

Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur on the situation of human rights in Cambodia; the Special Rapporteur on the rights of indigenous peoples and the Special Rapporteur on contemporary forms of slavery, including its causes and consequences

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(Please use this reference in your reply)

20 September 2022

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on trafficking in persons, especially women and children; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the situation of human rights in Cambodia; Special Rapporteur on the rights of indigenous peoples and Special Rapporteur on contemporary forms of slavery, including its causes and consequences, pursuant to Human Rights Council resolutions 44/4, 44/15, 48/, 42/20 and 42/10.

In this connection, we would like to bring to the attention of your Excellency's Government information that we have received concerning the trafficking of persons for the purposes of forced labour, forced criminality and sexual exploitation in casinos, hotels and other places throughout Cambodian territory, and serious concerns in relation to alleged failures to prevent trafficking in persons, and to provide assistance and protection to victims, including through the identification of alleged victims and referrals for assistance and protection.

According to the information received:

Background to the trafficking in persons in Cambodia and the gambling industry

According to the information received, Cambodia has been a major country of origin for trafficking in persons, including trafficking for purposes of sexual exploitation and forced labour. The information received, which is supported by expert testimony, indicates that Cambodia has also become a country of destination for trafficking in persons. Reported cases of trafficking in persons for forced criminality, sexual exploitation and forced labour, continue to take place within the jurisdiction of Cambodia. Reports received also suggest that the number of trafficked persons may be as high as more than one hundred thousand, particularly concentrated in destination cities such as Phnom Penh, Kandal, Koh Kong, Preah Sihanouk, and Svay Rieng provinces.

We understand that since the introduction of a prohibition of online gambling in Cambodia in 2019, and combined with the loss of employment within the hospitality and tourism sectors during the COVID-19 pandemic, a significant number of skilled migrant workers have been left without employment in Cambodia. This loss of livelihoods, and limited access to social protection, has increased the risks of exploitation, including of trafficking in persons in Cambodia. In addition, there has been continued growth in the technology sector, including in e-commerce, the production of cryptocurrencies, and in the

online gaming sector. Reportedly, the rapid growth of this sector has led to increased risks of online fraud and cyber-crimes. Cambodia has also seen a rapid growth in casinos, including in border areas, reportedly leading to increased challenges in regulation of this growth industry and employment within the sector.

Trafficking for the purposes of forced criminality, forced labour and sexual exploitation

We have been informed that migrant workers arrive regularly or irregularly in Cambodia from different countries. According to the information received, the majority of the alleged victims are Chinese men under 40 years old, but there are also alleged victims originating from Thailand, Vietnam, the Philippines, Egypt, Pakistan, as well as from several Eastern African countries. Reportedly, victims are collected at the airport or other border crossings and driven to compounds, mainly to the city of Sihanoukville, where there are more than 100 casinos and hotels located. According to information received, it is estimated that there are 100,000 victims of trafficking in Sihanoukville City alone, who have been trafficked for the purposes of forced criminality, forced labour and sexual exploitation.

It is also alleged that an estimated 4000 victims of trafficking for purposes of forced criminality and forced labour have been identified in a compound in Phnom Penh. Within the facilities in the compound, it is alleged that each floor is dedicated to different activities, including scamming, crypto scamming, and provision of illegal sexual services, among others. This compound is located in the northern west part of Phnom Penh. Other locations allegedly include Svay Rieng and Kandal provinces near the Vietnamese border. According to information received, at least two of the victims in a compound in Svay Rieng are children, who were trafficked for the purposes of forced criminality in an online gambling company. According to this information, several of the victims belong to indigenous communities in Vietnam.

Victims are reportedly trained in the use of a range of platforms that are used for online fraud, including fake gambling websites and cryptocurrency investment platforms. Cryptocurrencies are also allegedly used on these platforms for illegal activities, including money laundering and illicit purchases. It is alleged that, following completion of initial training, victims are then distributed to diverse locations in Cambodia, and are assigned roles based on their nationality and language skills.

According to the information received, the alleged victims in each of the locations identified above are held in situations involving restrictions on their right to the freedom of movement, constituting a deprivation of liberty. They are allegedly not allowed to leave compounds and are guarded by armed men at all times. It is also alleged that their passports and mobile phones are confiscated.

