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15th September, 2015

Subject- Ensure action is taken to address human and labour rights violations against Nepali domestic workers by Saudi Diplomat

On 10th September, 2015 two women domestic workers, from Nepal were rescued from the residence of a Saudi diplomat in Gurgaon, Haryana by a police team. The rescue was conducted on a complaint received by a Nepal based NGO. The two

rescued Nepali citizens informed the police that employed as domestic workers through a placement agency, they suffered brutal physical violence and repeated sexual abuse at the hands of the diplomat. They were kept in confinement and starved by the diplomat and his family. Paid very little money, they were virtual prisoners. They also reported that on multiple occasions, they were sexually violated by male visitors to the diplomat's house. This case is another reminder of the extreme vulnerability of domestic workers across the globe.

Undoubtedly, the police intervention and successful rescue deserves commendation. However, the rescue also sparked the Saudi embassy rushing to declare the allegations false and chiding the police for trespassing a diplomat's house, in contravention of the established norms. Aside from the fact that the embassy completely ignored the heinous crimes that were committed by the diplomat and his family, it is regrettable that diplomatic immunity has been used to deflect from the core issue: gruesome, repeated human rights violation of two vulnerable domestic workers.

Further, application of the Vienna Convention on Diplomatic Relations, 1961 and other international legal standards extends in varying degrees to individuals of different ranks and should be applied strictly in light of the spirit and purpose of the Convention. The Convention was designed with the aim that, "the purpose of such privileges and immunities is not to benefit individuals but to ensure the efficient performance of the functions of diplomatic missions as representing States." The human rights abuses perpetrated within the confines of the diplomat's home do not pertain to the exercise of his functions as a member of the mission.

While the Indian government contemplates the appropriate course of action, it must not lose sight of the fact that the case involves severe human rights violation, including repeated brutal physical and sexual abuse, including sodomy and bodily invasion with various objects. There is also more than sufficient evidence to establish a *prima facie* case of serious crimes, including medical examination and statements from the survivors and witnesses.¹

Shamefully, the accused diplomat and his family continue to be harboured by the Saudi Embassy although under the Vienna Convention, the home state, Saudi Arabia, has the power to waive the immunity of the diplomat. India should strongly pursue the matter with Saudi Arabia and ensure that diplomatic immunity does not excuse the violation of human rights. Moreover, legal precedents that have recognized that although diplomatic immunity is far reaching, it is not absolute

¹ The two victims have been examined by a gynecologists and followed by a four-member medical board. The medical examination confirmed the initial reports of sexual assault including rape and sodomy. According to [reports](#) in the *Indian Express* the women were also suffering from vaginal and anal infections and were badly kept, with even their clothes in tatters. See, e.g.

<http://indianexpress.com/article/cities/delhi/rape-victims-were-severely-tortured-docs/>

provide an important benchmark in ensuring that diplomats do not abuse their position of immunity (See, e.g. *United States v. Guinanc*, 688 F. Supp. 744 (D.C. 1988) allowing for the trial of a Peruvian diplomat in the United States after his diplomatic term had ended since the underlying crime was unrelated to his diplomatic functions).

This case, moreover, reveals severe international and domestic crises:

Trafficking and unsafe migration: The Nepali women survivors passed through at least three different jurisdictions: they were brought from Nepal, likely to India; taken to Jeddah by their employers; and brought back to India where the victimization was reported. The incident highlights the danger women face due to human trafficking, and other migration related crimes, including deception by placement agencies and middlemen, inhuman working conditions and inadequate remuneration. With a burgeoning demand for domestic workers, mushrooming 'placement agencies' are bereft of any legal backing, government permission, license, or any other form of scrutiny. These agencies continue to bring vulnerable women from across the country as well as neighbouring nations with impunity.

Rampant rights abuses against domestic workers: Domestic workers, confined to the homes of their employers, facing complete control and domination by employers without job security are particularly vulnerable to heinous crimes. A survey by the International Labour Organization found that of 70 countries, 40% did not ensure weekly rest and 50% had no limitations imposed on working hours for domestic workers. Only 22 countries have ratified the Domestic Workers Convention of the ILO (C189). India's absence from the list reveals a clear lack of political will to address the problems of domestic workers.

Hence, the undersigned specifically demand that the government take concrete steps to end the misuse of diplomatic immunity that abets human rights violation and serious crimes and call for the following action:

1. Fair and thorough investigation, in keeping with principles of natural justice and rule of law; including prosecution of any charges substantiated, including against the diplomat; his family; any guests who participated in or any way aided the severe and ongoing abuse of the Nepali women survivors; and any recruiting agents or agencies that contributed to their extreme vulnerability through human trafficking, cheating or any other criminal offences.
2. Immediate recognition and protection of domestic workers through establishment of a statutory framework and ratification of the Domestic Workers Convention of the ILO C189.²

² This groundbreaking treaty establishes the first global standards for domestic workers. Under the Convention, domestic workers are entitled to the same basic rights as those available to other workers in their country, including weekly days off, limits to hours of work, minimum wage coverage,

Thank you for your consideration in this matter.

Signatories

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Indian Oil Petronas Contractor Shramik Union
Hosiery Workers Unity Centre
Paschim Banga Rajya Sericulture Farm Workers Union
Saha Institute of Nuclear Physics Workers Union
Bidhannagar Poursabha Safai Karmachari Union
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Paschim Banga Biri Shilpa Shramik Union
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overtime compensation, social security, and clear information on the terms and conditions of employment. The new standards oblige governments that ratify to protect domestic workers from violence and abuse, to regulate private employment agencies that recruit and employ domestic workers, and to prevent child labor in domestic work.

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