

Mandate of the Special Rapporteur on trafficking in persons, especially women and children

Ref.: AL USA 19/2026

(Please use this reference in your reply)

6 July 2026

Dear Mrs. Finerty,

I have the honour to address you in my capacity as Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolution 53/9.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning **the situation of a United States national, Ms. Hoda Muthana and her child detained in [REDACTED] North-East Syria, including allegations of trafficking, arbitrary detention, exposure to inhuman conditions and torture, and the absence of effective measures to ensure their protection, including through repatriation.**

According to the information received:

Ms. Hoda Muthana is a 31-year-old woman, born in New Jersey on 28 October 1994. Her son is [REDACTED] years old.

US citizenship status and revocation

In early 1994, Ms. Muthana's mother applied for permanent residency based on her own father's United States citizenship, and she obtained permanent resident status. Ms. Muthana's father served as a Yemeni diplomat to the United Nations from 1990 until June 1994, when he was discharged from his diplomatic post. He remained in the United States thereafter and became a naturalized U.S. citizen in 2009. He did not apply for naturalized citizenship for his daughter as he had been led to believe in communications with the government that she was already a citizen, as she has been issued with a U.S. passport based on her birth status.

In 2004, when applying for Ms. Muthana's passport with her birth certificate, U.S. authorities initially questioned her citizenship status due to records concerning her father's prior diplomatic accreditation. In response, her father submitted documentation from the United States Mission to the United Nations confirming that his diplomatic status had terminated prior to Ms. Muthana's birth. Following this submission, the United States issued Ms. Muthana a passport on 24 January 2005, which was renewed on 21 February 2014. The United States has never asked Ms. Muthana to provide proof of citizenship after issuing her passport.

On 15 January 2016, the United States issued a letter revoking Ms. Muthana's passport. She had never been charged with a crime and the United States did not initiate any legal proceedings against her under 8 U.S.C. para. 1481 ("section 1481"), which allows the government to revoke birthright citizenship under circumstances, which are not applicable to Ms. Muthana as she never

declared allegiance to a foreign state. The Justice Department held that she did not qualify to be an American citizen under an exception to the birthright citizenship in the Constitution for children of foreign diplomats. Her legal representatives continue to challenge the deprivation of citizenship by the United States, including the decision by the Federal District Court for the District of Columbia in 2019 upholding the disqualification. Legal proceedings challenging the revocation of her citizenship status reportedly remain ongoing.

Vulnerability and online radicalisation

Ms. Muthana was raised in Alabama in a strict and traditional household by her parents. According to the information received, Ms. Muthana experienced a difficult and isolated upbringing marked by physical and emotional abuse within the family home. During high school, she reportedly had limited social contact outside her family environment and experienced significant emotional vulnerability. In September 2013, Ms. Muthana was allowed to pursue higher education. She continued living at home and pursued a business degree.

In May 2013 Ms. Muthana secretly joined Twitter and became exposed to radical content online in late 2013. She had several male contacts on Twitter who encouraged her to travel to Syria and underscore the necessity of travel to fulfill her religious obligations. She felt under increasing pressure to meet the religious obligations being shared with her online. Several online women contacts encouraged her to travel to Syria, and she believed they would support her on arrival. According to the information received, she sought further religiosity to please her conservative and abusive mother and allegedly, as a result to the exposure of received online content and online grooming, was convinced she was condemned to eternal hell if she did not migrate to an Islamic state.

Arrival in Syria and conditions under ISIS control

In November 2014, Ms. Muthana travelled from the United States to Turkey and subsequently crossed into Syria. Her travel and entry into Syria were facilitated by individuals linked to ISIL recruitment networks whom she did not personally know but was arranged through the contacts she had made online. Her family reportedly contacted the FBI shortly after learning of her departure.

Before leaving the United States, Ms. Muthana was reportedly promised by online contacts, a safe environment in which she could continue her studies, not be forcibly married, practice her religion freely, and avoid conflict. She had allegedly limited understanding of the reality of life under ISIL control beyond information distributed through online recruitment channels.

Upon arrival in Syria, her passport and phone were confiscated. Consistent with patterns concerning young women recruited by ISIL from abroad, Ms. Muthana was brought to a 'guesthouse or widow's house'. Conditions were reportedly overcrowded - with over seventy women and children being detained there, unsanitary, and highly restrictive. Women were forced to cook and clean without compensation. Women were reportedly unable to leave the facility

freely and marriage was effectively presented as the only means of obtaining improved living conditions and protection.

Ms. Muthana has been married three times. According to the information received, all three marriages involved physical and psychological coercion and without her full and free consent. Ms. Muthana's first marriage took place in December 2014, one month after her arrival in Syria, and consent to this marriage was not free. Her marriage took place in conditions where matrimony was required of single women, reportedly presented as the only means of leaving the facility and accessing safer living conditions. After Ms. Muthana's first husband was killed, she was forced to return to the women's house. Her second marriage took place in December 2015 and occurred under the same conditions as her first. Ms. Muthana became pregnant with her son during this marriage. He was born on [REDACTED] [REDACTED] [REDACTED]. Her husband, the child's father, was killed when she was seven months pregnant. After his death, she was again forced to return to the women's house. As a pregnant and lactating mother, her third marriage was delayed and took place in May 2018. This marriage occurred under the same conditions as her first and second marriage. Ms. Muthana agreed to marry to better support her son and enable her to access essential food supplies and necessities for her baby, which was more difficult for a single woman to access in ISIS territory at that time. She and her third husband are divorced.

