

Mandates of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences and the Special Rapporteur on trafficking in persons, especially women and children

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7 February 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on contemporary forms of slavery, including its causes and consequences and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 51/15 and 44/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the **human rights abuses faced by a group of women victims of trafficking for the purpose of sexual and/or labour exploitation. The women are Sri Lankan nationals who have allegedly been exploited in domestic households in Oman.**

According to the information received:

There are reportedly some 90 Sri Lankan young women who initially travelled to Oman on a tourist visa and who are now trapped in shelters, including at a shelter run by the Sri Lankan Embassy in Oman. It is alleged that several women have been subjected to trafficking in persons for the purpose of sexual exploitation or forced labour and servitude after having been promised employment as domestic workers in countries such as the United Arab Emirates. Some of the women have allegedly been sold in auctions and held in private households where they are exposed to sexual and/or labour exploitation, insufficient food and inadequate sleeping facilities. Furthermore, it is our understanding that among the 90 women, some have been trafficked in groups through Dubai, to where they had arrived on tourist visas, to Oman during the last two years. We understand that some had registered with the Sri Lanka Foreign Employment Bureau and others migrated irregularly to the Middle East.

When seeking shelter at the Sri Lankan Embassy in Oman, some women have reportedly been asked for sexual bribery by a Sri Lankan diplomat who was working at the Embassy in Oman. The same Embassy official reportedly threatened to report women at the shelter to the Oman police if they did not abide by his demands. We understand that the diplomat accused of deceiving, trafficking and sexually abusing women at the safe house of the Sri Lankan Embassy in Oman, the third secretary [REDACTED] was taken into remand custody in connection with the human trafficking allegations at the end of November 2022 [REDACTED] was reportedly suspended from service and his diplomatic passport was revoked but he was put on bail upon his return to

Sri Lanka. We understand that other individuals who were allegedly involved in the trafficking of women to Oman have also been arrested.

We are concerned at these reports of trafficking in persons, violence against women and forced labour, committed against migrant women from Sri Lanka, and the involvement of at least one Government official in trafficking of persons between Sri Lanka and Oman, as well as the abuse of women at the shelter run by the Sri Lankan Embassy and the inadequate conditions and lack of protection reported at the shelter. We are also concerned at the lack of access to effective remedies for these victims, and the limited information available on the investigations undertaken and international cooperation to date.

The situations described may be defined as trafficking in persons for the purposes of sexual exploitation and/or forced labour as per the definitions set forth in article 3 of Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (the Palermo Protocol), supplementing the United Nations Convention against Transnational Organized Crime, acceded by your Excellency's Government on 22 September 2006, and article 2 of the Forced or compulsory labour is defined in the International Labour Organization (ILO) Forced Labour Convention, 1930 (No. 29), ratified by your Excellency's Government on 5 April 1950. The human rights violations reported also constitute indicators of forced labour as established by the ILO, including the following: Abuse of vulnerability; deception; restriction of movement; isolation; physical and sexual violence; intimidation and threats; retention of identity documents; withholding of wages; debt bondage; abusive working and living conditions and excessive overtime.

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

As regards to the protection of victims of trafficking in persons we would like to draw your attention to the Palermo Protocol in particular articles 6 and 9 which sets out the obligations on State Parties to protect and prevent trafficking in persons, and to assist victims of trafficking. Regarding forced labour, Protocol of 2014 to the Forced Labour Convention, 1930 (No. 29) reaffirms that measures of prevention, protection and remedies, such as access to compensation, rehabilitation, are necessary to achieve effective and sustained suppression of trafficking in persons for purposes of forced labour, and of forced and compulsory labour.

We also draw the attention of your Excellency's Government to the Convention on the Elimination of All Forms of Discrimination against Women, ratified by your Excellency's Government in 1981, in particular article 6 on the prohibition of trafficking in persons, and to CEDAW General Recommendation No. 38 on trafficking in women and girls in the context of global migration, specifically, paragraphs 31,

38-42, 85, 89, 94, 98 and 100-101. We highlight in particular the recommendation to address trafficking in persons through establishing a “gender responsive safe migration framework to protect women and girl migrants, including those with an irregular migration status, from violations of their human rights at every stage of migration, by: “(a) Supporting increased access to pathways for safe and regular migration and to avoid exploitation, including sexual exploitation, considering the specific needs of women and their children, and ensuring the rights of the migrant populations within these pathways to protected formal employment opportunities, legal pathways to education and vocational training, both in their countries of origin and destination.” (para 56).

