



“Are You Happy to Cheat Us?”

Exploitation of Migrant Construction Workers in Russia

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Summary

Russia's remarkable domestic construction boom—fuelled by high energy prices, the engine of the country's economic growth over recent years—has been made possible by millions of migrant workers, most from countries of the former Soviet Union. However, large numbers of these workers are subjected to abuse and exploitation by employers, employment agencies, and other intermediaries, and are victims of extortion and abuse by police and other officials. In the worst cases, migrant workers coming to Russia are trafficked into forced labor. The Russian government needs to rigorously enforce existing laws and develop new laws to better protect migrant workers from abuse and immediately establish effective complaint mechanisms accessible to all migrant workers.

Most migrant workers coming to Russia have limited employment opportunities in their countries of origin and seek employment in Russia in order to support themselves and their families at home. However, migrant workers told Human Rights Watch how employers in Russia failed to provide the promised salaries and conditions, and instead cheated them of wages, forced them to work excessively long hours, threatened and physically abused them, and provided substandard on-site living conditions and unsafe working conditions. Employers in most cases refuse to provide migrant workers with written employment contracts, as required under Russian law, making workers even more vulnerable to wage violations and other abuses and limiting their ability to access official avenues of redress. In some of the worst cases, employers, intermediaries, and employment agencies confiscated migrants' passports and forced them to work without wages, in some cases confining them to worksites or physically abusing them.

Work extracted under the menace of a penalty and for which a person has not offered him or herself voluntarily is forced labor and is banned under both international and Russian law.

In many instances police officials responsible for providing protection and facilitating redress themselves prey on migrants. Migrant workers report extortion during spot document checks, physical abuse by police and being forced to do menial work at police stations or other locations. Similarly, they report border guards, customs officials and others extorting money from them as they travel by train from their home countries to Russia.

Much of the abuse and exploitation migrant workers in Russia endure is at the hands of private actors—employers, employment agencies and the like. International human rights law obligates the Russian government to protect all people from abuse, including by private

actors. In the case of migrant workers, the Russian authorities have in most cases failed to do so. They have not provided sufficient legal protections, nor have they made existing protections effective. The government has also failed to take adequate action against police or other officials who threaten or abuse migrant workers.

The Russian government should ensure effective regulation and monitoring of employment agencies and other intermediaries, and rigorous inspection and prosecution of abusive employers; accessible complaint mechanisms for victims of abuse; timely and effective investigations into allegations of abuse and the imposition of appropriate fines and sanctions. Russia must provide guarantees of protection for all victims of abuse irrespective of migration status.

According to the World Bank, Russia is home to one of the largest migrant populations in the world, second only to the United States. Although estimates vary widely, some 4 to 9 million of those migrants are workers, 80 percent of whom come from nine countries of the former Soviet Union with which Russia maintains a visa-free regime. Approximately 40 percent of migrant workers are employed in the highly unregulated construction sector. A typical migrant construction worker traveling to Russia is a young man between 18 and 39, who leaves his family in his home country and enters Russia for six to nine months of seasonal employment, often for many years in a row. The migrant worker enjoys higher wages in Russia and most often sends or takes some remittances home to his family.

Human Rights Watch interviewed 146 migrants working or who had previously worked in construction in 49 cities or towns in Russia for this report. For many, migration for work is a long-term life strategy. Experts have determined that, in contrast to earlier waves of better-educated and more skilled migrants, today's migrant workers are lower skilled, have lower levels of education, and have weaker knowledge of Russian. Most migrant workers have very little knowledge about their rights or available mechanisms for redress, making them more vulnerable to abuse and less able to seek protection from official agencies.

Liberalizing changes in migration legislation have simplified the work permit application process and obligatory residency registration for migrant workers. These reforms have helped many labor migrants regularize their short-term stay in Russia. However, not all migrant workers are able to do so easily due to remaining legal and procedural obstacles, such as a short, three-day period for obtaining residency registration; significant delays in issuing work permits; early expiration of quotas for work permits; and other bureaucratic obstacles. Migrants with irregular status are more vulnerable to abuses and less willing to

seek assistance from government agencies out of real fears that approaching any official person or body will result in a fine or expulsion.

When seeking to work in Russia, migrants frequently use the services of intermediaries, including state and private employment agencies and individuals who act as unofficial recruiters, including family members, diaspora groups, and others, both in Russia and in their home countries for assistance with job-placement, travel, obtaining residency registration and work permits, or other services. The vast majority of these intermediaries are informal. However, even formal employment agencies are subject to little regulation in Russia and in labor-sending countries. While only some intermediaries are responsible for trafficking, others do little to ensure that the work terms and conditions offered by employers are carried out, and often send workers to employers, who while not necessarily rendering workers into situations of forced labor, nonetheless fail to fulfill commitments and are abusive. Other intermediaries provide false residency registrations and work permits.

For example, Human Rights Watch interviewed four men who were among a group who traveled to Russia in May 2008 on an employment agency's promise of construction work in Sochi for the equivalent of about US\$800-1,000 per month, a small fortune in Tajikistan. Once the group arrived in Krasnodar, a Russian city 250 km from Sochi, the agency's representative simply abandoned them. With no job and no money to buy return tickets home, some of the workers found an employment agency in Krasnodar that also promised them construction work, but then confiscated their passports and sold the men to the director of a sunflower seed processing factory, who forced the men to work long hours doing heavy physical work.

Under the recent reforms in migration legislation, many more workers entering Russia are using simplified methods to obtain residency registration and work permits. However, the legality of migrant workers' longer-term stay is not based only on obtaining these necessary documents, but hinges on their employer providing them with a written employment contract [in Russian, *trudovoi dogovor*]. Without a written employment contract, a migrant worker's residency status expires after 90 days and the worker becomes irregular. Once irregular, migrant workers are highly vulnerable to being cheated of wages and other abuse, and are reluctant to seek redress through official channels because they fear possible fines or expulsion from Russia.

Tohir T. (not his real name), a 30-year-old worker from Tajikistan described to Human Rights Watch his experience working in Ivanovka, near Tambov in western Russia, on a hotel construction site in late 2006 and early 2007. Tohir T.'s employer did not provide a contract

and cheated him of promised wages. “I worked for [over] three months and was owed US\$500, but they only paid us US\$300 for two months and for the rest of the work they didn’t pay us at all. ... It was pointless to complain. We simply took what they gave us and left.”

Even when they do not receive their monthly pay as promised, some migrant workers continue on their construction sites, hoping that their employer will pay them. Azamat A. (not his real name), from Kyrgyzstan, oversaw a brigade of about 40 men working on a large construction project at a university in Moscow in 2007. They worked nearly three months, but were paid very irregularly. Azamat A. told Human Rights Watch, “Many workers left when they were not paid, but we needed to get paid, so we stayed on and continued to work.” The subcontractor then promised to pay one large sum after completion of the work. When this payment was also withheld, Azamat A. and other brigadiers continued to live on the site for about three months, hoping to receive money owed to them. In December 2007, Azamat A. finally gave up waiting and returned to Kyrgyzstan; the subcontractor still owes him and his workers some one million rubles (US\$42,220).

The absence of a written employment contract also leaves migrant workers vulnerable in cases of workplace accidents because workers cannot access state-sponsored accident insurance that depends on employer contributions for all legal employees. While some workers reported that their companies ensured that injured workers received medical treatment or compensation for their injuries, in many cases employers did not provide any assistance to workers. Vladimir V. (not his real name), a 27-year-old welder from Kyrgyzstan told Human Rights Watch that while he was working on private houses outside of Moscow he fell and was wounded in the abdomen. He and his co-workers treated the wound themselves, because, Vladimir V., said, “To go to a doctor is expensive. I didn’t have any insurance. They told [my boss] to take me to the doctor, but it didn’t do any good.”

The refusal of employers to provide written employment contracts to migrant workers is so pervasive that workers whose employer refuses to provide a contract see little reason to seek out an alternative employer in the hopes of obtaining one. In many cases where migrant workers have been placed in jobs by individual recruiters or employment agencies, they may be additionally pressured to stay with the employer selected for them.

In some cases documented by Human Rights Watch, when migrant workers protested or complained to their employers about cheated wages or poor work or living conditions, their employers responded with violence or threats. One Kyrgyz migrant worker working at a construction site in Krasnoyarsk told Human Rights Watch about an attempt by several

workers to organize a strike in August 2006 in response to the company's failure to pay wages: "[We] gathered that day and decided to strike. We... came to the foreman ... He said, 'You'll get your money on December 31...' He called the guards. They started to beat one worker from Samarkand [Uzbekistan] in front of us. We all went back to our work places."

The Federal Work and Employment Service, also known as Rostrud, the main body responsible for oversight and enforcement of labor law, conducts full investigations of workers' complaints only when the worker has a written employment contract with his or her employer or an employment relationship is otherwise not disputed. Although all workers with or without employment contracts have the right to seek redress for violations through courts as well as through the prosecutor's office, courts are reluctant to hear cases in which workers cannot prove formal work relations through the existence of a written employment contract.

Further, migrant workers rarely pursue official complaints because they are unaware of avenues of redress or how to access them; they fear being punished for their irregular status; they lack resources to pursue complaints; or simply because they lack faith in official protection.

In the absence of readily available and accessible mechanisms, migrant workers instead turn to other sources for help, including their embassies or consulates, for example in recouping cheated wages or restoring confiscated passports. Most often, migrant workers turn to diaspora groups or informal contacts for assistance. In smaller numbers, migrant workers access non-governmental organizations providing services to migrants. Most of these groups respond to complaints similarly, principally by calling employers and asking them to "do the right thing," vis-à-vis the worker. In the few cases do these groups appeal to official Russian government agencies, and, when they do, they rarely achieve results. Informal channels can produce positive results for the migrant workers fortunate enough to know how to access them. But these informal mechanisms are no substitute for an official system of protection that is so badly needed in Russia.

Under international human rights law, Russia has the obligation to protect the rights of all individuals in its territory or otherwise in its jurisdiction against abuses committed by private and state employers, intermediaries, and individuals. Russia must also take effective measures to prevent, punish, investigate, and redress the harm caused to individuals' rights and provide effective remedies to those so harmed. Specifically, Russia is obligated to guarantee the right of all persons on its territory to be free from ill-treatment, as well as to ensure basic labor rights protections, including by preventing trafficking into forced labor.

Regarding non-citizens' rights at work, the United Nation's Committee on the Elimination of Racial Discrimination has stated that once an employment relationship has been initiated and until it is terminated, all individuals, *even those without work permits*, are entitled to the enjoyment of labor and employment rights.

Human Rights Watch recommends to the Russian government to strengthen its monitoring of the implementation of labor and migration laws and rigorously investigate and prosecute employers in violation of the laws, regardless of the affected workers' migration or contractual status. To help ensure protection of migrant workers, Russia should also further refine migration laws to eliminate remaining obstacles for migrant workers to legalize their stay and work in Russia. At the same time, migrant workers who face abuses at the hands of employers, police, or others should be able to file complaints regarding labor violations and abuses threatening their life and health without fear of retribution in the event that their migration status is irregular. The prosecutor's office and Rostrud should review complaints promptly and effectively and hold perpetrators accountable. Both Russia and countries whose workers seek to work in Russia should take measures to effectively regulate employment agencies and other intermediaries, and undertake rights awareness-raising campaigns for migrant workers both before they depart their home countries and once they are in Russia.

Key Recommendations

The Russian government and regional governments whose citizens seek employment in Russia should act immediately to ensure workers can migrate and work in conditions of dignity and respect for their human rights. Human Rights Watch's central recommendations are listed below. More detailed recommendations are set forth at the end of this report.

To the Russian government

- Establish accessible, effective complaint mechanisms and rigorously investigate complaints of abuse made by migrant workers, irrespective of a migrant workers' contractual status or migration status.
- Rigorously investigate and prosecute employers who confiscate passports, deny workers legal contracts, withhold wages, and force employees to work long hours, or commit other violations of Russian law.
- Rigorously enforce the legal requirement for employers to provide written employment contracts to workers, including migrant workers.

- Establish a clear regulatory framework for state and private employment agencies, individual employment recruiters and other intermediaries, and adequately fund mechanisms for regular monitoring of these entities, which should include, at a minimum, unannounced agency visits and document audits to verify compliance with the regulatory framework.
- Cooperate with the nine governments of the former Soviet Union with whom Russia maintains a non-visa regime, to facilitate prosecutions and investigations of abusive employers in Russia, including by facilitating the involvement of victims who have already returned home.

To labor-sending countries' governments

- Develop or expand public awareness-raising for prospective migrant workers.
- Cooperate with Russia to facilitate prosecutions and investigations of abusive employers in Russia, including by facilitating the involvement of victims who have already returned home.
- Establish a clear regulatory framework for state and private employment agencies, individual employment recruiters and other intermediaries, and adequately fund mechanisms for regular monitoring of these entities, which should include, at a minimum, unannounced agency visits and document audits to verify compliance with the regulatory framework.
- Enhance the labor departments of embassies and consulates in Russia to assist migrant workers.

Methodology

This report is based on 146 in-depth interviews with migrant workers who were working or who had worked in the construction sector in Russia in the past two years. In a few exceptional cases, interviews were conducted with individuals employed in other sectors. Human Rights Watch conducted interviews in nine cities and villages in Tajikistan in February and March 2008 and in nine cities and villages in Kyrgyzstan in March 2008. In Russia, Human Rights Watch conducted interviews in Moscow, Ekaterinburg and Sverdlovsk oblast, Krasnodar, St. Petersburg, and Zvenigorod and other towns in Moscow oblast in April-August and October 2008. The locations in Russia were selected because, according to Russian Federal Migration Service data, Moscow, Moscow oblast, Sverdlovsk oblast, Krasnodar krai, and St. Petersburg are five of the seven cities and provinces receiving the highest numbers of migrant workers.¹

Three Human Rights Watch researchers, including one native Russian speaker and two fluent Russian speakers, conducted the majority of the interviews. Two additional Human Rights Watch researchers, both of whom are native Russian speakers, conducted additional interviews. The majority of interviews were conducted in private. A small percentage of the interviews were conducted in groups. All of the interviews were conducted in Russian, with the exception of a few interviews conducted in Uzbek, Kyrgyz, and Tajik that were possible with the assistance of an interpreter translating from these languages into Russian. Before being interviewed, interviewees were told of the purpose of the interview, informed what kinds of issues would be covered, and asked if they wanted to proceed. No incentives were offered or provided to persons interviewed.

In almost all cases, we have changed the names of interviewees to protect their safety. Pseudonyms appear as a first name and an initial. In some cases, exact locations or dates are also withheld to provide additional security to interviewees. In a few cases, interviewees requested that their full name be used, and we have respected these requests.

¹ The federation subjects with the highest numbers of migrant workers were Moscow city, Tyumen oblast, Sverdlovsk oblast, Moscow oblast, St. Petersburg, Primorsky krai and Krasnodar krai. Federal State Statistics Service, "Work and employment in Russia - 2007," (*Trud i zaniatost v rossii - 2007g.*), http://www.gks.ru/bgd/regl/Bo7_36/Main.htm (accessed June 2, 2008). The Russian federal government refers to regional subunits that constitute the Russian federation as "federation subjects." There are six types of federation subjects that have differing levels of autonomy from the federal government. They are: republics, krais, oblasts, federal cities (Moscow and St. Petersburg), autonomous oblasts, and autonomous okrugs.

Human Rights Watch researchers interviewed Russian government officials, including Russian Federal Migration Service officials in Moscow, Ekaterinburg, and Krasnodar, as well as officials from the Federal Work and Employment Service. Human Rights Watch also met with officials at the embassies of Armenia, Azerbaijan, Tajikistan, and Ukraine in Russia. Requests for meetings at the embassies of Uzbekistan and Moldova went unanswered. We met with officials from the Kyrgyz consulate and the Tajikistan Ministry of Interior representative responsible for labor issues in Ekaterinburg. In Kyrgyzstan, we met officials from the State Committee on Migration and Employment in Bishkek and Osh. In Tajikistan, we met with a representative of the Migration Service under the Ministry of Interior.

In Russia, Human Rights Watch also met with experts on Russian labor law, migration in Russia, and Russian migration policy; nongovernmental organization representatives; leaders of national diaspora communities in Russia; employment agencies; intermediary agencies providing document processing and other services; employers; and foremen and brigadiers (individuals who recruit others to work in construction brigades in Russia). In Kyrgyzstan and Tajikistan we also met with employment agencies and brigadiers.

PART 1: BACKGROUND

1.1 Migration to Russia

Russia has the second largest foreign migrant population in the world after the United States. Figures vary widely, but the World Bank estimates that in 2005, the total number of migrants was 12.1 million.² The Russian Federal Migration Service (FMS) puts the number of foreigners officially registered in the country at 7.9 million in 2007.³ Most migrants arriving in Russia in the last decade have sought work, most often seasonal work. While it is difficult to determine the number of migrant workers in Russia, the FMS estimates that they numbered between seven and nine million in 2007.⁴ On the basis of several different studies, experts from the Russian Academy of Science estimate a lower number of three to four million migrant workers, about half of them working illegally.⁵ In addition, there are also approximately three million internal labor migrants in Russia.⁶

Some 80 percent of all foreigners seeking to work in Russia come from nine countries of the former Soviet Union with which Russia maintains a visa-free regime.⁷ Migrant workers are often driven by poverty and unemployment in their home countries to seek better-paid jobs in Russia. The majority of migrant workers arrive from Ukraine, Uzbekistan, and Tajikistan.⁸ Uzbekistan, Tajikistan and neighboring Kyrgyzstan, whose workers are increasingly seeking

² The World Bank, "Migration and Remittances Factbook 2008,"

<http://econ.worldbank.org/WBSITE/EXTERNAL/EXTDEC/EXTDECPROSPECTS/0,,contentMDK:21352016~isCURL:Y~menuPK:3145470~pagePK:64165401~piPK:64165026~theSitePK:476883,00.html> (accessed June 2, 2008).

³ "Report on Results and Basic Aims of the Activities of the Federal Migration Service from 2008-2010," (Doklad o rezultatakh i osnovnykh napravleniakh deiatelnosti Federalnoi migratsionnoi sluzhby na 2008-2010 gody)

<http://www.fms.gov.ru/about/ofstat/index.php> (accessed August 20, 2008), p. 57.

⁴ Vladimir Emeljanenko, "Konstantin Romodanovsky: 'Foreigners are Building Half of Russia, and We Are Proud of its Transformation,'" (Konstantin Romodanovskij: 'Inostrantsy strojat pol-Rossii, a my gordimsja ee preobrazheniem'), *Profile*, February 4, 2008, as republished on the Federal Migration Service website:

http://www.fms.gov.ru/press/publications/news_detail.php?ID=9420 (accessed June 2, 2008).

⁵ Human Rights Watch interview with Zhanna Zaionchkovskaia, co-director, Migration Research Center, Institute for Economic Forecasting, Russian Academy of Sciences, Moscow, May 26, 2008.

⁶ Human Rights Watch interview with Zhanna Zaionchkovskaia, May 26, 2008.

⁷ The countries are: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Ukraine, and Uzbekistan. Federal Service on Government Statistics, "International Migration," (Mezhdunarodnaia migratsia) http://www.gks.ru/bgd/regl/bo8_11/IssWWW.exe/Stg/d01/05-09.htm (accessed September 25, 2008).

⁸ Human Rights Watch interview with Ekateriana Egorova, Head, International Affairs Directorate, Federal Migration Service of the Russian Federation, Moscow, June 2, 2008. Experts estimate that in recent years, fewer migrants are coming to Russia from Ukraine and Moldova, whose workers increasingly seek opportunities in Central and Western Europe. International Organization for Migration (IOM), "New Immigration Legislation in the Russian Federation: Enforcement Practices," 2008, p. 12 (publication pending).

work in Russia, rank among the poorest countries in the world.⁹ The economic disparity between these Central Asian countries and Russia is stark: in 2007 per capita income in Russia was more than 16 times that of Tajikistan.¹⁰ Russia is also an attractive destination for citizens of many countries of the former Soviet Union because the Russian language remains a regional lingua franca.

Government statistics indicate that in 2006, more than 67 percent of migrants acquiring work permits were between the ages of 18 and 39 and that 85 percent of them were men.¹¹ According to a 2006 International Organization for Migration (IOM) survey of migrant workers, migrants are increasingly low-skilled, have low levels of education, and have weak knowledge of Russian.¹²

Due to rapid population decline in Russia, most analysts agree that to maintain current levels of economic activity, the workforce must be replenished by labor migration. In 2008, the United Nations projected that Russia could experience labor shortages as soon as 2012-2014.¹³

Migrant workers in Russia have a considerable impact on the economies of both Russia and their home countries. Experts estimate that migrant workers contribute eight to nine percent of Russian GDP.¹⁴ According to World Bank statistics, outward remittances from Russia in

⁹ World Bank Data and Statistics, "Gross national income per capita 2007, Atlas method and Purchasing Power Parity," <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf> (accessed October 2, 2008).

¹⁰ The World Bank estimates that gross national income in 2007 was US\$7,560 for Russia and US\$460 for Tajikistan. Estimates adjusting for purchasing power parity indicated that per capita income in Russia is more than eight times greater than in Tajikistan. World Bank Data and Statistics, "Gross national income per capita 2007, Atlas method and Purchasing Power Parity."

¹¹ Federal State Statistics Service, "Labor and Employment in Russia – 2007," (*Trud i zaniatost v Rossii - 2007g.*) Number of Foreign Citizens Working in Russia, Disaggregated by Sex and Age Group, http://www.gks.ru/bgd/regl/Bo7_36/IssWWW.exe/Stg/doi/05-16.htm (accessed August 25, 2008).

¹² According to the 2006 IOM survey, on average, 15 percent of migrant workers in Russia today have very poor knowledge of Russian. As cited in International Labour Organization (ILO), "Regularization of migrant workers and prevention of employment of migrant workers with irregular status in the Russian Federation," 2008, (publication pending).

¹³ Since 1992, Russia's population has declined by 6.5 million and the yearly rate of decline is increasing. The United Nations predicts that if current demographic trends continue, the population could decline from 142 million in 2007 to 100 million by 2050. The demographic crisis is likely to result in labor shortages as soon as 2012-2014, which will worsen over time, totaling up to 20 percent of demanded labor. The United Nations in the Russian Federation, "Demographic Policy in Russia: From Reflection to Action," 2008, <http://www.unpd.ru/index.phtml?iso=RU&lid=1&cmd=publications1&id=73> (accessed August 25, 2008). The International Labour Organization (ILO) has made similar predictions. ILO, "Russia Needs Migrant Workers to Support Economic Growth," July 20, 2006, http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Feature_stories/lang--n/WCMS_071244/index.htm (accessed August 25, 2008).

¹⁴ Russia Today, "Interview with Elena Tyuryukanova," July 11, 2007, <http://www.russiatoday.ru/guests/detail/239> (accessed August 25, 2008).

2006 constituted over US\$11.4 billion. Tajikistan and Moldova, two of the countries which have significant numbers of citizens working in Russia, are the highest inward remittance-receiving developing countries in the world in terms of GDP, with remittances constituting 42 percent of Tajikistan's GDP and 38.8 percent of Moldova's GDP in 2007.¹⁵ (For more information on remittance see *Annex: Background on Selected Countries*).

Although the full impact of the 2008 global financial crisis on Russia remains to be seen, beginning in 2003, Russia experienced significant economic growth, driven not only by hydrocarbon and industrial sectors, but also by construction, particularly of residential buildings.¹⁶ To meet employment needs during this construction boom, employers relied heavily on migrant labor; some 40.8 percent of foreign work permits issued in 2006 were for jobs in the construction sector.¹⁷ The preparation for the 2014 Sochi Olympic Winter Games will require unprecedented construction work in the coming years. News reports cite Russian Federal Migration Service (FMS) estimates of the demand for migrant workers in Sochi to be at least one million per year.¹⁸

¹⁵ Although the World Bank estimates that remittances will slow somewhat in response to the 2008 global financial crisis, experts also note that remittances are "one of the less volatile sources of foreign exchange earnings for developing countries," and "historically remittance flows have also been resilient to downturns in the migrant-destination countries." World Bank, "Outlook for Remittance Flows 2008-2010: Growth Expected to Moderate Significantly, But Flows Remain Resilient," Migration and Development Brief No. 8, November 11, 2008, http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1110315015165/MD_Brief8.pdf (accessed November 13, 2008).

¹⁶ The World Bank in Russia, "Russian Economic Report," June 2008, http://siteresources.worldbank.org/INTRUSSIANFEDERATION/Resources/rer16_eng.pdf (accessed June 19, 2008). From 2003-2007, construction was Russia's fastest growing sector, experiencing an annual average growth rate of 11.4 percent in 2003-2006, and 16.4 percent in 2007. Russian Federal State Statistics Service, "Main indicators of the system of national accounts," (Osnovnye indikatory sistemy natsionalniskh schetov), http://www.gks.ru/bgd/free/Bo1_19/Main.htm (accessed June 2, 2008).

¹⁷ Federal State Statistics Service, "Work and Employment in Russia - 2007," (Trud i zaniatost v Rossii - 2007g.); As of June 2008, 7.8 percent of the Russian workforce was employed in the construction sector. Federal State Statistics Service, "Mid-year number of workers in the economy by economic activity," (Srednegodnaia chislennost zaniatiykh v ekonomike po vidam ekonomicheskoi deiatelnosti), http://www.gks.ru/bgd/regl/bo8_11/IssWWW.exe/Stg/doi/o6-o3.htm (accessed June 2, 2008). The actual percentage of migrant workers working in construction is likely to be higher, given that construction is one of the most unregulated sectors of the Russian economy.

¹⁸ Sima Ajvajan, "Sochi 2014: A Builder's Dream," (Sochi 2014: mechta stroitel'ia), BBC Russian, May 12, 2008, http://news.bbc.co.uk/1/hi/russian/russia/newsid_7395000/7395544.stm (accessed June 4, 2008).

1.2 Racism and Xenophobia in Russia

Racism and xenophobia are pervasive problems in Russian society, which the Russian government has failed to adequately prevent or combat.¹⁹ In a report on a June 2006 visit, the UN Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, noted, "Russian society is facing an alarming trend of racism and xenophobia."²⁰ The Russian Constitution prohibits discrimination on any grounds.²¹ Discrimination is also prohibited by the European Convention on Human Rights (ECHR) and the International Covenant on Civil and Political Rights (ICCPR), and racial discrimination is specifically prohibited by the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD).²²

Violent racially-motivated attacks and murders of minorities of non-Slavic appearance have become common occurrences in Moscow and St. Petersburg as well as in smaller cities.²³ Most often the perpetrators of these violent acts are groups of young men and women who profess a neo-fascist ideology and are known as "Neo-Nazis" or "skinheads." According to the SOVA Center for Information and Analysis, a Moscow-based NGO that monitors hate crimes, from January to November 2008, there were at least 348 racially-motivated attacks,

¹⁹ The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) defines racial discrimination as "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life." International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), adopted December 21, 1965, G.A. Res. 2106 (XX), annex, 20 U.N. GAOR Supp. (No. 14) at 47, U.N. Doc. A/6014 (1966), 660 U.N.T.S. 195, entered into force January 4, 1969, ratified by Russia on March 6, 1969. For an analysis of Russian attitudes towards national identity and minorities conducted by the Levada Center see Dmitry Polikanov, "Nationalism in Moderation," Russia Profile, August 1, 2007, <http://www.russiaprofile.org/page.php?pageid=Culture+%26+Living&articleid=a1185962119> (accessed August 10, 2007).

²⁰ "Report of the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance, Doudou Diène, Mission to the Russian Federation," A/HRC/4/19/Add.3, May 30, 2007, <http://daccessdds.un.org/doc/UNDOC/GEN/Go7/127/01/PDF/Go712701.pdf?OpenElement> (accessed August 1, 2007).

²¹ The state shall guarantee the equality of rights and liberties regardless of sex, race, nationality, language, origin, property or employment status, residence, attitude to religion, convictions, membership of public associations or any other circumstance," Constitution of the Russian Federation, Adopted December 12, 1993, article 19.2.

²² European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 213 U.N.T.S. 222, *entered into force* Sept. 3, 1953, *as amended by* Protocols Nos. 3, 5, 8, and 11 *which entered into force* on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998 *respectively*, ratified by Russia on May 5, 1998, article 14; International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 999 U.N.T.S. 171 (*entered into force* March 23, 1976), ratified by Russia on March 23, 1976; European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (ECPT), E.T.S. 126, entered into force February 1, 1989, ratified by Russia on May 5, 1998, article 26; and ICERD.

²³ See, *inter alia*, Human Rights First, "2008 Hate Crime Survey: Russia,"

<http://www.humanrightsfirst.org/discrimination/reports.aspx?s=russia&p=violentattack> (accessed December 19, 2008).

and 82 victims died as a result.²⁴ On December 5, 2008, assailants attacked two workers from Tajikistan, stabbing and decapitating 20-year-old Salokhiddin Azizov. Azizov's 22-year-old colleague was injured but able to flee. Azizov's severed head was discovered one week later in a garbage dumpster.²⁵

The Russian authorities' efforts to stop racial discrimination and violence against minorities have been largely inadequate.²⁶ The Committee of Ministers of the Council of Europe, in a May 2007 resolution, noted that "the Russian Federation has still not adopted comprehensive anti-discrimination legislation offering effective remedies for victims of discrimination."²⁷ Although there is some evidence that prosecutors are more willing to identify racial motivations when investigating crimes and in recent years courts have issued convictions for hate-related violent crimes, including in several high-profile cases,²⁸ the number of crimes far exceeds convictions. For example, 2007, the SOVA Center documented at least 632 hate-related violent crimes, including at least 67 deaths.²⁹ However, in 2007 there were only 24 convictions for hate-related violent crimes.³⁰

Violent attacks on minorities are one manifestation of racial and ethnic intolerance in Russia. Racist, xenophobic, and nationalist rhetoric is common among political leaders and during

²⁴ "November 2008: Results for the Month," SOVA Center, December 1, 2008, <http://xeno.sova-center.ru/29481C8/C1B9224> (accessed December 18, 2008). The Moscow Bureau for Human Rights, a Russian NGO that monitors racism, recorded the following figures for racially-motivated attacks from January-November 2008: 118 deaths and 364 injured. <http://antirasizm.ru/news.php?page=1> (accessed December 18, 2008).

²⁵ Police opened a murder investigation into the case. Michael Schwartz, "Killing of Migrant Worker in Moscow is Investigated as Hate Crime," *International Herald Tribune*, December 14, 2008 <http://www.ihf.com/articles/2008/12/14/europe/moscow.php> (accessed December 18, 2008); and "A violent attack on workers from Tajikistan took place near Moscow," SOVA Center, December 9, 2008, <http://xeno.sova-center.ru/45A29F2/C263ACA> (accessed December 18, 2008).

