

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Special Rapporteur on the right to education; 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 adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Independent Expert on human rights and international solidarity; the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the human rights to safe drinking water and sanitation and the Working Group on discrimination against women and girls

Ref.: UA SWE 1/2024
(Please use this reference in your reply)

10 October 2024

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; Special Rapporteur on the right to education; 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 adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; Independent Expert on human rights and international solidarity; Special Rapporteur on violence against women and girls, its causes and consequences; 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, 53/7, 49/13, 51/21, 52/10, 53/5, 50/7, 51/19 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **the arbitrary detention in inhuman conditions of [REDACTED] Swedish children and their mother at al-Roj Camp in the North-East of the Syrian Arab Republic.**

According to the information received:

[REDACTED] born on [REDACTED] in [REDACTED], arrived in Sweden as a 13-year-old unaccompanied child and was granted a "subsidiary protection" status declaration which provided her with permanent residence in Sweden on 16 August 2007.

[REDACTED] applied for Swedish citizenship prior to her 18th birthday. [REDACTED] citizenship application was rejected on 8 February 2012 on the basis that she could not prove her identity and could therefore not satisfy the requirements under section 11(1) of the Act on Swedish Citizenship 2001. [REDACTED] contends that her application was erroneously assessed under section 11, and that the correct application of section 7, which pertains to children, would have resulted in the conferral of citizenship.

On 20 August 2014, [REDACTED] travelled from Sweden to Syria. [REDACTED] permanent residence permit was revoked upon registration of her departure from

Sweden. However, the subsidiary protection status granted to [REDACTED] by Sweden remains in force.

[REDACTED] married [REDACTED], a citizen of Sweden, soon after her arrival in Syria. While in Syria, [REDACTED] gave birth to [REDACTED]. [REDACTED] is the father of all three children.

[REDACTED] *detention at al-Roj Camp*

[REDACTED] was arrested on 16 March 2019 in Baghouz, Syria, by the non-State armed group, the Syrian Democratic Forces, immediately prior to the formal end of the ISIS so-called caliphate on 23 March 2019. [REDACTED] was initially detained at al-Hol Camp and was then transferred with her three children to al-Roj Camp. [REDACTED] and her children have been detained for a period exceeding five years. [REDACTED] has not spoken to a lawyer and has not been given the opportunity to challenge her detention before a court.

The Government of Sweden visited al-Roj Camp and was in contact with [REDACTED] in 2021 and 2022. In 2021, the Swedish Ministry of Foreign Affairs obtained DNA samples from [REDACTED] three children. The DNA samples were documented by the Swedish National Board of Forensic Medicine as having matched the DNA of the children's paternal grandparents in Sweden, thus entitling them to Swedish nationality under Swedish law.¹ However, the Swedish Migration Agency is yet to formally declare the children as Swedish citizens. It is understood that the Migration Agency has requested documents, including birth and marriage certificates, which are not accessible to [REDACTED] at this time.

During the visit of the Swedish Ministry of Foreign Affairs in 2021, [REDACTED] was led to believe that her family would be repatriated among the several other Swedish citizens detained in al-Roj Camp. In 2022, [REDACTED] was informed that she would not be repatriated on the basis that her permanent residency had been revoked. The Swedish Migration Agency has rejected [REDACTED] permanent residency application renewal on the basis that she may pose a security risk to Sweden. This decision remains subject to appeal by her lawyers in Sweden. [REDACTED] received an offer from the Government of Sweden to repatriate her three children while she remained at al-Roj Camp. [REDACTED] refused this offer as she does not want to be separated from her children.

[REDACTED] *health and conditions of detention*

[REDACTED] and her family are in a position of extreme vulnerability and ill-health. All [REDACTED] children are malnourished and do not have access to sufficient food, nutrients, clean water, education or health care. By December 2023, [REDACTED] eldest daughter, [REDACTED] weighed only 16 kilograms at age [REDACTED], almost half the expected weight for her age. She was also experiencing severe stomach aches and periodic fainting. [REDACTED] is also

¹ Swedish Citizenship Act (2001:82), section 2.

affected by exhaustion, severe anxiety, and hepatitis. There is reason to believe that [REDACTED] and her children are further affected by health conditions that remain undiagnosed and untreated.

