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**Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms**

### **Role of organized criminal groups with regard to contemporary forms of slavery**

#### **Note by the Secretary-General**

The Secretary-General has the honour to transmit herewith to the General Assembly the report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Tomoya Obokata, submitted in accordance with Human Rights Council resolution [42/10](#).

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\* [A/76/150](#).



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

### *Summary*

The present report is submitted in accordance with Human Rights Council resolution 42/10. By providing examples from all geographical regions, it assesses the role of organized criminal groups in contemporary forms of slavery.

To that end, the profiles of organized criminal groups, their *modi operandi* and the nature and extent of the exploitation of victims are analysed, and different ways of addressing contemporary forms of slavery as practised by organized criminal groups are subsequently discussed.

In the present report, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, concludes that organized criminal groups often penetrate the legal economy and that, as a result, their criminal operations, including incidences of contemporary forms of slavery, are difficult to identify. Consequently, significant gaps in the identification and protection of victims remain, which require stronger efforts by States and businesses. The Special Rapporteur formulates recommendations on how the present loopholes in the prevention of and response to contemporary forms of slavery as practised by organized criminal organizations could be addressed.

## I. Introduction

1. In the present report, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, explores the role of organized criminal groups regarding contemporary forms of slavery. After illustrating the profiles of criminal groups operating globally, the Special Rapporteur examines their *modi operandi* and the nature and extent of exploitation. The Special Rapporteur looks at three key actions to address the involvement of organized criminal groups: (a) the criminalization of their participation in contemporary forms of slavery; (b) intelligence-led law enforcement; and (c) financial investigations and the confiscation of criminal proceeds.

2. To inform his research, the Special Rapporteur issued a call for input to a wide range of stakeholders, including Member States, national human rights institutions, civil society organizations, United Nations agencies and regional human rights bodies. He wishes to thank them for their contributions and welcomes the engagement demonstrated in that process.<sup>1</sup> The Special Rapporteur also drew on information gathered from desk research.

## II. Activities of the Special Rapporteur

3. The activities of the Special Rapporteur since the last reporting cycle are illustrated in his report to the Human Rights Council ([A/HRC/48/52](#)).

## III. Relevant definitions

4. For the purposes of the present report, the most relevant international instrument is the United Nations Convention against Transnational Organized Crime adopted by the General Assembly in 2000 in its resolution [55/25](#). The treaty does not provide a definition of “organized crime” *per se*. Rather, it is to be understood as a “serious crime” committed by an “organized criminal group,” which is defined as “a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes or offences established in accordance with th[e] Convention, in order to obtain, directly or indirectly, a financial or other material benefit” (art. 2 (a)).

5. A popular perception of organized crime is the involvement of criminal groups with solid, formalized or hierarchical structures with a clear division of labour and chain of command. This has been evident in Sicily with the prominence of Cosa Nostra, which later expanded its presence in North America.<sup>2</sup> The Organized Crime Convention definition applies to that type of criminal groups, as it speaks of structured groups of “three or more persons, existing for a period of time” and excludes those that are “randomly formed for the immediate commission of an offence” (art. 2 (c)). Other examples of organized criminal groups include the Italian ‘Ndrangheta, the Japanese Yakuza and the Chinese Triads.<sup>3</sup>

6. Not all organized criminal groups have solid, formalized or hierarchical structures. Many are small networks operating like “cells” collaborating with one another to commit crimes. In recognition of this, it was decided during the drafting

<sup>1</sup> All submissions are available at [www.ohchr.org/EN/Issues/Slavery/SRSlavery/Pages/cfi-role-organised-criminal-groups-slavery.aspx](http://www.ohchr.org/EN/Issues/Slavery/SRSlavery/Pages/cfi-role-organised-criminal-groups-slavery.aspx).

<sup>2</sup> Klaus von Lampe, *Organized Crime: Analysing Illegal Activities, Criminal Structures and Extra-Legal Governance* (Sage, 2016), p. 187.

<sup>3</sup> Letizia Paoli, “What makes mafias different?”, in *Organizing Crime: Mafias, Markets, and Networks*, Michael Tonry and Peter Reuter, eds. (Chicago, University of Chicago Press, 2020), pp. 141–222.

stage of the Organized Crime Convention that the instrument should also apply to non-hierarchical groups.<sup>4</sup> Article 2, paragraph (c), states in that regard that a structured group does not need to have “formally defined roles for its members, continuity of its membership or a developed structure”.

7. The following points are equally relevant in relation to the definitions contained in the Organized Crime Convention: a “serious crime” under article 2, paragraph (b), means conduct constituting an offence punishable by a maximum deprivation of liberty of at least four years or a more serious penalty. Such an offence is to be committed for “financial or other material benefit”. This is an important element, because what distinguishes organized crime from ordinary crime is the generation of longer-term, as opposed to one-off, profits or benefits. This means that criminal proceeds are laundered and reinvested in activities of organized criminal groups for the sustained generation of illegal gains.

8. In addition to typical organized criminal groups and networks, the aforementioned definitions can apply to terrorist and other armed groups, as well as private businesses that engage in contemporary forms of slavery. The prosecution of those entities under legislation on organized crime is appropriate when the exploitation of victims is particularly severe and the entities accumulate large amounts of illegal profits. However, the rule of law demands that offences be clearly defined in national legislation and carefully applied by law enforcement authorities and the judiciary.

9. Some other terms defined under the Organized Crime Convention should be mentioned. The first is “obstruction of justice”, which is a common method used by organized criminal groups to evade law enforcement. According to article 23, the obstruction of justice entails the use of physical force, threats or intimidation or the promise, offering or giving of an undue advantage to induce false testimony, and the use of physical force, threats or intimidation to interfere with the exercise of official duties by a justice or law enforcement official.

10. Another relevant issue is corruption, which is defined in article 8 as: (a) the promise, offering or giving to a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties; and (b) the solicitation or acceptance by a public official, directly or indirectly, of an undue advantage, for the official himself or herself or another person or entity, in order that the official act or refrain from acting in the exercise of his or her official duties.

#### **IV. Profiles of organized criminal groups involved in contemporary forms of slavery**

11. Organized criminal groups are actively involved in contemporary forms of slavery globally. Some have solid, formal or hierarchal structures, while others are smaller and loosely networked cells or groups without defined roles. It is evident that many of those groups are formed along ethnic and family lines, although they actively cooperate with other groups and individuals in order to generate and maximize illegal profits. While some operate predominantly at the local or national level, activities of most criminal groups are transnational in scope.

12. Forty per cent of the organized criminal groups operating within the European Union are well structured, with varying degrees of hierarchy and a clear division of

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<sup>4</sup> [A/AC.254/37](#), para. 4.

tasks.<sup>5</sup> Examples include criminal groups based in Bulgaria, Czechia, Romania and Slovakia.<sup>6</sup> Others consist of fluid and loose networks, such as Albanian, Hungarian and Russian criminal groups.<sup>7</sup> Many of them are active across and beyond Europe.<sup>8</sup>

13. In Africa and the Middle East, many organized criminal groups consist of loose networks.<sup>9</sup> In addition, mafia-type organizations, which are largely ethnic-, family- or tribal-based, operate in States such as Burkina Faso, Chad, the Central African Republic, Libya, Mauritania and South Sudan.<sup>10</sup> Some are locally or nationally based,<sup>11</sup> but others, such as the Nigerian Black Axe, operate globally.<sup>12</sup> The existence of hierarchical criminal organizations has also been registered in Israel,<sup>13</sup> and other groups or networks reportedly exploit migrant workers in the Gulf States.<sup>14</sup> Furthermore, a clear link between contemporary forms of slavery and terrorist activities or armed conflict can be established. Women and girls have been subjected to sexual slavery and forced marriage by Islamic State in Iraq and the Levant in the Middle East,<sup>15</sup> and various groups have engaged in similar practices in Nigeria (Boko Haram), the Niger (Islamic State in the Greater Sahara), Somalia (Al-Shabaab) and the Democratic Republic of the Congo (militia groups).<sup>16</sup>

14. In the Americas, in addition to Cosa Nostra, criminal gangs or groups, which are composed mainly of indigenous peoples in Canada, reportedly have a degree of

<sup>5</sup> European Union Agency for Law Enforcement Cooperation (Europol), *European Union Serious and Organised Crime Threat Assessment, A corrupting Influence: The Infiltration and Undermining of Europe's Economy and Society by Organised Crime* (Luxembourg, Publications Office of the European Union, 2021), p. 19.

<sup>6</sup> European Commission, Commission staff working document accompanying the third report on the progress made in the fight against trafficking in human beings (2020), as required under Article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims, document SWD (2020) 226 final, pp. 45 and 46; and Europol, *Situation Report: Trafficking in Human Beings in the EU* (The Hague, February 2016).

<sup>7</sup> Submissions of Hungary and Arise; Fabienne Zilla and Besfort Lamallari, *Organised Crime Threat Assessment in Albania* (Tirana, Open Society Foundation for Albania, 2015); Mark Galeotti, "Transnational Aspects of Russian Organized Crime" (Chatham House, July 2012), p. 2; and Europol, *Criminal Networks Involved in the Trafficking and Exploitation of Underage Victims in the European Union* (The Hague, 2018).

<sup>8</sup> Submission of Hungary, Police Scotland and Arise; Carrie Pemberton Ford, *Behind Closed Doors: Voices against Gender-based Violence, Human Trafficking and Modern Day Slavery*, (Cambridge, Cambridge Centre for Applied Research in Human Trafficking, 2017), p. 64; and Europol, *Criminal Networks*, pp. 12, 13 and 18.

<sup>9</sup> Submission of the National Human Rights Commission of Nigeria; Enhancing Africa's Response to Transnational Organised Crime (ENACT), *Organised Crime Index Africa 2019*; and United States of America, Department of State, *Trafficking in Persons Report 2020*, pp. 72, 107, 142, 163, 215 and 491.

