

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

Ref.: AL GBR 3/2024  
(Please use this reference in your reply)

20 March 2024

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the human rights of migrants and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 51/15, 53/3, 52/20 and 53/9.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **allegations of labour exploitation of migrant workers by the UK based company Haygrove Limited, which may amount to forced labour on agricultural farms in the United Kingdom of Great Britain and Northern Ireland, the related lack of effective and timely identification and protection of victims and the insufficient assistance provided to them, as well as lack of accountability and access to effective remedy for victims of these serious human rights violations suffered. Migrant workers are allegedly recruited by Haygrove Limited and by the UK-based company Fruitful Jobs.**

According to the information received:

*Background*

There are 471,000 people in the UK's agricultural workforce. A significant proportion of this – at least 58,000 – is seasonal or casual labour.<sup>1</sup> Farmers rely on workers coming from abroad to fill these seasonal roles.

Since the United Kingdom of Great Britain and Northern Ireland left the European Union on 31 January 2020, the free movement of EU workers was replaced by a Points Based Immigration System based on sponsorship. Every year, thousands of migrant workers travel to the United Kingdom to work on a six-month seasonal agricultural visa. The new Seasonal Worker scheme was launched in March 2019 to cover labour shortages after the UK left the European Union. The government has authorised a limited number of recruitment companies, known as 'scheme operators', to arrange Seasonal Worker visas. Farmers must hire their overseas workers through those companies and must demonstrate that they are also actively trying to recruit UK-based workers. Farmers cannot sponsor Seasonal Worker visas directly. As part of the visa

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<sup>1</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-9665/>.

sponsorship arrangements, scheme operators have explicit duties to look after workers' welfare and make sure they are paid properly.<sup>2</sup>

The visa quote was increased from a maximum of 2,500 available visas per year in 2019 to at least 45,000 places in 2023 and 2024 (plus another 2000 for poultry workers). The quota can be increased by another 10,000 a year if the Government sees a need to meet demand.<sup>3</sup>

Migrant workers who temporarily work in the UK are from a broad range of nationalities such as from Albania, China, Eritrea, Indonesia, Russia, Sudan, Ukraine, Vietnam, Latin American and Central Asian plus other countries. Seasonal worker visas are issued by the Home Office. Visa holders can only work in the UK on a short-term basis, they are not allowed to claim benefits or bring their families.

#### *Risk of labour exploitation, including bonded labour*

After the Seasonal Worker Visa was introduced, reports of workers subjected to labour exploitation and to substandard living conditions surfaced. Based on information received, the Points Based Immigration System has increased migrant workers' risk of being subjected to labour exploitation, including forced and bonded labour, as many workers need to pay off their debt and are dependent on their employer in the UK. Reportedly, some workers had to pay more than £3000 to secure employment in the UK, pushing the affected workers into debt bondage. Usually, the fees are paid to agents who work for recruitment companies licensed in the UK. To apply for temporary/seasonal work in the UK, there is a fee of £259<sup>4</sup>, any additional recruitment fees are illegal under UK law.

Your Excellency's Government recognises that Seasonal Worker visa holders "may be more vulnerable and open to exploitation than other workers"<sup>5</sup> but the measures taken and the oversight of farms have been insufficient.

The present communication focuses on migrant workers due to the particular risk they face regarding the exploitation in contemporary forms of slavery and because they constitute the large majority (89 per cent) of workers who are reportedly exploited.

A key cause of labour exploitation are allegedly the current policies, laws and practices in place in the UK, requiring a systemic change. The individual cases included below illustrate the general, underlying shortcomings in ensuring decent working and living conditions of migrant workers in the country.

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<sup>2</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-9665/>.

<sup>3</sup> <https://commonslibrary.parliament.uk/research-briefings/cbp-9665/>.

<sup>4</sup> <https://www.gov.uk/government/publications/visa-regulations-revised-table/home-office-immigration-and-nationality-fees-4-october-2023>.

<sup>5</sup> Ibid.