Many of the alleged victims are reportedly in Cambodia on tourist visas, despite having been recruited for employment, and given contracts of employment. According to the information received, several countries of origin have requested Cambodian consulates to suspend the issuing of business

visas to migrant workers prior to departure, because of the prevalence of trafficking for the purposes of forced labour and forced criminality to Cambodia.

According to the information received, victims are deceived about the conditions and nature of the work to be undertaken. The methods of recruitment used, include the issuing of online offers of employment, in hospitality or client services, and recruitment through agents in countries of origin. It is alleged that victims of trafficking in Cambodia, are forced to recruit migrant workers from their countries of origin, by means of deception.

It is further alleged that migrant workers recruited incur significant debts, amounting to tens of thousands of US dollars, incurred in travel costs (either inside or outside of Cambodia), and additional fees imposed by recruiters and employers, including in relation to transfer from tourist to business visa status in Cambodia. These practices, which are indicators of trafficking for purposes of forced labour, may lead to situations of debt bondage.

According to information received, victims of trafficking are subjected to conditions which amount to a deprivation of liberty, and are subject to both physical and psychological abuse, including death threats, threats of physical violence, and beatings, (including with electric tasers and other objects). Allegedly, victims are also subjected to periods of detention in isolation, and food rationing (one meal a day or less). According to the information received, food ration cards are distributed, and may be withdrawn as a form of punishment. It has also been reported that victims, who attempt to escape, are forcibly transferred to other compounds, and are subject to physical violence. It is also reported that victims have incurred serious physical injuries escaping from the compounds where they were detained, and information received indicates that victims may have died while attempting to escape. According to information received, in one incident, 25 alleged victims who escaped, returned to their countries of origin, without receiving any assistance. A further 17 alleged victims, who escaped from compounds are reported to have remained in Cambodia.

It is further alleged that victims may have been subjected to sexual violence, including gang rape. According to information received, extrajudicial, summary or arbitrary executions of victims of trafficking may have taken place in the compounds, and are allegedly falsely reported to law enforcement authorities, as suicides.

Identification, assistance and protection of victims of trafficking

It is alleged that victims who have been rescued by police, following investigations of trafficking in persons, or who escape from detention in the compounds, are not provided with specialised assistance to support their recovery and are not provided with protection. According to the information received, very limited assistance and accommodation is available to victims of trafficking who are not Cambodian citizens.

Returns and detention

According to information received, while a number of victims of trafficking have been assisted in returning to their countries of origin by embassy and consular officials in Cambodia, it is reported that many victims of trafficking have been detained in immigration related detention facilities, pending removal to their countries of origin, and have not been formally identified as victims of trafficking or provided with specialised assistance and protection. It is further alleged that they are subject to forcible removals to their countries of origin, and that pre-removal risk assessments are not undertaken by Cambodian authorities, leading to failures to ensure compliance with the obligation of non-refoulement.

Reports indicate that victims of trafficking have been subject to punishment, including for migration related offences. It is further alleged that victims of trafficking have been subjected to criminal investigations and prosecutions following return to their countries of origin, in breach of the principle of non-punishment of victims of trafficking, and their rights to assistance and protection as victims, and in breach of their right to a fair trial. Serious concerns are raised in relation to the State's obligation of non-refoulement and the rights of victims of trafficking to effective protection against refoulement.

Law enforcement and corruption

Reports have also been received of corruption among law enforcement bodies, specifically the police force. According to the information received, families of victims have been required to make payments to police officers, to identify and assist their family members who are victims of trafficking. It is further reported that investigations of trafficking in persons are only undertaken following requests from embassies or consulates of the countries of origin of alleged victims, and that there has been a failure to undertake effective investigations into trafficking in persons, or to engage effectively in international cooperation to investigate trafficking in persons and prosecute those responsible.

Cases have also been reported of traffickers having requested 4500 USD for each victim to be released, and that Cambodian police officers requested that families of victims pay the monies requested to the alleged traffickers. It is further alleged that these payments were split between the alleged traffickers and police officers. Reports have also been received of uniformed Cambodian police officers, working within the compounds (referred to above), as security guards, limiting the freedom of movement of victims.

While we do not wish to prejudge the accuracy of these allegations, we express our serious concern that there may be a failure to take measures to prevent trafficking in persons, including for the purposes of forced criminality, forced labour and sexual exploitation.

