

Mandates of the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the human rights of migrants and the Special Rapporteur on contemporary forms of slavery and trafficking in persons

Ref.: AL USA 23/2026

(Please use this reference in your reply)

29 July 2026

Excellency,

We have the honour to address you in our capacities as Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on the human rights of migrants and Special Rapporteur on contemporary forms of slavery and trafficking in persons, pursuant to Human Rights Council resolutions 53/9, 61/17 and 60/25.

In this connection, we would like to bring to the attention of your Government information we have received concerning alleged human rights violations against immigrant survivors of trafficking in persons in the United States, including detention and ongoing punishment by government officials as part of civil immigration enforcement and a systematic rollback of policies designed to protect survivors of trafficking in persons.

According to the information received:

A [REDACTED] national and survivor of trafficking in persons (the survivor) was reportedly arrested by U.S. Immigration and Customs Enforcement (“ICE”) on 30 January 2026, at a routine check-in appointment under the Intensive Supervision Appearance Program. ICE detained her the same day that she reported her situation as a survivor of trafficking in persons to federal law enforcement agents. Despite knowledge of her status as a survivor of trafficking in persons, ICE refused to release her for sixty-two days. During this period of detention, she reportedly suffered psychological, physical, and emotional consequences of incarceration, separated from her two small children, one of whom was still breastfeeding. She was released on 2 April 2026, after a team of pro bono attorneys filed a habeas corpus petition in federal court in Louisiana. The U.S. authorities released her just hours before a merits hearing, without any explanation as to why she was detained. She remains in removal proceedings, under mandatory supervision, and at risk of deportation.

Her situation is not an isolated incident. Reportedly over 100 habeas corpus petitions have been filed on behalf of trafficking survivors placed in U.S. immigration detention since January 2025.

Background of the case

The survivor is a citizen [REDACTED] with no criminal record who was reportedly enticed to travel to the United States by a [REDACTED] she met while living abroad. She became pregnant with his child, and he convinced her to come to the United States on the promise of living together as a family. While

travelling to the U.S., she was reportedly briefly apprehended by U.S. immigration authorities at the U.S.-Mexico border and released under the Intensive Supervision Appearance Program (“ISAP”). It is reported that she then traveled north to Illinois, where she was collected and brought to the home of the [REDACTED] national, in another state in the midwestern United States.

Upon her arrival at his home, he reportedly seized any remaining money she had, told her she owed him a debt for bringing her to the United States, and demanded that she work for him and have sex with him. For over a year, she reportedly suffered extreme physical violence and rape, while also being forced to cook, clean, and pack boxes for his online commerce site. She was never paid and was isolated from any support. As a result of the rape, she became pregnant and gave birth to a daughter who is a United States citizen.

In January 2025, she reportedly escaped by calling the local police and a local non-profit organization helping domestic violence, sexual violence, and trafficking in persons survivors in the area. Recognizing the danger and lethality of the situation, the local non-profit organization helped the survivor to relocate to the [REDACTED] area with her two young children. Reportedly, her alleged trafficker continued to stalk her and, about seven months later, found her at a church in the [REDACTED] where she had taken refuge. She again called the local police and obtained a protective order against him.

In December 2025, the survivor applied for a T visa before U.S. Citizenship & Immigration Services (“USCIS”).

On 30 January 2026, the survivor, by and through her attorney, formally reported her trafficking to U.S. State Department Diplomatic Security Service, following the instructions of the Victim Services Coordinator at the U.S. State Department Diplomatic Security Service (“DSS”) received the previous day. That same day, at a routine ISAP check-in appointment, ICE detained her without warning or legal process. After her detention, her representatives reportedly contacted on several occasions the Department of Homeland Security’s (“DHS”) Center for Countering Human Trafficking (“CCHT”) to alert DHS that a trafficking survivor had been detained in Maryland.

Despite these efforts, she was not released and was instead transferred to a detention center in [REDACTED], over 1,000 miles from her two young children, including her still-breastfeeding daughter, who is a U.S. citizen. On 4 February 2026, an affirmative application for a T visa on her behalf was filed before USCIS. On 11 February 2026, her representatives filed a petition for a writ of habeas corpus (the “Petition”) in the U.S. District Court for the Western District of Louisiana, challenging the legality of her detention. Among other arguments, her habeas counsel argued her detention violated the express purpose and intent of the Trafficking Victims Protection Act (“TVPA”). The U.S. Government reportedly responded to oppose the Petition and claim her detention was lawful but provided no reasoning specific to her case or acknowledgement of her status as a trafficking survivor.

