

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 the rights of persons with disabilities; the Special Rapporteur on the right to food; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on trafficking in persons, especially women and children; the Special Rapporteur on the human rights to safe drinking water and sanitation and the Working Group on discrimination against women and girls

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(Please use this reference in your reply)

26 October 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 the rights of persons with disabilities; Special Rapporteur on the right to food; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on trafficking in persons, especially women and children; Special Rapporteur on the human rights to safe drinking water and sanitation and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 49/10, 42/22, 44/10, 49/13, 42/16, 44/4, 42/5 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received in respect of a British national currently detained in Al Roj camp, in North-East region of the Syrian Arab Republic. We have serious concerns about the deteriorating health of Ms. [REDACTED] and her minor son.

According to the information received:

Ms. [REDACTED] was born on [REDACTED] in the United Kingdom. She is believed to have travelled in August 2015 to Syria with her husband. Ms. [REDACTED] family was unaware of any plans to travel to Syria, and in early September 2015, Ms. [REDACTED] brother reported her missing to the police. Her family believes that she was coerced into travelling. It is reported that she may have been stripped of her citizenship while in Syria. On 1 December 2016, Ms. [REDACTED] son, [REDACTED], was born in Syria. He is now almost 6 years old. He is a British citizen. He has been cared for by his mother since birth.

In or around March 2019, Ms. [REDACTED] and her son were detained by Syrian Democratic Forces (SDF) in the northeast region of the Syrian Arab Republic. Both are currently detained in Camp Roj in North-East Syria.

In early 2019, Ms. [REDACTED] was seriously injured following a bomb blast. Her injuries were extensive and have had long standing impact on her health. As a

result of injuries sustained, she has limited mobility and is physically disabled. Medical evidence shows that Ms. [REDACTED] has two pieces of shrapnel lodged in her neck. She is paralysed down her right side and cannot walk unaided. Her speech is slow and laboured, that she appears to have difficulty finding words to express herself and that she appears to suffer from impaired recall. Three remote medical assessments have been carried out by two eminent British medical professionals. One assessment identifies three potential causes for her neurological challenges; i) cerebral haemorrhage ii) subdural haematoma; iii) shrapnel damage to the left carotid artery producing a left cerebral stroke.

The perils of Ms. [REDACTED] and her son's inhumane living situation are illustrated by the fact that on 1 November 2021, their tent was allegedly completely burnt down. All of Ms. [REDACTED] possessions were destroyed, including the crutches she requires to walk, and recent x-ray and CT scans she had been able to obtain. Ms. [REDACTED] had difficulty escaping the fire due to her limited mobility. Ms. [REDACTED] and her son are both experiencing psychological trauma from the fire.

In December 2021, Ms. [REDACTED] health condition deteriorated. She started to experience episodes of sudden loss of consciousness. The remote medical assessments point to the possibility of an epileptic seizure, which places her at a significant risk of death. This underscores the need for urgent and specialized medical assessment, including neuroimaging, the prescription of anti-epileptic agent and expert assessment by an epilepsy specialist. This is clearly not feasible in the detention camps of the northeast Syrian Arab Republic. Further remote medical assessments confirm the possibility that Ms. [REDACTED] has had a stroke.

Documented medical assessments dated January 2022 show that Ms. [REDACTED] has three broken ribs, which the medical reports conclude are a result of putting so much pressure on her left side, due to the paralysis on the right side of her body. Medical advice has recommended she should have access to a wheelchair and a neurorehabilitation assessment. None is apparently available in the detention facility at Al Roj. In March 2022, following a particularly distressing episode in which Ms. [REDACTED] was unable to speak, she fell unconscious next to an electric heater which burnt her legs, began to shake, and her eyes rolled to the back of her head, remote medical assessment concluded that it was likely that Ms. [REDACTED] had another seizure. In June 2022, she had developed a large lump under her ribs, visible from the naked eye, which according to local medical sources could be a colon infection. As of September 2022, Ms. [REDACTED] is experiencing immense pain in her neck and has difficulty breathing, which could indicate one of the two shrapnel pieces in her neck have moved. In one episode, she lost her hearing, and her body went numb.

