

Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the right to food; 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 the promotion of a democratic and equitable international order; the Special Rapporteur on the sale, sexual exploitation and sexual abuse of children; the Special Rapporteur on trafficking in persons, especially women and children; 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

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(Please use this reference in your reply)

29 November 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; Working Group on Enforced or Involuntary Disappearances; Special Rapporteur on the right to food; 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 the promotion of a democratic and equitable international order; Special Rapporteur on the sale, sexual exploitation and sexual abuse of children; Special Rapporteur on trafficking in persons, especially women and children; 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, 54/14, 49/13, 52/10, 57/7, 52/26, 53/9, 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 alleged arbitrary detention of [REDACTED] British children and their mother in al-Roj camp in the North-East of the Syrian Arab Republic. We further draw attention to the incommunicado detention of the mother within the camp from [REDACTED], which exposed her to the risk of being subjected to an act tantamount to enforced disappearance. We previously expressed our concern for the health and safety of these individuals in [REDACTED] and regret that we did not receive a reply to this communication.

According to the information received:

[REDACTED] is a British national born on [REDACTED] was reportedly trafficked to Syria in [REDACTED] with her two [REDACTED] sons, [REDACTED] and [REDACTED], who were [REDACTED] and [REDACTED] years old at the time. While in Syria, [REDACTED] gave birth to a boy-child, [REDACTED], and a girl-child, [REDACTED]. The identity of [REDACTED] and [REDACTED] father remains unknown.

[REDACTED]

In [REDACTED], [REDACTED] attempted to escape Syria with her four children, then aged [REDACTED]. As she entered the area under the control of a non-state armed group, the Kurdish Syrian Democratic Forces (SDF), in [REDACTED], she was arrested and taken with her children to a prison in [REDACTED] where they were detained for [REDACTED]. The reportedly inhuman and cruel treatment of [REDACTED] at the prison is detailed in [REDACTED]. On [REDACTED], [REDACTED] and her children were transferred to al-Roj Camp where they continue to be arbitrarily detained today. The ill-health of [REDACTED] and her children, and their lack of access to basic needs such as clean water, sufficient food, adequate healthcare, and education, are also detailed in [REDACTED].

In [REDACTED], [REDACTED] made the difficult decision to separate her family unit by consenting to the repatriation of her [REDACTED] son, [REDACTED] to the United Kingdom. Prior to the repatriation, [REDACTED] was compelled to hide [REDACTED] in various tents to avoid the camp guards from forcibly transferring him to a rehabilitation centre, as part of a documented pattern in the camp of forcibly separating adolescent boys from their families. While in hiding, [REDACTED] reportedly witnessed armed guards conduct raids on other tents and violently detain other teenagers. In the United Kingdom, [REDACTED] is experiencing significant challenges in adjusting to the separation from his family. In particular, he reportedly has an overwhelming sense of fear and guilt that prevents him from participating in family gatherings, enjoying meals, or focusing on his education due to the knowledge that his family remains in deplorable conditions of detention without his support in the custody of a non-state actor in Syria. It is also feared that [REDACTED] second [REDACTED] son, [REDACTED] now faces the same risk of forcible separation by camp guards as he enters adolescence.

In [REDACTED], the de facto authority arrested [REDACTED] for her alleged violation of al-Roj camp regulations. Although the de facto authority has not disclosed the substance of the violation, it is believed that it relates to [REDACTED] possession of a [REDACTED]. [REDACTED] was [REDACTED] by camp guards, separated from her children, and reportedly detained in an undisclosed location within al-Roj camp, including spending [REDACTED] in isolation. The de facto authority restricted her from communicating with the outside world on the alleged basis of [REDACTED], and did not provide an anticipated timeline for the investigation or the consequences if the allegations were proven to be true. Whether [REDACTED] had recourse to legal advice or an authority to challenge her detention remains unknown.

