

Mandates of the Special Rapporteur on the human rights of migrants; the Working Group on Arbitrary Detention; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and the Special Rapporteur on the human rights to safe drinking water and sanitation

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Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the human rights of migrants; Working Group on Arbitrary Detention; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment and Special Rapporteur on the human rights to safe drinking water and sanitation, pursuant to Human Rights Council resolutions 43/6, 42/22, 32/8, 42/16, 43/20 and 42/5.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **current situation of migrants who are stranded in overcrowded detention centers for prolonged and indefinite periods. These migrants have been held in unsanitary and dehumanizing conditions without adequate access to healthcare or necessary protection measures in light of the COVID-19 pandemic.**

According to the information received:

Hundreds of migrants have been detained awaiting deportation for prolonged and indefinite periods in the Iskan 2 centre, in Al Karj area, Riyadh. Reportedly, there are over 50 rooms in the centre, a typical room of 250 sqm in the centre is packed with up to 300 people. These detentions have not followed an individualized assessment of the need to detain and appear to be automatic. Migrants have not been able to access legal assistance and challenge the legality of their detention. Reportedly, migrants held at this centre, sleep and eat next to raw sewage spilling across the floor. They have been living in unsanitary and dehumanizing conditions for several months. The centre allegedly lacks adequate water and sanitation, with almost no drinking water. Reports indicate that migrants share between two to five toilets with other 350 detained migrants. Migrants are only provided with a small piece of bread during the day and rice in the evening. According to information made available, it is alleged that dozens of emaciated men are tightly packed in small rooms with barred windows.

Hundreds of migrants, originally from African and Asian countries, are being held in the Iskan 2 centre. Allegedly, there are similar rooms packed with migrant women and children. Moreover, based on information received,

similar detention centers were geolocated, notably in Jizan province (Al-Dayer centre), in Al Shumaisi, near Mecca's holy city, in Jazan, a port town near Yemen, and Jeddah.

Many migrants have been detained, on average, for six months. Reportedly, at least two men have been in detention for over a year. Some of them have also been subjected to forms of mental and physical abuse that may amount to torture or to other cruel, inhuman or degrading treatment or punishment. Some migrants have been reportedly beaten with whips and electrical cords by guards, who have also hurled racial slurs at them. Beatings occurred allegedly when detainees asked for medical attention or complained about the detention conditions. According to the source, between October and November 2020, three migrants died in this centre, including the suicide of a sixteen-year-old. Reportedly, two of the migrants died immediately as a result of the injuries caused by the above mentioned beatings.

The longstanding risks that migrant workers often face in administrative immigration detention have been compounded due to the COVID-19 pandemic. In the absence of appropriate prevention measures, exposure to unsanitary and overcrowded detention conditions, their risk of infection has increased. We have received reports that they were not tested for COVID-19 before they arrived in the centre and that many of them suffer from illness and various diseases such as skin infections without adequate access to healthcare. Furthermore, rooms are reportedly fully packed with people making it almost impossible to lie down. Some migrants are reported to be wearing masks in a futile effort to prevent COVID-19 in such a crowded place, where physical distancing is impossible to observe. Some migrants have expressed concern about being exposed to the COVID-19 virus, as they have observed other detained migrants showing what appears to be COVID-19 symptoms.

Among those detained awaiting deportation, there are reportedly migrants that are victims of trafficking, while some others are asylum seekers. It is unclear whether any individual assessment has been conducted to address their protection needs. Reportedly, in April of 2020, hundreds of asylum seekers were detained without the ability to legally challenge their detention or eventual deportation. Neither did they have access to international protection or other protection mechanisms.

Migrants make up an estimated 20 percent of the population in Saudi Arabia. At least 10 million migrant workers in Saudi Arabia are employed across a wide range of sectors. Migrant workers play an essential role in the local economy. Many are working in essential sectors and on the frontlines of the national response to COVID-19. However, the pandemic and its unprecedented socio-economic consequences have severely affected thousands of migrants workers in the country. Migrants are in far more vulnerable situations.

In the context of the pandemic-triggered economic crisis, many migrants have been dismissed from their jobs. Those who have lost their jobs often have no

access to housing, salary, or social aid. According to the information received, migrants also face significant obstacles in renewing their visas or residence permits, which has resulted in their arrest. Hundreds of migrants have been held in detention of indefinite and prolonged nature without any legal or consular access. Many of them have been deported.

