

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right to food and the Special Rapporteur on trafficking in persons, especially women and children

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(Please use this reference in your reply)

8 June 2022

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Special Rapporteur on extrajudicial, summary or arbitrary executions; Special Rapporteur on the right to food and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 49/10, 42/22, 44/5, 49/13 and 44/4.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning the alleged arbitrary detention and inadequate detention conditions of Mr. Jack Letts, a Canadian citizen, currently detained in a detention center in the North-East region of the Syrian Arab Republic, at least since 2017.

Your Excellency's Government has already received two communications on this issue (AL GBR 2/2021 and AL GBR 1/2022) on 26 January 2021 and 1 February 2022, respectively. We thank Your Excellency's Government for its responses dated 16 April 2021 and 27 April 2022.

According to the information received:

Mr. Jack Letts was a dual Canadian-British national, born on 14 November 1995. He was born in the United Kingdom and obtained Canadian citizenship by virtue of his parents both being Canadian. He had his British citizenship revoked by the United Kingdom Government in August 2019. He left the United Kingdom for Kuwait in 2014, where he studied Islamic studies and Arabic for three months. In September 2014, he informed his parents he was in Syria. Later that month until May 2015 he lived in Fallujah, Iraq, with his wife whom he married around December 2014, and was working in a hospital and a school. In May 2015, he was injured in an airstrike and was taken to Raqqa, Syria. In May 2017, Kurdish YPG (People's Protection Units) forces captured Mr. Letts whilst he was fleeing Syria. He has remained in detention in North-East Syria since then, and his last known place of detention is Chirkin Prison, Qamishli.

In 2009, when he was 14 years old, Mr. Letts was diagnosed with obsessive-compulsive disorder (OCD). Mr. Letts dropped out of school at 16 years old. The same year he converted to Islam. His mental health issues progressively

worsened, and his parents and health professionals became increasingly concerned that he might have other yet undiagnosed health issues. Mr. Letts left the United Kingdom in 2014 before these mental health issues could be formally assessed and diagnosed.

According to the information received, throughout his stay in Raqqa, between December 2015 to 2017, Mr. Letts' communications were under surveillance. It is reported that his Facebook account, which contained ISIL-related posts and messages, was allegedly used by someone else at the time. In an interview later with the newspaper the Independent in 2016, Mr. Letts appeared to confirm this. From late 2015 until 2017, Mr. Letts expressed the desire to return to the United Kingdom and repeatedly asked his family for assistance in doing so. His family was in regular contact with the police in the United Kingdom throughout this time and were clearly under the impression that the police would assist in Mr. Letts' return.

In May 2017, Mr. Letts was captured by Kurdish YPG forces whilst he was fleeing Syria with a group of refugees. He has remained in detention in North-East Syria since. On 8 July 2017, the contact between Mr. Letts and his family ceased. In October 2017 the Kurdish authorities confirmed that Mr. Letts had been charged with being a member of ISIL and that his case was still being investigated by the Asayish (local police force). In August 2019, Mr. Letts was stripped of his British citizenship. Mr. Letts has publicly and privately denied being a member of ISIL.

Mr. Letts' parents have appealed to both the British and Canadian Governments, for their son's repatriation, to no avail. Since December 2015, Mr. Letts' parents were in contact with the British Government, the British Police, and the Foreign and Commonwealth Office (FCO). The British Government had allegedly indicated to the family that no action was possible since there is no consular assistance in Syria. In August 2019, the British Home Office made the decision to strip Mr. Letts of his citizenship

While we do not wish to pre-judge the accuracy of these allegations, we express our serious concern regarding Mr. Letts' continued detention since at least 2017 in North-East Syria and his rights to life, security, and physical and mental health, and not to be subjected to arbitrary detention.