For two months, the survivor pro bono counsel engaged in advocacy for her release, including in U.S. federal court, before the immigration court, in the press, and through representatives in the U.S. Congress. Advocacy at federal courts reportedly included an Application for Issuance of an order to Show Cause directing the U.S. Government to show cause as to why the Petition for Writ of Habeas Corpus should not be granted. The Court reportedly ordered the U.S. Government to respond to the Petition and set a show cause hearing for 2 April 2026. Despite such advocacy, the authorities did not release her. She remained in detention for sixty-two days in poor conditions in the immigration detention center. During that time, she was reportedly separated from her two small children and unable to feed her breastfeeding daughter.

On the eve of the court-ordered Show Cause hearing, the U.S. authorities requested to delay the hearing, allegedly claiming it was planning to release her voluntarily. The Court granted the U.S. Government's motion to delay the hearing. The next morning, the U.S. Government released the survivor from detention, mooted the petition without conceding any violation of her rights or providing any remedy for the detention.

Despite the release, she reportedly remains in removal proceedings, subject to ongoing supervision, including an ankle-worn GPS monitor. She is reportedly at risk of deportation. That risk threatens her pending T visa application, which could take 30.5 months or more to adjudicate and which requires that she be physically present in the United States. Deportation before adjudication of the T visa would render her ineligible for this form of immigration relief, to which she is entitled to as a trafficking survivor under U.S. federal law.

General background

Since January 2025, trafficking survivors in U.S. immigration detention have filed over 100 habeas corpus petitions in U.S. federal courts seeking release from illegal detention. In addition, the U.S. Government has reversed long-established policies and practices designed to protect victims/survivors of trafficking in persons in immigration proceedings. Notably, the DHS rescinded a previous directive requiring a "Victim-Centered Approach with Noncitizen Crime Victims" (the "Victim-Centered Approach Directive"), which directed ICE to "refrain from taking civil immigration enforcement action against known beneficiaries of victim-based immigration benefits [such as a T visa] and those known to have a pending application for such benefits." The Victim-Centered Approach Directive also required ICE to "look for indicia or evidence that suggests a noncitizen is a victim of a crime" even where there is no pending application for benefits and consider victimization "in deciding whether to take civil immigration enforcement action against the noncitizen ... including but not limited to release from detention."

ICE, under new Directive 11005.3, has continued to detain non-citizen trafficking survivors. Survivors are threatened with family separation and prosecution if they do not give up their T Visa applications and accept deportation orders.

In 2025, a U.S. federal class action lawsuit was filed (Immigration Center for Women and Children v. Noem, Case No. 2:25-cv-09848-AB-AS, 2026 WL 1455004 (C.D. Cal. 20 May 2026), challenging the U.S. Government's new policies that have resulted in the detention and deportation of survivors of trafficking in persons, despite these survivors having pending applications for immigration status. On 20 May 2026, a federal judge issued a preliminary ruling in favor of the plaintiffs, certifying nationwide classes of immigrant survivors of violence, including trafficking survivors with T visa applications, and staying the U.S. Government's rescission of protections for immigrant survivors. Despite the positive development, concerns have been raised that the U.S. Government is expected to challenge that ruling on appeal.

In addition to the foregoing, the U.S. Government has imposed limitations on funding for all trafficking survivors, which includes extreme limitations on legal services for immigrant survivors of trafficking. These limitations further place immigrant survivors at risk for deportation without process or legal representation.

Without prejudging the accuracy of the information received, we express our serious concerns with regards to the arbitrary detention of victims of trafficking in persons and their possible deportation to countries of origin or third countries, in violation of the non-refoulement principle, their right to seek and enjoy asylum and to avail of immigration protection including rights of residence and stay, and their rights to specialised assistance and protection measures as survivors of trafficking in persons. We are gravely concerned that the situation described and action taken by the U.S. Government may constitute a violation of international law obligations and effectively dismantles protections for non-citizen trafficking survivors in the United States. We recall the Concluding Observations of the Human Rights Committee on the fifth periodic report of the USA, specifically the concern expressed in relation to "the insufficient efforts made to identify victims of trafficking in persons and limited access to effective protection, in particular for non-citizen victims", and the recommendation that the State party should, "redouble its efforts to combat trafficking in persons by, inter alia, improving victim identification; strengthening its preventive measures; prosecuting and punishing those responsible; and providing effective remedies, including protection, rehabilitation and compensation, to all victims without discrimination." (CPR/C/USA/CO/5, paras. 50-51).