[REDACTED] were left on the streets in the camp without arrangements having been made for their care or supervision. Contrary to the information disclosed by [REDACTED] to [REDACTED], it is reported that [REDACTED] was [REDACTED] and remained unaware of their health and

location for lengthy periods of her special detention within the camp. Furthermore, although the de facto authority reported that [REDACTED] their mother's detention was a point of extreme confusion, psychological stress, anxiety, and fear for them. During [REDACTED] detention, their physical health also significantly deteriorated: [REDACTED] developed a [REDACTED] infection which went untreated and now requires [REDACTED]; [REDACTED] has a swollen [REDACTED] and [REDACTED] has been left in a deplorable condition.

[REDACTED] health also deteriorated during her special detention within al-Roj camp from [REDACTED]. She was in constant fear for the safety of her children, [REDACTED], and is likely malnourished due to the limited food provided. The concern for her welfare was amplified by the common occurrence of acts tantamount to enforced disappearance when women are detained inside the camp, reports of inhuman, cruel, and degrading conditions in detention, and her recent ill-health which required intravenous medical therapy, and which is expected to worsen in the winter. Although [REDACTED] was released from special detention and reunited with her children in the camp on [REDACTED], approximately [REDACTED] after her arrest in [REDACTED] the physical and mental toll of this trauma remains and is exacerbated by her continued detention in the camp.

While we do not wish to pre-judge the accuracy of these allegations, we express our deep concern for the situation of [REDACTED] and her children. Although we welcome the decision to repatriate [REDACTED] son in light of the imminent prospect of his transfer to a rehabilitation facility, we emphasise that the repatriation of the entire family unit is the only response to the violations of their human rights that is compliant with international human rights law.

Incommunicado detention and risk of an act tantamount to enforced disappearance

We are deeply concerned that [REDACTED] was specially detained by the al-Roj camp administration, and particularly, that the location of her detention within the camp was not disclosed, that she was not able to contact the outside world, and that her welfare was not independently monitored or objectively verified. All of this exposed her to a risk of being subjected to an act tantamount to enforced disappearance. We recall that prolonged incommunicado detention has been recognized by the Human Rights Committee to violate the right to individual liberty and security in article 9 of the International Covenant on Civil and Political Rights (ICCPR) (general comment No. 35, para. 56). The prohibition of enforced disappearance is also a norm of customary international humanitarian law. We further recall the position of the Human Rights Committee and the jurisprudence of the Working Group on Arbitrary Detention, highlighting that enforced disappearances constitute a particularly aggravated form of arbitrary detention (CCPR/C/GC/35, para. 17).

We are concerned that [REDACTED] detention in al-Roj camp, and her subsequent incommunicado detention within the camp in conditions tantamount to enforced disappearance, violate or put her at risk of the violation of several of her

rights protected by the ICCPR, including the right to life (article 6), the prohibition of torture or cruel, inhuman or degrading treatment or punishment (article 7), the right to liberty and security of the person (article 9), the right to be treated with humanity and dignity (article 10), and the right to recognition as a person before the law, read alone and in conjunction with the right to an effective remedy (articles 16 and 2 (3)) (general comment No. 35, para. 17; general comment no. 36, paras. 57-58).

We are also concerned that [REDACTED] detention occurred without consideration of her children's "best interests" or a legal process to determine their appropriate care, responsibility, or needs, in violation of article 3 of the Convention on the Rights of the Child (CRC). The children were left alone on the streets of al-Roj camp before resorting to the informal care of family friends: their significant physical dependence, emotional attachment, and reliance on their mother to monitor their health was a point of extreme distress that has resulted in a significant deterioration of their quality of life. Their vulnerability is heightened by their limited ability to comprehend the circumstances of the separation, their lack of formal education, and the hardship of daily life in the camp. We remind your Excellency's Government of the obligation under article 19 of the CRC to take all appropriate legislative and administrative measures to protect all children within their jurisdiction from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, and mistreatment or exploitation.

