

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 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 Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; the Special Rapporteur on minority issues; the Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on trafficking in persons, especially women and children and the Working Group on discrimination against women and girls

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27 December 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; 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 adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Working Group on the use of mercenaries as a means of violating human rights and impeding the exercise of the right of peoples to self-determination; Special Rapporteur on minority issues; Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance; Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on trafficking in persons, especially women and children and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 49/10, 49/13, 51/21, 43/14, 42/9, 43/8, 43/36, 51/15, 43/20, 44/4 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning two nationals of Trinidad and Tobago: [REDACTED], currently detained in Al Roj camp, and her son, [REDACTED], currently held in the Houri Rehabilitation Centre, in the North-East region of the Syrian Arab Republic.

We express serious concern that both have experienced serious physical and mental harm while in Syria and are in need of immediate medical and psychological support that is not available to them, and that [REDACTED], having already been separated from his mother, is now at risk of being transferred to an adult prison where he will be held incommunicado in life threatening conditions.

According to the information received:

██████████ was born on ██████████ in Trinidad. On ██████████ her son, ██████████, was born in Trinidad. When ██████████ was young, his father disappeared in a hurricane in Grenada.

After the death of her husband, ██████████ entered into an abusive relationship with a man she describes as ‘powerful and wealthy’. When she left him, fearing that due to her ex-partner’s social position she would not obtain assistance from the State, she turned to the Muslim community for protection, converted to Islam and joined a local mosque. It is in the mosque that she says she met a man whom she married a week after their meeting in September 2014. She describes thinking that she needed a husband in the home to keep her family safe.

A few days after their marriage, ██████████ husband told her that they were going on a trip which she believed was their honeymoon. He had bought flight tickets, which included return tickets from Amsterdam to Trinidad. These tickets are still in ██████████ possession. However, a few days after the start of their trip in September 2014, ██████████ husband brought her and her son, ██████████ who was 12 at the time, to Syria. He also brought his first wife and her children – 10 people in total – into ISIL territory. He later appeared in ISIL propaganda.

Upon arrival in Syria, ██████████ and ██████████ had their passports taken and were immediately separated. Soon after, ██████████ had the opportunity to leave Syria with her husband’s other children, but she refused to leave without her son. When she was reunited with ██████████, she was told that he would be killed if he tried to leave. ██████████ husband became physically abusive to her and limited her movements, not allowing her and ██████████ to leave their home. ██████████ filed for divorce shortly after arriving in Syria, which he allowed. He then left the family and the home. It is believed that he died fighting in Baghouz in 2019.

After the divorce, as it was not permitted for a woman to live without an adult male in ISIL territory, ██████████ was forced to marry at least five times in succession. Every time, she made it a precondition that her husband would protect ██████████ and not make him fight for ISIL. ██████████ entered into her last marriage in 2018 when she and ██████████ were living in an abandoned house with nothing to eat, so that they would not starve. She did all she could to safeguard her son, describing “using her body as a shield” to protect him, and dressed him in a niqab so that he would not be recognised as a boy and taken to fight. As a result, she recounts that ██████████ never fought under ISIL.

In early 2019, ██████████ and ██████████ finally managed to escape from ISIL to Kurdish-controlled territory. They were taken into custody by the Syrian Democratic Forces (SDF) and immediately separated. ██████████ was brought first to Al Hol Camp and is currently detained in Al Roj Camp. ██████████ is detained in the Houri Centre, a juvenile detention centre housing boys aged 12 to 18. ██████████ and ██████████ have only been allowed to see each other once since their

separation and are not allowed to freely communicate. This separation has been extremely distressing for [REDACTED] and [REDACTED], and both have expressed that their sole wish is to be reunited in safety.

Now aged 20, [REDACTED] is at extreme risk of being moved from the Houri Centre to one of the prisons for men in North-East Syria. According to the authorities of the Houri Centre, the sole reason for him not having been moved yet is because he is well-liked and assists with taking care of the younger boys. However, as the Centre is overcrowded, and as [REDACTED] gets older, the risk of him being moved to an adults' detention facility for men where he is likely to be held in conditions that may amount to torture and other cruel, inhuman or degrading treatment or punishment, is increasingly acute.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our utmost concern at the situation of [REDACTED] and her son in these complex, volatile and unsafe environments in North-East Syria. We are extremely concerned that [REDACTED] and her son [REDACTED] may have been trafficked into Syria, and as such, their consequent treatment has not recognised them as potential victims of serious violations of international human rights and humanitarian law but that, instead, they bear the continuing consequences of alleged association with a designated terrorist group. We note in particular the situation of [REDACTED] who was initially detained as a minor and separated from his mother and now exposed to additional risks having reached the threshold of adulthood.