While we welcome reports of positive action being taken by the authorities, to identify, assist and protect victims and to investigate allegations of trafficking for purposes of forced criminality and forced labour, specifically in the internet fraud and online gambling sectors, and in the production of crypto-currencies, we are concerned

that efforts to identify, assist and protect victims of trafficking in persons do not meet the State's obligations under international human rights law, and under the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), ratified by your Excellency's Government on 6 February 2006.

We highlight, in particular, the obligations emanating from article 6 of the Palermo Protocol, concerning assistance to and protection of victims of trafficking in persons, as well as the effective implementation of the obligation of criminalization for trafficking in persons for all its purposes (article 5). We further highlight the obligation on State to establish comprehensive policies, programmes and other measures, to "prevent and combat trafficking in persons" (article 9 (1)(a)), the obligation to ensure compliance with the 1951 Convention and the 1967 Protocol relating to the Status of Refugees and the principle of non-refoulement, and the obligation to ensure consistency with, "internationally recognized principles of non-discrimination" in all measures to prevent and combat trafficking in persons, and in implementation of the obligations arising under the Palermo Protocol, and international human rights law (as stated in the Annex below).

We wish to highlight the importance of ensuring effective implementation of the non-punishment principle, and in particular the obligation to ensure the prompt and effective identification of victims of trafficking in order for the principle to be effectively applied. We also highlight the obligation to ensure that, "the principle of non-punishment is applied to: (a) All forms of trafficking, including for the purpose of sexual exploitation, labour exploitation and forced criminality, as well as to both cases of international trafficking and cases of internal trafficking; (b) Any unlawful activity carried out by a trafficked person as a direct consequence of their trafficking situation regardless of the gravity or seriousness of the offence committed; (c) Criminal, civil, administrative and immigration offences, as well as other forms of punishment, [...] ; (d) Any situation of deprivation of liberty, including immigration detention and detention pending removal, transfer or return proceedings." (A/HRC/47/34, para 57).

Further, we wish to highlight that any failure to provide assistance and protection to victims, would be a violation of the ASEAN Convention against trafficking in persons, especially women and children, approved by your Excellency's Government on 25 January 2016, notably article 14 regarding obligations of identification, assistance and protection of victims, and article 16 on law enforcement and prosecution. Further, we highlight the obligations arising under article 16(2) of the ASEAN Convention, to detect, deter and punish corruption, that contributes to trafficking in persons. Further, any such failure to ensure assistance and protection to victims of trafficking, without discrimination, would be a violation of international human rights law, and international labour law, as outlined in the Annex.

In addition to our concerns that the State's positive obligations of prevention, assistance and protection are not being met, we are concerned that there may be a failure to undertake effective investigations into allegations of trafficking in persons, or to ensure that there is international cooperation in the investigation of trafficking in persons, and provision of protection to victims, leading to a lack of accountability for this serious human rights violation and serious crime, and continued impunity for trafficking in persons.

We remain concerned at the allegations of serious human rights violations, and request your response to them.

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.

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 on the above-mentioned allegations.
2. Please advise on what steps have been taken by your Excellency's Government to ensure gender-sensitive and child friendly identification and assistance of victims of trafficking in persons for all purposes of exploitation, including forced criminality, forced labour and sexual exploitation, and to prevent trafficking of children for all purposes of exploitation.
3. Please provide information on measures taken to ensure that returns of victims of trafficking are voluntary and are undertaken with due regard to the safety of victims, and to ensure the principle of non-refoulement is effectively implemented.
4. Please provide information on measures taken to ensure effective implementation of the principle of non-punishment of victims of trafficking, and in ensuring the victims of trafficking are not subject to immigration related detention. Please also provide information about the steps taken by your Excellency's Government to criminalize trafficking in persons for the purposes of forced criminality.
5. Please indicate what measures are being taken to full access to consular assistance for all victims of trafficking who are not Cambodian citizens, and to permit victims of trafficking in persons to remain in its territory, including for humanitarian reasons, and to provide access to asylum or other forms of international protection for victims of trafficking.
6. Please provide information on the steps taken by your Excellency's Government in providing effective access to remedies for victims of trafficking and related human rights violations, including through domestic judicial mechanisms.
7. Please provide information on what measures are undertaken to ensure that Cambodian Embassy and consular officials are trained in the prevention of trafficking in persons, and identification of victims of trafficking.

