

**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 OTH 11/2017

14 July 2017

Dear Mr. Mohammed bin Ibrahim bin Abdullah Owaideh,

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, 26/22, 26/19, 24/3.

In this connection, we would like to bring to your attention information we have received concerning allegedly abusive labour practices of your company, the United Seemac Co., in violation of human rights of its migrant workers.

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 managed by a handful of Saudi nationals and 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 against you as 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. Article 23, paragraph 3 of the Universal Declaration of Human Rights (UDHR) guarantees everyone who works of “the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity...”. 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”.<sup>1</sup> 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”.<sup>2</sup> In particular, decent remuneration is an important pre-requisite to the enjoyment of the right to an adequate standard of living, guaranteed under article 25 of the UDHR.<sup>3</sup> It goes without saying that salaries and wages should be “paid in a regular, timely fashion and in full”<sup>4</sup> to be able to contribute to an adequate standard of living. Furthermore, article 13 of the UDHR guarantees the right to freedom of movement and to leave a country. Legal and bureaucratic barriers, such as a requirement for approval from employers, are considered incompatible with the full enjoyment of this right<sup>5</sup> and are not permissible unless they meet strict criteria set out in international human rights law.<sup>6</sup> These human rights are universal and must be guaranteed to all, including non-nationals such as migrant workers, regardless of legal status and documentation.<sup>7</sup>

Considering these human rights at stake, we would like to specifically 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 2011 following years of consultations with Governments, civil society and the business community. The

---

<sup>1</sup> 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.

<sup>2</sup> Ibid, para. 18.

<sup>3</sup> Ibid, para. 1.

<sup>4</sup> Ibid, para. 10.

<sup>5</sup> See Human Rights Committee, General Comments adopted by the Human Rights Committee under article 40, paragraph 4, of the International Covenant on Civil and Political Rights, CCPR/C/21/Rev.1/Add.9, para. 17.

<sup>6</sup> The criteria are fleshed out in article 12, paragraph 3 of the International Covenant on Civil and Political Rights, which provides that the rights to freedom of movement and to leave any country “...shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.”

<sup>7</sup> See Economic, Social and Cultural Rights, General Comment No. 20, Non-discrimination in economic, social and cultural rights (art. 2, para. 2, of the International Covenant on Economic, Social and Cultural Rights), E/C.12/GC/20, para. 30; Committee on the Elimination of Racial Discrimination, General recommendation XXX on discrimination against non-citizens (2005).

Guiding Principles have been 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. The Guiding Principles clearly outline that private actors and business enterprises have a responsibility to respect human rights, which requires them to avoid infringing on the human rights of others to address adverse human rights impacts with which they are involved. Such a responsibility refers to internationally recognized human rights, including, at a minimum, “those expressed in the International Bill of Human Rights and the principles concerning fundamental rights set out in the International Labour Organization’s Declaration on Fundamental Principles and Rights at Work”.<sup>8</sup> Guiding Principle 15 further provides that in order to meet their responsibility to respect human rights, business enterprises to have in place policies and processes appropriate to their size and circumstances, including:

*(a) A policy commitment to meet their responsibility to respect human rights.*

Such a policy commitment must be approved by the company’s senior management, be informed by human rights expertise (internal or external) and stipulate the human rights expectations of personnel, business partners and other parties directly linked to its operations, products or services. It must be publicly available and communicated internally and externally and reflected in operational policies and procedures necessary to embed it throughout the business enterprise.<sup>9</sup>

*(b) A human rights due-diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights*

This process should include assessing actual and potential human rights impacts, integrating and acting upon the findings, tracking responses, and communicating how impacts are addressed.<sup>10</sup>

*(c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute*

Where a company identifies that it has “caused or contributed to adverse impacts” it “should provide for or cooperate in their remediation through legitimate processes”.<sup>11</sup> The Guiding Principles further provide that a business enterprise “should establish or participate in effective operational-level grievance mechanisms” in order to make it possible for grievances to be addressed early and remediated directly.<sup>12</sup>

---

<sup>8</sup> Guiding Principles on Business and Human Rights, Guiding Principle 12.

<sup>9</sup> Guiding Principles on Business and Human Rights, Guiding Principle 16.

<sup>10</sup> Guiding Principles on Business and Human Rights, Guiding Principle 17.