Arbitrary Detention and inhuman treatment for Alleged Association with Designated Terrorist Groups

We are extremely concerned at the continued arbitrary detention of [REDACTED] and her son, [REDACTED], in what has been consistently reported as inhuman or degrading conditions, in Al Roj camp and the Houri Centre, respectively, absent legal basis, judicial authorisation, review, control or oversight of these detentions which entirely lack in predictability and due process of law. In this regard, we wish to bring to your Government's attention articles 12 and 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), to which your Excellency's Government acceded on 8 December 1978, which establishes an obligation to respect the right to health, including for prisoners or detainees (see Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 14, para. 34). The former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health indicated that "[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life" and added that "[v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty".¹ He also stressed that "[a]ctual and de facto deprivation of liberty has adverse effects on mental health, which may amount

¹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/38/36, para. 18.

to violations of the right to health”.²

The UN Independent International Commission of Inquiry on the Syrian Arab Republic has found that “[d]epriving individuals, including children, with alleged links to Da’esh ... of liberty without criminal charge or any individual assessment by an impartial and independent body as to whether their internment is justified on grounds of imperative reasons of security is unlawful” and concluded that their “blanket internment” amounts to an “unlawful deprivation of liberty” (A/HRC/49/77, paras 112 and 113). We recall that the UN Human Rights Committee has emphasized that detention based on alleged criminality of family members is an “egregious” example of arbitrary detention.³ We also note that there is no permissible human rights basis for States to sub-contract directly or indirectly administrative or security detention to non-State actors on the territory of third States. There is deep concern at the facilitation of mass arbitrary detention by States both directly and indirectly in these detention facilities in North-East Syria.

We underline that the right of everyone to be free from torture, physical or mental, and other cruel, inhuman or degrading treatment or punishment is absolute and does not permit reservations or derogation even in times of conflict or security threats. This right is enshrined in article 7 of the International Covenant on Civil and Political Rights (ICCPR), acceded by Trinidad and Tobago on 21 December 1978, as an international norm of *jus cogens*. Article 10 of the same Covenant requires all detainees to be treated humanely. Furthermore, we refer to paragraph 19 of the General Assembly Resolution A/C.3/77/L.45 (2022), which “Emphasizes that conditions of detention must respect the dignity and human rights of persons deprived of their liberty, highlights the importance of reflecting on this in efforts to promote respect for and protection of the rights of persons deprived of their liberty..” and “calls upon States to address and prevent detention conditions amounting to torture or other cruel, inhuman or degrading treatment or punishment..”. In this respect, we recall the revised Standard Minimum Rules for the Treatment of Prisoners (Mandela Rules) and in particular Rule 58 that provides that prisoners shall be allowed, under necessary supervision, to communicate with their family and friends at regular intervals by corresponding or by receiving visits.

The Working Group on Discrimination against Women and Girls emphasizes in its report on Women Deprived of Liberty (A/HRC/41/33) that women’s deprivation of liberty is a significant concern around the world and severely infringes their human rights. In this regard, the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health stressed that “[t]he suffering experienced by women who are imprisoned or involuntarily confined and the related negative impact on the enjoyment of their right to health is understood to be significantly greater than that experienced by men.”⁴ In the context of addressing conflict, crisis, terrorism and national security, the Working Group recommended States to include women’s rights focus and do not instrumentalise

² *Ibid.*, para. 46.

³ Human Rights Committee, General Comment No. 35: Article 9 (Liberty and security of person), 16 December 2014, CCRP/C/GC/35, para. 16

⁴ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/38/36, para. 71.

women's deprivation of liberty for the purposes of pursuing government aims. As highlighted in its thematic report on Health and Safety (A/HRC/32/44), the Working Group stresses that women's safety should be addressed as an integral aspect of women's health. Women's exposure to gender-based violence in both the public and private spheres, including conflict situations, is a major component of women's physical and mental ill health and the destruction of their well-being, and constitutes a violation of their human rights.

