

Abandoned to Torture:

Dehumanising rights violations
against children and women in
northeast Syria



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FOREWORD

Fionnuala Ní Aoláin

United Nations Special Rapporteur on the Promotion and Protection of Human Rights and Fundamental Freedoms while Countering Terrorism

Rights & Security International provides a wrenching, meticulous account of systematic human rights violations taking place in al Hol and Roj camps in North-East Syria. The Report *Abandoned to Torture: Dehumanising rights violations against children and women in northeast Syria* evidences the abject, sustained, and undulating violations of the human rights most directly connected with human survival. Hunger, thirst, poor shelter, preventable diseases, insufficient sanitation are the hallmarks of life in these camps. The evidence that third country nationals - children and women - are being abandoned by their governments in the face of incontrovertible evidence showing avoidable harm is overwhelming. The legal responsibility of those States is undeniable, and it remains true that human rights-compliant return and repatriation of these women and children is the only international law solution to the existence of these camps and the human rights and humanitarian law violations that define them.

The central figures in this Report are children. The child who has been denied her human rights by mere accident of birth; the child who is relegated to second-class human rights status because of the attributed actions of her parents; the child who is deemed unworthy of the right to life and the right to live free from torture, inhuman and degrading treatment because her government will not enable her return to her county of nationality; the child who is uneducated because she is being held without any legal process in a legal black hole with the acquiescence of her government; the child who is ill, cold, and unclothed because her government does not extend protection to her based on her perceived or actual parentage. The Report brings to our attention highly vulnerable children including boys who are being separated from their mothers and placed in prison-like structures without a modicum of fair or meaningful process and whose stunted lives haunt the pages of this Report. Denying these children their fundamental rights drives a stake through the universal protection for the rights of the child, as established by the Convention on the Rights of the Child. It diminishes the rights of all children everywhere, because to deny the children living in al Hol and Roj camps the right to be treated as children, weakens the universality of the rights of the child.

The Report also identifies the worrying practice of gendered and religious stereotyping whereby assumptions are made about women detained in these camps; assumptions which reflect racial, religious, and gendered typecasts which are inconsistent with the dignity and rights of individuals, particularly women. Here, decades of human rights



work which requires States to treat women as individuals, and not merely as appendages of the men to whom they are connected by birth, marriage, coercion, trafficking or consent are being undone. It is particularly unfortunate that such work is being carried out under the cover of national security practices, which functions to minimise and ignore the scale of harm experienced by these women.

Governments who claim to staunchly defend the rights of children and women in international fora do not practice what they preach for their child and women nationals held in these camps. An immediate human rights-compliant response is demanded by the exigencies of the humanitarian situation in these camps. If a great tidal wave of shame is not generated by this Report, then we face a world in which the power of shame is diminishing, and the evaporation of protection for those who need it the most has become an accepted status quo. States can do better, and we already know that many States are engaging in sustained efforts to return their nationals and ensure their reintegration into families, communities, and society. This Report takes away any cover States may seek to hide under concerning the precise human rights conditions in the camps. I sincerely hope that it will be heeded by governments, courts and international bodies - and bring us closer to return and repatriation of third country nationals from North-East Syria.



EXECUTIVE SUMMARY

In camps in northeast Syria, children - most of them under 12 - and women from across the globe are experiencing torture and are at risk of dying. This is the stark conclusion of this new analysis by Rights & Security International ('RSI') of the situation in al Hol and Roj camps, where women and children who were formerly living in territory controlled by the Islamic State ('IS') are being held at a constant risk of violence, exploitation, fire, disease, and the forced separation of children from their mothers - with no foreseeable way out. Some of the adult women have been stripped of their citizenship by their home countries, leaving them in a void that offers no safety or means of challenging their confinement. The children struggle to survive in unsanitary conditions and with little or no education.

RSI is concerned that governments around the world have, in effect, abandoned these thousands of children and women to torture and death.