<sup>10</sup> Enhancing Africa's Response to Transnational Organised Crime, *Organised Crime Index Africa 2019*.

<sup>11</sup> Submissions of Malta, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) and Timidria; ENACT, *Organised Crime Index Africa 2019*; *Global Trafficking in Persons Report 2020* (United Nations publication, Sales No. E.20.IV.3), p. 44; and Ernesto U. Savona and Michele Riccardi, eds., *Mapping the Risk of Serious and Organised Crime Infiltration in Europe: Final Report of the MORE Project* (Milan, 2018), p. 123.

<sup>12</sup> C.P. Ford, *Behind Closed Doors*, pp. 46–48.

<sup>13</sup> Submission of Israel.

<sup>14</sup> Submission of Maat for Peace, Development and Human Rights; and United States, *Trafficking in Persons Report 2020*, p. 432.

<sup>15</sup> Submissions of Iraq, the Working Group on Children Recruited by Terrorist and Violent Extremist Groups and Reprieve (available at <http://www.ohchr.org/EN/Issues/Slavery/SRSlavery/Pages/ReportHRC48.aspx>).

<sup>16</sup> Submissions of MONUSCO and Timidria; and United Nations, Counter-Terrorism Committee Executive Directorate, "Identifying and exploring the nexus between human trafficking, terrorism, and terrorism financing", 2019, pp. 26 and 27.

hierarchy.<sup>17</sup> Other criminal groups in the region are network-based. An example is MS-13 (Mara Salvatrucha), which operates in the United States of America, El Salvador, Guatemala and Honduras. It consists of a federation of smaller cells with leaders who organize their own cells but cooperate with one another.<sup>18</sup> Other examples are Los Zetas, Sinaloa Cartel and Cartel Jalisco Nueva Generación in Mexico,<sup>19</sup> which are turning to contemporary forms of slavery in addition to drug production and trafficking. A number of criminal groups from Asia, Europe and the Middle East also operate in the Americas.<sup>20</sup>

15. The Asia and the Pacific region offer a similar picture. There are mafia-type organizations with formal, hierarchical structures, such as the Japanese Yakuza and Chao Pho of Thailand.<sup>21</sup> In Australia and New Zealand, network-based motorcycle gangs,<sup>22</sup> as well as others, in particular Asian organized criminal groups, engage in labour and sexual exploitation.<sup>23</sup> The involvement of criminal groups is also reported in Pacific islands States.<sup>24</sup> Others smaller and loose criminal groups operate nationally and internationally in South-East Asia,<sup>25</sup> including in Cambodia and Viet Nam.<sup>26</sup>

## V. Modi operandi of organized criminal groups

16. Contemporary forms of slavery practiced by organized criminal groups are sophisticated and dangerous. Most groups use a number of risk management methods to avoid law enforcement and maximize illegal profits. For example, they rely on the Internet, smartphones, social media and encrypted communication tools to buy, sell and exploit victims.<sup>27</sup> More sophisticated criminal groups use the dark web or the darknet, which are parts of the World Wide Web that cannot be searched through regular search engines<sup>28</sup> and are difficult to detect.

<sup>17</sup> Anupriya Sethi, “Domestic sex trafficking of aboriginal girls in Canada: issues and implications”, *First Peoples Child and Family Review*, vol. 3, No. 3 (2007).

<sup>18</sup> InSight Crime and Center for Latin America and Latino Studies, *MS13 in the Americas: How the World’s Most Notorious Gang Defies Logic, Resists Destruction* (2018).

<sup>19</sup> Submission of the Center for the Human Rights Children (Loyola University Chicago); Claire Ribando Seelke, “Trafficking in persons in Latin America and the Caribbean”, Congressional Research Service (October 2016), p. 10; and Global Initiative against Transnational Organized Crime, *People and Forrest at Risk: Organized Crime, Trafficking in Persons and Deforestation in Chihuahua, Mexico* (Geneva, 2020).

<sup>20</sup> Submission of the Dominican Republic.

<sup>21</sup> James O. Finckenauer and Koh-lin Chin, “Asian transnational organized crime and its impact on the United States: developing a transnational crime research agenda” (March 2006); and Diana María Peña and others, “Human trafficking and the sex industry in Japan”, *Trans-pasando Fronteras*, No. 5 (May 2014).

<sup>22</sup> Submission by Roderic Broadhurst to the Parliamentary Joint Committee on Law Enforcement inquiry into criminal activity and law enforcement during the COVID-19 pandemic (August 2020); Mark Lauchs and Jarrod Gilbert, “Outlaw motorcycle gangs”, in *The Palgrave Handbook of Australian and New Zealand Criminology, Crime and Justice*, Antje Deckert and Rick Sarre, eds. (Palgrave Macmillan, 2017).

<sup>23</sup> Submission of Australia; and New Zealand Government, *Transnational Organised Crime in New Zealand: Our Strategy, 2020–2025* (Wellington, September 2020), p. 11.

<sup>24</sup> United Nations Office on Drugs and Crime (UNODC), *Transnational Organized Crime in the Pacific: A Threat Assessment* (2016).

<sup>25</sup> UNODC, *Transnational Organized Crime in Southeast Asia: Evolution, Growth and Impact* (2019), p. 81.

<sup>26</sup> United States, *Trafficking in Persons Report 2020*, pp. 141 and 535.

<sup>27</sup> Submission of the Netherlands; *Global Report on Trafficking in Persons 2018* (United Nations publication, Sales No. E.19.IV.2), pp. 38 and 39; and Europol, *European Union Serious and Organised Crime Threat Assessment*, p. 68.

<sup>28</sup> A/75/166, para. 45; Stop the Traffik, “Human Trafficking and the Darknet” (2018); and Catharina Drejer and Kevin Bales, *#SlaveTech: A Snapshot of Slavery in a Digital Age* (Frekk Forlag AS, 2018).

17. Another method is based on the corruption of public and law enforcement officials. The use of bribes is well documented in all regions of the world,<sup>29</sup> but law enforcement and public officials sometimes knowingly and actively take part in contemporary forms of slavery themselves, including in the traffic in and commercial sexual exploitation of women and girls.<sup>30</sup> Impunity exists, as many of those accused of corruption are not properly prosecuted and punished.<sup>31</sup> This has resulted in growing mistrust among victims, who subsequently become reluctant to file complaints,<sup>32</sup> in addition to the other obstacles that they face in gaining access to justice.

18. The use of intimidation and violence is another tactic. Obstruction of justice against witnesses, law enforcement authorities or the judiciary has been reported globally,<sup>33</sup> undermining the rule of law and administration of justice. Organized criminal groups also exert physical or psychological control over victims through violence and intimidation to stop them from reporting to law enforcement authorities.<sup>34</sup> Such control is exercised through debt bondage<sup>35</sup> and other methods, such as threats of “voodoo curses” in countries like Nigeria.<sup>36</sup> Intimidation and violence are also relied upon to impose internal discipline on members of criminal groups and to drive competitors out of business.<sup>37</sup>

19. In addition, organized criminal groups are known to take advantage of crisis situations to profit from contemporary forms of slavery, as weak governance and law enforcement during those periods provide them with opportunities to minimize risks. History has shown that human trafficking and exploitation have continued or even increased in States experiencing civil unrest, armed conflict, terrorism or natural disasters, as evidenced in Asia, Africa and the Middle East.<sup>38</sup>

<sup>29</sup> Submissions of the Association of Reintegration of Crimea and Rights Lab; Organisation for Economic Co-operation and Development, *Trafficking in Persons and Corruption: Breaking the Chain* (Paris, OECD Publishing, 2016); UNODC, *Transnational Organized Crime in Southeast Asia*, pp. 81 and 82; Europol, *European Union Serious and Organised Crime Threat Assessment*, p. 21; and E.U. Savona and M. Riccardi, eds., *Final Report of the MORE Project*, pp. 115 and 129.

<sup>30</sup> Submissions of Rights Lab and Fundación para la Democracia.

<sup>31</sup> Human Rights Watch, *Rainforest Mafias: How Violence and Impunity Fuel Deforestation in Brazil's Amazon* (United States, 2019).

<sup>32</sup> Submission of La Strada International.

<sup>33</sup> Submissions of Hungary, the National Human Rights Commission of Nigeria and Maat Peace, Development and Human Rights; Congressional Research Service, “Mexico: organized crime and drug trafficking organisations” (July 2020), p. 23; F. Zilla and B. Lamallari, *Organised Crime Threat Assessment in Albania*, p. 22; and Human Rights Watch, *Rainforest Mafias*.

<sup>34</sup> Submissions of Australia, Brazil, Ireland, MONUSCO and La Strada International; Canadian Centre to End Trafficking, *Human Trafficking Corridors in Canada* (2021), p. 16; and Global Initiative against Transnational Organized Crime, *People and Forrest at Risk*, p. 44

<sup>35</sup> Submission of Australia; and UNODC, *Trafficking in Persons from Cambodia, Lao PDR and Myanmar to Thailand* (2017), pp. 49 and 50.

<sup>36</sup> [A/HRC/41/46/Add.1](#), para. 9.

<sup>37</sup> T. Wing Lo and Sharon Ingrid Kwok, “Triad organised crime in Macau casinos: extra-legal governance and entrepreneurship”, *British Journal of Criminology*, vol. 57 N. 3, (May 2017), pp. 589, 592 and 593; Europol, *European Union Serious and Organised Crime Threat Assessment*, p. 22; and E.U. Savona and M. Riccardi, eds., *Final Report of the MORE Project*, p. 109.

