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Mandate of the Special Rapporteur on the human rights of migrants

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Dear Mr. Al-Hammadi,

I have the honour to address you in my capacity as Special Rapporteur on the human rights of migrants pursuant to Human Rights Council resolution 17/12.

First of all, I would like to take this opportunity to thank you for the invitation extended to me by your Government to visit Qatar in November this year. Following up on my visit, I would like to bring to the attention of your Government information that I have received concerning several cases that were brought to my attention while I was in Qatar.

According to the information received:

Mr. Ganga Bahadur Rai, from Morang District, Nepal, has been working in Qatar as a heavy vehicle driver in a transport company for the past 5 years. It is alleged that the vehicle he was driving had no road permit (Istamara in Arabic) or insurance for either driver or vehicle, while the law says it is mandatory to have Istamara and third party insurance. When the insurance for the vehicle expired, Mr. Rai reportedly asked his employer to renew it, which they declined. When Mr. Rai tried to refuse to drive the truck because of the lack of road permit and insurance, the company promised him they would take responsibility for any problems.

Mr. Rai had accident involving another vehicle, and the company was sued. The accident took the place in Umm Side. The court ordered Mr. Rai to pay 42,000 Qatari Riyals (QR) compensation to the second party (a Qatari national) and 10,000 QR to the court to be deducted from his salary (1000 QR per month). The company has reportedly asked Mr. Rai to pay himself the compensation for the other driver, who fractured both legs in the accident. Additionally, the company is requesting Mr. Rai to pay compensation for the damaged vehicle. Mr. Rai has stopped working, and is trying to obtain an exit permit to be able to return to Nepal, but his employer is requesting that he pay the fine, which he cannot afford.

Mr. Rai cannot leave the country because of the court case and a travel ban against him. He received the travel ban in Arabic, with no translation. He does not have a residence permit, and the police confiscated his driver's license. Mr. Rai has not been able to go home during the five years he has lived in Qatar. It is further reported that his daughter committed suicide, and he was not able to go home to attend her funeral, as he could not get an exit permit due to the travel ban. Mr Rai himself also tried to commit suicide, and finds himself in a desperate situation, in which the company is holding him responsible for their own mistake in neglecting to get insurance and a road permit for their own company's vehicle.

Mr. **Mahmoud Bouneb**, Canadian/Tunisian national, Ms. **Malika Alouane**, Moroccan national, and Mr. **Haytham Qudaih**, Palestinian national, all former employees of Al Jazeera Children's Channel (JCC), owned by Qatar Foundation for Education, Sciences and Community Development, have been subjected to a travel ban since 27 September 2011. They are prohibited from working, left without any financial resources since November 2012, and deprived of medical insurance. It is alleged that two separate investigations found no foundation for the criminal accusations against them, but the prosecutor has still decided to bring a criminal case against them. Mr. Bouneb launched al Jazeera Children's Channel in September 2005, and was appointed as its Executive General Manager and Board Member. On 27 September 2011, Mr. Bouneb's corporate e-mail account and internet access were blocked, and he was informed that the Qatar Foundation had imposed a travel ban on him. No reason or explanation was provided.

The following day, both Mr. Bouneb and Ms. Alouane received termination letters, with no reason provided and no notice period given. It is reported that the rest of JCC Directors and more than 120 staff members were fired in October 2011. On 30 October 2011, Mr. Bouneb was informed that Qatar Foundation /JCC had filed a case at Qatar's Public Prosecution against him, Ms. Alouane and 4 other Directors and managers, with the accusation of corruption, dilapidation and embezzlement of public funds. By the end of November 2011, 5 more managers were added to the claim, and the travel ban was imposed on all the 11 former JCC Executives (all Arab expatriates). The travel ban was confirmed by the Public Prosecutor in November 2011, and reconfirmed by the Judge in charge of the case in November 2012. Their lawyer twice requested the judge to lift the travel ban, but it was refused.

In June 2012, the 11 former JCC Executives were called by the National Audit Bureau committee at the Prosecutor's office to answer questions about JCC contracts and management in order to finalize the auditing report. In July 2012, the National Audit Bureau presented its findings to the Public Prosecutor, clearing all 11 from any criminal charges. In August 2012, JCC Management opposed the Audit findings, and the Public Prosecutor appointed Ernst & Young to carry another investigation. Ernst & Young reached the same conclusion. In November 2012, the Public Prosecutor reportedly lifted the travel ban imposed on 8 of the 11 former JCC Executives, all except Mr. Bouneb, Ms. Alouane and Mr. Qudaih. The

trial against the three started on February 5, 2013 in Doha. Since then, the judge has reportedly been postponing the case. JCC lawyers have filed a US\$ 55 million civil case, and have reportedly been obstructing justice to delay the trial. It is alleged that the Public Prosecutor has faced great pressure from JCC/Qatar Foundation to find incriminating evidence against Mr. Bouneb, Ms. Alouane and Mr. Qudaih.

