

Mandates of the Special Rapporteur on the human rights of migrants; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences

REFERENCE:
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on the human rights of migrants; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context and Special Rapporteur on contemporary forms of slavery, including its causes and consequences, pursuant to Human Rights Council resolutions 43/6, 44/15, 34/9 and 42/10.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the allegedly abusive and exploitative labour conditions of migrant workers, such as unpaid and delayed wages, inadequate access to healthcare and the lack of necessary protection measures in light of the COVID-19 pandemic in accommodation centres.

According to the information received:

The economic disruptions caused by COVID-19 are having a significant impact on the employment status and welfare of migrant workers in the United Arab Emirates. Several thousands of migrant workers, especially those employed in the construction, hospitality, retail and transport sectors, have reportedly lost their jobs due to COVID-19 or continued working for a prolonged period without receiving their salaries. Consequently, many of them have requested to be repatriated to their countries of origin.

Construction sites, hosting the vast majority of migrant workers have temporarily ceased operations; tourism has been severely affected; the slowdown of trading partner economies has impacted business continuity; and supply chains across the country have been disrupted. With businesses' safety nets overstretched and priorities redirected to retain and protect local staff, many migrant workers have been dismissed, often with their wages unpaid, resulting in them relying on food assistance from community networks. According to the information received, in the absence of national social safety net options for migrants, hundreds of migrant workers are reliant on community donations for food and other amenities over the past two months.

Some migrant workers have reportedly been allowed to remain in company accommodations, as their work was interrupted, but have not been receiving their salaries for several months. Based on the information received, in response to the COVID-19 pandemic, companies in the UAE are allowed to renegotiate employment contracts. It remains however unclear, whether migrant workers' dismissals or suspensions are aligned with the new regulations, as the latter stipulate the requirement of migrant workers' advance consent.

Some migrant workers have reportedly been transferred by their employers to overcrowded or substandard accommodations, often in unsanitary conditions, sharing kitchens and bathrooms. In addition, while the rest of the country has imposed lockdown measures, work on certain sites has reportedly not complied simultaneously with these measures, posing an imminent risk to the health and safety of migrant workers.

Based on the information received, many migrant workers who have been dismissed and are unable to return to their home country, in fear of penalty fees due to overstayed residence, remain self-confined in their accommodation, compromising their right for free movement. In the absence of documentation, migrant workers are reportedly obliged to remain hiding, in fear of immigration controls, which may result in detention, arrest or deportation. In turn, workers without valid residence permits are also unlikely to be able to renew their health certificates, obstructing access to essential healthcare and further compounding health risks in face of COVID-19.

As a consequence, many migrant workers facing such acute challenges, have reportedly demonstrated at their embassies for the past three months and are requesting their repatriation. Many are Nepali nationals and others originating from South Asian and African countries. As their salaries have been disrupted and many of them are indebted due to high recruitment fees in their origin countries, they can ill afford a flight back to their home country. Accordingly, many migrant workers have become homeless with no viable options for help or support for daily subsistence. Without a salary and heavily indebted, they can hardly afford basic necessities and are faced with an imminent risk of starvation, abuse and further exploitation.

Moreover, according to information received, the absence of independent trade unions in the UAE,¹ denies migrant workers of their right to access to information on their rights, possible legal advice and support, in addition to a collective action platform for channeling complaints and seeking official response and remedy. While domestic laws allow for formation of other types of workers' committees, migrant workers do not necessarily have the same access or opportunity to join such committees and claim their rights, further exacerbating their vulnerabilities and risk for exploitation.

¹ In the UAE, Federal Law No.8 of 1980 on Regulation of Labour Relations as amended by Federal Law No. 12 dated 29/10/1986, prohibits labor unions.