Regarding the specific situation of the [REDACTED] survivor described above, we are concerned that her release does not resolve or remedy the violations of her rights as a trafficking survivor, which reportedly continue to this day.

Application of the non-punishment principle and concerns about violation of survivors' right to be free from detention and punishment

We are concerned that ICE's ongoing, indiscriminate detention and punishment of trafficking survivors may violate survivors' right not to be detained or otherwise punished for acts committed as a direct consequence of being trafficked.

In this context, we wish to recall that at domestic level, the TVPA expressly acknowledges that "victims are often illegal immigrants in the destination country" and

“are repeatedly punished more harshly than the traffickers themselves” (TVPA, sec 102, Purposes and findings). The TVPA explicitly prohibits penalizing trafficking victims for unlawful acts committed as a direct result of their trafficking, including unauthorized entry or presence in the United States (TVPA, sec 102, Purposes and findings “Victims of severe forms of trafficking should not be inappropriately incarcerated, fined, or otherwise penalized solely for acts committed as a direct result of being trafficked, such as using false documents, entering the country without documentation, or working without documentation”). It creates a mechanism for trafficking survivors to apply for immigration relief and remain in the United States. Moreover, federal regulations implementing the TVPA (see 28 CFR para. 1100.31(b)) explicitly state that “[t]o the extent practicable and allowed by law, alternatives to formal detention of victims of severe forms of trafficking in persons should be considered in every case.” Beyond these trafficking-specific protections, the Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law regardless of immigration status.

Regarding international obligations, we recall that article 6 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, expressly imposes obligations on States Parties to protect, not punish, victims of trafficking. The Palermo Protocol calls States Parties to consider the special needs and circumstances of victims.

In relation to the obligation of implementation of the non-punishment principle, as repeatedly highlighted by the Special Rapporteur on trafficking in persons, especially women and children, in several of her reports, notably, 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).

Generally, in relation to the situation of migrants, under international law, in order not to amount to an arbitrary deprivation of liberty, prohibited under article 9 of International Covenant on Civil and Political Rights (ICCPR), which was ratified on 8 June 1992, immigration detention should be a measure of last resort, applied only when strictly necessary, for the shortest possible duration, and in full compliance with international human rights standards. States are obliged to consider and implement alternatives to detention wherever feasible. The legal grounds for detention must be clearly and exhaustively defined in law, subject to prompt and effective judicial review, and regularly reassessed within fixed time limits. We recall the Concluding Observations of the Human Rights Committee on the fifth periodic report of the USA, and the concern expressed in relation to: “reports of the continued detention of migrants

as a mandatory measure and for prolonged periods; the lack of adequate access to legal counsel; poor conditions of detention, including overcrowding and inadequate access to food, water and medical care” (CCPR/C/USA/CO/5 para. 54).

As underlined by the former Special Rapporteur on torture in his report on migration-related torture and ill-treatment (A/HRC/37/50) and Special Rapporteur on the human rights of migrants (A/HRC/20/24), any detention of migrants must, in each individual case, be justified as lawful, necessary and proportionate in the circumstances and, in the case of administrative or preventive detention, be periodically re-assessed and subject to judicial review. Breaches of immigration law are essentially administrative in nature and do not, as such, constitute offences against persons, property or national security capable of justifying sanctions involving deprivation of liberty; criminal or administrative detention based solely on migration status therefore falls outside the narrow margin of permissible migration related detention under international law and should be regarded as arbitrary.

We refer to your Government’s attention the detailed analysis and legal standards provided in UA USA 14/2025 regarding due process and detention under international law. In addition, article 14 of the ICCPR guarantees the right to a fair and public hearing by a competent, independent, and impartial tribunal, which is applicable to any proceedings that may affect the liberty of a person. We reiterate that even when States exercise their sovereign authority to detain individuals for immigration or security reasons, such measures must strictly adhere to international legal standards, including respect for due process, proportionality, judicial oversight, and the right to effective remedies.