Arbitrary, inhuman, and unsafe conditions of detention

We further reiterate our concerns expressed in [REDACTED] regarding [REDACTED] and her family's arbitrary and inhuman conditions of detention, which may amount to violations of the right to humane and dignified treatment (common article 3, Geneva Conventions (1949)), the right to life (article 6, ICCPR), the right to health (article 12, ICESCR), the right to an adequate standard of living, including the right to food and housing (article 11, ICESCR), the right to liberty and security of person and not to be subjected to arbitrary detention (article 9, ICCPR), the right to freedom from torture or cruel, inhuman or degrading treatment or punishment (articles 1 and 16, Convention against Torture), and the relevant rights in articles 3, 9, 16, 19, 20, 24, 34, 37 and 40 of the CRC. In this respect, we also note that the Committee on the Rights of the Child concluded that the physical and mental suffering occasioned by the conditions of detention at camps in North-East Syria presents an "imminent and foreseeable threat to the lives of the child victims" (L.H. et al v. France, communications No. 79/2019 and No. 109/2019, para. 3.5). We emphasise that children who are detained for association with armed groups or the alleged criminality of family members should first and foremost be recognised as victims of grave abuses of human rights and humanitarian law (article 2(2) of the CRC; general comment No. 35, para. 16).

We are particularly concerned that [REDACTED] son, [REDACTED], faces an imminent risk of forced transfer to a rehabilitation centre. 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 enforced 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 [REDACTED]. The prospect of his forced removal is a point of extreme distress for [REDACTED] and his family, particularly given the experience of his [REDACTED] brother prior to his repatriation.

Safety concerns and gender-based harms

We are also concerned for the safety of [REDACTED] and her daughter in relation to gender-based harms that are prevalent in the camp. 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 to 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, and that there is an absence of measures to protect the life and the physical integrity of the detained population. In this respect, we recall that the Committee on the Elimination of All Forms of Discrimination against Women, in its general recommendations No. 19, 28, 30 and 35, has found that conflict-related violence occurs everywhere, and detention centres are places where women and girls face a significant risk of being exposed to gender-based harms. These acts constitute a violation of the Convention on the Elimination of All Forms of Discrimination against Women, which stipulates that States have an obligation to prevent, investigate, prosecute and punish such acts of gender-based violence. We further recall the conclusion of the Working Group on discrimination against women and girls that deprivation of liberty puts women and girls at risk of torture, violence and abuse, and further marginalization (A/HRC/41/33, para. 74), and that the authorities have an obligation to exercise due diligence to prevent acts of violence against women in accordance with national legislation, and to investigate, prosecute and punish such acts of gender-based violence under article 4 of the United Nations Declaration on the Elimination of Violence Against Women.

Separation of the family unit

Although we welcome the decision to repatriate [REDACTED] son, we regret that the opportunity was not taken to repatriate the entire family in order to maintain the family unit, and we are concerned that his separation from his mother and siblings has had a significant detrimental impact on his development, integration, and mental health. His overwhelming fear for the safety of his family, in addition to his guilt for having been repatriated without them, is heightened by the incommunicado detention of his mother. We stress that preventing family separation and preserving family unity are key components of the child protection system. Separation from parents should not occur unless it is considered to be in the best interest of the child, subject to judicial review, and in accordance with applicable law and procedures (article 9(1), CRC). We further recall that the ICCPR prohibits arbitrary or unlawful interference with the family under article 17(1) and entitles the family to protection under article 23. The European Convention on Human Rights, which is implemented in the United Kingdom's domestic law through the Human Rights Act 1998, further recognizes this aspect within the right to family life at article 8 and has been supported by jurisprudence of the ECHR (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)). We encourage your Excellency's Government to give due consideration to the child's "best interest"

in all cases of repatriation by maintaining the family unit.

