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**Statement by
IDRISS JAZAIRY
SPECIAL RAPPORTEUR ON THE NEGATIVE IMPACT OF UNILATERAL
COERCIVE MEASURES ON THE ENJOYMENT OF HUMAN RIGHTS**

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Ladies and Gentlemen,

I have been entrusted by the Human Rights Council with the task of monitoring, reporting and advising on the negative impact on the enjoyment of human rights of unilateral coercive measures. The United Nations has repeatedly expressed concern that the use of such measures may be contrary to international law, international humanitarian law, the UN Charter and the norms and principles governing peaceful relations among States.¹

Let me start this presentation by clarifying that, as a matter of terminology, while my mandate refers to “unilateral coercive measures”, understood as transnational, non-forcible coercive measures, and sanctions normally refers to those enacted by the Security Council acting under Chapter VII of the Charter of the United Nations, I generally use loosely and interchangeably the expressions “unilateral coercive measures”, “unilateral sanctions” and simply “sanctions”.

I have indicated in several of my reports to the Human Rights Council and the United Nations General Assembly the extent of the impact of sanctions on the Syrian Arab Republic (Syria). I also conducted an official visit to Syria in Damascus, from 13 to 17 May 2018, during which I benefitted from support of the UN country team there and the Office of the High Commissioner for Human Rights.

While in Syria I held meetings with Ministers, Deputy Ministers and senior officials of various ministries of the Syrian Government, as well as officials of public bodies and administrations. I engaged with civil society, humanitarian organizations and independent experts. I also met with diplomatic missions in Damascus and Beirut.

The purpose of my mission was to examine to what extent unilateral coercive measures targeting the Syrian Arab Republic impair the full realization of the rights set forth in the Universal Declaration of Human Rights and other international human rights instruments.

I would like to put forward a ten-point roadmap on the Syrian conundrum resulting from unilateral coercive measures applied essentially by Western source countries.

1. Documenting sanctions on Syria and their impact

I have examined the situation of the Syrian Arab Republic as a target of unilateral coercive measures by a number of source States. I have examined relevant evidence and endeavoured to assess the actual impact of such measures on the Syrian people. One source country has applied unilateral coercive measures since 1979, and they were strengthened in subsequent years. A larger group of States began applying similar measures in 2011.

Sanctions on Syria include a number of so-called ‘targeted’ measures, taken against individuals by virtue of their alleged relationship with the Syrian government – and sometimes even against members of their families, on the ground of their family ties with the target.

But the strongest sanctions, those having the most disrupting effects, are collective measures. These include a trade ban on the import and export of multiple goods and services. It also includes measures affecting international financial transfers. The superimposition of different packages of collective

¹ More information on this prohibition can be found in the reports and resolutions on the website of the Special Rapporteur
<http://www.ohchr.org/EN/Issues/UCM/Pages/SRCoerciveMeasures.aspx>

sectoral measures, together with the across-the-board implementation of financial restrictions, are tantamount in their global impact to the imposition of comprehensive restrictions on Syria.

Because of their comprehensive nature, these measures have had a devastating impact on the entire economy and the daily lives of ordinary people. This impact has compounded their suffering resulting from the global conflict that has unfolded since 2011. Singling out the impact of the unilateral coercive measures from that of the crisis is fraught with difficulty. This in no way diminishes the necessity to take measures to restore basic human rights as a whole.

It is clear that the sufferings imposed by the unilateral coercive measures have reinforced those that were caused by the conflict. Indeed, it seems ironic that these measures applied by source States out of a concern for human rights are actually contributing to the worsening of the humanitarian crisis as an unintended consequence.

2. The dramatic increase in the suffering of the Syrian people

I witnessed during my visit in 2018 that the Syrian economy continues to decline at an alarming rate. Since the application of coercive measures in 2011, and the beginning of the current crisis, until now the total annual GDP of Syria has fallen by two thirds. Foreign currency reserves have been depleted, and international financial and other assets remain frozen. In 2010, 45 Syrian Liras were exchanged for one dollar; by 2017 the rate fell to 510 liras per dollar. Inflation has dramatically increased since 2010, reaching a peak of 82.4% in 2013; the cost of food items rose eight-fold during this time. This combination of factors visited further devastation on the living conditions of the population that were already degraded by the conflict. This has hit the half of working Syrians living on fixed salaries particularly hard.

3. The unintended consequences of unilateral coercive measures

This damage to the economy has had predictable effects on curbing the ability of Syrians to realize their economic, social and cultural rights. Syria's human development indicators have all tumbled. There has been a staggering increase in the rate of poverty among ordinary Syrians. While there was no food insecurity prior to the outbreak of violence, by 2015 32% of Syrians were affected. At the same time unemployment went from 8.5% in 2010 to over 48% in 2015.

4. Banking restrictions

The most pervasive concerns I have heard during my mission relate to the negative effect that comprehensive financial restrictions have had on all aspects of Syrian life. Restrictions on the Central bank, state-owned and even private banks, and transactions in the main international currencies have comprehensively damaged the ability of anyone seeking to operate internationally.