²⁶ Both the Organization for Security and Cooperation in Europe and Russian NGOs have acknowledged some steps that the Russian government has taken to address racism. See OSCE, "Hate Crimes in the OSCE Region- Incidents and Responses, Annual Report for 2007," Warsaw: October 2008, http://www.osce.org/documents/odihr/2008/10/33851_en.pdf (accessed December 19, 2008).

²⁷ Committee of Ministers of the Council of Europe, Resolution CM/ResCMN(2007)7 on the implementation of the Framework Convention for the Protection of National Minorities by the Russian Federation, adopted May 2, 2007, [https://wcd.coe.int/ViewDoc.jsp?Ref=CM/ResCMN\(2007\)7&Sector=secCM&Language=lanEnglish&Ver=original&BackColorIntranet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75](https://wcd.coe.int/ViewDoc.jsp?Ref=CM/ResCMN(2007)7&Sector=secCM&Language=lanEnglish&Ver=original&BackColorIntranet=9999CC&BackColorIntranet=FFBB55&BackColorLogged=FFAC75) (accessed May 7, 2007).

²⁸ In one high-profile case, in December 2008, a Moscow court convicted seven teenage members of a nationalist gang of 20 murders and 12 attempted murders of migrants between August 2006 and October 2007. "Moscow Racist Killers Convicted," BBC, December 3, 2008, <http://news.bbc.co.uk/2/hi/europe/7762302.stm> (accessed December 18, 2008); "Skinheads from the 'Ryno Gang' received 6-20 year sentences. The Leaders received the maximum sentence," Newsru.com, December 15, 2008, <http://www.newsru.com/russia/15dec2008/rynoconvicted.html> (December 18, 2008).

²⁹ Galina Kozhevnikova, "Radical Nationalism in Russia and Efforts to Counteract it in 2007," (*Radikalnii natsionalizm v Rossii i protivodeistvie emu v 2007 godu*), SOVA Center, <http://xeno.sova-center.ru/29481C8/A91EC67#r3> (accessed December 18, 2008).

³⁰ Ibid.

political campaigns³¹ as well as in the media.³² Organizations openly espousing racist or anti-immigrant views are increasingly organizing public protests in Moscow and other cities.³³ Discrimination and violence by police and other law enforcement is also a widespread problem and is described in more detail below (see *Ill-treatment and extortion by police*).

³¹ Some government officials have acknowledged this problem. See "First deputy PM admits Russia has problems with xenophobia," ITAR-TASS, in Russian, as carried in BBC Monitoring, July 28, 2007. See also Human Rights Watch, *Singled Out: Russia's Detention and Expulsion of Georgians*, Volume 19 No. 5(D), September 2007, <http://www.hrw.org/en/reports/2007/09/30/singled-out>.

³² See "Compliance of the Russian Federation with the Convention on the Elimination of All Forms of Racial Discrimination : Russian NGOs' Alternative Report," August 12, 2008, paras. 206, 256-260.

³³ For example, several anti-immigrant organizations, including the well-known Movement against Illegal Immigration organized protests in several cities on November 4, 2008, National Unity Day in Russia. "Over 200 Detained at far-right rally in Moscow," RIA Novosti, November 4, 2008, <http://en.rian.ru/russia/20081104/118119911.html> (accessed December 19, 2008). The ruling Unity Party's youth wing has also organized anti-immigration protests, one of which included banners stating: "We will defend Russian citizens" and "Our country, our work." Radio Free Europe/Radio Liberty, "Ruling party's youth group blames migrants for Russia's woes," December 8, 2008, as carried in UNHCR Reliefworld, <http://www.unhcr.org/refworld/docid/49422e6921.html> (accessed December 19, 2008).

PART 2: LAWS AND POLICY CONCERNING MIGRANT WORKERS

2.1 Russia's Legal Obligations and Migration Policy

Russia has ratified numerous international human rights treaties that place positive obligations on it to protect the rights of individuals against abuses, including torture and ill-treatment, trafficking in persons, and forced labor, committed both by private and state persons or entities. Russia also has the obligation to implement basic labor protections of persons in employment and to eliminate racial discrimination.³⁴ It is obligated to take appropriate measures to prevent, punish, investigate, and redress the harm caused to individuals' rights and provide effective remedies to those so harmed.³⁵ The vast majority of the rights defined in these treaties apply to migrant workers just as much as they do to any other person within Russia. The specific international and domestic legal provisions relevant to the abuses documented in this report are described in detail in the relevant sections of *Part 3: Abuse and Exploitation of Migrant Construction Workers in Russia*. This section of the report focuses specifically on migration law and policy and their impact on migrant workers' rights.

Governments have the right to develop laws and policies to regulate migration, including migration for work. A key issue for Russia's legal regulation and policy on migration—and its implementation—is the extent to which it is consistent with Russia's obligations under international human rights law. Russia has the obligation to protect the fundamental rights of every individual, including migrant workers irrespective of their migration status. In addition, to enhance protection of migrant workers, migration policy should not create excessive obstacles for migrant workers to stay and work legally. Migrants with irregular

³⁴ ECHR; ICCPR; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, ratified by Russia on March 3, 1987; International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 49, U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3, entered into force January 3, 1976, art. 8(1)(a), (d), ratified by Russia on January 3, 1976; ICERD; and Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention on Transnational Organized Crime (Trafficking Protocol), adopted November 15, 2000, G.A. Res. 55/25, annex II, 55 U.N. GAOR Supp. (No. 49) at 60, U.N. Doc. A/45/49 (Vol.I) (2001), entered into force December 25, 2003, ratified by Russia on May 26, 2004; and a number of International Labour Organization conventions, as detailed below in Labor Exploitation and Other Abuses.

³⁵ Human Rights Committee, General Comment 31, Nature of the General Legal Obligation on States Parties to the Covenant, U.N. Doc. CCPR/C/21/Rev.1/Add.13 (2004), para. 8; and the European Convention for the Protection of Human Rights and Fundamental Freedoms, 213 U.N.T.S. 222, entered into force Sept. 3, 1953, as amended by Protocols Nos. 3, 5, 8, and 11 which entered into force on September 21, 1970, December 20, 1971, January 1, 1990, and November 1, 1998 respectively, ratified by Russia on May 5, 1998, article 13.

status are more vulnerable to abuses and less willing to seek assistance from government agencies out of real fears that approaching any official person or body will result in a fine or expulsion.

Russia has revised its migration laws in recent years to make it easier for workers who do not need a visa to enter Russia to legalize their stay and employment, by simplifying the procedures for obtaining obligatory residency registration and work permits. With a valid residency registration and work permit, migrant workers have all the documentation necessary to obtain a legal employment contract. Possession of a legal employment contract is the only means by which migrant workers' employment and long-term stay remain regular. If irregular, migrant workers are at risk of fines and expulsion from Russia and may be more likely targets of police abuse. They also have limited access to official mechanisms of redress.

Although under the simplified procedures more migrants are regularizing their stay and work in Russia, not all migrant workers are able to do so easily due to remaining legal and procedural obstacles, such as: a short, three-day period for obtaining mandatory residency registration; significant delays in issuing work permits; early expiration of quotas for work permits; and other bureaucratic obstacles. In some cases migrant workers fail to obtain residency registration or obtain work permits due to a lack of understanding or knowledge of the procedures, or a lack of funds.

In order to ensure that migrant workers are not rendered into particularly vulnerable situations of irregular status and hindered in their ability to access official complaint mechanisms, the Russian government should remove remaining obstacles for migrant workers to quickly and easily regularize their stay in Russia, as detailed in the recommendations in this report. The Russian government should in any case investigate migrant workers' complaints of abuse irrespective of migrant workers' migration status.

2.2 Laws Relating to Migrant Workers

Russian government laws and policies related to migration and employment for foreigners are generally complex and have changed frequently in recent years. In January 2007, amendments to the Law on the Legal Status of Foreign Citizens and a new Law on Recording the Migration of Foreign Nationals and Stateless Persons (hereafter, the 2007 laws), simplified the procedures for temporary residents to register on the migration registry, as is required for all non-Russian nationals entering Russia, and for obtaining work permits for

migrants entering Russia under the non-visa regime.³⁶ The new laws also established quotas on work permits for this category of workers entering Russia.³⁷ The 2007 laws and their implementation have been examined in other research publications,³⁸ and the discussion here will be limited to a basic description of laws relevant to migrant workers entering Russia for temporary stay under the non-visa regime and the laws' relevance for human rights protection of migrant workers.

At the time of the 2007 laws' passage, experts believed that 90 percent of Russia's migrant workers were irregular.³⁹ FMS statistics demonstrate that since the 2007 laws entered into force, significantly more migrant workers are registering on the migration registry and receiving work permits and more employers are notifying the FMS about employment of foreign workers, indicating they are in compliance or partially in compliance with the law.⁴⁰ According to Zhanna Zaionchkovskaia, an expert on migration in Russia, the percentage of legal workers increased 2.5 times; previously only about 15 to 20 percent of migrants worked legally.⁴¹ These changes indicate the amendments to the laws have had, to a degree, the intended effects of encouraging more migrant workers to stay and work in Russia in full compliance with relevant laws.

2.3 Registration on the Migration Registry

Under the 2007 laws, all foreigners arriving in Russia for a stay of less than 90 days must, within three business days of their arrival in Russia, register on the migration registry of the Federal Migration Service (also known as residency registration). Previously, foreigners could register only through their hosts, such as homeowners, renters, hotels, etc. Under the new laws, foreigners can register both through their hosts and through employers or other

³⁶ Law on the Legal Status of Foreign Citizens, No. 62, 2002, as amended; and Law on the migration registry of foreign citizens and persons without citizenship in the Russian Federation, No. 109, 2006. The laws were adopted in July 2006 and entered into force on January 15, 2007.

³⁷ Russian government decree on the establishment of a quota for issuing work permits to foreign citizens arriving in the Russian Federation without visa requirement in 2007, No. 682, November 15, 2006.

³⁸ See IOM, "New Immigration Legislation in the Russian Federation: Enforcement Practices," and ILO, "Regularization of migrant workers and prevention of employment of migrant workers with irregular status in the Russian Federation."

³⁹ IOM, "New Immigration Legislation in the Russian Federation: Enforcement Practices," p. 10.

⁴⁰ In 2007, 7.9 million migrants registered on the migration registry: a 65 percent increase from 2006. Over 1.75 million migrant workers entering Russia received work permits in 2007, up from 570,112 in 2006. Federal Migration Service, "Report on Results and Basic Aims of the Activities of the Federal Migration Service from 2008-2010," pp. 22, 50, 57. Also in 2007, 60 percent of employers hiring migrant workers sent official notifications to the FMS that they had hired migrant workers. While this degree of compliance in 2007 resulted in a 2.5 percent increase in the tax base, experts say that full compliance would increase the tax base by five percent. Human Rights Watch interview with Zhanna Zaionchkovskaia, May 26, 2008.

⁴¹ Human Rights Watch interview with Human Rights Watch interview with Zhanna Zaionchkovskaia, May 26, 2008.

entities, such as employment agencies. This process can be done by mail.⁴² The migrant receives a portion of the submitted form to carry with him or her as an indication of the legal right to stay. There is no fee to obtain a residency registration, and the authorities cannot deny a person registration on the migration registry. Failure to register on the migration registry renders a person's stay in Russia irregular after three business days, and a person without a residency registration may incur a fine of 2,000 (US\$84) to 5,000 rubles (US\$211) with or without administrative expulsion from Russia.⁴³

The Three-Day Rule for Residency Registration and the Difficulty It Poses for Migrants

Despite these changes and simplification in procedures, obstacles to registering on the migration registry remain. Migrant workers, migration policy experts, and officials from labor-sending countries' governments interviewed by Human Rights Watch indicated that migrant workers frequently struggle to comply with the requirement to register on the migration registry within three days of arrival in Russia. Many migrant workers entering Russia under the non-visa regime do not have a job or a place to live when they arrive in Russia, and for most of them three days is a very short period in which to identify one or the other, unless they already have established contacts prior to their arrival.⁴⁴ Unable to register themselves, and fearing fines or deportation for remaining in Russia in violation of registration laws, many migrants resort to the use of intermediaries, many of whom provide false residency registrations and work permits and may charge excessive fees. Employers also often charge high fees for arranging residency registration.

One worker from Tajikistan who had worked in Russia on and off for three years told Human Rights Watch: "There is a big problem of not being able to do all of the documents [in time]. There are only three days to do the registration."⁴⁵ Farukh F., also from Tajikistan, stated that only through personal connections could a migrant find decent housing quickly. "It is really hard to get the registration done in three days," he said. "If you don't have friends [to help you] then you can't get normal housing. There were times when we tried to rent an apartment

⁴² Law on the migration registry of foreign citizens and persons without citizenship in the Russian Federation, No. 109, 2006.

⁴³ Code of Administrative Offences of the Russian Federation, No. 195, 2001, with amendments and additions, articles 18.8; and ILO, "Regularization of migrant workers and prevention of employment of migrant workers with irregular status in the Russian Federation," p. 16. All currency conversions are approximate, owing to fluctuations in currency over time. The Russian ruble-United States dollar exchange rate used throughout the report is that for June 1, 2008.

⁴⁴ The shortage of inexpensive housing in major metropolitan areas has been cited as a significant obstacle for migrant workers. Some landlords refuse outright to rent apartments to foreigners, due to racist or xenophobic attitudes. Often, landlords may be willing to rent rooms or apartments, but are reluctant to register additional people in their apartments—foreigner or national—as this leads to higher utilities charges and potential taxes on rent income.

⁴⁵ Human Rights Watch interview with Amirullo A., Karakoum, Tajikistan, February 29, 2008.

[from someone unknown to us], but then the landlord asks, ‘Where are you from?’ and [when you answer] he replies, ‘I’m sorry, I can’t rent this apartment to you.’”⁴⁶ A worker from Uzbekistan stated similarly, “It is particularly difficult to organize your registration in three days if you don’t already have contacts in Russia.”⁴⁷ Government officials from Tajikistan and Kyrgyzstan also said it was difficult for migrant workers to register within three days and cited the requirements as the source of many other problems for migrants who are unable to meet it.⁴⁸

Numerous migrant workers told Human Rights Watch that they obtained registrations through intermediaries. These registrations are often illegal, insofar as intermediaries organize registration at an address where the worker does not live, or at an address that does not exist. In some cases, migrant workers do not understand that these registrations are false until they are stopped by police or at the border. Ozod O., a brigadier (a person who recruits others to work in construction brigades in Russia) who has been working on construction sites in Moscow seasonally for six years told Human Rights Watch, “I got a registration and work permit [through a middleman] for 7,000 rubles (US\$260). At the airport they checked it and put a stamp in my passport canceling it saying it was a false [registration] stamp. They drew up an official report and [I paid] a fine of 2,000 rubles (US\$84).”⁴⁹ Aziz A., a 28-year-old construction worker from Kyrgyzstan, told Human Rights Watch, “A middleman ... did a fake registration [and a work permit] for me for 10,000 rubles (US\$422). I didn’t know that the registration was fake.”⁵⁰

In other cases, migrant workers know that the registration is fake, but they choose to take a chance that no officials would identify the registration as false. Zufar Z., who worked laying tiles at construction sites in Moscow said, “I needed a registration, so the son of a friend of mine offered to do it for 500 rubles (US\$21). I understood that it would be false, but I still needed it. Once the police caught me, and they called the address indicated on my registration and learned that the address did not exist. My boss came and paid 1,000 rubles (US\$42) to get me out [of police detention].”⁵¹

⁴⁶ Human Rights Watch interview with Farukh F., Karakoum, Tajikistan, February 29, 2008.

⁴⁷ Human Rights Watch interview with Alisher A., Khimki, May 1, 2008.

⁴⁸ Human Rights Watch interview with Musamirsho Gafurov and Dzhurubali Saburov, migration policy group, Embassy of Tajikistan, Moscow, May 27, 2008; and Human Rights Watch interview with Toktogul Sabyrov, deputy director, State Committee for Migration and Employment, Bishkek, March 18, 2008.

⁴⁹ Human Rights Watch interview with Ozod O., Dzabor-Rasud, Tajikistan, February 28, 2008.

⁵⁰ Human Rights Watch interview with Aziz A., Belovodskoe, Kyrgyzstan, March 19, 2008.

⁵¹ Human Rights Watch interview with Zufar Z., Osh, Kyrgyzstan, March 14, 2008.

2.4 Obtaining a Work Permit

The 2007 laws dramatically changed the procedure for migrant workers to obtain work permits. A migrant in possession of a residency registration and seeking to work may file an application for a work permit with the FMS directly or through an employer or intermediary. Previously, workers were able to obtain a work permit only through an employer, thereby making their legal status directly linked to the employer and making them more vulnerable to abuse.

Under the new laws, upon receipt of an application, the FMS should issue the work permit, in the form of a plastic card, within 10 days of application. The fee for the work permit is 1,000 rubles (US\$42). In order for the work permit lasting longer than 90 days to remain valid, within 30 days of application, the foreign worker must submit medical documents, including a certificate on HIV status, tuberculosis, and other conditions.⁵² Medical documents can be obtained usually only from a few designated medical facilities in each city or oblast. The worker must obtain legal employment within 90 days of receiving the work permit or the permit expires. The work permit is valid only for the city or region in which the migrant worker applied. If a worker decides to move to another region, he or she must apply for a different work permit.

Once a foreign worker has been hired, the employer should file notifications with the FMS, with the local office of the Federal Service for Work and Employment (known as Rostrud), and with the local branch of the tax ministry. The worker's registration on the migration registry should then be prolonged until the end of the employment contract or until one year after arrival, whichever comes first.

If a foreign worker does not secure a legal employment contract within 90 days of arrival, the worker's residency registration expires and he or she must leave the country. Often in such cases, migrant workers travel by train across the border to Ukraine or Kazakhstan and reenter Russia. In such cases, however, the migrant must obtain residency registration anew. He or she may either continue searching for employment if the original work permit is still valid or obtain a new work permit.⁵³

The 2007 laws also established harsher administrative penalties for workers working without a valid permit and employers hiring workers without a valid permit. A foreigner

⁵² Law on the legal status of foreign citizens in the Russian Federation, No. 115, 2002, art. 13.1(8).

⁵³ This is possible because the residency registration can expire before the work permit expires.

working without a work permit may incur a fine of 2,000 (US\$84) to 5,000 rubles (US\$211) with or without administrative expulsion from Russia.⁵⁴ After paying the fine for irregular employment, migrants can apply for a work permit in the usual manner.⁵⁵

Employers may not hire a migrant not in a possession of work permit; doing so can result in fines of up to 800,000 rubles (US\$33,776) *per migrant* for a legal entity as well as suspension of a company's activity for up to 90 days. In 2007, the Federal Migration Service issued fines totaling four billion rubles (US\$168.8 million), up from 500 million (US\$ 18.2 million) in 2006.⁵⁶ Both employers and migrants are often able to avoid fines or more serious sanctions by paying bribes.⁵⁷

Delays in Issuing Work Permits

Some migrant workers interviewed by Human Rights Watch complained of severe delays in receiving work permits from local Federal Migration Service offices. Although under law, migration service offices must issue the work permits within 10 days of application, migrant workers often wait for over a month to receive them. Many migrant workers work illegally while waiting to receive their work permits. Working illegally often makes workers more vulnerable to abuses and unlikely to seek assistance from government agencies in cases of abuse.

When a Human Rights Watch researcher visited the FMS department in Ekaterinburg on May 30, 2008, migrant workers were waiting in line to receive work permits submitted more than a month before. One worker from Uzbekistan receiving his permit told Human Rights Watch, “[It has been so long], I don’t even remember anymore when exactly [I applied].”⁵⁸ Another

⁵⁴ Code of Administrative Offences of the Russian Federation, No. 195, 2001, with amendments and additions, article 18.10, and ILO, “Regularization of migrant workers and prevention of employment of migrant workers with irregular status in the Russian Federation,” p. 18.

⁵⁵ Fines for hiring a migrant not in possession of a work permit are 2,000-5,000 for an individual; 20,000-50,000 rubles for an official; 250,000-800,000 for a legal entity. Code of Administrative Offences of the Russian Federation, article 18.15; and ILO, “Regularization of migrant workers and prevention of employment of migrant workers with irregular status in the Russian Federation,” p. 18.

⁵⁶ ITAR-TASS, “The number of foreigners in Russia entered into the migration register and issued work permits grew,” December 18, 2007.

⁵⁷ Corruption in law enforcement and other government agencies remains a pervasive and serious problem in Russia. The authorities have taken some limited steps to address it. For example, in July 2008, the authorities arrested a FMS official in Moscow on charges of demanding bribes from the director general of a business in exchange for lowering fines on the employer for violating migration laws. “Moscow Migration Service Inspector Caught for Bribing,” (Moskovskogo inspektora migratsionnoi sluzhby poimali na vzyatke), Lenta.ru, July 31 2008, <http://www.lenta.ru/news/2008/07/31/bribe/> (accessed July 31, 2008).

⁵⁸ Human Rights Watch interview with Bakhit B., Ekaterinburg, May 30, 2008.

stated that he had submitted an application for a work permit through an intermediary more than a month earlier, on April 28, but was still waiting for it. He had found work as an odd jobs worker on a construction site despite not having a work permit.⁵⁹ The director of an intermediary firm in Ekaterinburg that assists migrants in applying for work permits confirmed that work permits were issued usually only after 30-40 days. Officials at the FMS department in Ekaterinburg stated that in general they provide the work permits in time, although there may be “small technical problems.” They blamed any delays on intermediaries who may wait to collect a certain number of applications before filing them with the FMS.⁶⁰

Delays in issuing work permits were not limited to Ekaterinburg. Workers interviewed in other cities faced similar waiting times. According to Markhamat Mamajanova, an employer in St. Petersburg, it usually takes one to two months to receive a work permit.⁶¹ Nasriddin N., who had worked in Rostov and Sochi told Human Rights Watch, “People must wait one month before they get the work permit, but they work anyway. If the FMS catches them they pay a [big] fine.”⁶²

The delays in issuing work permits lead many to seek out the use of intermediaries, many of which, as noted above, may provide false documents or charge excessive fees. According to Davlat D., from a small village in Tajikistan, who was planning to return to Russia in May 2008 for work in Sochi, “When I go back, I will do a work permit. ... You can do all of this through an [intermediary] firm. They do it quickly, for 7-10,000 rubles (US\$296-492).”⁶³ Nasriddin N., who went to Sochi in June 2007 and found work on a construction project at a border post stated similarly, “I registered on the migration registry, I went to do the four medical checkups... Then I paid a firm 4,500 rubles (US\$190) to get the work permit for me in one week. Otherwise it would take a month.”⁶⁴ Many migrants told Human Rights Watch that they had used intermediaries to obtain work permits and only later learned that the work permits were false.

⁵⁹ Human Rights Watch interview with Muhamed M., Ekaterinburg, May 30, 2008.

⁶⁰ Human Rights Watch interview with Igor Siomochkin, head, and Sergei Kanitzyn, deputy head, Department of the Federal Migration Service, Ekaterinburg, May 30, 2008.

⁶¹ Human Rights Watch interview with Markhamat Mamadjanova, St. Petersburg, May, 10, 2008.

⁶² Human Rights Watch interview with Nasriddin N., Istaravshan, Tajikistan, February 29, 2008.

⁶³ Human Right Watch interview with Davlat D., Lokhuty, Tajikistan, February 28, 2008.

⁶⁴ Human Rights Watch interview with Nasriddin N., February 29, 2008.

2.5 The Quota System

The final major change in the 2007 legislation was the expansion of the quota system for work permits to include workers entering under the non-visa regime. Since 2003, only foreign workers entering Russia on a visa had been subject to quotas. The 2007 law also authorized the government to establish quotas in specific sectors, for specific regions, and for certain countries of origin.⁶⁵ Although international law does not specifically address quotas, experts concur that quotas should be founded on sound economic and employment data, and should not negate the important progress towards increasing legal employment of migrant workers. Overly restrictive policies result in quotas that are filled well before the end of the year, complicating planning for both employers and workers, and rendering migrants more vulnerable because they are not able to obtain the necessary documents to work legally.

In the first year of the new laws' implementation, the FMS established a generous quota of six million work permits for workers entering under the non-visa regime in 2007.⁶⁶ For 2008, the authority to establish work permit quotas was transferred to the governments of Russia's 89 provinces, with the total number of work permits for the Russian Federation being aggregated from the provincial governments.⁶⁷ Under the revised system, the quota for work permits in 2008 was reduced by more than two-thirds to just over 1.8 million, including just over 1.1 million for workers entering Russia without a visa, with a 30 percent reserve.⁶⁸ The quotas established for 2008 were filled in numerous regions, including Moscow, within a

⁶⁵ Russian government decree on the establishment of a quota for issuing work permits to foreign citizens arriving in the Russian Federation without visa requirement in 2007, No. 682, November 15, 2006. At this time, the government issued a separate decree severely restricting the number of foreign workers allowed to work in specific sectors, and banned all foreigners from working in market stalls and kiosks as of April 1, 2007. Russian government decree on the establishment of a quota of foreign workers allowed to be involved in retail sales on the territory of Russian Federation in 2007, No. 683, November 15, 2006.

⁶⁶ Russian government decree on the establishment of a quota for issuing work permits to foreign citizens arriving in the Russian Federation without visa requirement in 2007, No. 682, November 15, 2006.

⁶⁷ Human Rights Watch interview with Irina Malakha, director, department for complex problems of employment and labor migration, Federal Service for Work and Employment (Rostrud), Moscow, July 16, 2008. Russian government decree on the rules for executive organs for determining the demand for attracting foreign workers and the establishment of quotas for foreigners to undertake work activities in the Russian Federation, No. 783, December 22, 2006, and Decree of the Government of the Russian Federation on the introduction of changes in the Rules of determining by the executives organs of the state authorities the demand for attracting foreign workers and the establishment of quotas for foreigners to undertake work activities in the Russian Federation, No 759, November 6, 2007.

⁶⁸ Russian government decree on the establishment for 2008 quotas for work permits for foreign citizens, No. 982, December 29, 2007; Russian government decree on the establishment for 2008 quotas for work permits for foreign citizens, No. 983, December 29, 2007; and Human Rights Watch interview with Irina Malakha, Federal Service for Work and Employment (Rostrud), Moscow, July 16, 2008.

few months.⁶⁹ The government issued an adjustment to the 2008 quotas, increasing the total number to over 3.38 million, including 2.24 million for those entering under the non-visa regime.⁷⁰

Work permits are issued to any migrant worker who applies, on a first-come first-serve basis. Employers whose applications indicating their intention to hire foreign workers in the next year have been approved are not guaranteed that workers whom they want to hire will receive a work permit if the quota in their province has already been filled by the time the worker applies.

Impact of the Quota System on Migrant Workers

Human Rights Watch interviewed numerous migrant workers who had been unable to obtain work permits due to filled quotas in 2008, but nevertheless sought work, were hired, and began to work illegally. The unpredictability of quota system contributes to the barriers migrant workers face in obtaining the legal documents necessary for regular employment in Russia. This in turn compounds their vulnerability to abuse, as they fear fines or deportation should they seek redress from official sources. As noted above, workers who are not able to easily regularize their status may be more vulnerable to abuse and fearing fines or deportation owing to their irregular work status, and are less willing to seek redress from government agencies in the event of abuse. In Sverdlovsk Oblast, an industrial region in western Siberia and one of the regions receiving the highest number of migrant workers, the 2008 quota was set at 47,500, or less than half of the quota that had been established in 2007. The number proved to be too small, and the quota had been filled by early May. The local FMS office was forced to stop accepting new applications for work permits until the authorities in Moscow took a decision to revise the quotas.

A 53-year-old pediatrician from Tajikistan interviewed by Human Rights Watch had come to Ekaterinburg to work in a hospital. However, when he applied for a work permit in mid-May, the Ekaterinburg FMS did not accept his application. He was forced to work illegally at a construction site in order to earn money to live on while he waited for his work permit. "I went to apply for a work permit, and there were no more left. ... Now I am waiting. I have a

⁶⁹ On May 16, 2008, the FMS indicated that the quotas were expiring in nine regions and that the quota in Moscow had already been filled. FMS Press Release, "Quotas for issuing work permits in 2008 50% filled," http://www.fms.gov.ru/press/news/news_detail.php?ID=19168/&phrase_id=422510 (accessed August 27, 2008).

⁷⁰ Decree on introducing changes in a few Russian Federation decrees related to determining the demand for attracting foreign workers and the establishment of quotas for foreigners to undertake work activities in the Russian Federation, No. 737, October 3, 2008.

job at the hospital waiting for me. We have already agreed about it. I really hope I can get this job. For now I am helping at this cottage [construction site].”⁷¹

The expiration of the quotas also affected migrant workers already employed in Russia, whose contracts and work permits were expiring just as the quotas ran out. A brigadier building cottages on the outskirts of Ekaterinburg oversaw a team of five workers who had been working for almost a year. He told Human Rights Watch, “My workers all had valid work permits, but their work permits expired on May 25. Now, the FMS is not taking new applications for work permits. We don’t know what to do.” The brigadier presumed that his men would keep working, despite frequent inspections by police and migration service authorities at the construction site.⁷²

2.6 Other bureaucratic obstacles

As noted above, in order for the work permit to remain valid, a worker must submit to the Federal Migration Service within 30 days of receipt of the permit, medical documents indicating that the worker has undergone tests for HIV/AIDS, narcotic drug use, tuberculosis, and infectious diseases. According to Yulia Florinskaia, an expert in migration and human rights in Russia, “The biggest problem in regularizing migrant workers is the medical examination. There are huge lines and poor sanitary standards at the facilities administering the tests.”⁷³ Often, a migrant seeking to collect all of the necessary documents must go to several different medical facilities that are designated by the local authorities. Often the facilities are in different locations.

A representative from the embassy of Azerbaijan in Moscow stated that the embassy frequently receives complaints about the cost of obtaining the documents and the necessity of visiting multiple locations across in the city to gather the necessary documents. In Ekaterinburg, migrant workers applying for a work permit must go to four different medical facilities to receive the necessary certificates. One 53-year-old worker told Human Rights Watch that when he went to Rostov, “I registered on the migration registry. Then I had to do four medical tests. I paid 3,000 rubles (US\$127) to get all of these documents.”⁷⁴ Work permits issued to migrant workers who later fail to submit the required medical documents

⁷¹ Human Rights Watch interview with Tavarali T., Ekaterinburg, May 30, 2008.

⁷² Human Rights Watch interview with Kamol K., Ekaterinburg, May 30, 2008.

⁷³ Human Rights Watch interview with Yulia Florinskaia, senior researcher, Institute for Economic Forecasting, Russian Academy of Sciences, Moscow, June 9, 2008.

⁷⁴ Human Rights Watch interview with Nasriddin N., March 1, 2008.

become invalid. Human Rights Watch research found that workers nevertheless are likely to continue working, although now illegally. Their irregular status in many cases may make them more vulnerable to the abuses documented in this report.