<sup>38</sup> Submissions of Rights Lab and Timidria; Angharad Smith, Monti Narayan Datta and Kevin Bales, “Contemporary slavery in armed conflict: Introducing the CSAC dataset, 1989–2016”, Working Paper, (University of Nottingham, 2020); Fiona David, Katherine Bryant and Jacqueline Joudo Larsen, *Migrants and Their Vulnerability to Human Trafficking, Modern Slavery and Forced Labour* (Geneva, International Organization for Migration, 2019), p. 60; and International Organization for Migration, *Addressing Human Trafficking and Exploitation in Times of Crisis: Evidence and Recommendations for Further Action to Protect Vulnerable and Mobile Populations* (2015).

20. Organized criminal groups have also been active during the coronavirus disease (COVID-19) pandemic.<sup>39</sup> National lockdowns have resulted, for example, in an increase in contemporary forms of slavery based on the use of online platforms and social media.<sup>40</sup> It has also been reported that the closure of certain business sectors, including hospitality, beauty and car wash, have increased exploitation in others, such as drug production, agriculture and fishing.<sup>41</sup> As many States have shifted their resources towards the fight against the pandemic and implemented teleworking for law enforcement and public authorities, many victims remain unidentified and continue to be exploited at the hands of organized criminal groups.<sup>42</sup>

21. Finally, in order to maximize the long-term profits generated from contemporary forms of slavery, organized criminal groups commonly launder criminal proceeds. Legal businesses such as banks, money service businesses, hospitality businesses and other service retailers, some of which are controlled by organized criminal groups, are used to conceal and transfer illegal proceeds. In many cases, those criminal operations are facilitated through the proactive assistance of professionals, such as bankers and lawyers.<sup>43</sup> It is extremely difficult, if not impossible, to take action once the cleaned proceeds are reintegrated into the financial markets.

## **VI. Nature and extent of the exploitation of victims by organized criminal groups**

### **A. Criminal exploitation**

22. Organized criminal groups actively exploit victims in criminal activities that may amount to contemporary forms of slavery. Commercial sexual exploitation through forced prostitution is a clear example, which has been evidenced in all regions of the world. Chinese, Romanian and other criminal groups are known to traffic in their own nationals, mostly women and girls, and to force them into prostitution in massage parlours, bars and nightclubs.<sup>44</sup>

23. Another common form of criminal exploitation is the use of victims in drug production and trafficking. Similar to sexual exploitation, Albanian, Vietnamese and Chinese organized criminal groups exploit victims under debt bondage for cannabis production in Europe.<sup>45</sup> Similar instances have also been reported in other regions.<sup>46</sup>

24. Moreover, vulnerable people, in particular children, are forced into theft or pickpocketing, benefit fraud, illegal mining or logging and begging, and their recruitment and use in terrorist or gang activities, as well as armed conflict, have been

<sup>39</sup> An initial assessment was provided in [A/HRC/45/8](#).

<sup>40</sup> Submissions of Azerbaijan, El Salvador, Ireland, the Netherlands, Police Scotland and the National Human Rights Commission of Nigeria.

<sup>41</sup> Submissions of Police Scotland and Rights Lab.

<sup>42</sup> Submission of Arise.

<sup>43</sup> Europol, *European Union Serious and Organised Crime Threat Assessment*, pp. 21 and 24; and E.U. Savona and M. Riccardi, eds., *Final Report of the MORE Project*, p. 136.

<sup>44</sup> Submissions of Police Scotland and Malta; and United States, *Trafficking in Persons Report 2020*, pp. 72, 98, 131, 213, 279, 302 and 382.

<sup>45</sup> Submissions of Police Scotland, Arise, and Association of Reintegration of Crimea; and European Monitoring Centre for Drugs and Drug Addiction and Europol, *European Drug Markets Report 2019* (Luxembourg, Publications Office of the European Union, 2019), p. 40.

<sup>46</sup> Submissions of Australia, Brazil and the Center for the Human Rights of Children; and United States, *Trafficking in Persons Report 2020*, pp. 68, 231, 242, 334, 349 and 394.

reported in Africa,<sup>47</sup> Europe,<sup>48</sup> the Middle East<sup>49</sup> and Latin America.<sup>50</sup> All of those clearly constitute the worst forms of child labour.<sup>51</sup>

## B. Exploitation in legal economic sectors

25. In addition to criminal exploitation, the infiltration of organized criminal groups into the legal economy is well documented. They establish and run front companies or use existing business structures<sup>52</sup> to exploit victims in various sectors, such as agriculture, garment production, domestic work, hospitality, mining, construction, manufacturing and cleaning.<sup>53</sup>

26. While organized criminal groups may not directly engage in all instances of contemporary forms of slavery in the legal economy, accounts of direct exploitation are emerging. In Europe, their involvement in a number of sectors, such as agriculture, construction, hospitality, gaming and gambling, has been documented in Italy,<sup>54</sup> and Slovakian organized criminal groups are reportedly engaging in labour exploitation, for example in the catering and car wash industries across Europe.<sup>55</sup> It is worth noting that 80 per cent of criminal groups within the European Union use legitimate businesses to conduct their criminal activities.<sup>56</sup> In addition, those operating in African States such as Chad, Côte d'Ivoire, Gabon, Guinea, Nigeria and Togo subject their victims to bonded and forced labour in street vending, agriculture, gold mining and charcoal production.<sup>57</sup> Similarly, in the Americas, organized criminal groups have resorted to forced labour in

<sup>47</sup> Submissions of MONUSCO and Timidria; and United States, *Trafficking in Persons Report 2020*, pp. 497 and 537.

<sup>48</sup> Submissions of the Netherlands and Arise; Andrew Whittaker and others, *From Postcodes to Profit: How Gangs Have Changed in Waltham Forest* (London, London South Bank University, 2018); and European Commission, "Commission staff working document accompanying the third report from the Commission to the European Parliament and to the Council on the progress made in the fight against trafficking in human beings (2020) as required under article 20 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims", Commission Staff Working Document SWD(2020) 226 final (Brussels, European Commission, 2020), p. 49.

<sup>49</sup> Submissions of Iraq, Israel, the Working Group on Children Recruited by Terrorist and Violent Extremist Groups and Maat for Peace, Development and Human Rights.

<sup>50</sup> Submission of Brazil; Seelke, *Trafficking in Persons in Latin America and the Caribbean*, p. 5; and United States, *Trafficking in Persons Report 2020*, p. 242.

<sup>51</sup> International Labour Organization (ILO), *Worst Forms of Child Labour Convention, 1999* (No. 182), art. 2.

<sup>52</sup> Europol, *European Union Serious and Organised Crime Threat Assessment*, p. 24; and E.U. Savona and M. Riccardi, eds., *Final Report of the MORE Project*, p. 122.

<sup>53</sup> Submissions of Australia, Ireland, Malta and Center for the Human Rights of Children; and *Global Trafficking in Persons Report 2020*, chap. IV (Trafficking for forced labour; the economy of coercion).

<sup>54</sup> [A/HRC/42/44/Add.1](#), para. 82; and Donald M. Nonini, "Repressive ententes, organized crime and the corporate State", in *State, Resistance, Transformation: Anthropological Perspectives on the Dynamics of Power in Contemporary Global Realities*, Bruce Kapferer, ed. (Sean Kingston Publishing, 2018), p. 327.

<sup>55</sup> European Commission, "Commission staff working document", p. 46.

<sup>56</sup> Europol, *European Union Serious and Organised Crime Threat Assessment*, p. 18.

<sup>57</sup> Submission of the National Human Rights Commission of Nigeria; and ENACT, *Organised Crime Index Africa 2019*.

Argentina, Canada, Colombia, Guyana and Peru.<sup>58</sup> Furthermore, the domestic servitude of women and children remains a serious problem globally.<sup>59</sup>

27. A major challenge in tackling the infiltration of organized criminal groups into the legal economy is that slavery and other slavery-like practices are masked by legal economic activities, making it difficult to identify culprits.<sup>60</sup> A lack of reporting by victims is another issue, as they do not always consider themselves as such<sup>61</sup> or are afraid to speak up, owing to fear of reprisal by criminals or enforcement action by law enforcement authorities. Furthermore, labour inspections are often insufficient, with the result that victims are not identified and criminals are not held accountable.

## VII. Addressing contemporary forms of slavery practised by organized criminal groups

28. Given the severe consequences of contemporary forms of slavery on victims, States must become more proactive in tackling this serious human rights abuse perpetrated by organized criminal groups. The present report contains an analysis of three relevant areas: (a) criminalizing the involvement of organized criminal groups in contemporary forms of slavery and related offences, such as corruption and obstruction of justice; (b) intelligence-led law enforcement; and (c) financial investigations and the confiscation of criminal proceeds.<sup>62</sup>

### A. Criminalizing the involvement of organized criminal groups in contemporary forms of slavery

29. The incorporation of the international definitions under the Organized Crime Convention into national legislation is worth analysing. The Special Rapporteur notes that national definitions vary considerably among States. While different terms, such as “criminal gang”, “criminal group” and “criminal/unlawful organization/association” are used in different legislation, the definitions adopted by some States, including Barbados,<sup>63</sup> Dominica,<sup>64</sup> Egypt,<sup>65</sup> Indonesia,<sup>66</sup> Kiribati,<sup>67</sup> Maldives,<sup>68</sup> Nauru,<sup>69</sup> Qatar,<sup>70</sup>

<sup>58</sup> Submission of Fundación para la Democracia; United States Agency for International Development, “Illegal gold Mining”, February 2021, p. 2; Global Initiative against Transnational Organized Crime, *People and Forrest at Risk*, pp. 29, 31 and 35; and Canadian Centre to End Trafficking, *Human Trafficking Corridors in Canada*, p. 8.