During her time in Syria, Ms. Muthana was accused by the United States government of promoting ISIS ideology on social media. However, her phone was reportedly confiscated on arrival in Syria, and allegedly she did not have the capacity to exercise independent control over the use of her phone and social media accounts when she accessed it. Reportedly multiple controversial and extremist tweets exhorting violence were written by a former acquaintance whose family was responsible for assisting her in entering ISIS territory.

Detention and living conditions in [REDACTED]

Following the fall of ISIL, Ms. Muthana fled with her son in December 2018 and was subsequently taken into custody by Kurdish forces. She was initially detained in Al-Hawl camp for two months, without judicial process or determination of her legal status by the detaining authority, and she was allegedly subjected to ongoing and persistent inhumane treatment in the camp.

In March 2019, following public statements concerning the realities of life under ISIS and reported threats against her safety, she was transferred to [REDACTED] North-East Syria, controlled by the by the Syrian Democratic Forces (SDF). According to the information received, throughout the war in Syria, Ms. Muthana took no direct part in hostilities.

She is currently detained [REDACTED] with her son. An estimated 2,400 women and children are estimated to be detained there, without legal process for almost a decade. Al Roj is characterized by severely deteriorating living conditions (A/HRC/52/69, para. 116 and 121). Detainees are confined in years-old threadbare tents, exposed to extreme temperatures and flooding, with limited access to adequate health care and food (A/HRC/46/55, para.55). Women and

children with disabilities are particularly affected, including those suffering from chronic illnesses and untreated injuries (A/HRC/61/62, para. 95). Access to education is also constrained, as mothers can only homeschool their children in the absence of formal education (A/HRC/52/69, para. 116). Access to medical care is effectively non-existent due to the general limited infrastructure of health specialization in Northeast Syria, a scarcity of well-trained medical professionals and minimal health infrastructure in the camp, the prohibitive cost of the limited available treatment, and detainees' precarious financial circumstances (U.N. Human Rights Special Procedures, *Technical Visit to the Northeast of the Syrian Arab Republic: End of Mission Statement*, para. 12 (July 2023)).

According to information received, Ms. Muthana and her son face significant health, security, and safety risks due to these conditions. Inclement winter weather in the region, the below freezing night-time temperatures for several months of the year, and a lack of warm clothing and access to safe housing and shelter in the camp have reportedly gravely worsened the already precarious health of both Ms. Muthana and her son. Due to the absence of healthcare facilities in the camp, Ms. Muthana is unable to obtain medical treatment for both regular healthcare needs as well as the traumatic stress she has experienced over the past several years.

[REDACTED]

According to information received, Ms. Muthana and her son have both been physically assaulted by other camp members because they have publicly renounced ISIS. Ms. Muthana has repeatedly rejected ISIS publicly and sought to return to the United States, stating she would be willing to face prosecution. Her son has spent most of his life within [REDACTED] and has no conception of life outside its walls. He also has no legal identity documents. As there are no schools in the camp, he is unable to receive formal education. Ms. Muthana has tried to teach him some rudimentary elements of reading and writing, but without access to uninterrupted educational facilities, his uptake has been limited.

Recent developments in [REDACTED]

According to information received, [REDACTED] remains affected by the ongoing and volatile armed conflict in northeastern Syria. Following the January 2026 military offensive and the transfer of detention infrastructure from the SDF to Syrian transitional government forces, including Al-Hawl camp, conditions in camps and detention facilities have significantly deteriorated. The status of about 6,000 foreign detainees released from Al-Hawl remains unclear.

According to information received, the recent collapse of the detention regime at Al-Hawl camp and the uncoordinated movement and release of detainees have further heightened risks for individuals remaining in [REDACTED]. Information received indicates growing insecurity, reduced humanitarian access, shortages of food and medical supplies, and increasing violence and unpredictability

within the camps. In particular, women and children have reportedly been subject to a more violent and unpredictable regime. Incidents reported involve the detainee tents being surrounded by SDF soldiers who have harassed the detainee population, stolen property and destroyed and vandalized their tents. Recently, Ms. Muthana has had her tent damaged by SDF intrusions at night, small amounts of money to pay for food and medication were allegedly stolen, and she was reportedly subject to physical beating and humiliation in front of her son.

According to information received, Ms. Muthana and her son remain arbitrarily detained in the [REDACTED] and their fate remains uncertain. Both her and her son are at ongoing risk of fatal violence because of ongoing hostilities, as well as potential violence at the hands of armed security sector personnel in the camp. According to information received, although the United Nations reportedly assumed administrative oversight of the camps on 22 January 2026, access remains limited, leaving detainees such as Ms. Muthana and her son in a situation of heightened legal and physical vulnerability, without reliable guarantees of safety, care, or due process.

While I do not wish to prejudge the accuracy of the information made available to me, I am concerned about the prolonged, arbitrary and indefinite detention of Ms. Muthana and her child, and the reported conditions of detention that may amount to cruel, inhuman or degrading treatment, in Al-Roj detention facility, as well as the absence of effective measures taken by your Government to ensure their protection as nationals exposed to serious harm abroad. Given Ms. Muthana's birth status in the United States, your Government may have obligations to take all reasonable and necessary measures to protect their rights, including through consular assistance and repatriation.

