

**Mandates of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the human rights of internally displaced persons; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on minority issues; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment**

REFERENCE:  
UA BHS 2/2021

4 May 2021

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the human rights of internally displaced persons; Special Rapporteur on the human rights of migrants; Special Rapporteur on minority issues; and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, pursuant to Human Rights Council resolutions 43/14, 32/8, 42/16, 41/15, 43/6, 43/8 and 43/20.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **policies to deport undocumented Haitian migrants and to eradicate informal settlements known as "shanty towns" inhabited primarily by persons of Haitian origin or descent without any consultations or alternative accommodation provided to the affected minority and migrant communities. These policies have not taken into account the extreme vulnerability of the Haitian communities in the wake of category 5 Hurricane Dorian, which hit the Bahamas in September 2019, as a result of which many lost their lives, possessions, savings, personal documentation and jobs. Undocumented Haitian migrants are being deported in violation of the principle of non-refoulement, without individual assessments and due process guarantees, while informal settlements are being targeted for destruction without any consultation with their residents or the provision of adequate alternative housing. In April 2021, the authorities started an operation aiming to demolish around 600 newly-reconstructed homes in two adjacent informal settlements known as the Farm and the Farm Road on Abaco island, which will displace up to 2,000 persons (approx. 600 families), many of them women and children.**

The situation of Haitian migrants in the Bahamas was subject to previous communications from Special Procedures mandate holders, namely BHS 1/2015 of 24 March 2015 and UA BHS 1/2018 of 2 January 2018<sup>1</sup>. In particular, the former raised concerns over "recent immigration reform in the Bahamas and the subsequent alleged detention and deportation of persons living in the Bahamas of Haitian origin". The latter communication raised concerns over "the crackdown, detention and deportation of irregular migrants, including through police's excessive use of force".

<sup>1</sup> <https://spcommreports.ohchr.org/Tmsearch/TMDocuments>

The Special Procedures joining this communication regret the absence of replies by the Bahamas to these communications.

According to the information received:

During the last decades, there was an influx of Haitians arriving in the Bahamas, linked amongst others to worsening political instability, lack of economic opportunities, increasing levels of violence, and the impact of the devastating earthquake in 2010. Haitians and persons of Haitian descent, including naturalized Bahamians and those born in the Bahamas of Haitian parents, form a sizeable portion of the current population of the Bahamas, reaching up to an estimated 70,000 people, before Hurricane Dorian struck in September 2019. As of 2017, among persons of Haitian descent, 40% had residency permits, 40% had work visas, while 20% were undocumented.

In different parts of the Bahamas, informal settlements known locally as “shanty towns” have developed over a period of around four decades. Initially, these lands were leased to farmers who invited Haitian migrants as labourers. Overtime, these Haitian migrant workers built their own homes on these lands, eventually expanding into villages. Before Hurricane Dorian struck the Bahamas, the constructions on these “shanty towns” ranged from ramshackle to well-built permanent structures connected to the water and electricity grid. While many residents had been issued legal titles or paid rent, disputes occurred between inhabitants and authorities over property rights of houses in informal settlements. The majority of people living in these informal settlements were either Haitian migrants or people of Haitian descent. Poverty was prevalent among these marginalized communities, living in conditions described as unsanitary and unsafe, and at higher risks of exploitation.

Between 1 and 3 September 2019, category 5 Hurricane Dorian struck Abaco and Grand Bahama islands and the surrounding keys with maximum sustained winds of 295 km/h, causing devastation in its way. Officially, 61 have been confirmed dead and at least 200 more were declared missing. One government estimate put the number of Haitians lost in the storm at 75 persons, however the Haitian community believes that number to be at least 1,000. Most of the displaced persons either moved or were evacuated to the capital city of Nassau on New Providence, where they were provided with shelter, food, protection, health and psychosocial assistance.

#### *Immigration policy prior to Hurricane Dorian*

In 2014, the authorities announced a new immigration policy requiring non-Bahamian residents to have a residency or a work permit previously issued abroad. Work places and neighbourhoods were raided, targeting in particular persons of Haitian descent<sup>2</sup>. In October 2017, the authorities announced that undocumented migrants had until 31 December 2017 to leave the Bahamas, after which time they would be apprehended and deported.