<sup>59</sup> Submissions of Brazil and Hungary; United States, *Trafficking in Persons Report 2020*, pp. 107 and 465; and ENACT, *Organised Crime Index Africa 2019*.

<sup>60</sup> Submissions of the Netherlands, Qatar and Police Scotland.

<sup>61</sup> Ibid.

<sup>62</sup> National legislation mentioned in the present report can be obtained from the legislation database of the UNODC Sharing Electronic Resources and Laws on Crime (SHERLOC) knowledge management portal (<https://sherloc.unodc.org/cld/en/st/home.html>) and the ILO NATLEX database ([www.ilo.org/dyn/natlex/natlex4.byCountry?p\\_lang=en](http://www.ilo.org/dyn/natlex/natlex4.byCountry?p_lang=en)).

<sup>63</sup> Sect. 3, Transnational Organized Crime (Prevention and Control) Act 2010.

<sup>64</sup> Sect. 3, Transnational Organized Crime (Prevention and Control) Act 2013.

<sup>65</sup> Art. 1, Law No. 64 of 2010 on Combating Human Trafficking.

<sup>66</sup> Art. 16, Law No. 21 of 2007 on the Eradication of the Criminal Act of Trafficking in Persons.

<sup>67</sup> Sect. 2, Measures to Combat Terrorism and Transnational Organized Crime Act 2005

<sup>68</sup> Sect. 12, Prevention of Money-Laundering and Financing of Terrorism Act 2014.

<sup>69</sup> Sect. 2, Counter-Terrorism and Transnational Organized Crime Act 2004.

<sup>70</sup> Art. 1, Law No. 15 of Year 2011 on Combating Trafficking in Human Beings.

Saint Lucia,<sup>71</sup> Serbia,<sup>72</sup> Slovakia,<sup>73</sup> Thailand,<sup>74</sup> Tuvalu,<sup>75</sup> the United Arab Emirates<sup>76</sup> and Zimbabwe,<sup>77</sup> more or less mirror the definitions of the Convention.

30. Other definitions show discrepancies in terms of the number of members<sup>78</sup> or absence of the “financial or other material benefit” element.<sup>79</sup> The notion of “serious crime” also varies, with sentences ranging from less than four years<sup>80</sup> to more than five years of prison<sup>81</sup> and some pieces of legislation not mentioning specific lengths of punishment, referring instead to the commission of offences or “serious” or “grave” crimes.<sup>82</sup> Furthermore, the definitions adopted in other States do not resemble those contained in the Organized Crime Convention, or there are no precise definitions.<sup>83</sup>

<sup>71</sup> Sect. 2, Counter-Trafficking Act 2010.

<sup>72</sup> Art. 112, Criminal Code 2005.

<sup>73</sup> Art. 129, Criminal Code 2005.

<sup>74</sup> Sect. 3, Prevention and Suppression of Involvement in Transnational Criminal Organization Act 2013.

<sup>75</sup> Sect. 3, Counter-Terrorism and Transnational Organized Crime Act 2009.

<sup>76</sup> Art. 1, Law No. 51 of 2006 on Combating Human Trafficking Crimes.

<sup>77</sup> Sect. 2, Money-Laundering and Proceeds of Crime Act 2013.

<sup>78</sup> Two or more persons under art. 280, Criminal Code 2020 (Angola); sect. 390.3, Criminal Code Act 1950 (Australia); art. 1, Law No. 8754 against Organized Crime (Costa Rica); art. 1, Decree No. 190/2006 on Law against Organized Crime and Complex Crimes 2006 (El Salvador); art. 31, Criminal Code 1997 (Kyrgyzstan); sect. 21, Criminal Law 1998 (Latvia); art. 3, Anti-Trafficking in Persons Law 2009 (Saudi Arabia); and art. 188, Penal Code 2009 (Timor-Leste); four or more persons under art. 1, Law No. 12850/2013 (Brazil); and five or more persons under art. 28, Criminal Code 2001 (Ukraine). No mention of particular numbers are made under art. 41, Criminal Code 2003 (Armenia); art. 449, Criminal Code 2018 (Benin); sect. 129, Criminal Code 2009 (Czechia); art. 450-1, Criminal Code 1994 (France); art. 238, Criminal Code 1977 (Senegal); art. 294, Criminal Code 2008 (Slovenia); and sect. 2, Counter-Terrorism and Transnational Organized Crime Act 2006 (Vanuatu).

<sup>79</sup> Art. 26, Criminal Law 1979 (China); art. 328, Criminal Code 2011 (Croatia); sect. 1, Prevention of Organized Crime Act 2018 (Eswatini); chap. 6, sect. 5, Criminal Code 1889 (Finland); sect. 459, Criminal Code 2012 (Hungary); art. 130, Penal Code 1991 (Iran (Islamic Republic of)); sect. 1, Combating Criminal Organization Law 2003 (Israel); art. 25, Criminal Code 2000 (Lithuania); art. 321, Criminal Code 1953 (Libya); art. 2, Federal Law against Organized Crime 1996 (Mexico); sect. 79, Penal Code 1902 (Norway); art. 35, Criminal Code 1996 (Russian Federation); sect. 2, Prevention of Trafficking in Persons Act 2011 (Saint Vincent and the Grenadines); art. 322, Penal Code 1962 (Somalia); and art. 220, Criminal Code 2004 (Turkey).

<sup>80</sup> Six months in sect. 2, Prevention of Organized Crime Act 2010 (Kenya); two years in sect. 129, Criminal Code 1971 (Germany); and three years in art. 1, Criminal Code 2003 (Bosnia and Herzegovina), art. 93, Criminal Code of 1968 (Bulgaria) and art. 146, Penal Law 2018 (Oman).

<sup>81</sup> Five years in sect. 467.1, Criminal Code 1985 (Canada) and sect. 146, Crimes Act 2013 (Samoa); and seven years in sect. 45, Serious Crimes Act 2015 (United Kingdom of Great Britain and Northern Ireland).

<sup>82</sup> Art. 28, Criminal Code 1995 (Albania); Law No. 82 for 2016 on Combating Illegal Migration and the Smuggling of Migrants (Egypt); art. 187, Penal Code 2014 (Greece); schedule 1, Criminal Justice (Suppression of Criminal Organizations) Act 2014 (Jamaica); arts. 416 and 416 bis, Criminal Code 1930 (Italy); sect. 2, Prevention of Organized Crime Act 2013 (Nepal); and Law No. 39/2003 on Preventing and Combating Organized Crime (Romania).

<sup>83</sup> Art. 359, Criminal Code 2005 (Andorra); art. 1, Law on Combating Organized Crime 2007 (Belarus); sect. 1, Crime Control and Criminal Justice Act 2000 (Belize); art. 450, Penal Code 2004 (Bhutan); art. 66, Penal Code 1960 (Botswana); chap. 3, sect. 1, Criminal Code 2009 (Cambodia); art. 207.1, Criminal Code 1987 (Cuba); art. 342-1, Penal Code (Law No 2016/007) (Cameroon); art. 191, Penal Code 2015 (Eritrea); art. 34, Criminal Code 2002 (Mongolia); sect. 140, Criminal Code 1881 (Netherlands); art. 147, Penal Code 1930 (Philippines); art. 258, Penal Code 1997 (Poland); art. 114, Criminal Act 1953 (Republic of Korea); art. 73, Penal Code 1963 (Solomon Islands); art. 570 bis, Criminal Code 1995 (Spain); sect. 138, Penal Code 1883 (Sri Lanka); art. 65, Criminal Act. 1991 (Sudan); chap. 36, sect. 1 B, Criminal Code 1962 (Sweden); art. 325, Criminal Procedure Code 1949 (Syrian Arab Republic); art. 39, Criminal Code 1998 (Tajikistan); sect. 4, Anti-Gang Act 2018 (Trinidad and Tobago); art. 74, Penal Code 1945 (United Republic of Tanzania); art. 29, Criminal Code 1994 (Uzbekistan); art. 286, Criminal Code 2000 (Venezuela (Bolivarian Republic of)); and art. 20, Penal Code 1999 (Viet Nam).

Beside the negative impact on the rule of law, a lack of clear definitions can make international criminal justice cooperation difficult when offences are understood differently among States. It is therefore desirable that international standards as represented by the Organized Crime Convention be incorporated as closely as possible into national legislation.

31. There are several ways to prosecute and punish organized criminal groups that engage in contemporary forms of slavery. The first is to make the involvement of such groups an aggravating factor in sentencing. The Special Rapporteur regards this as a reasonable step to be taken, as their involvement often exacerbates the level of victimization. This has already been implemented in the national legislation of various States and jurisdictions.<sup>84</sup>

32. The second option is to criminalize participation in an organized criminal group, as mandated under article 5 of the Organized Crime Convention. Two main possibilities are envisaged. The first is to criminalize the agreement to commit serious crimes, which should include contemporary forms of slavery, without the need to actually putting the agreement into action. This is known as “conspiracy”, which is recognized as an offence in some jurisdictions.<sup>85</sup>

33. For those States that do not recognize conspiracy, another option is to criminalize participation in an organized criminal group, either through committing criminal activities or taking part in other activities that contribute to the achievement of the criminal aim. The participation offences are stipulated in national legislation with varying lengths of imprisonment.<sup>86</sup> Other States have also criminalized establishing, organizing, or leading or directing a criminal group, in line with article 5, paragraph (1) (b), of the Organized Crime Convention,<sup>87</sup> clearly targeting the leaders, who might not practise contemporary forms of slavery themselves but nevertheless benefit from them. Another example of good practice is the creation of an offence of participation or involvement in organized criminal groups by public officials.<sup>88</sup>

34. In addition, States must address corruption and obstruction of justice actively promoted by organized criminal groups, in accordance with the Organized Crime Convention (art. 23) and the United Nations Convention against Corruption of 2003.