Trafficking in persons and obligations of identification, protection and implementation of non-punishment principle

I am concerned that Ms. Muthana may have been trafficked into Syria, including through recruitment, transportation and harbouring for the purpose of exploitation, when she was 20 years old. Her travel to the region was reportedly facilitated and organised by third parties linked to recruitment networks. Given the specific facts of the case, exposure to coercive online grooming, the deceptive promises regarding the conditions she would encounter, and the subsequent swift arrangement of her marriages, I am concerned that her situation falls under article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (Palermo Protocol), ratified by the United States on 3 November 2005, which 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. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs". I am particularly concerned that Ms. Muthana may

have been trafficked through deception and coercion, and subjected to exploitation in the context of her association with a designated terrorist group, including for the purposes of forced marriage.

I further recall that trafficking in persons may occur in situations of armed conflict and in the context of terrorism, and that such contexts often exacerbate patterns of coercion, control and exploitation, particularly affecting women and girls. Women's association with terrorist groups is highly complex, and there is a well-documented risk of trafficking, sexual exploitation, forced marriage and other forms of gender-based violence. I recall my report to the General Assembly in 2024, where I specifically highlight "the failures of States to identify, assist and protect victims of trafficking in the context of terrorism and by designated terrorist groups. Counter-terrorism measures and overreach of national security measures have led to failures of assistance and protection, with devastating consequences for child victims and young people. In the context of the situation in the north-east of the Syrian Arab Republic and of continuing failures of protection affecting thousands of children, as well as failures with regard to repatriation, the Special Rapporteur has stressed the obligation of States to assist, protect and repatriate victims of trafficking, without discrimination. Accountability processes, including United Nations mandated mechanisms, have highlighted the continuing impact of failures to protect victims of trafficking, including children. The Special Rapporteur has highlighted concerns in relation to failures of identification, assistance and protection in the case of *Shamima Begum v. the Secretary of State for the Home Department*, and before the European Court of Human Rights in *H.F. and M.F. v. France* (Application No. 24384/19) and *J.D. and A.D. v. France* (Application No. 44234/20)." (A/79/161, para. 53).

All of Ms. Muthana's marriages reportedly occurred in coercive circumstances, where she lacked meaningful alternatives and was subject to conditions amounting to exploitation. In this context I recall States positive obligations to identify, assist and protect victims of trafficking or persons at risk of trafficking, as enshrined in article 6 of the Palermo Protocol, as well as OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, which remind States that they have an international obligation to identify traffickers and their victims and to take positive action to protect the latter, including by conducting individual, case-by-case assessments of every suspected victim and take meaningful steps to offer any assistance or protection to their nationals who have been trafficked into north-east Syria, including by referring them to the appropriate services for early support and long-term assistance. Failure to protect a trafficked person correctly is likely to result in further abuse of that person's rights.

In relation to the obligation of implementation of the non-punishment principle, as repeatedly highlighted by my mandate in similar communications (see more recent: [DNK 1/2024](#), [GBR 12/2024](#), [BEL 3/2023](#), [ZAF 2/2023](#), [AUT 1/2023](#)); in my interventions in national and regional courts: *Shamima Begum v. the Secretary of State for the Home Department*, and before the European Court of Human Rights in *H.F. and M.F. v. France* (Application No. 24384/19) and *J.D. and A.D. v. France* (Application No. 44234/20) and *Shamima Begum v United Kingdom* (Application No. 36427/24); and in several reports, notably, A/ 76/263 and A/HRC/47/34, "States are required to ensure that the principle of non-punishment is applied to: (a) all forms of trafficking, including for the purpose of sexual exploitation, labour exploitation and forced

criminality, as well as to both cases of international trafficking and cases of internal trafficking; (b) any unlawful activity carried out by a trafficked person as a direct consequence of their trafficking situation, regardless of the gravity or seriousness of the offence committed; (c) criminal, civil, administrative and immigration offences, as well as other forms of punishment, such as arbitrary deprivation of nationality, denial of consular assistance or repatriation, exclusion from refugee status or other forms of international protection and family separation; (d) any situation of deprivation of liberty, including immigration detention and detention pending removal, transfer or return proceedings.” (para. 57).

In relation to deprivation of citizenship, I also wish to note several considerations regarding the international law prohibition of arbitrary deprivation of citizenship and the obligation to reduce statelessness. The 1961 Convention on the Reduction of Statelessness prohibits the deprivation of nationality where such deprivation would render a person stateless (article 8 (1)), or is based on racial, ethnic, religious or political grounds (article 9).

In view of the allegations above, I am concerned that Ms. Muthana continues to bear the consequences of alleged association with a designated terrorist group without an individual assessment of her potential status as a victim of trafficking, including by being deprived of citizenship and having her passport revoked, which may contribute to her exposure to further harm and vulnerability. As highlighted by my mandate, when trafficking occurs in the context of terrorism, discrimination of States leads to a failure to identify victims and to ensure compliance with the obligation of non-punishment (A/76/263, para. 16). Additionally, the United States would have failed its obligation to prevent Ms. Muthana from being trafficked from its country across borders, particularly at the time when there was widespread knowledge that ISIS/Daesh was engaging in prolific online grooming, as per obligations enshrined in article 9 of the Palermo Protocol. I am also concerned that these allegations may reflect a failure to appropriately identify and protect a potential victim of trafficking and may therefore be inconsistent with the due diligence obligations incumbent upon States under international law.

