

**Mandates of 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; 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**

Ref.: AL OTH 40/2024

(Please use this reference in your reply)

20 March 2024

Dear Mr. Emery,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur on the human rights of migrants; 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 53/3, 52/20, 51/15 and 53/9.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 60 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying the facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

In this connection, we would like to bring to your attention information we have received concerning **allegations of labour exploitation of migrant workers which may amount to forced labour on agricultural farms in the United Kingdom of Great Britain and Northern Ireland, including at Haygrove Limited, the related lack of effective and timely identification, protection of victims and the insufficient assistance provided to them, as well as a lack of accountability and access to effective remedy for victims of these serious human rights violations suffered.**

Fruitful Jobs Ltd

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

The visa quota 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, Latin American and Central Asian countries, Nepal, Russia, Sudan, Ukraine, Vietnam and 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

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

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

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

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.

The UK 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.

*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.

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<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.

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, 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 reported lack of oversight of the recruitment of migrant workers by the Government and your company.

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 do also 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.

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 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.

The situation described in the information received falls 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 it 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 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 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 human rights 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).

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 provide information on the human rights due diligence policies and processes put in place by Fruitful Jobs Limited to identify, prevent, mitigate, and remedy the adverse human rights impacts of your activities and, in particular, with respect to the human rights of migrant workers during recruitment processes, in line with the UN Guiding Principles on Business and Human Rights.
3. Please provide information about any fees which migrant workers need to pay to Fruitful Jobs for their recruitment and travels to the UK.
4. Please specify how migrant workers are recruited in their countries of origin and what kind of documents/information they receive before traveling to the UK, including with regard to the wages they will receive, any deductions which will be made for accommodation, utilities and/or other items.
5. Please clarify why there is reportedly a discrepancy between the wage promised in writing and the actual wage paid to the individual workers.
6. Please highlight what measures are being taken by your company to ensure that recruitment practices are fair and transparent and that labour exploitation, bonded labour or related practices are prevented effectively.
7. Please indicate the steps that Fruitful Jobs Limited has taken, or is considering taking, to establish, implement and/or enforce an operational-level grievance mechanism without retaliation, in line with the UN Guiding Principles, in order to address the adverse human rights impacts caused or contributed to by your company's operations. Please provide information on whether your company is taking also migrant workers' potential language and other barriers into consideration.
8. Please describe the measures that Haygrove Limited has taken, or plans to take, to prevent the recurrence of alleged human rights abuses of migrant workers during the recruitment process in the future.
9. Please indicate if Fruitful Jobs has received any complaints regarding its recruitment practices and if so, if the agency is providing any remedies and/or compensation to migrant victims, including financial support to their voluntary return.

10. 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 company 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.

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 company to clarify the issue/s in question.

Please be informed that a letter on this subject matter has been also sent to the Government of the United Kingdom of Great Britain and Northern Ireland and to Haygrove Limited. A copy of the letter sent to the Government of the United Kingdom of Great Britain and Northern Ireland has been sent to relevant Governments (Bolivia and Chile).

Please accept 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

We would like to 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.”