

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ



The Permanent Mission of the Hashemite Kingdom of Jordan
to the United Nations
New York

THE HASHEMITE KINGDOM OF JORDAN

STATEMENT

BEFORE THE RESUMED SESSION OF

THE SIXTH COMMITTEE ON

CRIMES AGAINST HUMANITY CLUSTER 5

DELIVERED BY NADINE BISHARAT

Mr. Chair,

Jordan wishes to intervene under this cluster on a single issue, which is non-refoulement under Article 5.

We are of the view that this obligation and the language used in the article do not reflect customary international law. Furthermore, the provision is not necessary, as return would be regulated by the relevant rules of International Refugees Law. The article puts a significant burden on the State in whose territory the persons subject to the draft article are present.

While non refoulement is a cardinal principle in the 1951 Convention relating to the Statues of Refugees, and the same can be said as regards to the 1984 Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the principle is not customary in relation to CAH.

If the intention is to create a legal policy *lex ferenda* here in the draft articles, then we should take into account the legal interests of both the protected persons and the host States.

Therefore, we propose to re-draft paragraph 1 of this article to be as follows “No State shall expel, return (refouler), surrender or extradite a person to **“territories of another State or part of the territories of that state”** where there are substantial grounds for believing that he or she would be in danger of being subjected to a crime against humanity”. This language is based on a similar language under Article 33 of the 1951 Convention.

Our rationale regarding this amendment is to ensure that returning an individual to a part of the territory of a State where he or she would not be in danger of

being subjected to CAH would not be unlawful under the article. These are situations where the danger of crimes against humanity being perpetrated is only confined to certain parts of the state but not all its territories, especially in situations of non-international armed conflict. Thus, a host State should not be stopped from returning an individual to those parts of the State where such danger does not exist.

The existing language of paragraph 1 of Article (5) leads to an unintended consequence barring the return of persons to parts of territories in another State

whether or not he / she is facing the threat of CAH
and whether or not they are actually refugees.

Thank you.