8. Please provide information on the measures taken to ensure that effective investigations are undertaken into trafficking in persons, including for the purpose of forced criminality, and what measures of international cooperation are being undertaken to investigate and prosecute those alleged to be responsible for trafficking in persons, and to trace missing persons who may be victims of trafficking.
9. Please provide information on measures taken by your Excellency's Government in order to ensure that non-governmental organisations are able to carry out their legitimate human rights work in accordance with existing international human rights standards, in an enabling environment, and to support their work in the prevention of trafficking, and the provision of assistance to victims of trafficking.
10. Please provide information on the measures that your Excellency's Government has taken, or will take, to end forced or compulsory labour in line with ILO Forced Labour Convention, 1930 (No. 29) and to end debt bondage and the use of Cambodian flagged vessels and ports for the conveyance of persons who will be compelled to engage in forced labour in line with the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.
11. Please highlight the steps that your Excellency's Government has taken, or is considering taking, to protect workers, including migrant workers against human rights violations by businesses who operate and/or domiciled in Cambodia to ensure that these business enterprises respect human rights throughout their operations, including by carrying out human rights due diligence in line with the UN Guiding Principles on Business and Human Rights.
12. Please indicate the steps that your Excellency's Government has taken, or is considering to take, to ensure access to an effective remedy in accordance with the UN Guiding Principles, for the workers who may be victims of business-related human rights abuses, including trafficking in persons for purposes of forced labour, as well as unsafe and unhealthy living and working conditions, including through ensuring that Cambodian business enterprises establish effective operational-level grievance mechanisms or cooperate in the provision of effective remedies through legitimate processes to the affected victims, if they have caused or contributed to adverse human rights impacts.
13. Please provide information on what measures are being taken to prevent corruption within law enforcement bodies that contributes to trafficking in persons, and to investigate and prosecute those responsible for any corrupt practices, or the obstruction of justice related to investigation and prosecution of crimes trafficking in persons, or protection of victims.

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.

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(s) responsible for the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

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

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Special Rapporteur on trafficking in persons, especially women and children

Fernanda Hopenhaym
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Special Rapporteur on the rights of indigenous peoples

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

Annex

Reference to international human rights law

Without implying, in advance, a conclusion on the facts, we would like to draw the attention of your Excellency's Government to the international standards and norms applicable to the matters set forth above.

The Universal Declaration of Human Rights (UDHR), adopted by the General Assembly of the United Nations on December 10, 1948, is a key component of 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."

We would like to refer to the Slavery Convention of 1926, which calls for the complete abolition of slavery in all its forms and to article 4 of the Universal Declaration of Human Rights which states that "No one shall be held in slavery or servitude, slavery and the slave trade shall be prohibited in all their forms". We would also like to recall Article 5 of the Slavery Convention which calls upon States to take appropriate measures to prevent forced or compulsory labor involving conditions similar to slavery.

In addition to the reference in the main text of this letter, we would also like to draw the attention of your Excellency's Government to the Palermo Protocol whereby your Excellency's Government is obliged to refrain from acts that would frustrate or undermine the objectives and purposes of the Protocol, which include preventing and combating trafficking in persons, including for the purpose of forced labor or labor exploitation. The Protocol also recalls States' obligations of cooperating with social actors, including civil society, to establish and implement programmes and policies to prevent trafficking in persons, and protect and assist victims of trafficking, when appropriate (articles 6 and 9).

In relation to the State's obligations to prevent and protect victims of trafficking, we would like to recall the obligation of due diligence. In this regard, States have a positive obligation to protect individuals from human rights violations committed by private actors. Due diligence obligations have been articulated in areas applicable to trafficking in persons, including the right to life, violence against women and gender discrimination, along with a number of specific obligations relevant to trafficking.

We would also like to draw your attention to the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, of 1956, accessed by Cambodia on 12 June 1957. The definition of slavery contained in article 1 of the Slavery Convention signed at Geneva on 25 September 1926 is stipulated as follows:

- a. Debt bondage, that is to say, the status or condition arising from a pledge by a debtor of his personal services or of those of a person under his control as security for a debt, if the value of those services as reasonably assessed is not applied towards the liquidation of the debt or the length and nature of those services are not respectively limited and

defined.