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<sup>2</sup> BHS 1/2015

In January 2018, the Government announced a policy to eliminate “shanty towns”. On 23 March 2018, a new “Shanty Town Action Task Force” (task force) led by the Minister of Labour, which was to oversee the implementation of this policy, met for the first time. The task force commissioned assessments of the informal settlements on New Providence and Abaco. The findings of these assessments, published later in the year<sup>3</sup>, indicated the population of “shanty town” residents in New Providence at 1,410, where 6% of respondents indicated they were undocumented; and residents in Abaco at 3,041, where 20% of respondents indicated they were undocumented. Residents of these informal communities were allegedly not consulted in developing the policy, and no provisions were made to assist their resettlement and to find alternative accommodation elsewhere.

In June 2018, notices were posted on lamp posts and doors, informing residents of informal settlements on New Providence that their homes will be demolished and asking them to leave by 31 July 2018. This deadline was eventually extended until 10 August 2018, despite information having reached the task force that fourteen buildings have approved building permits. Similarly, around 50 households in the Farm and Farm Road on Abaco received eviction notices, giving them until 31 July 2019 to relocate.

On 7 August 2018, 177 “shanty town” residents challenged the legality of this policy before the Supreme Court, claiming that the Government had no legal basis for claiming the land on which the “shanty towns” are located. The interlocutory proceedings sought to make the Government disclose underlying facts, documents and matters that led to such policy and decisions. The Government claims that these are privileged and refuses to disclose them until the time of sending the present communication. The applicants argued that by targeting areas only designated as “shanty towns”, the Government discriminates against people of Haitian origin or descent.

On 7 August 2018, the Supreme Court granted an application for interlocutory injunction (PUB/jrv/27), restraining the authorities from taking possession of or demolishing any buildings, or any interference with residents in informal settlements in New Providence, including by disconnecting any utilities. Although the issued injunction only referred to informal settlements in New Providence, at the time it was understood that it applies also to Abaco, evident as well in the fact that the authorities did not proceed with the above-mentioned demolitions in the informal settlements in Abaco.

*Discrimination in the provision of humanitarian assistance and persecution of persons of Haitian descent in the immediate aftermath of Hurricane Dorian*

On 1 September 2019, Hurricane Dorian struck Abaco, destroying partially or completely all six of the informal settlements on the island, namely Sand Banks, Farm Road, L and H at Treasure Cay, the Mudd, Pigeon Peas and

<sup>3</sup> <https://docplayer.net/203563495-Preliminary-abaco-shanty-town-assessment-report-2018-shanty-town-task-force-ministry-of-labour.html>, [http://www.thebahamasweekly.com/uploads/20/SATF\\_SURVEY\\_REPORT\\_1.pdf](http://www.thebahamasweekly.com/uploads/20/SATF_SURVEY_REPORT_1.pdf)

Elbow City. Many of the surviving residents of the informal settlements lost their homes and possessions, including personal identification documents, work permits and savings. Many lost their jobs, mainly as menial labour, and the means to pay administrative fees for the renewal of their work permits.

A mass evacuation was organized for survivors on Abaco, the majority of which came from the informal settlements, to shelters on New Providence, which was relatively unaffected by Dorian. However, unverified numbers of undocumented Haitians avoided evacuation and therefore their possibility to seek and receive humanitarian assistance was severely impacted. Fearing detention and deportation, many Haitians sought shelter in hidden communities in bushes, tents and crowded churches.

In the days and months following the Hurricane, instances of discrimination towards the Haitian community were recorded. Social media, newspapers, town hall meetings, TV and radio shows have been used to spread xenophobic statements, which in turn contributed to tensions among the communities. The developments contributed to further polarisation and exclusion, including acts of violence against migrants.

On 10 September 2019, the Minister of Financial Services, Trade and Industry and Immigration announced<sup>4</sup> that the Bahamas have suspended deportations of migrants in areas affected by the Hurricane. In early October 2019, however, the same Minister stated<sup>5</sup> that undocumented migrants still in shelters would be deported. During a tour of the Sand Banks “shanty town”, the Prime Minister entered one of the buildings that still remained in the wake of the Hurricane and kicked down the back door to “make a point”<sup>6</sup>. In early October 2019, 112 Haitians were deported from the Bahamas<sup>7</sup> without individual assessments and due process guarantees<sup>8</sup>.