In particular, we are concerned that your Excellency's Government stripped Mr. Letts' of his nationality, whilst he was detained in North-East Syria. We are concerned about the reported practice of citizenship stripping for foreign nationals held without due process or any valid form of legal adjudication in the detention centres. The dire conditions in detention centres, with limited access to food and medical care, have been the subject of multiple communications by our mandates, and put his life at risk.¹

¹ AL GBR 2/2021 and AL GBR 1/2022

In this connection, we wish to emphasize that the right to life, as enshrined in article 3 of the Universal Declaration of Human Rights (UDHR) and article 6 of the International Covenant on Civil and Political Rights (ICCPR), ratified by your Excellency's government on 19 May 1976, constitutes an international customary law and *jus cogens* norm from which no derogation may be made by invoking exceptional circumstances such as internal political instability or other public emergency as provided for in article 4(2) ICCPR. We note that the right to life is accompanied by a positive obligation to ensure access to the basic conditions necessary for the maintenance of life, including access to food and medical care (ICCPR General Comment No. 6, para. 5; ICCPR General Comment No. 36, para. 21). In this regard, article 12 of the International Covenant on Economic, Social and Cultural Rights ("ICESCR"), ratified in 1976 by your Excellency's Government enshrines the right of all people, including prisoners and detainees, to the highest attainable standard of physical and mental health and article 6(1) ICCPR states that no one shall be arbitrarily deprived of life. Accordingly, States parties must also exercise due diligence to protect the lives of individuals from deprivations caused by persons or entities whose conduct is not attributable to the State. This obligation requires States to take special measures to protect individuals in vulnerable situations whose lives are particularly endangered by specific threats (Human Rights Committee, General Comment No. 36, para. 23). Moreover, we recall that under article 2 of the UDHR and articles 2 and 26 of the ICCPR, as well as several other United Nations declarations and conventions, everyone is entitled to the protection of the right to life without distinction or discrimination of any kind, and all persons must be guaranteed equal and effective access to remedies for violations of this right.

The right to nationality, enshrined in article 15(1) of the UDHR, has been recognised as a "fundamental principle of international law."² International law has a well-established role in limiting States' regulation of nationality. International courts and tribunals have long recognised that international law imposes express limits on States' powers in nationality matters, both through customary international law and treaty obligations.³ This includes in particular the prohibition of its arbitrary deprivation, enshrined in article 15(2) UDHR, and implicitly recognised by all the

² UN General Assembly, Resolution 50/152: Office of the United Nations High Commissioner for Refugees (9 February 1996), para. 16.

³ *Nationality Decrees Issued in Tunis and Morocco* (Permanent Court of International Justice), Ser. B, No. 4, Advisory Opinion, 7 February 1923, pp. 23-24; *Georges Pinson v United Mexican States* (1928) 5 UNRIAA 327, p. 364 (France- Mexico Claims Commission). See also Hague Convention on Certain Questions Relating to the Conflict of Nationality Laws (1930) 179 LNTS 89, article 1. ILC, 'Draft articles on Nationality of Natural Persons in relation to the Succession of States (with commentaries)' (1999) II (2) YBILC, p. 24, para. 3. See also 'Human Rights and arbitrary deprivation of nationality: Report of the Secretary-General', UN Doc. A/HRC/13/34, 14 December 2009, para. 19.

⁴ Convention on the Nationality of Married Women (1957) 309 UNTS 65, articles 1-2; International Convention on the Elimination of All Forms of Racial Discrimination (1965) 660 UNTS 195, article 5(d)(iii); Convention on the Elimination of All Forms of Discrimination Against Women (1979) 1249 UNTS 13, article 9(1); Convention on the Rights of the Child (1989) 1577 UNTS 3, article 8(1). See also International Covenant on Civil and Political Rights (1966) 999 UNTS 171, article 24(3), Convention on the Rights of Persons with Disabilities (2006) 2515 UNTS 3, article 18(1).