<sup>84</sup> Art. 144, Criminal Code 1999 (Azerbaijan); art. 7, Law No. 22-2019 on the Fight against Trafficking in Persons (Congo); art. 377, Criminal Procedure Code 2014 (Dominican Republic); art. 9, Royal Decree No. 126/2008 on Law Combating Trafficking in Persons (Oman); sect. 4, Prevention of Trafficking in Persons Act 2018 (Pakistan); sect. 29, Criminal Justice and Licensing (Scotland) Act 2010 (Scotland, United Kingdom); and art. 2, Law No. 51 of 2006 on Combating Human Trafficking Crimes (United Arab Emirates).

<sup>85</sup> Sect. 120 A, Criminal Code 1951 (Brunei Darussalam); art. 38, Criminal Code 2004 (Ethiopia); sect. 120 A, Penal Code 1860 (India); art. 55, Criminal Code 1969 (Iraq); Act to Revise the Act on Punishment of Organized Crime and Control of Crime Proceeds 2017 (Japan); sect. 5.03, Criminal Code 2011 (Marshall Islands); sect. 109, Criminal Code 1870 (Mauritius); sect. 120 A, Criminal Code 1861 (Myanmar); sect. 10.4, Penal Law 1976 (Liberia); sect. 120 A, Criminal Code 1860 (Pakistan); sect. 62, Penal Code Act 2008 (South Sudan); sect. 113 A (Sri Lanka); sect. 1, Criminal Law Act 1977 (United Kingdom); and 21 United States Code sect. 846 (United States).

<sup>86</sup> Up to 20 years in sect. 90 B, Penal Code 1873 (Bahamas); 3–10 years in sect. 64 A, Criminal Code 1959 (Cyprus); 3–15 years in Lithuania (art. 249); 6 years in the Netherlands (sect. 140); up to 10 years in Samoa (sect. 146); up to 5 years in art. 260 ter, Criminal Code 1937 (Switzerland); and 25 years in sect. 66, Counter-Terrorism and Transnational Organized Crime Act 2013 (Tonga).

<sup>87</sup> Bosnia and Herzegovina (art. 342); Bulgaria (art. 109); Canada (sect. 476.13); art. 21, Criminal Law 2009 (Democratic People’s Republic of Korea); Estonia (sect. 256); Greece (sect. 187); Israel (sect. 2); Jamaica (second schedule); Latvia (sect. 89); Republic of Korea (art. 114); Slovakia (sect. 296); Tajikistan (art. 187); Timor-Leste (art. 188); and Trinidad and Tobago (sect. 9).

<sup>88</sup> Azerbaijan (art. 219); Israel (sect. 4); Kyrgyzstan (art. 231); Mexico (art. 5); Mongolia (art. 182); and Russian Federation (art. 210).

The obligation to tackle such practices is also established under human rights law, as they prevent victims from gaining access to justice and remedies, in contravention of article 2 of the International Covenant on Civil and Political Rights of 1966.<sup>89</sup> The Special Rapporteur also considers that action against those practices is closely linked with the prohibition of slavery, forced labour and other slavery-like practices stipulated in a number of human rights instruments.<sup>90</sup> A large number of States already criminalize corruption and obstruction of justice,<sup>91</sup> but the importance of rigorous law enforcement should be emphasized, as such practices continue to affect the ability of States to prosecute and punish organized criminal groups,<sup>92</sup> including their involvement in contemporary forms of slavery.<sup>93</sup>

35. Furthermore, witness protection<sup>94</sup> is essential in facilitating the participation of witnesses in criminal proceedings without being targeted by organized criminal groups, thereby reducing instances of obstruction of justice and corruption and strengthening the human rights obligation to investigate, prosecute and punish contemporary forms of slavery. For witnesses who are victims themselves, effective witness protection allows them to secure access to justice and remedies. It is encouraging that many States already facilitate such measures as the use of anonymity and protection of identity, remote participation, video proceedings and the provision of safe accommodation.<sup>95</sup> However, sufficient resources must be secured for witness protection, for example through the proactive use of criminal proceeds confiscated from contemporary forms of slavery (see below).

<sup>89</sup> See also General Assembly resolution 60/147, annex

<sup>90</sup> International Covenant on Civil and Political Rights, art. 8.; Convention for the Protection of Human Rights and Fundamental Freedoms of 1950, art. 4; American Convention on Human Rights of 1969, art. 6; and African Charter on Human and Peoples' Rights of 1981, art. 5.

<sup>91</sup> Law No. 06-01 of 21 Muharram 1427 on the Prevention and the Fight against Corruption (Algeria); arts. 219–222, Criminal Code 1976 (Bahrain); Law No. 004 on Anti-Corruption, Illicit Earnings and Fortunes Investigation 2010 (Bolivia (Plurinational State of)); arts. 399–402, Criminal Code 2009 (Burundi); Law No. 004/PR/2000 Relating to the Misappropriation of Property and Corruption (Chad); title 3, chap. X, Criminal Code 2010 (Central African Republic); arts. 116 and 354–360, Criminal Code 1995 (Comoros); art. 302, Criminal Code 1981 (Côte d'Ivoire); arts. 141 and 142, Criminal Code 2004 (Democratic Republic of the Congo); arts. 200 and 201, Criminal Code 1995 (Djibouti); Decree No. 1/2020 on Prevention and Fight against Corruption (Equatorial Guinea); art. 169, Penal Code 2015 (Eritrea); arts. 170–184, Criminal Code 1963 (Gabon); title VI, sect. II, Criminal Code 2016 (Guinea); titles VIII and IX, Criminal Code 1886 (Guinea-Bissau); sect. 8, Criminal Code 1835 (Haiti); Economic Crimes Law 1993 (Jordan); Penal Law 31/1970 on Anti-Corruption (Kuwait); art. 71, Law on Anti-Trafficking in Persons 2016 (Lao People's Democratic Republic); art. 240, Criminal Code 1879 (Luxembourg); art. 177, Criminal Code 2001 (Madagascar); art. 245, Criminal Code 2001 (Mali); art. 345, Criminal Code 1983 (Mauritania); art. 373, Criminal Code 1962 (Morocco); art. 478, Criminal Code 2007 (Nicaragua); arts. 209–219, Criminal Code 2003 (Niger); arts. 150 and 434–451, Law Determining Offences and Penalties 2018 (Rwanda); arts. 452–455, Criminal Code 2012 (Sao Tome and Principe); arts. 104–116, Criminal Code 1990 (Sudan); arts. 229–234, Criminal Code 1910 (Suriname); arts. 159 and 208, Criminal Code 1980 (Togo); chap. 24, Criminal Code 1997 (Turkmenistan); Act No. 17.060 – Anti Bribery Act 1999 (Uruguay); and art. 181, Law No. 12 of 1994 Concerning Crimes and Penalties (Yemen).

<sup>92</sup> See, for example, Transparency International, Government Defence Integrity Index 2020, available at <https://ti-defence.org/gdi/>.

<sup>93</sup> Submissions of Brazil, Fundación para la Democracia, La Strada International and Rights Lab.

<sup>94</sup> Organized Crime Convention, art. 24; and United Nations Convention against Corruption, art. 32.

<sup>95</sup> Law on State Protection of Persons Participating in the Criminal Process 1998 (Azerbaijan); Prevention and Suppression of Human Trafficking Act 2012 (Bangladesh); Law 95/2001 on Witness Protection (Cyprus); sect. 856, Administration of Justice Act 2008 (Denmark); sects. 90–95, and chap. XIV, Criminal Procedure Code 2017 (Hungary); Law No. 21 of 2007 on Eradication of Trafficking in Persons (Indonesia); Law No. 58 on the Protection of Witnesses, Experts and Informers and Victims 2017 (Iraq); Law 6/2008 on the Prevention and Combat against Human Trafficking (Mozambique); and sects. 187, 187 d and 226 a, Criminal Procedure Code 1926 (Netherlands).

36. Finally, individuals who have been subjected to contemporary forms of slavery by organized criminal groups should not be prosecuted when they are forced to engage in criminal activities. The principle of non-punishment is gradually being recognized in the context of human trafficking,<sup>96</sup> but it has been applied only to immigration offences, for example with regard to illegal entry, overstay or the possession or use of forged identity documents in various States.<sup>97</sup> The Special Rapporteur stresses the need to extend the principle to contemporary forms of slavery. Some States do so already,<sup>98</sup> but a nexus with human trafficking should not be a precondition, as not every victim of contemporary forms of slavery is simultaneously a victim of human trafficking.

## B. Intelligence-led law enforcement

37. In order to facilitate more effective law enforcement responses to contemporary forms of slavery practised by organized criminal groups, proactive intelligence-led law enforcement may be required. In that regard, the use of special investigative measures, such as surveillance and the interception of communications, are encouraged under article 20 of the Organized Crime Convention.

38. However, those measures clearly have human rights implications, in particular on the right to privacy. Therefore, they must be conducted in accordance with international human rights law. To begin with, there must be a clear legal basis before surveillance, interception of communications and other measures are applied.<sup>99</sup> The relevant legislative frameworks must be accessible,<sup>100</sup> meaning that circumstances under which special investigative measures may be relied upon should be clearly specified.<sup>101</sup> Furthermore, in order to prevent the misuse of such measures, their supervision and review should be entrusted to independent bodies, in particular the judiciary.<sup>102</sup> Finally, in cases of alleged violations of the right to privacy, access to justice and remedies should be ensured. This may require States to notify the alleged victims about the types of measures used.<sup>103</sup>

39. The Special Rapporteur acknowledges that many States have mandated the use of special investigative measures through their national legislation with detailed rules

<sup>96</sup> See [A/HRC/47/34](#).