We also highlight CEDAW Recommendation no.26 on Migrant Women Workers, and in particular, the obligations stated at paragraph 24 concerning responsibilities of countries of origin, protect the human rights of their female nationals who migrate for purposes of work. We further highlight the specific obligations concerning the provision of diplomatic and consular protection stated at paragraph 24(b)(j): “Diplomatic and consular protection: States parties must properly train and supervise their diplomatic and consular staff to ensure that they fulfil their role in protecting the rights of women migrant workers abroad. Such protection should include quality support services available to women migrants, including timely provision of interpreters, medical care, counselling, legal aid and shelter when needed. Where States parties have specific obligations under customary international law or treaties such as the Vienna Convention on Consular Relations, those obligations must be carried out in full in relation to women migrant workers (article 3)”.

We would also like to bring to the attention of your Excellency’s Government article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. In this context, we recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its General Recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women whether perpetrated by a State official or a private citizen, in public or private life. We would also like to refer to CEDAW General Recommendation No. 35 - on gender-based violence against women, updating general recommendation No. 19.

CEDAW General Recommendation No. 35 sets out States’ obligations on reparations and states, “(a) Provide effective reparations to victims/survivors of gender-based violence against women. Reparations should include different measures, such as monetary compensation, the provision of legal, social and health services, including sexual, reproductive and mental health services for a complete recovery, and satisfaction and guarantees of non-repetition, in line with general recommendation No. 28, general recommendation No. 30 and general recommendation No. 33. Such

reparations should be adequate, promptly attributed, holistic and proportionate to the gravity of the harm suffered”.

We wish to refer to articles 1, 2 and 5 of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) acceded by your Excellency’s Government in 1982, and CERD General Recommendation XXX on discrimination against non-citizens.

According to the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, States have an international obligation to identify victims of trafficking. It is highlighted that a failure to identify a trafficked person correctly is likely to result in a further denial of that person’s rights. We also would like to refer to Principle 13 of these recommended Principles and Guidelines, which provide that “States shall effectively investigate, prosecute and adjudicate trafficking, including its component acts and related conduct, whether committed by governmental or by non-State actors”.

As your Excellency’s Government may recall, the Special Rapporteur on contemporary forms of slavery, Tomoya Obokata, visited Sri Lanka in November 2021. In the report issued about the visit (A/HRC/51/26/Add.1), he pointed to gaps in the current migration management system. In paragraph 67, he highlighted that “many women who worked as domestic workers in various destination countries reported instances of abuse and exploitation in the workplace, ranging from the withholding of identity documents and wages to long working hours and physical, verbal and/or sexual abuse. While the primary responsibility for addressing these abuses rests with destination countries, there appears to be insufficient support provided by Sri Lankan embassies and consulates. Not all officials are said to be trained adequately, and there are reports of migrant workers being turned away after seeking assistance. While there are established shelters in some destination countries, these have been regarded as insufficient. The situation has been exacerbated by the COVID-19 pandemic, which led to a large number of workers being stranded without access to adequate institutional support.” In the same report, the Special Rapporteur also urged the Government to ensure the protection of migrant workers from exploitation and abuse.

Furthermore, we would also like to bring to your attention the report by the Special Rapporteur on trafficking in persons, especially women and children to the Human Rights Council in 2019 A/HRC/41/46 on Innovative and transformative models of social inclusion of survivors of trafficking in persons into societies. We would like to highlight recommendations made by the Special Rapporteur to States on areas such as considering the revision of any legislation or policies hampering social inclusion, including policies tying workers to a single employer, or preventing equal access to long-term empowerment measures (para 66), in addition to other measures with regard to trafficked persons’ access to empowerment measures (para 68). Furthermore, we would also like to draw your attention to the Report of the Special Rapporteur on trafficking in persons, especially women and children to the General Assembly in 2015 on due diligence.