While we do not wish to prejudge the accuracy of the information made available to us, we would like to express our deep concern over the serious impact on the human rights of migrant workers and the lack of adequate protection measures, amidst the COVID-19 pandemic. While we recognize measures taken by your Excellency's Government towards reforms to enhance protection for migrant workers, there is a serious risk that without immediate actions to protect all migrant workers regardless of their migration status from abusive contractual and labor conditions; provide them with sufficient access to adequate socio-economic support and adequate access to healthcare, thousands of migrant workers could be left stranded, facing severe deprivation, health risks, exploitation and abuse.

The exploitative labor conditions can amount to forced or bonded labor as whether or not someone offers him or herself voluntarily for work or his/her decision to terminate their contract thereafter must be comprehensively assessed by all relevant circumstances. Deception by employers or failure to provide information to migrant workers regarding expected wages, accommodation or residence permits may invalidate consent, as it exacerbates their vulnerabilities in particular amidst the COVID-19 crisis especially when they are dealing with significant debts due to high and often unlawful recruitment fees in their countries of origin.

In connection with the above alleged facts and concerns, please refer to the **Annex on reference to international human rights law** attached to this letter, which cites international human rights instruments and standards relevant to these allegations.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of migrant workers, regardless of their migration status, in compliance with international instruments

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have to the above-mentioned allegations.
2. Please provide information on actions taken by your Excellency's Government to ensure that migrant workers, including migrant domestic workers, regardless of their migration status, are integrated in the national response of UAE to the COVID-19 pandemic. In particular with regard to their access to healthcare and social protection system.
3. Please indicate which type of support is provided to migrants, especially those who have lost their jobs and who have become homeless and without adequate access to food and water as a result.

4. Please indicate what steps are taken to ensure that migrant workers have access to adequate housing, without discrimination.
5. Please indicate what actions your Excellency's Government is taking in coordination with other relevant countries to ensure the effective and safe repatriation of migrant workers who wish to return to their countries of origin. Please provide information on any supports provided by your Excellency's Government to migrants who wish to return to their countries of origin but could not afford a flight ticket.
6. Please highlight the steps that your Excellency's Government has taken, or is considering to take, including policies, legislation, and regulations, to protect against human rights abuse by business enterprises under its jurisdiction.
7. Please also indicate what steps your Excellency's Government has taken to ensure that business enterprises within its territory conduct effective human rights due diligence to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operation, as set forth by the UN Guiding Principles on Business and Human Rights. In particular, please indicate what steps are being taken to ensure business are addressing potential human rights impacts on migrant workers due to the COVID-19 pandemic.
8. Please provide information on existing mechanisms for migrant workers, including migrant domestic workers, to report abuses and exploitation and to seek support.
9. Please indicate which measures have been taken by your Excellency's Government to hold employers/sponsors of migrant workers accountable for unpaid wages, sub-standard housing conditions, abuses and abandonment.
10. Please indicate specific initiatives taken to ensure that those affected by business-related human rights abuse within your jurisdiction and/or territory have access to effective remedy.
11. Please indicate any plans your Excellency's Government has on becoming a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).
12. Please indicate if your Excellency's Government is planning to ratify P029, the Protocol of 2014 to the Forced Labour Convention (1930) and the ILO Domestic Workers Convention, 2011 (No. 189).

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would like to inform your Excellency's Government that a copy of this communication will be shared with the Government of Nepal.

This communication and any response received from your Excellency's Government will be made public via the communications reporting website within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

Please accept, Excellency, the assurances of our highest consideration.

Felipe González Morales
Special Rapporteur on the human rights of migrants

Anita Ramasastry
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Balakrishnan Rajagopal
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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

Annex
Reference to international human rights law

In connection with the above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the principle of non-discrimination enshrined in article 2 of the Universal Declaration of Human Rights, as well as in several other United Nations declarations and conventions which provide that every individual is entitled to the protection of their rights and freedoms without discrimination or distinction of any kind, and that all persons shall be guaranteed equal and effective access to remedies for the vindication of those rights and freedoms. The Universal Declaration of Human Rights further contributes to international standards regarding the elimination of all forms of slavery. Article 4 states that "no one shall be subjected to slavery or servitude, slavery and slave trade are prohibited in all its forms."

