹⁶⁵ *Ibid.*, p. 68; REFORM Alliance and Perseus Strategies, *Upholding Rights*, annex III; and the Dutch National Action Plan on Homelessness: Housing First 2023–2030.

¹⁶⁶ See <https://www.mayorsforagi.org/>.

¹⁶⁷ See <https://www.nationalcouncil.us/reimagining-communities/basic-income-guarantee>; and <https://jignv.org/> and <https://www.eatchicago.org/chicago-future-fund-1>.

¹⁶⁸ Penal Reform International, input submitted to the Independent Expert on the enjoyment of all human rights by older persons for the report on older persons deprived of liberty (2022). Available at <https://www.ohchr.org/en/calls-for-input/2022/report-older-persons-deprived-their-liberty>.

¹⁶⁹ See <https://www.canada.ca/en/correctional-service/programs/offenders/indigenous-corrections/healing-lodges.html>.

¹⁷⁰ Penal Reform International and the Thailand Institute of Justice, *The Rehabilitation and Social Integration of Women Prisoners*, p. 40.

loved ones outside and save for their future, increasing the risk of recidivism and contemporary forms of slavery after their release. The working conditions also raise serious concerns, as long working hours without breaks or rest days, limited access to occupational health and safety protection, medical facilities and social security benefits, as well as intimidation, harassment or even violence, have been reported widely. State-imposed forced labour is practiced in various parts of the world, and sexual exploitation within correctional facilities remains serious. All instances of labour exploitation and sexual exploitation must be tackled more effectively by providing sufficient training and oversight, strengthening accountability and securing access to justice and remedies for victims.

51. With regard to educational and vocational training provided within correctional facilities, positive examples can be recognized. However, their quality and relevance has been called into question, as many programmes are not designed to equip incarcerated individuals with transferable skills, qualifications and knowledge that have an impact on the affected persons' reintegration and rehabilitation in the long term. More proactive investment and strong partnerships with other stakeholders are needed. In addition, deep-rooted discrimination and stigmatization continue to limit access by formerly incarcerated individuals to education, decent work, adequate housing, social security and other services, and States must intensify their efforts in eliminating existing obstacles and in creating a level playing field for all potential workers.

52. Finally, intersecting forms of discrimination must be tackled more effectively. In the present report, the Special Rapporteur highlighted that women, members of minorities, Indigenous persons, migrants, young and older persons and persons with disabilities experience additional discrimination and stigmatization in accessing various services within and outside of correctional facilities. More effective awareness-raising and training among all service providers, and promotion of a multi-stakeholder approach with the involvement of diverse groups of stakeholders, is needed to effectively tackle these intersecting forms of discrimination and prevent contemporary forms of slavery among currently and formerly incarcerated individuals.

VI. Recommendations

Labour exploitation and sexual exploitation during incarceration

53. The Special Rapporteur recommends that States:

(a) Ratify and implement relevant international labour standards, including the Forced Labour Convention, 1930 (No. 29), the Protocol thereto of 2014, and the Abolition of Forced Labour Convention, 1957 (No. 105);

(b) Ensure, through legislative and other means, that labour during incarceration is truly voluntary by requiring free, informed and explicit consent, eliminating disciplinary actions for non-engagement and offering a range of work options and other alternatives;

(c) Recognize incarcerated individuals as "workers" in national legislation and extend labour protection, particularly in areas such as wages, working hours, occupational health and safety and trade union rights;

(d) Introduce a contract for all forms of work performed during incarceration, setting out all essential working conditions;

(e) Pay national minimum wages, which rise with inflation, to all incarcerated individuals without discrimination, at the very least;

(f) Ensure that deductions of wages are reasonable and fair so that incarcerated individuals are able to purchase necessities, support their loved ones outside and save for their future;

- (g) Increase meaningful work opportunities designed to enhance marketable skills and expertise by strengthening partnerships with private businesses and employers;
- (h) In allocating work assignments, pay special attention to intersectional dimensions such as age, gender, Indigenous, minority or immigration status, and disability and make appropriate adjustments and allowances depending on individuals' wishes and needs;
- (i) Strengthen labour inspection within and outside of correctional facilities in order to ensure that public and private employers are in compliance with national labour laws and regulations and to identify instances of exploitation promptly;
- (j) Provide sufficient training and protection measures to incarcerated individuals in order to prevent occupational illnesses and injuries;
- (k) Secure immediate access to medical facilities for incarcerated individuals in the event of illness or injury;
- (l) Extend social security benefits to incarcerated individuals without discrimination;
- (m) When necessary, provide support to families of incarcerated individuals in order to ease their financial constraints;
- (n) End State-imposed forced labour in law and practice in accordance with the Abolition of Forced Labour Convention, 1957 (No. 105);
- (o) Immediately cease and provide effective measures against sexual exploitation and abuse of detained or incarcerated individuals by adopting and implementing a specific action plan or guidance, training correctional officials and tackling impunity;
- (p) Establish an independent body or empower the existing mechanisms (such as national human rights institutions, ombudspersons and prison investigators) to receive and investigate allegations of labour exploitation and sexual exploitation promptly and to grant remedies;
- (q) Secure safe and anonymous access to grievance mechanisms for all incarcerated individuals.

Educational and vocational training during incarceration

54. The Special Rapporteur recommends that States:

- (a) Invest in educational and vocational training for incarcerated individuals in order to promote successful rehabilitation and reintegration upon release;
- (b) Promote a multi-stakeholder approach to educational and vocational training by strengthening partnerships with local businesses and employers, educational institutions, civil society, community leaders and others;
- (c) Provide sufficient financial and other support to stakeholders providing educational and vocational training for incarcerated individuals;
- (d) Ensure that educational and vocational training is culturally appropriate and gender sensitive and tailored individually by reflecting the needs and interests of each incarcerated individual.

Reintegration of formerly incarcerated individuals

55. The Special Rapporteur recommends that States:

- (a) Remove legal and other barriers that hinder access to education, decent work, adequate housing and other essential services;
- (b) Include incarceration as one of the prohibited grounds in national anti-discrimination laws and regulations;

(c) Provide sufficient awareness-raising among private businesses and employers, service providers and the general public in order to tackle discrimination, prejudice and stigmatization experienced by formerly incarcerated individuals;

(d) Promote a multi-stakeholder approach in developing and implementing reintegration measures;

(e) Address the obstacles resulting from criminal records through their expungement after appropriate rehabilitation periods and other appropriate means;

(f) Provide financial and other incentives to private businesses and employers to encourage them to hire formerly incarcerated individuals;

(g) Secure access for formerly incarcerated individuals to adequate housing and social security without discrimination;

(h) Promote the financial inclusion of formerly incarcerated individuals by developing closer partnerships with financial institutions and other stakeholders.

Overarching recommendations

56. The Special Rapporteur recommends that States:

(a) Address intersecting forms of discrimination on grounds of age, gender, sexual orientation, Indigenous, minority or immigration status, and disability, which limit access to educational and vocational training and reintegration measures; provide regular training on discrimination to all governmental and non-governmental service providers; and implement temporary special measures where appropriate;

(b) Promote a multi-stakeholder approach by promoting the participation of diverse groups of stakeholders, including incarcerated and formerly incarcerated individuals, in developing relevant rehabilitation and reintegration policies, guidance and programmes;

(c) Regularly collect and analyse disaggregated data on labour during incarceration, on rehabilitation and reintegration programmes, on sexual and labour exploitation and on the economic and social integration of formerly incarcerated individuals, taking into account important characteristics such as age, gender, sexual orientation and gender identity, disability, ethnicity and immigration status.