Ms. [REDACTED] son, [REDACTED], is old enough to understand that his mother is very sick and this causes him a great deal of distress. His mother depends on him for a range of daily tasks, such as collecting food and water. [REDACTED] often refuses to leave his mother's side, for instance to go play, because he is

afraid that she might die. He witnessed one of Ms. ██████ seizures and was terrified and traumatised by the experience.

Repeated requests have been made to your Excellency's Government to repatriate Ms. ██████ and her son on humanitarian grounds.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our utmost concern at the situation of Ms. ██████ and her young son in this complex, volatile and unsafe detention facility. We are deeply concerned that a disabled and highly vulnerable mother of a young child, whose situation is clearly deteriorating, does not have adequate access to necessary and specialized medical care, and is at risk of life-threatening medical consequences should her condition remain untreated. We underscore that should Ms. ██████ suffer further irreparable medical harm her young child, a British citizen, would be left without parental support, in a deeply troubling and unsafe environment. The profound concerns for the extremity and uniqueness of the material situation in the camps have been recently addressed by the European Court of Human Rights in the case of *H.F. and Others v France* as constituting "a real and immediate threat to [women and children's] lives and physical well-being, on account both of the living conditions and safety concerns in the camps, which were regarded as incompatible with respect for human dignity, and of the health of those family members and the extreme vulnerability of the children, in particular, in view of their age." We are profoundly concerned about the ongoing impact on ██████ of watching his mother's health deteriorate, particularly at such a young age. Moreover, should Ms. ██████ become incapacitated or die in the camp, ██████ would be in a situation of extreme risk. It is well known that children have gone missing in the camp.

We urge for the repatriation of Ms. ██████ and her son to the United Kingdom for life-saving medical treatment on a humanitarian basis, and the return of her child to be reunited with his British family and provided with all the safeguards and protections so abjectly absent for him in Al Roj detention camp. It is our view that States, including your Excellency's Government have positive obligations to take necessary and reasonable steps to intervene in favour of their nationals abroad, in particular where there are reasonable grounds to believe that they face treatment in serious violation of fundamental international human rights law and amounting to jus cogens or non-derogable customary law norms. This duty to act with due diligence to ensure that the lives of your nationals are protected from irreparable harm to their life or to their physical integrity also applies where acts of violence and ill-treatment are committed by state actors or armed groups, and in our view apply in this extreme context. We note that in the above-mentioned case, the European Court of Human Rights has requested Council of Europe Member States to ensure robust procedural safeguards are in place to avoid arbitrariness when it comes to examining repatriation requests and that where minors are involved, the Court insists that "due account" must be given to the children's best interests, together with their particular vulnerability and specific needs. Sustained reporting and investigation on the situation in the camps have been provided by human rights experts including – from UN bodies, including the International Independent Commission of Inquiry on the Syrian Arab Republic, the Office of the High Commissioner for Human Rights and UN Special Procedures demonstrating the profound and sustained risks to the mental and physical integrity to

women and children detained without any legal process in Al Roj camp. We have expressly affirmed the obligations of States regarding their nationals in North-East Syria including to urgently repatriate them. Your Excellency's Government has already received a communication on this issue (AL GBR 2/2021) on 26 January 2021. We thank Your Excellency's Government for its response dated 16 April 2021.

We would like to bring to the attention of your Excellency's Government article 12, coupled with article 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified on 20 May 1976 by your Excellency's Government, which enshrines the right of everyone, including people prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health. In its General Comment No. 14, the Committee on Economic, Social and Cultural Rights reiterates that "States are obliged to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services."

The former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health makes reference to the fact that "[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life" and that [v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty".¹ He also stressed that "[t]he suffering experienced by women who are imprisoned or involuntarily confined and the related negative impact on the enjoyment of their right to health is understood to be significantly greater than that experienced by men."²

The Working Group on discrimination against women and girls stated that deprivation of liberty involved human rights violations and had devastating consequences for women's lives, putting them at risk of torture, violence and abuse, unsafe and unsanitary conditions, lack of access to health services and further marginalization (A/HRC/41/33).