PART 3: ABUSE AND EXPLOITATION OF MIGRANT CONSTRUCTION WORKERS IN RUSSIA

Despite the government's steps to liberalize migration policy and encourage regular work in and migration to Russia, many migrant workers in the construction sector in Russia still face a range of abuses and forms of exploitation. In its 2008 report on Russia, the Committee for the Elimination of Racial Discrimination stated that it was "concerned about reports that non-citizens and ethnic minority workers are often subject to exploitative conditions of work as well as discrimination in job recruitment."⁷⁵

Human Rights Watch's research found the most pervasive abuses and forms of exploitation of migrant workers include confiscation of passports; failure to provide employment contracts; non-payment or under payment of wages, or illegal deductions from wages; long working hours; substandard living conditions and denial of food; as well as the use or threats of violence by construction site guards, police, or others, or denunciation to the police. In cases when employers or intermediaries confiscate workers' passports, confine them to worksites, and deny wages, these abuses amount to forced labor. Some workers are trafficked by intermediaries into situations of forced labor in Russia.

In many cases, employers are directly responsible for abuses, as are police or other officials. Many abuses are linked directly or indirectly to the actions of intermediaries. Many migrant workers utilize the services of intermediaries, the majority of whom operate informally. Even formal employment agencies in Russia and labor-sending countries are subject to little regulation.

Migrant workers are subject to police abuses that also affect many other foreign nationals, particularly those from the Caucasus and Central Asia, as well as ethnic minorities from Russia. Police regularly subject ethnic minorities, including many migrant workers, to inhuman and degrading treatment.⁷⁶ Document inspections on worksites, in living quarters,

⁷⁵ UN Committee on the Elimination of Racial Discrimination (CERD), Consideration of reports submitted by States parties under article 9 of the Convention: International Convention on the Elimination of All Forms of Racial Discrimination: concluding observations of the Committee on the Elimination of Racial Discrimination: Russian Federation, 22 September 2008. CERD/C/RUS/CO/19, <http://www.unhcr.org/refworld/docid/48ef5f4d2.html> (accessed 30 January 2009).

⁷⁶ European Commission on Racism and Intolerance, "Third Report on the Russian Federation," May 16, 2006, http://www.coe.int/T/E/human_rights/Ecri/4-Publications/ (accessed October 14, 2008), para. 158; and Open Society Justice Initiative, "Ethnic Profiling in the Moscow Metro," Open Society Institute Justice Initiative, http://www.justiceinitiative.org/db/resource2?res_id=103244 (accessed April 23, 2007).

or on the street are frequently used as a pretext for extortion. Human Rights Watch also documented many cases in which police beat and humiliated migrants or forced them to work in police stations or on other sites. Migrant workers also frequently face extortion and other abuses during travel to Russia, particularly through Central Asia.

It is important to note that many migrant workers, including workers interviewed by Human Rights Watch, have not faced the abuses described here. Many companies, employers, and intermediaries respect their obligations under labor and other laws. Russian workers also face some or many of the abuses described here. However, many migrant workers are particularly vulnerable to abuse due to their irregular migration status. Despite the reforms and simplification of procedures for residency registration and obtaining a work permit, obstacles to legalization for migrant workers remain, as described above. Employers' refusal to provide employment contracts renders many migrant workers' status irregular, as the work contract serves as the basis for a migrant's right to stay in Russia longer than 90 days. Migrant workers' irregular status may also leave them more vulnerable in cases of workplace accidents. In the absence of legal residency and employment status, migrant workers are also less able or willing to seek redress from official sources.

As described in Part 2 above, the state has the responsibility to take appropriate measures to prevent, punish, investigate, and redress abuse and exploitation—and to provide remedies for those who have been harmed. Official procedures or practices that contribute to harm through rendering migrant workers vulnerable to abuse, or failure by the authorities to take effective action to prevent abuse and exploitation or to provide appropriate remedies constitute violations of migrant laborers human rights.

3.1 Intermediaries and the Role They Play in Exploitation

The majority of migrant construction workers interviewed by Human Rights Watch had come into contact with an individual or organization acting as an intermediary. There are both formal and informal intermediaries engaged in the recruitment, travel, employment, document processing and other aspects of a migrant worker's experience. According to Galina Vitkovskaia, research program coordinator at the International Organization for Migration (IOM) Office in Russia, 90 percent of intermediaries are informal.⁷⁷ In many, although not all, cases intermediaries themselves abuse migrants, knowingly or unknowingly arrange employment for workers with abusive employers, or provide migrant

⁷⁷ Human Rights Watch interview with Galina Vitkovskaia, research program coordinator, International Organization for Migration Office in Russia, Moscow, May 27, 2008.

workers with false or improper documentation, rendering their clients' stay illegal and making them more vulnerable to abuse.

Intermediaries include brigade leaders or others who recruit individuals—often their own family members or neighbors—for work in Russia; individual employment recruiters; private or state employment agencies; diaspora groups; and agencies assisting in obtaining residency registration and work permits. Because of the personal relationships underpinning much of migrant workers' engagement with intermediaries, workers may be especially unwilling to challenge the employment conditions or terms as set, and often changed, by the intermediary or be reluctant or unable leave an abusive situation.

Intermediaries operate in both Russia and in migrants' home countries and are subject to little regulation. Inadequate regulation and minimal government oversight mean that the outcome of the migrant's engagement with intermediaries is largely determined by the good or ill will, or, in some cases, the competency of the individuals or agencies providing services. The Russian government and some labor-sender country governments, including Kyrgyzstan and Tajikistan, are discussing proposals for increasing regulation and control of employment agencies, as described below in *Labor-Sending Countries' Governments Response*. There are regional initiatives attempting to address this problem, such as a draft model law developed by the Eurasian Economic Community, a regional body for promoting economic cooperation and integration.⁷⁸

Brigadiers

A common informal method by which migrant workers find employment in construction in Russia is through a brigade leader, or brigadier. A brigadier may informally organize a number of men from his home town or village into a construction brigade that then travels to Russia and works together with them on construction sites. Brigadiers may also recruit people already in Russia, also often of the same nationality and from the same region, to work on construction brigades. A brigade may consist of a just few workers or up to several dozen. The brigadier is usually a person with more work experience who ensures that the brigade fulfills its tasks on time and that the work is of the necessary quality. Very often, the brigadier will be the only member of a brigade to have any direct contact with the construction company, individual contractor, or subcontractor hiring the brigade and will be responsible for receiving wages and then distributing them to the members of his brigade.

⁷⁸ The Eurasian Economic Community (EurAsEC or EAEC or EEC) consists of Belarus, Kazakhstan, Kyrgyzstan, Russia, Tajikistan and Uzbekistan. See <http://www.evrazes.com/> (accessed November 20, 2008).

Human Rights Watch has obtained evidence of numerous cases of brigadiers cheating people of salaries or deceiving them about employment or other conditions during the recruitment process. As brigadiers are very often relatives or friends of those whom they recruit, workers may feel resigned to accept the work under the brigadier's terms, even if the situation is abusive. Human Rights Watch documented several cases of brigadiers abusing migrants, as described in relevant sections below. The most common violation involving brigadiers is non-payment of salaries. In some cases documented by Human Rights Watch, brigadiers claimed that employers, such as contractors, had refused to pay them the salaries owed to the workers in the brigade, and the brigadiers were then unable to fulfill their commitments to their workers.

Individual Employment Recruiters

Private individuals also engage in informal recruitment for construction work, recruiting migrant workers in their home countries or in Russia. They may act in ways similar to brigadiers, but do not themselves perform work. As described below, Human Rights Watch documented many cases of individual recruiters deceiving and abusing clients, including by traveling with them to Russia and then confiscating their passports and forcing them to work, by cheating them of full wages or deceiving them about employment or other conditions.

Registered Employment Agencies

Private and state employment agencies operate in Russia and in migrant workers' home countries. A small percentage of migrant workers use the services of these agencies, although the numbers of these organizations appears to be increasing, particularly in Russia. In both Russia and in the home countries of many migrants, employment agencies providing services to migrant workers are subject to little regulation. Regulatory practices in Russia and in certain sending countries are described below in *Protection Failures and Obstacles to Redress*.

In the absence of effective regulation, Human Rights Watch has found that even officially registered agencies may knowingly or unknowingly place migrant workers in abusive employment situations.

Although infrequent, there are cases in which migrant workers have filed a complaint against an agency operating in their home country, after the agency or the particular employer in Russia identified by the agency violated the terms of the agreement with the worker. These cases are described in more detail, below (see *Labor-Sending Countries' Government Response*).

Diaspora Groups

In every major city of Russia with even small populations of national minorities, there are organized national diaspora groups, and, in larger cities, often more than one for any particular nationality. The leadership typically has lived in Russia for many years and has obtained Russian citizenship. Diasporas often provide cultural and other support to migrants, and in the past most such groups have been registered as non-profit, non-governmental organizations. However, many diaspora groups are increasingly engaged as intermediaries, assisting migrant workers with residency registration, work permits, and job placement, often arranging employment with friends or associates. Some diaspora leaders own or manage companies, including in construction and therefore are also employers. Migrants may also access diaspora groups or diaspora leaders when attempting to rectify abuses by employers (see below *Russian Government Protection Measures and Gaps*). Human Rights Watch documented cases of diaspora groups abusing migrants, as described in relevant sections below.

Agencies and Individuals Providing Other Services

Some intermediary organizations in Russia are dedicated exclusively to obtaining residency registrations and work permits for migrant workers, for a fee. Individuals may also provide these services on a regular or ad hoc basis. Some of these intermediaries provide false residency permits or work permits to migrant workers and charge excessive fees.

Case study: Tajikistan

Human Rights Watch was able to examine the work of state and private employment agencies in Tajikistan in some detail. The practices of employment agencies in other countries and the outcomes of migrants' experiences with these agencies warrant additional research. A small number of Tajik labor migrants use the services of agencies that are licensed in Tajikistan to facilitate employment abroad. Officially there are 24 licensed agencies.⁷⁹ The largest agency, the state-run Tojikkhorichakor, assisted approximately 800 citizens of Tajikistan in obtaining employment in Russia in 2007. There are currently no laws or regulations that regulate the activities of the agencies, as described below in *Labor-Sending Countries' Government Response*.

All agencies in Tajikistan work the same way: they sign agreements with Russian employers, including private companies and Russian government agencies, to place a certain number of

⁷⁹ Human Rights Watch interview with Zumrad Solieva, Department for Legal Affairs and International Cooperation, Migration Service, Ministry of Interior of Tajikistan, Dushanbe, December 23, 2008.

employees in specified positions. The agencies identify potential workers and sign agreements with each. The agreement generally specifies the terms of the employment with the Russian employer as well as the services to be provided by the agency. The Russian employer pays a fee to the agency in Tajikistan. Job-seekers also pay fees to the agencies, although some agencies claimed to offer sliding scale rates or to provide services for free to some individuals. According to the director of one employment agency in Tajikistan, agencies may or may not make travel arrangements for the employee, most likely doing so in cases when the employer pays for the travel and then will deduct the sum of the travel costs from the worker's salary.⁸⁰

A 2008 ILO study on private employment agencies in Tajikistan examined contracts at 15 licensed employment agencies. The study found widespread violations of contract legislation, such as a failure to specify whether the agency is acting in the capacity of a service provider on behalf of the worker or as an employer of the worker and placing obligations on third parties (such as parents) not party to the contract between the agency and the worker. In addition, the contracts are often written only in Russian, while many of the clients of these agencies may not speak or read Russian fluently. The study also found irregularities in agreements between agencies and employers in Russia, including the obligation of the agency "to expel a worker found in serious violation of labor regulations or the social order, or for disciplinary infractions."⁸¹

Human Rights Watch interviewed three men from Tajikistan who sought employment through the Youth Labor Exchange employment agency in Dushanbe, Tajikistan. All three men confirmed that they signed contracts with the agency, which agreed to organize well-paid construction jobs for them in Sochi, starting in early 2008. The agency promised that the men, together with 50 others, would receive three meals a day, housing, and a salary of 18,000-25,000 rubles (US\$760-\$1,056) per month. However, the Youth Labor Exchange failed to arrange any kind of work in Russia for the men, and one of the agency's lawyers, who traveled with the workers, subjected them to extortion and some to physical abuse during their journey to Russia.⁸² One of the men, Anvarjon A., age 22, recounted:

They promised to send us to Sochi to work on construction sites. We gave them money for the train tickets. ... For this reason I agreed and left a construction job in Tajikistan ... earning US\$250 a month to come here. But

⁸⁰ Human Rights Watch interview with Asrorjon Shorajabov, director, Economic Opportunity Center, Istaravshan, Tajikistan, March 1, 2008.

⁸¹ Human Rights Watch interview Nodira Abdulloeva, Center for Human Rights, Dushanbe, December 22, 2008.

⁸² Human Rights Watch separate interviews with Anvarjon A., Safarbek S., and Abdusalom A., Krasnodar, June 8, 2008.

here, there's nothing. They tricked us. I even have a signed contract with this employment agency that they were going to organize work, salary, and housing for me for six months, that everything had been agreed with a Russian firm, and that I would sign a contract with the firm when I arrived. It was all a trick!⁸³

We left on May 7, [2008]. The agency's lawyer went on the train with us. ... He took 600 rubles from each of us [in order to bribe] the customs officials. And another 100 rubles for us to get our migration cards, but they are in fact free. There was that kind of trick. Two people refused to hand over the 600 rubles and two guys from the customs or border guards beat them up with truncheons. They beat them horribly. We traveled four days and they gave us only water, no food, nothing.⁸⁴

Upon their arrival in Krasnodar, Anvarjon A. and the others learned that there was no work for them either in Sochi or in Krasnodar, and the employment agency lawyer essentially abandoned the group. Having no money to return home, Anvarjon A. and many of the others were stuck in Krasnodar. A local Tajik diaspora leader in Krasnodar assumed responsibility for Anvarjon A. and many of the others, giving them food and housing, and promising to find work for them. At the time of the interview with Human Rights Watch in June 2008, Anvarjon A. and many of the others had been waiting in Krasnodar for over a month without employment.⁸⁵

Eight of the workers who traveled with Anvarjon A. with the same employment agency found work through a Russian employment agency run by a Tajik by the last name of Zaripov. Zaripov promised the group housing, three meals a day and a salary of 15,000 rubles (US\$633) per month for casual laboring at a local construction site. However, after the men agreed to these terms, Zaripov confiscated the men's passports and, according to the victims, sold them for 35,000 rubles (US\$1,478) to the director of a sunflower seed processing factory, who forced the men to work long hours doing heavy physical work, as described below (see *Trafficking and Forced Labor*). The men eventually were set free, had their passports returned to them, and joined other workers from Tajikistan who had been

⁸³ Human Rights Watch interview with Anvarjon A., June 8, 2008.

⁸⁴ Ibid.

⁸⁵ Human Rights Watch separate interviews with Anvarjon A., Safarbek S., and Abdusalom A., June 8, 2008.

deceived by intermediaries and were now depending on a local Tajik diaspora leader to assist them.⁸⁶

In a separate incident, Kholmurad Kh., 38, and Nozim N., 57, told Human Rights Watch that in early 2008 a Tajik employment agency promised to arrange work for them in Moscow that would pay 25,000 rubles (US\$1056) per month. They each paid a US\$150 fee and signed a contract with the agency. In May 2008 the agency told Kholmurad Kh. and Nozim N. that they would instead be going to Krasnodar to work as casual laborers earning US\$1,000 per month. Kholmurad Kh. and Nozim N. each took US\$800 in credit from a local bank, which they paid to the agency, who said it would be used for tickets and other expenses. When the men arrived in Krasnodar on June 1, however, there was no employment organized for them and a representative of the employment agency instead brought Kholmurad Kh. and Nozim N. to a local Tajik diaspora leader who promised to arrange employment.⁸⁷

A Human Rights Watch researcher examined a copy of Kholmurad Kh.'s contract with the employment agency, which appeared to be a form contract, without the client's name included in the text. The contract was signed by the employment agency "Vostok-Farm" and the client, defined as "a person in possession of a work permit on the territory of the Russian Federation." Neither Kholmurad Kh. nor Nozim N. had Russian work permits at the time they signed the contract. The contract obliges the employment agency to consult with the client about securing the necessary documents to allow them to stay and work in the Moscow region; to cooperate with the client in securing employment, housing, and food; including, for those in the construction, three meals per day provided by the employer; and to assist the client in obtaining tickets for travel. The client is obligated to provide accurate information and necessary documents and, in the case of premature departure from the place of employment, to reimburse the cost of the air tickets. The salary is not specified, but would be determined "based on qualifications."⁸⁸ Vostok Farm officials refused to comment on this case to Human Rights Watch.⁸⁹

Human Rights Watch documented a second case involving Vostok Farm, in which the agency was involved in trafficking 34 citizens of Tajikistan into forced labor in Russia, as described below (see *Trafficking and Forced Labor*).

⁸⁶ Human Rights Watch interview with Safarbek S., and Abdusalom A., June 8, 2008.

⁸⁷ Human Rights Watch interviews with Kholmurad Kh. and Nozim N., Krasnodar, June 8, 2008.

⁸⁸ Human Rights Watch interview with Kholmurad Kh., June 8, 2008.

⁸⁹ Human Rights Watch interview with Salima Mukhiddinova, director, and Khabiba Imomova, deputy director, Vostok-Farm, Dushanbe, December, 24, 2008.

Two organizations in Tajikistan have represented migrant workers in lawsuits against agencies for alleged trafficking into forced labor, as described in more detail below (See Labor-sending countries' government response).

3.3 Trafficking and Forced Labor

“Whether you want to work or not, you will work. We will have you deported.”

—Siarkhon Tabarov, a migrant worker who became a victim of forced labor, reporting the words of an employment agency representative.⁹⁰

Human Rights Watch documented numerous cases in Russia that constitute forced labor of migrant workers. In several cases, workers were trafficked from their home countries into forced labor in Russia. International and Russian law proscribe forced labor and trafficking, and international treaties obligate governments to take measures to prevent and combat trafficking, including for forced labor. The Russian government and labor-sending countries' governments have taken insufficient measures to combat forced labor and trafficking for forced labor to Russia. In addition to the cases documented below, a 2006 study of 442 migrant workers in three regions of Russia, the International Labour Organization (ILO) also documented numerous cases of forced labor and trafficking into forced labor.⁹¹ A 2008 International Organization for Migration (IOM) study examined the experience of 685 men trafficked from Belarus and Ukraine to Russia, overwhelmingly in the construction sector.⁹²

In all cases of forced labor and trafficking into forced labor documented by Human Rights Watch, employers' confiscation of migrant workers' passports served as the main method of coercion and served also as a means of confinement. Without a valid passport, a migrant who is stopped by police will be detained in order to establish his or her identity and possibly expelled from the country. Fearing detention by police and expulsion, workers are afraid to leave the employer or intermediary and may be forced to endure abusive work and living conditions to which they did not initially consent, including no payment, long hours, forced confinement at the work site, poor or no food, beatings, and unacceptable living conditions, as described below. Human Rights Watch also found that, in addition to passport confiscation, employers also withheld wages, used physical violence against

⁹⁰ Human Rights Watch interview with Siarkhon Tabarov, Dushanbe, December 22, 2008.

⁹¹ Elena Tyuryukanova, “Forced Labor in the Russian Federation Today: Irregular Migration and Trafficking in Human Beings,” International Labour Organization, 2006.

⁹² IOM, “Trafficking of Men- A Trend Less Considered: The Case of Belarus and Ukraine,” World Migration Report Series No. 37, 2008, <http://www.iom.int/jahia/jahia/cache/offonce/pid/1674?entryId=20571> (accessed January 13, 2009).

workers, threatened denunciation to the authorities, and induced indebtedness by issuing fines and deductions in workers' salaries to compel migrant laborers to work. In all cases, the employment conditions in which the workers found themselves were far from those that they had been promised and to which they had consented voluntarily.

International and National Legal Standards

According to the ILO Convention on Forced Labor (No. 29) forced or compulsory labor “shall mean all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”⁹³ The ILO elaborates examples of “menace of penalty” to include: “physical violence against a worker or close associates, physical confinement, financial penalties, denunciation to authorities—including police and immigration—and deportation, dismissal from current employment, exclusion from future employment, and the removal of rights and privileges.”⁹⁴ Examples provided by the ILO of the involuntary nature of work include: physical confinement in the work location, psychological compulsion (order to work backed up by a credible threat of a penalty), induced indebtedness (by falsification of accounts, excessive interest charges, etc.), deception about types and terms of work, withholding and non-payment of wages, and retention of identity documents or other valuable personal possessions.⁹⁵

Article 4 of the European Convention on Human Rights (ECHR) and article 8 of the International Covenant on Civil and Political Rights (ICCPR) prohibit “forced or compulsory labour.”⁹⁶ The Russian constitution also prohibits forced labor.⁹⁷ The Russian labor code also prohibits forced labor and defines it as “work undertaken under threat of any kind of punishment,” and, in this context, a worker has the right to refuse to work if wages are not paid on time or not paid in full as well as in cases when his or her life or health are in danger due to insufficient labor protections, including failure to provide the opportunity for the worker to exercise individual or collective rights protection.⁹⁸

⁹³ Forced Labour Convention, art. 2. The European Court of Human Rights also uses this standard to interpret the prohibition on slavery, forced or compulsory labor in the European Convention on Human Rights (*Van der Mussele v. Belgium*, November 23, 1983, Series A No. 70; *Siliadin v. France* February 1, 2005, ECHR 2005).

⁹⁴ ILO, *A Global Alliance Against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights of Work* (Geneva: ILO, 2005), p. 6. The European Court of Human Rights has also found that in the absence of a specific “penalty” being imposed, an equivalent situation arises where there is a perceived seriousness of a threat of a penalty – such as a fear of arrest or deportation if found without a passport or papers, or if they try to escape. *Siliadin*, para. 118.

⁹⁵ ILO, *A Global Alliance Against Forced Labour*, p. 6.

⁹⁶ European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), article 4; International Covenant on Civil and Political Rights (ICCPR), article 8.

⁹⁷ Constitution of the Russian Federation, adopted December 12, 1993, article 37.

⁹⁸ Labor Code of the Russian Federation, adopted December 30, 2001, with amendments, article 4.

Although in the cases of forced labor documented by Human Rights Watch, all of the workers had entered the employment voluntarily, the ILO states that workers have the right to revoke freely given consent, noting “many victims enter forced labour situations initially of their own accord ... only to discover later that they are not free to withdraw their labour. They are subsequently unable to leave their work owing to legal, physical or psychological coercion.”⁹⁹

In addition, various international bodies have suggested that consent to employment is only truly voluntary if it is free and informed and made with knowledge of the employment conditions being accepted. For example, the European Court of Human Rights, interpreting the European Convention’s prohibition of forced labor,¹⁰⁰ found that if an individual “entered the profession . . . *with knowledge of* the practice complained of,” there was no forced labor, as consent was “voluntary.”¹⁰¹ Option 1 of the Draft Trafficking Protocol of April 2000 defined forced labor as “all work or service extracted from any person under threat or use of force [or coercion], and for which the person does not offer himself or herself *with free and informed consent*.”¹⁰² Likewise, in a report addressing an alleged violation of the ILO Forced Labour Convention, the ILO found that impoverished workers, “recruited on the basis of *false promises*” of “good wages and good working conditions,” did not voluntarily consent to their employment relationships.¹⁰³

Many victims of forced labor Human Rights Watch interviewed were trafficked by intermediaries into the abusive situations. Russia is a party to the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN Trafficking Protocol). The

⁹⁹ ILO, *A Global Alliance Against Forced Labour*, p. 6.

¹⁰⁰ See P. van Dijk and G.J.H. van Hoof, “Theory and Practice of the European Convention on Human Rights,” The Hague, 1998, pp. 335-336. The European Commission of Human Rights has noted that “for there to be forced or compulsory labour, ... two cumulative conditions have to be satisfied: not only must the labour be performed by the person against his or her will, but either the obligation to carry it out must be “unjust” or “oppressive” or its performance must constitute “an avoidable hardship.” European Court of Human Rights, *Van der Mussele v. Belgium*, para. 37.

¹⁰¹ *Van der Mussele v. Belgium*, para. 40. Unlike the Court, many years earlier, the European Commission on Human Rights adopted the view that prior consent deprives work or services of their involuntary character, a view which experts have found to be “too restrictive.” van Dijk and van Hoof, “Theory and Practice of the European Convention on Human Rights,” pp. 335-336.

¹⁰² Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime, “Revised draft Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime,” A/AC.254/4/Add.3/Rev.6, April 4, 2000, Article 2 bis, Option 1(c). Option 2 provides an alternative definition of forced labor that does not address the issue of consent, and the final version of the Trafficking Protocol fails to define forced labor.

¹⁰³ ILO, *Report of the Committee set up to examine the representation made by the Latin American Central of Workers (CLAT) under article 24 of the ILO Constitution alleging non-observance by Brazil of the Forced Labour Convention, 1930 (No. 29) and the Abolition of Forced Labour Convention, 1957 (No. 105)*, GB.264/16/7, 1995, paras. 9, 22, 25, 61 (emphasis added).

treaty obligates state parties to take a range of legislative and policy measures to “prevent and combat trafficking in persons,” and “protect and assist the victims of such trafficking, with full respect for their human rights.”¹⁰⁴ According to the UN Trafficking Protocol, trafficking includes any act of recruitment, transport, transfer, receipt, sale, or purchase of human beings by force, fraud, deceit or other coercive tactics for the purpose of placing them into conditions of forced labor or practices similar to slavery or servitude.¹⁰⁵ Article 127 of the Russian criminal code prohibits trafficking for commercial sexual exploitation and forced labor.¹⁰⁶ As of this writing, Russia has not signed or ratified the Council of Europe Convention on Action against Trafficking in Human Beings, which came into force in February 2008.¹⁰⁷

Trafficking into Forced Labor

Human Rights Watch documented several cases of trafficking into forced labor. Although the cases detailed here concern victims trafficked from Tajikistan and Uzbekistan, other organizations have documented similar cases involving victims trafficked from other countries to Russia. The 2008 IOM report on trafficking of men from Belarus and Ukraine found that “adult men were overwhelmingly trafficked for forced labour, mostly in the construction sector in Russia.” Consistent with HRW findings for victims of trafficking into forced labor from Tajikistan and Uzbekistan, the IOM report found “a vast majority of male victims [from Belarus and Ukraine] were recruited with bogus promises of work, generally through personal contacts” and a “combination of abuse or threat of abuse, non-payments, debts and restricted freedom of movement kept many men in situations of exploitation.”¹⁰⁸ The United States annual Trafficking in Persons report states that men are trafficked for forced labor from all countries with which Russia maintains a visa-free regime, as well as from Georgia.¹⁰⁹

Tajikistan-Rostov

After seeing a television advertisement for the employment agency “Vostok-Farm,” in Tajikistan, in February 2008, Siarkhon Tabarov, 40, signed an agreement with the agency for

¹⁰⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention on Transnational Organized Crime (Trafficking Protocol), article 2.

¹⁰⁵ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (Trafficking Protocol), article 3.

¹⁰⁶ Criminal Code of the Russian Federation, article 127.

¹⁰⁷ Council of Europe, Action against Trafficking in Human Beings, http://www.coe.int/t/DG2/TRAFFICKING/campaign/default_en.asp (accessed December 11, 2008).

¹⁰⁸ IOM, “Trafficking of Men- A Trend Less Considered: The Case of Belarus and Ukraine.”

¹⁰⁹ The countries are: Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Moldova, Tajikistan, Ukraine, and Uzbekistan, United States Department of State, “Trafficking in Persons Report 2008.”

work in Russia. Tabarov found the advertisement particularly appealing because a Ministry of Interior of Tajikistan representative was shown complimenting the work of the agency.¹¹⁰ Around the same time, Shokhmurad Sh., 27, signed an agreement with Vostok-Farm to work in construction. In March 2008, Vostok-Farm paid for Tabarov, Shokhmurad Sh., and 32 others to fly to Rostov, Russia, although all of the workers had been promised work in other locations.¹¹¹

Once the workers arrived in Rostov, Vostok-Farm representatives and the employers immediately confiscated the workers' passports then drove and later forced the workers to walk to a remote mountainous area. Only then did the workers learn that they would be employed a quarry digging stones that would be used for construction, using only hand tools. Several of the workers initially refused, but the Vostok-Farm representative told them, "Whether you want to work or not, you will work. We will deport you."¹¹²

When the Vostok-Farm representatives and the employers left the workers on the first night, the workers fled to a neighboring village and tried to call the Federal Migration Service in Rostov. However, the Vostok-Farm representative and the employer soon caught up with the group and forced them back to the worksite, threatening them with deportation.¹¹³

The workers worked for 85 days at the quarry and were not paid; the employer promised to pay them in November. The workers were forced to live in an abandoned refrigerator truck and in two large cargo containers containing filthy mattresses and some cots. They were given macaroni, bread, and kasha and only two large containers of water for the almost three months that they were there. The workers mostly drank rainwater from puddles or that they managed to collect and cooked using water from a nearby swamp.¹¹⁴ Several times the workers refused to work, demanding that they be paid or allowed to return home. The employer punished those seen as the initiators of the strike by refusing to give them food for two days.¹¹⁵

In May, Tabarov's relatives contacted the International Organization for Migration (IOM) office in Dushanbe. IOM contacted Vostok-Farm, the Ministry of Interior of Tajikistan and the Federal Migration Service in Russia. IOM commissioned a lawyer, Yakub Marufov, to

¹¹⁰ Human Rights Watch interview with Siarkhon Tabarov, Dushanbe, December 22, 2008.

¹¹¹ Human Rights Watch interview with Shokhmurad Sh., Dushanbe, December 22, 2008.

¹¹² Human Rights Watch interviews with Siarkhon Tabarov and Shokhmurad Sh., December 22, 2008.

¹¹³ Ibid.

¹¹⁴ Ibid.