I also recall that under article 8(1) of the Palermo Protocol, State Parties shall facilitate and accept, with due regard to the safety of the person, the return of their nationals when they were victims of trafficking in persons. States should take immediate action to repatriate victims of trafficking and children of victims, ensuring the best interests of the child as a priority and a protective environment for children (A/76/263, para. 68).

Finally, I would like to highlight the absolute nature of the prohibition of slavery, as enshrined in article 8 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Government on 8 June 1992.

Arbitrary detention

The detention of Ms. Muthana and her son occurred without any legal basis, individual determinations, judicial authorisation for or review of the legality of their detention, or due process. Since then, they have continued to be held [REDACTED], without any legal basis. 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). I further stress that the prohibition of arbitrary detention is a fundamental guarantee under international human rights law and a *jus cogens* norm, reflected, inter alia, in article 9 of the ICCPR. No exceptional circumstances, including national security or counter-terrorism considerations, may justify its indefinite application without due process safeguards. I recall that detention based on alleged criminality of family members is an “egregious” example of arbitrary detention (CCPR/C/GC/35, para. 16). The prolonged, indefinite and unreviewed detention of Ms. Muthana and her child may therefore amount to arbitrary detention and violate article 9 of the ICCPR.

I recall that article 37 of the Convention on the Rights of the Child (CRC), which the United States signed on 16 February 1995, prohibits the arbitrary detention of children. States must prioritize reintegration and rehabilitation over criminalization with regard to children in counterterrorism contexts, as that detention-based approaches violate both the letter and spirit of the CRC (S/RES/2427, para. 20 and 21). The prolonged, indefinite and unreviewed detention of the child, simply for being the son of Ms. Muthana, may therefore amount to arbitrary detention and violate article 9 of the ICCPR and article 37 of the CRC.

I stress that States have an obligation to prevent their nationals from being arbitrarily detained. The United States obligations apply wherever it exercises effective control or influence over the detention of its nationals, regardless of which actor administers the facility in which they are held. As highlighted by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, “international core crimes may implicate Member States by omission or failure to act if situated to prevent serious violations of international law.” (A/78/520, para. 63).

Right to health

I am concerned by reports regarding the severe lack of accessible and adequate health care in [REDACTED] particularly in view of the medical conditions reportedly affecting both Ms. Muthana and her son. I recall that article 25 of the UDHR and article 12 of the ICESCR guarantees the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. The Committee on Economic, Social and Cultural Rights has clarified that health facilities, goods and services must be available, accessible, acceptable and of good quality (general comment No. 14). I am concerned that limited access to qualified medical personnel, treatment and medication may further aggravate their physical and psychological suffering. I also note that prolonged deprivation of access to necessary medical care may engage obligations under article 6 of the ICCPR, which protects the right to life and requires States to take positive measures to address reasonably foreseeable threats to life and physical integrity.

I recall that article 24 of the CRC recognizes the right of the child to the enjoyment of the highest attainable standard of health and access to health-care

services. The reported absence of adequate medical treatment and rehabilitation of Ms. Muthana's child therefore raises serious concerns regarding the protection of his rights as a child.

Conditions of detention amounting to ill-treatment

I am deeply concerned by the extremely poor conditions [REDACTED], including limited access to water, food, healthcare and adequate shelter, exposure to extreme weather conditions, and reports of violence and coercion within the camp. I stress that the prohibition of torture and cruel, inhuman or degrading treatment is a peremptory norm (*jus cogens*) and is reflected, *inter alia*, in article 7 of the ICCPR and in the Convention against Torture (CAT), ratified by the United States on 21 October 1994. Whether particular conditions reach the threshold of torture requires an assessment of all relevant circumstances, including the severity and duration of the suffering experienced. The conditions of detention in the camp have been documented by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (U.N. Human Rights Special Procedures, *Technical Visit to the Northeast of the Syrian Arab Republic: End of Mission Statement*). In the decision of the Committee against Torture in *P.D. v France*, the Committee found the detention conditions in [REDACTED] amounted to inhuman and degrading treatment. In *H.F. and Others v. France*, the European Court of Human Rights found that conditions [REDACTED] are incompatible with respect for human dignity. I am concerned that these conditions, in conjunction with the prolonged and indefinite nature of the detention of Ms. Muthana and her son, may amount to cruel, inhuman or degrading treatment, and, depending on the severity and intentionality, may rise to the level of torture within the meaning of article 7 of the ICCPR and articles 1 and 16 of the CAT. I further underscore that States may incur responsibility where they fail to take reasonable steps to prevent their nationals from being exposed to such conditions when they have the capacity to do so.

Safety conditions and gender-based harm

I am particularly concerned about the specific vulnerabilities faced by Ms. Muthana as a young woman, single parent, and third-country national in a context of heightened instability. The Committee on the Elimination of All Forms of Discrimination Against Women (CEDAW Committee) has stressed that the risks of violence and abuse, especially sexual violence, are exacerbated in conflict contexts (general recommendation No. 30, para. 36 to 39). As a young female detainee, single woman and third country national, Ms. Muthana is particularly vulnerable to violence, abuse, and further marginalization during detention.