This report builds on the findings of our previous report, *Europe's Guantanamo: The indefinite detention of European women and children in North East Syria*, published in November 2020. Based on an in-depth investigation, including visits to the camps, our earlier report documented conditions of serious deprivation and harm. Following an updated factual summary, this new report provides an analysis under international law of the conditions in al Hol and Roj camps for children and women who are 'third-country nationals' - that is, not from Syria or Iraq - and who therefore face distinct living situations and challenges. Syrian and Iraqi nationals in the camps, as well as third-country nationals living at other detention sites in northeast Syria, may also be experiencing many of the same rights violations.

A large majority of third-country nationals in these two camps are children, with most under 12 and many under five. In September 2021, Save the Children reported that approximately two children have died every week in al Hol camp so far this year. The continued survival of other children and women in the camps is far from certain, given the range of serious threats.

The rights violations the children and women in al Hol and Roj are experiencing are not abstract. Hunger, thirst, poor sanitation and inadequate shelter are pervasive problems in the camp, jeopardising the lives of both children and adults. Plastic tents collapse, flood, become contaminated with sewage, and catch fire: reports indicate that 13 children in al Hol camp died between January and September 2021 as a result of fire-related injury. Malnutrition, dehydration and diarrhoea have been linked to illnesses and deaths in the camps, including the reported collapse of an 11-year-old Australian girl in June 2021. Since our last report was published, children have spent another year of their short lives facing serious threats to their development due to the inadequate nutrition, lack of healthcare, an unsafe environment and limited educational opportunities. In 2021, COVID-19 has posed an increasing threat in the camps.



Mothers and children also face the distress of a constant threat of forced separation. In a March 2021 interview with RSI, one humanitarian worker estimated that 300 to 350 teenage boys had been forcibly removed from al Hol camp, and separations of young children from their families or caregivers may also occur for other reasons.

In the lawless environment of the camps, the threat of violence or exploitation is ever-present. Yet, some governments have stripped their women nationals of their citizenship or otherwise deprived them and their children of help, whilst a ban on mobile phones leaves many in the camps cut off from the outside world - worsening the risks of abuse.

UN experts have described conditions in both al Hol and Roj camps as 'grim', 'squalid', and 'a blight on the conscience of humanity'. For children and women in the camps, there is no end in sight - a state of limbo that worsens the impact of the harms they are suffering.

Under international law, RSI concludes that:

- In combination, the conditions and risks faced by these children and women in both al Hol and Roj camps amount to **torture**.
- These conditions include, among others: the dire humanitarian situation, ongoing and serious violence, risks of accidental death and illness or injury, risks of harm to loved ones who are also living in the camps, the indefinite and often incommunicado nature of the detention, and the camp residents' profound uncertainty about whether and how the situation will ever end.
- Even when considered separately, many of these conditions **constitute cruel, inhuman, or degrading treatment** and may rise to the level of **torture**.
- In particular, the continuing lack of adequate or safe water, food, sanitation, and shelter in the camps constitutes cruel, inhuman, or degrading treatment.
- These children and women face real, ongoing risks of preventable death, threatening their **right to life**.
- These women and children are victims of **arbitrary detention**.
- The deprivation of education for **children**, and other essential tools for their development such as safe opportunities for play, violates their rights.

As a practical matter, many governments worldwide have the power to end the arbitrary detention of women and children in these conditions - including those that cumulatively amount to torture - by repatriating their nationals and former nationals. The authorities holding women and children in the camps, as well as countries such as the United States, have called on home country governments to carry out such repatriations.

At present, however, many governments are making a choice not to repatriate many of the people whom they could remove or seek to remove from the camps. This means they are knowingly exposing children (many of them very young) and women to torture and cruel, inhuman, or degrading treatment, as well as a risk of death. Especially following the publication of this and our previous report, all governments are on notice of this fact.

Many home country governments have seemingly been deciding not to repatriate people from the camps on the basis of assumptions about the dangerousness of these people -



assumptions that are usually not based on individualised, independent, and expert assessments. Instead, foreign governments' views of the children and women in the camps often appear to reflect racial, religious, or gendered stereotypes and - in the case of children - bias based on their parentage. These discriminatory approaches violate international law and dehumanise the children and women concerned.