- b. Serfdom, that is to say, the condition or status of a tenant who is by law, custom or agreement bound to live and labour on land belonging to another person and to render some determinate service to such other person, whether for reward or not, and is not free to change his status.
- c. Any institution or practice whereby: i) A woman, without the right to refuse, is promised or given in marriage on payment of a consideration in money or in kind to her parents, guardian, family or any other person or group; or (ii) The husband of a woman, his family, or his clan, has the right to transfer her to another person for value received or otherwise ; or (iii) A woman on the death of her husband is liable to be inherited by another person.
- d. Any institution or practice whereby a child or young person under the age of 18 years, is delivered by either or both of his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person or of his labour.

We would also like to remind your Excellency's Government of its obligations under articles 2 and 6 of the Convention on the Elimination of All Forms of Discrimination against Women, ratified by your Excellency's Government on 15 October 1992, which requires States Parties to take all appropriate measures, including legislation, to suppress all forms of trafficking in women. We also recall CEDAW General Recommendation No. 38 on trafficking in women and girls in the context of global migration (CEDAW/C/GC/38), in particular recommendations to address socioeconomic injustice, including through elimination of social structures which limit women's autonomy and access to key resources (para. 51), as well as measures aimed at strengthening women's labour rights, enshrined in para. 54 and measures to prevent and address trafficking in all business operations and public procurement and corporate supply chains (para. 63). We would also like to recall recommendations made by the Committee to Cambodia in its Concluding Observations in 2019: " The Committee acknowledges the efforts made by the State party to prevent and combat trafficking in persons, including by adopting national plans of action for countering trafficking for 2014–2018 and for 2019–2023, strengthening the institutional capacity of the National Committee for Counter-Trafficking and concluding bilateral and multilateral cooperation agreements on labour migration and trafficking with countries in the region. Nevertheless, the Committee remains deeply concerned that the State party remains a source, destination and transit country for trafficking in persons, in particular women and girls, for purposes of sexual and labour exploitation. The Committee is particularly concerned about: (a) The limited progress in addressing the root causes of trafficking within the State party, including poverty and lack of economic opportunities, especially in rural and remote areas; (b) The lack of effective identification and referral to appropriate services for victims of trafficking; (c) The alleged misuse of anti-trafficking legislation to target individuals who are not responsible for trafficking offences; (d) The lack of information on the sentencing of traffickers, as well as the alleged conclusion of sex trafficking cases with monetary settlements in lieu of criminal prosecution and adequate punishment. The Committee recommends that the State party: (a) Address the root causes of trafficking in women and girls by promoting income-generating opportunities and improving the economic situation of

women, especially in rural areas; (b) Ensure early identification of and referral to appropriate services for women and girls who are victims of trafficking, including by providing systematic training to all relevant law enforcement officials on the effective implementation of guidelines on victim identification; (c) Ensure the rehabilitation and social integration of victims, including by providing them with effective protection, including shelters, assistance and remedies, and by providing financial and other forms of support to civil society organizations offering assistance to women who are victims of trafficking; (d) Ensure that women who are victims of trafficking are exempted from any liability and provided with adequate protection, such as witness protection programmes and temporary residence permits, irrespective of their ability or willingness to cooperate with the prosecutorial authorities; (e) Ensure that traffickers and other actors involved in trafficking are prosecuted and adequately punished; (f) Ensure that measures to combat trafficking, including anti-trafficking legislation, are used for the purposes of prosecuting traffickers and providing effective remedies to victims and that they are not misused against individuals who are not responsible for trafficking offences. (CEDAW/C/KHM/CO/6, para. 26-28)

The Convention on the Rights of the Child, accessed by your Excellency's Government on 15 October 1992, in its article 32, obliges its States Parties to protect the child from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development. States Parties shall adopt legislative, administrative, social and educational measures to ensure the application of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall, in particular: (a) Fix a minimum age or ages for employment; (b) Provide for appropriate regulation of hours and conditions of work; (c) Provide for appropriate penalties or other sanctions to ensure the effective implementation of the present article. We also recall General Comment No. 16 (2013) of the Committee on the Rights of the Child, on State obligations regarding the impact of the business sector on children's rights (CRC/C/GC/16). In particular recommendations to regulate businesses operations: "States must regulate working conditions and ensure safeguards to protect children from economic exploitation and work that is hazardous or interferes with their education or harms their health or physical, mental, spiritual, moral or social development." (para. 37)

In its concluding observations of May 2022 (CRC/C/KHM/CO/4-6), the Committee of the Rights of the Child recommended Cambodia to ensure the identification and referral of child victims of trafficking to appropriate child-friendly services and to investigate all cases of trafficking of children, using intersectoral and child-friendly proceedings, and bring perpetrators to justice. The Committee also recommended that the State conduct awareness-raising activities on the dangers of trafficking for parents, the community and children. The Committee also recommended under the Optional Protocol on the sale of children, child prostitution and child pornography that the State amend the Law on the Suppression of Human Trafficking and Sexual Exploitation to explicitly criminalize all forms of the sale of children as defined in article 2, including all the acts listed in article 3 (1) (a) of the Optional Protocol; and repeal, in article 12 of the Law, the requirement of the element of force or other forms of coercion in all forms of sale of children.