[REDACTED] is also severely distressed that her [REDACTED] children are being raised without the basic necessities to live a dignified life. [REDACTED] primarily keeps her children inside her tent or within her field of vision due to the fear that they will be physically harmed or indoctrinated into violent ideologies by others in the camp. [REDACTED] fear for her children's safety has restricted them from accessing playtime, social interaction, and education.

While we do not wish to pre-judge the accuracy of these allegations, we express our serious concern regarding [REDACTED] and her children's indefinite detention in al-Roj Camp. Should these allegations be true, we consider that this may involve violations of international human rights law and international humanitarian law, including: freedom from arbitrary and unlawful detention; freedom from torture and cruel, inhuman or degrading treatment or punishment; the rights to life and security of the person, including freedom from sexual violence; freedom from enforced disappearance; the rights to health and education; the right to an adequate standard of living, including housing, water and sanitation; children's rights; family rights; and the duty to repatriate nationals at risk of the above-mentioned serious violations.

Arbitrary deprivation of liberty

The detention of [REDACTED] and her children has occurred without any legal basis, individual determinations, judicial authorisation or review, or due process. Such detention is accordingly an arbitrary, unlawful and indefinite deprivation of their liberty, contrary to article 9 of the ICCPR. [REDACTED] has been unable to access legal representation or challenge her detention. The UN Independent International Commission of Inquiry on the Syrian Arab Republic has found that “[d]epriving individuals, including children, with alleged links to Da’esh ... of liberty without criminal charge or any individual assessment by an impartial and independent body as to whether their internment is justified on grounds of imperative reasons of security is unlawful” and concluded that their “blanket internment” amounts to an “unlawful deprivation of liberty” (A/HRC/49/77, paras. 112 and 113). We recall that the UN Human Rights Committee has emphasised that detention based on alleged criminality of family members is an “egregious” example of arbitrary detention (general comment No. 35, para. 16).

Moreover, [REDACTED] children have been detained without a legal process to determine their appropriate care, responsibility rights, or needs, contrary to article 3 of the Convention on the Rights of the Child (CRC). We also wish to highlight that the Committee on the Rights of the Child has clearly stated that the immigration detention of any child is a violation of the children's rights and always contravenes the principle of the best interest of the child. We recall that according to article 2(2) of the CRC, it is a violation of the obligation of non-discrimination to punish a child based on the “status, activities, expressed opinions, or beliefs” of their parents. Children who are detained for association with armed groups should be first and foremost recognised as victims of grave abuses of human rights and humanitarian law, and their best interests should be taken into consideration in all decisions that concern them. Detention on such

discriminatory grounds constitutes collective punishment, in violation of international law. It is imperative that State responses do not perpetuate or contribute further harm to those who have already experienced profound violence and trauma.² Your Excellency's Government has an obligation to ensure repatriation for these vulnerable children as it is within the power of the Government of Sweden to establish and sustain a protective environment for them.

Inhuman detention conditions and lack of access to health care and education

We are deeply concerned that [REDACTED] and her children seem to be detained in inhuman, cruel, and degrading conditions that lack adequate medical facilities and which may amount to torture or other forms of cruel, inhuman, or degrading treatment, contrary to article 7 of the ICCPR and common article 3 of the Geneva Conventions (1949), and present a risk to their lives, contrary to article 6 of the ICCPR. The effects of insufficient food, unclean drinking water, and rudimentary washrooms are compounded by the limited access to medical services at al-Roj Camp. Preventable and treatable health issues linked to malnutrition, poor water quality, and infectious diseases are common in the camps.

We are particularly concerned by the state of malnutrition faced by [REDACTED] eldest daughter and her undiagnosed symptoms of intermittent fainting and regular stomach pain. We are further concerned for [REDACTED] and her capacity to care for her sick children due to her deteriorating physical health. The treatment of these conditions is further restricted by the financial cost and limited supply of medication at al-Roj Camp. Moreover, the inability for detainees to undergo a thorough medical assessment prevents the diagnosis of more serious and contagious diseases. We emphasise that all children detained in the camps, and particularly those who have endured the conditions of detention in their infancy, are significantly exposed to the risk of a preventable death and a radically reduced life expectancy.