No one should be abandoned to torture and death because of a racist, Islamophobic, or gendered stereotype.

At the international level, countries with nationals (or former nationals) in these two camps have committed to upholding the fundamental international law principles and standards analysed in this report. However, many of these countries are now exploiting legal controversies about whether their commitments under the international human rights treaties extend to people outside of their territory - especially people whom they have stripped of citizenship - in an apparent attempt to shirk responsibility for halting torture, deaths, and other suffering. These legal debates also distract from the fact that especially in the absence of any objections by Syria, there is nothing in international law that prevents States from bringing people home from the camps.

RSI recommends that European and other home countries immediately bring back their nationals and others, such as those they have deprived of citizenship, from al Hol and Roj camps. In doing so, these countries should ensure that children are not separated from their mothers or primary caregivers, such as through the repatriation of children without adults. This is because separation is unlikely to be in the best interests of the child, as it can be highly traumatic and have a serious, long-term, and potentially irreversible impact on the children's development. It is also because adults, just like children, have a human right to be free from torture and cruel, inhuman, or degrading treatment, as well as violations of their right to life.

It is a foundational rule of international law that no one should be subjected to torture or mistreatment, no matter what they have allegedly done. It is long past time for governments to stop blaming the children - often, very young children - and women in al Hol and Roj camps for the rights violations they are experiencing, and abandoning them to their fates.

The international ban on torture matters. It is an expression of the worth of every human life. Governments should act now to uphold it, and keep it intact for future generations, by ending the intolerable suffering and limbo in al Hol and Roj camps.



METHODOLOGY

1. RSI conducted new research for this report between January and October 2021. Due to the COVID-19 pandemic and other factors, research was carried out remotely from the United Kingdom.
2. This report builds on the findings of RSI's previous report, *Europe's Guantanamo: The indefinite detention of European women and children in North East Syria*, published in November 2020. The previous report included first-hand testimony and other evidence about humanitarian conditions in al Hol and Roj camps as well as the policies of the governments of Belgium, France, Germany, the Netherlands and the United Kingdom.

Scope of the research

3. The focus of RSI's reports has been on third-country-national (i.e. non-Syrian and non-Iraqi) women and children living in al Hol and Roj camps in the northeast area of Syria. Third-country nationals live in sections of the camps that are reserved for people from outside Syria and Iraq and are gender-segregated. We have chosen to focus on these populations within the camps because our previous access to them, as well as access by humanitarian organisations and other sources, have made it possible to gain information on which we could base a human rights analysis. However, many of the human rights protections and other international legal principles described in this report would also apply to people forced to live in other camps or detention centres, or other parts of al Hol and Roj camps, as a result of the conflict in Syria.
4. The main purpose of this report is to determine whether women and children in those sections of al Hol and Roj camps are experiencing serious violations of their human rights, and if so, which rights are being violated. This legal analysis is based on factual research regarding the current situation on the ground.

Factual research

5. For its factual discussions, this report draws on publications by international and national humanitarian and nongovernmental organisations ('NGOs') as well as media sources. In addition, RSI conducted interviews in March and April 2021 with several humanitarian groups that have had access to or maintain a presence in the camps, along with officials from three European governments' foreign offices or ministries and a child rights expert. Due to the COVID-19 pandemic, all interviews were conducted by telephone or via video conferencing platforms. Interviews were conducted in English, French, and Dutch by native speakers of those languages. Interviewees were advised of the purpose of the interviews and how RSI planned to use the information, and gave RSI their informed consent. RSI did not provide interviewees with payment or any other compensation. Most interviewees were interviewed alone, but some interviews with governments' foreign offices took place



with multiple officials listening and responding.