*Fraudulent recruitment practices, trafficking for purposes of forced labour and exploitative working and living conditions in the agricultural sector*

Based on the poverty they experience in their countries of origin and limited employment opportunities, potential migrant workers are highly vulnerable to trafficking in persons and other forms of exploitation. Potential migrant workers are allegedly targeted in their countries of origin for recruitment to work on farms in the UK. According to information received, the recruiting agency is Fruitful Jobs and the workers filled out a form provided by Fruitful Jobs. However, the actual recruitment of migrant workers was reportedly undertaken by Haygrove farm employees who travelled to Chile and held public meetings with workers. They reportedly coordinated the reception at the airport and later the accommodation and work. Employees of Fruitful Jobs allegedly went to the farm when workers went on strike but they did not take action on the matter.

Migrants are reportedly deceived about working and living conditions, the nature of their agreements with contract farmers and the payment they will receive. Migrant workers reportedly also suffer from discriminatory and/or mistreatment; withholding of wages, low salaries, punishment for not meeting targets, verbal abuse and non-delivery of safety equipment which exposes them to chemicals and to safety hazards, leading regularly to serious injuries. Access to medical assistance is often very limited and insufficient.

Working hours in the agricultural sector fluctuate significantly. There may be working days of more than 10 or 12 hours or workers may be given fewer hours of work than promised, which leaves them in an economically highly precarious situation. Non-payment of overtime and a lack of breaks have also been reported to us as a concern.

At the Haygrove farm, some workers reportedly had to leave at 4:00am to drive by bus 90 minutes away to other sites. Allegedly, no, or insufficient, drinking water is available for workers picking fruit. Also, in the fields there are often no sanitary facilities, which has a particularly negative impact on women and their safety and well-being.

According to information received, migrants who are recruited in Chile or in other Latin American countries are told that they can earn up to £500 a week and that they will have to repay no more than \$1,000 (£800) for the cost of a flight. However, after arrival in the UK, these workers are allegedly requested to pay back up to £1,500 within a short timeframe (six weeks, in one case) which puts them under enormous financial pressure. In some cases, migrant workers allegedly pay recruitment fees of up to £30,000, leaving them in debt bondage. Such situations are enabled through the lack of oversight of the recruitment of migrant workers by your Excellency's Government.

Reportedly, most workers do not sign a contract but fill in an online form of Fruitful Jobs, the intermediary, before they travel to the UK. The form does not specify the salary which workers will earn, however. Some workers signed a contract with Haygrove once they arrived in the UK. However, those contracts also do not specify the wages and only state that they "shall be paid a minimum

rate for one hour of the national living wage”. According to pay slips, workers received the minimum wage or less. After deductions for accommodation, utilities), they were left with almost no money.

The living conditions are allegedly also different from what workers are promised when they are recruited. Workers employed at the Haygrove, and at other farms for the duration of the harvest season commonly live in caravans which often provide inadequate and unsafe shelter and sanitary facilities. Reportedly, the temperature in the caravans may drop to as low as 10 degrees due to an inadequate heating system. Nevertheless, workers were charged for gas and electricity. Frequently, caravans are overcrowded, unhygienic and women are forced to share accommodation, including sanitary facilities with men which puts these women at a risk of sexual harassment and abuse.

It is our understanding that the Health and Safety Executive is in charge of workplace health and safety, and the Gangmasters and Labour Abuse Authority (GLAA) is responsible for recruitment. Given the conditions reported to us, we are concerned that these entities do not appear to have taken timely and adequate action.

Under the visas for seasonal workers, we understand that the UK Government guarantees that at least 32 hours of work are paid a week. While this makes them less vulnerable to irregular work due to weather conditions, there is no obligation for employers to issue a contract to migrant workers when they arrive on a farm, allowing the employer to hold off paying wages until the weather improves. This leaves workers in an economically precarious situation and at a high risk of becoming destitute or of being re-trafficked. If wages are withheld after the arrival of migrant workers, many are forced to borrow more money which increases their debt. Debt bondage, also known as bonded labour, is one of the four practices similar to slavery or forms of servitude that are addressed in the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery, of 1956.