¹¹⁵ Human Rights Watch interviews with Siarkhon Tabarov, December 22, 2008.

investigate the case. Marufov told Human Rights Watch, “I saw that indeed the conditions [for the workers] were horrible. They were slavery-like conditions. The cargo trailers were not equipped for people to live in, and there was no potable water.”¹¹⁶ A representative of the Migration Service of the Ministry of Interior of Tajikistan and Russian FMS officials arrived on the worksite the next day. The FMS fined the employer for illegal employment of foreigners and forced him to return the workers’ passports. Another IOM representative visited soon thereafter and IOM assisted many of the workers in returning to Tajikistan and in receiving medical care. The employer never paid any of the workers.¹¹⁷

The director of Vostok-Farm told Human Rights Watch that all of the workers knew that they were going to Rostov for work in a quarry and that only the workers who organized the strikes and refused to work were not paid. Vostok-Farm considers some of the workers in debt to the agency for travel expenses.¹¹⁸ Shokhmurad Sh. told Human Rights Watch that he received a letter from Vostok-Farm dated December 19 demanding that he pay the travel expenses or face a lawsuit.¹¹⁹

Although on the basis of a complaint made by some of the workers’ relatives, the General Prosecutor’s Office of Tajikistan opened an investigation into possible “Trafficking in Persons,” the case was subsequently closed in December for “lack of evidence of a crime.”¹²⁰ The Migration Service of the Ministry of Interior of Tajikistan would not comment on the case, saying that the person with knowledge of the case was on a business trip.¹²¹

Tajikistan-Perm

A 59 year-old worker from Istaravshan, Tajikistan, Shermat Sh., went to Russia in March 2007 after a middleman promised Shermat Sh. work in construction, with a good salary. However, the middleman confiscated Shermat Sh.’s passport and forced him to work on five different worksites, often without pay, and endure harsh living conditions. Shermat Sh. told Human Rights Watch that the middleman similarly abused other groups of migrant workers who were with Shermat Sh. variously in transit and at some of the worksites.

¹¹⁶ Human Rights Watch interview with Yakub Marufov, Dushanbe, December 22, 2008.

¹¹⁷ Human Rights Watch interview with Mukkaram Burkhanova, International Organization for Migration, Dushanbe, December 22, 2008; Human Rights Watch interviews with Siarkhon Tabarov and Shokhmurad Sh., December 22, 2008.

¹¹⁸ Human Rights Watch telephone interview with Salima Mukhiddinova, director, Vostok-Farm, Dushanbe, December 24, 2008.

¹¹⁹ Human Rights Watch interview with Shokhmurad Sh., December 22, 2008.

¹²⁰ Human Rights Watch interview with Yakub Marufov, December 22, 2008.

¹²¹ Human Rights Watch interview with Zumrad Solieva, Department for Legal Affairs and International Cooperation, Migration Service, Ministry of Interior of Tajikistan, Dushanbe, December 23, 2008.

Shermat Sh. arrived in Perm with three others who traveled using the same intermediary. After the group arrived, the middleman confiscated their passports. Instead of arranging the promised construction jobs, the middleman forced the group to pick up garbage at the airport for 10 days. The middleman paid Shermat Sh. 400 rubles (US\$17) for this first job. Then the middleman took Shermat Sh. and the other workers to the outskirts of Perm to do construction on a private house. The owner of the house did not pay them the promised sum and the middleman took about 30 percent of what was paid. The middleman then took Shermat Sh. to a construction site where Shermat Sh. and others were forced to work for one month without any pay.¹²²

From this site, the middleman took Shermat Sh. to build a foundation for a dacha, or summer cottage, near the village of Mostovoi, in Perm oblast. For about two months the men worked laying the foundation and were forced to sleep in a makeshift shelter in the woods that they had put together themselves from branches, plastic sheeting, and a piece of greenhouse roof. Shermat Sh. told Human Rights Watch, “We were in the Ural mountains in May and it was still cold. The water would freeze in puddles at night.” Shermat Sh. also did not get paid for this work.¹²³

Shermat Sh. then worked in Perm doing odd jobs on construction sites for restaurants and bars, where the employer paid him regularly 800 rubles (US\$34) per day. Shermat Sh. and the other workers were forced to live in one of the buildings they worked on. According to Shermat Sh., “It was very damp. We didn’t have beds, we only slept on the floor. It was ok, because anything was ok, as long as the police didn’t catch us. [They told us] that if the police caught us, they would detain us for days or take all of our money.” Shermat Sh. finally returned to Tajikistan in October 2007, shortly after the middleman had returned his passport.¹²⁴

Tajikistan-Krasnodar

Safarbek S., a 42-year-old worker from Dushanbe, traveled to Russia in May 2008 with the group of workers whom the Youth Labor Exchange employment agency had promised work on construction sites in Sochi, as described above in *Case Study: Tajikistan*.

When Safarbek S. arrived in Russia and there was no work organized by the Youth Labor Exchange, he and seven others from the group sought work through the director of a Russian

¹²² Human Rights Watch interview with Shermat Sh., Istaravshan, Tajikistan, March 1, 2008.

¹²³ Ibid.

¹²⁴ Ibid.

employment firm, who confiscated the men's passports and then sold the men to some factory owners:

The head of a [Russian] employment agency, Zaripov, who was also Tajik, said that he needed ten odd jobs workers immediately. The salary would be 15,000 [rubles per month], good housing... three meals a day. Everything. Work from 8 a.m. to 8 p.m. with Sundays off. It sounded fine. Eight of us agreed. He took our passports and said he would take care of our registration and work permit and then return our passports. But he didn't give our passports back, but gave them to some [directors of a sunflower processing plant], who took us to work for them. Zaripov said that we should do whatever these [directors] say.

They took us to Kropotkino [a small town about 70km from Krasnodar] ...We worked from sunrise until 10 p.m. and sometimes even all night. They would turn on spotlights at night [so that we could work]. We did everything! Really difficult labor! Pouring cement... tearing down some walls, some construction finishing work, carried sacks... After a few days, we said to them, 'What is this? No one promised us this.' And they answered, 'We are not going to speak to you; we'll only speak through your supervisor. Your master sold you to us. We gave him money—35,000 rubles (US\$1,478). So go and work it off.' ... We had a mobile phone and we tried to call Zaripov to sort things out, but he refused to speak with us, saying, 'They did your registration and everything, and that costs money, so now work it off...!'"¹²⁵

Another worker, Abdusalom A., was among the group who came from Tajikistan and was then sold to the directors of the sunflower seed processing plant, and he confirmed these events, saying that the employers kept their passports and forced them to work up to 16 hours a day.¹²⁶ Safarbek S. and the others prepared to flee from their captors, even without their passports. A few days later, when the employers learned that the men were preparing to leave, they agreed to give the passports back, perhaps also as a result of the intervention of a local Tajik diaspora leader.¹²⁷ However, as a condition of returning their passports, the

¹²⁵ Human Rights Watch interview with Safarbek S., Krasnodar, June 8, 2008.

¹²⁶ Human Rights Watch interview with Abdusalom A., June 8, 2008.

¹²⁷ Ibid.

employers forced the men to write statements saying, “I am leaving this job voluntarily and have no grievances against this firm.”¹²⁸

Uzbekistan-Orenburg

Ismoil I., a 27-year-old worker from Uzbekistan told Human Rights Watch that in early 2008 an acquaintance from his hometown was organizing a group of people to go Orenburg to work on construction sites, earning US\$1,000 per month. Ismoil I. did not sign any contract with this middleman but he and 25 others paid him US\$300 each to organize travel, residency registration and work permits, and food and housing at the worksite.

When Ismoil I. and the others arrived in Orenburg in late February, an employer, whom Ismoil I. believed was a military official, confiscated the group’s passports and took the workers to some abandoned military buildings. At the time of the interview with Human Rights Watch, Ismoil I. and the others had been cleaning and renovating the abandoned buildings without pay for almost two months. Ismoil I. told Human Rights Watch, “I have not received any salary. They promised to pay us 5,000-6,000 rubles (US\$211-253) for us to do our registration and work permit and additional money for food, [but they have not paid]. To get money for food we started selling construction materials.” When Ismoil I. and the others complained, asked for their passports back, or demanded salary or other payments, the employers threatened to have them deported.¹²⁹

Uzbekistan-Orel

Human Rights Watch documented a case involving 40 workers from Uzbekistan who, through an intermediary, traveled to an employer in Orel, Russia. There they had their passports confiscated, were forced to work up to 18 hours a day, and were beaten frequently. Although the workers in this case were not employed in construction but at a car wash, it is an important example of trafficking into forced labor and also a case in which the victims have challenged their abusers in court.

Human Rights Watch spoke with one of the victims, Faizullo F., from Samarkand, who went to Orel in September 2006 on the offer of a friend. The friend promised Faizullo F. and seven others from Samarkand work in a car wash and 15,000 rubles (US\$633) per month as well as daily meals and travel expenses provided by the employer. When the men arrived in Moscow, an associate of the car wash owner met them and took their passports, allegedly to arrange

¹²⁸ Human Rights Watch interview with Safarbek S., June 8, 2008.

¹²⁹ Human Rights Watch interview with Ismoil I., Moscow, April 20, 2008.

residency registration and work permits, and then drove the men to Orel where they joined over 30 others living together and working at local car washes.

According to Faizullo F., the 40 men lived together above one of the car washes where there was one bathroom and no kitchen. The facility was guarded, and the workers were not allowed to leave it after work. The men worked from 7 a.m. to 1 a.m. After one and a half months of work, the employer told Faizullo F. and the others that they would not be receiving the agreed-upon salary, but only 18 percent of the revenues from the work completed. After some of the workers called a friend from Tashkent to come pick up some of the workers, who had fallen ill, Faizullo F. said that the employer's treatment became even worse. He remembered:

They started to treat us even more harshly. There had been incidents before this as well—beatings, teeth were beaten out, and people had bruises. But [later] they became mean, treated us harshly, issued fines, and we understood that we wouldn't get anything out of them. In May [2007] we started demanding our documents back. Five people even left without getting their documents back.¹³⁰

Faizullo F. recounted an incident about one month later in which he was beaten so badly that he had to be hospitalized:

On the night of June 15, I was called outside. ... They brought me to the forest and beat me with guns until I lost consciousness. They brought me back and started to beat the others. There were a lot of them. They had truncheons and wooden planks. They gathered everybody and took away our cell phones. This continued for three days. ...¹³¹

On the third day, Faizullo F. managed to call the police and describe what was happening, but the police did not come. Faizullo F. called again, and only after the emergency call center worker explained to the police that this was the second call regarding this incident and that the call was being recorded, did the police respond. The police took Faizullo F. and some of the others to the hospital, which initially refused to treat him because he had no identity documents. The hospital only accepted Faizullo F. the next day and treated him for 11 days for serious injuries, including a concussion, three broken ribs, cuts, bruises, and severe

¹³⁰ Human Rights Watch interview with Faizullo F., Moscow, July 25, 2008.

¹³¹ Ibid.

swelling around the eyes. According to Faizullo F., the police told him that the hospital initially refused to treat him because the employer had used connections to persuade hospital employees to refuse to admit Faizullo F. or the others for treatment. The employer apparently feared that the injuries documented at the hospital could be used in future court proceedings.¹³²

The local prosecutor's office has brought criminal charges of "organizing illegal migration" and "participation in a criminal gang using forced labor for the purposes of personal enrichment" against the car wash owner and an associate who met the workers in Moscow and transported them to Orel, and against an employee at the car washes. Similar charges were brought against two managers also employed by the owner, both of whom remain at large.¹³³ The trial against the accused began on December 17, 2007. Initially, 24 victims filed suit, although most of the victims have now returned to Uzbekistan, complicating further proceedings. The victims are being represented by a Moscow-based lawyer with the financial assistance of the human rights organization Civic Assistance (Grazhdanskoe sodeistvie).¹³⁴ Civic Assistance reports that some of the victims have been pressured to drop the charges and remains concerned that a number of other car wash employees implicated in the beatings and other ill-treatment of the workers have not been charged.¹³⁵ The International Organization for Migration has also assisted the victims.

Forced Labor and Confiscation of Passports without Trafficking

Some migrant workers told Human Rights Watch that while they were not trafficked, their employers in Russia subjected them to forced labor and confiscation of passports.

Erkin E., from Uzbekistan, told Human Rights Watch that a middleman from Tashkent promised him construction work on a dacha in Moscow earning US\$500 per month. When he arrived in Moscow there was no one to meet him, contrary to what had been promised, and he lived in the train station for seven days until two men arrived and offered him work. After one two-week job, he was taken to a site where he worked underground with 85 other

¹³² Ibid.

¹³³ For a detailed description of the case and the conduct of the trial, see: "Alternative Joint Report of The Civic Assistance Committee and the International Federation for Human Rights, Migrant Workers in the Russian Federation: The Use of Forced Labor, A Submission to the Committee on the Elimination of Racial Discrimination, July 2008."

¹³⁴ Human Rights Watch interviews with Faizullo F., July 25, 2008, and Elena Burtina, program director, legal aid to migrant workers, Civic Assistance (Grazhdanskoe sodeistvie), Moscow, May 26, 2008.

¹³⁵ "Alternative Joint Report of the Civic Assistance Committee and the International Federation for Human Rights, Migrant Workers in the Russian Federation: The Use of Forced Labor, A Submission to the Committee on the Elimination of Racial Discrimination, July 2008."

migrant workers for seven months. The employer, whom Erkin E. did not know, kept the workers' passports. The men were forced to work from 7 a.m. to 10 p.m. and were not allowed to leave the premises. Only when the work was complete, were the men released, without being paid.¹³⁶

Dmytro D., a construction worker from Ukraine, told Human Rights Watch that he had worked for about two and a half years building private houses in Moscow oblast in more or less normal conditions, being paid regularly and with good relations with his employer. In June 2007, he had an appendectomy, and was unable to work for a month. His employer then confiscated Dmytro D.'s passport, claiming that Dmytro D. owed him money for the medical treatment. He forced Dmytro D. to work without payment for almost a year. Dmytro D. was afraid to contact the police because he did not have identity documents and was only able to escape this situation by running away. He never received his passport back from his employer.¹³⁷

In mid-February 2008, about 250 people boarded five buses in Samarkand, Uzbekistan, after Uzbek middlemen promised that they would be offered high-paying jobs on construction sites in Moscow. On the border between Kazakhstan and Uzbekistan, the number of buses was reduced to three, forcing many of the migrant workers to stand or share seats with others for the rest of the journey. When the migrant workers arrived in Moscow on February 21, after eleven days of travel, they were kept in the buses until dark and then taken to a former movie theater in central Moscow. The intermediaries responsible for the workers confiscated their passports. One of the workers, Marat M., told Human Rights Watch: "The passports were taken away from us when we were waiting in the parking lot. If people asked they were allowed to leave the theater to buy groceries, but we couldn't leave because we did not have any documents."¹³⁸

Three other migrant workers interviewed by Human Rights Watch confirmed Marat M.'s story. They explained that when they arrived at the old movie theatre, there were already several hundred other migrant workers living in the theatre. The room was filled with metal bunk beds. There was no shower and only three toilets, only one of which worked. The workers received very little food.¹³⁹ Sometimes employers would come and pick out a few workers for

¹³⁶ Human Rights Watch interview with Erkin E., Moscow, May 5, 2008.

¹³⁷ Human Rights Watch interview with Dmytro D., Moscow, July 25, 2008.

¹³⁸ Human Rights Watch interview with Marat M., Moscow, July 27, 2008.

¹³⁹ Human Rights Watch interview with Tolib T., Moscow, August 10, 2008.

short-term work, but Marat M. told Human Rights Watch that he did not leave the theatre for two months.¹⁴⁰

In April, when the migrant workers started complaining and fights began breaking out between the workers, the employment company returned several workers' passports and sent them to another location in central Moscow. Several of the workers left this second location to look for work. As of September 2008, several of the workers were still living in a third location maintained by the same employment company. According to workers still living there, conditions had improved and they were at that time in possession of their own passports, even though they complained that the employment company was not able to provide them with work and that they therefore did not receive any salaries.¹⁴¹

3.4 Labor Exploitation and Other Abuses

While trafficking and forced labor are particularly severe abuses, employers in Russia routinely violate migrant workers' labor rights in other ways. Some employers use violence or threats of violence against workers. Migrant workers also frequently experience several types of labor rights violations, often several at once. These include employers' refusal to provide contracts, unpaid or delayed wages, excessively long working hours, and unsafe working conditions. Russia has signed a number of ILO conventions and international treaties that obligate it to ensure basic labor protections for all workers.

Some employers use violence or threats to retaliate against workers, often against workers who protest against wage or other violations. International human rights law guarantees the security of person and the right to be free from cruel, inhuman, and degrading treatment or punishment. International human rights law provides protection in absolute terms against such abuse by state authorities, but also creates the positive obligation to investigate all allegations of torture and cruel, inhuman and degrading treatment by public *and* private parties, and to identify and punish those responsible.¹⁴²

¹⁴⁰ Human Rights Watch interview with Marat M., July 27, 2008.

¹⁴¹ Human Rights Watch interview with Tolib T., August 10, 2008.

¹⁴² ICCPR, articles 2(3) and 7; Convention against Torture, article 4 and General Comment No. 2 of the Committee against Torture para. 18; ECHR articles 3 and 13. For European Court findings specifically related to effective investigation into alleged violations of article 3, see *Assenov and others v. Bulgaria*, no. 24760/94, judgment of October 28, 1998, para. 102; *Sakik and others v. Turkey*, no. 31866/96, judgment of October 10, 2000, para. 62; and *Chitayev and Chitayev v. Russia*, no. 59334/00, judgment of 18 January 2007, paras. 163-166.

As will be described more fully in subsequent chapters, there are few accessible avenues for redress available for migrant workers, and employers who deny workers legal contracts, withhold wages, force employees to work long hours, fail to provide safe working conditions or commit other abuses are largely able to do so with impunity. The Russian government should more rigorously investigate and prosecute employers responsible for abusive practices and should make available effective avenues for redress available for all victims of labor violations and physical violence, irrespective of victims' migration or contractual status.

International Legal Standards

The International Labour Organization (ILO) has developed a comprehensive body of conventions that address virtually every aspect of workers' rights. Russia has ratified all eight of the core ILO conventions, including the two ILO conventions prohibiting forced labor (Nos. 29 and 105), two ILO conventions ensuring freedom of association and the right to organize and bargain collectively (Nos. 87 and 98), the ILO Convention concerning Discrimination in Employment and Occupation (No. 111) and the Convention on Equal Remuneration (No.100), which prohibit discrimination in the workplace.¹⁴³ Russia has also ratified ILO Convention on the Protection of Wages (No. 95), which guarantees regular payment of wages, and the ILO Convention on Occupational Safety and Health (No. 155), which calls for policies to prevent accidents and injuries to health, effective enforcement of laws and regulations concerning occupational safety and health, and for the government to publish annually information on accidents and other work-related health concerns.¹⁴⁴ Despite these ratifications, migrant workers in Russia very often do not receive the basic protections enshrined in these legal obligations.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) recognizes "the right of everyone to the enjoyment of just and favourable conditions of work."¹⁴⁵ Such conditions must ensure: remuneration, safe and healthy working conditions, equal opportunity for promotion, as well as rest, reasonable limitation of working hours and

¹⁴³ ILO, List of Ratifications of International Labour Conventions, Russian Federation, <http://webfusion.ilo.org/public/db/standards/normes/appl/appl-byCtry.cfm?lang=EN&CTYCHOICE=o64o&hdroff=1> (accessed October 14, 2008).

¹⁴⁴ ILO Convention No. 155 concerning Occupational Safety and Health, adopted June 22, 1981, 1331 U.N.T.S. 279, entered into force August 11, 1983.

¹⁴⁵ ICESCR, art. 7.

periodic holidays with pay, and remuneration for public holidays.¹⁴⁶ The ICESCR also guarantees “the right of everyone to form trade unions and join the trade union of his choice...” and the right to strike.¹⁴⁷ The ICCPR also guarantees freedom of association and the right to form and join trade unions.¹⁴⁸ As described above and below, migrant workers in Russia regularly do not enjoy these conditions and are limited in their ability to participate in unions and strikes.

Russia has signed, but not ratified, the revised European Social Charter, which sets out rights concerning conditions at work in some detail.¹⁴⁹ As a signatory it is required not to take any action that would defeat the object and purpose of the treaty.¹⁵⁰

Regarding non-citizens’ rights at work, the Committee on the Elimination of Racial Discrimination’s General Recommendation No. 30 states that once an employment relationship has been initiated and until it is terminated, all individuals, *even those without work permits*, are entitled to the enjoyment of labor and employment rights.¹⁵¹ This recommendation is relevant for migrant workers in Russia, insofar as many of them work without valid work permits, either because they were not able to obtain work permits due to expired quotas or excessive delays in processing work permits or, very often, as a result of employers’ refusal to provide written employment contracts (in Russian, *trudovoi dogovor*). Employment contracts are necessary for the worker’s employment and residency status to remain regular, as well as for the worker to access particular avenues for redress, as described in the next section.

¹⁴⁶ Ibid. The Universal Declaration of Human Rights also provides that everyone has the right to rest and leisure, including reasonable limitation of working and periodic holidays with pay, as well as the right to just and favorable remuneration, and the freedom to form and join trade unions. UDHR, arts. 23 and 24.

¹⁴⁷ ICESCR, art. 7.

¹⁴⁸ ICCPR, art. 22.

¹⁴⁹ The European Social Charter provides numerous guarantees with regard to the employment rights, including prohibition of forced labor, fair working conditions as regards wages and working hours, protection from sexual and psychological harassment, and freedom to form trade unions. One of its core provisions relates to the rights of migrant workers and their families and obliges states among other measures to take appropriate steps, so far as national laws and regulation permit, against misleading propaganda relating to emigration and immigration. European Social Charter (revised), CETS, No. 163, entered into force January 7, 1999.

¹⁵⁰ Vienna Convention on the Law of Treaties, Vienna on May 23, 1969. Entered into force on January 27, 1980, United Nations, Treaty Series, vol. 1155, art. 18, p. 331, http://untreaty.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf (accessed January 30, 2009).

¹⁵¹ Emphasis added. UN Committee on the Elimination of Racial Discrimination, General Recommendation 30, Discrimination against Non-citizens (Sixty-fourth session, 2004), U.N. Doc. CERD/C/64/Misc.11/rev.3 (2004), para. 35.

Failure to Provide Contracts

“It’s very hard to work without a contract. Every minute you expect they will cheat you and throw you out.”

—Nurbek N., migrant worker, Bishkek, March 27, 2008

Both private and state employers, including brigadiers and other intermediaries who act as employers, routinely fail to provide migrant workers with written contracts [*trudovoi dogovor*] as required under Russian law.¹⁵² Elena Tyuryurkanova, an expert on migration in Russia, told Human Rights Watch that her research has determined that 77 percent of migrant workers do not have contracts.¹⁵³ As a result, even when migrants themselves have complied with relevant laws by registering on the migration registry and obtaining a work permit, they quickly find themselves in violation of both migration and labor laws. Without an employment contract, a migrant worker is not legally employed, and, because he or she is not officially employed, his or her legal right to stay in Russia cannot be legally extended and expires 90 days after entry into Russia. In the absence of a contract, employers do not fulfill other legal obligations vis-à-vis their employees: they pay workers in cash and do not pay employment or social taxes.

Without an employment contract, workers also have great difficulty proving employer relations before a court. The worker will face almost insurmountable obstacles should they seek redress for abuses or resolve a dispute with an employer. Furthermore, as described below, the Federal Work and Employment Service (Rostrud) conducts full investigations into allegations of labor violations only in cases when the worker is in possession of a written employment contract or, in the absence of a contract, in the unlikely event that an employer admits that the worker is employed as a regular employee, albeit illegally. Finally, because the absence of a contract renders a migrant worker’s stay in Russia illegal after 90 days, he or she risks fines and possible deportation should he approach the authorities with a complaint. The Russian government should ensure sufficient oversight of employers to ensure consistent provision of written employment contracts to migrant workers. The

¹⁵² “Labor relations arise between employee and employer on the basis of an employment contract [*trudovoi dogovor*] concluded by them in accordance with this Code.” Labor Code of the Russian Federation, article 16. The labor code details the information that must be contained in an employment contract and specifies that the contract must be signed in two copies, one for each party. Labor Code of the Russian Federation, articles 56-62. Article 16 of the Labor Code also recognizes that formal employment relations exist for workers employed by an employer even when an official employment contract has not been signed. However, the Federal Migration Service only recognizes as official the employment of migrant workers in possession of both a work permit and a contract.

¹⁵³ Human Rights Watch interview with Elena Tyuryurkanova, co-director, Migration Research Center, Institute for Economic Forecasting, Russian Academy of Sciences, Moscow, May 27, 2008.

government should also investigate fully all allegations of abuse, irrespective of workers' migration or employment status.

The majority of the migrant workers interviewed by Human Rights Watch who had worked in Russia since 2007 stated that they had received residency registration and obtained a work permit, either on their own or through intermediaries, yet in almost all but a few cases, the migrants had not been offered any type of written contract by an employer. Of 146 migrants whom Human Rights Watch interviewed, only 22 stated that they had signed a written contract with their employer. The very few employers who did provide contracts to workers interviewed by Human Rights Watch in most cases did not provide workers with a copy of the contract, or did not abide by the terms of the contract. Experts believe that in most cases, even when employment contracts are issued, they are not in compliance with the law and therefore have no legal standing.¹⁵⁴

The failure to provide contracts is so widespread that migrant workers have no effective options of seeking alternative employment with an employer who will provide a contract. Few migrants are aware that the law requires employers to provide contracts and in any case do not expect contracts or believe that they will serve any purpose.

Emil E., a foreman from Kyrgyzstan working for a construction company in Moscow for one and a half years, told Human Rights Watch that he is responsible for helping find workers for various construction projects. He told Human Rights Watch, "All [foreign workers] and Russians outside of Moscow work without labor contracts. Only Moscow residents get them."¹⁵⁵ Of the 25 people working in his team, nine had contracts and received official salaries, with all relevant tax deductions. The migrant workers from other parts of Russia and from Central Asia, including Emil E. himself, have no contracts and received cash payments.¹⁵⁶ Soli S., a 23 year-old worker from Tajikistan who worked on different sites in Russia, stated, "I worked on various construction projects for an Italian firm. I didn't have a contract. They didn't offer and I didn't ask."¹⁵⁷

Some workers believed that asking for a contract was futile and might even hinder their ability to get hired. Sobir S., also 23 and from Tajikistan, was recruited by a relative who is a brigadier to work in Moscow doing odd jobs on a construction site. When asked if he had obtained a contract from the brigadier or from the construction company overseeing the

¹⁵⁴ Human Rights Watch interview with Zhanna Zaionchkovskaia, Moscow, May 26, 2008.

¹⁵⁵ Human Rights Watch interview with Emil E., Moscow, June 10, 2008.

¹⁵⁶ Ibid.

¹⁵⁷ Human Rights Watch interview with Soli S., Tursun-Zade, Tajikistan, February 27, 2008.

work, he replied, “I didn’t have any kind of contract, and I didn’t ask [for one]. I know that for us those kinds of conditions aren’t available.”¹⁵⁸ Ravshan R., from Khujand, Tajikistan, told Human Rights Watch that he does not have a contract at his current job and that he doesn’t expect to get one. “If we demand contracts, nobody will hire us,” he said.¹⁵⁹

Even in cases when migrant workers do secure written contracts from their employers, the employer does not necessarily respect the terms of the contract. Nor does the existence of a written contract mean that the employer will abide by all relevant laws. Zakirullo Z., a 34-year-old man from Tajikistan working in construction in Moscow, told Human Rights Watch, “According to the contract, our work day is 8 a.m. to 5 p.m. but we [actually] work 8 a.m. to 8 p.m. ... The contract says [we work] five days, and we work six days. The contract says 65 rubles (US\$2.75) per hour, but we generally get paid depending on the volume completed, not the time, and we learn how much we’ve earned only when we receive our money. We never know in advance.”¹⁶⁰ According to Eldiyar E., who worked in Barnaul, in Siberia, “In 2007, [my employer and I] concluded a written agreement, and the owner of the company paid some taxes, but I don’t know how much. I still received my salary in cash and did not sign anything confirming payment.”¹⁶¹

As noted above, some migrant workers do have contracts with their employers. For example, Subhiddin S., from Tajikistan, works seasonally for a construction firm building private houses in Moscow and has a written contract with his employer of two years. He earns 15,000 rubles (US\$633) per month, and his employer pays official taxes.¹⁶²

Employers in Russia routinely conclude agreements with false salary information apparently in order to avoid paying taxes on the full salary. This practice leaves workers vulnerable to exploitation because should they need to sue for non-payment of promised wages, only the sum indicated in the contract might be recovered. For example, Zhenish Zh., from Bishkek, told Human Rights Watch, “Our boss signed a contract with us. The contract listed a salary of 6,525 rubles (US\$276), but we had agreed on a salary of 30,000 rubles (US\$1,267). We didn’t ask why the official salary was so little. We still don’t know ... maybe they write a minimal salary to avoid paying taxes. We didn’t even have any doubts about it or thoughts that something might not be right.”¹⁶³

¹⁵⁸ Human Rights Watch interview with Sobir S., Tursun-Zade, Tajikistan, February 27, 2008.

¹⁵⁹ Human Rights Watch interview with Ravshan R., Moscow, April 17, 2008.

¹⁶⁰ Human Rights Watch interview with Zakirullo Z., Moscow, June 12, 2008.

¹⁶¹ Human Rights Watch interview with Eldiyar E., Kyzrybat, Kyrgyzstan, March 13, 2008.

¹⁶² Human Rights Watch interview with Subhiddin S., Yavan, Tajikistan, February 26, 2008.

¹⁶³ Human Rights Watch interview with Zhenish Zh., Bishkek, August 25, 2008.

Many migrants expressed doubt about the value of signing contracts in any case, apparently owing to a distrust of the legal system. Zhenish Zh. from Bishkek told Human Rights Watch, “A contract—it’s just a piece of paper.”¹⁶⁴ Another migrant worker shared this pessimism about the efficacy of employment contracts as a means of defending their rights vis-à-vis their employers: “Written agreement or not, I know one thing: we are different. Russian laws do not protect us.”¹⁶⁵

Unpaid Wages, Delayed Wages, and Illegal Deductions in Wages

By far the most widespread violation of migrant workers’ rights is the failure by private and state employers, including brigadiers, or by persons acting as intermediaries, to pay workers fully and promptly. Migrant workers are frequently faced with situations that lack any predictability about wages. They do not know when they will be paid, how much they will be paid, or even if they will be paid. In cases when employers do not pay wages at all, many workers feel they have no choice but to remain at a job for weeks or months in hopes of one day receiving all or some of the wages owed to them. There is a common practice among employers, foremen or brigadiers of withholding wages for a month, apparently as a coercive measure to ensure workers stay at the job in hopes of eventually receiving payment.

When migrant workers leave an employer engaged in this kind of practice, they usually do not receive the last month’s wages. Many workers leave jobs after receiving only part of their salary or after receiving nothing at all, either because they are resigned to accepting the situation or in some cases because employers threaten violence or denunciation to the authorities, as described below (see *Threats and use of violence by employers*). Officials at the Tajikistan Embassy in Moscow stated that they receive approximately three to four citizens per day stating that they had not received their wages and that non-payment in these cases totaled over 300 million rubles (US\$12,666,000) in the first five months of 2008.¹⁶⁶

Russian law requires that salaries be paid at least twice a month.¹⁶⁷ Under the Russian criminal code it is a crime, punishable by fines as well as a possible prison term, to withhold wages for more than two months.¹⁶⁸

¹⁶⁴ Ibid.