#### *Post-Dorian revival of policy to deport and raze informal settlements*

Around 15 days after Hurricane Dorian, the authorities closed off a number of informal settlements, notably the Mudd and the Pigeon Pea in Abaco’s capital, Marsh Harbour (together amounting to 70.4% of the pre-Dorian population of “shanty towns” on Abaco), and razed the remaining structures and debris by bulldozing them or setting fire to them, citing safety risks. Reportedly, in some cases no due diligence was applied to recuperate bodily remains of Hurricane victims prior to the destruction. The former residents of these “shanty towns” were not able to salvage any remaining belongings, while new construction in the “shanty towns” was banned.

Post-Dorian, immigration raids targeting undocumented migrants have increased, with affected individuals claiming to have been subjected to mass

<sup>4</sup> <https://ewnews.com/govt-suspends-apprehension-deportation-of-immigrants-from-gb-abaco>

<sup>5</sup> <https://www.nytimes.com/2019/10/10/world/americas/haiti-bahamas-dorian-deport.htm>

<sup>6</sup> <http://www.tribune242.com/news/2019/oct/08/pm-kicking-down-door-was-not-good-impression/>

<sup>7</sup> <https://www.nytimes.com/2019/10/10/world/americas/haiti-bahamas-dorian-deport.html>

<sup>8</sup> <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25146&LangID=E>

roundups, excessive use of force, detention, false imprisonment, physical and sexual abuse, and harassment at the hands of law enforcement. Immigration raids were conducted even in churches and in shelters on New Providence in the immediate aftermath of the Hurricane. Immigration officials have raided communities on Abaco, kicking down doors and smashing windows, forcing at gunpoint all residents outside in the middle of the night while searching their homes, including women, children and the elderly. People who were detained have had personal belongings, in particular cash and mobile phones, confiscated. No information is available on law enforcement officers being sanctioned or prosecuted for such unlawful actions.

People of Haitian descent who could not present proof of their residency or work permit to stay on the Bahamas have been detained and deported often without due consideration for their protection needs, even in cases where their paperwork has been lost due to the Hurricane.

Haitian families have been ripped apart by the deportation of some family members, including children, while others have been left behind. Many children born to Haitian parents in the Bahamas and who are often not registered with Haitian authorities face difficulties obtaining Bahamian citizenship, for which they can apply only upon turning 18 years of age. This leaves many at risk of statelessness, in addition to those who have not been able to replace their personal documentation after Hurricane Dorian. Currently, the cost of applying for an annual work permit is USD 200<sup>9</sup>.

Deported Haitians have similarly attested to ill-treatment at the hands of law enforcement in the Bahamas, as well as to poor detention conditions, including having to sleep on the floor for several days, being crammed with others in a single cell. Several also alleged being beaten. In 2020, 453 Haitians were deported. In 2021, the number of deported Haitians was at least 163, only for the first quarter.

*Imminent destruction of hundreds of homes in the Farm and the Farm Road informal settlements on Abaco*

Currently around 2,000 persons (600 families) live in the adjacent settlements known as the Farm and the Farm Road - the last remaining “shanty towns” on Abaco. These are overwhelmingly inhabited by people of Haitian origin, the majority of them living in that area since 1988. After Hurricane Dorian, which left only around 20 to 30 houses still standing, the majority of residents were housed in shelters on New Providence. Upon returning to Abaco, they initially found refuge in churches, but were eventually asked to leave. Due to the lack of affordable housing on Abaco, they started constructing new homes on the Farm and the Farm Road, with materials either provided by their employers or purchased with their savings. Most of the current population of these two informal settlements have regular status, holding either Bahamian citizenship, or permanent residency or work permits, etc.; and only a minority are

<sup>9</sup> <https://www.immigration.gov.bs/applying-to-stay/annual-work-permit/#:-:text=Non%2DBahamian%20nationals%20who%20are,a%20short%20term%20work%20permit.>

undocumented migrants.

On 8 April 2021, the Ministry of Public Works, accompanied by members of the police, the defence force, immigration and other officials, conducted an intensive security operation (raid) in the area. Large quantities of personal property of migrants were confiscated, including generators, electric appliances and other essential items, thus potentially reducing their ability to store and to prepare food. A statement was issued that undocumented migrants and others suspected of being involved in criminal offences have been arrested, and stolen or illegally operated items (gas tanks and power generators) – confiscated. Journalists have allegedly been hindered from reporting on these operations.

Later on the same day, signs were erected warning that any new constructions would be illegal and demolished as such. Notices issued to individual home owners indicated that their houses would be demolished without further notice, due to the lack of valid building permits: within 14 days for uninhabited houses, i.e. on 22 April 2021; and within 28 days for inhabited houses, i.e. on 7 May.