<sup>97</sup> Trafficking in Persons Act 2010 (Antigua and Barbuda); Anti-Trafficking in Persons Order 2019 (Brunei Darussalam); Trafficking in Persons Act 2007 (Gambia); Prevention of Trafficking in Persons Act 2014 (Grenada); Measures to Combat Terrorism and Transnational Organized Crime Act 2005 (Kiribati); Anti-Trafficking in Persons Act 2007 (Malaysia); Counter-Terrorism and Transnational Organized Crime Act 2004 (Nauru); Trafficking Persons (Prevention) Act 2008 (Saint Kitts and Nevis); Prohibition of Trafficking in Persons Act 2014 (Seychelles); and Counter-Terrorism and Transnational Organized Crime Act 2006 (Vanuatu).

<sup>98</sup> Anti-Human Trafficking Act 2014 (Botswana); Law on the Prevention and Combating of Trafficking and Exploitation of Persons and the Protection of Victims Law 60 (I)/2014 (Cyprus); Prohibition of Trafficking in Persons Act 2017 (Marshall Islands); Combating of Trafficking in Persons Act 2018 (Namibia); Trafficking in Person (Prohibition) Enforcement and Administration Act 2015 (Nigeria); Expanded Anti-Trafficking in Persons Act 2012 (Philippines); Law on Preventing and Combating Trafficking in Persons 2005 (Republic of Moldova); Anti-Human Trafficking Act 2005 (Sierra Leone); Prevention and Combating of Trafficking in Persons Act 2013 (South Africa); Law on Counteracting Trafficking in Persons and Providing Support to Victims of Trafficking in Persons 2014 (Tajikistan); and Modern Slavery Act 2015 (United Kingdom).

<sup>99</sup> General comment No. 16 of the Human Rights Committee (1988) on the right to privacy, para. 3; European Court of Human Rights, *Big Brother Watch and others v. United Kingdom*, Application Nos. 58170/13, 62322/14 and 24960/15 (2018), paras. 304 and 305.

<sup>100</sup> European Court of Human Rights, *Rotaru v. Romania*, Application No. 28341/95 (2000), para. 52.

<sup>101</sup> General comment No. 16 (1988), para. 8; and European Court of Human Rights, *Big Brother Watch and others v. United Kingdom*, para. 306.

<sup>102</sup> European Court of Human Rights, *Big Brother Watch and others v. United Kingdom*, para. 309.

<sup>103</sup> *Ibid.*, *Weber and Saravia v. Germany*, Application No. 54934/00 (2006), para. 135.

as to when they can be relied upon. For example, they are limited to the investigation of serious crimes or certain crimes specified in relevant legislation,<sup>104</sup> including offences committed by organized criminal groups.<sup>105</sup> Necessity is also stipulated (implying that other measures were applied but failed or are dangerous or impractical, owing to urgency),<sup>106</sup> as are proportionality<sup>107</sup> and the best interest of justice.<sup>108</sup>

40. The Special Rapporteur also welcomes the requirement implemented in many States<sup>109</sup> of prior judicial authorization for those measures as an example of good practice. The involvement of an independent judiciary can prevent human rights violations from being committed, reduce the need for grievance procedures and appeals and enhance public confidence in law enforcement.<sup>110</sup> For those States where

<sup>104</sup> Art. 80, Criminal Procedure Code 1989 (Andorra); art. 183, Civil and Criminal Procedure Code 2001 (Bhutan); sect. 88, Criminal Procedure Code 1961 (Czechia); art. 143 (3), Criminal Procedure Code 2009 (Georgia); art. 100 a, Criminal Procedure Code 1950 (Germany); art. 266, Criminal Procedure Code 1988 (Italy); art. 188, Criminal Procedure Code 1999 (Kyrgyzstan); sect. 58, Intelligence and Security Act 2017 (New Zealand); art. 187, Criminal Procedure Code 1987 (Portugal); art. 139, Criminal Procedure Code 2010 (Romania); sect. 88, Criminal Procedure Code 2005 (Slovakia); art. 135 l, Criminal Procedure Code 2009 (Turkey); art. 246, Criminal Procedure Code 2001 (Ukraine); and sect. 5, Regulation of Interception of Communications Act 2010 (Uganda).

<sup>105</sup> Art. 221, Criminal Procedure Code 1995 (Albania); sect. 136, Criminal Procedure Code 1975 (Austria); schedule 1, Interception of Communications Act 2011 (Belize); art. 117, Criminal Procedure Code 2003 (Bosnia and Herzegovina); art. 334, Criminal Procedure Code 2009 (Croatia); art. 2, Decree No. 285 on Special Law for Telecommunication Intervention 2010 (El Salvador); art. 126 (2), Criminal Procedure Code 2003 (Estonia); art. 48, Decree 21-2006 on Law against Organized Crime (Guatemala); art. 83, Criminal Procedure Code 2008 (Iceland); art. 1, Act on Interception of Communications for Criminal Investigation 1999 (Japan); art. 232, Criminal Procedure Code 2014 (Kazakhstan); art. 9, Telecommunications Interception Act 1999 (Lebanon); art. 158, Criminal Procedure Code 2009 (Montenegro); art. 253, Criminal Procedure Code 2010 (North Macedonia); art. 37, Criminal Procedure Code 1997 (Poland); art. 269, Criminal Procedure Code 2007 (Switzerland); sect. 21, Special Case Investigation Act 2004 (Thailand); and sect. 6, Interception of Communications Act 2007 (Zimbabwe).

<sup>106</sup> Sect. 5, Interception of Communications Act 2018 (Bahamas); art. 90 ter, Criminal Procedure Code 1808 (Belgium); art. 2, Law No. 9.296/96 Regulating Article 5, XII of the Constitution (Brazil); sect. 8, Interception of Communications Act 2013 (Grenada); sect. 4, Interception of Communications Act 2008 (Guyana); sect. 4, Interception of Postal Packets and Telecommunication Messages (Regulation) Act 1993 (Ireland); sect. 6, Security Services Act 1996 (Malta); sect. 7, Lawful Interception of Communications Regulations 2019 (Nigeria); art. 7, Federal Law No. 144-FZ on Operational Search Activities 1995 (Russian Federation); sect. 5, Interception of Communications Act 2011 (Saint Kitts and Nevis); sect. 5, Interception of Communications Act 2005 (Saint Lucia); sect. 161, Criminal Procedure Code 2005 (Serbia); and art. 149 a, Criminal Procedure Law 2007 (Slovenia).

<sup>107</sup> Sect. 2, Coercive Measures Act 2011 (Finland); art. 16, Decree 243-2011, Special Law on the Interception of Private Communications (Honduras); art. 132.1, Criminal Procedure Code 2003 (Republic of Moldova); art. 588 a. i., Criminal Procedure Law 1882 (Spain); sect. 8, Interception of Communications Act 2010 (Trinidad and Tobago); and sect. 23, Investigatory Powers Act 2016 (United Kingdom).

<sup>108</sup> Belize (sect. 6); Canada (sect. 186); Guyana (sect. 4); Saint Kitts and Nevis (sect. 5); Saint Lucia (sect. 5); and Trinidad and Tobago (sect. 8).

<sup>109</sup> Art. 14, Criminal Procedure Code 1998 (Armenia); art. 172, Criminal Procedure Code 2005 (Cambodia); arts. 92 and 245, Criminal Procedure Code 2005 (Cameroon); art. 222, Criminal Procedure Code 1993 (Chile); and art. 18, Law No. 133 on the Fight against Trafficking in Persons and Smuggling of Migrants 2016 (Djibouti); art. 100, Criminal Procedure Code 1958 (France); sect. 42, National Intelligence Service Act 2012 (Kenya); sect. 15, Computer Misuse and Cybercrime Act 2003 (Mauritius); arts. 252 and 291, National Code of Criminal Procedure 2014 (Mexico); art. 103, Criminal Procedure Code 1987 (Liechtenstein); sect. 39, Prevention of Electronic Crimes Act 2016 (Pakistan); art. 198, Criminal Procedure Code 1987 (Paraguay); chap. 27, sect. 21, Code of Judicial Procedure 1968 (Sweden); and sect. 66, Electronic Communications and Transaction Act 2009 (Zambia).

<sup>110</sup> Tom Obokata, "Combating transnational organised crime through international human rights law" (2019), *International Human Rights Law Review*, vol. 8, No. 1 (June 2019), p. 13.

special investigative measures may be authorized by non-judicial authorities, such as government ministers,<sup>111</sup> it is important that additional oversight by independent bodies, preferably the judiciary, be provided during or after their use.

41. Other examples of good practice in safeguarding human rights include non-interference with communications between a lawyer and a defendant,<sup>112</sup> the inadmissibility of evidence obtained illegally<sup>113</sup> and the notification of measures taken after the termination or completion of special investigative measures.<sup>114</sup> Lastly, in relation to access to remedies, grievance or appeal mechanisms are provided for.<sup>115</sup> While those and other statutory provisions are clearly designed to protect the human rights of those under special investigative measures, it is essential that they be rigorously enforced at the national level.

### C. Financial investigations and confiscation of criminal proceeds (asset recovery)

42. The International Labour Organization has estimated that contemporary forms of slavery, including sexual exploitation, domestic servitude and forced labour in various sectors, generate close to \$150 billion annually.<sup>116</sup> There is no doubt that organized criminal groups take a fair share of those criminal proceeds, which are laundered through sophisticated means, making them extremely difficult for law enforcement authorities to trace and confiscate. The laundered profits are in turn reinvested in contemporary forms of slavery and other crimes.<sup>117</sup>

43. International human rights mechanisms have noted that illicit financial flows deprive States of the resources required to realize economic, social and cultural rights and undermine efforts to build up effective institutions to uphold civil and political rights and the rule of law.<sup>118</sup> This means that an obligation to trace and confiscate criminal proceeds generated from contemporary forms of slavery can be established under international human rights law. In that regard, article 2, paragraph (1), of the International Covenant on Economic, Social and Cultural Rights of 1966 provides for the progressive realization of economic, social and cultural rights. The Special Rapporteur also considers that this obligation is closely interlinked with the prohibition of slavery, forced labour and other slavery-like practices stipulated in international human rights law.