It also is alleged that workers are unable to leave the farms because of threats of punishment/reprisals for any complaints made. In addition, the remoteness of farm locations and distance to their country of origin would seriously limit the possibility of return.

#### *Individual cases reported*

Concerns have been raised with us regarding the following individual migrant workers, illustrating the existing concerns regarding systemic labour exploitation in the UK, particularly in the agricultural sector.

According to information received, labour exploitation is systemic throughout agricultural farms in the UK.

1. Mr. [REDACTED], Salvation Army Reference number [REDACTED] (SCA NRM Reference number not known), a former worker of Haygrove Limited. A Positive Reasonable Ground decision was reportedly issued by the NRM Single

Competent Authority (SCA) and a social worker has been assigned to his case. Mr. [REDACTED] does not have permission to work and he applied for a voluntary return to his home country, Bolivia. He is seeking assistance from the Voluntary Return Services of the UK to this end but reportedly he has only been informed about delays in this regard. According to information received, the final decision on his status as a victim of modern slavery by the SCA is pending. We understand that a social worker was assigned to his case but reportedly, there has not been a final decision from the SCA NRM yet. We are concerned about the lack of legal representation in the criminal case carried out by GLAA, and if there is ongoing coordination between the GLAA, Voluntary Return Services of the Home Office and the NRM. Also questions regarding the lack of legal representation and victim-centered approach in this case has been brought to our attention.

2. Ms. [REDACTED], Salvation Army Reference number [REDACTED], NRM reference number: [REDACTED], has received a Positive Reasonable Ground decision from the NRM Single Competent Authority (SCA). Ms. [REDACTED] filed a claim against her former employer, Haygrove farm, for unlawful deduction of wages, unfair dismissal, discrimination and harassment before the employment tribunal in November 2023. We understand that a first hearing will take place on 21 March 2024. Allegedly, no updates on the case by the GLAA or a final decision from the SCA NRM have been provided. Concerned about the lack of legal representation in the criminal case carried out by GLAA have been brought to our attention and also, if a victim-centered approach is being applied in this case.

Ms. [REDACTED] is reportedly at risk of facing retaliation by her former employer and the currently existing protection measures offered in the UK are insufficient. She has reportedly had access to accommodation and medical assistance, but urgently requires psychological assistance due to her mental health situation and she is also in need of financial assistance, as she has no income and does not have permission to work. To date, Ms. [REDACTED] has not been able to access any assistance beyond accommodation which has had a significant impact on her wellbeing. She wishes to be voluntarily returned to Bolivia and is seeking assistance in this regard. She wishes to be voluntarily returned to Bolivia, with financial support, or given a leave to stay, that could allow her to work. We understand that the final decision on Ms. [REDACTED]'s status as a victim of modern slavery is pending.

3. Mr. [REDACTED], Salvation Army Reference number [REDACTED], SCA NRM Reference number: [REDACTED] received a Positive Reasonable Ground decision which has been issued by the NRM Single Competent on 7 December 2023. He is also a former worker of Haygrove Limited has been given economic assistance. This decision is reportedly the result of a reconsideration request which was filed on 6 November to the SCA NRM, who initially had concluded that there were no reasonable grounds to conclude that he was a victim of contemporary forms of slavery. In their original decision, the SCA allegedly stated that there was a deceitful recruitment, transfer and harboring but that there was no forced labor but a situation of economic necessity. While residing in London, Mr. [REDACTED] has reportedly been deceived and abused by UK citizens

who have employed him for small jobs, without paying him. His economic situation is extremely precarious and he has had insufficient access to protection and support, including adequate shelter, primary health care and counselling. Furthermore, racial profiling, prejudice and intersecting forms of discrimination may have played a role for initially not identifying Mr. [REDACTED] as a victim of labour exploitation. The lack of legal representation in the criminal case carried out by GLAA has been raised with us, if there is ongoing coordination between the GLAA and the NRM and if/to what extent Mr. [REDACTED] is recognized as a victims of modern slavery and trafficking in persons.