Without prejudging the accuracy of the received information, we are particularly concerned about the integrity of migrants detained in overcrowded and unsanitary immigration detention centres in conditions that may amount to cruel, inhuman or degrading treatment or punishment and where they are unable to observe necessary physical distancing as a preventive measure of COVID-19. Preventing the spread of COVID-19 in detention centres is an issue of public health and in the interest of not only the persons deprived of liberty but also of the staff of the facility and the general public. Persons deprived of liberty face higher vulnerabilities as the virus can spread rapidly in confined spaces, given overcrowding, the restricted access to hygiene and healthcare as well as lack of adequate access to water and sanitation, particularly for handwashing in some contexts. International standards highlight that States should ensure that persons in detention have access to the same standard of health available in the community, which applies to all persons regardless of citizenship, nationality, or migration status.

We are also concerned about the allegations of hundreds of migrants being held in detention of indefinite and prolonged nature, which may amount to arbitrary detention. Immigration detention of adults must always be an exceptional measure of last resort consistent with the principles of necessity and proportionality. States should use non-custodial and community-based alternatives. In this regard, we would like to bring to the attention of your Excellency's Government Deliberation No. 11 of the Working Group on Arbitrary Detention on prevention of arbitrary deprivation of liberty in the context of public health emergencies, which recalls in particular that automatic pretrial detention of persons is incompatible with international law. Paragraph 14 states that "the circumstances of each instance of pretrial detention should be assessed; at all stages of proceedings, non-custodial measures should be taken whenever possible, and particularly during public health emergencies."

Regarding the detention of migrant children, we would like to bring to the attention of your Excellency's Government the Revised Deliberation No. 5 on deprivation of liberty of migrants of the Working Group on Arbitrary Detention. Paragraph 11 states that "the deprivation of liberty of an asylum-seeking, refugee, stateless or migrant child, including unaccompanied or separated children, is prohibited." In this regard, we also wish to stress that the detention of any child for reasons related to their, their parents' or their legal guardians' migration status is never in the best interests of the child and is always a child rights violation under international human rights law. In this regard, we refer your Excellency's Government to the report of the Special Rapporteur on the human rights of migrants on ending immigration detention of children and providing adequate care and reception for them (A/75/183). In this report the Special Rapporteur urged States to "establish in domestic law an explicit prohibition of immigration detention of all migrant children under the age of 18, including unaccompanied children and children with their families. Policy framework and quality assurance processes should be established to

ensure that the prohibition is effectively implemented and that migrant children are provided with the strongest protection.”

We also express our serious concern regarding the potential deportation of hundreds of migrants, without individual assessments of their protection needs and procedural guarantees, in violation of the principle of non-refoulement and the prohibition of collective expulsions. Furthermore, we are concerned that in the absence of individual assessments, some migrants may be subject to persecution if returned. Forced returns of migrants should be suspended during the pandemic to protect the health of migrants and communities, and uphold the human rights of all migrants, regardless of status. In this regard, we would like to refer your Excellency’s Government to the Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants, of the UN Committee on the Protection of the Rights of All Migrant Workers and Members of their Families and the UN Special Rapporteur on the human rights of migrants.¹

We would also wish to note that the heightened duty of care of States to take necessary measures to protect the lives and bodily integrity of individuals deprived of their liberty by the State extends particularly to migrant women, children, and their families. Migrant women, children, and their families should not be detained during health emergencies and should be released. In this regard, we would like to refer your Excellency’s Government to Deliberation No. 11 on prevention of arbitrary deprivation of liberty in the context of public health emergencies of the Working Group on Arbitrary Detention. Paragraph 23 states that “detention in the context of migration is only permissible as an exceptional measure of last resort, which is a particularly high threshold to be satisfied in the context of a pandemic or other public health emergency.”

Regarding the detained migrants’ potential deportations, we would like to remind your Excellency’s Government of para. 10 of the GA Resolution 62/156, which “urges States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations and take into account, in conformity with their international obligations and commitments, the principle of the best interest of the child and family reunification.”

We would also like to draw the attention of your Excellency’s Government to paragraph 16 of the Resolution A/RES/65/205 of the UN General Assembly, which urges States “not to expel, return (“refouler”), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture.” Furthermore, the prohibition of a return to a place where individuals are at risk of torture and other ill-treatment applies at all times, and it is enshrined in the absolute and non-derogable right in article 5 of the UDHR and as an international customary norm of *jus cogens*.