¹⁶⁵ Human Rights Watch interview with Manucher M., Moscow, May 8, 2008.

¹⁶⁶ Human Rights Watch interview with Musamirsho Gafurov and Dzharubali Saburov, migration policy group, Embassy of Tajikistan, Moscow, May 27, 2008.

¹⁶⁷ Labor Code of the Russian Federation, article 136.

¹⁶⁸ The Criminal Code of the Russian Federation, No. 64, 1996, with amendments, article 145.1 states: “Non-payment of wages, pensions, stipends, allowances and other payments envisions serious penalties for non-payment of wages. The penalty is a

Some employers also impose unexpected deductions from workers' salaries, whereby the employer reduces the wages owed for alleged violations such as poor work product or damage to equipment. Employers may also take deductions from wages for food or other expenses incurred on behalf of the worker, although usually the worker is not informed about these deductions in advance.

Under Russian law, employers have the right to make salary deductions, in certain instances.¹⁶⁹ Some of the deductions reported by migrant workers documented in this report may have been legal. However, because employers have hired migrant workers without providing them with contracts, workers have difficulty proving employment relations before a court a law and thus have few legal options to challenge these deductions or seek redress from wage-related violations.

Unpaid wages

In some cases labor migrants could say with certainty that it was their employers who failed to pay them. For example, Musafirbek M., a 21-year-old man from Uzbekistan, had been working with a group of nine other Uzbeks building fences in the outskirts of Moscow for an employer who refused to pay them. He told Human Rights Watch, "[The employer] promised to pay 12,000 per month (US\$459), and to pay weekly. We had an oral agreement. For two months he has not paid us. He promised to pay me, but I am not sure he will. He already owes me so much money... I don't know what to do."¹⁷⁰ Ravshan R., 32, from Tajikistan, said that he worked for four months at a construction site building cottages in the village of Kotovo in Volgograd province in central Russia without getting paid. "In March [2008] we started demanding from [the foreman] that he pay us. We were always told us to wait. We only received [money] for food," he told Human Rights Watch.¹⁷¹

Tohir T., a 30-year-old worker from Tajikistan described his experience working in Ivanovka, near Tambov in Orenburg oblast, on a hotel construction site during the winter of 2006-2007. "I worked for three months and 10 days and was owed US\$500, but they only paid us US\$300 for two months and for the rest of the work they didn't pay us at all. ... It was

fine, or deprivation of the right to occupy certain posts or to engage in certain activities for a period of up to five years, or imprisonment for a maximum of two years. If the non-payment has "entailed grave consequences," the penalty shall be a fine, or imprisonment for three to seven years with the possibility of deprivation of the right to occupy certain posts or engage in certain activities for a maximum period of three years.

¹⁶⁹ Labor Code of the Russian Federation, article 137-138.

¹⁷⁰ Human Rights Watch interview with Musafirbek M., Dubrava village, June 12, 2008.

¹⁷¹ Human Rights Watch interview with Ravshan R., April 17, 2008.

pointless to complain. We simply took what they gave us and left.”¹⁷² Almazbek A., a 19-year-old construction worker who had been working for six months in Zvenigorod in Moscow oblast told Human Rights Watch, “[We] had an oral agreement with our employer that [our brigade] should receive 150,000 rubles (US\$6,333) per floor that we completed. We have completed three floors, but we have not received any money. There were originally 13 people in our brigade, but half of them have left.”¹⁷³

Very often brigadiers or middlemen are responsible for non-payment of salaries. This may be because, in some cases, the brigadiers or middlemen themselves are cheated by the contracting or subcontracting firms. In other cases, brigadiers and middlemen are absconding with the workers’ salaries themselves. Akmal A., a welder from Uzbekistan building private cottages in the suburbs of Moscow, told Human Rights Watch, “For the moment three months of my salary has not been paid, but I am waiting for it. We never had an agreement with the contractor directly, it is always [done] through middlemen.”¹⁷⁴ One 47-year-old construction worker told Human Rights Watch, “At one job I was promised 5,000 rubles (US\$211) to dig a trench and do some other work. But I only got half. This job was through a middleman. I tried to get money from him. I called many times but he didn’t answer. This happens all the time. They will give you half of what is promised and the other half they keep.”¹⁷⁵

Bolot B., a 21-year-old plasterer who worked in Russia for a year and a half told Human Rights Watch,

I worked in a brigade with other Kyrgyz. The brigadier promised us 20,000 rubles (US\$844), then paid us less. I got only 20,000 rubles every three months. Where could I complain? The Kyrgyz promised that everything would be fine. I never saw the director of the [construction] company, only the Kyrgyz middlemen. They said, ‘If you have complaints, you can go work somewhere else.’”¹⁷⁶

¹⁷² Human Rights Watch interview with Tohir T., Dushanbe, February 27, 2008.

¹⁷³ Human Rights Watch interview with Almazbek A., Zvenigorod, July 26, 2008.

¹⁷⁴ Human Rights Watch interview with Akmal A., Dubrava village, June 12, 2008.

¹⁷⁵ Human Rights Watch interview with Kolya K., Yavan, Tajikistan February 26, 2008.

¹⁷⁶ Human Rights Watch interview with Bolot B., Ak-Tash, Kyrgyzstan, March 12, 2008.

Ulugbek U. from Kokand, Uzbekistan, similarly stated, “I worked for Agrostroi in Moscow for six months [in 2006], and they did not pay me for the last two [months]. The brigadier said that the company had not paid him [and so he could not pay us].”¹⁷⁷

In many cases, and particularly on large construction sites or projects, workers often have little knowledge of the individuals and entities participating in a complex chain of contracting that can include multiple subcontractors and a general contractor all hired by the individual or entity commissioning the construction. In most cases workers hired through middlemen or brigadiers and even brigadiers themselves never have contact with the actual company ordering the construction. Brigades or individual workers are often hired by subcontractors, who have been hired either by other subcontractors or a general contracting firm. In the case of non-payment by a brigadier or middleman, the worker’s lack of information makes it difficult for him or her to seek recourse, including possible indemnity, with other subcontractors, contractors, or the commissioning entity for failure to pay wages or any other violations.

Aziz A., 27, from Kyrgyzstan told Human Rights Watch that he and four others were doing construction in Moscow, and the middleman gave them only 15 percent of the payment originally agreed on. They decided to quit and felt it futile to complain anywhere. He said, “A court wouldn’t even look at the case. We don’t know who the actual owner [of the building] is.”¹⁷⁸

Unlike many other labor migrants interviewed who were cheated out of wages, Emomali E., a 26-year-old worker from Ganchi, Tajikistan, could identify the firm overseeing the construction site he worked on, and confronted the director. Emomali E. told Human Rights Watch, “For three months I worked at one construction site. We had an agreement to be paid for each floor [completed]. They paid us for the first floor, but didn’t pay us for the second one. I got this job through a middleman. ... I went to the director of the construction firm to demand the money owed to me but he just said, ‘I don’t know you. I am seeing you for the first time. I don’t believe you work for me.’”¹⁷⁹ Because Emomali E. worked for a subcontractor of this construction firm and had no contract to prove his employment, he could not prove to the director that he worked on that firm’s sites.

¹⁷⁷ Human Rights Watch interview with Ulugbek U., Moscow, May 9, 2008.

¹⁷⁸ Human Rights Watch interview with Aziz A., Kyrgyzstan, March 9, 2008.

¹⁷⁹ Human Rights Watch interview with Emomali E., Ganchi, Tajikistan, February 29, 2008.

Grisha G., a brigadier from Dushanbe, Tajikistan stated that he and 63 other workers on a construction site in Ekaterinburg did not get paid the three million rubles (US\$126,660) owed to his brigade for two months of work. When Grisha G. confronted the company that ordered the construction, the director stated that he had paid the contractor. The head of the firm claimed that he had paid the subcontractor, who happened to be his brother. The subcontractor had disappeared altogether. According to Gosha G., none of the workers ever got paid for their work.¹⁸⁰

Azamat A. is a brigadier from Kyrgyzstan who oversaw a brigade working on a large construction project at a university in Moscow. Azamat A.'s brigade of about 40 people and several other brigades worked for almost three months from June-September 2007 doing interior finishing work. Although the director of the subcontracting firm overseeing the project his brigade was working on promised to pay them for every 100 square meters completed, she did not pay regularly, claiming that the general contractor had not paid her. Azamat A. told Human Rights Watch, "Many workers left when they were not paid, but we needed to get paid, so we stayed on and continued to work." The subcontractor then promised to pay one large sum after completion of the work and the opening of the university. Even after completing the work Azamat A. and other brigadiers continued to live on the site for about three months, hoping to receive payment owed to them. In December 2007, Azamat A. finally gave up waiting and went home to Kyrgyzstan; the subcontractor still owes him and his brigade some one million rubles (US\$42,220).¹⁸¹ Notably, although Azamat A. and his team had work permits, the director of the subcontracting firm convinced him that "no documents were needed for the job" and therefore did not provide them with contracts that might have helped them appeal to a court to recover the unpaid wages.

Delays in wages

Regularly withholding some or all of a salary for an extra month is a common practice that workers feel compelled to accept. A foreman from Ukraine confirmed that the construction firm he works for in Moscow pays workers "badly." He explained that workers receive their first pay only two months after beginning work, and said that this system was common on construction sites.¹⁸² A 47-year-old welder from Tajikistan with nine children told Human Rights Watch, "There are delays in paying our salaries. For December, I only got paid at the end of January. But at least they always pay."¹⁸³ Naimjon N., a 21-year-old worker from

¹⁸⁰ Human Rights Watch interview with Grisha G., Ekaterinburg, July 21, 2008.

¹⁸¹ Human Rights Watch interview with Azamat A., location withheld, Kyrgyzstan, March 19, 2008.

¹⁸² Human Rights Watch interview, Konstantin K., Moscow, June 12, 2008.

¹⁸³ Human Rights Watch interview with Firuz F., Yavan, Tajikistan, February 26, 2008.

Uzbekistan, arrived in St. Petersburg in February 2008 to work on construction sites. He said that the company he works for pays regularly, but with a one month delay. If he leaves the job, he will not get the last month's salary.¹⁸⁴ An Armenian lathe worker told Human Rights Watch, "I tried to work with some commercial companies before. You get the job, you do it, but you only get 50 percent [of your wages]. The other 50 percent will be paid next month. They do this to make sure you don't quit."¹⁸⁵ A brigadier with eight years of experience working in Moscow confirmed this practice, telling Human Rights Watch, "Sometimes companies withhold wages to make sure that people come back."¹⁸⁶

Deductions in wages

Employers often take unexpected deductions from wages for arranging residency registration or work permits for employees, for housing or for food, or as a form of punishment for alleged mistakes in the work or for taking days off. Uktam U., a worker from Tajikistan, told Human Rights Watch, "Our boss got me the registration and work permit, and deducted US\$200 from my salary the first month."¹⁸⁷ Naimjon N., who worked on construction sites in St. Petersburg said that his employer simply refused to pay workers for 45 days in exchange for organizing the worker's work permit, thereby effectively deducting a month and a half's salary from the worker.¹⁸⁸

In several interviews workers stated that while employers did provide housing and food for them, they deducted this from the salary. Navruz N. told Human Rights Watch, "We were working Universtroj in Moscow in 2007. The company provided housing, but they deducted 1,500 rubles (US\$63) per month for it."¹⁸⁹ A worker in St. Petersburg stated that the employer deducted 2,000 rubles (US\$84) from his salary for a room in a dormitory which he shared with six other workers.¹⁹⁰ Firuz F., a 47 year-old worker said that his employer takes 1,200 rubles (US\$51) per month for food, which consists only of kasha and soup, and no meat.¹⁹¹

Edil E., a 47 year-old construction worker told Human Rights Watch that he worked on a construction site carrying 50 kilogram bags of concrete and sand up three flights of stairs. His employer would fine workers 10 percent of their monthly wage of 20,000 for missing one

¹⁸⁴ Human Rights Watch interview with Naimjon N., St. Petersburg, May 10, 2008.

¹⁸⁵ Human Rights Watch interview with Arman A., Krasnodar, June 8, 2008.

¹⁸⁶ Human Rights Watch interview with Manucher M., Dedolsk, Moscow oblast, Russia, May 8, 2008.

¹⁸⁷ Human Rights Watch interview with Uktam U., Dubrava, Russia, June 12, 2008.

¹⁸⁸ Human Rights Watch interview with Naimjon N., St. Petersburg, May 10, 2008.

¹⁸⁹ Human Rights Watch interview with Navruz N., Moscow, May 2, 2008.

¹⁹⁰ Human Rights Watch interview with Hamid H., St. Petersburg, May 11, 2008.

¹⁹¹ Human Rights Watch interview with Firuz F., Yavan, Tajikistan, February 26, 2008.

day of work. “We worked every day from 8 a.m. to 8 p.m. and sometimes they forced us to work until 10 p.m.,” he said. “But, if we missed one day they would deduct 2,000 rubles (US\$84) from our salary as a fine.”¹⁹² According to Zufar Z., “[Our boss] would check everything ... and if there was anything that was not perfect there would be a deduction from our salary. If something had to be re-done and it would take half a day, he would deduct 2,000-3,000 rubles (US\$84-127). At his next job, Aziz A. said that, while his employer paid regularly every 10 days, the foreman complained on several occasions that Aziz A. and the six others in his brigade had not laid tiles properly, and so deducted 5, 10, or 30 percent from their salaries, which Aziz A. did not consider fair.”¹⁹³ One worker from Uzbekistan, Ulugbek U., who on one worksite did not receive his salary, as described above, faced a different problem on a new worksite, this time in the form of illegal deductions. “We worked by volume. They paid me 11,000 rubles (US\$464) in April, but I should have received 20,000 rubles (US\$844),” he said. “The company claimed that we had not done it properly and broke some equipment.”¹⁹⁴

Konstantin K., a foreman from Ukraine working in Moscow told Human Rights Watch that he could “justify any deductions from salaries if needed.”¹⁹⁵ Konstantin K. issued deductions from workers’ salary most frequently due to problems in quality, noting that the worker “should be very careful,” but acknowledging that “sometimes in fact the material is bad, and this affects the quality.” Deductions can also be taken for failing to observe technical rules or for not finishing the work on time.¹⁹⁶

Long Working Hours

“There is no such thing as a ‘working day,’ there is only ‘this [work] has to be finished.’”¹⁹⁷

—Zufar Z., a construction worker from Kyrgyzstan

Under Russian law, normal working hours are not to exceed 40 hours per week, except in certain circumstances, when workers should be paid overtime. Workers should have at least one day off per week, as well as non-working holidays and paid vacation time.¹⁹⁸ However, many migrant workers interviewed by Human Rights Watch spoke of long working hours,

¹⁹² Human Rights Watch interview with Edil E., Kyzylabat, Kyrgyzstan, March 13, 2008.

¹⁹³ Human Rights Watch interview with Aziz A., March 19, 2008.

¹⁹⁴ Human Rights Watch interview with Ulugbek U., Moscow, May 9, 2008.

¹⁹⁵ Human Rights Watch interview with Konstantin K., Moscow, June 12, 2008.

¹⁹⁶ Ibid.

¹⁹⁷ Human Rights Watch interview with Zufar Z., Osh, Kyrgyzstan, March 14, 2008.

¹⁹⁸ Labor Code of the Russian Federation, articles 91, 111- 115.

with few or no days off and no paid vacation or holidays. In some cases, employers forced workers to work long hours, threatening to fire them if they refused. Employers may also pressure workers to work long hours or overnight, claiming that certain material will go bad or wages will only be received for work completed urgently. However, since very often migrant workers earned hourly wages or were paid according to the number of projects completed or volume of work completed, many migrants claimed to voluntarily work long hours. Most employers granted Sundays off. One expert in migration in Russia stated that her research has revealed that the average work week for migrant workers is 60 hours.¹⁹⁹

Zufar Z. told Human Rights Watch that where he worked laying tiles in construction sites in Tver, “There is no such thing as a ‘working day,’ there is only ‘this [work] has to be finished.’ We slept at the site where we worked. We would wake at 5 a.m. work until lunch, eat instant soup for lunch, and then work again until [very late].”²⁰⁰ Musojon M., from Uzbekistan, who is 29 years old and had been working for four years in Russia, described the long hours at a major construction company, “We worked day and night, from 8 a.m. to 10 or 11 p.m. Sometimes we had to stay until 3 a.m. We were forced to work this late. In the last seven months I have had two days off.” He also had not received salary for three of the seven months he worked.²⁰¹

Substandard Living Conditions

Migrant workers’ living conditions in Russia vary widely. Most workers interviewed by Human Rights Watch arranged their own accommodations, which were often poor due to insufficient income or a desire to economize and have more money to take or send home. Many workers are promised housing and three meals per day as part of the conditions of work as described to them by brigadiers, employment agencies, or other intermediaries. Upon arrival, many, although not all, workers find that the employer provides only sub-standard living conditions. Workers are often forced to accept poor conditions because their employers, brigadier, or intermediary insists on it, because it is the least expensive option, or owing to the difficulties of arranging alternative housing independently.

Employer-provided housing is most often in transport containers or trailers kept on the worksite, or in the actual buildings being constructed or renovated. Workers interviewed by Human Rights Watch lived in the buildings they are constructing, in unrenovated basements

¹⁹⁹ Human Rights Watch interview with Elena Tyuryukanova, co-director, Migration Research Center, Institute for Economic Forecasting, Russian Academy of Sciences, Moscow, May 27, 2008.

²⁰⁰ Human Rights Watch interview with Zufar Z., March 14, 2008.

²⁰¹ Human Rights Watch interview with Musojon M., Moscow, May 26, 2008.

and in tents or make-shift housing in the woods. These accommodations generally lack proper sanitary conditions, and workers in most cases did not have access to hot water or bathing facilities. Employers may also provide food to those living on the worksites but it is often of poor nutritional quality or in insufficient amounts. Some employers promise to provide additional money for food, but do not always live up to this commitment.

Workers are frequently required to live in transport trailers set up on worksites. Zhenish Zh., a 30-year-old construction worker from Bishkek, went to Irkutsk in May 2008. He told Human Rights Watch, “We lived in a trailer, without a toilet... We didn’t even ask about the living conditions ... We knew the guy [proposing the work] was from Kyrgyzstan, we didn’t stress about it. Our neighbor reassured us, but, really, it was living like the homeless do. There were four of us, two bunk beds, a heating plate and a television. Can you believe it, for two months and nine days there I didn’t wash at all!”²⁰² Ravshan R., a 32-year-old worker from Tajikistan, said that he began working at a site building cottages in a village in the Orlovsk oblast, in December 2007. His employer provided a trailer for him to live in together with about 10 other workers. Although they had one heater, it would get cold at night and they were not allowed to turn on a second heater. There was no hot water available to them and no shower. Only after two months of work was the group of workers put on a bus and taken to a bathhouse. They received two eggs for breakfast and soup with cabbage or buckwheat for lunch and dinner.²⁰³

Often workers are required to live in make-shift accommodations in the buildings which they are constructing. Aziz A., from Kyrgyzstan, said that when he worked on a construction site in Moscow in 2007, he and the other members of his brigade lived in one room on the third floor of the unfinished building they were constructing. “There were no proper conditions,” he said. “We could only get water in the basement. A normal person wouldn’t live like that. But we came here to work and not live. For us all that mattered was finishing the job.”²⁰⁴

Akmurad A., a 27 year-old worker doing finishing work in Krasanoyarsk said, “We lived on the work site but there were no proper conditions. We made a make-shift plumbing ourselves and sort of built a room for ourselves. Once, in April 2006, they left us with no food for four days. They did not bring us our salary for the work we had completed or money for food as they had promised ... and for four days we really had nothing.”²⁰⁵ Human Rights Watch interviewed 19-year-old Almazbek A. at a construction site in Zvenigorod where he

²⁰² Human Rights Watch interview with Zhenish Zh., August 25, 2008.

²⁰³ Human Rights Watch interview with Ravshan R., April 17, 2008.

²⁰⁴ Human Rights Watch interview with Aziz A., Kyrgyzstan, March 19, 2008.

²⁰⁵ Human Rights Watch interview with Akmurad A., Osh, Kyrgyzstan, March 14, 2008.

had been working, unpaid, for six months. As promised, the employer provided housing and food, but the food was limited to pasta and buckwheat. When Almazbek A. and others asked for other food, their employer told them, “Eat this, or you can eat on the street.”²⁰⁶

Worksite Accidents

Human Rights Watch documented a number of accidents involving migrant workers on construction sites in Russia. Little data is available on construction site accidents, although many employers in the construction sector are reported to not enforce safety standards rigorously, and accidents, including fatal accidents, are not uncommon. According to Rostrud, there were 1,076 fatal accidents on construction sites in 2007.²⁰⁷ Many are never investigated. One manager at a major Western company ordering construction of large buildings throughout Russia, told Human Rights Watch that he believed there were 20 to 30 accidental deaths from June 2007 to June 2008 on his company’s construction sites.²⁰⁸

Russian labor law details numerous requirements for employers in the event of an accident involving a worker with an employment contract. In cases of accidents involving more than two people, serious accidents, or accidents resulting in a death, the employer must notify several government agencies, including the labor inspectorate, prosecutor’s office, and local government. It is further obligated to form a three-sided commission, involving workers, employer representatives, and trade union representatives, to investigate the accident.²⁰⁹ For workers with retainer contracts (in Russian, *grazhdansko-pravovoi dogovor*, the typical legal document for services, contractual work, etc.) or no contracts whatsoever, a worksite accident would be governed not by labor law, but by civil and criminal obligations.²¹⁰

Under Russian labor law, workers have the right to safe working conditions and mandatory state social insurance for accidents and work-related illnesses, based on employer social tax contributions.²¹¹ Under law, employers should provide all workers, regardless of citizenship,

²⁰⁶ Human Rights Watch interview with Almazbek A., Zvenigorod, July 26, 2008.

²⁰⁷ Federal Service for Work and Employment, “Report on the Results of Work in 2007 on State Oversight and Control of Adherence to Labor Laws and Other Normative Legal Acts Regulating Labor Law Norms,” Moscow, 2008, p. 257.

²⁰⁸ Human Rights Watch interview with manager from major Western firm (name withheld), Moscow, June 2, 2008.

²⁰⁹ Labor code of the Russian Federation, articles 228-231.

²¹⁰ Human Rights Watch telephone interview with Elena Goncharova, October 22, 2008.

²¹¹ Labor code of the Russian Federation, article 219; Employers are required to make contributions to a state insurance fund as part of the social taxes paid on behalf of each employee. This applies both to workers with employment contracts and those with civil-legal contracts if that contract indicates that the employer will make social insurance fund payments on behalf of the employee. Russian Federal Law no. 125-F3 “On mandatory social insurance for workplace accidents and employment-related illnesses.”

with an insurance policy that allows the worker to receive services from a medical clinic according to the location of the workers' registration document.²¹²

Because most migrant workers do not have employment contracts and their employers are not making contributions to the state social fund that provides compensation for accidents and do not provide migrant workers with insurance policies, workers may have difficulty paying for any necessary medical treatment for work-related accidents. Under a Commonwealth of Independent States agreement, emergency medical treatment should be free to all CIS citizens in Russia.²¹³ However, migrants interviewed by Human Rights Watch stated that they were frequently required to pay for emergency medical treatment, as well as for non-emergency treatment.

While some workers reported that their companies ensured that injured workers received medical treatment or compensation for their injuries, in many cases employers did not provide any assistance to workers. Experts noted that in case of accidents or any medical service needs, migrant workers simply go to their employers, possibly making the employee more dependent on the employer, who acts as the sole provider of basic social services.²¹⁴

It is not within the scope of this report to detail safety requirements for all types of work on construction sites, but the cases of accidents documented by Human Rights Watch indicate poor safety standards at the worksites in question. According to one foreman from Ukraine working in a private firm in Moscow:

Nobody teaches safety at the workplace. I'm supposed to provide safety instructions for the workers. There is a book where I should note that it was done. While you are working on the main part of the building, you remember about it. Then you just forget, and I don't have time to do it. The main safety directions are: 'You're responsible for your own ass,' and 'Work with your eyes open.'²¹⁵

²¹² Human Rights Watch email correspondence with Yulia Florinskaia, December 4, 2008.

²¹³ Ibid. The Commonwealth of Independent States (CIS) is a regional organization created after the dissolution of the Soviet Union. Azerbaijan, Armenia, Belarus, Georgia, Kazakhstan, Kyrgyzstan, Moldova, Russia, Tajikistan, Turkmenistan, Uzbekistan and Ukraine are members. Georgia announced that it will leave the organization following the 2008 war with Russia. The CIS focuses on collective security and economic cooperation and has also developed proposals for regulating migration between the member states. For more information see <http://www.cis.minsk.by/>.

²¹⁴ Human Rights Watch email correspondence with Yulia Florinskaia, December 4, 2008.

²¹⁵ Human Rights Watch interview with Konstantin K., Moscow, June 12, 2008.

Zhenish Zh., a 27-year-old construction worker doing façade work on new buildings in Irkutsk, told Human Rights Watch, “We [regularly] worked on a height of four meters, without any safety harness, naturally.”²¹⁶

Interviewees told Human Rights Watch about accidents they themselves had had or that they had witnessed. Evgenii E., a foreman from Belarus working at a construction company in Moscow, described his own accident: “I fell down from the seventeenth floor. ... I had a safety belt and a helmet, [but] the scaffold was not well secured and it broke.” Evgenii E. managed to save himself by catching hold of the scaffold on the eighth floor. Nevertheless he broke several ribs.²¹⁷

Vladimir V., a 27-year-old welder from Kyrgyzstan told Human Rights Watch that while he was working on private houses outside of Moscow, twice he fell from a height of about two meters. During one fall, his side caught on a protruding nail, and he was wounded in the abdomen. He and his co-workers treated the wound themselves, because, Vladimir V., said, “To go to a doctor is expensive. I didn’t have any insurance. They told [my boss] to take me to the doctor, but it didn’t do any good.”²¹⁸ Vladimir V. also was twice burned in the face because he was forced to work for one month with an inadequate welder’s mask. Once he was burned in the eye because he was working at a height and unable to wear a mask at all, since he had to use the hand that would normally support a mask to keep himself from falling.²¹⁹

Some interviewees described accidents that they had witnessed. Bolot B., who worked as a plasterer in Russia for one and a half years, told Human Rights Watch,

I saw one Kyrgyz guy about 25 years old, was working on the 24th floor. He did not have a safety belt. He fell and he died. His relatives came and collected his body. I don’t think the company paid him any money. His sister was talking in front of me to someone from the company, she was crying, and the man just told her, ‘We don’t have money now, will give it to you later.’²²⁰

Akmurad A. from Osh told Human Rights Watch that an employer he worked for a construction site in Krasnoyarsk pressured workers to sign statements that they would not

²¹⁶ Human Rights Watch interviews with Zhenish Zh., August 25, 2008.

²¹⁷ Human Rights Watch interview with Evgenii E., Moscow, May 27, 2008.

²¹⁸ Human Rights Watch interview with Vladimir V., Bishkek, March 9, 2008.

²¹⁹ Ibid.

²²⁰ Human Rights Watch interview with Bolot B., Ak-Tash, Kyrgyzstan, March 12, 2008.

hold the employer responsible in the case of an accident. Akmurad A. then described two accidents involving Uzbek workers on this worksite. In one case, according to Akmurad A., “A welder named Zokir fell down from the third floor. He [had not been given] a safety belt. He was working on the facade, ... and he fell. He fell on his left side, suffered a concussion, and a broken left leg.” Akmurad A. learned from Zokir that the employer did not help him with his medical costs.²²¹ In a second case on the same worksite Akmurad A. learned from his co-workers that a young man fell asleep near machinery and suffered damage to his hand and arm after his sleeve got caught in the machinery. The man’s friends each gave him money to help him pay for medical treatment, but the company did not pay.²²²

Nurbek N., a construction worker from Kyrgyzstan, learned from a friend about an accident involving his friend’s brother. “The brother of a friend of mine was working in construction. He fell and hurt his hip. [The employer] kicked him out, [saying] they didn’t need him anymore.” According to Nurbek N.’s friend, there was no compensation from the employer.²²³ Ruslan R., who was working in Moscow, stated, “One of my co-workers fell from the second floor. We did not bring him to the hospital since he didn’t have a residency registration ... I sold my [mobile] phone for 7,000 rubles [and we sent him home].”²²⁴

According to a former manager at a Turkish construction company, one of the largest general contracting firms working in Russia, during construction on one site in 2007, seven workers, four from Turkey and three from Tajikistan, died. Local authorities arrived after two hours to investigate, and the company was required only to present to the authorities the safety instructions issued to workers in order to demonstrate that the deaths had been accidental. No further investigation was conducted. The construction company paid compensation to the families.²²⁵

Threats and Use of Violence by Employers

“Get out of here as fast as you can, or I will call my guys and they will beat you up.”²²⁶

—Employer’s response when Akmurad A., a migrant worker from Kyrgyzstan, requested money owed to him.

²²¹ Human Rights Watch interview with Akmurad A., March 14, 2008.

²²² Ibid.

²²³ Human Rights Watch interview with Nurbek N., Bishkek, March 27, 2008.

²²⁴ Human Rights Watch interview with Ruslan R., Moscow, May 26, 2008.

²²⁵ Human Rights Watch interview (name withheld), Moscow, July 11, 2008.

²²⁶ Human Rights Watch interview with Akmurad A., March 14, 2008.

Employers may threaten or use violence to intimidate workers who take action such as protesting against non-payment of wages or attempt to exercise their right to strike. Employers or their representatives, such as foremen, have threatened or beat workers themselves or have threatened or instructed construction site guards, police, or hired thugs to beat workers. Employers also threatened to denounce workers who did not have residency registration or work permits to the police.

One Kyrgyz migrant worker working as a brigadier at a large construction site in Krasnoyarsk told Human Rights Watch about an attempt by several brigadiers and workers to organize a strike in response to the company's failure to pay wages:

The brigadiers gathered that day and decided to strike. It was August 30, 2006. We... came to the foreman ... He said, 'You'll get your money on December 31...' He called the guards. They started to beat one worker from Samarkand [Uzbekistan] in front of us. We all went back to our work places, and gave some medical assistance to the beaten guy ourselves. We could not bring him to the hospital as he did not have a residency registration.²²⁷

In another case, a migrant worker described threats from his employer when he and several others attempted to strike:

We were building two-storey cottages. In the beginning, the general director..., told us that he will pay us weekly, then promised to pay every fifteen days. [But] we were not paid in full. ... We said that we will start a strike, since we were not paid at all for three weeks. They tried to beat me and my brother, but some of the other workers protected us. ... The foreman said, 'I will call the guards and they will throw you out of here, just throw you into the garbage.'²²⁸

Vladimir V., a 27 year-old construction worker from Bishkek, was doing finishing work on private houses in Moscow in July 2007 when his employer refused to pay him the full amount Vladimir V. believed was owed to him. Vladimir V. stopped working and demanded US\$400 and the employer threatened him saying, "If you aren't going to work, then go dig yourself a grave. Russia is big, there are lots of forests, and no one will find any trace of you," and "If

²²⁷ Ibid.