The two following additional cases have been referred to the NRM by the Salvation Army on 11 December 2023, consisting of two Bolivian workers of Haygrove farm:

4. Mr. [REDACTED], date of birth [REDACTED]  
Bolivian Passport number: [REDACTED]  
National identity number: [REDACTED]  
NRM reference number [REDACTED]

Mr. [REDACTED] was referred to the Salvation Army on 11 December 2023 and so far, the SCA NRM has reportedly not issued a Positive Reasonable Ground Decision in his case yet. We understand that Mr. [REDACTED] was interviewed by GLAA but we are unaware of the current status of the criminal investigation undertaken.

5. Ms. [REDACTED], date of birth [REDACTED]  
Bolivian Passport number: [REDACTED]  
National identity number: [REDACTED]  
SCA NRM Reference number: [REDACTED]

We understand that Ms. [REDACTED] received a Positive Reasonable Ground decision on 30 January 2024. It is not clear, however, if a social worker has been assigned to her yet. Reportedly, she has not been contacted by social services to provide help, particularly regarding accommodation. She is in a very precarious situation. The situation she experienced at Haygrove Limited left her indebted and she is reportedly desperate for work and financial assistance. [REDACTED] gave her statement before the GLAA in the trafficking investigation. We don't know the current status of the criminal investigation by GLAA. Also in this case, concerns about the lack of legal representation in the criminal case carried out by GLAA apply and if there is ongoing coordination between the GLAA and the NRM. We have been made aware that Mr. [REDACTED] and Ms. [REDACTED] are currently in a very precarious situation and they face a protection risk.

According to allegations received, the Bolivian nationals Mr. [REDACTED] and Ms. [REDACTED] have been subjected to trafficking in persons for the purpose of forced labor from Chile. Both were reportedly recruited by the same woman, an employee of Haygrove farm, and taken to the UK by other workers who went to work at the same farm. So far, reportedly no reasonable ground decision and access to the NRM has been granted by your

Excellency's Government to Mr. [REDACTED] Furthermore, they allegedly have had insufficient access to adequate shelter, primary health care and counselling, and access to remedies.

The allegations described in the information received fall within the definition of trafficking in persons under article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, and they may also amount to forced labour as defined in the ILO Forced Labour Convention, 1930, N°29, article 2.

*Access to justice and an effective remedy*

According to information received, migrant workers face multiple and serious obstacles with regard to reporting exploitation or abuse. One of the main issues is that the structure of the tied visa is stopping many workers from reporting exploitation. Employers can allegedly dismiss workers who whistleblow, affecting their possibility to stay in the UK. Reporting an employer to the Home Office can result in the Home Office revoking its sponsor licence, putting at risk the visas of the workers employed there. The sixty days grace period given by the Home Office to workers to find another sponsor is often not long enough for workers to find alternative employment.

Furthermore, we have been informed that complaints about working and living conditions are rarely addressed and inspections to farms seldomly take place while the seasonal workers are employed. We also received reports that Haygrove employees have promised future job opportunities to workers to prevent them from reporting the labour exploitation suffered at the farm.

We understand that an investigation is currently being carried out by the Gangmasters and Labour Abuse Authority (GLAA) with reference number 34546 and some workers have been interviewed. However, it is our understanding that, to date, no criminal procedure into the allegations of trafficking in persons for the purpose of labour exploitation has been initiated.

This is a matter of concern to us, as perpetrators should be investigated and prosecuted, and victims should have access to justice and to an effective remedy.

We wish to highlight that the Special Rapporteur on trafficking in persons, especially women and children, has expressed her concern about failures to ensure the right to effective remedies, and the lack of due diligence and transparency in supply chains. In her report on Trafficking in Persons in the Agriculture Sector: Human Rights Due Diligence and Sustainable Development, the Special Rapporteur said: "Difficulties include overcoming procedural and jurisdictional barriers, meeting evidential requirements in criminal proceedings, discharging the burden of proof and limited opportunities for collective redress, as well as lack of awareness of domestic and international laws relating to trafficking for forced labour and the rights of victims. In the agricultural sector, the above-mentioned difficulties are often exacerbated owing to the remoteness of work settings and limited access to legal assistance"

(A/HRC/50/33, para. 47). The Special Rapporteur also highlighted the importance of human rights due diligence in supply chains, to achieve the objectives of decent work and effectively prevent trafficking in persons (para. 36).