Furthermore, we wish to reiterate the explicit recognition of the human rights to safe drinking water by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate

¹ [Joint Guidance Note on the Impacts of the COVID-19 Pandemic on the Human Rights of Migrants.](#)

standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights. In addition, the UN General Assembly (resolution 70/169) and the Human Rights Council (resolution 33/10) recognized that water and sanitation are two distinct but interrelated human rights. In particular, we recall explicit recognition that “the human right to sanitation entitles everyone, without discrimination, to have physical and affordable access to sanitation, in all spheres of life, that is safe, hygienic, secure, socially and culturally acceptable and that provides privacy and ensures dignity, while reaffirming that both rights are components of the right to an adequate standard of living”.

We recognize the positive measures taken by your Excellency’s Government, including the extension of the residency permits of some migrant workers; as well as the launch of labour reforms aimed at granting migrant workers more freedom in job mobility and lessening restrictions on exit and re-entry into the Kingdom. However, there is a serious risk that without immediate actions to protect all migrants regardless of their migration status; and provide them with adequate protection and assistance; thousands more would be placed in extremely vulnerable situations, and facing an increased risk of COVID-19 infections.

We would like to appeal to your Excellency’s Government to take all necessary measures to include migrants in the national response to counter the COVID-19 pandemic in line with the World Health Organization’s advice to Governments to control the spread of the virus and avert a catastrophe, by ensuring migrants’ equal access to COVID-19 related measures including prevention, testing and treatment in order to protect the rights of refugees and migrants and the public health and stem the global spread of COVID-19.²

We also call on your Excellency’s Government to implement mechanisms to review the use of immigration detention with a view to reducing their populations to the lowest possible level, and immediately release migrant children, including unaccompanied or separated children and those with their families, from immigration detention facilities to non-custodial and community-based alternatives with full access to rights and services, including health care. We also urge your Excellency’s Government to refrain from forcibly returning migrants to their countries of origin in the view of the global COVID-19 pandemic.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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:

² <https://www.who.int/news/item/31-03-2020-ohchr-iom-unhcr-and-who-joint-press-release-the-rights-and-health-of-refugees-migrants-and-stateless-must-be-protected-in-covid-19-response>

1. Please provide any additional information and/or comment(s) you may have to the above-mentioned allegations, particularly concerning the conditions of the immigration detention centre mentioned above, including the allegations of torture or other cruel, inhuman or degrading treatment or punishment, and the reported death of three migrants in the centre.
2. Please provide information regarding the legality, proportionality and necessity of the detention of those migrants whose situations are highlighted in this letter. Please explain what legal procedures are being followed in relation to the detention and alleged intended deportation of those migrants, and what legal avenues are provided to the migrants to challenge their detention and deportation.
3. Please provide information on measures taken to ensure that individual assessments are conducted to guarantee the rights of persons in need of international protection, ensuring the continuity of asylum and other protection procedures for unaccompanied or separated children, victims of human trafficking, and other people in vulnerable situations at the borders.
4. Please provide information regarding all prevention measures taken in response to the COVID-19 pandemic in immigration detention facilities, in order to protect the physical and mental integrity of the detainees, the staff and the wider community.
5. Please provide information on actions taken by your Excellency's Government to ensure that migrants, regardless of their migration status, are integrated into the Kingdom of Saudi Arabia's national response to the COVID-19 pandemic. In particular, concerning their access to testing, treatment, healthcare in general and social protection systems and access to safe drinking water and sanitation including handwashing. Please indicate which type of support is provided to migrants who have lost their jobs and their inclusion in assistance initiatives, regularization programmes, visa extensions, suspension of sanctions for irregular stay, among other measures.
6. Please indicate what actions your Excellency's Government is taking in coordination with relevant embassies or consulates to ensure the effective repatriation of migrant workers who wish to return to their countries of origin and that return procedures are adjusted to ensure that they are compatible with health strategies for COVID-19 control.
7. In view of the joint call by the Special Rapporteur on the human rights of migrants and Committee on Migrant Workers to suspend forced returns during the COVID-19 pandemic, please provide information on the practice in Saudi Arabia.

8. Please highlight the steps that your Excellency's Government has taken or consider to take to protect migrants against human rights abuses such as physical abuse by guards or other actors. And to investigate, prosecute, and sanction those responsible and ensure effective access to justice for victims of human rights abuses. If no steps or inquiries have taken place or have been inconclusive, please explain why.
9. Please provide information on any plans your Excellency's Government has to become a party to the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990).

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.

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.

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