Best interest of the child

I am particularly concerned about the situation of Ms. Muthana's son, whose circumstances must be assessed in light of the principle that the best interests of the child shall be a primary consideration in all actions concerning children. Although he was born in the Syrian Arab Republic, he is entitled to United States nationality through his mother. In this regard, I recall that article 24(3) of the International Covenant on Civil and Political Rights (ICCPR) guarantees every child the right to acquire a nationality and not to be rendered stateless. I therefore encourage your Government to

take all appropriate measures to ensure that Ms. Muthana's son American nationality and that he is not placed at risk of *de facto* statelessness.

Ms. Muthana's son was born into a conflict zone and has spent most of his life in conditions of deprivation and insecurity. The lack of access to medical care, education and legal identity is of serious concern. The cumulative impact of these conditions may amount to serious violations of his rights to life, survival and development, health, education and protection from harm. These circumstances raise serious concerns regarding the enjoyment of his rights under the Convention on the Rights of the Child (CRC), particularly articles 6, 7 24(2), 27 and 28, which protect the rights to life, to birth registration, name and nationality, health, adequate standard of living, and education. I stress that under article 2 of the CRC, States must ensure non-discrimination, including where stigma or restrictions are imposed because of a parent's alleged conduct or status. In this regard, I note the Committee on the Rights of the Child's findings in *L.H. et al. v. France*, in which the Committee recognized that States may have obligations toward child nationals detained in camps in north-east Syria where they face a real and foreseeable risk of irreparable harm. I consider that the best interests of the child strongly support his prompt repatriation, together with his mother, to ensure access to protection, care, rehabilitation and a safe environment conducive to his development.

I am also concerned that Ms. Muthana's son reportedly lacks access to formal education and has spent the majority of his life in an environment where educational opportunities are severely limited. I recall that article 28 of the CRC and article 13 of the ICESCR recognize the right of every child to education. The prolonged absence of meaningful access to education may have profound consequences for a child's development, wellbeing and future reintegration into society.

I further emphasize the importance of preserving family unity. I recall that international human rights law recognizes strong protections for family life and provides that children should not be separated from their parents except where such separation is necessary and demonstrably in the child's best interests. According to the information received, Ms. Muthana is her son sole caregiver and primary attachment figure. Any separation between them may therefore have serious consequences for his wellbeing and development.

In light of the cumulative impact of the reported conditions of detention, the absence of adequate health care and education, the risks associated with continued confinement in [REDACTED], and Ms. Muthana's son particular vulnerability as a child, I am concerned that his continued detention may be incompatible with his best interests. These circumstances underscore the importance of taking all appropriate measures to ensure his protection, recovery and development, including through repatriation together with his mother.

Duty to repatriate

It is my view that States have positive obligations to take reasonable steps to prevent serious human rights violations committed against their nationals abroad, particularly where such violations are non-derogable rights and jus cogens norms of international law, including the prohibition of torture and ill-treatment. This obligation

extends to acts of violence, torture and ill-treatment perpetrated by armed groups. I stress again that the prohibition of torture and cruel, inhuman or degrading treatment is a peremptory norm (*jus cogens*) and is reflected, *inter alia*, in the CAT. I draw your attention to the decision of the Committee against Torture in *P.D. v France*, where the Committee found that the detention conditions in ██████ amounted to inhuman and degrading treatment and that States have a positive obligation to take all necessary and possible measures to protect nationals from the violation of their right not to be subjected to acts of cruel, inhuman or degrading treatment or punishment, including by repatriation and ensuring access to necessary medical care. These obligations arise where a State has the capacity to effectively protect its nationals and where there is a real and foreseeable risk of serious harm. I also draw your attention to *C.P. et al. v. France*, in which the Committee found that a State party's failure to protect the complainant's relatives by taking effective measures to prevent inhuman and degrading treatment to citizens stranded in the camps would constitute a violation by the State party of article 2(1) of the CAT. We note that repatriation has been identified by United Nations human rights mechanisms as a necessary and foreseeable measure to prevent ongoing violations in such contexts.

Ms. Muthana and her son have been detained in conditions violating international law, including serious risks to life and health, and circumstances potentially amounting to torture or cruel, inhuman, and degrading treatment. In light of the apparent capacity of your Government to intervene, including through prior repatriations and available consular mechanisms, I am concerned that failure to take steps to repatriate them may amount to a breach of its obligation to protect them from foreseeable serious harm.

I am further concerned about the risk of family separation faced by Ms. Muthana and her son if they are not repatriated to the United States. I note reports that, until recently, male children reaching a certain age were separated from their mothers and transferred to separate detention facilities, although it remains unclear whether this practice has been formally discontinued. Such separation may expose children to heightened risks of arbitrary detention, violence, exploitation, torture and other forms of cruel, inhuman or degrading treatment. Should such practices persist, Ms. Muthana and her son may face a real risk of involuntary family separation, further exacerbating their vulnerability and reinforcing the need for prompt measures to ensure their protection, including through repatriation.

I further recall Security Council resolution 2396 (2017), which emphasizes the importance of age- and gender-sensitive approaches to the rehabilitation and reintegration of women and children associated with situations of armed conflict and terrorism, including third-country nationals returning from Syria. This includes providing special assistance to women and children because of the particular harms they endure in the camps. In light of the particular harms reportedly suffered by Ms. Muthana and her son, I am concerned that they may face particular risks due to their gender and age. These circumstances underscore the importance of taking effective measures to ensure their protection and rehabilitation, including through repatriation.