*Concerns related to the health and care sector*

In the care sector, similar concerns as those related to the agricultural sector have been reported to us. The Health and Care Worker Visa was introduced in According to information received, your Excellency's Government issues sponsorship licenses to companies without carrying out human rights due diligence. We have been informed that currently, there are allegedly more than 3000 care providers which are licensed to sponsor workers on the visa. Furthermore, we learned that the Independent Chief Inspector of Borders and Immigration has produced a report into the health and care worker visa, which your Excellency's Government has not released yet.

As a report just released by the Policy and Evidence Centre highlights, the conditions attached to visa routes for the care and agricultural sectors are "creating a situation of 'hyper-precarity' and increasing vulnerability to exploitation".<sup>6</sup> The report states that the sector-specific visas which effectively tie workers to their employers and make it virtually impossible to change jobs without risking their right to live in the UK, whilst Government employment rights enforcement agencies lack capacity to audit workplaces and address cases of exploitation. The research also found that migrant workers in both sectors commonly earning low wages, paying high recruitment and transfer fees, and suffering from inappropriate salary deductions and lack of employment rights information. It also found significant debt issues associated with illegal recruitment fees and travel, accommodation and high visa application fees.

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:

Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

1. Please indicate how sponsors and farmers are regulated in the United Kingdom of Great Britain and Northern Ireland. More specifically, please clarify which entity is responsible for holding farmers and scheme operators accountable and if any investigations into the allegations reported against Haygrove Limited and/or Fruitful Jobs have been initiated. If so, please specify what is the status of the investigation;

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<sup>6</sup> <https://modernslaverypec.org/assets/downloads/Visas-research-summary.pdf>.

2. Please indicate through which process recruitment licenses are issued in the UK, how recruitment agencies are regulated and if any oversight is undertaken by relevant authorities. Please also clarify which role Haygrove Limited and Fruitful Jobs play, respectively, regarding the recruitment of migrant workers;
3. Please indicate if the license of any labour providers has been withdrawn for having charged exorbitant recruitment fees;
4. Please highlight what measures are being taken by your Excellency's Government to ensure that victims of contemporary forms of slavery and victims of trafficking are identified, protected, including during judicial proceedings, and assisted in a timely manner;
5. Please elaborate what type of financial and other forms of victim assistance and support has been provided to the workers referred to the NRM and clarify the immigration status of the workers referred and if they will be granted the right to remain lawfully within the UK territory for the duration of any legal proceedings, and if they will be granted permission to work;
6. Please indicate how many complaints regarding working and/or living conditions of temporary migrant workers have been registered in 2023/to date in 2024 and what action has been taken in response; furthermore, please indicate if labour inspections have been undertaken on farms and in the care sector and if any instances of labour exploitation have been identified. If so, please indicate what action has been taken by the labour inspectorate or by other governmental entities and if any perpetrators have been held accountable;
7. Kindly provide an update of the status of the investigation and proceedings undertaken in case reference number 34546 carried out by GLAA, perpetrators have been identified and prosecuted and through which mechanisms the victims will be able to effectively access remedies;
8. Kindly indicate if law enforcement officers and labour authorities receive training on the identification of victims of contemporary forms of slavery;
9. Please indicate if your Excellency's Government is planning to adopt bilateral agreements with countries of origin of migrant workers, including as a means to prevent exploitation and abuse by including specific provisions and oversight mechanisms;
10. Please indicate which action has been undertaken regarding the individual requests made by Ms. [REDACTED], Mr. [REDACTED], Ms. [REDACTED] and Mr. [REDACTED];