In relation to ██████'s detention specifically, as underlined by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in her [position paper on the human rights of adolescents/juveniles being detained in North-East Syria](#), we note that he has reportedly never been engaged in the activities of a designated terrorist group. According to the information presented, he was brought to Syria under false pretenses by his mother's husband as a twelve-year-old child, a situation that cannot be considered as including meaningful consent and one that he could not escape. The placement of boys in 'rehabilitation' centres, such as the Houri Centre, reportedly has no legal basis; none of the boys were legally represented in any judicial or administrative process placing them there; no 'best interest' test was adequately applied to decide on their detention; no legal process was undertaken to determine the appropriate care, responsibility rights or needs of these children; traumatic separation from mothers has been conducted without any legal regulation or recourse; physical and psychological violence to young boys has no remedy; and health is profoundly compromised by sub-human standards of indefinite detention, in violation of articles 3, 9, 16, 19, 20, 24, 34, 37 and 40 of the Convention on the Rights of the Child. The former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health highlighted that "all forms of detention severely compromise children's enjoyment of the rights to health, to healthy development and to maximum survival and development, in contravention of the International Covenant on Economic, Social and Cultural Rights (art. 12) and the Convention on the Rights of the Child (arts. 6 and 24)".⁵

We reiterate that boys' detention in various centres and prisons is solely based on ill-grounded presumptions that all male children over the age of 10 in the Syrian conflict zone are to be presumed violent extremists or terrorists, shifting the discourse in relation to children from protection to punishment, from victim to threat. We further recall that, according to article 2(2) of the Convention on the Rights of the Child, it is a violation of the principle of non-discrimination to punish a child based on the "status, activities, expressed opinions, or beliefs" of their parents. Detention on such discriminatory grounds constitutes collective punishment,⁶ which the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has qualified a clear breach of international law.⁷ Children who are detained for association with armed groups should be first and

⁵ *Ibid.*, para. 55.

⁶ United Nations Office of Counter-Terrorism, "Children Affected by the Foreign-Fighter Phenomenon: Ensuring A Child Rights Based Approach", para. 52.
https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/0918_ftf_handbook_web_reduced.pdf

See Position of the Special Rapporteur on the promotion and protection of human rights while countering terrorism on the human rights of adolescents/juveniles being detained in North-East Syria, May 2021.

foremost recognised as victims of grave abuses of human rights and humanitarian law, and their best interest should be taken into consideration in all decisions that concern them.

Given the unlawful nature of ██████'s detention in the Houri Centre, we express our profound concern that ██████ may now be transferred to one of the adult male detention centres. The spectre of a 'cradle to grave' detention for male children in North-East Syria, often supported by their countries of origin, enabled by a non-State armed group and the material support of third States, is of great concern. We critically underscore that the unlawfulness of detention remains even as the child crosses the threshold of adulthood: when previous detention was in violation of international law, newly acquired adult status is no lawful basis for detention. The particularly deplorable conditions of detention in adult male detention centres has also been addressed by UN human rights bodies. The adult prisons in question are extremely overcrowded and are reported to lack adequate medical care, food, or water. The prisons also carry a high risk of violence, exemplified by the January 2022 attack on the al-Sina'a prison in Hasakah. The Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has previously noted that prison conditions meet the criteria for torture, inhuman and degrading treatment under international law.⁸ Similarly, the UN Independent International Commission of Inquiry on the Syrian Arab Republic has found that many of the boys and men in North-East Syria are being held incommunicado, with no access to legal counsel or humanitarian aid, which may amount to enforced disappearances.⁹

Trafficking

Given the specific facts of the case, including lack of meaningful consent to entering North-East Syria for both ██████ and her son and their subsequent coercion and exploitation, we are particularly concerned that ██████ and her son, ██████, who have reportedly not been formally charged with any unlawful acts, may have been trafficked and coerced into Syria by a designated terrorist group. Your Excellency's government must be mindful that women's and children's association with terrorist groups is highly complex, and that there is great potential for coercion, co-option, trafficking, enslavement, sexual exploitation, threat and harm on joining or being associated with non-State armed groups, sexual or labour exploitation for the organization in domestic and other settings.