Highlighting that article 13(2) of the Universal Declaration of Human Rights (UDHR) safeguards the right to nationality and to return to one's country, and recalling

that legal proceedings regarding Ms. Muthana's nationality are ongoing, I encourage your Government to ensure that she is not rendered de facto stateless and to allow her and her child to enter the country pending the resolution of such proceedings.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.
2. Please provide details on the measures of early identification, protection, and support that are available for US nationals who are victims and potential victims of trafficking in persons.
3. Please provide details on measures taken to investigate trafficking in person out of US and into Syria and measures to prevent recruitment through online recruitment and protect victims and potential victims of trafficking from further exploitation.
4. Please provide details on the domestic mechanism(s) in place in the US for repatriation and the processes in place to review all requests for repatriation. In addition, please outline the measures taken to avoid arbitrary or discriminatory decision-making.
5. Please provide information on the measures taken by you Government to protect the physical and mental integrity and health of Ms. Muthana and her child, as well as the child's right to education and rights as child victims, particularly considering the aforementioned medical and safety concerns.

This communication, and any response received from your Government, will be made public via the communications reporting [website](#) at the 60 days mark. Should your Government respond within 60 days, both the communication and the response, may be published before the 60 days mark. The communications and responses will also be made available in the subsequent periodic report to be presented to the Human Rights Council.

While awaiting a reply, I encourage your Government to urgently repatriate Ms. Muthana and her son, as I am of the view that under the circumstances of this case, repatriation appears to be the most effective and foreseeable means available to prevent continuing grave human rights violations. I also urge that all necessary interim measures to 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(s) responsible for the alleged violations.

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

Please be informed that a copy of this letter has also been sent to the Government of the Syrian Arab Republic.

Please accept, Mrs. Finerty, the assurances of my highest consideration.

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, please refer to the Annex on Reference to international human rights law attached to this letter which cites international human rights instruments and standards relevant to these allegations.

In connection with above alleged facts and concerns, I would like to refer your Government's attention to the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), acceded to by the United States on 8 June 1992, the International Covenant on Economic, Social and Cultural Rights (ICESCR), signed by the United States on 5 October 1977, the Convention against Torture and Other Cruel Inhuman or Degrading treatment or Punishment (CAT), ratified by the United States on 21 October 1994, the Convention on the Elimination of all forms of Discrimination against Women (CEDAW), signed by the United States on 17 July 1980, and the Convention on the Rights of the Child (CRC), signed by the United States on 16 February 1995. While the United States has signed but not ratified the ICESCR, the CEDAW and the CRC, as a signatory it remains obligated to refrain from acts that would defeat the object and purpose of the treaty, in accordance with article 18 of the Vienna Convention on the Law of Treaties. I also refer your Government's attention to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime (Palermo Protocol), ratified by the United States on 3 November 2005.

Trafficking in persons

I draw the attention of your Government to Palermo Protocol, which defines trafficking in person as "[t]he recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion" for the "purpose of exploitation" (article 3). That purpose can be manifold and includes sexual exploitation.

Under article 6 of the Palermo Protocol, States Parties shall provide assistance and protection to victims of trafficking, including measures aimed at their physical, psychological and social recovery. Such assistance shall include, inter alia, appropriate housing, counselling and information, medical, psychological and material assistance, and access to education and training opportunities, and shall take into account the age, gender and special needs of victims of trafficking in persons.

Under article 8(1) of the Palermo Protocol, State Parties shall facilitate and accept, with due regard to the safety of the person, the return of their nationals when they were victims of human trafficking. States should take immediate action to repatriate victims of trafficking and children of victims, ensuring the best interests of the child as a priority and a protective environment for children (A/76/263, para. 68).

I would like to draw attention to the Recommended Principles and Guidelines on Human Rights and Human Trafficking (OHCHR, 2002), which provide that: trafficked persons should not be detained, prosecuted or punished for offences

committed as a consequence of being trafficked; States should ensure the identification of trafficked persons and their access to assistance and protection; trafficked persons should have access to effective remedies, including compensation; and States should investigate, prosecute and adjudicate trafficking offences, including where State actors may be involved.

The absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment is a *jus cogens* norm and a non-derogable right under international law, codified in article 5 of the Universal Declaration of Human Rights (UDHR), article 7, read alone and in conjunction with article 2(3), of the ICCPR and articles 1, 2, 15 and 16 of the CAT. Attached to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims. Article 10 of the ICCPR also requires that all persons deprived of their liberty be treated with dignity and respect.

Respect of human rights while countering terrorism

Many resolutions of the United Nations General Assembly, Security Council and Human Rights Council reaffirm that any measures taken to combat terrorism and violent extremism must comply with the obligations of States under international law, in particular international human rights law, refugee law and international humanitarian law.¹ Counter-terrorism measures must conform to fundamental requirements of legality, proportionality, necessity and non-discrimination. Disregard for these principles can have exceptionally harmful effects on the protection of fundamental rights, particularly for minorities, historically marginalized communities, and civil society. States must ensure that measures to combat terrorism do not hinder the work and safety of individuals, groups and organs of society engaged in promoting and defending human rights (A/HRC/RES/22/6, para. 10(a)).

Although no universal treaty generally defines “terrorism”, States should ensure that counter-terrorism legislation is limited to criminalizing conduct which is properly and precisely defined on the basis of the international counter-terrorism instruments,² the General Assembly’s Declaration on Measures to Eliminate International Terrorism (1994), and Security Council resolution 1566 (2004). Based on these authoritative sources, the model definition of terrorism advanced by the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism provides clear, “best practice” guidance, by identifying conduct that is genuinely terrorist in nature and precisely defining the elements (A/HRC/16/51, para. 28).