²²⁸ Human Rights Watch interview with Ruslan R., Moscow, May 26, 2008.

you don't listen to me, I'll make you work for me for free.”²²⁹ Out of fear, Vladimir V. and a fellow worker left their employer without collecting the money owed to them. Vladimir V. hitchhiked 1,000 kilometers to his brother's house in Volgograd where he waited until his wife was able to send him money to buy a return ticket to Kyrgyzstan.²³⁰

In one case documented by Human Rights Watch, an employer beat and held captive one worker from Uzbekistan, apparently in an attempt to extort money from the man and his family over a dispute at work. Khakimjon Kh., a 50-year-old construction worker, arrived in Moscow on May 16, 2008, and began work on a construction site in Moscow oblast. The employer confiscated his documents, claiming to be arranging his residency registration and work permit. A few weeks after he began working together with three others renovating a sauna and a car repair shop, the employer claimed that the workers had not laid a concrete foundation properly, and demanded that they pay for it. However, the workers did not have the money readily available, and the employer began beating Khakimjon Kh. and the other men working with him. The three men then fled, but the employer locked Khakimjon Kh. in a garage for three days, giving him only bread and water and giving him a phone from time to time demanding that he call home to force his relatives to send money.²³¹

While captive in the garage, Khakimjon Kh. made contact with some people standing outside, who called the police. When the police came, however, they told Khakimjon Kh. to “deal with it yourself,” and left him in the garage. He was eventually able to phone an Uzbek friend in Moscow, who contacted the organized crime unit. This time, when the police arrived, they secured his release. The police rescue of Khakimjon Kh. is notable, as in many instances police are themselves likely to abuse migrants. Khakimjon Kh. believes the prosecutor's office opened an investigation into the incident.²³²

Nurmakhmad N., a 25-year-old construction worker, told Human Rights Watch that during the summer of 2007 he and three other workers agreed with a private home owner in the Istrinskii raion north east of Moscow to construct drainage on the man's property for a fee of US\$1,200. Nurmakhmad N. and the others worked for 10 days, but on completion of the job, the property owner claimed that the water would not run in the drainage, and paid only US\$200. [When we complained] he started to say, ‘I am going to call the cops now.’ And our

²²⁹ Human Rights Watch interview with Vladimir V., March 9, 2008.

²³⁰ Ibid.

²³¹ Human Rights Watch interview with Khakimjon Kh., Moscow, July 25, 2008.

²³² Ibid.

guys didn't have registration. We just left, or else he would call the cops.... Just so there wouldn't be any kind of conflict.”²³³

Zhenish Zh. and a friend, both from Bishkek, went to work on a construction site in Irkutsk after a neighbor proposed they work for his friend, Slavik. Although as described in other sections of this report, the employer provided poor living conditions, signed an illegal contract with Zhenish Zh., and refused to pay them according to their oral agreement, Zhenish Zh. continued to work for Slavik for two months. When at the end of the second month Slavik still was not paying salaries in full, Zhenish Zh. and his friend confronted Slavik, and the discussion became heated. Zhenish Zh. remembers: “Slavik started to call some tough guys he knew. Four Russian guys who worked for him came. One of them ... yelled at us, ‘You are foreigners here. You think you can dictate here? Go back home. You are nothing here!’ And then Slavik yelled at us, ‘I am going to take you to the woods and bury you!’” Zhenish Zh. and his friend fled and then hitchhiked from Irkutsk to Bishkek.²³⁴

3.5 Ill-treatment and Extortion by Police and other Officials

Human Rights Watch documented numerous cases of police extorting money from and physically abusing and humiliating migrant workers. In some egregious cases, police forced migrant workers to perform forced labor at police stations or other locations. Many migrants also stated that they were forced to pay bribes, often multiple bribes, to border guards, customs officials, police or other authorities, at the numerous border crossings in Central Asia and to enter Russia.

International human rights law guarantees the security of person and the right to be free from cruel, inhuman, and degrading treatment or punishment. The latter right is protected in absolute terms against such abuse by state authorities, for all persons, irrespective of legal status or any other consideration.²³⁵ Governments must investigate all allegations of torture and cruel, inhuman and degrading treatment and identify and punish those responsible. The Russian government has not taken sufficient measures to combat police abuse or made effective avenues for redress readily available for victims. Central Asian governments have also failed to confront routine threats and extortion by government officials of migrant workers at their countries' borders.

²³³ Human Rights Watch interview with Nurmakhmad N., Dushanbe, February 27, 2008.

²³⁴ Human Rights Watch interview with Zhenish Zh., August 25, 2008. The friend Slavik was also from Kyrgyzstan.

²³⁵ ICCPR, art. 10; and “No one shall be subjected to torture or to inhuman or degrading treatment or punishment,” ECHR, art. 3.

Ill-treatment and Extortion by Police in Russia

Human Rights Watch documented numerous instances in which police extorted money from and beat migrant workers. Some of the incidents took place when police came to workers' construction sites or homes. The majority happened when police singled out the individuals allegedly to determine whether their identity documents and residency registration were legal and valid. This discriminatory practice affects not only migrant workers, but any migrant visitor, or Russian citizen with a non-Slavic appearance, particularly in such large cities as Moscow and St. Petersburg. These inspections rarely produce evidence of a violation, and are often a pretext for the extortion of small bribes.²³⁶ A 2006 study by the Open Society Institute and the Moscow-based nongovernmental organization JURIX determined that police in the Moscow metro engaged in widespread racial profiling and conducted document inspections of people of non-Slavic appearance 21.8 times more often than those of Slavic appearance. The study found that this "disproportion is massive and cannot be explained on non-discriminatory, legitimate law enforcement grounds."²³⁷

The majority of migrant workers told Human Rights Watch that during a document inspection on the street or other encounter, police would typically demand a bribe of 100-200 rubles (US\$4.22-8.44), although some migrant workers reported paying up to 1,000 rubles (US\$42). In most cases, if migrants simply paid the bribe, the police would release them without further incident. Some migrant workers told Human Rights Watch that, so long as their documents were in order, they did not have to pay any bribes to police during these 'inspections.' However, some migrant workers also suffered beatings, humiliation, and forced work at the hands of police. The most egregious of these cases are described in this section. Migrant workers also stated that they believed filing a complaint to a government agency regarding ill-treatment by police would at best be ineffective and at worst would do further harm.

²³⁶ European Commission on Racism and Intolerance, "Third Report on the Russian Federation," May 16, 2006, http://www.coe.int/T/E/human_rights/Ecri/4-Publications/ (accessed October 14, 2008), para. 158; and Open Society Justice Initiative, "Ethnic Profiling in the Moscow Metro," Open Society Institute Justice Initiative, http://www.justiceinitiative.org/db/resource2?res_id=103244 (accessed April 23, 2007). The U.N. Committee on the Elimination of Racial Discrimination (CERD) expressed its concern about "racially selective inspections and identity checks targeting members of specific minorities, including those from the Caucasus..." Committee on the Elimination of Racial Discrimination (CERD), Concluding observations of the Committee on the Elimination of Racial Discrimination on the Russian Federation CERD/C/62/Co/7, 62nd session, March 21, 2003.

²³⁷ Open Society Justice Initiative, "Ethnic Profiling in the Moscow Metro."

Police targeting migrant workers in public places

Many victims of police abuse were stopped by police while walking in public places. Dastan D., from Kyrgyzstan, worked as a welder in towns near Moscow. He had numerous encounters with police, who detained him, beat him, extorted money from him, and forced him to work. “I had a residency registration, but once two cops stopped me at the Kazan train station [in Moscow] and took my registration document and demanded 1,000 rubles (US\$42). Then they hit me in the chest and stomach. They said my registration was fake.”²³⁸

After working on a construction site during the summer of 2007 in Tyumen, on October 25, 2007, Dastan D. was on his way to the train station to go home after having received his final month’s salary of 13,000 rubles (US\$549), when three policemen stopped him on the street. Dastan D. turned to walk away from them when one of them hit him in the back of the head, possibly with some kind of a wooden board. He described to Human Rights Watch what he could remember of the aftermath of this attack.

I lost consciousness and only came to in the hospital. My relatives found me there one month after the attack, on November 27. My brother and sister found me in the hospital and brought me home. All my money and documents had been stolen. I lost some of my memory. When I returned home I did not recognize my children. ... My ear is injured ... and my skull was broken in two places... and I suffered a concussion. ... I will never go to Russia again.²³⁹

Although Kyrgyz police questioned him about the incident in January 2008, Dastan D. has no desire to pursue charges against the police who attacked him. He told Human Rights Watch, “What would I need that for? I already lost everything. It is enough that I am alive. ... I still need to work in Kyrgyzstan. Why would I make a lot of noise about this?”²⁴⁰

Nurmakhmad N., who worked as a private construction worker, described the ill-treatment he received at the hands of police in Moscow in September 2007:

I was walking on the street and I had 15,000 rubles on me (US\$633) because I had gotten paid. Four police men stopped me and took me to the police station. They tore up my registration and took my money. They were even

²³⁸ Human Rights Watch interview with Dastan D., Jylkeldy, Kyrgyzstan, March 12, 2008.

²³⁹ Ibid.

²⁴⁰ Ibid.

firing at me with a toy gun. I told them that I would go to the embassy and file a complaint. Then they decided to hold me for two days. ... They beat me with truncheons. First one would hit me, then the second. ... On the third day, in the evening, they let me go, after I said that I would not go anywhere and complain.²⁴¹

While working in Russia from June 2006-January 2008, Kurmanbek K., a 24-year-old worker from Kyrgyzstan, said that during that time he was frequently stopped by the police, who asked him for money. Although sometimes they would let him go without paying, usually he paid 100 rubles (US\$4.22), and once he paid 1000 rubles (US\$42).²⁴²

Umed Tohrirov, a human rights defender from Tajikistan, told Human Rights Watch about an encounter he had when police stopped him at the Savelov train station and pressured him for a bribe. He had arrived in Moscow four days earlier and had not yet received his residency registration document. “One sergeant stopped me and checked my documents,” he told Human Rights Watch. “The sergeant said, ‘So, you admit that you were caught [without a registration]? Let’s solve this problem or we will deport you and you cannot come back here.’”²⁴³ A second police officer together with this sergeant then stopped three other ethnic Kyrgyz and humiliated them. Tohrirov remembered,

Three guys, around 20-22 years old were walking down the street. The cop said, ‘Oh, look! Here are more of our clients!’ One of them did not speak Russian. The cop said, ‘You don’t speak Russian!? Say, “I am a monkey. Repeat after me: I am a monkey.” If you don’t understand then why the fuck did you even come here.’ The [cop] was mocking this guy, [saying], ‘Dance for me! Come on, dance for me!’”²⁴⁴

Some police also target migrants at train stations in Moscow when they arrive or depart for their home countries. Migrants who are traveling home are likely to be carrying earnings with them from their work in Russia and those who are arriving would presumably have some cash for at least their initial stay in Russia. Zufar Z. described to Human Rights Watch his experience at the train station: “In order to board the train, you need to pay 1,000 rubles (US\$42). A cop catches you, and it doesn’t matter whether you have a residency registration or not. You pay [the money] and then wait to the side while they catch others. Each cop gets

²⁴¹ Human Rights Watch interview with Nurmakhmad N., Dushanbe, February 27, 2008.

²⁴² Human Rights Watch interview with Kurmanbek K., Katta-Taldyk, Kyrgyzstan, March 15, 2008.

²⁴³ Human Rights Watch interview with Umed Tohrirov, Moscow, June 11, 2008.

²⁴⁴ Ibid.

about 10 people. Then as you are boarding the train they scream, “That one is mine! And that one!” Indicating which ones of us had already paid.²⁴⁵

In October 2008, at the Kazan train station in Moscow, a Human Rights Watch representative witnessed police demanding a bribe from a passenger in possession of a ticket to Tashkent, Uzbekistan and attempting to board the train. They demanded 500 rubles (US\$21) plus 200 rubles (US\$8.44) “for a baggage porter.” Upon the intervention of the Human Rights Watch representative, the police ceased demanding the 500 rubles but insisted on the 200 rubles.

Police targeting migrant workers at or near their workplaces or homes

Some migrant workers told Human Rights Watch about police harassment and attacks at their workplaces of work or at their homes. Several construction day workers living in make-shift housing in a village in Moscow oblast reported regular early morning visits by riot police (known by the Russian acronym OMON), who apparently use the pretext of document inspections to extract bribes and terrorize the residents with beatings. According to one resident, “My wife and I have lived here for three years. About every other day in the early morning the OMON come. They don’t care whether you have a document or not. They beat the young people.”²⁴⁶

A 31-year-old resident of the same make-shift housing confirmed:

In the middle of March 2008, we were asleep, and the OMON came. When we heard them, we ran. There were six of them in black uniforms... As I ran, they struck me in the back with a pole that was like the handle of a shovel, and I fell down. They hit me hard. When I fell, two started to beat me with the poles and their fists. They beat me in the legs and head but didn’t touch my face. ... And then they threw me into some water, and I was in up to my chest. There was still ice. I broke through the ice.²⁴⁷

Another resident from told Human Rights Watch how OMON police beat him as well (see *Russian Government Protection Members and Gaps*, below).

²⁴⁵ Human Rights Watch interview with Zufar Z., Osh, Kyrgyzstan, March 14, 2008.

²⁴⁶ Human Rights Watch interview with Murad M., Chelobitievo, Moscow oblast, October 8, 2008.

²⁴⁷ Human Rights Watch interview with Mukarbek M., Chelobitievo, Moscow oblast, October 8, 2008.

Ravshan R., a worker from Uzbekistan, described a raid by OMON riot police at his worksite in Chelobitevo, Moscow oblast, in 2008 during which police humiliated and intimidated the workers:

One day the foreman told us that the OMON would arrive at 7 p.m. and so we should stay in the woods that night. In the morning we went back to the site because we wanted our two eggs [that they provided for breakfast].

One day after lunch, when I was working, I suddenly saw a lot of policemen. Sometimes the police would arrive to check documents, but this time was different. They immediately started yelling and calling us names such as sheep and making fun of us. There were 35-40 of them. They forced some workers to try to tow an UAZ car with the breaks on. ... The police came back again after three days. Since we did not have work permits, we ran away. ... We did not have money to get work permits.²⁴⁸

Police repeatedly forced Dastan D., a welder from Kyrgyzstan, to do work for them or their friends, under threat of ill-treatment. He told Human Rights Watch:

I worked in Russia for four months in 2006. The police came to our work every day. They would detain me sometimes and hold me overnight in the police station. They forced me to unload metal barrels into the garbage truck. If I refused to do it, they would beat me. Sometimes they would detain us, take us to a village, and force us to work [doing construction on houses] belonging to their friends. Ten times or more they forced us to work in the village.²⁴⁹

In late 2007 24-year-old Kurmanbek K. and three coworkers were stopped by the police near the construction site. The police took them to the police department and told them to paint a room there, and then let the four men go. When asked if he complained anywhere about this incident he said, "There is no point to complain. The law is always on their side."²⁵⁰

Police at times may collude with employers to exploit workers. Kurmanbek K. also told Human Rights Watch that his employer apparently called the police to detain him and

²⁴⁸ Human Rights Watch interview with Ravshan R., April 17, 2008.

²⁴⁹ Human Rights Watch interview with Dastan D., March 12, 2008.

²⁵⁰ Human Rights Watch interview with Kurmanbek K., March 15, 2008.

several workers after they had finished a two-month construction project. Kurmanbek K. did not receive any wages for the work. “There were six of us working for one man in Moscow [in 2007],” he said. “We worked for two months and he cheated us. We did finishing work laying tiles in a building entryway. One day before New Years, the owner called the police and they came and detained me. They let me go, but I had no money at all. I had to go home.”²⁵¹

A diaspora leader in Krasnodar described the use of police force against his compatriots. “It is often the case that the employers make deals with the cops. These workers work for three months and then the cops come to the site and throw them out of there,” he told Human Rights Watch.²⁵²

Extortion by Officials during Travel to and from Russia

Most of the migrants interviewed by Human Rights Watch who traveled by train to Russia from Kyrgyzstan, Tajikistan, and Uzbekistan stated that they were forced to pay bribes, often multiple bribes, to border guards, customs officials, police, or other authorities, at the numerous border crossings in Central Asia and to enter Russia. A refusal to pay would result in threats of violence or removal from the train. According to Dastan D., who travelled from Kyrgyzstan, “The first time I went to Russia, I traveled there and back by train. At all border checkpoints, except the Kyrgyz one, they demanded money from us. They asked for 1,000 or 2,000 rubles (US\$42-84). Once they even said, “Give me US\$100!”²⁵³

Subhiddin S., a 45-year-old construction worker from Tajikistan who has worked in Russia seasonally for six years told Human Rights Watch that during the train ride to Moscow, “In Uzbekistan, Turkmenistan, Kazakhstan, and Russia, the customs officers take 200-300 rubles at each border crossing.”²⁵⁴

Tohir T., also from Tajikistan had had a similar experience. When going by train to Moscow, “I take with me 3,000 Russian rubles (US\$127) and God willing, some of it will be left by the time I get to Moscow. At the station [in Moscow, the police] check you for drugs, and you pay each 100-300 rubles (US\$4.20-12.67). There are a lot of checks in Uzbekistan, Turkmenistan. At each border they take a maximum of 400 rubles (US\$16.89). They check your bags in

²⁵¹ Ibid.

²⁵² Human Rights Watch interview with diaspora leader (name withheld), Krasnodar, June 7, 2008.

²⁵³ Human Rights Watch interview with Dastan D., March 12, 2008.

²⁵⁴ Human rights Watch interview with Subhiddin S., February 26, 2008.

order to take money. They scare you, ... ‘If you don’t pay, we’re gonna throw you off the train!’ It’s that way on every border.”²⁵⁵

²⁵⁵ Human Rights Watch interview with Tohir T., February 27, 2008.

PART 4: PROTECTION AND REDRESS

4.1 Russian Government Protection Measures and Gaps

Recent reforms indicate that the Russian authorities' have recognized the need to reform laws and policies related to migrant workers. The government has simplified procedures for workers to regularize their residency and employment in Russia and begun to develop additional legislation to regulate employment agencies. Some regional governments have responded to migrant workers' immediate needs for housing and other services upon arrival in Russia by developing migration centers which include subsidized housing.

As outlined in *Russian Legal Obligations and Migration Policy* above, Russia's human rights obligations require the government to take positive measures to protect migrant workers from abuse and exploitation. Effective, accessible mechanisms for timely redress for abuses are a crucial dimension of rights protection, yet have not received sufficient attention from the Russian authorities. Although a number of entities exist that at least formally should provide avenues for redress, including the Federal Work and Employment Service (Rostrud), the courts, the prosecutor's office, and the human rights Ombudspersons, none of these mechanisms has proven adequate to effectively investigate and ensure prosecution of violations, as described in detail in this chapter.

As a key aspect of protection of the human rights of migrant workers, the Russian government should establish effective, accessible mechanisms to receive, investigate, and prosecute complaints of abuse by both private and state actors. Migrant workers' complaints should be investigated irrespective of their migration and contractual status.

Reforms in Migration Legislation

As described in detail above (see *Laws Relating to Migrant Workers*), the Russian government has undertaken a number of reforms to simplify the procedure for obtaining a residency registration and work permit to ensure that more migrant workers are regularized in Russia. The authorities have also increased fines for migrant workers and employers violating migration laws. These measures have had certain success in decreasing irregular migration in Russia. However, many obstacles to regularization remain, including the three-day rule for residency registration, the restrictive nature of the quota system, and the

burdensome process of obtaining medical documentation as part of the work permit process, as described above.

Government-Sponsored Migration Centers

Some regional governments have identified the most pressing needs of many migrant workers to be readily available short-term housing, legalization of stay and work, and job placement. In response, a few regional governments have developed migration centers, which provide these services. Human Rights Watch visited the Sverdlovsk Oblast Migration Center in Ekaterinburg, which provides various services to migrants, including fee-based assistance to migrant workers in finding jobs, obtaining work permits, and finding housing. The Center has also renovated one building on a former military training site on the outskirts of Ekaterinburg into a 370-bed dormitory. The dormitory is designed to provide temporary housing for migrant workers for the initial period following their arrival in Ekaterinburg. However, as of this writing, the center was not functioning due to ongoing legal disputes over use of the site. The Sverdlovsk Oblast government also has plans to renovate other buildings on the site into 15 additional dorms, a gymnasium, a medical center and educational facilities.²⁵⁶ Local governments in a few other Russian cities, including Moscow and Kazan, are proposing similar projects.

Human Rights Watch is concerned that this approach, at the very least, risks isolating migrant workers on the edge of the city rather than integrating them into the local community. This approach may also make migrant workers vulnerable by distancing them from services and resources other than those provided by the migration service itself, including employment contacts as well as non-governmental organizations.

The Council of Europe has called on governments to take measures to integrate migrants into local communities and reduce segregation in order to ensure their “democratic participation,” which it notes can take many forms beyond political participation. Democratic participation can include also the exercise of rights such as freedom of expression, thought, conscience and religion; freedom of association, including membership of political parties or trade unions and participation in demonstrations; as well as participation in civil society, whether in migrant-dedicated associations or other associations with wider remits such as sports, arts, charity, philosophy or religion.²⁵⁷

²⁵⁶ Human Rights Watch interview with Irina Nekrasova, counsel and Alexander Panin, assistant to the director, Sverdlovsk Migration Center, Ekaterinburg, May 29, 2008.

²⁵⁷ Parliamentary Assembly of the Council of Europe Resolution 1618 (2008) State of democracy in Europe: Measures to improve the democratic participation of migrants, adopted on June 25, 2008.

Authorities at all levels should take measures to ensure that initiatives to provide subsidized housing and other services for migrant workers provide for the integration of migrants and reduce segregation.

Regulation of Intermediaries

The perpetrators of many of the violations of migrants' rights described in this report, particularly of social and economic rights, were intermediaries. Russia has not done enough to regulate the actions of intermediaries, including private employment agencies, brigadiers, and other agencies involved in the recruitment and legalization of migrant workers. There are no laws regulating private employment agencies engaged in recruitment of workers from abroad. There is only a law regulating agencies engaged in the employment of Russian citizens seeking employment abroad. A law on regulation of private employment agencies providing services to foreign workers is currently being drafted and likely will be ready for public and parliamentary debate in the first half of 2009.²⁵⁸

The Russian government has also not taken sufficient steps to identify and punish intermediaries or employers responsible for issuing false documents to migrants. According to officials at the Embassy of Tajikistan, "Not a single intermediary has been punished for providing false documents [to migrants]."²⁵⁹ Some government officials recognize the abusive role played by intermediaries, both Russian and from home countries. In an interview with Human Rights Watch, the deputy ombudsman of Krasnodar stated, "There are intermediary firms who regularly bring people here and then fail to provide them with the necessary documents. Then [the workers] are here suffering. These firms take money from people, bring them here, and then sell them. This is a complete disgrace."²⁶⁰

Inadequate and Inaccessible Government Complaint Mechanisms

Russia has a number of official agencies and mechanisms which could potentially redress abuses against migrant workers. The Federal Work and Employment Service, also known as Rostrud, is responsible for providing services and conducting oversight related to work and employment, including migrant labor and receives complaints from workers who believe their labor rights have been violated. The Russian prosecutor's office is responsible for protecting rights, including labor rights, guaranteed under the Russian constitution, and should investigate and prosecute

²⁵⁸ Human Rights Watch telephone interview with Nikolai Kurdumov, December 22, 2008.

²⁵⁹ Human Rights Watch interview with Musamirsho Gafurov and Dzharubali Saburov, migration policy group, Embassy of Tajikistan, Moscow, May 27, 2008.

²⁶⁰ Human Rights Watch interview with Vladimir Kozlov, deputy ombudsman for Krasnodar krai, Krasnodar, June 7, 2008.

violations. District courts receive complaints directly from workers. Finally, the Russian Ombudsman and regional ombudspersons are charged with promoting and protecting human rights, including by receiving and acting on complaints of abuse.

However, for different reasons each of these mechanisms fails to serve as an adequate and effective mechanism for redress for migrant workers who have faced abuse. The Russian government should take steps to improve and expand existing mechanisms and also consider the creation of additional mechanisms. In all cases, workers' complaints should be investigated irrespective of workers' migration or contractual status.

Most migrant workers interviewed by Human Rights Watch stated that they did not file complaints about employer or police abuse. Very few migrants whom Human Rights Watch interviewed had knowledge of their legal rights vis-à-vis employers or the police or about mechanisms of redress for the abuses they had faced in Russia. Experts on migration in Russia confirm that migrant workers have low knowledge of their legal rights and are most likely to receive legal information from unreliable sources or from the very parties who are likely to abuse them, namely their employers, brigadiers or middlemen, and family, friends or acquaintances. Only five percent of migrants get information from any official agency, such as the Federal Migration Service.²⁶¹ Few migrant workers receive rights information from NGOs, and in most cases only when they have appealed to the organization for an abuse they have already suffered.

Migrant workers who had some knowledge of their rights or had considered making a complaint often feared approaching any kind of official agency because they feared fines or deportation as a result of their irregular status. As described above, migrant workers' irregular status is often the result of employers' failure to provide contracts. Others demonstrated little faith in a successful result of a complaint because of a low level of trust in a positive outcome and fear of discrimination.

The Russian government should inform migrants of the available mechanisms of redress through education campaigns at entry points to Russia and other locations, including in cooperation with employers, non-governmental organizations, and labor-sending countries' embassies. The government should also ensure that those various mechanisms effectively respond to workers' complaints as described in the next sections.

²⁶¹ Human Rights Watch interview with Zhanna Zaionchkovskaia, Moscow, May 26, 2008.

Rostrud

The Federal Work and Employment Service, also known as Rostrud, is responsible for providing services and conducting oversight related to work and employment, including migrant labor, and falls under the supervision of the ministry for health and social development. The agency maintains offices in 82 provinces of Russia. Rostrud's department for oversight and control of employment law is responsible for enforcement of labor law through planned and spontaneous inspections and investigation of employment-related complaints. Rostrud is also responsible for informing and consulting employers and workers regarding employment law.²⁶²

According to the deputy director of Rostrud's oversight department, Tatiana Zhigastova, Rostrud receives about 120,000 complaints per year. Rostrud will receive complaints from any worker, regardless of citizenship, in person, by mail, or via the internet, and there is no statute of limitations for filing a complaint. However, Rostrud has the authority to conduct full investigations into complaints only when the existence of labor relations has not been contested, for example, if a written employment contract (in Russian, *trudovoi dogovor*) has been signed. The agency does not have the authority to investigate cases in which labor relations are disputed, as happens very often in cases when no contract or only an oral agreement exists between the parties. According to Zhigastova, "We don't work with witnesses, evidence. We work only with documents." In instances when a retainer contract (in Russian, *grazhdansko-pravovoi dogovor*, the typical legal document for services, contractual work, etc.) has been signed, Rostrud will also not investigate a worker's complaint because retainer contracts are not subject to Russian labor law. (In some instances employers sign these types of contracts with workers who are performing continual work in order to avoid the legal obligations created under an employment contract). Rostrud will also not investigate any complaints of cases which have already been decided by a court.²⁶³

In the absence of an employment contract, workers must appeal to a local court in order for the court to establish whether official labor relations *de facto* existed between the worker and employer. As described below courts themselves may be reluctant to establish employment relations in the absence of an employment contract. Furthermore, lawsuits are not a viable option for most migrant workers.

²⁶² See the official website of the Federal Work and Employment Service:

http://www.rostrud.info/structure/central_apparat/uptrud/ (accessed October 13, 2008).

²⁶³ Human Rights Watch interview with Tatiana Zhigastova, deputy director, department for oversight and control of observance of labor laws, Federal Work and Employment Service Moscow, October 10, 2008.

The agency does not maintain statistics on whether complaints are received from citizens or non-citizens, but Zhigastova said that there have only ever been “a handful of complaints from foreign workers.”²⁶⁴ As indicated above, most migrant workers do not have legally-binding, if any, contracts at all. Furthermore, workers engaged as private contractors under law would only be capable of signing retainer contracts. With respect to employment of foreign workers, Zhigastova noted that there are “a lot of violations,” such as employers signing a contract with a worker in one copy only and then destroying the contract. However, she also told Human Rights Watch that workers from the CIS “often agree to work without employment contracts,” and that this is “their fault,” because it then makes it impossible for Rostrud “to protect them because there is not the necessary evidence.”²⁶⁵

The Russian government should expand the authority of Rostrud to investigate fully complaints of any labor law violations, including wage violations, even in cases in which there is no written employment contract, and ensure adequate training and resources for Rostrud staff to conduct these investigations.

Courts

Workers have the right to appeal directly to district courts in cases of labor violations. A worker must apply within three months from the day that he or she “knew or should have known about the violation.”²⁶⁶ One labor lawyer whom Human Rights Watch interviewed stated that they generally are satisfied with the work of courts in cases of labor violations and that courts understand labor law and are interested in protecting workers.²⁶⁷ However, the lawyer, with experience in cases involving Russian citizens’ complaints of non-payment of wages, told Human Rights Watch that courts’ general approach to these kinds of cases leaves workers vulnerable. The lawyer described cases in which workers had secured a legal employment contract, but were promised, or even for a time actually received, a higher salary than that indicated in the contract, according to an oral agreement with the employer. As noted above, employers often use this tactic to avoid paying taxes on the full salary. The lawyer noted that in such cases courts are very reluctant to review any evidence other than an employment contract as proof of salary. The lawyer also believed this situation might change only if more workers are willing to bring these cases forward and lawyers to use strategies to persuade judges to examine a more diverse body of evidence in these cases.²⁶⁸

²⁶⁴ Ibid.

²⁶⁵ Ibid.

²⁶⁶ Labor Code of the Russian Federation, articles 391-392.

²⁶⁷ Human Rights Watch telephone interview with Elena Goncharova, October 22, 2008.

²⁶⁸ Human Rights Watch telephone interview with Elena Goncharova, October 22, 2008.