The links between trafficking and sexual violence in armed conflict with terrorism and other transnational criminal activities have on several occasions been highlighted by the UN Security Council (S/PRST/2015/25, resolutions 2331 (2016) and 2388 (2017), while Security Council resolution 2242 (2015) highlights that acts of sexual and gender-based violence can be part of the strategic objectives and ideology of certain terrorist groups. As noted by the UN High Commissioner for Human Rights, "women, boys and girls have suffered sexual violence and/or have

⁸ [AUS 1/2022](#), [AUT 1/2022](#), [FRA 1/2022](#), [DEU 1/2022](#), [SWE 1/2022](#), [GBR 1/2022](#), and [USA 2/2022](#); and [AUS 4/2022](#) and UN OHCHR, Press Release Syria: [UN experts profoundly concerned for missing and injured children after January attack on ISIL prison](#), 1 April 2022

⁹ A/HRC/46/55, 11 March 2022, para. 95 and A/HRC/51/45, 17 August 2022, para. 101 *et s.*

been trafficked or otherwise forced into marriage, sexual slavery and exploitation by UN-listed terrorist groups”.¹⁰ The UN Palermo Protocol highlights that trafficking can occur through an exploitative process or when an exploitative situation results or is maintained without a preceding exploitative process. Designated terrorist groups can exploit and coerce individuals into entering Syria and thereafter create conditions tantamount to an involuntary stay, such as through the withdrawal of passports or threats to children.¹¹ For children, trafficking does not require that any “means” exist, as children cannot give informed consent to their own exploitation.

It is imperative that State responses do not perpetuate or contribute further harm to those who have already experienced profound violence and trauma.¹² States, including your Excellency’s Government, have a positive obligation to identify, assist, and protect victims of trafficking.¹³ This includes the obligation to conduct individual, case-by-case assessments of every suspected victim of trafficking, and taking meaningful steps to offer any assistance or protection to their nationals who have been trafficked into North-East Syria.

Repatriation

We have expressly affirmed the obligations of States regarding their nationals in North-East Syria including to urgently repatriate them. We have particularly stressed this to Your Excellency’s Government in the letter received a letter dated 26 January 2021 ([TTO 1/2021](#)). Unfortunately, there has been no reply to this letter.

We urge for the repatriation of [REDACTED] and her son, [REDACTED] to Trinidad and Tobago and that they be provided with all the safeguards and protections so abjectly absent for them in North-East Syria. It is our view that States, including your Excellency’s Government have positive obligations to take necessary and reasonable steps to intervene in favour of their nationals abroad, in particular where there are reasonable grounds to believe that they face treatment in serious violation of fundamental international human rights law and amounting to jus cogens or non-derogable customary law norms. This duty to act with due diligence to ensure that the lives of your nationals are protected from irreparable harm to their life or to their physical integrity also applies where acts of violence and ill-treatment are committed by State actors or non-State armed groups, and in our view apply in this extreme context. It is also our view that the failure of States’ to facilitate their nationals’ release from detention and repatriate them not only does not permit to adequately assess their situation but may also be in violation of the principle of non-punishment, which guarantees that victims of trafficking are not punished for unlawful acts committed as a consequence of their trafficking (A/HRC/47/34, para. 18). We recognize that it is within the purview of your Excellency’s Government to undertake

¹⁰ UN OHCHR, “[Bachelet urges States to help their nationals stranded in Syrian camps](#)”, 22 June 2020.

¹¹ Jane Huckerby, “[When terrorists traffic their recruits](#)”, Just Security, 15 March 2021.

¹² The UN Global Compact/CTITF Working Group on promoting and protecting human rights and the rule of law while countering terrorism, “[Guidance to States on Human Rights-Compliant Responses to the Threat Posed by Foreign Fighters](#)” (2018)

¹³ Report by the Special Rapporteur on trafficking in persons, especially women and children, A/HRC/47/34, para. 33, 52. See also UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights of adolescents/juveniles being detained in North-East Syria, May 2021, p. 11

comprehensive and human rights compliant inquiries into the information presented upon their repatriation to Trinidad and Tobago and to apply applicable domestic law to their cases in conformity with the rule of law and applicable international standards, including the presumption of innocence and with the caveat outlined above.

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 person(s) 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 details on the domestic mechanism(s) in place in the Trinidad and Tobago to review requests for repatriation.
3. Please provide information on what steps have been taken to address the risk and prevent the transfer of [REDACTED] from the Hourri Centre to an adult detention centre.
4. Please provide details on steps that may have been taken to protect the physical and mental health and integrity of [REDACTED] and [REDACTED], to safeguard their rights, to end their detention, and to ensure their safe repatriation.
5. Please provide details on the domestic mechanism and procedure that has been set up to identify and protect the rights of individuals who have been trafficked into North-East Syria.

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 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.

A copy of this communication has been sent to the Syrian Arab Republic.

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

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Michael Fakhri
Special Rapporteur on the right to food

Tlaleng Mofokeng
Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

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