<sup>111</sup> Sect. 97 (Ka), Telecommunication Act 2001 (Bangladesh); sect. 138, Information and Communications Act 2009 (Gambia); sect. 100, Electronic Communications Act 2008 (Ghana); sect. 5, Telegraph Act 1885 (India); sect. 6, Security Services Act 1996 (Malta); art. 2, Cybercrime Act 2020 (Niger); and sect. 39, Criminal Procedure Code 1955 (Singapore).

<sup>112</sup> Cameroon (art. 245); Chile (art. 222); Czechia (sect. 88); art. 56, Act No. 125 on National Security Services 1995 (Hungary); Iceland (art. 85); Kazakhstan (art. 232); New Zealand (sect. 70); sect. 19, Protection of Private Communications Act 1973 (Papua New Guinea); Republic of Moldova (sect. 132.4); Slovakia (sect. 88); and Sweden (chap. 27, sect. 22).

<sup>113</sup> Austria (sect. 140); Bahamas (sect. 34); Guyana (sect. 14); art. 214, Criminal Procedure Code 2005 (Latvia); Uganda (sect. 7); Zambia (sect. 111); and Zimbabwe (sect. 8).

<sup>114</sup> Canada (sect. 196); Estonia (sect. 126 (13)); Finland (chap. 10, sect. 60); Ireland (sect. 7); Italy (art. 268); Montenegro (art. 162); Mexico (art. 23); and North Macedonia (art. 262).

<sup>115</sup> Albania (art. 222 a); Georgia (art. 143.3 (14)); Japan (art. 26); Kenya (sect. 50); Liechtenstein (art. 104); Poland (art. 240); Russian Federation (art. 5); United Kingdom (sect. 65); and United States (18 United States Code sect. 2518).

<sup>116</sup> ILO, "Profits and poverty: the economics of forced labour" (2014), p. 15.

<sup>117</sup> [A/HRC/28/60](#), para. 11.

<sup>118</sup> *Ibid.*, para. 22; and [A/HRC/36/52](#), para. 50.

44. The Special Rapporteur regards it as important that financial investigations be conducted alongside criminal investigations<sup>119</sup> into contemporary forms of slavery. This will enable relevant authorities to prevent money-laundering and confiscate criminal proceeds at an early stage. The establishment of a dedicated financial intelligence or investigation unit<sup>120</sup> is an important step forward, which a large number of States have already made.<sup>121</sup> Closer cooperation and communication with private financial and other relevant institutions through the rigorous monitoring and reporting of suspicious financial transactions are also necessary,<sup>122</sup> and various States have implemented relevant legislative and administrative measures to facilitate this.<sup>123</sup>

45. The latest assessment by the Financial Action Task Force, the global money-laundering and terrorist financing watchdog, however, reveals that there is much scope for improvement in facilitating financial investigations.<sup>124</sup> Key challenges include difficulties in conducting detailed risk assessment of money-laundering linked to contemporary forms of slavery and identifying suspicious financial activities, as well as a lack of knowledge, training, effective communication and reporting among relevant national public and private stakeholders.<sup>125</sup> The reluctance of non-financial actors, such as real estate agents, to report suspicious transactions has also been reported.<sup>126</sup>

46. In addition to financial investigations, the confiscation of criminal proceeds generated from contemporary forms of slavery must be conducted rigorously.<sup>127</sup> Such confiscation can be divided into two main categories. The first is conviction-based confiscation, whereby a confiscation order is issued after a criminal conviction and is therefore regarded as an additional form of punishment. The Special Rapporteur notes that this is an established practice in a large number of States. In addition, some States, in particular from common law jurisdictions, rely on non-conviction-based confiscation.<sup>128</sup> This is possible, for example, when a suspect absconds, dies or is

<sup>119</sup> Financial Action Task Force, *Methodology for Assessing Technical Compliance with the FATF Recommendations and the Effectiveness of AML/CTF Systems* (2013), recommendation 30.2, p. 81; and Finance against Slavery and Trafficking, *A Blueprint for Mobilizing Finance against Slavery and Trafficking* (New York, 2019), p. 4 (Goal 1) and p. 13 (Goal 4).

<sup>120</sup> Organized Crime Convention, art. 7.

<sup>121</sup> A list of financial intelligence units in more than 160 States is available from the Egmont Group of Financial Intelligence Units at [www.egmontgroup.org/en/membership/list](http://www.egmontgroup.org/en/membership/list).

<sup>122</sup> Organized Crime Convention, art. 7.

<sup>123</sup> Money-Laundering (Prevention) Act 1996 (Antigua and Barbuda); Law No. 2006/14 on Fight against Money-Laundering (Benin); Law No. 16/2016 on Fight against Money-Laundering and Financing of Terrorism (Burkina Faso); Law No. 17/VI/2002 on Prohibition of Money-Laundering (Cabo Verde); Law on Prevention of Money-Laundering and Financing of Crimes 2016 (Ecuador); Financial Transaction Reporting Act 2004 (Fiji); Proceeds of Crime Act 2003 (Kiribati); Act 1462 of 2018 on Strengthening the Fight against Money-Laundering, Terrorist Financing and Corruption (Monaco); Anti-Money-Laundering Law 2014 (Myanmar); title 17, chap. 38, of the National Code (Palau); Law No. 23 of 2015 on Adopting Measures for the Prevention of Money-Laundering, Terrorism Financing and the Financing of the Proliferation of Weapons of Mass Destruction and Other Provisions (Panama); Law No. 20 of 2019 on Combating Money-Laundering and Terrorism Financing (Qatar); Law No. 92 of 2008 on Provisions on Preventing and Combating Money-Laundering and Terrorist Financing (San Marino); and Law No. 26 of 2005 on Combating Terrorism and Money-Laundering (Tunisia).

<sup>124</sup> Financial Action Task Force, “Consolidated assessment rating” (March 2021). This applies to all crimes, not just contemporary forms of slavery.

<sup>125</sup> Financial Action Task Force, *Financial Flows from Human Trafficking* (Paris, 2018), pp. 35–37; and Organization for Security and Cooperation in Europe, *Following the Money: Compendium of Resources and Step-by-Step Guide to Financial Investigations Related to Trafficking in Human Beings* (Vienna, 2019), p. 14.

<sup>126</sup> E.U. Savona and M. Riccardi, eds., *Final Report of the MORE Project*, p. 120.

<sup>127</sup> Organized Crime Convention, art. 12.

<sup>128</sup> Also known as “civil forfeiture/confiscation” in some jurisdictions. This is also envisaged under article 14 of the Organized Crime Convention.

seriously ill,<sup>129</sup> but others go further and allow confiscation without criminal conviction, on the basis of reasonable grounds for suspecting that the proceeds in question constitute “tainted property” deriving from serious crimes or unlawful conducts.<sup>130</sup> In determining the criminal origin, the civil standard of proof, the balance of probabilities, is used. Non-conviction-based confiscation allows law enforcement authorities to take action much earlier, as they do not have to wait until criminal convictions are secured.

47. In comparing the two regimes, non-conviction-based confiscation is said to raise more human rights issues, in particular in terms of procedural due process guarantees. A lower burden of proof is used to determine the illegal origin. It is often up to those affected, not the prosecution, to prove that the property was not obtained as a result of criminal activities, referring to the notion of reversed onus.<sup>131</sup> An argument in that regard is that one can be practically punished without due process rights normally enjoyed by defendants in criminal proceedings, in particular the presumption of innocence.<sup>132</sup>

48. On those points, it has been recognized, at least in the European context, that legal standards exist on the confiscation of property linked to serious crimes without a criminal conviction, including reversed onus.<sup>133</sup> The use of the civil standard of proof is acceptable as the main purpose of non-conviction-based confiscation is to recover asset illegally possessed through civil proceedings in rem without determining one’s guilt. Furthermore, non-conviction-based confiscation is of a preventive, rather than punitive, nature.<sup>134</sup>

49. While acknowledging the usefulness of non-conviction-based confiscation in tracing and confiscating proceeds generated from contemporary forms of slavery, the

<sup>129</sup> Anti-Money-Laundering and Proceeds of Crime Law 2004 (Afghanistan); Money-Laundering Prevention Act 2013 (Bangladesh); art. 298, Criminal Procedure Law 1996 (China); Economic and Organized Crime Act 2010 (Ghana); Anti-Money-Laundering, Anti-Terrorism Financing and Proceeds of Crime Act 2001 (Malaysia); sect. 933, Code of Federal States of Micronesia 2014; Prevention of Organized Crime Act 2004 (Namibia); Proceeds of Crime Act 2007 (Samoa); Anti-Money-Laundering and Combating of Financing of Terrorism Act 2012 (Sierra Leone); Anti-Money-Laundering and Combating of Financing of Terrorism Act 2012 (Solomon Islands); Money-Laundering and Proceeds of Crime Act 2000 (Tonga); Proceeds of Crime Act 2004 (Tuvalu); Anti-Money-Laundering Act 2013 (Uganda); and Anti-Money-Laundering and Proceeds of Crime Act 2009 (United Republic of Tanzania).