<sup>11</sup> Guiding Principles on Business and Human Rights, Guiding Principle 22.

<sup>12</sup> Guiding Principles on Business and Human Rights, Guiding Principle 29.

We also express concern over the practice of the sponsorship (*kafala*) system, which creates conditions conducive to slavery or the exaction of forced labour. The International Labour Organization's Committee of Experts on the Application of Conventions and Recommendations (CEACR) has stated in its observations with regard to the Forced Labour Convention 1930 (No. 29) that the so-called visa "sponsorship system" in certain countries in the Middle East "may be conducive to the exaction of forced labour"<sup>13</sup> and often noted in its observations on Saudi Arabia "the vulnerable situation of migrant workers...who are often confronted with employment policies such as the visa "sponsorship" system and subjected to abusive employer practices such as the retention of passports, non-payment of wages, deprivation of liberty and physical and sexual abuse which cause their employment to be transformed into situations that could amount to forced labour".<sup>14</sup> A number of international human rights experts and bodies, including the Special Rapporteur on the human rights of migrants, the Committee on Economic, Social and Cultural Rights, and the Committee on the Elimination of Racial Discrimination, have also expressed concern that the sponsorship system increases vulnerability of migrant workers to the risk of abuse and exploitation.<sup>15</sup>

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 clarify how many workers have not received their salaries regularly and the outstanding amount per worker. What steps you have undertaken to pay the workers all unpaid salaries?
3. Please clarify how many workers have left the country due to the non-payment of salaries, as well as the terms on which they were granted exit

---

<sup>13</sup> Tripartite Meeting of Experts on Forced Labour and Trafficking for Labour Exploitation, Report for discussion at the Tripartite Meeting of Experts concerning the possible adoption of an ILO instrument to supplement the Forced Labour Convention, 1930 (No.29), 11-15 February 2013, at para. 44.

<sup>14</sup> Observations (CEACR) – adopted 2012, published 102<sup>nd</sup> ILC session (2013), Forced Labour Convention, 1930 (No. 29) – Saudi Arabia (Ratification: 1978), available at: [http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID,P11110\\_COUNTRY\\_ID,P11110\\_COUNTRY\\_NAME,P11110\\_COMMENT\\_YEAR:3056782,103208,Saudi%20Arabia,2012;](http://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID,P11110_COUNTRY_ID,P11110_COUNTRY_NAME,P11110_COMMENT_YEAR:3056782,103208,Saudi%20Arabia,2012;)

<sup>15</sup> See, e.g. Report of the Special Rapporteur on the human rights of migrants, A/HRC/26/35, paragraphs 38-39; 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. 47(e). Committee on the Elimination of Racial Discrimination, Concluding observations on the combined second to fifth periodic reports of Oman, CERD/C/OMN/CO/2-5 (2016); Committee on the Elimination of Racial Discrimination, Concluding observations of the Committee on the Elimination of Racial Discrimination on Kuwait, CERD/C/KWT/CO/15-20 (2012).

visas. What steps have you undertaken to compensate the workers who have left the country without receiving their unpaid salaries?

4. What measures or steps have you undertaken to ensure adequate living conditions for the workers in the company's residential complexes?
5. Please indicate what policy and processes Seemac has in place to ensure that the human rights of its workers are fully respected in compliance with international standards and to hold its personnel accountable in case of violations of such standards.
6. What action have you taken to punish Seemac's managers who have retained the workers' passports and failed to renew their residence permits?
7. Please provide information on all other plans or steps undertaken to effectively protect all the rights of the workers concerned and ensure their proper compensation for all the damages they may have endured.
8. Please provide information about the measures that Seemac has taken, or is considering to take, to ensure that its human rights position and further policies will be in line with the UN Guiding Principles on Business and Human Rights.
9. Please provide information as to what human rights due diligence has been undertaken by Seemac.
10. Please provide information as to what effective remedies measures, including adequate compensation, in line with the UN Guiding Principles on Business and Human Rights, have been taken, or that Seemac is considering to take.

We would appreciate receiving a response within 60 days. Your 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 will indicate that we have been in contact with you to clarify the issues in question.

Please note that this communication has been also addressed to the Government of Saudi Arabia and also transmitted to the Governments of India, Indonesia, Egypt, Pakistan, the Philippines, Sudan and Yemen, for their information.

Please accept, Sir, 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