We would like to bring to your Excellency's attention article 1 of the United Nations Declaration on the Elimination of Violence against Women which provides that the term "violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life. In this context, we would also like to recall that article 4 (c & d) of the Declaration notes the responsibility of States to exercise due diligence to prevent, investigate and punish acts of violence against women in accordance with national legislation, whether those acts are perpetrated by the State or by private persons. To this end, we call on the need to develop domestic legislation to punish and redress violence against women and to provide access to mechanisms to justice, redress and just and effective remedies for women subjected to violence, as provided for by national legislation.

¹ Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/38/36, para. 18.

² Ibid., para. 71.

We stress that preventing family separation and preserving family unity are key components of the child protection system. Separation from parents should not happen unless such separation is considered to be in the best interest of the child, subject to judicial review and in accordance with applicable law and procedures (Convention on the rights of the child, article 9(1)). According to the Committee on the Rights of the Child, separation from parents in general and from mothers in particular have potentially serious implications on children, including on their right to development. It is especially so for young children, who are especially vulnerable to adverse consequences because of their physical dependence on and attachment to these individuals. Their limited ability to comprehend the circumstances of any separation also increases their vulnerability. Given the gravity of the impact on the child of separation from their parents, such separation should only occur as a last resort, when there are no less intrusive measures to protect the child (General Comments No. 7 (2005) para. 36 and No. 14 (2013), paras 60 and 61). It is clear to us that given the situation in the camps, the repatriation of six-year-old ██████████ can only be considered in his best interest. However, given the extreme closeness that he has to his mother, and the distress he feels due both to the camp conditions and his mother's deteriorating health, any separation from his mother, particularly one where his mother would remain in the camp, would cause this young child irreparable trauma.

Therefore, we are particularly troubled about the alleged deprivation of Ms. ██████████ citizenship. The necessary conditions to prevent arbitrary deprivations of citizenship under international law cannot be met for individuals in the camps in North-East Syria and that the Special Rapporteur on human rights and counter-terrorism has called for a moratorium on this practice (see Position of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on "The human rights consequences of citizenship stripping in the context of counter-terrorism with a particular application to North-East Syria")³. While citizenship formally functions as an independent right, for children there is a co-dependency between the exercise of their citizenship rights and those of their parents. In assessing what is in the best interests of the child, the potential negative long-term consequences of losing contact with the child's parents and the positive duty to take measures to facilitate family reunification as soon as reasonably feasible have to be sufficiently weighed in the balance. The burden that a parent's deprivation of her nationality will inevitably have on underage children, even if their right to a nationality is not formally affected, must be a key aspect of the proportionality.

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 the above-mentioned person(s) in compliance with international instruments.

We are issuing this appeal in order to safeguard the rights of Ms. ██████████ and her son from irreparable harm and without prejudicing any eventual legal determination.

³ <https://www.ohchr.org/sites/default/files/2022-03/Deprivation-of-Citizenship.docx>

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 the above-mentioned allegations.
2. Please provide details on the domestic mechanism in place in the United Kingdom to review requests for repatriation, its powers to weigh the rights of person to return under article 3, para 2 of protocol 4 to the European Convention on Human Rights and its independence.
3. Please provide information on what steps have been taken to address Ms. ██████ deteriorating medical situation including securing urgent interim medical assistance and a wheelchair to Al Roj camp.
4. Please provide details on steps that may have been taken to protect the physical and mental integrity of Ms. ██████ son and to ensure his safe repatriation, together with his mother.

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 responsible of the alleged violations.

We would also like to inform your Excellency's Government that having transmitted an allegation letter to the Government, the Working Group on Arbitrary Detention may also transmit a case through its regular procedure in order to render an opinion on whether the deprivation of liberty is arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the allegation letter and the regular procedure.

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.

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

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

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Gerard Quinn
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