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**HAUT COMMISSARIAT DES NATIONS UNIES**  
**AUX DROITS DE L'HOMME**

**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on freedom of religion or belief; the Independent Expert on minority issues; the Special Rapporteur on the sale of children, child prostitution and child pornography; the Special Rapporteur on trafficking in persons, especially women and children; the Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; and the Special Rapporteur on violence against women, its causes and consequences.**

REFERENCE: UA G/SO 214 (56-23) Minorities (2005-4) G/SO 214 (69-19) Trafficking (2004-5) G/SO 214 (89-15)  
IRQ 1/2013

13 February 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on freedom of religion or belief; Independent Expert on minority issues; Special Rapporteur on the sale of children, child prostitution and child pornography; Special Rapporteur on trafficking in persons, especially women and children; Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; and Special Rapporteur on violence against women, its causes and consequences pursuant to Human Rights Council resolutions 14/11, 16/6, 16/12, 17/1, 15/23 and 16/7.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the **abduction of Simon Dawod Ismael**, an 11-year old girl from the Yazidi town of Sheikha, in the sub-district of Alqoush, District of Tel-Kef, Ninewa Governorate in northern Iraq. We would like to appeal to your Excellency's Government to attach, in the best interest of the child, utmost importance to preserving the confidentiality of the identity the child victim due to her age, due to the possibility of reprisal attacks and the stigma attached to the case. The name of the victim shall not be disclosed in any public UN document.

According to the information received:

On 9 January 2013, Simon Dawod Ismael was allegedly forcefully abducted by Mr. Hassan Nasrullah of the Goran tribe, from Kalakchi village. Mr. Nasrullah is a 20-year old vegetable vendor who has been selling his produce at the market of Sheikha. The kidnapping was reportedly witnessed by one of the members of Simon's family, who informed that Simon Dawod Ismael was forced into a car and taken away by Mr. Nasrullah. The alleged intention of Mr. Nasrullah was to

marry the girl, and it is feared that she may have been raped. It is reported that the two individuals have since married without parental consent.

The father of the abducted girl reported the incident to police authorities, including to the Alqush Police Station which forwarded the file to the Telkaif Court. Additionally, the father filed a case at the Shekhan Court, which belongs to the Kurdistan Regional Government, but no investigation or prosecution has taken place yet.

KNN television, a Kurdish channel owned by the Gorran Party in Sulaimaniyah, reportedly conducted an interview with Simon in Mosul, and alleged in the interview that the girl was 15 years old, wanted to convert to Islam and marry Mr. Hassan Nasrullah, who is of Muslim religion. In the interview Simon reportedly talks about her dreams of becoming Muslim, although, according to her family, she has a very limited understanding both of her own Yazidi religion, (the Yazidi are an ethno-religious group with Indo-Iranian roots living in the northern part of Iraq) and Islam. Additionally, Simon's family is of the opinion that the interview with the TV channel was forced on her and the views expressed in it by Simon are not actually hers.

Simon's family and the leader of the Yazidi community, Prince Mir Tahseen Beq, reportedly gave assurances that they only want Simon back and that she would not be harmed.

According to the information received, there have allegedly been other similar incidents of kidnapping of Yazidi girls by men from the Goran tribe. Due to such incidents, a number of individuals from the Yazidi community were reportedly compelled to leave the areas where they lived.

Concern is expressed about the physical and psychological integrity of Simon Dawod Ismael. Further serious concerns are expressed at the apparent lack of swift action, including prosecution, on the part of the relevant police, judicial and government authorities.

Without in any way implying any determination on the facts of the case, we would like to draw your attention to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. The Protocol defines trafficking in persons as the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.

We also deem it appropriate to make reference to article 34 of the International Convention on the Rights of the Child (CRC), which your Excellency's Government

ratified on 15 June 1994, which provides that States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. We note in this regard that the victim falls within the definition of the child under article 1 of the CRC. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials.