On 22 and 23 April 2021, between 50 and 60 uninhabited houses were demolished over several days on the Farm Road. A Government press release issued on 22 April 2021 indicated that 45 houses in the Farm have been demolished. The demolitions reportedly resulted in the displacement of 2-3 families, including women and children.

As per notices issued on 8 April, on 7 May 2021 the authorities intend to demolish around 600 houses in the Farm and the Farm Road, threatening to displace an estimated 2,000 people (600 families), many of whom were already previously displaced by Hurricane Dorian. Only the 20 to 30 homes which had survived Hurricane Doris will be spared. No consultations are being conducted with the affected communities prior to these actions, and there is no information of alternative accommodation being provided to them. Undocumented migrants among the concerned residents fear that along with these actions, they will be arrested and detained, before being fined and deported.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our utmost concerns regarding your Excellency's Government's discriminatory policy to raze completely informal settlements known as "shanty towns" where the majority of the population is said to be comprised of persons of Haitian nationality or descent, without any prior consultation with their residents or the provision for adequate alternative accommodation elsewhere. In particular, the actions taken to destroy the Mudd and the Pigeon Pea after substantial destructions caused by Hurricane Dorian - when some residents would have lost their loved ones and others suffered physical and emotional trauma, and lost personal savings and belongings; as well as the recent evictions and destruction in the Farm of homes rebuilt after the Hurricane; speak of complete disregard for the fate of persons of Haitian origin or descent, and their human rights. These actions have placed residents

of these communities in situation of extreme vulnerability and risk of homelessness and arbitrary displacement, likely endangering their health and lives.

We are also greatly concerned with the measures your Excellency's Government has taken to enforce its immigration policy against undocumented Haitians and possibly others over the last years, in particular raids in "shanty town" homes, roundups, detention in crowded and inadequate conditions, confiscation of personal valuables and items such as power generators and electrical appliances – some of which would be necessary for the preparation of food or for the maintenance of personal hygiene. Their deportation without individual risk assessment would be in violation of the absolute prohibition against refoulement. Of great concern are also reports of torture or ill-treatment in immigration detention, including physical and sexual abuse, and alleged lack of accountability for such actions. We are also greatly concerned with the separation of children from their parents, resulting from the deportation of family members.

The combined outcome of these policies, pursued already prior to Hurricane Dorian, was that many undocumented persons did not seek shelter and humanitarian assistance, for fear of detention and deportation, which not only deprived them from shelter, emergency food and health care assistance, but also would have put their lives and health in imminent danger. We are also deeply concerned at information that undocumented migrants seeking refuge in Government shelters or in churches have been arrested and deported while in need of urgent humanitarian assistance.

We wish to express our concern about persisting discriminatory discourse targeting persons of Haitian origin or descent in the aftermath of Hurricane Dorian, which have been reinforced by Government policies in place and by statements and actions of senior Government officials. We are also concerned that the concerned "shanty town" residents and the public at large have not been able to access information related to land ownership in the "shanty towns" and that journalists have allegedly been obstructed from reporting on the intensive security operation carried out in the Farm "shanty town".

We wish to remind your Excellency's Government of the obligations it assumed upon ratification on 23 December 2008 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), in particular concerning right of everyone to an adequate standard of living for himself and his family, including adequate food and housing (article 11), as well as the right of everyone to the enjoyment of the highest attainable standard of physical and mental health (article 12).

In its General Comment No. 4 interpreting obligations under the ICESCR, the Committee on Economic, Social and Cultural Rights (CESCR) emphasized that "the right to housing should not be interpreted in a narrow or restrictive sense which equates it with, for example, the shelter provided by merely having a roof over one's head or views shelter exclusively as a commodity. Rather it should be seen as the right to live somewhere in security, peace and dignity." It also affirmed that "forced eviction are prima facie incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law".

Further, in its General Comment No 7 on forced evictions, CESCR clarifies that if an eviction is to take place, procedural protections are essential, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. Under no circumstances, should evictions result in homelessness, and the State party must take all appropriate measures to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available to affected individuals, where they are unable to provide for themselves. We wish to underscore that, notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties shall ensure, prior to carrying out any evictions, and particularly those involving large groups, that all feasible alternatives are explored in consultation with the affected persons.

In his recent report to the General Assembly (A/75/148, para. 68(b), the Special Rapporteur on the right to adequate housing highlighted that the ramping up of evictions during the Covid-19 pandemic threatens to increase the number of homeless persons and called for a moratorium on evictions, including of non-nationals resident in a country.