We are also concerned about the mental health of [REDACTED] and her family. The detainees at al-Roj Camp experience extreme psychological suffering due to the conditions of internment, their exposure to violence, the prospect of an indefinite period of arbitrary detention, and the pervading risk of physical violence as a form of disciplinary punishment. The forms and symptoms of mental illness, including extreme anxiety, depression, and post-traumatic stress disorders, are aggravated by the conditions of detention. Signs of trauma, acute stress, and psychological and behavioural disorders also pervade the child population in the camps.

We refer your Excellency's Government to the finding of the UN Committee on the Rights of the Child that the physical and mental suffering occasioned by the conditions of detention at other camps in North-East Syria present an "imminent and foreseeable threat to the lives of the child victims". Similar findings have been made by the Committee against Torture and the European Court of Human Rights.³ We also draw your attention to the observations of the former Special Rapporteur on the

² The UN Global Compact/CTITF Working Group on promoting and protecting human rights and the rule of law while countering terrorism, "Guidance to States on Human Rights-Compliant Responses to the Threat Posed by Foreign Fighters" (2018).

³ *H.F. and Others v France*,

promotion and protection of human rights and fundamental freedoms while countering terrorism in her technical visit to North-East Syria.

We refer your Excellency's Government to articles 2(2) and 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which enshrine the right of all persons, including those detained, to the enjoyment of the highest attainable standard of physical and mental health. The Committee on Economic, Social and Cultural Rights has interpreted the "right to health" in general comment No. 14, as:

[A]n inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as access to safe and potable water and adequate sanitation, an adequate supply of safe food [and] nutrition.

Moreover, the denial of medical care and the systematic lack of access to clean water and food constitutes, *inter alia*, a violation of the obligation of humane and dignified treatment under common article 3 of the Geneva Conventions (1949), the right to life in article 6 of the ICCPR, the right to health article 12 of the ICESCR, the right to an adequate standard of living, including the right to food and housing, in article 11 of the ICESCR, and freedom from torture or cruel, inhuman or degrading treatment or punishment in articles 1 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; it also infringes the relevant rights in articles 3, 9, 16, 19, 20, 24, 34, 37 and 40 of the CRC. We would also like to stress that every child has the right to education, in accordance with article 13 of the ICESCR and articles 28 and 29 of the CRC.

Safety concerns and gender-based harms

Our serious concern for ██████████ and her family is further magnified by the increasing fear for their safety. In her observations following the technical visit of the former Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in North-East Syria, it was noted that incidents of violence, including murder, physical harm, intimidation and sexual assault, occur with some regularity within the camps. She also noted an absence of measures to protect the life and the physical integrity of the detained population. The camps lack systems to report harm, investigate claims, prevent the reoccurrence of violence, and provide redress to victims. The significant degree of violence that is perpetrated by, or carried out with the acquiescence of camp guards, further demonstrates that violence against women and children is an institutional practice within the camps.

It is within this context that we raise our concerns for the present risk of violence, including sexual violence, against the family, and the heightened risk to her daughters as they approach adolescence. It is our understanding that sexual violence and exploitation perpetrated by camp personnel and other detainees is primarily directed against women and girls from third countries. We note that several children have been the victims of sexual violence, and that sexual violence carries the attendant risks of physical beatings, murder, and social isolation in the camps.

In this respect, we wish to remind your Excellency's Government that the Committee on the Elimination of All Forms of Discrimination against Women, in its

general recommendations No. 19, 28, 30 and 35, confirms the severe risk of gender-based harms in post-conflict contexts and detention facilities and the responsibilities to citizens and non-citizens affected by their actions even if not situated within their own territory (CEDAW/C/GC/30, para. 5). The Working Group on discrimination against women and girls has also highlighted that deprivation of liberty puts women and girls at risk of torture, violence and abuse, and further marginalization (A/HRC/41/33, para. 74). States also have an obligation to prevent, investigate, prosecute and punish such acts of gender-based violence.

We also wish to refer you to the Council of Europe Convention on preventing and combating violence against women and domestic violence (CETS No. 210), known as the “Istanbul Convention”, which was ratified by your Excellency’s Government on 1 July 2014. Its objective is to protect women from gender based violence. Article 60 of the Convention requires parties to take the necessary legislative or other measures to ensure that gender-based violence against women may be recognized as a form of persecution within the meaning of article 1 A (2) of the 1951 Convention relating to the Status of Refugees and as a form of serious harm to give rise to complementary/subsidiary protection. They must also take the necessary legislative and other measures to develop gender-sensitive reception procedures and support services for asylum-seekers. Article 61 also imposes on parties the obligation to respect the principle of non-refoulement, in accordance with international law.