Despite nominally including "humanitarian exemptions" access to the latter has proven to be costly, or extremely slow in practice.

The uncertainty around which transactions do, or do not violate the unilateral coercive measures, have created a "chilling effect" on international banks and companies. As a result, the latter are unwilling or unable to do business with Syria. This has affected Syrian and international companies, non-governmental actors (including those operating in purely humanitarian fields), and Syrian citizens. All these actors have been prevented from engaging in international financial transactions, including for

goods which are legal to import, or obtaining credit. Even international actors have no official way to pay salaries or contractors in Syria.

This has forced Syrians to find alternatives, such as hawala. The system results in millions of dollars flowing through high cost financial intermediaries, who are alleged at times to be owned by terrorist organizations. These channels which are not transparent, cannot be audited, and increase transaction costs. They remain however the only avenue for smaller companies and Syrian civil society actors to operate internationally.

5. Medical care

Syria practices universal, free health care for all its citizens. Prior to the current crisis, Syria enjoyed some of the highest levels of care in the region. The demands created by the crisis have overwhelmed the system, and created extraordinarily high levels of need. Despite this, restrictive measures, particularly those related to the banking system, have affected the ability of Syria to purchase and pay for medicines, equipment, spare parts and software. Theoretical exemptions exist of course. In practice however international private companies are unwilling to jump the hurdles necessary to ensure they can transact with Syria for fear of being accused of inadvertently violating the restrictive measures.

6. Migration and ‘brain drain’

The security situation was obviously the main factor which led to migration flows from Syria. Yet, it should be emphasized that the unilateral sanctions caused a dramatic increase in unemployment and a loss of job opportunities because of the closure of factories. These closures were caused by the impossibility to obtain raw material or machinery or to export goods. Thus sanctions contributed substantially to increasing the emigration flows of Syrians to Europe.

These flows have created populist and xenophobic protests in Europe. Yet there is little recognition that this is a case of self-inflicted discomfort. It results to no small extent from the tough economic and financial sanctions imposed by Europe itself on the Syrian industry.

Some receiving States of migratory inflows have selected skilled migrants, while pressuring the less fortunate to return to Syria. This “brain drain” has harmed the Syrian medical and pharmaceutical industries at the worst possible time for the country.

The anticipated end of the current conflict will not put an end to the flows of migrants, especially to Europe, in view of the saturation of neighbouring countries. These flows are likely to continue so long as the Syrian authorities are prevented by unilateral coercive measures from addressing the pressing problems related to their social and economic infrastructure. I refer in particular to the restoration of energy and water supplies.

7. Ban on equipment and spare parts

The ban on the trade in equipment, machinery and spare parts has devastated Syrian industry. Vehicles, including ambulances and fire trucks, as well as agricultural machinery suffer from a lack of spare parts. Failing water pumps gravely affect the water supply and reduce agricultural production. Power generation plants are failing, and new plants cannot be purchased or maintained, leading to power outages. Complex machinery requiring international technicians for maintenance are failing,

damaging medical devices and factory machinery. Civilian aircraft are no longer able to fly safely, and public transit buses are in woeful condition.

Source countries' rationale for restricting so-called dual use goods has been invoked. However, greater effort is needed to ensure that goods that are clearly intended for civilian use are permitted, and that they can be paid for.

8. Ban on technology

As a result of sanctions, Syrians are unable to purchase many technologies, including mobile phones and computers. The global dominance of American software companies, technology companies, and banking and financial software, all of which are banned from trading with Syria, has made it difficult to find alternatives. This has paralyzed or disrupted large parts of the Syrian institutions and of society at large.

9. Education

Shortages of inputs, energy and water supply as well as of teaching material causing delays in the rebuilding of schools have kept 1.8 million children without access to their classrooms.

The ability of Syrians to participate in the international community has been sharply affected. Syrians have been excluded from international educational exchange programs. The tremendous difficulties involved in obtaining a visa have prevented many from studying or travelling abroad, upgrading their training and skills, or participating in international conferences. By removing consular services from Syria, countries have forced people including the poorest, to travel to neighbouring countries to apply for such visas. These neighbours may themselves also place onerous restrictions on entry for Syrians.

10. The recent escalation of sanctions and its objective: preventing reconstruction

Comprehensive economic sanctions continue to be imposed on Syria by a number of States and regional organisations, such as the EU which again in 2018 extended its restrictive measures until June 2019. These measures are being maintained despite the dramatic defeat of terrorist groups in recent months and despite the stabilisation on the ground observed in most areas of the country. The reason invoked for the extension of sanctions by the source countries is that the violation of the Syrians' human rights by the Government, is still on-going. This is tantamount to claiming to fight the blaze of human rights denials, not with a water hose but with a flamethrower!