principal international⁴ and regional⁵ human rights treaties through the proscription of discrimination on various grounds in respect of the right to nationality. The 1961 Convention on the Reduction of Statelessness explicitly prohibits a State from exercising powers of deprivation causing statelessness, unless certain strict conditions are met.⁶ We wish to highlight the sustained attention and continued reaffirmation of the prohibition of arbitrary deprivation of nationality, including by way of UN resolutions of the General Assembly, the Human Rights Council and its predecessor the UN Commission on Human Rights,⁷ and multiple reports dedicated to the subject by the UN Secretary General.⁸ The issue is regularly revisited given the UN's deep concern that the arbitrary deprivation of nationality may impede an individual's full enjoyment of all their associated human rights.⁹ Arbitrary deprivation of citizenship is therefore a violation of international law.

To avoid arbitrariness, deprivations of nationality must: 1) conform to domestic and international law; 2) serve a legitimate purpose consistent with international law; 3) be proportionate to the interest the State seeks to protect, and 4) occur with sufficient procedural guarantees and safeguards.¹⁰ We note significant deficiencies under each of these criteria concerning the deprivations of nationality occurring in people detained in North-East Syria, leading us have strong grounds to believe that they are arbitrary under international law.

Specifically, in the context of detention in North-East Syria, given the absence of any meaningful legal process pertaining to determining the legality or basis for

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- ⁴ Convention on the Nationality of Married Women (1957) 309 UNTS 65, articles 1-2; International Convention on the Elimination of All Forms of Racial Discrimination (1965) 660 UNTS 195, article 5(d)(iii); Convention on the Elimination of All Forms of Discrimination Against Women (1979) 1249 UNTS 13, article 9(1); Convention on the Rights of the Child (1989) 1577 UNTS 3, article 8(1). See also International Covenant on Civil and Political Rights (1966) 999 UNTS 171, article 24(3), Convention on the Rights of Persons with Disabilities (2006) 2515 UNTS 3, article 18(1).
- ⁵ American Convention on Human Rights (1969), article 20(3) (“*No one shall be arbitrarily deprived of his nationality or of the right to change it*”); Commonwealth of Independent States Convention on Human Rights and Fundamental Freedoms (1995), article 24(2) (“*No one shall be arbitrarily deprived of his citizenship or of the right to change it*”); European Convention on Nationality (1997), article 4(c) (“*No one should be arbitrarily deprived of his or her nationality*”); Revised Arab Charter on Human Rights (2004), article 29(1) (“*Every person has the right to a nationality, and no citizen shall be deprived of his nationality without a legally valid reason*”); ASEAN Human Rights Declaration (2012), article 18 (“*No person shall be arbitrarily deprived of such nationality nor denied the right to change that nationality*”). See also African Commission on Human and Peoples’ Rights, 234: Resolution on the Right to Nationality, 23 April 2013.
- ⁶ Convention on the Reduction of Statelessness (1961) 989 UNTS 175, article 8(1)-(4). Note that the UK made a declaration under both article 8(3)(a)(i) and (ii) of the Convention, which does not, for the avoidance of doubt, qualify its due process obligations under article 8(4); see UNHCR Guidelines on Statelessness No. 5, para. 73.
- ⁷ See, e.g., UNGA, Resolution 50/152, UN Doc. A/RES/50/152, 9 February 1996, para. 16; UN Commission on Human Rights, ‘Resolution on Human Rights and Arbitrary Deprivation of Nationality’, 1997/36, 11 April 1997, preamble; see also para. 2; UN Commission on Human Rights, ‘Resolution on Human Rights and Arbitrary Deprivation of Nationality’, 2005/45, 19 April 2005, preamble; see also para. 2; UN HRC, ‘Human Rights and Arbitrary Deprivation of Nationality’, UN Doc. A/HRC/RES/13/2, 24 March 2010, see generally; UN HRC, ‘Human rights and arbitrary deprivation of nationality’, UN Doc. A/HRC/RES/20/5, 16 July 2012, see generally.
- ⁸ See, e.g., ‘Arbitrary deprivation of nationality: Report of the Secretary-General’, UN Doc. A/HRC/10/34, 26 January 2009; ‘Human Rights and arbitrary deprivation of nationality: Report of the Secretary-General’, UN Doc. A/HRC/13/34, 14 December 2009; ‘Human rights and arbitrary deprivation of nationality: Report of the Secretary-General’, UN Doc/ A/HRC/25/28, 19 December 2013.
- ⁹ See, e.g., UN HRC, ‘Human rights and arbitrary deprivation of nationality’, UN Doc. A/HRC/RES/20/5, 16 July 2012, para. 6.
- ¹⁰ Report of the Secretary-General, Human Rights and Arbitrary Deprivation of Nationality, A/HRC/25/28 (2013), para. 4. See also Council of Europe, Explanatory Report to the European Convention on Nationality (Nov. 6, 1997), para. 36 (explaining that Art. 4(c) states that “the deprivation must in general be foreseeable, proportional and prescribed by law” to avoid arbitrariness).