We are alarmed by the pattern described in the case above and authorities’ disregard for the rights of victims/survivors of trafficking in persons and obligations of the States to prevent trafficking in persons and protect victims/survivors of trafficking. We are concerned at the reported lack of consideration of the [REDACTED] survivor status as a trafficking survivor, and the lack of alternatives to formal detention, despite specific positive obligations enshrined both in domestic and international law. We are concerned that in view of the allegations, the U.S. would also be in breach of their international obligations under the ICCPR and prohibition of arbitrary detention.

Concerns regarding principle of non-refoulement and trafficking victims/survivors’ right to remain in the country

Under domestic legislation, the U.S. Congress created a visa precisely to permit eligible trafficking survivors to remain in the United States, the T visa. This tool for immigration relief, adopted in 2000 under the TVPA, is consistent with the United States’ obligations under international law, in particular, article 7 of the Palermo Protocol which directs State parties to consider adopting measures to permit victims of trafficking to remain in their territory. In view of the allegations above, we are concerned that the U.S. Government’s immigration enforcement actions against trafficking survivors who are eligible for a T visa, as well as trafficking survivors with pending or granted T-visas, would be directly undermining the right of survivors to remain with immigration protection in the United States. In the case of the [REDACTED] survivor the ongoing threat of deportation while her T-visa application is pending, may

constitute an imminent threat that she could be stripped of her right entirely, as the U.S. Government could deport her before her visa is ever adjudicated.

We also wish to bring to your Government's attention article 8 of the Palermo Protocol which requires that "such return shall be with due regard for the safety of that person and for the status of any legal proceedings related to the fact that the person is a victim of trafficking and shall preferably be voluntary".

Moreover, we are concerned that the potential deportation of victims of trafficking may constitute a violation of the obligation of non-refoulement under article 3 of the Convention against Torture (CAT), acceded to by the United States on 21 October 1994. Article 3 of CAT provides that "[n]o State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." The Committee against Torture, in its general comment No. 4, emphasizes that each case should be examined individually, impartially, and independently by competent administrative or judicial authorities, in conformity with essential procedural safeguards, notably the guarantee of a prompt and transparent process, the right to review the deportation decision, and the suspensive effect of appeals. The person concerned should be informed of the intended transfer or removal in a timely manner.

The international obligation of non-refoulement prohibits the transfer of a person to a place where there is a real risk of arbitrary deprivation of life, torture or cruel, inhuman or degrading treatment or punishment, persecution, arbitrary detention, enforced disappearance, a flagrant denial of fair trial, and other serious violations of human rights. This obligation is absolute and without exception. It applies to all persons, irrespective of citizenship, nationality, statelessness, or migration status, and applies wherever a State exercises jurisdiction or effective control, including outside its own territory. In many cases, trafficking survivors are at grave risk if returned to their home country, where they may be subjected to harsh conditions, revictimization, re-traumatization, and even torture.

The U.S. Government's indiscriminate detention and deportation of victims/survivors of trafficking in persons appears to fail to take into consideration the risks to trafficking survivors' safety and lives in the countries to which they may be deported.

We wish to reiterate our concern at the apparent expansion of deportation practices from the United States, including removals to third countries or countries of origin, which may not offer adequate safeguards against refoulement or other human rights violations. Such practices, as already expressed in UA USA 42/2025, raise serious questions about compliance with international obligations, including the non-refoulement and the right to due process, judicial review and effective remedies.

We reiterate, as well, our concerns as expressed in JAL [USA 39/2025](#), when such measures affect children. In particular, we wish to recall our concern over the increasing securitization of immigration, and emphasize that curtailing the statutory mandate of the TVPRA and invoking the Alien Enemies Act in peacetime to circumvent established immigration law is unlawful. Furthermore, the Administration's policies and actions concerning family separation, mass arbitrary arrests involving violence and

racial profiling, detention of citizens and persons with protected status, denial of bond hearings, obstruction of the right to seek asylum, refoulement and transfers to third countries without safeguards, suspension of refugee admissions, and attempts to deport unaccompanied children without hearings or legal representation, individually and collectively undermine human rights guarantees enshrined in U.S. and international law.