Moreover, article 35 provides that States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

We would also like to bring to the attention of your Excellency's Government article 4 (c & d) of the United Nations Declaration on the Elimination of Violence against Women, which notes the responsibility of States to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons. In this context, we recall that the Committee on the Elimination of Discrimination against Women (CEDAW) in its General Recommendation No. 19 (1992), defines gender-based violence against women as impairing or nullifying the enjoyment by women of human rights and fundamental freedoms, and constitutes discrimination within the meaning of article 1 of the Convention on the Elimination of All forms of Discrimination Against Women (acceded to by your Excellency's Government on 13 August 1986), whether perpetrated by a State official or a private citizen, in public or private life. Thus, the Committee considers that States parties are under an obligation to act with due diligence to investigate all crimes, including that of sexual violence perpetrated against women and girls, to punish perpetrators and to provide adequate compensation without delay. In General Recommendation No. 19, the Committee sets out specific punitive, rehabilitative, preventive and protective measures States should introduce to fulfil this obligation; in paragraph 9, it makes clear that "under general international law and specific human rights covenants, States may also be responsible for private acts if they fail to act with due diligence to prevent violations of rights or to investigate and punish acts of violence, and for providing compensation".

Furthermore, we would like to bring to the attention of your Excellency's Government article 4 of the United Nations Declaration on the Elimination of Violence against Women which underlines the responsibility of States to condemn violence against women and which calls on States not to invoke any custom, tradition or religious consideration to avoid their obligations with respect to its elimination. States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should adopt all appropriate measures, especially in the field of education, to modify the social and cultural patterns of conduct of men and

women and to eliminate prejudices, customary practices and all other practices based on the idea of the inferiority or superiority of either of the sexes and on stereotyped roles for men and women. In paragraph 11 of General Recommendation No. 19 (1992), the Committee states that “Traditional attitudes by which women are regarded as subordinate to men or as having stereotyped roles perpetuate widespread practices involving violence or coercion, such as family violence and abuse, forced marriage, dowry deaths, acid attacks and female circumcision” and that “such prejudices and practices may justify gender-based violence as a form of protection or control of women. The effect of such violence on the physical and mental integrity of women is to deprive them the equal enjoyment, exercise and knowledge of human rights and fundamental freedoms.”

We would also like to recall that the right to marry only with one’s free and full consent is recognized in the Universal Declaration of Human Rights (article 16(2)) and in a number of subsequent international human rights treaties such as the 1956 Supplementary Slavery Convention, Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. Furthermore, we would like to draw the attention of your Excellency’s Government to article 16 of the Convention on the Elimination of All Forms of Discrimination Against Women, on the right of women and men to freely choose a spouse, to enter into marriage only with their free and full consent and to have the same rights and responsibilities during the marriage and at its dissolution

We would also like to refer to a the right to freedom of religion or belief set forth in the Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief and article 18 of the Universal Declaration on Human Rights as well as of the International Covenant on Civil and Political Rights. Article 18 (2) of ICCPR and Article 1(2) of the 1981 Declaration prescribe that “No one shall be subject to coercion which would impair his freedom to have a religion or belief of his choice.”

The Human Rights Committee General Comment 22, Para. 5 states that “Article 18 (2) bars coercion that would impair the right to have or adopt a religion or belief, including the use of threat of physical force or penal sanctions to compel believers or non-believers to adhere to their religious beliefs and congregations, to recant their religion or belief or to convert.”

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Simon Dawod Ismael in compliance with the above international instruments.

Moreover, as 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 be grateful for your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?

2. Please provide information on the current whereabouts of Simon Dawod Ismael.

3. Please provide the details, and where available the results, of any judicial investigation, prosecution or any criminal charges, medical examinations, and other inquiries carried out in relation to this case. If no inquiries or prosecutions have taken place, please explain why.

We undertake to ensure that your Excellency's Government's response to each of these questions is accurately reflected in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of Simon Dawod Ismael are respected, especially her right to privacy and, in the event that your investigations support or suggest the allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

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

Heiner Bielefeldt  
Special Rapporteur on freedom of religion or belief

IZSÁK Rita  
Independent Expert on minority issues

Najat Maalla M'jid  
Special Rapporteur on the sale of children, child prostitution and child pornography

Joy Ezeilo  
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Kamala Chandrakirana  
Chair-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice

Rashida Manjoo  
Special Rapporteur on violence against women, its causes and consequences