Mandates of the Special Rapporteur on extreme poverty and human rights; 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 contemporary forms of slavery, including its causes and consequences

REFERENCE:
AL EGY 12/2017

31 July 2017

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extreme poverty and human rights; 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 contemporary forms of slavery, including its causes and consequences, pursuant to Human Rights Council resolutions 35/19, 35/7, 26/19, 24/3.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning allegedly abusive labour practices of a Saudi construction operator, the United Seemac Co., in violation of the human rights of its migrant workers, including those of Egyptian nationality. Please note that a communication on this matter has been addressed to the management of the company, as well as to the Government of the Kingdom of Saudi Arabia.

According to the information received:

The United Seemac Co. ("Seemac") is a medium-sized Saudi construction operator, registered with the Ministry of Commerce and Industry as a limited-liability company since 6 December 1990 (Registration number: 1010080784). Seemac is reportedly owned by Mr. Mohammed bin Ibrahim bin Abdullah Owaideh and managed by a handful of Saudi nationals. Its workforce predominantly consists of migrant workers, notably from India, Indonesia, Egypt, Pakistan, the Philippines, Sudan and Yemen.

Seemac's migrant workers have been allegedly subject to various forms of abuse and exploitation, including non-payment of salaries, the withholding of passports, and inadequate and unhygienic living conditions in the company's residential complexes. It has been reported that the workers have not received salaries for almost two years since January 2015. In 2015 and 2016, the company has only made *ad hoc* payments for the months of January, April, May, June, October and November 2015, and January 2016. In 2017, the company allegedly has not paid its workers at all.

In January 2016, 63 of Seemac's migrant workers filed a complaint with the Saudi Labour Board to demand payment of unpaid salaries. On 10 May 2016, the Labour Board ordered Seemac to pay 35,000 Saudi riyals per worker to compensate for the unpaid salaries, but the company never complied with the

order. Although the Labour Board issued an arrest warrant for Seemac's owner, the Saudi law enforcement allegedly took no action to execute the warrant. On 25 September 2016, the workers began a sit-in protest at the company's headquarters in Riyadh. After approximately two weeks of protest, Seemac's management promised the workers that they would soon pay their salaries. However, this commitment was not honoured. In May 2017, 17 of the concerned workers have filed a new complaint with the Labour Board. The company representative failed to appear at the first hearing on 21 May 2017 and the matter is still pending.

Seemac's migrant workers are reportedly accommodated in the company's residential complexes in Riyadh and Khamis Mushait, which provide a standard of living below the bare minimum. The workers reportedly have had no running water or electricity for a month and the services have been frequently cut off in the past as Seemac failed to pay the utility bills on time. The lack of running water and electricity has particularly affected the workers during warm months when the temperature reaches over 40 degrees. Many workers share the same bathrooms and when the water is cut off, they have to go to mosques to use the toilet or wash themselves. The workers live in cramped conditions and some sleep outside due to overcrowding.

Furthermore, the residence permits of the migrant workers have expired, due to Seemac's failure to apply for their renewal. In July 2016, police officers arrived at Seemac's residential complex and arrested 11 of Seemac's workers without a valid residence permit. Although the workers explained to the police that they had a pending labour dispute with their employer, they were arrested in any event and detained for a week under inhumane conditions. They were held in cells without mattresses or air-conditioning, and the guards did not provide them with drinking water, telling them to drink from the toilet if they were thirsty. The workers were eventually returned to the company's compound after it posted bail for them. Given the lack of valid residence permits, most of the workers are reportedly too frightened to leave the company's complex due to the risk of arrest.

The workers have not been able to transfer to another employer or to simply leave the country, as the company retained the workers' passports and refused to grant permission necessary for them to transfer to another employer. Seemac's management reportedly told the workers that if they wish to have their passports back, they would have to sign a statement certifying that they have received all the salaries owed to them. While the company eventually returned the workers' passports to them early this year, the company still exercises significant control over the workers' movements by withholding exit visas necessary for migrant workers to leave the country. Seemac has reportedly indicated that the workers need to accept a payment for a single month and sign a statement renouncing all their rights to unpaid salaries, if they wish to have exit visas to leave the country.

To date, over half of Seemac's roughly 500 migrant workers have left the country on these terms, as they were unable to survive without income. Some 200 migrant

workers who still remain with Seemac reportedly cannot afford basic food items for themselves, let alone send remittances to their families. The residency permits of many of the workers have reportedly expired last month and they fear possible arrest and detention.

While we do not wish to prejudge the accuracy of these allegations, we express serious concerns over alleged violations of the human rights of the concerned migrant workers, including the rights to just and favourable remuneration and conditions of work, to an adequate standard of living, and to freedom of movement. These are well-established human rights in the International Bill of Human Rights, consisting of the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the International Covenant on Civil and Political Rights (ICCPR). Article 7, paragraph 1 of the ICESCR and article 23, paragraph 3 of the UDHR guarantee everyone who works of the right to just and favourable conditions of work, including remuneration that ensures for himself and his family a decent living. In this regard, the term "remuneration" goes beyond the mere notion of "wage" or "salary", but includes "additional direct or indirect allowances in cash or in kind paid by the employer to the employee that should be of a fair and reasonable amount, such as grants, contributions to health insurance, housing and food allowances, and on-site affordable childcare facilities".[1] Remuneration in this sense must be sufficient to enable the worker and his or her family to ensure a decent living for themselves and to enjoy other human rights, such as "social security, health care, education and an adequate standard of living, including food, water and sanitation, housing, clothing and additional expenses such as commuting costs".[2] In particular, decent remuneration is an important pre-requisite to the enjoyment of the right to an adequate standard of living, guaranteed under article 11, paragraph 1 of the ICESCR and article 25 of the UDHR.[3] It goes without saying that salaries and wages should be "paid in a regular, timely fashion and in full"[4] to be able to contribute to an adequate standard of living. The non-payment of salaries for such an extended period of time, combined with the inadequate living conditions in the company's compound, seem to indicate *prima facie* violations of the rights to just and favourable remuneration and conditions of work, and to an adequate standard of living of the concerned workers and their families. Furthermore, article 12, paragraph 1 of the ICCPR and article 13 of the UDHR guarantees the right to freedom of movement and to leave a country.