We also direct your Excellency’s Government to articles 4(c) and 4(d) of the United Nations Declaration on the Elimination of Violence Against Women which outlines the responsibility of States to exercise due diligence to prevent acts of violence against women in accordance with national legislation. Article 1 of the Declaration defines the term “violence against women” as:

[A]ny 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.

We also draw attention the Council of Europe Convention on preventing and combating violence against women and domestic violence, ratified by Sweden on 1 November 2014, including article 60 concerning gender-based asylum claims.

We further reiterate that States have an obligation under article 19 of the CRC to take all appropriate legislative and administrative measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, and mistreatment or exploitation. Children associated with armed groups in terrorism contexts are still entitled to special protection under international human rights law and international humanitarian law.

The importance of preserving the family unit

Forcible removal from al-Roj Camp

Our concern for [REDACTED] family, and the urgency of our request for your Excellency’s Government to facilitate repatriation, is amplified by the future risk of the forced removal of [REDACTED] boy child as he approaches adolescence. There is a

pattern of forced and arbitrary separation of boys as young as 10 years of age from their mother and siblings. The separation is based on a speculative security risk that male children pose upon reaching adolescence. The removal of children from al-Roj Camp brings the attendant risks of forcible disappearance, exploitation, being subject to sale, detention in male prisons, torture, and inhuman, cruel, and degrading treatment. It is our understanding that the forced separation of adolescent boys is primarily directed at third country nationals, and thus presents a higher risk to ██████████ boy child. The prospect of separation from his mother and his siblings is a point of extreme distress that is heightened by the vulnerability of his young age and limited exposure to life outside of al-Roj Camp. Furthermore, the stigma of detention, notwithstanding that it is completely arbitrary, may make the prospect of his return more difficult by the circular stigmatizing logic of having been detained.

The ‘cradle-to-grave’ and ‘camp-to-prison’ detention of adolescent boys on the basis of crimes allegedly committed by their family members is an egregious violation of the CRC. In all circumstances where children are forcibly separated from their mothers in the camp, they are treated without: (i) attention to their “best interests”; (ii) legal process to determine their appropriate care, responsibility or needs; (iii) legal regulation or recourse; (iv) remedies for physical and psychological violence; (v) access to health care that enables the enjoyment of the right to health; (vi) access to quality education; and (vii) access to the right to family life.

We reiterate the finding of the Committee on the Rights of the Child that a State which is: (i) aware of the prolonged detention of children in a life-threatening situation; and (ii) capable of taking action, has a positive obligation to protect those children from the imminent risk of the violation of their right to life and the actual violation of the right to not be subjected to cruel, inhuman, or degrading treatment. We consider your Excellency’s Government to be acutely aware of the human rights violations in al-Roj Camp, and sufficiently capable to protect Ms. Ghanni and her children given the previous instances of repatriation in 2022.

Repatriation of children without ██████████ and family separation

We note that your Excellency’s Government has confirmed the Swedish nationality of ██████████ children through DNA testing, and has offered to repatriate the children without their mother, but has not formally recognised the children’s citizenship. Children who are not formally recognised by their parent’s home countries have no meaningful access to the “right to have rights”. We urge your Excellency’s Government to urgently recognise the citizenship of ██████████ children, and not to allow procedural formalities, such as the provision of birth and marriage certificates, to impede the conferral of citizenship, given the obvious difficulties in obtaining such documents during the armed conflict that prevailed in Syria. We recall that article 24(3) of the ICCPR guarantees every child the right to acquire a nationality.

Furthermore, we consider the State practice of offering repatriation to children on the condition of permanent separation from their mother to be inconsistent with human rights law. We remind your Excellency’s Government that States are obligated under article 3 of the Convention on the Rights of the Child to make the “bests interests of the child” a primary consideration in all actions concerning children. Further, arbitrary or unlawful interference in the family is prohibited by article 17(1) of the

ICCPR, the family is entitled to protection under article 23 of the ICCPR, and every child has the right to protection under article 24(1) of the ICCPR. Moreover, article 8 of the European Convention on Human Rights, binding on Sweden, also recognizes this aspect within the right to family life in the jurisprudence of the European Court of Human Rights.⁴ As such, there is strong presumption in favour of maintaining family unity under international law (Human Rights Committee, general comment No 19, para. 5) The detrimental effects of family separation would be particularly severe for [REDACTED] children given the significance of their bond of attachment and their dependency on [REDACTED].