Additional obligations to protect and assist survivors and protect vulnerable individuals, including children

The Palermo Protocol imposes positive obligations on States Parties to protect and assist trafficking victims, including measures to provide for survivors' physical, psychological, and social recovery (article 6), and the physical safety of survivors while within their territory. The Palermo Protocol also expressly requires that States take into account the age, gender, and special needs of trafficking survivors when applying victim protection provisions (article 6 paragraph 4, "Each State Party shall take into account, in applying the provisions of this article, the age, gender and special needs of victims of trafficking in persons, in particular the special needs of children, including appropriate housing, education and care"). In this context we are concerned that the U.S. Government's actions in detaining survivors of trafficking violate both the purpose and intent of its own law and the minimum international standards set forth in the Palermo Protocol. For example, at the time of her arrest, the [REDACTED] survivor was the sole caregiver for a four-year-old son and an 18-month-old daughter who was still breastfeeding. Yet, ICE reportedly transferred her more than 1,000 miles from her children without any individualized assessment of their welfare, and in direct contravention of ICE's own directive, which generally bars the detention of nursing mothers absent exceptional circumstances (ICE Directive 11032.4). Both children were reportedly abruptly deprived of their primary caregiver, an action that is especially egregious considering it resulted in separation from a breastfeeding child. We are concerned that such actions may have caused immediate psychological harm to a woman and children who should have been protected under existing law.

In this context, we wish to remind your Government of its obligations under the ICCPR. Article 17(1) provides that no one shall be subjected to arbitrary or unlawful interference with their privacy, family, home, or correspondence, while article 23(1) affirms that the family is the natural and fundamental group unit of society and is entitled to protection by society and the State. The Human Rights Committee, in its general comment No. 19 (1990) concerning article 23 on family further stressed the need for States to adopt legislative, administrative or other measures to protect the family. The Committee, in its Concluding Observations on the fifth periodic report of the United States of America stressed that the Government should redouble its efforts to combat trafficking in persons, by, inter alia, improving victim identification and strengthening its preventive measures (CCPR/C/USA/CO/5, para. 51). We also wish to recall the Convention on the Rights of the Child, signed by the Government on 16 February 1955, and article 16. In this context we recall the joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return. The Committees stressed that family separation by deportation or removal may amount to

arbitrary or unlawful interference with family life, and that expelling one or both parents for breaches of immigration law related to entry or stay is disproportionate (paras. 28-29). For unaccompanied or separated children, including those separated due to immigration enforcement, such as parental detention, States must promptly identify sustainable, rights-based solutions (para. 34).

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 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/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 currently available for victims/survivors and potential victims of trafficking in persons in the U.S. in view of the legislative changes expressed in this letter. Please explain how these changes and the resulting measures and procedures are compatible with international human rights norms, including positive obligations to identify, and protect victims/survivors of trafficking, as well as the prohibitions on arbitrary expulsion, arbitrary detention, enforced disappearances, refoulement, and the requirements of due process, judicial review, and effective remedies.
3. Please provide information on the measures taken to ensure the application of the principle of non-punishment, particularly in the context of immigration detention.
4. Please provide information on the measures taken to ensure the application of the non-refoulement principle to prevent removal to third countries with risks of persecution, trafficking and other serious human rights violations.
5. Please provide information on the measures taken to ensure the right to family life and the best interests of the child, including with respect to the prevention of separation from primary caregivers.

This communication, and any response received from your Excellency's Government, will be made public via the communications reporting [website](#) at the 60 days mark. Should Your Excellency's 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, 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(s) responsible for 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.

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

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

Gehad Madi
Special Rapporteur on the human rights of migrants

Katarina Schwarz
Special Rapporteur on contemporary forms of slavery and trafficking in persons

Annex

Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw the attention of your Excellency's Government to the relevant international norms and standards that are applicable to the issues brought forth by the situation described above.

We 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 of 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. We also refer your Excellency's 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

We draw the attention of your Government to the Palermo Protocol, as expressed above, 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. Article 7 obliges States to give due consideration to humanitarian and compassionate factors when determining the status of the victims of trafficking. Article 8(2) stipulates that the return of victims to their country of origin or residence should preferably be voluntary and must take into account the victim's safety and the status of any ongoing legal proceedings. Article 8(5) further affirms that repatriation measures shall be without prejudice to rights conferred on victims under domestic law or applicable bilateral or multilateral agreements governing their return. Finally, article 14 provides that all measures under the Protocol shall be interpreted and applied in accordance with the principle of non-discrimination.