The Russian government should also train judges to consider all cases of alleged violations of the rights of migrant workers, even when workers do not have employment contracts. Only one migrant worker interviewed by Human Rights Watch, Faizullo F., one of several workers who were victims of forced labor, non-payment of wages, and other abuses in Orel in 2006, is pursuing a lawsuit against an employer. The victims from this well-publicized case are being assisted by the Russian NGO Civic Assistance. For migrant workers who in most cases have no contracts and often experience wage violations, courts' approaches to these circumstances present a serious challenge. Also, migrant workers in most cases do not have the resources required to pursue a lawsuit during their time in Russia. For workers who return to their home countries, the pursuit of a lawsuit in Russia is nearly impossible. Employment agencies also told Human Rights Watch that they do not see a lawsuit against an abusive employer in Russia as realistic. The director of one employment agency in Tajikistan stated that there have been instances when employers did not comply with the terms of the agreement signed with the agency, but the agency considered it impossible to sue the employer in a Russian court due to staff and resource limitations and a lack of confidence they would get a fair hearing.²⁶⁹

Prosecutor's Office

According to the Russian Law on the Procuracy, the prosecutor's office is charged with "protection of rights and freedoms," including labor rights, and other rights guaranteed by the Russian constitution.²⁷⁰ The prosecutor's office should review and investigate complaints of abuse of human and citizens' rights, and prosecute administrative, civil, and criminal violations.²⁷¹ This report documents many labor rights violations, as well as criminal violations under the Russian criminal code.²⁷² The General Prosecutor's Office announced in July 2008 efforts to strengthen its work regarding labor violations with respect to migrant workers, noting that "employers, using the vulnerable position of migrants, blatantly violate existing labor laws and labor protection laws."²⁷³ The prosecutor's office should also more

²⁶⁹ Human Rights Watch interview with Khalimjon Rakhimov, director, Tojikhorichakor, Dushanbe, February 27, 2008.

²⁷⁰ Federal Law "On the Procuracy of the Russian Federation," No. 2201, January 17, 1992, with amendments, article 26.1.

²⁷¹ In cases of administrative violations, the prosecutor's office may also refer the case to another authority authorized to review administrative cases. Federal Law "On the Procuracy of the Russian Federation," article 27.

²⁷² These include crimes threatening life and health, including torture (article 117), infliction of grave injury (article 118), threat of murder or infliction of grave injury (article 119); illegal deprivation of liberty (article 127); violation of labor protection rules (article 143); as well as non-payment of wages of over two months (article 145.1). Numerous economic crimes, including tax evasion and extortion are also criminal offenses. The Criminal Code of the Russian Federation, Federal Law No. 64-FZ of June 13, 1996, with amendments.

²⁷³ General Prosecutor's Office of the Russian Federation, "General Prosecutor's Office of the Russian Federation Strengthens Oversight of Adherence of Labor Rights of Migrants," Press Release, July 31, 2008.

proactively confront the long-standing impunity for police violence and extortion.²⁷⁴ Few migrants have filed complaints with the prosecutor's office, as indicated above, either because they were not aware of the possibility of doing so or feared that there would be no result or even negative outcomes that might worsen their situation.

Rostrud told Human Rights Watch that in 2007 it forwarded 14,482 cases of alleged violations of labor protection rules to the prosecutor's office. In 465 cases investigations were opened, and 56 cases were tried. Rostrud similarly forwarded 1,669 cases of alleged non-payment of wages to the prosecutor's office, of which 12 went to trial.²⁷⁵ It is not known if any of these cases are related to migrant workers, however, as stated above, Rostrud officials indicate that the agency receives very few complaints from foreign workers.

According to one diaspora leader who had forwarded several complaints regarding non-payment of wages to the prosecutor's office in Ekaterinburg, "Prosecutor's offices generally refuse to take these cases, since people don't have work contracts." As a result, the diaspora leader resorts to informal methods. "We try to find ... the employer and call on their conscience to do the right thing," he told Human Rights Watch.²⁷⁶ Embassy and consular officials similarly reported that the prosecutor's office did not actively engage on such cases. Some officials claimed that the prosecutor's office sent pro-forma information about the measures it was taking with respect to the cases, although few resulted in concrete outcomes.²⁷⁷

A few migrant workers interviewed by Human Rights Watch described their direct contact with the prosecutor's office in Russia. A 45-year-old worker from Khujand submitted a complaint about non-payment of wages to the prosecutor's office in Moscow in 2007, but, as of this writing, had not heard anything. He had worked for seven months in Moscow building a cultural center. Although he had a written contract and his employer promised to pay 15,000 rubles per month, the employer ultimately paid him just over half that. The employer also confiscated his passport.²⁷⁸

²⁷⁴ In its 2007 concluding observations on the Russian Federation, the UN Committee against Torture noted "the particularly numerous, ongoing and consistent allegations of acts of torture and other cruel, inhuman or degrading treatment or punishment committed by law enforcement personnel," as well as "... the failure to initiate and conduct prompt, impartial and effective investigations into allegations of torture or ill-treatment." Committee against Torture, Consideration of Reports Submitted by States Parties: Russian Federation, Conclusions and Recommendations, Thirty-seventh session, November 6-24, 2006.

²⁷⁵ Human Rights Watch interview with Tatiana Zhigastova, October 10, 2008.

²⁷⁶ Human Rights Watch interview with diaspora leader (name withheld), Krasnodar, June 6, 2008.

²⁷⁷ Human Rights Watch interview with embassy official, Moscow, (name and date withheld); Human Rights Watch interview with embassy official, Moscow, (name and date withheld).

²⁷⁸ Human Rights Watch interview with Akhmad A., Sherbinka, Moscow, May 3, 2008.

Amangeldy A., a 26-year-old worker told Human Rights Watch about his attempts to file a complaint with the prosecutor's office after an attack by riot police at his temporary residence in a village in Moscow oblast. He told Human Rights Watch:

Some OMON come regularly to this area at about 4 or 5 a.m. They break into the house and force everyone to pay something. One day I thought, I'm going to sleep in the car, and maybe they won't notice me. They saw me and I tried not to get out of the car, but they said, "Get out or we'll set the car on fire." [I got out] and they beat me. I wanted to complain. First I went to the prosecutor's office on Babushkinskaia street, and they sent me to the [prosecutor's office] at the Yaroslav train station. ... But there they just refused to accept my complaint. I want to file the complaint [somewhere]. I want to go through with this.²⁷⁹

Human Rights Ombudspersons

Russia's Human Rights Ombudsman, as well as the Ombudsman's regional representatives, can receive complaints from persons on the territory of the Russian Federation who believe their rights have been infringed. However, migrant workers rarely approach the Ombudsman offices with complaints. Sergei Yagodin of the Russian Human Rights Ombudsman's Office told Human Rights Watch that his office did not receive any complaints from migrant workers in 2008. He believes this is because most migrants are afraid to come forward to official agencies.²⁸⁰ Similarly, according to Sverdlovsk Oblast Ombudswoman Tatiana Merzliakova, her office rarely receives complaints from migrant workers, although they are aware that abuses do take place in the oblast and have responded to complaints of non-payment of wages by contacting employers or referring cases to the prosecutor's office.²⁸¹

Russia's Human Rights Ombudsman and some of his regional representatives do undertake activities to promote protection of migrants' rights. Yagodin stated that the Ombudsman's office works with diaspora groups to provide rights and other information to migrant workers; conducts visits to temporary detention centers where migrants awaiting deportation or expulsion from Russia are held and to police stations when migrants are detained; and also organizes conferences and roundtable meetings on the human rights of migrants.²⁸² When

²⁷⁹ Human Rights Watch interview with Amangeldy A., Chelobitievo, Moscow oblast, October 8, 2008.

²⁸⁰ Human Rights Watch interview with Sergei Yagodin, Office of the Human Rights Ombudsman of Russia, Moscow, December 10, 2008.

²⁸¹ Human Rights Watch interview with Tatiana Merzliakova, Ekaterinburg, May 28, 2008.

²⁸² Human Rights Watch interview with Sergei Yagodin, December 10, 2008.

Human Rights Watch interviewed Merzliakova in late May 2008, she was strongly advocating for an increase in the quotas for work permits, which had nearly expired in Sverdlovsk oblast by that time.²⁸³

4.2 Non-Governmental Avenues for Redress

In the absence of effective Russian governmental mechanisms, Human Rights Watch research found that migrant workers in Russia primarily turn to other entities in hopes of obtaining redress for abuses, most often for non-payment of wages. These entities include local diaspora groups, embassies and consulates, and, to a lesser extent, NGOs. Most of these entities use informal methods to try and help migrant workers, most often simply by calling employers in order to attempt to resolve disputes. In their efforts to assist migrant workers, rarely do these entities appeal to official government structures, and they themselves have no legal enforcement mechanism for ensuring employers comply with the law.

Trade unions are an important potential avenue for workers to receive assistance, although trade unions do not currently provide a meaningful role for migrant workers. The response of embassies and consulates is discussed in the next chapter, *Labor-Sending Countries' Government Response*.

National Diaspora Groups

In the absence of accessible legal means to resolve labor disputes, many migrant workers turn to diasporas in order to settle labor disputes, particularly disputes over unpaid wages. Diaspora leaders may attempt to negotiate with employers on behalf of migrant workers. Such negotiations may involve appeals to the employer to act “out of the goodness of his heart” (in Russian, *chisto po chelovecheski*) and pay the worker.²⁸⁴ In other instances, diaspora leaders may issue threats to employers.²⁸⁵ One diaspora leader stated that when employers refuse to pay his compatriots, he calls upon some criminal bosses who go to the employer and threaten the employer with violence unless he pays the money owed to the worker. The cost for this “service” is 50 percent of the money owed.²⁸⁶ In a unique case in November 2008, a Tajik diaspora leader in Ekaterinburg, Farukh Mirzoev, helped organize

²⁸³ Human Rights Watch interview with Tatiana Merzliakova, May 28, 2008.

²⁸⁴ Human Rights Watch interview with diaspora leader (name withheld), Krasnodar, June 7, 2008; and with diaspora leader (name withheld), Krasnodar, June 6, 2008.

²⁸⁵ Human Rights Watch interview with diaspora leader, Krasnodar, June 7, 2008.

²⁸⁶ Human Rights Watch interview with diaspora leader, city and date withheld.

approximately 250 workers from Tajikistan employed on a construction site in Ekaterinburg to strike over their employer's non-payment of wages for three months. As a result, the employer paid some of the money owed to the workers.²⁸⁷

Non-Governmental Organizations

Numerous diaspora organizations that are officially recognized as non-governmental organizations (NGOs) assist migrants in employment and legalization. Only a handful of other NGOs provide services to or protect the rights of migrant workers. The organization Fund Tajikistan/Migration and Law in Moscow is by far the most active and best known among migrant workers from Central Asia, as well as among international organizations, diplomats and others working on issues relating to migrant workers' rights. Fund Tajikistan most frequently receives complaints of wage violations, but also has documented numerous cases of forced labor, and torture and ill-treatment by private actors and government agents. When the staff of Fund Tajikistan receives a complaint, they try to speak to employers who hired the worker in order to convince the employer to pay the worker. Fund Tajikistan may indicate to the employer that it will pursue an official complaint or court action should the employer not respond. In the majority of cases, this approach is effective, although in some instances employers deny that the worker in question was ever employed by him and refuses to pay.

Civic Assistance (*Grazhdanskoe sodeistvie*), one of the most well-known Russian human rights organizations, with years of expertise assisting asylum-seekers, refugees and displaced people, expanded their services beginning in December 2007 to provide legal aid for migrant workers. They have not received large numbers of migrant workers for consultations, likely because many migrant workers are not aware of the organization and the services they can provide. Civic Assistance is involved in litigation of a handful of cases representing migrant workers in labor disputes.²⁸⁸

Few NGOs in sending countries are actively engaged in migration issues or protection of the rights of migrants. However, in Tajikistan, at least three organizations the Human Rights Center, the Bureau on Human Rights, and Imran, have taken a substantive interest in migrant workers rights. The Human Rights Center representative office in Khujand and Isfara

²⁸⁷ Olga Bondar, Igor Lesovskikh, Ivan Tiazlov, "Gastarbeiters Take On Anti-Crisis Measures," *Kommersant*, December 1, 2008, <http://kommersant.ru/doc.aspx?DocID=1087133> (accessed January 15, 2008); and "The First Union of Migrant Workers in Russia is being Formed. Experts: It Won't Help Kyrgyz and Tajiks," *Newsru.com*, December 9, 2008, <http://www.newsru.com/finance/09dec2008/profsouz.html> (accessed January 16, 2009).

²⁸⁸ Human Rights Watch interview with Elena Burtina, program director, legal aid to migrant workers, Civic Assistance (*Grazhdanskoe sodeistvie*), Moscow, May 26, 2008.

frequently receives complaints from workers in Russia who are seeking redress for abuse, but the director told Human Rights Watch that the organization is rarely able to respond to these requests because a lack of partners in Russia to whom they can refer victims.²⁸⁹ Both the Human Rights Center and the Bureau on Human Rights are representing victims of abuses in court cases (see *Labor-Sending Countries' Government Response*.)

Trade Unions

Around the world trade unions are in general the most important vehicle for workers to negotiate with employers, communicate grievances, and seek structural reforms or policy changes on behalf of workers. Russian law guarantees the right to form and participate in a union and the right to strike,²⁹⁰ yet, in practice, workers' ability to exercise these rights is severely limited. Trade unions do not currently play a meaningful role for workers in many sectors of the Russian economy, due in part to laws limiting enterprise-level unions from forming unless they have at least 50 percent of workers participating.²⁹¹ According to the head of the Construction and Building Materials Industry Workers' Union of the Russian Federation, the primary union for workers in the construction sector, migrant workers rarely participate in trade unions.²⁹² Human Rights Watch did not interview any migrant worker who had attempted to or even considered joining a trade union in Russia. Most migrant workers interviewed by Human Rights Watch were not even aware that trade unions exist.

A Trade Union of Migrant Workers Working in Construction, Municipal Services, and Related Industries was formed in 2007 and provides services to some 10,000 migrant worker members.²⁹³ Because its members are not sufficiently concentrated with particular employers to achieve the legal requirement for union activity that 50 percent of an employer's workers be members of the union, the Trade Union of Migrant Workers is not able to support collective bargaining or similar traditional union activities for its members. Instead, the union supports its members by providing information about their rights and

²⁸⁹ Human Rights Watch interview with Nodira Abdulloeva, Khujand, February 29, 2008.

²⁹⁰ Constitution of the Russian Federation, articles 30 and 37; Labor Code of the Russian Federation, articles 21, 409.

²⁹¹ Human Rights Watch telephone interview with Elena Goncharova, October 22, 2008.

²⁹² Human Rights Watch interview with Boris Soshenko, President, Construction and Building Materials Industry Workers' Union of the Russian Federation, Moscow, November 10, 2008. This is very often due to the fact that the traditional trade unions, such as the Construction and Building Materials Industry Workers' Union, exist only in large enterprises, whereas migrant workers very often are working in small to medium-size businesses, where workers have not been able to form unions, often do to employer hostility. Human Rights Watch telephone interview with Renat Karimov, Head, Trade Union of Migrant Workers working in Construction, Municipal Services, and Related Industries, December 19, 2008.

²⁹³ Members mainly come from the former Soviet Union, especially Central Asia, but also Ukraine and Belarus, as well as from China, Korea, and Vietnam. The union is headquartered in Moscow and has representatives in five Russian oblasts. Human Rights Watch telephone interview with Renat Karimov, December 19, 2008.

services available to them, assisting them with residency registration, work permits, and other services, and addressing workers' complaints. They also have programs to distribute information to migrant workers in Kyrgyzstan and Tajikistan before they depart for Russia.²⁹⁴ Upon receipt of a complaint, most often with respect to non-payment of wages, the union's lawyers will call or visit the employer and attempt to resolve the conflict. According to the head of the union, this method is effective in about 90 percent of cases. Although the union prepared two lawsuits for migrant workers, one against an employer for non-payment of wages and one against a police officer for illegal confiscation of a workers' documents, in both cases the complainants withdrew their complaint before filing the court petition out of fear of retaliation by those named in the lawsuits. The union has yet to file any complaints with the prosecutor's office.²⁹⁵

4.3 Labor-Sending Countries' Government Response

Labor-sending countries also have obligations to protect workers who seek employment abroad from abuse. There are a range of measures governments can and, at times, do take to help ensure protection of migrant workers, including providing effective consular services specific to the needs of migrant workers in countries of employment; implementing anti-trafficking legislation and policies; regulating employment agencies and individual employment recruiters; receiving and investigating complaints of abuse of migrant workers' rights by all parties, and prosecuting those responsible for abuse; and cooperating with international organizations such as the International Organization for Migration (IOM) and the International Labour Organization (ILO) as well as domestic NGOs in the formulation and implementation of the above.

The focus of this report is on abuses committed in Russia and the Russian government's response. As part of this, we have sought to highlight some aspects of certain sending countries' response to protection of migrant workers. However, it is not within the scope of this report to undertake a comprehensive analysis of all measures that relevant labor-sending countries are undertaking. These practices are, however, worthy of additional study, and in some cases have already been the subject of research and reporting by other entities. Below are some aspects of regional governments' response that Human Rights Watch has researched and are particularly relevant to the findings and recommendations in this report.

²⁹⁴ Human Rights Watch telephone interview with Renat Karimov, Trade Union of Migrant Workers Working in Construction, Municipal Services, and Related Industries, December 19, 2008.

²⁹⁵ Ibid.

Embassies and Consulates

In almost all cases embassies of sending countries do not regularly respond to complaints they receive from their citizens about employment and other abuses in Russia. The response among embassies, however, varied widely. The governments of Tajikistan and Kyrgyzstan appear to be the most active in attempting to respond to rights violations and provide staff dedicated to labor migration issues.

The embassy of Tajikistan has organized a three-person migration policy group and the Tajik Migration service has a representative in Ekaterinburg. The embassy's migration policy group stated that there are monthly meetings held between ambassadors, the Federal Migration Service (FMS) director and the deputy minister of internal affairs to discuss migration policy. Beyond this, the embassy staff work regularly with the FMS and "have some results" advancing issues of concern to them. With respect to citizen services, embassy officials told Human Rights Watch that when they receive a complaint, they try to speak to employers who hired the workers, but very often, the employer simply claims that the workers never worked there. The officials also told Human Rights Watch that the embassy had submitted complaints to the prosecutor's office, but prosecutors typically reply that they are unwilling to pursue the cases because the workers do not have any contract.²⁹⁶

The head of the Kyrgyzstan State Committee on Migration and Employment, Aigul Ryskulova, told Human Rights Watch that the State Committee has nine representatives abroad, including in Moscow, Novosibirsk, Orenburg, and Krasnoyarsk, as well as 21 volunteer representatives in other locations. A representative of the State Committee serves as a labor attaché in the embassy of Kyrgyzstan in Moscow. The labor attaché will act on behalf of migrant workers in cases of employer abuses or other problems²⁹⁷ and also provides information about vacancies in Russia to some agencies in Kyrgyzstan.²⁹⁸

The consulate of Kyrgyzstan in Ekaterinburg receives complaints from migrant workers, most often regarding non-payment of wages in cases when employees had only an oral agreement with the employer, as well as cases regarding migrants being cheated by intermediaries. The consulate staff regularly refer complaints to the prosecutor's office and the Sverdlovsk oblast human rights ombudswoman. An official from the consulate acknowledged that these cases are "very difficult to resolve because of an absence of evidence."²⁹⁹

²⁹⁶ Human Rights Watch interview with Musamirsho Gafurov and Dzharubali Saburov, migration policy group, May 27, 2008.

²⁹⁷ Human Rights Watch interview with Aigul Ryskulova, head, State Committee on Migration and Employment, Bishkek, October 3, 2008.

²⁹⁸ Human Rights Watch interview with Valeria Bobrova, "Language Consult" employment agency, Bishkek, March 27, 2008.

²⁹⁹ Human Rights Watch interview with Asylbek Isaev, Consulate of Kyrgyzstan, Ekaterinburg, May 28, 2008.

One worker from Kyrgyzstan described his experience appealing to his national consulate: “When we did not get paid as promised we complained to [a diaspora group] and then to the consulate. We wrote a complaint in the consulate, but I don’t know what they did with it. ... We believed in the consulate, that they will do something for us. But there was no result.”³⁰⁰

An official with the embassy of Azerbaijan reported that the embassy organizes awareness-raising activities to improve understanding among their citizens about Russian migration laws and requirements, but do not have a mandate to respond to complaints.³⁰¹ An official with the Armenian embassy in Moscow told Human Rights Watch that the embassy frequently receives complaints about confiscated passports, failure to pay wages, and degrading treatment by police or employers. In cases of confiscated passports, embassy staff will go to law enforcement agencies on behalf of their citizens, and that the agencies respond indicating which measures they have undertaken. They have also submitted appeals to Russian government agencies for employment related issues, but generally encourage people to pursue court cases on their own.³⁰²

The consul at the embassy of Ukraine stated that the embassy only occasionally receives complaints regarding employment violations. In the case of non-payment of wages, the embassy does not have the possibility to provide assistance. The consul stated when they submit a complaint to the prosecutor’s office, they have always received a response about the measures being taken. He also stated that Russian government officials welcome their input during the development of law and policy in the migration sphere.³⁰³

Human Rights Watch requests for meetings at the embassies of Uzbekistan and Moldova went unanswered. Migrant workers from Uzbekistan told Human Rights Watch that they did not seek assistance from the Uzbekistan embassy in Moscow owing to suspicion of the government and a lack of faith that the embassy would intervene on their behalf.

Regulation of Employment Agencies and Other Intermediaries

As noted above, most labor-sending countries insufficiently regulate and monitor employment agencies providing services to migrant workers seeking employment abroad.

³⁰⁰ Human Rights Watch interview with Toktogul T., Ekaterinburg, May 28, 2008.

³⁰¹ Human Rights Watch interview with Huseyn Huseynov, first secretary, Embassy of Azerbaijan, Moscow, June 11, 2008.

³⁰² Human Rights Watch interview with Ashot Manukian, extraordinary envoy and plenipotentiary, Embassy of Armenia, Moscow, June 2, 2008.

³⁰³ Human Rights Watch interview with Vasilii Vlasiyuk, consul and first secretary, Embassy of Ukraine, Moscow, June 2, 2008.

The standards differ among sending countries. Human Rights Watch was able to analyze in some depth the current laws and practice in Tajikistan and Kyrgyzstan.

Tajikistan

Tajikistan's licensing law establishes only very general requirements for establishing an employment agency providing services to workers from Tajikistan seeking to work in foreign countries.³⁰⁴ The law on migration specifies that all workers going to work abroad must have a contract with their employer; by extension all employment agencies must ensure client have contracts with their employers. These contracts must be registered with the Migration Service of the Ministry of Interior.³⁰⁵ A 2008 ILO-commissioned research on the activities of private employment agencies engaged in recruitment for foreign jobs, found that Tajikistan's legislation failed to regulate employment agencies sufficiently, leaving workers vulnerable to abuse.³⁰⁶ As noted above, the ILO study also examined 15 employment agencies and found numerous irregularities in the contracts signed by the agency with workers and with employers in Russia (see Case Study: Tajikistan).

In 2007 and 2008, the government initiated three criminal investigations into alleged violations, including trafficking and fraud, by employment agencies, although the final outcomes remain uncertain.³⁰⁷ According to IOM, there have been no convictions for trafficking for labor exploitation in Tajikistan.³⁰⁸ One criminal case involving 110 victims of exploitation and fraud by the head of an employment agency was referred to court, but then returned to the prosecutor's office for additional investigation, without specific explanation.³⁰⁹ Human Rights Watch is not aware of any outcome in the second case.

In a third case, in early 2008, the General Prosecutor's Office opened an investigation into possible "trafficking in persons," by the Vostok-Farm employment agency concerning a group of workers sent to work in a rock quarry in Rostov, Russia (see *Trafficking into Forced Labor*, above). However, the prosecutor's office closed the case in December for "lack of evidence of a crime." The lawyer for one of the victims intends to appeal the decision.³¹⁰

³⁰⁴ Republic of Tajikistan Law on Licensing of Specific Types of Activities, No. 37, May 17, 2004.

³⁰⁵ Republic of Tajikistan Law on Migration of the Population, No. 881, December 11, 1999.

³⁰⁶ Human Rights Watch interview with Sobir Aminov, International Labour Organization, Dushanbe, December 23, 2008.

³⁰⁷ Ibid.

³⁰⁸ Article 130 of the criminal code of Tajikistan was amended in 2008 and now specifies labor exploitation among other aims of trafficking. Human Rights Watch interview with Mukkaram Burkhanova, International Organization for Migration, Dushanbe, December 23, 2008.

³⁰⁹ Human Rights Watch interview with Nodira Abdulloeva, December 22, 2008.

³¹⁰ Human Rights Watch interview with Yakub Marufov, December 22, 2008.

In recent years a few victims have brought civil lawsuits against employment agencies, and Sogd province courts have issued two rulings in such cases. The ILO has determined that bringing a civil lawsuit is expensive and time-consuming and therefore not a readily accessible mechanism for most migrant workers to seek redress.³¹¹ In one case, a court did not find the employment agency responsible for serious health problems that the victim maintains were a result of poor working and employer-provided living conditions in Moscow. In a second case, the Human Rights Center represented a victim, a father of two, who was forced to have both legs amputated as a result of frostbite after fleeing an abusive employer near Volgograd. The court found the Tojikkkhorichakor agency responsible for inflicting damage to the victims' health, but only awarded the victim, a father of two, 1,500 somoni (US\$430). The victim is currently appealing the decision; no damages have been paid.³¹² The Bureau on Human Rights and the Rule of Law office in Khujand represents victims in a lawsuit brought in August 2008 in which workers were allegedly trafficked and exploited in Poland.³¹³ As of this writing, proceedings have not yet concluded.

Kyrgyzstan

Kyrgyzstan has developed stronger regulation of private employment agencies, including by allowing the worker to hold the employment agency responsible for employment contract violations by the foreign employer with whom the agency arranged employment.³¹⁴ The law on external labor migration limits the fees that may be charged by an agency (up to 50 percent of the first salary) and stipulates that the work contract regulating all aspects of the employment shall be concluded before the migrant leaves for the country of destination.³¹⁵ The law also requires agencies to register all contracts signed with workers with the State Committee on Migration and Employment. In addition, if the employer breaks the contract, then the employer and agency are responsible for the costs of the worker to return to Kyrgyzstan, unless otherwise specified in the contract.³¹⁶

The State Committee on Migration and Employment in Kyrgyzstan (Migration Committee) has a specialized commission that receives complaints from migrant workers once they have returned to Kyrgyzstan. According to the head of the Kyrgyzstan State Committee on Migration and Employment, Aigul Ryskulova, the State Committee focuses on ensuring that

³¹¹ Human Rights Watch interview with Sobir Aminov, December 23, 2008.

³¹² Human Rights Watch interviews with Kakhramon Musabaev, Khujand, March 1, 2008, and Nodira Abdulloeva, December 22, 2008.

³¹³ Human Rights Watch interview with Nigina Bakhrieva, Dushanbe, December 22, 2008.

³¹⁴ Regulation Regarding Employment Recruitment of Citizens of the Kyrgyz Republic Abroad of September 8, 2006.

³¹⁵ Human Rights Watch interview with Aigul Ryskulova, October 3, 2008.

³¹⁶ Republic of Kyrgyzstan Law on External Labor Migration, No. 4, November 14, 2005.

employment agencies in Kyrgyzstan fulfill the obligations to their clients. For problems workers face in Russia, the Committee will also refer complaints to their embassy or consulate representatives as well as diaspora groups in Russia, who will contact the employer by phone or in other ways in order to secure payment for workers, as described above.³¹⁷ Ryskulova expressed pessimism about the likelihood that migrants would receive fair hearings in lawsuits brought against Russian employers in Russian courts.

The Migration Committee serves as both the licensing body for employment agencies providing foreign job placement as well as the entity investigating complaints and resolving disputes involving employment agencies. This dual function diminishes its effectiveness as a potential body to receive and resolve complaints. According to a representative from one agency, “The Migration Committee is the body that controls my activities. Could I continue working if I would appeal their decision in court?”³¹⁸ He also told Human Rights Watch:

Once we sent five individuals [to Russia] and then the employer disappeared. We do not know what happened to [the workers]. I think everything is fine, otherwise their relatives would seek us out. Me, I even cannot apply to the [Russian] FMS for help. I have to go through the State Committee on Migration and Employment [in Kyrgyzstan]. And what will the State Committee do? They will first cancel my license, and then will try to find out who is wrong or right.³¹⁹

Human Rights Watch learned of a few lawsuits brought against agencies in Kyrgyzstan, but as of this writing does not have information on their outcome.³²⁰

Uzbekistan

In Uzbekistan, under law, workers seeking employment abroad must apply through the state Labor Agency. The Labor Agency is the only entity authorized to provide recruitment services to workers seeking to work abroad. Under law a person may find employment abroad on his own, and then apply for a permit at the Labor Agency, but must do so in person at the agency’s headquarters in Tashkent, the capital. In practice, the majority of workers find

³¹⁷ Human Rights Watch interview with Aigul Ryskulova, October 3, 2008.

³¹⁸ Human Rights Watch interview with director of private employment agency, Bishkek, (name and date withheld).

³¹⁹ Ibid.

³²⁰ Human Rights Watch interview with Aidar Oljobaev, Kirgizia-Ural, Ekaterinburg, May 28, 2008.

employment through unofficial intermediaries, including individuals acting as brigadiers or recruiters as well as travel agencies illegally providing recruitment services.³²¹

³²¹ Human Rights Watch interview with Mikhail Gasanov, Center for Labor Migration Issues, Tashkent, December 20, 2008.

Recommendations

To the Russian Government

- Establish accessible, effective complaint mechanisms and rigorously investigate complaints of abuse made by migrant workers, irrespective of a migrant workers' contractual status or migration status.
- Rigorously enforce the legal requirement for employers to provide written employment contracts to workers, including migrant workers.
- Ensure the same protections and access to redress mechanisms to all migrant workers, including those without employment contracts (*trudovoi dogovor*), such as workers who have only retainer contracts (*grazhdansko-pravovoi dogovor*) or no contracts at all.
 - Expand the authority of Rostrud to investigate fully complaints of any labor law violations, including wage violations, even in cases in which there is no employment contract.
 - Ensure that Rostrud has sufficient staff trained in addressing the complaints of migrant workers, including in cases when there is no employment contract.
 - Establish a separate department in Rostrud to work closely with the Federal Migration Service to address the specific complaints and circumstances of migrant workers.
 - Train prosecutors to more rigorously investigate complaints made by migrant workers, including criminal as well as labor claims. Emphasize that all labor claims should be pursued, even in the absence of written labor contracts, and encouraging pursuit of evidence other than written labor contracts to demonstrate employment relations.
 - Train judges to consider all cases of alleged violations of the rights of migrant workers, even those in which workers do not have employment contracts to demonstrate formal work relations, including by emphasizing the possibility that other evidence may be sufficient to prove employment relations.
 - Expand the capacity of the Russian human rights ombudsman's office and regional human rights ombudsman's offices to respond to complaints by migrant workers.