Family separation should not occur unless in accordance with laws and procedures that permit judicial review. While separation will be in the best interest of the child in some cases, such as to protect a child from a parent, the “best interests” test must be examined through fair procedures with competent authorities in the country of the child’s origin. Under the ICCPR, whether the separation of family members is objectively justified must weigh the significance of the state’s reason for separation with “the degree of hardship the family and its members would encounter as a consequence”.⁵

Duty to repatriate nationals at serious risk

It is our view that States have positive obligations to take reasonable steps to intervene in order to prevent serious violations of non-derogable and *jus cogens* norms of international law committed against their nationals. This obligation extends to acts of violence and ill-treatment perpetrated by armed groups, and in our assessment, applies in the context of [REDACTED] and her children’s detention at al-Roj Camp. We further emphasize that the repatriation of [REDACTED] children, who are entitled to Swedish citizenship, must accompany the repatriation of [REDACTED] to be compliant with Sweden’s obligations under international law.

In this regard we draw your attention to the recent decision of the Committee against Torture in *P.D. v France*, which likewise concerned the detention of children in North-East Syria in similar circumstances to the present case. The Committee found that the conditions of prolonged detention, in particular the lack of health care, food, water and sanitation facilities, amounted to inhuman and degrading treatment, prohibited by article 16 of the CAT.⁶ The State concerned had the capacity and power to prevent the victim from being subjected to ill-treatment by taking steps to repatriate her, provide her with the care she requires, and institute other consular measures on her behalf, since the State had previously repatriated nationals from the area and the Syrian Democratic Forces had indicated their cooperation in repatriations. The Committee found that States have a positive obligation to take all necessary and possible measures to protect nationals from the violation of their right not to be subjected to acts of cruel, inhuman or degrading treatment or punishment, including by repatriation and ensuring access to necessary medical care.

⁴ See e.g. Case of Elsholz v. Germany (Application no. 25735/94), Judgement, 13 July 2000; Case of K.A. v. Finland (Application no. 27751/95), Judgement, 14 January 2003.

⁵ *Byahuranga v Denmark*, UNHRC Communication No. 1222/2003 (9 December 2004), para. 11.7.

⁶ *P.D. v France*, CAT Communication No. 1045/2020 (3 November 2023), para. 7.5.

The full texts of the human rights instruments and standards recalled above are available on www.ohchr.org or can be provided upon request.

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.

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 information.
2. Please provide details regarding the decision not to repatriate [REDACTED] and her children alongside the other Swedish citizens in 2022. Please indicate how such actions are compliant with Sweden's obligations under international human rights law.
3. Please provide information on the status of [REDACTED] children's applications for Swedish citizenship.
4. Please provide details on the domestic mechanism(s) in place in Sweden to repatriate all Swedish nationals and review all requests for repatriation. In addition, please outline the measures taken to avoid arbitrary or discriminatory decision-making.
5. Please provide information on the measures taken by your Excellency's Government to protect the physical and mental integrity and health of [REDACTED] and her children, the rights of women and girls, and to safeguard the rights of children as victims.
6. Please provide details on steps taken or foreseen to repatriate [REDACTED] and her three children, as well as all other nationals including men, women, and children, who are arbitrarily detained and subjected to torture and other ill-treatment in North-East Syria.

We urge your Excellency's Government to urgently repatriate [REDACTED] family as we are of the view that repatriation is the only response to the violations of their human rights that is compliant with international human rights law.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your Excellency's Government to clarify the issue/s in question.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be

made public via the communications reporting [website](#). 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 and the Government of [REDACTED].

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

Ben Saul

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

Farida Shaheed

Special Rapporteur on the right to education

Michael Fakhri

Special Rapporteur on the right to food

Tlaleng Mofokeng

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Balakrishnan Rajagopal

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

Cecilia M. Bailliet

Independent Expert on human rights and international solidarity

Reem Alsalem

Special Rapporteur on violence against women and girls, its causes and consequences

Pedro Arrojo-Agudo

Special Rapporteur on the human rights to safe drinking water and sanitation

Laura Nyirinkindi

Chair-Rapporteur of the Working Group on discrimination against women and girls