We would also like to draw your Excellency's attention to Article 8 of the International Covenant on Civil and Political Rights, ratified by your Excellency's

Government on 26 May 1992, which prohibits slavery, the slave trade, servitude and forced labor. In addition, article 24 specifically recognizes the right of every child to the protective measures required by his or her status as a child. We would also like to draw your attention to the Human Rights Committee's general comment No. 25 on liberty and security of the person, as well as its general comment No. 17 on the rights of the child.

We also wish to recall recommendations made to Cambodia by the Human Rights Committee in its concluding observations earlier this year: “Despite the significant efforts made by the State party to eliminate trafficking in persons and the exploitation of children, the Committee remains concerned about reports of a lack of adequate protection for victims of trafficking, in particular women and children. The Committee is also concerned about allegations of cases of debt bondage involving children, in particular in the brick industry (arts. 8 and 26). The State party should ensure the effective enforcement of the Law on Suppression of Human Trafficking and Sexual Exploitation. It should ensure that cases of trafficking in persons are thoroughly investigated, that those responsible are prosecuted and, if found guilty, are sentenced appropriately, and that victims are provided with full reparation and appropriate protection and assistance. The State should also eliminate all forms of forced labour and exploitation of children, particularly in the brick industry, including by strengthening the capacity of labour inspectors to carry out their duties effectively in the sectors where such practices are prevalent.” (CCPR/C/KHM/CO/3, para 30-31)

We would also like to highlight the right to life, protected under Article 6 ICCPR, and recall General Comment no.36 on the Right to Life (CCPR/C/GC/36), and the obligation of States parties to the ICCPR to “take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence” (CCPR/C/GC/36, para.23), including victims of human trafficking. Further, we recall the, “entitlement of individuals to be free from acts and omissions that are intended or may be expected to cause their unnatural or premature death, as well as to enjoy a life with dignity.” Article 6 of the Covenant guarantees the right to life for all human beings, without distinction of any kind, including for persons suspected or convicted of even the most serious crimes. (CCPR/C/GC/36, para.3)

In this regard, we would like to highlight that the enjoyment of the rights guaranteed in the ICCPR is not limited to citizens of States parties but “must also be available to all individuals, regardless of their nationality or statelessness, such as asylum seekers, refugees, migrant workers and other persons, who may find themselves in the territory or subject to the jurisdiction of the State Party” (ICCPR/C/21/Rev.1/Add. 13 (2004), Para. 10). In addition, the Human Rights Committee has reaffirmed this principle in its General Comment No. 15, paragraphs 9 and 10.

We would like to recall the Human Rights Council resolution 9/5, which addresses the issue of the human rights of migrants, "requests States to effectively promote and protect the human rights and fundamental freedoms of all migrants, especially those of women and children, regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party" and "urge States to ensure that repatriation mechanisms allow for the identification and special protection of persons in vulnerable situations, including persons with disabilities, and take into account, in

conformity with their international commitments, the principle of the best interest of the child and family reunification”.

The principle of *non-refoulement* forms an essential protection under international human rights, refugee, humanitarian and customary law. *Non-refoulement* prohibits all forms of removal and transfer of any individual, regardless of their status, when there are substantial grounds for believing that the individual would be at risk of irreparable harm, such as death, torture or cruel, inhuman or degrading treatment or punishment, persecution, enforced disappearance or other serious human rights violations, in the place to which they are to be transferred or removed. In this regard, we would like to draw the attention of your Excellency’s Government to General Comment No. 31 of the Human Rights Committee, which specifies that State obligations under Article 2 of the International Covenant on Civil and Political Rights entail “an obligation not to extradite, deport, expel or otherwise remove a person from their territory, where there are substantial grounds for believing that there is a real risk of irreparable harm” (para. 12). The principle of *non-refoulement* under international human rights law is characterized by its absolute nature without any exception, applying to all persons, including all migrants, at all times, irrespective of their citizenship, nationality, statelessness or migration status.