All three had their health insurance cancelled immediately after their termination, and have been paid only half of a basic salary from October 2011 to November 2012. Since November 2012, they have not received anything. As a consequence, they are left without any financial resources, and Mr. Qudaih cannot pay for his children's school. Their next court date is on 26 December 2013.

Mr. Catalino III Lopez Pestano, Filipino national, was reportedly illegally terminated by his employer Rayyan Mineral Water Company WLL (RMWC) on 12 May 2011. The company withheld his airfare ticket and end of service bonus. The company did not pay his last two months' salary, which reportedly resulted in a travel ban and a freeze of his bank account initiated by a Dubai-based bank (Mashreqbank) on 30 June 2011 for default loan payment. Mr. Pestano was released from RMWC and accepted another job offer with Al Fardan Properties. However, the bank did not withdraw the travel ban and did not cooperate with the new employer to continue the monthly payments of his loan. At Al Fardan, Mr. Pestano suffered verbal abuse, and was forced to work overtime without pay. He was subsequently forced to sign a termination letter, and was refused a no objection certificate. This led him to be unemployed as of January 2012. The same month he filed a court case against RMWC for non-payment of compensation and benefits. He tried to file a complaint with the Ministry of Labour, but they instructed him to go to the Ministry of Interior instead. The Ministry of Interior decided not to deal with the case.

In April 2012 while trying to renew his car registration, Mr. Pestano was informed that Al Fardan had declared him a "runaway", despite the fact that he was still living in their residence. The same evening he was reportedly detained in the traffic office for four hours without food, drink or any opportunity to explain his side of the case. He was then transferred to the Deportation Centre. He asked for a lawyer, but was not given one. He was informed that he was accused of being a runaway, and that he could be released if he paid QR 6,000. Inside the deportation facility, a policeman reportedly coerced him to sell his car for QR 4,000, despite its market value being between QR 16,000 - 18,000, in exchange for facilitating processing of his documents and deportation. Mr. Pestano spent almost two months in the deportation centre, before being transferred to the Capital Security Department in Doha on 13 June 2013. There he was informed that Mashreqbank had filed a case against him for non-payment of the loan, and that he had been sentenced in absentia to 12 months. Mr. Pestano filed an appeal against this sentence.

The case against RMWC was closed in December 2012, and Mr. Pestano was awarded compensation. In order to get his compensation, he was asked to sign a document without being able to review it. He insisted on reviewing the document, and refused to sign it as the court clerk had modified the document, reducing the amount of compensation awarded by QR 10,000. After complaining, the full amount of the compensation was restored. Mr. Pestano reports suffering from post-traumatic stress disorder due to the pain he has suffered over the past two and a half years. He has not been able to visit any medical facility to seek diagnosis and possible treatment, due to the cancellation of his work visa. If he goes to a hospital, he fears they will ask him for a Qatari ID.

Concern is expressed that the cases against Mr. Rai, Mr. Bouneb, Ms. Alouane, Mr. Qudaih and Mr. Pestano appear to be unfounded, and that as a result, they are trapped in Qatar due to the travel bans issued against them. Further concern is expressed that this is a consequence of the sponsorship system in Qatar, which empowers employers to prevent migrants from leaving the country, even for unfounded reasons.

While I do not wish to prejudge the accuracy of this information, I would like to draw the attention of your Government to relevant international standards that are applicable to the issues brought forth by the situation described above.

Regarding the allegations of the imposition of travel bans, I would like to refer to the Universal Declaration of Human Rights (UDHR), article 13.2, which provides that everyone has the right to leave any country, including his own, and to return to his country. This right is also provided in article 5 (c) (ii) of the Convention on the Elimination of Racial Discrimination, acceded to by your Government on 22 July 1976.

Concerning the allegations that the court cases are unfounded, I would like to refer to UDHR Article 7 which provides that all are equal before the law, and are entitled without discrimination to equal protection of the law. Furthermore, Article 10 provides that everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him. Article 8 provides that everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Moreover, since it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention. I would greatly appreciate receiving additional details from your Government. I would in particular appreciate to receive information on the following points:

1. Are the facts alleged in the above summary of the case accurate?
2. Please explain the nature of the court case against Mr. Rai, including why he was held responsible for his company neglecting to get insurance and road permit for a company vehicle.

3. Please explain the nature of the criminal charges laid against Mr. Bouneb, Ms. Alouane and Mr. Qutaih, especially as two audits reportedly found no evidence against them.

4. Please explain the nature of the court case against Mr. Pestano, including the allegation that he was sentenced in absentia.

5. Please provide the details, and where available the results, of any inquiries that may have been carried out in relation to the allegations detailed above. If no inquiries have taken place, or if they have been inconclusive, please explain why.

I would appreciate a response within sixty days. Your Government's response will be made available in a report to the Human Rights Council for its consideration.

While waiting for your response, I urge your Government to take all necessary measures to guarantee that the rights and freedoms of Mr. Rai, Mr. Bouneb, Ms. Alouane, Mr. Qudaih and Mr. Pestano are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. I also request that your Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Mr. Al-Hammadi, the assurances of my highest consideration.

François Crépeau
Special Rapporteur on the human rights of migrants