The principle of legality under article 15(1) of the ICCPR requires that criminal laws are sufficiently precise so that it is clear what types of behaviour and conduct constitute a criminal offence and what would be the legal consequences of committing such an offence. This principle recognizes and seeks to prevent ill-defined and/or overly

¹ Security Council resolutions 1373 (2001), 1456 (2003), 1566 (2004), 1624 (2005), 2178 (2014), 2242 (2015), 2341 (2017), 2354 (2017), 2368 (2017), 2370 (2017), 2395 (2017) and 2396 (2017); Human Rights Council resolution 35/34; and General Assembly resolutions 49/60, 51/210, 72/123 and 72/180, among others

² See https://treaties.un.org/Pages/DB.aspx?path=DB/studies/page2_en.xml.

broad laws which are open to arbitrary application and abuse, including to target civil society on political or other unjustified grounds (A/70/371, para. 46(b)) and suppress the exercise of fundamental rights and freedoms (A/HRC/40/52).

Torture and other cruel, inhuman or degrading treatment

The absolute prohibition against torture and other cruel, inhuman or degrading treatment or punishment is a *jus cogens* norm and a non-derogable right under international law, codified in article 5 of the UDHR, article 7, read alone and in conjunction with article 2(3), of the ICCPR and articles 1, 2, 15 and 16 of the CAT. Attached to the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment are obligations to criminalize and investigate all acts of torture or other cruel, inhuman or degrading treatment or punishment, to prosecute suspects, to punish those responsible and to provide remedies to victims. Article 10 of the ICCPR also requires that all persons deprived of their liberty be treated with dignity and respect.

Right to life

I would like to refer to article 3 of the UDHR and article 6 of the ICCPR which provides that every individual has the right to life, liberty and security of the person. Jurisdictionally, States must respect the right to life not only in their territory, but also wherever they have custody of a person abroad (general comment No. 36, para. 63). The right to life constitutes a *jus cogens*, peremptory norm from which no derogation is permitted. It applies at all times including during armed conflicts. I further highlight that an integral part of the right to life is the conduct of thorough, prompt and impartial investigations of all suspected cases of extra-legal, arbitrary and summary executions.

I stress that the duty to protect the right to life requires States parties to adopt special measures of protection for persons in situations of vulnerability whose lives are at particular risk due to specific threats or pre-existing patterns of violence. The obligation of States parties to respect and ensure the right to life extends to reasonably foreseeable threats and life-threatening situations that can result in loss of life. States parties may be in violation of article 6 even if such threats and situations do not result in loss of life ([CCPR/C/GC/36](#)).

Arbitrary detention

Article 9 of the ICCPR guarantees the right to liberty and security of person and provides that “no one shall be deprived of his [or her] liberty except on such grounds and in accordance with such procedure as are established by law.” As interpreted by the Human Rights Committee in general comment No. 35, the notion of “arbitrariness” is not to be equated with “against the law” but must be interpreted more broadly to include elements of inappropriateness, injustice, lack of predictability and due process of law, as well as elements of reasonableness, necessity, and proportionality.

Article 9(2) provides that anyone arrested must be informed of the reasons for the arrest at the time of the arrest, and of the charges against him or her promptly.

Article 9(3) further provides that “[i]t shall not be the general rule that persons awaiting trial shall be detained in custody”. In this regard, the Human Rights Committee

has noted that “[d]etention pending trial must be based on an individualized determination that it is reasonable and necessary taking into account all the circumstances, for such purposes as to prevent flight, interference with evidence or the recurrence of crime” (para. 38).

Article 9(4) provides that anyone deprived of liberty by arrest or detention is entitled to take proceedings before a court so that the court may decide without delay on the lawfulness of the detention and order release if the detention is found to be unlawful. As noted by the Human Rights Committee, this right applies “to all detention by official action or pursuant to official authorization, including detention in connection with criminal proceedings, military detention, security detention, counter-terrorism detention” (para. 40). Access to a lawyer, including immediately after arrest, is an essential safeguard of the right to challenge the legal basis of one’s detention under article 9(4) of the ICCPR.

Right to nationality

I draw your attention to article 12(4) of the ICCPR, which provides that no one shall be arbitrarily deprived of the right to enter his own country. Article 24(3) further recognizes the right of every child to acquire a nationality. Article 15 of the Universal Declaration of Human Rights provides that everyone has the right to a nationality and that no one shall be arbitrarily deprived of their nationality. I recall that denial of nationality or failure to facilitate return may expose individuals to situations of heightened vulnerability and risk of serious human rights violations, including statelessness.

Family life and unity

I draw attention to article 17 of the ICCPR, which provides that no one may be subjected to arbitrary or unlawful interference with their family, and everyone has legal protection against such interference.

Women

I draw the attention of your Government to the Convention on the Elimination of All Forms of Discrimination against Women, which states that women are entitled to the equal enjoyment and protection of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. I recall article 6 of the CEDAW, which requires States Parties to take all appropriate measures to suppress all forms of trafficking in women and exploitation of prostitution of women. I further recall general recommendation No. 38 of the Committee on the Elimination of Discrimination against Women, which recognizes the gendered dimensions of trafficking and highlights the obligations of States to identify, protect, assist and provide remedies to women and girls who are victims of trafficking and exploitation.