In recent months, the United States have strongly tightened the measures that prohibit oil exports to Syria. They do this through targeted sanctions on foreign, including Russian and Iranian, entities accused of 'facilitating' transactions on oil deliveries for Syria. Furthermore, OFAC the US body in charge of applying unilateral sanctions has issued an Advisory to the Maritime Petroleum Shipping Community'. It is intended to 'alert persons globally to the significant U.S. sanctions risks for parties involved in petroleum shipments to Syria'.² The stated objective of these measures is to 'disrupt support for the Government. The purpose is allegedly also to permanently deny the use of chemical weapons' by the government.³ The United States is committed to isolating what it refers to as « the

² See 'OFAC Advisory to the Maritime Petroleum Shipping Community', 20 November 2018, at https://www.treasury.gov/resource-center/sanctions/Programs/Documents/syria_shipping_advisory_11202018.pdf

³ 'OFAC Advisory to the Maritime Petroleum Shipping Community', supra.

Assad regime » and its supporters from the global financial and trade system. This is claimed to be ‘in response to the continued atrocities committed by the regime against the Syrian people’.⁴

It is claimed that sanctions are used in pursuit of the objective of ‘preventing the normalization of economic and diplomatic relations and reconstruction funding’. This is a crude admission of action in disregard of the principles of the UN Charter, human rights and humanitarian law.

I am concerned by the prospects of further tightening of sanctions, with the draft bill called 'Caesar Syria Civilian Protection Act of 2019' (H.R. 31) already adopted by the House of Representatives. It is due to be considered by the United States Senate. Through its provisions prohibiting inter alia transactions of Syrian oil and gas, this piece of legislation which purports to apply extraterritorially to non-US persons, amounts to moving further from an embargo to a full-scale blockade on the war-torn country.

These restrictions are reported as having a catastrophic impact on the Syrian economy and population and force the government to enact rationing measures on gasoline.⁵ This adds to the effects of the random piling-up of 52 packets of different so-called ‘smart’ sanctions adding up to the banned comprehensive sanctions. Altogether, these measures are creating conditions of invasive misery imposed on an entire population. The measures are clearly indiscriminate, and thus arguably unlawful under international human rights law.

This is all the more disturbing since the sanctioning powers once used to be flexible on the implementation of their own sanctions measures on Syria. At that time, they considered it in order to alleviate the situation of the civilian population in rebel held areas. Thus in 2013 the EU decided to lift selectively its oil embargo in relation to zones held by insurgent groups in Syria.⁶ This reportedly paradoxically boosted the capabilities of extremist Jihadist forces that they were fighting.⁷

Conclusion

I am profoundly concerned that unilateral coercive measures are contributing to exacerbating the sufferings of the Syrian people. Claims that they exist to protect the Syrian population, or to promote a democratic transition, are hard to reconcile with the widespread economic and humanitarian destitution being caused. The time has come to ask whether these unintended consequences are now more severe than can be reasonably accepted by democratic States. Whatever their political objectives, there must be more humane means by which these objectives can be achieved in full compliance with international law.

In view of the complexity of the system of unilateral coercive measures in place, there needs to be a multi-stage approach to addressing the dire human rights situation prevailing in Syria. This would

⁴ ‘OFAC Advisory to the Maritime Petroleum Shipping Community’, *supra*.

⁵ See ‘U.S. Sanctions on Iran Mean Damascus Drivers Queue for Gas’, Bloomberg, 14 April 2019, at <https://www.bloomberg.com/news/articles/2019-04-14/u-s-sanctions-on-iran-mean-damascus-drivers-queue-for-gas>

⁶ See Council of the EU, ‘Council eases sanctions against Syria to support opposition and civilians’, Press Release, 22 April 2013, at https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/136911.pdf

⁷ See ‘EU decision to lift Syrian oil sanctions boosts jihadist groups’, The Guardian, 19 May 2013, at <https://www.theguardian.com/world/2013/may/19/eu-syria-oil-jihadist-al-qaida>.



imply a sequenced approach involving addressing the crucial humanitarian needs of the population throughout the whole of Syria, without preconditions, when these touch on issues of life and death.

A first stage could include addressing the urgent needs of the food insecure, which represent nearly one third of the population. Some of the assets of the Central Bank could be 'unfrozen' by its foreign correspondents for the purchase of wheat.

The second stage is to translate at the ground level effective measures to fulfil the commitment of source States to meet their obligation to allow humanitarian exemptions, particularly for financial transactions. In this area, I am working on the possibility of setting up in Damascus, under the auspices of the UN, a procurement office for importing and paying for humanitarian supplies. The Syrian authorities have drawn up a list of essentials that could be finalized in consultation with source countries of sanctions. Such a system was set up upon our suggestion in the Sudan when it was under sanctions and it worked very well.

Finally, there must be a serious dialogue on reducing unilateral coercive measures, starting with those that have the most egregious effect on the population, along with those that will promote confidence building between the parties, with the ultimate aim of lifting the unilateral coercive measures. I hope that my report and my future work can contribute in this end.

Thank you.