11. Kindly inform when the report of the Independent Chief Inspector of Borders and Immigration on the care worker visa will be published;
12. In regard to the above allegations, please highlight the steps and/or legal policy measures that your Excellency's Government has taken, or is considering to take to fulfil its obligations to protect against human rights abuse by business enterprises (including farms) domiciled in its territory and/or jurisdiction, and to ensure they respect human rights throughout their operations and supply chain. This may, for example, include requiring such businesses to conduct effective human rights due diligence, in line with the UN Guiding Principles on Business and Human Rights, to identify, prevent, mitigate and account for how they address their impacts on human rights throughout their operations.
13. Please indicate the actions taken, or being planned, by your Government to implement the relevant provisions in the 2016 National Action Plan on Business and Human Rights (NAP). Specifically, please provide any relevant information on measures taken to operationalize the expectation of your Excellency's Government that "businesses respect human rights throughout their operations", and that "companies have human rights policies and processes to manage and avoid human rights risks embedded in their objectives and operations", and that victims have access to an effective remedy.
14. Please indicate specific initiatives taken to ensure that those affected by business-related human rights abuse within your jurisdiction and/or territory have access to effective remedy.
15. Please explain how the above-mentioned allegations, including with regard to trafficking in persons and forced labour in supply chains, are compliant with the UK Modern Slavery Act 2015.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). 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 be informed that a letter on this subject matter has been also sent to Haygrove Limited and FruitfulJobs, both companies domiciled in UK. A copy of the letter has also been sent to the relevant Governments (Bolivia and Chile).

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

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

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

Gehad Madi  
Special Rapporteur on the human rights of migrants

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

## Annex

### Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your Excellency's Government's attention to the applicable international human rights norms and standards, as well as authoritative guidance on their interpretation.

We would like to particularly bring your Excellency's attention to the human rights obligations under international human rights instruments and under customary international law binding on United Kingdom of Great Britain and Northern Ireland.

It is well established that the international human rights law obligations of States apply extraterritorially. Under international treaty law, this is a question of the scope of application of the treaty itself, a matter of treaty interpretation. In this regard, it is worth noting that under the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's Government in 1976, the scope of application is a matter of interpretation of the notion of "territory and jurisdiction" in its article 2 (1). The Human Rights Committee has long and consistently affirmed a disjunctive interpretation of these two concepts, and that that the Covenant applies extraterritorially in situations where the State exercises jurisdiction in the form of effective control over territory or power over an individual (see General Comments no. 31 para. 11 and no. 36 para. 63).

The International Covenant on Economic, Social and Cultural Rights (ICESCR) ratified in 1976, provide an explicit basis for extraterritorial obligations. All rights recognized by the ICESCR should be understood in conjunction with its article 2, para 1, which reads "Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the present Covenant by all appropriate means, including particularly the adoption of legislative measures." Thus, it explicitly establishes an obligation of international cooperation.

In addition, the Committee on the Economic, Social and Cultural Rights has indicated that "extraterritorial obligation to protect requires States Parties to take steps to prevent and redress infringements of Covenant rights that occur outside their territories due to the activities of business entities over which they can exercise control, especially in cases where the remedies available to victims before the domestic courts of the State where the harm occurs are unavailable or ineffective." (general recommendation 24 (2017)).

With regard to the obligations incumbent on United Kingdom of Great Britain and Northern Ireland under customary international law, it is worth noting that no restriction in terms of their scope of applicability exists, comparable to those enshrined in treaty law. Thus, as a starting point, there is a presumption *against* the territorial limitation of these obligations. In this regard, we note that the Universal Declaration of Human Rights (UDHR) contains no explicit jurisdictional limitations. At the very least, the scope of applicability of customary international human rights law obligations must be understood to similar scope of application as those within the two Covenants. This

finds support in the following three considerations: First, the ICCPR and the ICESCR are treaty codifications of human rights contained in the UDHR. Second, the affirmation that human rights obligations apply extraterritorially enjoys not only consistent affirmation by the relevant treaty bodies, but more generally from global and regional human rights monitoring bodies. This has been accepted by the International Court of Justice with respect of the ICCPR. Third, that human rights obligations are not territorially limited has been accepted, implicitly and explicitly, by States.

We would like to refer to the Slavery Convention of 1926 (signed by your Excellency's Government in 1927), 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.

