

The President of India
Rashtrapati Bhavan
New Delhi - 110 004

The Prime Minister
South Block, Raisina Hill
New Delhi 110011

Sushma Swaraj
External Affairs Minister
South Block
New Delhi 110011

Bandaru Dattatreya
Minister of Labour
Rafi Marg, Sansad Marg Area
New Delhi 110001

Arvind Kejriwal
Chief Minister
Delhi Secretariat
New Delhi 1100113

Najeeb Jung
Lieutenant General
Raj Niwas
Delhi 110054

Gopal Rai
Delhi Labour Minister
Delhi Secretariat
New Delhi 1100113

Satyanarayan Mohanty
National Human Rights Commission
Block C, GPO Complex
INA, New Delhi 110023

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 reachign, 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

Gharelu Kamgaar Sanghatan, Gurgaon, Haryana
Self-Employed Women's Association (SEWA)-Delhi
Subhash Bhatnagar, Nirmala Niketan
Domestic Workers Forum, Chetnalaya, Delhi
Ashim Kumar Roy, Vice President, New Trade Union Initiative (NTUI)
Hero Honda Theka Mazdoor Sangathan, Haryana
Dr Mira Shiva, Initiative for Health & Equity in Society, Diverse Women for Diversity
Madhu, Jagori
Jahnvi Andharia, ANANDI
Women Against Sexual Violence and State Repression (WSS)
Pamela Philipose, Senior Journalist
Lalita Ramdas
Admiral L. Ramdas
Anweshaa Ghosh, Institute of Social Studies Trust
Shipra Nigam, Institute for Human Development
Sarojini N. B., Jan Swasthya Abhiyan
Kavita Srivastava, Peoples Union for Civil Liberties
Saheli Women's Resource Centre
Madhu Mehra, Partners for Law in Development
Human Rights Law Network
Virginia Saldanha, Secretary, Indian Christian Women's Movement
Paschim Banga Cha Bagan Shramik Karmachari Unon, West Bengal
Working People Trade Union Council, Tamil Nadu
All India Union of Forest Working People
Kalyani Menon Sen, Feminist Learning Partnerships
Lakhan Sahu, Pragatisheel Cement Shramik Sangh, Chattisgarh
Siemens Workers Union
Paschim Banga Khet Mazoori Samiti, West Bengal
Madhuri Krishnaswamy, Jagrit Adivasi Dalit Sangathan
Nazariya, Delhi
D. Gabriele, Pennurimai Iyakkam, Tamil Nadu
Haldia Dock Complex Contractor Shramik Union
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
JN Roy Sishu Seva Bhawan Shramik Union
Paschim Banga Biri Shilpa Shramik Union
Paschim Banga Nirman Shilpa Shramik Union
West Bengal Civic Police Association

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.

Progressive Plantation Workers Union
Monisha Behal, North East Network
Saswati Ghosh, Assoc. Prof. & Head of Department, Economics, Calcutta University
Vandana Prasad, Feminist Activist
Neeraj Malik, Feminist Activist
Juhi Jain, Feminist Activist
Shipra Deo, Feminist Activist
Sudeshna Sengupta, Feminist Activist
Soma KP, Researcher/Advisor, Gender, Development and Livelihoods
Rohini Hensman, writer and researcher, Mumbai
Uma Chakravarti, Feminist Activist
Pritam Singh, Professor of Economics, Oxford University (individual capacity)
Navsharan Singh, Feminist Activist
Chirashree Das Gupta, Jawaharlal Nehru University
Mina Swaminathan, Feminist Activist
Ritu Dewan, President, Indian Association of Women's Studies (individual capacity)
Sabita Parida
Nandita Rao
Ramlath Kavil
Supriya Madangarli
Geetanjali Gangoli
Amrita Shodhan
Sumi Krishna , Independent scholar, Bengaluru
Kaveri R Indira, University of Hyderabad