



1 September 2016

Bo Guerreschi, Ph.D.
Bon't worry-noi possiamo ONLUS

Fatou Bensouda, Prosecutor
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Excellency,

**The Plight of Women in the Territories Controlled by Islamic State and
Affiliated Organisations**

I am writing in response to a statement issued by your office in which you detailed your position that, at this stage, the prospect of opening a preliminary investigation into crimes committed by members of Islamic State in Iraqi and Syrian national territory is too narrow. I, on behalf of bon't worry-noi possiamo ONLUS, a charitable organisation incorporated in Italy, would like to express my alarm and most sincere concern over the decision by your office to refrain from opening a preliminary investigation into the matter.

Bon't worry-noi possiamo ONLUS is a charitable organisation whose aim is to protect vulnerable women and children who suffer abuse, both of a physical and psychological nature, and to provide them the necessary springboard to begin anew their lives, free of violence and psychological distress at the hands of those who would harm them. Since its founding in 2015, the organisation has already helped seventy-two women of various nationalities across Italy to recover from often heart-wrenching and horrendous stories of abuse and neglect. Within the next few months, the charity intends to expand into the United Kingdom, by way of registration of a charity with the British Government's Charities Commission, as well as into the United States, by way of authorisation to operate as a foreign non-profit corporation in the State of New York. We hope that through constant and consistent expansion, we can do our part to ensure that women and children across the world can live their lives free of fear or violence and distress in a manner which is in line with ba-

sic standards of international human rights as well as general principles of the dignity and sanctity of life which should be afforded all people, regardless of their sex. We cannot, however, accomplish our lofty goals alone. Thus, we seek Your Excellency's assistance in bringing some of the most heinous criminals at-large in the territories controlled by Islamic State to justice before the International Criminal Court.

I would bring to your attention the following information about one of the most senior members of Islamic State's leadership. You will undoubtedly be aware that the 20-year-old Glaswegian Apsa Mahmood, alias Umm Layth, who in November 2013, absconded from her home in the United Kingdom to join IS forces in Syria. In the time since her joining the terrorist organisation's ranks, she has made a career in the regime's Al-Khansaa Brigade which acts as a sort-of religious police force, enforcing the regime's religious rules and, in case of transgressions, resorting to abject violence and detention of women found to have violated them.

One of Mahmood's roles is to assist in the running of a brothel in which Yazidi women and girls, kidnapped in the course of IS's incursions in Iraq are detained, unfree to choose their own fate and are often subjected to forced prostitution and other degrading and inhumane acts at the behest of IS fighters who claim to be furthering jihad.

In addition, she releases videos on the internet with practical information aimed at young Muslim girls across the West, particularly the United Kingdom, France, Spain, and Italy, to facilitate their adhesion to the IS movement in the Levant and often to facilitate marriages between IS fighters and these Muslim women and girls, often bearing the citizenships of their European countries of origin.

In respect of the first observation in relation to the running and keeping of a brothel, Apsa Mahmood, alias Umm Layth, commits a crime against humanity which the International Criminal Court has jurisdiction and competence to adjudicate, in that:

1. Apsa Mahmood, a citizen of the United Kingdom of Great Britain and Northern Ireland, a State Party to the Rome Statute, has, sometime between November 2013 and the present, kept Yazidi women and girls in detention in a brothel in the city of Rappa, the *de facto* operating base of Islamic State, against their will and without their own consent in a widespread and systematic manner directed against a civilian population with knowledge of the same, amount-

ing to, “Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law,” a crime against humanity contrary to Article 7(1)(e) of the Rome Statute, and;

2. Apsa Mahmood, a citizen of the United Kingdom of Great Britain and Northern Ireland, a State Party to the Rome Statute, has, sometime between November 2013 and the present, kept Yazidi women and girls in detention in a brothel in the city of Rappa, the *de facto* operating base of Islamic State, against their will and without their own consent in a widespread and systematic manner directed against a civilian population with knowledge of the same, amounting to, “enslavement,” a crime against humanity contrary to Article 7(1)(c) of the Rome Statute, and;
3. Apsa Mahmood, a citizen of the United Kingdom of Great Britain and Northern Ireland, a State Party to the Rome Statute, has, sometime between November 2013 and the present, kept Yazidi women and girls in detention in a brothel as forced prostitutes for the purpose of providing prostitution services, and services akin to prostitution, to IS fighters in the city of Rappa, the *de facto* operating base of Islamic State, against their will and without their own consent in a widespread and systematic manner directed against a civilian population with knowledge of the same, amounting to, “rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity,” a crime against humanity contrary to Article 7(1)(g) of the Rome Statute.

Moreover, I would submit that irrespective of whether or not Apsa Mahmood was directly in charge of the women and girls in question, she should not be permitted to evade criminal liability by virtue of a command structure which undoubtedly existed and continues to exist within IS, and that she is liable either by virtue of her position of superior and command responsibility, pursuant to Article 27 of the Statute, or by some other form of secondary liability under Article 25 of the same.

In respect of the second observation relating to Apsa Mahmood’s publishing of practical videos online aimed at encouraging Muslim women and girls to come to territories where they are often subjected to forced marriage and sexual violence which, in some cases may amount to rape and sexual

abuse, punishable as a crime against humanity, I submit that Apsa Mahmood should be considered potentially liable via a secondary mode of liability as envisaged by Article 25 of the Statute. Her videos have, to date, induced no less than three London teenagers to expatriate themselves from the United Kingdom and become what have been termed by many press outlets, “wives of jihad,” in marriages, which I suggest may be forced and may exist in a context of sexual abuse, both of which, if true, would also fall afoul of Article 7 of the Rome Statute and thus would render Mahmood liable to prosecution.

As Your Excellency noted in a statement released in 2014, investigations of this type can also be initiated, as has been done in the case of the preliminary investigation of war crimes committed by nationals of the United Kingdom in Iraq from 2003 to 2008, in respect of nationals of States party to the Rome Statute. Although I possess no positive proof of Mahmood’s nationality, I am certain of her bearing British nationality and in any case, simple enquires with British authorities would be able to confirm our suspicion. The United Kingdom government seems to have already accepted that she does, indeed, possess British nationality.

Your Excellency emphasized in the aforementioned 2014 statement that it is the duty of the Prosecutor to seek indictments of those most responsible for the commission of these heinous crimes and that, at present, Your Excellency was not satisfied that the sphere of investigation was wide enough to encompass those most responsible, despite the plethora of foreign fighters who have joined Islamic State since its foundation. I would submit that Apsa Mahmood represents one of the most responsible of these crimes against humanity as well as affronts to basic human dignity. The time is ripe for Your Excellency to open an investigation and to bring those like Mahmood to justice.

One of the reasons for the founding of the International Criminal Court was to narrow the impunity gap which exists in the context of international crimes. To date, the ad hoc tribunals which sit in The Hague along with the International Criminal Court have made great strides in the furtherance of that goal: one with resounds particularly strongly with me. Women and children all over the world face violence and abject maltreatment on a daily basis. I implore Your Excellency to bring Mahmood, as well as the countless others who must answer for their crimes, to justice so that together, the international community may bring about hope for a better future for women and children no matter where they be.

I look forward to receiving your response and to the swift opening of an investigation into the crimes committed by nationals of State Parties to the Rome Statute in the territory controlled by Islamic State. As always, I remain

Yours Sincerely and Respectfully,

Bo Guerreschi
President, bon't worry-noi possiamo ONLUS

I join in the words of Dr Guerreschi and am hope for a positive response.

Consultant for Legal Affairs, England and Wales