We would also like to recall the Principles and Guidelines on the human rights protection of migrants in vulnerable situations. Particularly, we would like to draw your attention to Principle 3 on access to justice, which calls upon States to ‘take measures that will enable migrants, including migrants at particular risk of marginalization and exclusion, to enjoy effective and equal access to justice’ and to ‘ensure that migration status that depends on a single employer or a partner is not a barrier to seeking or obtaining protection, support, or justice’. This principle further guides States to ‘strengthen or establish official mechanisms and procedures to receive, investigate and monitor allegations of human rights violations and abuse of migrants’, as well as to ‘consider granting legal status to migrant victims or witnesses of crimes during the process of accessing justice’. Further, Principle 7 on the protection from violence and exploitation establishes to take measures to prevent and respond all forms of exploitation and violence against migrants, and guides States to ‘ensure that the measures taken will prevent the recurrence of abuse and are accessible to all migrants’; to ‘ensure that legislation and policy, as well as practice, reduce the risk that migrants will be exploited by those who offer them services or work in the formal or informal sectors, including the risk of being subject to forced labour or trafficking in persons’; and to ‘establish accessible and confidential services for migrants who are survivors of violence and exploitation’, further establishing that migrant’s experiences of violence ‘should be addressed without causing further victimization’.

We would also like to recall General Assembly resolution 62/156 on the protection of migrants and specifically paragraph 14 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’

In this respect, we would like to draw up your Excellency’s Government’s attention to the General Assembly Resolution 62/132 which in paragraph 6 ‘calls upon Governments to adopt or strengthen measures to protect the human rights of women migrant workers, regardless of their immigration status, including in policies that regulate the recruitment and deployment of women migrant workers’. We would also like to refer to paragraph 11, which ‘calls upon Governments [...] to provide women migrant workers who are victims of violence with the full range of immediate assistance and protection, such as access in counselling, legal and consular assistance and temporary shelter, as well as mechanisms to allow the views and concerns of victims to be presented and considered at appropriate stages of proceedings, including other measures that will allow victims to be present during the judicial process, to the extent possible, as well as establish reintegration and rehabilitation schemes for returning women migrant workers’.

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 the above-mentioned person(s) 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 any comment you may have on the above mentioned allegations.
2. Please provide details, and where available the results, of any investigations, prosecution or criminal charges, and other inquiries carried out in relation to the allegations, and the methods of international cooperation with the country of destination (Oman);
3. Please indicate what measures are taken to ensure the safe and voluntary return of the women victims of trafficking in persons for purposes of forced labour and sexual exploitation to Sri Lanka and how these measures ensure a safe and voluntary return; with ongoing measures of social inclusion, assistance and protection;
4. Please indicate which channels/protocols for reporting human rights violations to Sri Lankan Embassies exist and how your Excellency's Government is ensuring that complaints can be submitted safely, without fear from retaliation , and what training is in place for diplomatic and consular officials on the prevention of misconduct such as exploitation and abuse; identification of victims of trafficking and on assistance and protection obligations, in particular for women migrant workers;
5. Please elaborate how the victims of trafficking and their families in Sri Lanka are protected from retaliation after having reported the trafficking and abuse suffered;
6. Please indicate what types of assistance (regarding access to health services, food, legal and socio-social support, etc) victims of trafficking and labour/sexual exploitation receive at the shelter run by the Embassy of Sri Lanka in Oman;
7. Please provide information on the measures being taken to ensure compliance with the State's obligation of due diligence to prevent trafficking of women migrant workers, including through addressing the gender dimensions of risks of trafficking in persons and to ensure early identification, effective access to protection, and access to effective remedies, including to compensation;

8. Please provide information on measures taken to monitor offers of employment, to ensure that work contracts are valid and protect women's rights on a basis of equality with men in countries of destination, and to provide assistance to women workers on arrival at their destinations, in accordance with the obligations states for countries of origin in CEDAW GR no.26.
9. Please provide information on measures to strengthen cooperation between the Government of Oman and your Excellency's Government in cross-border trafficking cases;
10. Please specify what policies and other measures are in place regarding the prohibition of misconduct of Sri Lankan diplomatic personnel and to what extent monitoring and oversight is carried out by your Excellency's Government;
11. Please specify what measures are being taken to ensure safe and regular migration for employment opportunities for women, prior to departure from Sri Lanka;
12. Please specify what measures are taken to support the role of civil society in prevention of trafficking in persons from Sri Lanka, particularly of women migrant workers, and in identification, and protection of victims of trafficking and other forms of exploitation, including through survivor-led initiatives and programmes.

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.

Kindly be informed that a copy of this communication will be sent to the Government of Oman.

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

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

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children