We are addressing these concerns to your Excellency's Government, as the country of origin has a "shared responsibility" in ensuring the protection of its migrant workers' human rights.[5] While the country of destination bears the primary responsibility to protect the human rights of migrant workers who are present within its territory, the country of

[1] Committee on Economic, Social and Cultural Rights, General comment No. 23 (2016) on the right to just and favourable conditions of work (article 7 of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/23, para. 7.
[2] Ibid, para. 18.
[3] Ibid, para. 1.
[4] Ibid, para. 10.
[5] International Labour Organization, Protecting the rights of migrant workers: A shared responsibility (2009).

origin may also take a number of measures in the fulfillment of such shared responsibility, including, for example: providing prospective migrant workers with accurate and reliable information about their rights prior to their departure; deployment of labour attachés to the country of destination to provide the migrant workers with the necessary support and services; adopting and effectively implementing bilateral agreements or Memorandum of Understanding with the country of destination in conformity with the international human rights and labour standards.[6] More specifically, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW), to which Egypt is a State Party since 1993, sets out certain obligations on the part of the country of origin. Article 33 of the ICMW accords migrant workers and their families with the right to be informed by the State of origin of their rights under ICMW, the conditions of their admission, their rights and obligations under the law and practice of the State of destination, and other matters that would enable them to comply with administrative or other formalities in the concerned State. Article 23 of the ICMW also provides for the right of migrant workers to seek "the protection and assistance of the consular or diplomatic authorities of their State of origin…" when their rights are violated.[7]

We would also like to bring to your attention the UN Guiding Principles on Business and Human Rights (contained in A/HRC/7/31), which the Human Rights Council unanimously adopted in June 2011 following years of consultations with Governments, civil society and the business community. The Guiding Principles have become an established as the authoritative global standards for all States and businesses with regard to preventing and addressing the risk of business-related human rights impact.

Furthermore, General Comment No. 24, issued by the Committee on Economic, Social and Cultural Rights in June 2017, stresses the obligation of States to provide appropriate means of redress to aggrieved individuals or groups and ensure corporate accountability.[8] We would like to specifically highlight in this context the duty of States and their judicial and enforcement agencies to "cooperate with one another in order to promote information sharing and transparency and prevent the denial of justice".[9] In this regard, the Human Rights Council report (A/HRC/35/33) – a Study of the Working Group on the issue of human rights and transnational corporations and other business enterprises on best practices and how to improve on the effectiveness of cross-border cooperation between States with respect to law enforcement on the issue of business and human rights – provides examples of and best practices in dealing with cases involving transnational

[6] Inter-Parliamentary Union, the International Labour Organization, and the United Nations Office of the High Commissioner for Human Rights, Migration, human rights and governance: Handbook for Parliamentarians No. 24 (2015), at 161; International Labour Organization, Protecting the rights of migrant workers: A shared responsibility (2009), at 7-13.

[7] Article 23, International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

[8] Committee on Economic, Social and Cultural Rights, General Comment No. 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, E/C.12/GC/24 (23 June 2017), para. 39.

[9] Committee on Economic, Social and Cultural Rights, General Comment No. 24 on State Obligations under the International Covenant on Economic, Social and Cultural Rights in the Context of Business Activities, E/C.12/GC/24 (23 June 2017), para. 45

harm and relating to economic actors, and makes substantive recommendations for States on how best to cooperate.

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 therefore 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 indicate what policies, measures and procedures (e.g., registration of workers, hotlines, and dissemination of information) your Excellency's Government has in place to prevent violations of human and labour rights of migrant workers.

3. Please indicate what measures your Excellency's Government has undertaken to rapidly and accurately identify, assist and protect the affected nationals in this case and offer them necessary consular assistance.

4. Please indicate any assistance measures that your Excellency's Government intends to take or has already provided in order to ensure that the affected nationals in this case have access to effective remedies, including adequate compensation.

5. Please indicate what measures your Excellency's Government has in place to ensure that the affected nationals in this and other similar cases have access to effective remedies in the country of destination after they have returned to their country of origin?

We would appreciate receiving a response within 60 days. Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration. Furthermore, we may publicly express our concerns as, in our view, the information is sufficiently reliable and indicates a matter warranting immediate attention. The press release may indicate that we have been in contact with your Excellency's Government's in order to clarify issues in question.

Besides the letters addressed to the management on the United Seemac Co. and the Government of Saudi Arabia, please note that this communication was also transmitted to other States of origin of the affected migrant workers, namely India, Indonesia, Pakistan, the Philippines, Sudan and Yemen.

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

Philip Alston
Special Rapporteur on extreme poverty and human rights

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

François Crépeau
Special Rapporteur on the human rights of migrants

Urmila Bhoola
Special Rapporteur on contemporary forms of slavery, including its causes and consequences