With regard to State obligations concerning racial discrimination in the enjoyment of the right to adequate housing, we wish to refer to the provisions of article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, acceded to by the Bahamas on 5 August 1975, as well as article 2(2) of ICESCR, which must be read in conjunction with article 11(1). We recall that the CESCR, in its general comment No. 20 on non-discrimination, has clarified that the right to adequate housing applies to everyone, including non-nationals such as stateless persons and migrant workers, regardless of legal status and documentation. Additionally, Resolution 9/5 of the Human Rights Council, which addresses the issue of the human rights of migrants, “reaffirms the duty of States to effectively promote and protect the human rights and fundamental freedoms of all migrants, (...) regardless of their immigration status, in conformity with the Universal Declaration of Human Rights and the international instruments to which they are party”.

We also wish to refer to relevant provisions of the International Covenant on Civil and Political Rights, ratified by the Bahamas on 23 December 2008, in particular to the provisions related to: the right to life (article 6); the prohibition of torture and ill-treatment (article 7); the treatment of persons deprived of liberty (article 10); freedom of opinion and expression (article 19); and advocacy of national, racial or religious hatred (article 20).

Recognizing that a large part of the individuals affected are minorities in the Bahamas, we would like to bring to your attention the international standards regarding the protection of the rights of persons belonging to minorities, in particular the 1992 UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which refers to the obligation of States to protect the existence and the identity of minorities within their territories and to adopt the

measures to that end (article 1) as well as to adopt the required measures to ensure that persons belonging to minorities can exercise their human rights without discrimination and in full equality before the law (article 4).

We would also like to bring to the attention of your Excellency's Government obligations assumed upon ratification by the Bahamas on 31 May 2018 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, in particular to the provisions related to: torture (article 2); non-refoulement (article 3); and ill-treatment (article 16); and those assumed by the Bahamas upon ratification on 20 February 1991 of the Convention of the Rights of the Child, in particular related to: non-discrimination (article 2); concerning nationality and statelessness (article 7); the whereabouts of family members (article 9); and family reunification (article 10). We also wish to draw the attention of your Excellency's Government to the Convention on the Reduction of Statelessness, which applies in the Bahamas by virtue of notification from the United Kingdom of Great Britain and Northern Ireland received to this end on 29 March 1966 by the UN Secretary General.

We wish to draw the attention of your Excellency's Government to the Guiding Principles on Internal Displacement (E/CN.4/1998/53/Add.2), in particular we would like to refer to Principle 5 that establishes that "All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons" and Principle 6, which acknowledges that "Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence".

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

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 the above-mentioned persons in compliance with international instruments.

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:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide information on how the authorities have consulted residents of the informal settlements known as "shanty towns" in the development and implementation of its policy to eradicate these settlements, which is in place since 2018. Please provide information on efforts made to avoid displacement where possible and to provide persons displaced as a result of this policy with adequate alternative accommodation.

3. Please provide information on any considerations for the expected impact of the evictions, if known, on the COVID-19 pandemic, and whether national or local policies and laws allow these evictions to go on in view of the health risks.
4. Please provide information on any efforts made in the aftermath of Hurricane Dorian to provide humanitarian assistance to the former inhabitants of informal settlements on Abaco who avoided evacuation to government shelters and stayed behind in makeshift conditions.
5. Please provide information on measures your Excellency's Government has taken to assist persons who lost their personal documents during the Hurricane to obtain replacement documents. In any case, please inform on what measures your Excellency's Government takes to prevent and reduce statelessness, in particular among persons of Haitian descent.
6. Please provide information on the legal basis for raids conducted in informal settlements by the members of different law enforcement agencies.
7. Please provide information on the number of investigations opened, prosecutions brought, and convictions obtained following claims by Haitian migrants that they have been suffered physical or sexual abuse, or the confiscation of personal property, at the hands of law enforcement.
8. Please provide information on the number of persons deported to Haiti annually since 2014, disaggregated by age and sex. Please indicate for each year the number of children, and how many among them are unaccompanied minors (under the age of 18 years).
9. Please provide information on measures taken to counter hate speech targeting persons of Haitian origin or descent.

We would appreciate receiving a response as soon as possible.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Balakrishnan Rajagopal  
Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Michael Fakhri  
Special Rapporteur on the right to food

Tlaleng Mofokeng  
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Cecilia Jimenez-Damary  
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