- Rigorously investigate and prosecute employers who confiscate passports, deny workers legal contracts, withhold wages, and force employees to work long hours, or commit other violations of Russian law.
 - o Cooperate with the nine governments of the former Soviet Union with whom Russia maintains a non-visa regime to facilitate prosecutions and investigations of abusive employers in Russia, including by facilitating the participation in the investigation of complaints, and any legal proceedings, by victims who have already returned home.
 - o Establish and enforce minimum standards for company-provided housing and food for migrant construction workers to ensure that workers who live on the territory adjacent to the worksites are guaranteed adequate shelter and sufficient quality and variety of food necessary for long hours of hard physical labor.
- Take immediate action to inform and educate migrant construction workers arriving in Russia of their rights under Russian law.
 - o Conduct information and rights awareness campaigns as part of the work permit application process as well as for arriving migrant workers at train stations, airports, and other locations.
 - o Consider organizing these campaigns in conjunction with employers, NGOs, diaspora groups, and embassies of governments whose citizens work in Russia.
 - o As part of rights-awareness training, ensure that migrant workers are aware of the complaint mechanisms available to them and the location and contact information of relevant offices.
 - o To the greatest extent possible, written materials should be available in the languages of the migrants.
- Remove remaining obstacles for migrant workers to quickly and easily regularize their stay in Russia.
 - o Revise the three-day rule for residency registration to allow more days for migrant workers to identify a residence or employer before being required to register on the migration registry.
 - o Ensure work permits are issued promptly, within the time limits established under law.
 - o Simplify the procedure for migrant workers to obtain the medical documents necessary for a work permit to remain valid. This may be achieved by allowing a greater number of hospitals and clinics to issue the necessary certificates; by working with medical staff to streamline and expedite testing; and by working

with regional governments to establish a uniform documentation procedure and allow migrants to obtain the necessary documents in their home countries.

- Establish a clear regulatory framework for state and private employment agencies, individual employment recruiters and other intermediaries, and adequately fund mechanisms for regular monitoring of these entities, which should include, at a minimum, unannounced agency visits and document audits to verify compliance with the regulatory framework.
 - The regulatory framework for employment agencies and individual employment recruiters should include a clear definition of what constitutes an individual recruiter, detailed operating requirements, and mandatory licensing procedures.
 - Prosecute employment agencies and individual employment recruiters found in violation of laws, including by consistently applying dissuasive and proportional sanctions and, in cases of egregious violation, closing the violating agencies and revoking individual recruiters' operating licenses.
 - Establish laws requiring all employment agencies operating in Russia to provide workers with employment contracts prior to their employment. The contracts should clearly specify the terms and conditions of their employment and are signed by their future employers.
 - Upon identification of falsified residency registration or work permit documents in a migrant worker's possession, the police or Federal Migration Service should notify the prosecutor's office, who should undertake an investigation to identify and prosecute those responsible for issuing false documents.
- Take comprehensive measures to combat racism and xenophobia.
 - Issue statements at the highest level condemning racism, xenophobia, and discrimination, and racist statements or actions of any kind by public officials or private actors.
 - All political parties should refrain from any anti-immigrant political rhetoric.
- Enact a comprehensive program to stop police abuse and discrimination.
 - The General Prosecutor's Office should rigorously investigate all allegations of abuse by police, including ill-treatment and forced labor, and prosecute perpetrators to the fullest extent possible. Such investigations should have the full participation of the victims and be carried out irrespective of whether a migrant worker is in full compliance with migration and labor laws.
 - The Ministry of Internal Affairs should incorporate, as part of the compulsory training of police and other law enforcement agents, international and Russian

- laws, prohibiting ill-treatment, forced labor, and discrimination. The Ministry of Internal Affairs should suspend from active duty all police under investigation and dismiss those convicted of serious abuse or for repeated violations.
- o The Ministry of Internal Affairs should undertake a thorough review of the policies regulating spot document inspections and prohibit ethnic profiling and other discriminatory practices.
 - o The Ministry of Internal Affairs should collect and publish comprehensive data on investigations, prosecutions and sanctions against police guilty of abuses against migrants.
- Ensure that initiatives by regional and municipal authorities to provide subsidized housing and other services for migrant workers provide for integration of migrants and reduce segregation
 - o Services for migrant workers should be organized in accordance with the 2008 Resolution of the Parliamentary Assembly of the Council of Europe (1618) “State of democracy in Europe. Measures to improve the democratic participation of migrants.” In particular, assess initiatives for creating separate housing centers for migrants and consider other forms of assistance that would reduce the risk of segregation such as:
 - Providing and facilitating fair access to quality housing, including subsidized housing, in existing neighborhoods;
 - Developing incentives for employers to provide quality, subsidized housing to migrant workers;
 - Developing incentives for employers to provide free language courses where such need exists.
 - Sign and ratify the following international treaties relevant to protection of migrant workers and in all cases comply with treaty-body reporting requirements and recommendations
 - o The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
 - o The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights.
 - o The European Convention on the Legal Status of Migrant Workers and ratify the Council of Europe Convention on Action against Trafficking in Human Beings.
 - Implement the recommendations of the concluding observations by the Committee for the Elimination of Racial Discrimination published in August

2008 following its review of Russia, concerning non-citizen and ethnic minority workers, including providing effective remedies for victims and by training judges and labour inspectors on the application of articles 2 and 3 of the Labour Code.

- Issue a standing invitation to the UN Special Rapporteurs on the Human Rights of Migrants and on Trafficking in Persons to conduct country visits.
- Comply fully with Resolution 1509 (2006) of Parliamentary Assembly of the Council of Europe “Human rights of irregular migrants” and issue statements at highest level reaffirming the need to observe the rights of irregular migrants.

To Labor-Sending Countries’ Governments

- Develop or expand public rights education and awareness-raising for prospective migrant workers.
 - o Disseminate information on rights under international and Russian law; the obligations of employment agencies and other intermediaries; and mechanisms in Russia and the home country for filing complaints against employers, intermediaries, and police.
 - o Cooperate with local NGOs and the International Organization for Migration (IOM) in developing and implementing these programs.
 - o Ensure that awareness-raising programs function not only in major cities, but also in villages. Consider conducting rights education programs for students about to graduate from secondary schools and for university students, as well as at state unemployment agency offices.
 - o Ensure that awareness-raising programs also function at major train stations, bus stations, and airports from which migrant workers regularly depart for Russia.
- Cooperate with Russia to facilitate prosecutions and investigations of abusive employers in Russia, including by facilitating the involvement of victims who have already returned home.
- Establish a clear regulatory framework for state and private employment agencies, individual employment recruiters and other intermediaries, and adequately fund mechanisms for regular monitoring of these entities.
 - o Prosecute employment agencies found in violation of laws, including by consistently applying dissuasive and proportional sanctions and, in cases of

egregious violation, closing the violating agencies and revoking individual recruiters' operating licenses.

- o Establish new laws or enforce existing laws requiring all employment agencies to provide workers with employment contracts prior to their employment. The contracts should clearly specify the terms and conditions of their employment and are signed by their future employers.
 - o Ensure that the examination of complaints brought by migrant workers against employment agencies is conducted by a body independent of the body responsible for licensing of employment agencies, to guarantee a fair hearing.
 - o Establish cooperation between private and state employment agencies and consular or migration representatives in Russia and assist the agencies in evaluating prospective employers.
- Enhance the labor departments of embassies and consulates in Russia to assist migrant workers.
 - o Assign at least one labor attaché or other labor specialist to the embassy.
 - o Cooperate with private and state employment agencies and individual recruiters, both in Russia and in workers' home countries, to help them evaluate prospective employers and conduct follow-up assessments, including by maintaining a database of employers found to have committed labor rights abuses.
 - o Regularly conduct rights trainings for migrant workers arriving in Russia, including at train stations, bus stations, and airports where migrant workers most frequently arrive.
 - o Conduct rights trainings in Russian regions where a large population of the home country's nationals are living and working, whether through trips to that region, through cooperation with local NGOs or diaspora groups, or in other ways.
 - o Establish an embassy hotline specifically for migration and labor-related questions, and ensuring that the staff of that hotline have training to provide information and referrals to relevant legal, social, and other services to those who call.
 - Cooperate with Russia, including through bi-lateral and regional mechanisms, to create mutually recognized medical examination certificates.

To International Donors, Including Private, State, and Inter-governmental Entities

- Provide greater financial support for local NGOs and others providing support to or capable of providing support to migrant workers in Russia and sending countries.
 - o In many cases this may mean identifying existing human rights organizations, lawyers' associations, or others not currently engaged on migrant workers' rights, but capable and interested in doing so.
 - o Expand support, training, and resources for lawyers to pursue cases of migrant workers.
 - o Projects designed to promote the capacity of migration bodies to protect migrant workers, should include assistance in the development of fair and transparent procedures for licensing employment agencies; effective monitoring of agencies; and an accessible, effective complaint mechanism. To the greatest extent possible, including the involvement of NGOs in developing and implementing these policies.

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Annex: Background Information on Select Sending Countries

Labor Migration from Uzbekistan

An estimated 3 to 5 million of Uzbekistan's 27.2 million citizens work abroad.³²² Eighty percent of Uzbek migrants work in Russia,³²³ which has a gross national income per capita almost ten times higher than Uzbekistan;³²⁴ significant numbers of migrant workers also seek employment in neighboring Kazakhstan and Kyrgyzstan.³²⁵ Remittances from migrant workers are a substantial source of household income in Uzbekistan,³²⁶ and constitute 8 to 12 percent of Uzbekistan's gross domestic product (GDP).³²⁷

Poverty, unemployment, as well as government interference in the economy serve as push factors for many Uzbeks to seek employment abroad. Uzbekistan has experienced relatively high economic growth in recent years, yet job creation has not kept pace with the rapid growth of the working-age population.³²⁸ Although official unemployment is low (3.8 percent in 2006), unemployment and underemployment taken together are estimated to be around 30 percent.³²⁹ Unemployment is particularly significant in rural areas, where two-thirds of

³²² United States Department of State, Bureau of South and Central Asian Affairs, "Background Note: Uzbekistan," December 2007; and International Monetary Fund (IMF), "World Economic Outlook Database," October 2008, <http://www.imf.org/external/pubs/ft/weo/2008/02/weodata/index.aspx> (accessed on December 9, 2008).

³²³ International Monetary Fund (IMF), "Republic of Uzbekistan: Poverty Reduction Strategy Paper," IMF Country Report No. 08/34, January 2008, <http://imf.org/external/pubs/ft/scr/2008/cro834.pdf> (accessed December 11, 2008).

³²⁴ The World Bank estimates that gross national income in 2007 was US\$7,560 for Russia and US\$730 for Uzbekistan. Adjusting for purchasing power parity, per capita income in Russia is almost six times greater than in Uzbekistan. World Bank Data and Statistics, "Gross national income per capita 2007, Atlas method and Purchasing Power Parity," <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf> (accessed December 9, 2008).

³²⁵ IOM, "Facts and Figures: Uzbekistan," <http://www.iom.int/jahia/jahia/pid/510> (accessed December 11, 2008).

³²⁶ According to one IMF survey, up to 27 percent of families had at least one family member who had left Uzbekistan to earn money. In such families, the average income of a labor migrant 5 to 10 times higher than other sources of household earnings. IMF, "Republic of Uzbekistan: Poverty Reduction Strategy Paper."

³²⁷ World Bank, "Country Brief: Uzbekistan," October 2008, <http://www.worldbank.org/uz/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/UZBEKISTANEXTN/0,,contentMDK:20152186~menuPK:294195~pagePK:141137~piPK:141127~theSitePK:294188,00.html> (accessed December 9, 2008).

³²⁸ Economic growth accelerated from around 4 percent in 1996-2003 to over 7 percent in 2004-06 and to 9.5 percent in 2007. World Bank, "Country Brief: Uzbekistan," October 2008; and IMF, "Republic of Uzbekistan: Poverty Reduction Strategy Paper," January 2008.

³²⁹ IMF surveys confirm that employment does not protect households from poverty and being employed in agriculture is also associated with poverty. Ibid.

the population lives.³³⁰ Wages remain low, even for qualified employees.³³¹ Some 23-25 percent of the population of Uzbekistan lives in poverty.³³²

The state dominates nearly all aspects of political, social, and economic life in Uzbekistan. Extensive state control over the economy restricts economic opportunities and exacerbates poverty and unemployment. According to the World Bank, “the main obstacles to growth in Uzbekistan are policy-related.”³³³ Privatization has been limited, and private property rights are often overridden by state structures. State interventions into business operations are widespread. In agriculture, the state order which dictates which crops farms must grow and requires farms to surrender a large portion of the harvest of the key crops - cotton and wheat - at below-market prices to the state, remains largely in place.³³⁴

Labor Migration from Kyrgyzstan

Many factors compel citizens of Kyrgyzstan to migrate in search of employment, among them poverty, unemployment, and lack of political and economic infrastructure. Kyrgyzstan has a population of five million inhabitants; an estimated 615,290, or some one-third of the country’s economically active population, work outside of the country,³³⁵ the vast majority going to Russia and Kazakhstan.³³⁶ While actual figures are likely much higher, official statistics suggest there are an estimated 253,000 Kyrgyz labor migrants in Russia,³³⁷ which has a gross national income per capita over seven times higher than Kyrgyzstan.³³⁸ Although

³³⁰ World Bank, “Country Brief: Uzbekistan,” October 2008.

³³¹ U.S. Department of State, Bureau of South and Central Asian Affairs, “Background Note: Uzbekistan,” December 2007.

³³² IMF, “Republic of Uzbekistan: Poverty Reduction Strategy Paper,” January 2008; and World Bank, “Country Brief: Uzbekistan,” October 2008. Eighteen percent of the population lives on less than US\$1 per day. United Nations Children’s Fund, “UNICEF in Uzbekistan,” <http://www.unicef.org/ceecis/backgrounder.Uzbekistan.UNICEF.doc> (accessed December 9, 2008). The United Nations Human Development Index, which attempts to measure a broad definition of well-being, ranks Uzbekistan 113th out of 177 countries in the world. Kyrgyzstan ranks 116th, Tajikistan ranks 122nd, and Russia ranks 67th. United Nations Development Programme, “The Human Development Index 2007-08: Uzbekistan.” http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_UZB.html (accessed December 9, 2008).

³³³ World Bank, “Country Brief: Uzbekistan,” October 2008.

³³⁴ Ibid.

³³⁵ World Bank, “Migration and Remittances Factbook 2008: Kyrgyz Republic,”

<http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/KyrgyzRepublic.pdf>, (accessed December 17, 2007); and Anar Musabaeva “Unemployment of Youth in Kyrgyzstan: Particularities of the Problem and Possible Solutions,” Institute for Public Policy, <http://ipp.kg/en/analysis/301/>, (accessed December 17, 2008).

³³⁶ International Monetary Fund (IMF), “Kyrgyz Republic: Poverty Reduction Strategy Paper—Country Development Strategy (2007–2010),” IMF Country Report No. 07/193, June 2007, <http://www.imf.org/external/pubs/ft/scr/2007/cro7193.pdf>, (accessed December 17, 2008).

³³⁷ “There are 253,000 labor migrants in Russia from Kyrgyzstan,” News Agency 24.kg, February 1, 2008 <http://www.24.kg/community/2008/02/01/75507.html> (accessed December 17, 2008).

³³⁸ World Bank Data and Statistics, “Gross national income per capita 2007, Atlas method and Purchasing Power Parity,” <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf> (accessed December 17, 2008).

current trends show more migration of low-skilled workers, Kyrgyzstan has also suffered from a significant “brain drain,” as large numbers of qualified professionals have left for lack of employment opportunities.³³⁹ Women make up 58 percent of international migrant workers from Kyrgyzstan.³⁴⁰

Remittances are a vital part of Kyrgyzstan’s economy, and were estimated to total US\$739 million (27.4 percent of GDP) in 2006.³⁴¹ One of the poorest countries of the post-Soviet bloc, Kyrgyzstan’s dependence on remittances was felt acutely after the 2008 global economic downturn, resulting in sharp decreases in remittances and increased unemployment.³⁴²

High unemployment and widespread poverty are significant push factors for workers from Kyrgyzstan to go abroad in search of employment. Thirty-eight percent of households live in poverty. The rural population is disproportionately affected, as is the south of the country.³⁴³ The Kyrgyz government estimated unemployment in 2008 to be at 11 percent,³⁴⁴ but actual unemployment and underemployment figures are likely to be much higher. Although annual economic growth averaged a respectable 4.4 percent from 2003-2005, due to denationalization and privatization efforts, unemployment remained unchanged, and reform implementation was inadequate causing growth to slow in recent years.³⁴⁵

Labor migration is a widely accepted reality in Kyrgyzstan, and labor officials encourage youth to attend training programs at vocational schools for those going to work abroad.³⁴⁶ Moreover, many Kyrgyz working in Russia seek to Russify their names and seek Russian citizenship to better facilitate their migration to Russia and their ability to find work.³⁴⁷

³³⁹ IOM, “Facts and Figures: Kyrgyzstan,” <http://iom.int/jahia/jahia/pid/507> (accessed December 17, 2008).

³⁴⁰ Ibid.

³⁴¹ World Bank, “Migration and Remittances Factbook 2008.” The actual flow of remittances is most likely higher as World Bank statistics do not include remittances sent through informal channels.

³⁴² Deidre Tynan, “Central Asia: Kyrgyzstan, Tajikistan, and Uzbekistan Confront a Financial Disaster,” Eurasianet.org, November 10, 2008, http://eurasianet.org/departments/insightb/articles/eav111008_pr.shtml (accessed December 15, 2008).

³⁴³ World Bank, “Kyrgyz Republic: Poverty Update: Profile of Living Standards in 2003,” Report no. 36602, August 30, 2005, p. 54, Annexes 3, 27, http://www-wds.worldbank.org/external/default/WDSCContentServer/WDSP/IB/2006/06/28/000112742_20060628154321/Rendered/PDF/366020KGoPo8841ertyoUpdate01PUBLIC1.pdf (accessed December 17, 2008).

³⁴⁴ “Unemployment hits 11% in Kyrgyzstan,” News Agency 24.kg, March 25, 2008, <http://eng.24.kg/business/2008/03/25/4947.html> (accessed December 17, 2008).

³⁴⁵ IMF, “Kyrgyz Republic: Poverty Reduction Strategy Paper,” June 2007.

³⁴⁶ Asyl Osmonalieva, “Kyrgyzstan Schools Young People for Export,” Institute for War and Peace Reporting, February 21, 2008, http://iwpr.net/?p=rca&s=f&o=342849&apc_state=henprca (accessed December 17, 2008).

³⁴⁷ “More and more Kyrgyz Want to Become Russian Citizens,” Rosbalt.ru, March 26, 2008, <http://www.rosbalt.ru/2008/03/26/468545.html> (accessed December 17, 2008); and “Citizens of Kyrgyzstan are Changing Their Names Back to Soviet Forms en Masse,” News Agency 24.kg, January 25, 2008 <http://eng.24.kg/business/2008/02/19/77151.html> (accessed December 17, 2008).

Kyrgyzstan has a poor human rights record. The government of President Kurmanbek Bakiev, who came to power after the March 2005 “Tulip Revolution,” largely abandoned a democratic reform agenda in 2007. Over the last several years, pluralism and fundamental freedoms have declined, and there has been an increase in harassment and politically-motivated prosecutions of civil society and opposition activists. Arbitrary suspensions and terminations of asylum-seeker certificates exposed flaws in Kyrgyzstan’s refugee protection system.³⁴⁸

Labor Migration from Tajikistan

Tajikistan is the poorest country among the former Soviet Socialist Republics, facing additional development and infrastructure challenges to those it shares with its neighbors due to the aftermath of the 1992-1997 civil war. Although growth has averaged 8.7 percent over 2000-2007,³⁴⁹ the economic situation in the country is dire: 53 percent of the 6.7 million people in Tajikistan live below the poverty line,³⁵⁰ 17 percent in extreme poverty.³⁵¹ While official unemployment is low at 2.4 percent, it is based on only the number of registered benefits recipients³⁵² and is subsequently a gross underestimate. Unemployment and underemployment are closer to 40 percent.³⁵³

Among other factors, economic desperation and unemployment have led an estimated 797,000, or 12 percent of the population, to emigrate.³⁵⁴ Reliance on remittances that migrant workers send from abroad, 98 percent of which come from Russia,³⁵⁵ is officially 37 percent of GDP.³⁵⁶ Unofficial estimates are much higher, with some figures at double the

³⁴⁸ Human Rights Watch, *World Report 2009*, January 14, 2009, <http://www.hrw.org/en/reports/2009/01/14/world-report-2009>.

³⁴⁹ World Bank, “Country Brief: Tajikistan,” October 2008, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/TAJIKISTANEXTN/0,,contentMDK:20630697~menuPK:287255~pagePK:141137~piPK:141127~theSitePK:258744,00.html> (accessed December 19, 2008).

³⁵⁰ Ibid.

³⁵¹ European Bank for Reconstruction and Development (EBRD), “Strategy for Tajikistan,” pp. 21, Section 2.1.5, <http://www.ebrd.com/about/strategy/country/taji/strategyd.pdf> (accessed December 19, 2008).

³⁵² United States Department of State, “Background Note: Tajikistan,” October 2008, <http://www.state.gov/r/pa/ei/bgn/5775.htm> (accessed December 19, 2008).

³⁵³ Ibid.

³⁵⁴ World Bank, “Migration and Remittances Factbook 2008: Tajikistan,” <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Tajikistan.pdf> (accessed December 17, 2007).

³⁵⁵ Deidre Tynan, “Central Asia: Kyrgyzstan, Tajikistan, and Uzbekistan Confront a Financial Disaster,” Eurasianet.org, November 10, 2008, http://eurasianet.org/departments/insightb/articles/eav111008_pr.shtml (accessed December 15, 2008).

³⁵⁶ World Bank, “Country Brief: Tajikistan,” October 2008, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/TAJIKISTANEXTN/0,,contentMDK:20630697~menuPK:287255~pagePK:141137~piPK:141127~theSitePK:258744,00.html> (accessed December 19, 2008).

official estimates.³⁵⁷ Russia has a GNI per capita income of over eight times higher than that of Tajikistan,³⁵⁸ which attracts much of young Tajik labor force for seasonal work. However, the 2008 economic downturn has resulted in a sharp decrease in remittances; several banks through which migrants send money report a 15 to 20 percent decrease in transfers to Tajikistan from October to November 2008.³⁵⁹

Seasonal migration from Tajikistan abroad has increased in the last decade, and particularly in the age groups 20-29 and 40-49.³⁶⁰ Some sources indicate that 58 percent of migrants are women,³⁶¹ though the UN Special Rapporteur on violence against women states that though female migration is on the rise, the vast majority of migrants are still men.³⁶²

Tajikistan is one of the biggest regional exporters of labor, and the phenomenon of labor migration is widely recognized. The International Organization for Migration has organized training programs to address the challenges and vulnerabilities of the migrants, including having irregular status, and other concerns such as HIV/AIDS infection risks.³⁶³ The International Labour Organization, together with the UN Development Programme, is also conducting a project to facilitate safe migration.³⁶⁴

Tajikistan has a host of chronic human rights problems, including lack of access to justice, due process violations, and ill-treatment in custody. There is no meaningful political plurality in the country, and the government exercises excessive control over NGOs, religious organizations, political parties, and the media.³⁶⁵ In March 2008 the International Monetary Fund demanded that Tajikistan give back more than US\$47 million in loans, after the Central

³⁵⁷ Deidre Tynan, "Central Asia: Kyrgyzstan, Tajikistan, and Uzbekistan Confront a Financial Disaster."

³⁵⁸ World Bank Data and Statistics, "Gross national income per capita 2007, Atlas method and Purchasing Power Parity," <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf> (accessed December 17, 2008).

³⁵⁹ "Tajik Remittances Down Due to Global Financial Crisis – Agency," Asia-Plus News Agency, December 11, 2008.

³⁶⁰ IOM, "Facts and Figures: Tajikistan," <http://iom.int/jahia/jahia/pid/508> (accessed December 19, 2008).

³⁶¹ Ibid.

³⁶² Human Rights Council 7th session (March 2008), "Report of the Special Rapporteur on Indicators on Violence against Women and State response," (A/HRC/7/6), <http://www2.ohchr.org/english/issues/women/rapporteur/index.htm> (accessed December 19, 2008).

³⁶³ "The International Organization for Migration Finishes its Development of their Course on Migration and HIV," Asia Plus News Agency, February 21, 2008, <http://asiaplus.tj/news/39/28318.html> (accessed December 19, 2008).

³⁶⁴ The International Labour Organization, "Migrants in times of economic crisis: ILO/UNDP join forces to make Tajik migration safe," December 16, 2008, http://www.ilo.org/global/About_the_ILO/Media_and_public_information/Feature_stories/lang--en/WCMS_101069/index.htm (accessed December 19, 2008).

³⁶⁵ Human Rights Watch, *World Report 2009*, January 14, 2009, <http://www.hrw.org/en/reports/2009/01/14/world-report-2009>.

Bank of Tajikistan intentionally gave false information about the country's financial state. The incident exposed serious flaws in Tajikistan's governance.³⁶⁶

Tajikistan suffered a severe energy crisis in the winter of 2008 due to insufficient water for hydroelectric power generation and government mismanagement, which left much of the country without electricity during a particularly cold winter.³⁶⁷ Tajikistan is also on the United Nations list of 12 countries most adversely affected by the global food crisis. The cost of bread and other food has doubled since August 2007, and many are facing food insecurity and famine for the winter of 2009.³⁶⁸

Labor Migration from Ukraine

Of 46 million Ukrainian citizens,³⁶⁹ some 13 percent of them emigrate every year, often for work.³⁷⁰ The majority of workers from Ukraine go to Russia; a significant number of migrant workers also seek employment in the United States, Poland, Israel and Kazakhstan.³⁷¹ Although the economic disparity between Russia and Ukraine is not nearly as pronounced as that between Russia and other countries in the region,³⁷² Russia nevertheless in 2007 had a gross national income per capita twice as high as that of Ukraine.³⁷³ Geographic proximity as well as cultural and linguistic ties facilitate labor migration to Russia. Many Ukrainians, particularly in the eastern parts of Ukraine, speak Russian as their first language. Russia and Ukraine also share strong family and social networks.³⁷⁴

³⁶⁶ Ibid.

³⁶⁷ World Bank, "Country Brief: Tajikistan," October 2008, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/TAJIKISTANEXTN/o,,contentMDK:20630697~menuPK:287255~pagePK:141137~piPK:141127~theSitePK:258744,00.html> (accessed December 19, 2008); and European Bank for Reconstruction and Development, "Strategy for Tajikistan," pp. 41, Annex 1, <http://www.ebrd.com/about/strategy/country/taji/strategyd.pdf> (accessed December 19, 2008).

³⁶⁸ Deidre Tynan, "Central Asia: Kyrgyzstan, Tajikistan, and Uzbekistan Confront a Financial Disaster," Eurasianet.org, November 10, 2008, http://eurasianet.org/departments/insightb/articles/eav111008_pr.shtml (accessed December 15, 2008).

³⁶⁹ World Bank, "Overview: Ukraine, Key Facts," October 2008, <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/ECAEXT/UKRAINEEXTN/o,,contentMDK:20631767~menuPK:328541~pagePK:141137~piPK:141127~theSitePK:328533,00.html> (accessed December 18, 2008).

³⁷⁰ World Bank, "Migration and Remittances Factbook 2008: Ukraine," <http://siteresources.worldbank.org/INTPROSPECTS/Resources/334934-1199807908806/Ukraine.pdf> (accessed January 6, 2009).

³⁷¹ Ibid.

³⁷² See World Bank Data and Statistics, "Gross national income per capita 2007, Atlas method and Purchasing Power Parity," <http://siteresources.worldbank.org/DATASTATISTICS/Resources/GNIPC.pdf> (accessed December 17, 2008).

³⁷³ Ibid.

³⁷⁴ According to one analyst, forty percent of Russian families are said to have relatives in Ukraine or to have come to Russia from Ukraine. Volodymyr Senchenko, "The New Wave of Labor Migration," *Ukraine Observer*, <http://www.ukraine-observer.com/articles/233/1067> (accessed December 22, 2008).

Although Ukraine has seen some positive developments in its economy in recent years, economic factors remain significant in the motivation of workers to go abroad. From 2002-2007, Ukraine experienced strong but volatile GDP growth, averaging about 7.5 percent, and real wages, pensions, and social benefits have increased.³⁷⁵ However, a steady increase in inflation, reaching 26 percent in March 2008, has eroded many of these gains.³⁷⁶ According to the United Nations Development Program (UNDP) poverty remains a serious problem, with 28 percent of the national population living in poverty, and up to 40 percent in rural areas.³⁷⁷ Poverty in rural areas is aggravated by a lack of infrastructure, and poor delivery of healthcare and other social services.³⁷⁸ The World Bank estimates workers' remittances to Ukraine totaled US\$829 million in 2006, or 0.8 percent of GDP.³⁷⁹

While Ukraine has made some important progress in human rights in recent years, its overall human rights record continues to be poor. Power struggles among the political elite have resulted in political instability, poor governance, and stalled reforms. Torture and ill-treatment in detention remains widespread. Employment discrimination against women, hostility to asylum seekers, discrimination against and attacks on ethnic minorities, and human rights abuses fueling Ukraine's staggering HIV/AIDS epidemic are all problems that the Ukrainian government has failed to address effectively.³⁸⁰

³⁷⁵ International Monetary Fund (IMF), "Ukraine: Selected Issues," July 2008, IMF Country Report No. 08/228, <http://www.imf.org/external/pubs/ft/scr/2008/cro8228.pdf> (accessed January 6, 2009); and United Nations Development Program, Welcoming Remarks by Francis M. O'Donnell, UNDP Resident Representative and UN Resident Coordinator, International Conference on Poverty Alleviation, April 16, 2008, Kyiv, http://www.un.org.ua/files/rccs-rr-poverty_conference_statement_16_apr_2008.pdf (accessed January 8, 2008).

³⁷⁶ IMF, "Ukraine: Selected Issues," July 2008.

³⁷⁷ According to official statistics, poverty is defined as living on less than 430 Ukrainian hryvna (US\$90) per person per month. United Nations Development Program (UNDP) Ukraine, "Global price shocks threaten to increase poverty in Ukraine," Press Release, April 16, 2008, <http://www.undp.org.ua/en/media/1-undp-news/460> (accessed January 8, 2009); and UNDP, "Welcoming Remarks by Francis M. O'Donnell, UNDP Resident Representative and UN Resident Coordinator, International Conference on Poverty Alleviation," April 16, 2008, Kyiv.

³⁷⁸ UNDP, "Global price shocks threaten to increase poverty in Ukraine."

³⁷⁹ World Bank, "Migration and Remittances Factbook 2008: Ukraine."

³⁸⁰ Human Rights Watch, *World Report 2009*, January 14, 2009, <http://www.hrw.org/en/reports/2009/01/14/world-report-2009>.