We would also like to recall objective 6 of the Global Compact for Safe and Regular Migration to facilitate fair and ethical recruitment and safeguard conditions to ensure decent work, under which Members States committed to review existing recruitment mechanisms to guarantee that they are fair and ethical, and to protect all migrant workers against all forms of exploitation and abuse in order to guarantee decent work and maximize the socioeconomic contributions of migrants in both their countries of origin and destination. (A/RES/73/195).

We would also like to recall obligations under the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment accessed by your Excellency’s Government on 15 October 1992. Regarding the obligation of non refoulment, we wish to bring forward article 3 of the Convention, which calls States not to expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. Also in relation to the situation in the compounds, allegations of physical violence and psychological abuse, and allegations of the presence of police officers in the compounds, including acting as guards, we wish to recall article 1 of the Convention and obligations of the State to take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

We would like to highlight Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by your Excellency's Government on 26 May 1992, which recognizes the "right of everyone to the enjoyment of just and favourable conditions of work". These conditions must guarantee, among other things, remuneration that provides all workers, at a minimum, a decent living for themselves and their families, safe and hygienic working conditions, rest, leisure and reasonable limitation of working hours and periodic vacations, as well as remuneration for public holidays. The rights set forth in the Covenant apply to all persons. In addition, ICESCR article 10 recognizes that special measures of protection and assistance should be adopted on behalf of all children and young people, who should be protected against economic and social exploitation.

States should also set age limits below which paid employment of child labour should be prohibited and sanctioned by law. We wish to also recall article 12 of ICESCR, coupled with its article 2.2 which recognizes the States' obligations to the right on everyone, to the enjoyment of the highest attainable standard of physical and mental health.

We would also like to draw your attention to the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by your Excellency's Government on 28 November 1983, articles 2 and 5, and recommendations made by the Committee on the Elimination of Racial Discrimination in 2020 in its Concluding Observations: "The Committee notes efforts by the State party to prevent trafficking in persons, such as the National Plan of Action to Counter Trafficking (2019–2023), to monitor places of prostitution and to disseminate information to business owners on issues related to trafficking. However, the Committee is deeply concerned that the State party remains a source, destination and transit country for trafficking in persons, in particular of women and girls, for purposes of sexual and labour exploitation. The Committee is particularly concerned about trafficking in children (arts. 2 and 5). The Committee recommends that the State party continue its efforts to prevent trafficking in persons, and in particular: (a) Investigate all instances of trafficking in persons brought to its attention, prosecute the perpetrators and punish them appropriately, and ensure that victims receive reparation; (b) Strengthen protection and assistance for victims and facilitate the lodging of complaints, in particular by ensuring that victims have effective access to legal and psychological assistance, and social services, including housing, in cooperation with civil society organizations; (c) Conduct training and awareness-raising activities for law enforcement officials, including border immigration officials, on the identification of victims of trafficking in persons; (d) Take measures to prevent trafficking in children in conjunction with the United Nations Children's Fund. (CERD/C/KHM/CO/14-17, para 31-32)

In this regard we would also like to recall the United Nations Declaration on the Rights of Indigenous Peoples and obligations of non discrimination (article 2).

The ILO Forced Labor Convention, 1930 (No. 29), ratified by your Excellency's Government on 24 February 1969, further calls for the abolition of the use of forced or compulsory labor in all its forms at the earliest possible date. In particular, according to its Article 2, forced or compulsory labor is defined as "any 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". We also recall the ILO Convention on the Worst Forms of Child Labour Convention, 1999 (No. 182), ratified by your Excellency's Government on 14 March 2006, which prohibits any work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (article 3) and the ILO Minimum Age Convention, 1973, N° 138 ratified on 23 August 1999.

In addition, we would like to refer to the Recommended Principles and Guidelines on Human Rights and Human Trafficking, issued by the Office of the High Commissioner for Human Rights in July 2002. Principle 13 of the Principles and Guidelines states that "States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or non-State actors".

We would like to draw your attention to the recommendations made by the Special Rapporteur on trafficking in persons, especially women and children in her reports on trafficking in persons in the context of business activities. We would like in particular to draw special attention to A/HRC/35/37 and A/74/189 on “Access to remedy for victims of trafficking for abuses committed by businesses and their suppliers”.