6. Some interviewees requested that their names and/or the names of their organisations be withheld. In light of the fragile and sometimes life-threatening security situation in the camps, RSI granted these requests.
7. RSI contacted the management of al Hol and Roj camps for comment during the research process for this report. However, whilst we were able to make initial contact with management in both camps, communication ceased before we were able to secure answers to written questions or a telephone interview.
8. RSI has drawn on some of the information published in, or gathered during the research for, *Europe's Guantanamo*, where this information evidences or contextualises the human rights violations analysed in this report.

Legal research and approach

9. RSI's legal analysis in this report maps some of the rights to which women and children living in the camps are entitled under international law, especially those rights that are most directly connected to survival. RSI examined numerous sources of international law, including both binding treaties and influential but non-binding sources ('soft law'), to understand the rights that people in the camps hold and whether those rights are being violated.
10. Human rights analyses often have four fundamental steps. First, they aim to determine what has happened: that is, the facts that can be established. The analysis then turns to whether what happened meets the definition of a violation of human rights under the prevailing standards - for example, whether an abuse qualifies as torture or arbitrary detention. The next question is who, if anyone, is legally responsible for the violation. The last question is what kind of redress the victim should receive from the responsible party and what changes the responsible party should make to prevent similar violations from happening in the future.
11. RSI's analysis in this report focuses on the first two of these four steps: what is happening to women and children who are forced to live in al Hol and Roj camps, and whether what is happening meets the definition of various human rights abuses.
12. In this report, RSI does not address the question of who is responsible for the problems we identify. We have made this choice because northeast Syria presents a complicated and controversial picture where State involvement is concerned. Al Hol and Roj camps are located in Syria, which is a State; however, the camps are not operated by State officials, but instead by the 'Autonomous Administration of North and East Syria' ('AANES') - a non-State group - and are not under the control of the Syrian government. The extent to which 'home country' governments (i.e. the governments of the countries to which the women and children now living in the camps have the strongest ties) have any kind of influence in



the camps remains disputed. However, what is clear is that home country governments could seek the release of their nationals and others, such as those they have deprived of citizenship, from the camps through diplomacy.

- 13.** In strict legal terms, a violation of the international human rights treaties only occurs if a State that is a party to a treaty is responsible for doing something that violates its commitments. In this report, RSI uses the term 'human rights violation' more loosely to refer to what is happening, regardless of who - if anyone - may be legally responsible under an international human rights treaty. In taking this victim-centred perspective, RSI has followed the approach of the Universal Declaration of Human Rights, which promotes the idea that '[e]veryone' has certain rights, regardless of which States might be responsible for protecting and respecting them.²
- 14.** In this report, RSI does not take a position about the legal status of the adult women in the camps, i.e. whether they are best classified as internally displaced persons ('IDPs'), detainees or internees for the purposes of international law. Regarding the children, RSI does not take a position about their legal status other than to observe that most or all would not be appropriate subjects for criminal prosecution and that therefore they should not be regarded as 'detainees' in the narrow sense. However, both adult women and children in al Hol and Roj camps have fundamental rights that are broadly similar regardless of what their formal status under international law may be.
- 15.** For the purposes of this report, and consistent with the leading international treaties, RSI defines anyone below the age of 18 as a 'child'.³