We 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.

We would like to bring your Excellency's Government's attention to article 6 of the International Convention on the Elimination of all forms of Discrimination against Women (signed by the United States of America on 17 July 1980) which provides that States Parties shall take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women (article 6). We 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.

Women and girls are disproportionately exposed to sex- and gender-based violence, discrimination, exploitation and trafficking in migration contexts. Return should not expose women and girls to a real risk of serious harm, including domestic violence, sexual violence, trafficking for purposes of sexual exploitation, forced marriage or other forms of persecution by State or non-State actors. Girls face distinct and heightened risks upon return, including sexual violence, exploitation, child marriage and other harmful practices, engaging States' obligations under articles 19, 34 and 35 of the Convention on the Rights of the Child (CRC), signed by the United States of America on 16 February 1995. Failing to set out gender-responsive procedures is at variance with articles 1, 2 and 3 of CEDAW.

Finally, we also wish to recall article 8 of the ICCPR, which prohibits slavery and the slave-trade in all their forms, servitude and forced or compulsory labour and article 35 of the Convention on the Rights of the Child, which calls States to "take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form".

Principle of non-refoulement

The obligation of non-refoulement is enshrined in article 3 of the Convention against Torture (CAT), acceded to by the United States on 21 October 1994. Article 3 provides that "[n]o State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." 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. In particular, we recall article 7 of the ICCPR, which includes the prohibition of *refoulement*, and general comment No. 20 of the Human Rights Committee. Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment), states at para. 9: "States parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of their extradition, expulsion or refoulement." We further recall general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, which refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for

believing that there is a real risk of irreparable harm such as that contemplated in articles 6 and 7 of the Covenant. We recall general comment No. 36 (Right to Life), which provides (at para. 23), “The duty to protect the right to life requires States parties to take special measures of protection towards persons in vulnerable situations whose lives have been placed at particular risk because of specific threats or pre-existing patterns of violence. Such persons include [...] victims of domestic and gender-based violence and human trafficking. They may also include children, especially [...] unaccompanied migrant children and children in situations of armed conflict, [...] displaced persons, asylum seekers, refugees and stateless persons.”

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.

Prohibition of arbitrary detention

We reiterate article 9 of International Covenant on Civil and Political Rights (ICCPR), which was ratified on 8 June 1992 by the United States, 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.

We also recall the thematic study of the Working Group on Arbitrary Detention on the United Nations Basic Principles and Guidelines on Remedies and Procedures on the right of anyone deprived of liberty to bring proceedings before a court, which stressed the right to challenge the lawfulness or arbitrariness of detention and to obtain prompt, accessible remedies (A/HRC/30/37). The study also underscores the right of persons deprived of liberty to be informed of the grounds for detention and available judicial remedies in an appropriate language, mode, or format, with specific measures for certain groups, including children, migrants, asylum seekers, refugees, stateless persons, victims of trafficking or those at risk of being trafficked. Persons deprived of liberty must have guaranteed access to legal assistance by counsel of their choice, whose functions must be carried out effectively and independently, free from fear of reprisal, interference, intimidation, hindrance or harassment. Access to counsel must not be unlawfully or unreasonably restricted, and where counsel is unavailable, States must make every effort to ensure access to suitably qualified legal assistance providers.

The Working Group on discrimination against women and girls, in its thematic report to the Human Rights Council on women deprived of liberty (A/HRC/41/33), highlighted that women are deprived of their liberty mostly arbitrarily and in a discriminatory fashion, in violation of the law and human rights standards. Not only the causes but also the consequences of deprivation of liberty are gendered, and women and girls experience their confinement in specific ways and are often at risk of heightened gender-based discrimination, stigma and violence.

Lastly, we recall the joint statement of the Inter-American Commission on Human Rights and experts from the Platform of Independent Experts on the Rights of Refugees issued on 18 September 2025, which expressed concern about bilateral agreements between countries aimed at deporting, expelling, and/or transferring persons to third countries, contrary to non-derogable international human rights obligations.