We would also like to draw the attention of your Excellency's Government to the United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), which your Excellency's Government ratified in 2006, 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 remind your Excellency's Government of 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 in 1986, which requires States Parties to take all appropriate measures, including legislation, to suppress all forms of trafficking in women. We recall in this case obligations under article 11 on women's rights in the field of employment and the right to equal remuneration for work of equal value, and article 14 of the Convention which compels States to take into account the particular problems faced by rural women and the significant roles which rural women play in the economic survival of their families and take all appropriate measures to eliminate discrimination against women in rural areas to ensure the right to, among others, access to adequate health care facilities, enjoy adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Following CEDAW general recommendation 34 on the rights of rural women and general application of article 2 of the same Convention “States parties should regulate the activities of domestic non-State actors within their jurisdiction (...) and to eliminate discrimination by any public or private actor, which extends to acts of national corporations operating extraterritorially. States parties should uphold extraterritorial obligations with respect to rural women by, inter alia: not interfering, directly or indirectly, with the enjoyment of their rights; taking regulatory measures to prevent any actor under their jurisdiction, including private individuals, companies and public entities, from infringing or abusing the rights of rural women outside their territory; and ensuring that international cooperation and development assistance, whether bilateral or multilateral, advance the rights of rural women outside their territory. Appropriate and effective remedies should be available to affected rural women when a State party has violated its extraterritorial obligations” (CEDAW/C/GC/34, para. 13).

We also recall CEDAW General Recommendation 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).

The Convention on the Rights of the Child, accessed by your Excellency's Government in 1991, 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 of the Committee on the Rights of the Child, No. 16 (2013), on State obligations regarding the impact of the business sector on children’s rights (CRC/C/GC/16). In particular and referring to the informal sector and family economies, the Committee on the Rights of the Child recalls that: “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). The Committee also reminds States about the extraterritorial application of the Convention and obligation to protect the rights of children also in the context of businesses extraterritorial activities, “under the Convention, States have the obligation to respect and ensure children’s rights within their jurisdiction. The Convention does not limit a State’s jurisdiction to “territory”. In accordance with international law, the Committee has previously urged States to protect the rights of children who may be beyond their territorial borders. It has also emphasized that State obligations under the Convention and the Optional Protocols thereto apply to each child within a State’s territory and to all children subject to a State’s jurisdiction” (para. 39).

We would also like to draw your attention to article 8 of the International Covenant on Civil and Political Rights, which prohibits slavery, the slave trade, servitude and forced labor.

We would like to highlight article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR, 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. 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. In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) stresses that the right to health is defined not only as the right to timely and appropriate health care, but also to "the underlying determinants of health, such as access to safe and potable water [...] and environmental conditions [...]" (para. 11). In this regard, WHO defines social determinants of health, as the non-medical factors that influence health outcomes, that is "the conditions in which people are born, grow, work, live, and age<sup>7</sup>". In addition, CESCR emphasizes that, "the right to healthy natural and workplace environments", comprises "the requirement to ensure an adequate supply of safe and potable water and basic sanitation" as well as "the prevention and reduction of the population's exposure to harmful substances such as [...] harmful chemicals". It also indicates that "[t]he prevention, treatment and control of epidemic, occupational and other diseases [...] requires the promotion of social determinants of good health, such as environmental safety" (General Comment No. 14, paras. 15 and 16). CESCR also recognizes the right to sexual and reproductive health as an "integral part of the right to health" and stresses the core obligation of States to "ensure, at the very least, minimum essential levels of satisfaction on the right to sexual and reproductive health" (General Comment No. 22, paras. 1, 11 and 49). The rights set forth in the Covenant apply to all persons.

Article 25 of the Universal Declaration of Human Rights recognizes the right of everyone "to a standard of living adequate for the health and well-being of himself and of his family, including food." Article 11 (1) of ICESCR recognizes "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing, and housing, and to the continuous improvement of living conditions." In interpreting this provision, the Committee on Economic Social and Cultural Rights stressed in its General Comment No. 12 that the core content of the right to adequate food implies, inter alia, the availability of food which refers to the possibilities either for feeding oneself directly from productive land or other natural resources, or for well- functioning distribution, processing and market systems that can move food from the site of production to where it is needed in accordance with demand (para. 12).

