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**SPECIAL RAPPORTEUR ON THE HUMAN RIGHTS OF
MIGRANTS**

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Chairperson,
Distinguished delegates,
Ladies and gentlemen,

The focus of the present report is on practices of exploitation and abuse experienced by low-wage workers migrating from the Global South. Despite the recent economic downturn, the use of low-wage workers on precarious, short-term contracts has significantly increased. The unethical recruitment referred to throughout my report refers to practices that don't respect the human rights of migrants.

Much of this type of migration is organized by intermediaries, known as recruitment agents or agencies. These intermediaries can be a legitimate form of support within the migration process, but all too often they ruthlessly exploit and abuse the migrants' precarious situation.

Recruitment of migrant workers is the first stage of their migration process, but recruiters can continue to play an ongoing role in the life of migrants through, for example, arranging housing or acting as landlords, collecting ongoing payments for recruitment fees or debt incurred by migrants, renewing work permit for migrants, helping with changing employer if they lose their job, always for further fees, etc.

The issue of exploitation of migrant workers by recruitment intermediaries is apparent in all regions of the world. Key sectors in which recruitment is problematic include: agriculture, construction, service industry, hospitality, tourism, factory work in textiles and garments, food processing and packaging, fisheries, extraction, and domestic work.

The practices of unethical recruiters and their subagents sit on a complex spectrum of human rights violations, which vary between recruiters, countries and groups of migrants and are not fully understood due to a lack of coherent and disaggregated data. Significant suffering, however, unites the experience of many migrants using the services of unethical recruiters.

Unethical recruitment practices focus on profit maximization at any cost and can include: charging large fees for recruitment services, which can force migrants into situations of effective debt bondage and forced labour; changing the terms of employment agreed in countries of origin; and facilitating employment in exploitative labour conditions.

Unethical recruitment practices can also facilitate other human rights abuses, such as: human trafficking; violence, including sexual violence and harassment; restrictions on the freedom of movement; racism and xenophobia; and systemic barriers to access to justice.

The precariousness of the situation of migrant workers can also lead to abuses of their economic, social and cultural rights. For example, in cases where employers offer housing, this can be used to further control and exploit migrants, as it makes them readily available to perform work. In other instances, where migrants must finance their living and food costs independently, they can live in extremely poor conditions, lacking basic infrastructure and services, including sanitation, electricity and potable water. Access to other forms of social protection, such as health care, can also be problematic and many migrant workers highly vulnerable if they experience problems with their health.

Abuses of migrant workers' rights aren't isolated incidents taking place in a vacuum. First, unethical recruitment practices thrive in an environment in which the prices of goods and services are dependent upon a supply of cheap labour. Ethical recruiters struggle to compete within a system that has adapted to the vicious circle of wholesale exploitation and systematic suffering.

Second, the systematic use of exploitative labour is becoming part of our conceptualization of economic development. As countries want to accelerate growth and build their infrastructure based on cheap labour, international migration of low-wage workers is embraced as a tool of development without the due attention on the human rights of migrants themselves.

This can be seen, for example, with how temporary migration schemes are frequently discussed, in international forums such as the Global Forum on Migration and Development, as positive examples of flexible labour supply responding quickly to economic demands, despite countless examples of structural precariousness and of very negative consequences in terms of human rights.

Destination States accept and become complicit in this economic normalization of exploitation of migrant workers, because of a desire to remain globally competitive. Countries of origin can also fail to negotiate adequate protections for their nationals, because of power imbalances between countries. Examples have been reported of countries of origin which requested better treatment for their nationals, only to see the number of their citizens being accepted as migrant workers drop.

Consequently, migrants make a realistic assessment of the options offered to them and factor the recruitment system into their migration project, thus accepting its negative consequences and further embedding the normalization of exploitation and suffering. Their choices are limited, as their immediate objective is sending money home to repay the debt and put bread on the family table.

Moreover, considering their precarious status which can often be terminated without notice by the employer, migrants' best strategy in the face of adversity is to "move on" and accept losses, in the hope of gaining in the next phase. Temporary migrant workers usually do not protest, contest or mobilize, as they fear retaliation from recruiters and employers. They cannot afford being fired and sent back home or being barred from future work abroad, as this would mark the end of the migration project in which so much has already been invested by so many.

Moreover, the redress mechanisms that exist in labour law systems are most often complaint-based. If migrants do not complain, little can be done to provide effective redress.

These economic dynamics and the perverse incentives created by unethical recruiters make wholesale transition to an ethical system vital. While it is impossible to rewrite international labour recruitment practices overnight, Governments need to approach the problem from a systemic and holistic perspective, and integrate the perspectives of private sector organizations, civil society and the migrants themselves into the development of a range of legal, policy and practical interventions.

Governments must develop whole-system human-rights-based frameworks for overall migration and border management, taking into account the rights and needs of migrant workers and the benefits of organized mobility, and incentivize regular, open and facilitated labour migration. Governments must also set the regulatory environment in which private entities undertake their activities. Voluntary private compliance is not enough to protect the rights of migrants and sustained political will is needed to ensure that Governments use their legislative, policymaking, investigative and judicial powers to protect the rights of individuals, regardless of nationality.

Transition to an ethical system should be based upon the UN Guiding Principles on Business and Human Rights and the wealth of human rights instruments, labour standards and soft law norms.

The key elements of such a transition include: the banning of recruitment fees; the effective regulation, licensing and monitoring of recruiters; and the harmonization of the legal and policy frameworks relating to recruitment.

International and regional cooperation is essential to transition to an ethical system as the playing field must be levelled in order to make progress. No one country will be able to end exploitative and abusive recruitment independently.

Empowering migrants through information and support can harness their resourcefulness to drive progress towards a system of fair and ethical recruitment. Migrants must understand their rights, and be empowered to make decisions about recruiters based upon robust intelligence about different actors in the market. Recognizing migrants as rights holders, acknowledging the benefits that they

bring to destination countries, and facilitating their integration into society is key to instituting a system of fair recruitment for international labour migration. Failing to recognize the huge value of migrant workers and to support their integration legitimizes abuse and exploitation.

Countries of destination can support the integration of migrants into society by facilitating access to justice, without fear of detection, detention or deportation, in order to help migrants fight for their rights; and ensuring that migrants can access basic social protection services irrespective of their migration status would significantly reduce the precariousness of the migrant situation. They must tackle racism and xenophobia. Access to permanent residency and citizenship should be developed.

Governments must also engage with the private sector. There is a strong business case for transition to an ethical system, including the reduction in reputational and legal risk, and greater efficiency and productivity gains within business operations and the extended supply chain. Governments, international organizations and business associations must use this business case alongside key international legal and policy standards to engage with and sensitize the private sector to the key issues and the steps needed to achieve wholesale transition to an ethical system.

In turn, the private sector must fully comply with all relevant international human rights and labour standards, fully implement the Respect, Protect and Remedy Framework within the UN Guiding Principles on Business and Human Rights, in relation to migrant workers, through, for example, developing a zero-tolerance policy on the payment of recruitment fees by workers, and auditing supply chains and ensuring human rights due diligence with all contractors and subcontractors.

The alliance of the migrants' resourcefulness, the business community's desire of a level-playing field and the political will of governments should result in egregious recruitment practices become a thing of the past.

Thank you.