indefinite detention and the dire conditions of confinement, citizenship deprivation cannot be viewed as the least rights-negating means to address any international crimes or violations of domestic law allegedly carried out by individuals whose deprivation of citizenship is sought. For individuals detained in North-East Syria, deprivation prolongs their detention under conditions which themselves may amount to cruel, degrading, and inhuman treatment.¹¹

Due process must always be respected as a matter of international law.¹² This obligation is made explicit in article 8(4) of the 1961 Convention on the Reduction of Statelessness, which provides that those whose nationality has been revoked must be granted the right to a fair hearing by a court of law or another independent body. The minimum content of the requirement of due process in this context is that an individual can understand the reasons why their nationality has been withdrawn and has access to legal and/or administrative avenues through which they may challenge the withdrawal of nationality.

The fairness of proceedings can only be ensured if the individual has access to all relevant information and documents relating to the deprivation decision.¹³ Consequently, reliance on closed material, secret evidence and confidential information provided by the intelligence and security services in proceedings seriously undermines any effective exercise of the right to a fair trial and limit the typical challenges that individuals might make when their most fundamental rights are being adjudicated.¹⁴

The United Nations has frequently stressed States' obligation to observe what it terms "minimum procedural standards".¹⁵ Those standards are "essential to prevent abuse of the law".¹⁶ They apply in all cases, whether or not statelessness is involved.¹⁷ In practice, the individual concerned must be meaningfully notified of the intent to deprive nationality prior to the actual decision to do so,¹⁸ to ensure that the individual is able to provide facts, arguments and evidence in defence of their case, which are to be taken into account by the relevant authority. This is important as it allows the person concerned to provide facts, arguments, and evidence in defence of their case, which might be relevant for the decision to deprive nationality, before any decision is taken.

¹¹ Human Rights Watch, *Thousands of Foreigners Unlawfully Held in NE Syria*, Mar. 23, 2021.

¹² Article 14 ICCPR, UNHCR, *Guidelines on Statelessness No. 5*, para. 98.

¹³ European Court of Human Rights, *McGinley and Egan v. The United Kingdom*, 21825/93 and 23414/94, 9 June 1998.

¹⁴ See the views of the Special Rapporteur ECHR intervention Adeel Muhammad and Ramzan Muhammad v. Romania, Application No. 80982/12 found here:

<https://www.ohchr.org/EN/Issues/Terrorism/Pages/AmicusBriefsExpertTestimony.aspx>

¹⁵ 'Human Rights and arbitrary deprivation of nationality: Report of the Secretary-General', UN Doc. A/HRC/13/34, 14 December 2009, paras 43 and 63; UN HRC, 'Human Rights and Arbitrary Deprivation of Nationality', UN Doc. A/HRC/RES/13/2, 24 March 2010, para. 10; UN HRC, 'Human rights and arbitrary deprivation of nationality', UN Doc. A/HRC/RES/20/5, 16 July 2012, para. 10.