Furthermore we recall your Excellency's Government's the paragraph 14 of the General Assembly resolution 62/156 which "requests all States, in conformity with national legislation and applicable international legal instruments to which they are party, to enforce labour law effectively, including by addressing violations of such law, with regard to migrant workers' labour relations and working conditions, inter alia, those related to their remuneration and conditions of health, safety at work and the right to freedom of association".

We would also like to recall to Your Excellency's Government the thematic report of the Special Rapporteur on the human rights of migrants on labour exploitation of migrants (A/HRC/26/35), in which the Special Rapporteur called on States to: "Take all necessary measures to combat discrimination and violence against migrant workers, including [...] denial of access to medical care, by adopting and implementing legislation prohibiting such acts, effectively investigating cases of discrimination and violence, prosecuting and punishing those responsible, as well as providing reparations to victims."

"Combat wage theft and ensure, by law, that all migrant workers receive their salaries in a bank account, and that they are paid their full salary, including paid holidays, sick leave and overtime compensation when applicable, on time, and assist with recovery of wages when this is not complied with. "

"Make sure that passports and other identity documents are not confiscated, and make the withholding of such documents an offence, with appropriate penalties, and effectively prosecute violations and guarantee that all migrants have the right to accept and to leave employment voluntarily, without the threat of a penalty."

"Ensure that migrants are free to terminate their employment contract, without fear of retribution, and find another employer or leave the country when they so wish. Protect migrants against unfair dismissals, and refrain from tying visas to the employer, so that migrants can find a new job in case their employment is terminated. "

We would also like to recall to Your Excellency's Government the thematic report of the Special Rapporteur on the human rights of migrants on labour exploitation of

migrants (ref. A/HRC/26/35), in which the Special Rapporteur recommends States to “ensure that medical care is available to all migrant workers, including irregular and temporary migrants, and that it is not dependent on the production of identity documents or residency permits. ”

We would furthermore like to recall the 2016 the New York Declaration for Refugees and Migrants and the UN Global Compact on Migration, particularly principles 15, 17 and 21, emphasizing the commitment to respect the human rights of all migrants.

As stated in the OHCHR guidance related to COVID 19 ² and the human rights of migrants, State authorities should guarantee the right of all migrants and their families to return to the country of which they are nationals. In addition, states are urged to guarantee the labour rights of migrant workers, especially of those working in essential sectors, and take measures to protect their health, such as by providing personal protection equipment.”

We would also like to draw the attention of Your Excellency’s Government to Article 25.1 of the Universal Declaration of Human Rights, stating that everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including housing.

Forced or compulsory labour is defined in the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), ratified by your Excellency’s Government in 1982. As per Article 2, paragraph 1, ‘term forced or compulsory labour 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’. The Protocol of 2014 to the Forced Labour Convention (P 029) also provides specific guidelines to governments and businesses on steps to end forced labour.

We would also like to point out to Your Excellency’s Government the Sustainable Development Goals (SDGs), including Goal 8 on the promotion of sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all. This SDG is directly linked to the prevention of exploitation through decent work. The Sustainable Development Goals agenda therefore provides a unique opportunity to provide dignifying economic opportunities to all, including to migrant workers and including in times of crisis.

Finally, the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, issued, inter alia, the following recommendations in report A/HRC/39/52 on the impact of slavery and servitude on marginalized migrant women workers in the global domestic economy:

² <https://www.ohchr.org/Documents/Issues/Migration/CMWSPMJointGuidanceNoteCOVID-19Migrants.pdf>; https://www.ohchr.org/Documents/Events/COVID-19_Guidance.pdf

- Create viable, accessible and non-discriminatory employment options for migrant workers as a sustainable alternative to poverty and to prevent exploitation, paying particular attention to women migrant workers;
- Guarantee the rights to assembly and to freedom of association for workers, including migrant domestic workers;
- Guarantee equal access for migrant women to services such as health care, including sexual and reproductive health care, and social protection. Also ensure that they have access to information materials in relevant languages.