SECTION I. UNDERSTANDING THE CAMPS

Key points

- Together, al Hol and Roj camps hold more than 60,000 people. Around 12,000 of these people are third-country nationals (that is, they are not citizens of Syria or Iraq).
 - Children under the age of 12 make up a very large majority of the third-country nationals in al Hol and Roj camps. Many of these children are under the age of five.
 - This means that the people facing the human rights violations discussed in this report are overwhelmingly young children.
 - Reportedly, an average of five children per week died in al Hol camp during 2019 and 2020, and an average of two per week between January and September 2021.
- 16.** The focus of RSI's research has been on conditions in two camps, al Hol and Roj, located in the northeast area of Syria. This area of Syria is not currently under the control of the Syrian government; instead, it is administrated by the AANES, a non-State group.⁴ The military wing of the AANES, the Syrian Democratic Forces ('SDF'), has been fighting against IS alongside international forces under the auspices of the Global Coalition against Daesh.⁵
- 17.** UN bodies and independent humanitarian organisations estimate that together, the two camps house more than 60,000 individuals.⁶ The majority of people living in the camps are Syrian and Iraqi nationals⁷ - men, women, and children - but the camps also house around 4,000 women and 8,000 children originating from approximately 57 other countries.⁸ The UN has estimated that approximately 77% of the children in the camps are under the age of 12 and 33% of those are under five.⁹ Those women and children are commonly referred to by UN experts, humanitarian response agencies and media agencies in the region as 'third-country nationals', and they are being held in the camps because local authorities and their home country governments assume they have family links to alleged IS members - often on the basis that they were formerly living in IS-controlled territory.¹⁰ Third-country men, and some boys, are held at other sites in northeast Syria about which RSI has been able to gather much less information.¹¹
- 18.** The camps evolved into their current form in the context of the civil war in Syria, which broke out in 2011 following pro-democracy demonstrations that the Syrian government violently suppressed.¹² As the unrest spread across Syria, hundreds of rebel groups sprung up and militant organisations with their own aims - such as the Islamic State in Syria ('ISIS') - capitalised on the resulting chaos.¹³ The majority of those now living in al Hol and Roj camps were transferred to the camps by the SDF in 2019 following the capture of ISIS' last stronghold, Baghouz, by SDF and international forces.¹⁴ Thousands of others have been living in al Hol camp since 2016.¹⁵
- 19.** The camps are guarded by the SDF and the AANES' internal security force, the Asayesh,¹⁶ and are reportedly managed by an emergency relief organisation.¹⁷ A variety of humanitarian and UN groups provide services in the camps.¹⁸



Al Hol camp

20. In May 2021, the UN Office for the Coordination of Humanitarian Affairs ('OCHA') estimated that al Hol camp had a population of around 60,000.¹⁹ In late 2020, OCHA had reported that about 9,462 of these people were third-country nationals.²⁰ In June 2020, the US government estimated that 65% of the third-country nationals living in the camp were under the age of 12 and that more than 25% of all of those living in the camps (i.e. Syrian, Iraqi, and third-country nationals, combined) were children under the age of five.²¹ In October 2020, the humanitarian organisation REACH reported that al Hol camp spanned 2.98 square kilometres.²² The size of its population has led to overcrowding concerns.
21. Internationally, al Hol camp has become notorious due to widespread reports by media outlets and humanitarian organisations describing dire humanitarian conditions, along with insecurity fuelled by violence and killings.²³ RSI's research suggests that al Hol camp is marked by chaos and unpredictability, and that, as a result, many of the people living in al Hol are likely unaware of even the limited humanitarian services that exist there.²⁴

In May 2021, the French newspaper Libération reported that 371 minors had died in al Hol camp in 2019 and 157 in 2020, an average of five deaths per week across the two years.

22. In September 2021, Save the Children reported that approximately two children had died every week in al Hol between January and September 2021.²⁵ In May 2021, the French newspaper Libération reported that 371 minors had died in al Hol camp in 2019 and 157 in 2020, an average of five deaths per week across the two years.²⁶
23. Third-country women and children are housed in a section of al Hol known as the 'Annex', separated from Syrian and Iraqi nationals living in the main camp by fences and armed guards.²⁷

Roj camp

24. In October 2020, REACH reported that Roj camp was housing a total of 2,376 people, 64% of whom were children and 17% of whom were aged four or under.²⁸ In September 2020, the administration of Roj camp estimated that around 85% of those held there were third-country women and children.²⁹ In October 2020, REACH reported that the camp spanned 0.11 square kilometres.³⁰
25. In RSI's experience, it is more difficult to obtain information about Roj camp than al Hol camp, as there is less media reporting about this site and heavy surveillance in this camp makes it almost impossible for women living there to communicate with the outside world.
26. A humanitarian actor on the ground told RSI in an interview in March 2021 that Roj camp is

more orderly and structured than al Hol camp.³¹ At the same time, interviews with women in the camps conducted by RSI's researcher in early 2020 and interviews with humanitarian actors on the ground conducted in March 2021 suggest that as in al Hol, there is an urgent lack of humanitarian services in Roj camp, including healthcare, sanitation facilities, safe shelter, clean water, adequately nutritious food, and education. Women interviewed in early 2020 also made claims of numerous alleged instances of violence amongst women and exploitation of children in Roj camp.