¹⁶ 'Human Rights and arbitrary deprivation of nationality: Report of the Secretary-General', UN Doc. A/HRC/13/34, 14 December 2009, para. 43.

¹⁷ UNHCR, 'Guidelines on Statelessness No. 5', para. 97.

¹⁸ Institute on Statelessness and Inclusion, 'Principles on Deprivation of Nationality as a National Security Measure', Principle 7.6.2.

We emphasize the practical barrier of simply being detained in North-East Syria poses to pursuing an effective appeal, let alone attending proceedings in person. The practice of stripping individuals *in absentia* poses numerous complex issues, particularly those relating to preventing individuals from returning to their State of (former) nationality, thereby not only displacing the security risks, but also thwarting efforts for increased cooperation amongst states in countering terrorism,¹⁹ as requested inter alia by UN Security Council resolutions 2396 (2017)²⁰ and 2322 (2016).²¹

We condemn the flagrant lack of procedural safeguards for all individuals, including the men, deprived of citizenship while detained in North-East Syria. The withdrawal of citizenship often takes place without any judicial process at all. Where judicial process is engaged, the men in detention centres have no meaningful or legally sound way to fully participate in those proceedings. The individuals concerned are detained in locations where communication with the outside world and access to legal assistance and information is severely restricted. Punishment may follow from unauthorized communication including with legal representatives. Their capacity to engage in any legal process is entirely circumscribed by the conditions they are forced to endure. Simply ‘informing’ an individual of a deprivation decision render the notice requirement effectively meaningless as the individual has no way of knowing they have been deprived of their nationality.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency’s Government to safeguard the rights of Mr. Letts in compliance with the United Kingdom’s international human rights obligations.

We are issuing this letter in order to safeguard the rights of the above-mentioned individual from irreparable harm, without prejudicing any eventual legal determination.

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 any comment you may have on these allegations.

¹⁹ UNHCR, Guidelines on Statelessness No. 5, para. 67.

²⁰ Preambular paragraph 17: “Underlining the importance of strengthening international cooperation to address the threat posed by foreign terrorist fighters, including on information sharing, border security, investigations, judicial processes, extradition, improving prevention and addressing conditions conducive to the spread of terrorism, preventing and countering incitement to commit terrorist acts, preventing radicalization to terrorism and recruitment of foreign terrorist fighters, disrupting, preventing financial support to foreign terrorist fighters, developing and implementing risks assessment on returning and relocating foreign terrorist fighters and their families, and prosecution, rehabilitation and reintegration efforts, consistent with applicable international law”.

²¹ Preambular paragraph 12: “Underlining the importance of strengthening international cooperation, including by investigators, prosecutors and judges, in order to prevent, investigate and prosecute terrorist acts, and recognizing the persisting challenges associated with strengthening international cooperation in combating terrorism including in stemming the flow of FTFs to and returning from conflict zones, in particular due to the cross-border nature of the activity”.

2. Please provide information on the measures taken by your Excellency's Government to prevent the arbitrary deprivation of nationality and other fundamental rights, including the right to life and the right to health of Mr. Letts.

We would like to inform your Excellency's Government that after having transmitted this urgent appeal to the Government, the Working Group on Arbitrary Detention may transmit the case through its regular procedure, in order to render an opinion on whether the deprivation of liberty was arbitrary or not. This letter in no way prejudices any opinion the Working Group may render.

We may publicly express our concerns in the near future in this case as, in our view, the information at hand appears to be sufficiently reliable and indicates a matter that warrants prompt attention. We also believe that the wider public should be alerted to the human rights implications of these allegations. Any public expression of concern on our part would indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We would like to inform you that a communication concerning the above-mentioned person has also been sent to Canada.

A copy of this communication has been sent to the Syrian Arab Republic.

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

Fionnuala Ní Aoláin
Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

Mumba Malila
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