I would also like to refer to the Declaration on the Elimination of Violence against Women. Especially, I would like to bring to your attention article 4(c and d) of the Declaration, which calls for 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. Moreover, article 4(g) notes the

importance of ensuring that women subjected to violence and, where appropriate, their children have specialized assistance, such as rehabilitation, assistance in child care and maintenance, treatment, counselling, and health and social services, facilities and programmes, as well as support structures, and should take all other appropriate measures to promote their safety and physical and psychological rehabilitation.

Women are entitled to full and equal protection of their human rights under international law, including in situations of armed conflict and in the context of counter-terrorism measures. I recall that, under the ICCPR, States must ensure the enjoyment of rights without discrimination on the basis of sex (articles 2 and 26), and must protect individuals from violence, ill-treatment and exploitation, including gender-based violence.

Additionally, the Working Group on discrimination against women have found that non-State armed groups have often subjected women and girls to various forms of gender-based violence, including abductions and detentions, forced marriage or sexual slavery, and forced recruitment for combatant or support roles in conflicts (A/HRC/41/33, para. 72). The Working Group explained that such violations are motivated in part by the desire to impose a social order based on a strict division of gender roles and the subjugation of women. The Working Group has recommended that States effectively protect women and girls from non-State armed groups or criminal gangs, guarantee the non-recurrence of violations, and provide comprehensive and appropriate services and reparation to survivors (para. 82).

Children

I draw the attention of your Government to the Convention on the Rights of the Child (CRC). Article 3(1) of the Convention provides that in all actions concerning children, the best interests of the child shall be a primary consideration. The CRC recognises every child's right to life (article 6), right to be registered immediately after birth, to acquire a nationality and, as far as possible, to know and be cared for by his or her parents (article 7), right to preserve his or her identity, including nationality, name and family relations (article 8), right to enjoy the highest attainable standard of health and access to necessary health-care services (article 24), right to an adequate standard of living (article 27), right to education (article 28), and requires States to protect children from all forms of violence, sexual abuse, and exploitation (articles 19 and 34), and to respect the rights of children affected by armed conflict (article 38).

I draw attention to article 2 of the CRC, which requires States Parties to respect and ensure the rights set forth in the Convention without discrimination of any kind, irrespective of the status, activities, expressed opinions or beliefs of the child's parents or family members. I therefore recall that children should not suffer adverse consequences because of the alleged conduct or affiliations of their parents. I also recall article 9 of the Convention, which provides that children shall not be separated from their parents against their will except where such separation is necessary for the best interests of the child and determined in accordance with applicable law and procedures. I further recall article 37, under which no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment, and no child shall be deprived of liberty unlawfully or arbitrarily. The detention of children shall be used only as a measure of last resort and for the shortest appropriate period of time.

I underline that children associated with or affected by armed conflict or by the activities of terrorist groups should be treated primarily as victims of serious violations of international law, including trafficking, recruitment and exploitation, and must be provided with appropriate protection, rehabilitation and reintegration support. I further note that Security Council resolutions, including resolutions 2396 (2017) and 2196 (2018), emphasize the obligation of States to ensure that children affected by armed conflict, including those associated with foreign terrorist fighters, are treated in a manner consistent with their rights, are provided with reintegration and rehabilitation assistance, and are not subjected to arbitrary detention. States must treat children, including children related to or associated with designated terrorist groups, and take all appropriate measures to ensure the protection and care of children affected by armed conflict, and to promote their physical and psychological recovery and social reintegration.

Right to health

I would like to refer your Government to article 25 of the UDHR and article 12 of the ICESCR, which recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. In this connection, I would like to refer your Government to general comment 14 of the Committee on Economic, Social and Cultural Rights, which indicates that the right to health in all its forms and at all levels contains the interrelated and essential elements of: Availability, Accessibility, Acceptability and Quality. (General comment No. 14, para. 12) In this regard, the Committee reiterates State's responsibility to take measures to protect all vulnerable or marginalized groups of society. (Para. 35)

In its general comment No. 14, the Committee on Economic, Social and Cultural Rights (CESCR) stresses that States should refrain from "limiting access to health services as a punitive measure, for instance, during armed conflicts in violation of international humanitarian law" (para. 34). It also indicates that "States are obliged to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services". I wish to stress that the right to health is interpreted by the CESCR Committee as "an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food [and] nutrition" among others (para. 11).

Right to adequate housing and an adequate standard of living

I draw attention to article 25 of the UDHR and article 11 of the ICESCR, which recognizes the right of everyone to an adequate standard of living, including adequate food, clothing and housing. The Committee on Economic, Social and Cultural Rights has clarified that adequate housing should be understood as the right to live somewhere in security, peace and dignity and includes security of tenure, habitability, accessibility and protection against threats to health and safety (CESCR, general comment No. 4, paras. 7 and 8).

Right to education

I draw attention to article 26 of the UDHR and article 13 of the ICESCR, which recognizes the right of everyone to education, which is directly link to the full development of the human personality and the sense of its dignity. In this connection, I would like to refer your Government to General Comment 14 of the Committee on Economic, Social and Cultural Rights, which indicates that the right to education in all its forms and at all levels contains the interrelated and essential elements of: Availability, Accessibility, Acceptability and Adaptability (general comment No.º13, para. 16).