<sup>130</sup> Proceeds of Crime Act 1993 (Antigua and Barbuda); Decree 62/2019 on Procedural Regime for Civil Actions Regarding the Extinction of Illegal Asset Domains (Argentina); Proceeds of Crime Act 2002 (Australia); Proceeds and Instrumentalities of Crimes Act 2019 (Barbados); Law No. 1708/2014 on Asset Forfeiture (Colombia); Proceeds of Crime Act 1993 (Dominica); Prevention of Organized Crime Act 2018 (Eswatini); Proceeds of Crime Act 1997 (Fiji); Decree 55/2010 on the Termination of Ownership Rights (Guatemala); Decree 27-2010 on Asset Forfeiture (Honduras); Proceeds of Crime Act 1996 (Ireland); Proceeds of Crime Act 2007 (Jamaica); Money-Laundering and Proceeds of Crime Act 2008 (Lesotho); Financial Crimes Act 2017 (Malawi); Prevention of Organized Crime Act 2004 (Namibia); Criminal Proceeds (Recovery) Act 2009 (New Zealand); Proceeds of Crime Act 2005 (Papua New Guinea); Law 29212-2008 (Peru); Anti-Money-Laundering Act 2001 (Philippines); Proceeds of Crime Act 2013 (Saint Vincent and the Grenadines); Proceeds of Crime (Civil Confiscation) Act 2008 (Seychelles); Organized Crime Act 2015 (Singapore); Forfeiture of Assets of Illegal Origin Act 2011 (Slovenia); Prevention of Organized Crime Act 1998 (South Africa); Anti-Money-Laundering Act 1999 (Thailand); Proceeds of Crime Act 2002 (United Kingdom); 18 United States Code sect. 981 (United States); and Forfeiture of Proceeds of Crime Act 2010 (Zambia).

<sup>131</sup> T. Obokata, “Combating Transnational Organised Crime through International Human Rights Law”, p. 17. This is also envisaged under article 31 of the Convention against Corruption.

<sup>132</sup> Mat Trome, “Waging war against corruption in developing countries: how asset recovery can be compliant with the rule of law”, *Duke Journal of Comparative and International Law*, vol. 29, No. 140, pp. 165 and 187.

<sup>133</sup> European Court of Human Rights, *Gogitidze and others v. Georgia*, Application No. 36862/05 (2015), para. 105.

<sup>134</sup> *Ibid.*, para. 121.

Special Rapporteur stresses the need for sufficient safeguards against abuse. First, it should have a clear legal basis. Second, it is important that non-conviction-based confiscation have judicial approval and oversight. Third, those affected must be given reasonable opportunities to present their case and rebut.<sup>135</sup>

50. The Special Rapporteur concludes that these and other safeguards are clearly stipulated in the national legislation of many States. Non-conviction-based confiscation has a clear basis and requires authorization from the judiciary. The relevant authorities must also give notice to those affected so that they may prepare their case and the right of appeal is guaranteed. Many States also provide for an exception to be made in relation to legal expenses for the respondents. Furthermore, compensation can be sought in case of the abuse of process. States should ensure rigorous enforcement of those safeguards and could also consider additional measures, such as changing the rules on the burden of proof and reversed onus.

51. In term of the use of confiscated proceeds, the Special Rapporteur considers it important that they be used to protect victims of contemporary forms of slavery and to secure their access to justice and remedies in the first instance. In that regard, some legislative frameworks stipulate that confiscated proceeds from human trafficking and exploitation and from organized crime are to be used to compensate or protect victims, including by establishing dedicated funds for those purposes.<sup>136</sup> Other States allow confiscated proceeds from all crimes to be used to compensate or protect victims under legislation on money-laundering, proceeds of crime or asset recovery.<sup>137</sup> Furthermore, victims of crimes in general can seek compensation in various States through the existing criminal or civil justice mechanisms, which victims of contemporary forms of slavery can have access to.<sup>138</sup>

52. Notwithstanding the important steps that have already been taken, the fact that a large amount of illegal profits are generated annually from human trafficking and contemporary forms of slavery demonstrates that more needs to be done to combat money-laundering and confiscate criminal proceeds.<sup>139</sup> The rates of criminal asset seizure and confiscation remain low,<sup>140</sup> and victims continue to face significant obstacles in gaining access to justice, remedies and protection.<sup>141</sup> Furthermore, there is often a lack of awareness among the law enforcement authorities and the judiciary: prolonged or delayed criminal or civil proceedings constitute another challenge, as well as the inability to gain access to remedies for victims who are returned to their countries of origin.<sup>142</sup> Those issues must be addressed more effectively by States in closer cooperation with other private and public stakeholders.

<sup>135</sup> Ibid., para. 110.

<sup>136</sup> Law on Combating Abduction and Human Trafficking 2008 (Afghanistan); Law No. 64 of 2010 on Combating Human Trafficking (Egypt); Proclamation No. 1178/2020 on Prevention and Suppression of Trafficking in Persons and Smuggling of Persons (Ethiopia); Trafficking in Persons Act 2007 (Gambia); Human Trafficking Act 2005 (Ghana); Anti-Trafficking Law (Legislation Amendments) 2006 (Israel); Law No. 228.2003 on Measures against Trafficking in Persons (Italy); Law on Counter-Trafficking in Persons Act 2009 (Kenya); Anti-Trafficking in Persons Act 2011 (Lesotho); and Trafficking in Persons Act 2015 (Malawi).

<sup>137</sup> Criminal Assets Recovery Fund Act 2016 (Barbados); sect. 77, Criminal Code 2005 (Denmark); Money-Laundering Prevention Act 2011 (Dominica); Proceeds of Crime Act 2004 (Nauru); and Comprehensive Crime Control Act 1984 (United States).

<sup>138</sup> CAC/COSP/WG.2/2017/CRP.1, pp. 42–44; and submissions of States received for the present report.

<sup>139</sup> Submission from Rights Lab.

<sup>140</sup> Finance against Slavery and Trafficking, *A Blueprint for Mobilizing Finance against Slavery and Trafficking*, p. 56.

<sup>141</sup> Submissions of Association of Reintegration of Crimea, MONUSCO and Timidria.

<sup>142</sup> Submission of La Strada International.

## VIII. Conclusions

53. The involvement of organized criminal groups in contemporary forms of slavery is evident in all regions of the world. Different types of groups, ranging from highly structured groups to loosely connected criminal networks, actively commit those crimes. The activities of those criminal groups extend beyond national borders in many cases, posing additional challenges for States in holding perpetrators accountable.

54. In relation to *modi operandi*, organized criminal groups employ a number of risk-averting methods to avoid law enforcement and accumulate large amounts of illegal profits. Those include the use of modern technology, corruption and obstruction of justice. Those groups also take advantage of such crisis situations as political unrest, armed conflict or the COVID-19 pandemic to maximize illegal profits. Their operations are therefore sophisticated and difficult to identify effectively, further increasing the level of victimization.

55. With regard to the nature and extent of exploitation, victims are forced to engage in a number of criminal activities by organized criminal groups. In addition, the latter's infiltration into the legal economy is a serious concern, as their illegal exploitation and abuses are hidden behind seemingly legitimate economic activities, making it difficult for law enforcement authorities to protect victims and prosecute and punish perpetrators. Furthermore, business owners, lawyers, bankers, accountants and other private actors may become complicit of contemporary forms of slavery through action or inaction.

56. In view of the above, States must strengthen their legislative and other measures to tackle the nexus between contemporary forms of slavery and organized crime and to ensure effective access to protection, justice and remedies for victims.

## IX. Recommendations

57. States must prosecute and punish the participation of organized criminal groups in contemporary forms of slavery with appropriate penalties in accordance with international standards set by the Organized Crime Convention. In so doing, relevant offences must be clearly defined to maintain the rule of law.

58. States must prosecute and punish related offences, such as corruption and obstruction of justice, which undermine the proper administration of justice against organized criminal groups.

59. States should establish and maintain effective witness protection to secure access to justice and remedies for witnesses, many of whom are victims. Sufficient resources must be allocated to that end.

60. States should apply the principle of non-punishment to victims who are forced by organized criminal groups to engage in criminal activities. In addition to human trafficking, it should apply to sexual and labour exploitation, which amount to contemporary forms of slavery. Furthermore, States should incorporate the principle into national law to strengthen accountability and transparency.

61. In order to address the infiltration of organized criminal groups into the legal economy, States should strengthen labour inspection mechanisms so that victims of contemporary forms of slavery may be identified and protected, and criminals and complicit businesses and employers prosecuted and punished in a timely manner.

62. The use of special investigative measures may be necessary to prosecute and punish members of organized criminal groups effectively. However, sufficient

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**safeguards against abuses, including independent authorization and oversight and access to remedies should be rigorously enforced, given their human rights implications.**

**63. Financial investigations should be conducted alongside criminal investigations into contemporary forms of slavery, and States must allocate sufficient resources and facilitate cooperation among relevant authorities.**

**64. Cooperation and coordination should be strengthened between States and private financial and other institutions and individuals that come in contact with illegal proceeds through proactive awareness-raising, training and communications.**

**65. Financial and other related institutions must do more to identify and report suspicious financial transactions in order to prevent money-laundering.**

**66. States that have not done so yet should establish a dedicated unit for financial intelligence or investigation staffed by properly trained officials, so that a more rigorous risk assessment may be conducted at an early stage.**

**67. States must establish and maintain effective mechanisms for the confiscation of illegal proceeds generated from contemporary forms of slavery.**

**68. For States that rely on non-conviction-based confiscation, it is essential that adequate safeguards be provided. Rules relating to reversed onus or burden of proof should also be considered.**

**69. Confiscated criminal proceeds should be proactively used to secure access to protection, justice and remedies for victims of contemporary forms of slavery, including witness protection.**

**70. National human rights institutions and civil society organizations should continue to play an active role in monitoring the human rights compliance of States and businesses in tackling the link between organized crime and contemporary forms of slavery.**

**71. States, in corporation with other stakeholders, including academia, should conduct comprehensive research on the involvement of organized criminal groups in contemporary forms of slavery in order to develop and implement more effective responses.**