We wish to remind as well your Excellency’s Government of obligations deriving from ASEAN Convention against trafficking in persons, and in particular article 14 on the identification and protection of victims, and in particular the implementation of the non-punishment principle for unlawful acts committed by victims, if such acts are directly related to the act of trafficking. We will recall also article 16 on law enforcement and prosecution, which calls States to adopt measures to equip the competent authorities with skills and knowledge to combat trafficking and protect victims, as well as to detect, deter and punish corruption, money laundering, participation in an organized criminal group and obstruction of justice that contributes to trafficking in persons.

Regarding the obligations to identify and protect victims of trafficking, we wish to bring to your Excellency’s Government attention recommendations made during the Universal Period Review and in particular to “Improve and expand identification and protection procedures for victims of human trafficking, forced labour and bonded labour, and ensure adequate access to support services and sheltered accommodation”

Regarding the application of the principle of non-punishment, we bring to the attention of your Excellency’s Government the report of the Special Rapporteur on trafficking in persons, especially women and children to the Human Rights Council in 2021, on the implementation of the non-punishment principle, and in particular recommendations to States to ensure the prompt and effective identification of victims of trafficking in order for the principle to be effectively applied, as well as that “the principle of non-punishment is applied to: (a) All forms of trafficking, including for the purpose of sexual exploitation, labour exploitation and forced criminality, as well as to both cases of international trafficking and cases of internal trafficking; (b) Any unlawful activity carried out by a trafficked person as a direct consequence of their trafficking situation, regardless of the gravity or seriousness of the offence committed; (c) Criminal, civil, administrative and immigration offences, as well as other forms of punishment, such as arbitrary deprivation of nationality, denial of consular assistance or repatriation, exclusion from refugee status or other forms of international protection and family separation; (d) Any situation of deprivation of liberty, including immigration detention and detention pending removal, transfer or return proceedings.” (A/HRC/47/34, para 57).

Finally, we would like to highlight the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) following years of consultations with Governments, civil society and the business community. The Guiding Principles have been established as the authoritative global standard for all States and business enterprises with regard to preventing and addressing adverse business-related human rights impacts. These Guiding Principles are grounded in recognition of:

- a. “States’ existing obligations to respect, protect and fulfil human rights and fundamental freedoms.
- b. The role of business enterprises as specialized organs or society performing specialized functions, required to comply with all applicable laws and to respect human rights.
- c. The need for rights and obligations to be matched to appropriate and effective remedies when breached.”

It is a recognized principle that States must protect against human rights abuses by business enterprises within their territory. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (Guiding Principle 1). This requires States to “state clearly that all companies domiciled within their territory and/or jurisdiction are expected to respect human rights in all their activities” (Guiding Principle 2). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (Guiding Principle 3). The Guiding Principles also require States to ensure that victims have access to effective remedy in instances where adverse human rights impacts linked to business activities occur. States may be considered to have breached their international human law obligations where they fail to take appropriate steps to prevent, investigate and redress human rights violations committed by private actors. While States generally have discretion in deciding upon these steps, they should consider the full range of permissible preventative and remedial measures.

Business enterprises, in turn, are expected to carry out human rights due diligence in order to identify, prevent, mitigate and account for how they address their impacts on human rights. Where a business enterprise causes or may cause an adverse human rights impact, it should take the necessary steps to cease or prevent the impact. Similarly, where a business enterprise contributes or may contribute to an adverse human rights impact, it should take the necessary steps to cease or prevent its contribution and use its leverage to mitigate any remaining impact to the greatest extent possible (commentary to Guiding Principle 19). Furthermore, business enterprises should remedy any actual adverse impact that it causes or to which it contributes. Remedies can take a variety of forms and may include apologies, restitution, rehabilitation, financial or non-financial compensation, and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition. Procedures for the provision of remedy should be impartial, protected from corruption and free from political or other attempts to influence the outcome (commentary to Guiding Principle 25).

The Guiding Principles also recognise the important and valuable role played by independent civil society organisations and human rights defenders. In particular, Principle 18 underlines the essential role of civil society and human rights defenders in helping to identify potential adverse business-related human rights impacts. The Commentary to Principle 26 underlines how States, in order to ensure access to remedy, should make sure that the legitimate activities of human rights defenders are not obstructed.