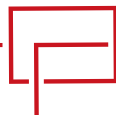
27. Conditions in both al Hol and Roj camps are discussed in greater detail below.



SECTION II. TORTURE, INHUMAN OR DEGRADING TREATMENT, AND THREATS TO LIFE

Key points

- RSI concludes that the conditions for third-country nationals living in al Hol and Roj camps - most of whom are young children - cumulatively amount to torture. Separately or in combination, these conditions also amount to cruel, inhuman, or degrading treatment.
 - RSI further concludes that these children and women face real risks of preventable death.
 - Hunger, thirst, poor sanitation, and inadequate shelter are persistent problems, jeopardising the lives of children and adults in the camps, creating risks of preventable diseases, and likely causing psychological distress.
 - Reports allege that children have died in tent fires and of malnutrition.
 - Women and children do not have access to the healthcare they need to treat the many serious physical and mental health conditions occurring in the camps. Special concerns arise about the potential for untreated post-traumatic stress injury and other mental health problems, and the potential for conditions in the camps to worsen these problems.
 - Children - many very young - do not have access to the specialised healthcare required to account for their age and vulnerability. Concerns have been raised by multiple teams of medical experts about the lack of psychiatric care for children suffering extreme trauma.
 - Women lack access to gender-appropriate reproductive and maternal healthcare, putting the lives of mothers and babies at risk.
 - Women and children in the camps are exposed to constant threats of serious injury or death and face a real risk of physical, sexual, or other violence.
- 28.** Based on our legal and factual research, RSI concludes that at least for third-country nationals in al Hol and Roj camps, the conditions amount to **torture**. This conclusion takes account of the cumulative impact of the dire humanitarian conditions, ongoing and serious violence, risks of accidental death and illness or injury, risks of harm to loved ones who are also living in the camps (such as mothers, children and siblings), the indefinite and often incommunicado nature of the detention, and the camp residents' profound uncertainty about whether and how the situation will end - especially for those stripped of their citizenship, who have little realistic prospect of returning home. Separately or in combination, these aspects of life in al Hol and Roj camps can also amount to cruel, inhuman, or degrading treatment or punishment ('CIDT').
- 29.** The European Court of Human Rights ('ECtHR') has held that 'inhuman treatment' is treatment or punishment that causes 'intense physical and mental suffering', while 'degrading treatment or punishment' is treatment that would 'arouse in the victim a feeling of fear, anguish and inferiority capable of humiliating and debasing the



victim and possibly breaking his or her physical or moral resistance'.³² Domestic courts have found that the cumulative impact of the dire humanitarian conditions in the camps rises to at least the level of CIDT.³³ UN experts have agreed.³⁴