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<sup>7</sup> World Health Organization, "Social determinants of health", available at: [www.who.int/health-topics/social-determinants-of-health#tab=tab\\_1](http://www.who.int/health-topics/social-determinants-of-health#tab=tab_1).

While article 11 (1) is subjected to progressive realization to the maximum of States available resources, article 11 (2), provides “the fundamental right to freedom from hunger and malnutrition”, which is of immediate application.

The ILO Forced Labor Convention, 1930 (No. 29), ratified in 1931, 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 on 2000, 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 also ratified in 2000. We also wish to remind your Excellency of your obligations under the ILO Equal Remuneration Convention, 1951 (n°. 100), ratified by your Excellency's Government in 1971.

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 the latest report to the Human Rights Council on “Trafficking in persons in the agriculture sector: human rights due diligence and sustainable development”, (A/HRC/50/33), which contains specific recommendations in the context of agriculture, and 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 also wish to remind your Excellency's Government of article 4 of the European Convention on Human Rights (ECHR), ratified by your Excellency's Government in 1953, and the obligations arising under the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), ratified by your Excellency's Government in 2008. We stress that article 4 ECHR imposes a procedural obligation to investigate potential trafficking situations. “The authorities must act of their own motion once the matter has come to their attention; the obligation to investigate will not depend on a formal complaint by the victim or close relative” (para. 89). We also stress the obligations relating to prevention of trafficking, protection of victims and effective investigations, extend also to exploitation through work.

We would also like to refer to the judgement of the European Court of Human Rights in the case *Chowdury and Others v. Greece*, Application No. 21884/15. 30 March 2017 and of the State's positive obligations under article 4 to prevent and protect victims of trafficking and to conduct effective investigation into offences and punish those responsible for the trafficking. Specifically, we highlight the obligation to, “adopt a comprehensive approach and to put in place, in addition to the measures aimed

at punishing the traffickers, measures to prevent trafficking and to protect the victims [...]States must, firstly, assume responsibility for putting in place a legislative and administrative framework providing real and effective protection of the rights of victims of human trafficking. In addition, the States' domestic immigration law must respond to concerns regarding the incitement or aiding and abetting of human trafficking or tolerance towards it". (para. 87). We recall that "[...] in certain circumstances, the State will be under an obligation to take operational measures to protect actual or potential victims of treatment contrary to article 4." (para. 89)

As stated by the European Court of Human Rights, "[...] exploitation through work is one of the forms of exploitation covered by the definition of human trafficking, and this highlights the intrinsic relationship between forced or compulsory labour and human trafficking". *Chowdury and Others v. Greece*, Application No. 21884/15 (para. 93).

Finally, we would like to also highlight the UN Guiding Principles on Business and Human Rights (A/HRC/17/31), which were unanimously endorsed by the Human Rights Council in June 2011, and which are relevant to the impact of business activities on human rights. 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 of 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."

According to the Guiding Principles, States have a duty to protect against human rights abuses within their territory and/or jurisdiction by third parties, including business enterprises.

The obligation to protect, respect, and fulfill human rights, recognized under treaty and customary law entails a duty on the part of the State not only to refrain from violating human rights, but to exercise due diligence to prevent and protect individuals from abuse committed by non-State actors (see for example Human Rights Committee, General Comment no. 31 para. 8).

It is a recognized principle that States must protect against human rights abuse 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.

Moreover, principle 26 stipulates that “States should take appropriate steps to ensure the effectiveness of domestic judicial mechanisms when addressing business-related human rights abuses, including considering ways to reduce legal, practical and other relevant barriers that could lead to a denial of access to remedy.”

Finally, we would like to refer your Excellency's Government to the fundamental principles set forth in the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, also known as the UN Declaration on Human Rights Defenders. In particular, we would like to refer to articles 1 and 2 of the Declaration which state that everyone has the right to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels and that each State has a prime responsibility and duty to protect, promote and implement all human rights and fundamental freedoms.