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 international law committed against their nationals. This obligation extends to acts or threats of violence and ill-treatment perpetrated by armed groups and other private actors or individuals, and in our assessment, applies in the context of ██████████ and her children's detention at al-Roj camp. 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 prolonged detention of mothers and children and the conditions of detention, in particular the lack of health care, food, water and sanitation facilities. In its decision, the Committee found that such treatment and detention conditions amounted to inhuman and degrading treatment, prohibited by article 16 of the CAT. 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 North-East Syria and the *de facto* authorities 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 through repatriation and ensuring access to necessary medical care. Similarly, the Committee on the Rights of the Child concluded that a State that is aware of the prolonged detention of children in a life-threatening situation and that is 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 (views adopted by the Committee under the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, concerning communications Nos. 77/2019, 79/2019 and 109/2019, para. 6.9).

We recall the State's obligation to assist victims of trafficking, including through facilitating the return of nationals or permanent residents. The duty to provide assistance to victims of trafficking is enshrined, *inter alia*, in article 12 of the Council of Europe Convention on Action against Trafficking in Human Beings, according to which each State Party shall adopt such legislative or other measures to assist victims in their physical, psychological and social recovery. Such assistance shall include, *inter alia*, assistance to enable victims' rights and interests to be presented and considered at appropriate stages of criminal proceedings. Similarly, article 6(3) of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime encourages States to provide for the recovery of victims of trafficking in persons. In this respect, the Protocol requires that a State Party whose citizen is a victim of human trafficking, "facilitate and accept, with due regard for the safety of that person, the return of that person without undue or unreasonable delay." The Council of Europe Convention on Action against Trafficking in Human Beings states in article 16 that: "the Party of which a victim is a national or in which that person had the right of permanent residence at the time of entry into the territory of the receiving Party shall, with due regard for his or her rights, safety and dignity,

facilitate and accept, his or her return without undue or unreasonable delay.”

In view of the aforementioned concerns, we urge your Excellency’s Government to repatriate [REDACTED] and her [REDACTED] children together as a family, as we are of the view that repatriation of the entire family unit is the only response to the violations of their human rights that is compliant with international human rights law.

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 as soon as possible 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 allegations.
2. Please provide information on what steps were taken to inquire into the incommunicado detention of [REDACTED] by the camp guards, including the conditions of detention, her fate and whereabouts at that time, and the legality, process and fairness of the investigation.
3. Please provide details on the domestic mechanism in place in the United Kingdom to review requests for repatriation, including your Excellency’s Government’s powers to weigh the rights of persons to return in compliance with international law and its ability to enforce such decisions. Additionally, please clarify how your Excellency’s Government intends to ensure the preservation of the family unit in all circumstances.
4. Please provide details on steps taken or foreseen to repatriate [REDACTED] and her children, particularly in light of their deteriorating health and the prospect of the imminent removal of her [REDACTED] son remaining in the camp. Please explain how these are compatible with the obligations of your Excellency’s Government to take all necessary and possible measures to protect its nationals from the violation of their right not to be subjected to acts of cruel, inhuman or degrading treatment or punishment.
5. Please provide information on what steps have been taken to address [REDACTED] and her children’s deteriorating health conditions and access to treatment, including securing urgent interim medical assistance and medicine.

6. Please indicate the steps that your Excellency's Government has taken, or is considering taking, to ensure access to an effective remedy, including through domestic judicial mechanisms, for your nationals being held in al-Hol and al-Roj camps who may be victims of human rights abuses, including trafficking or acts tantamount to enforced disappearances.

While awaiting a reply, we urge that all necessary interim measures be taken to prevent any irreparable harm to the life and personal integrity of [REDACTED] and her children, 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 a 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 this communication and the regular procedure.

We would also like to inform your Excellency's Government that given the allegations of acts tantamount to enforced disappearance, the Working Group on Enforced or Involuntary Disappearances may decide to transmit this case through its humanitarian procedure to the non-state actor exercising government-like functions or de facto control over a territory and population copying your Excellency's Government. The Government is required to respond separately for the present communication and the humanitarian procedure.

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.

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

Ben Saul

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