30. In RSI's view, the cumulative impact of the conditions in the camps additionally rises to the higher threshold of torture, defined in leading international treaties and declarations as 'an act which inflicts severe pain or suffering, whether physical or mental'.³⁵ Our conclusion that the conditions cumulatively amount to torture takes special account of the impact they have, or could have, on young children.
31. Some international treaties and declarations against torture require an element of 'intentionality' or 'purpose' in their definitions of what constitutes torture.³⁶ However, as set out in the methodology section, above, this report focuses on whether the treatment that children and women are experiencing in the camps rises to the level of a rights violation - in this case, whether the human impact of their treatment is sufficiently severe - and not on attributing responsibility for that rights violation. We therefore have not examined intentionality or purpose.
32. In addition to concluding that conditions in the camps cause severe pain and suffering to the children and women living there - and thus amount to torture - RSI further concludes that third-country nationals in the camps face real threats to their **right to life** due to preventable violence, disease, and injury.
33. The right to life³⁷ and the prohibition on torture and CIDT³⁸ are two foundational principles of international law. Both children and adults are entitled to the protection of their lives and must also be protected from torture and CIDT.³⁹
34. Under all binding international law today, there is an absolute ban on torture and CIDT. The ECtHR, Inter-American Court of Human Rights ('IACtHR'), and UN Committee Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment ('CAT') have also confirmed that even in the most difficult circumstances, such as a period of terrorist attacks or a national emergency, international law entirely prohibits torture and CIDT, irrespective of any alleged crime or misconduct by the victim.⁴⁰
35. Except for combatants during an armed conflict and instances in which a court has lawfully imposed the death penalty following a fair trial (although the latter case is increasingly controversial), the right to life is also absolute.⁴¹
36. The ECtHR, IACtHR, African Court on Human and Peoples' Rights ('AfCHPR'), UN Human Rights Committee ('HRC') and CAT have held on a number of occasions that inadequate living conditions in detention - that is, situations that people are not free to leave - can constitute CIDT and can also violate the right to life.
37. The ECtHR and IACtHR have explained that conditions of detention will amount to CIDT where they are incompatible with respect for human dignity and subject the detained person to humiliation of an intensity exceeding the unavoidable level of suffering inherent in detention.⁴² In other words, while anyone may feel humiliated simply by being detained, the infliction of unnecessary humiliation violates rights. The ECtHR and IACtHR have indicated that regard should be had to the cumulative effect of the detention conditions,⁴³ the duration of the person's exposure to those conditions,⁴⁴ and factors including the person's



sex, age, and state of health.⁴⁵ Furthermore, the ECtHR has held that CIDT can occur even when no one positively intends to humiliate or debase the person deprived of their liberty.⁴⁶

- 38.** In a case involving a European national facing a risk of the death penalty in the United States, where people often face years of imprisonment and uncertainty before the execution is carried out, the ECtHR has indicated that enduring harsh conditions and experiencing 'the anguish and mounting tension of living in the ever-present shadow of death' can constitute or contribute to torture or CIDT.⁴⁷ Although third-country women and children in al Hol and Roj are not currently facing a threat of execution as such, RSI considers that they are in a broadly analogous position of prolonged suffering and anguish: the camps were not designed to be permanent, conditions are harsh, and the risks of death and mistreatment are mounting as those conditions worsen, with no end in sight.
- 39.** The HRC has recognised that inadequate living conditions in detention can also lead to a violation of the right to life where there is a causal link between the conditions of detention and the death of the detained individual.⁴⁸ The IACtHR has held that the minimum conditions of detention required to ensure the right to life are higher in the case of children.⁴⁹
- 40.** As explained in greater detail below, for well over two years - and in some cases as long as five years - women and children in the camps have been held in conditions that threaten their lives and constitute CIDT. In our view, the fact that these conditions are indefinite, combined with other aspects of the detention situation, means women and the children in the camps are experiencing circumstances that amount to torture.

I. Inadequate provision of the basic necessities required for survival

- 41.** Under international law, everyone is entitled to the basic necessities required for an adequate standard of living.⁵⁰ This entitlement is especially significant for people deprived of their liberty, who are forced to rely on the detaining authority to provide them with food, water, shelter, and other necessities of life.⁵¹
- 42.** The ECtHR, IACtHR, ACHR and HRC have found violations of the prohibition on CIDT where conditions of detention have included inadequate heating,⁵² hygiene and sanitation,⁵³ water,⁵⁴ or food.⁵⁵ Of particular relevance to al Hol and Roj camps, the IACtHR has also found a violation of the right to life where conditions of detention create a risk of fire.⁵⁶ International courts have considered these conditions to be especially harmful in the case of children.⁵⁷
- 43.** RSI's research in 2020 and 2021 indicates that due to an apparent lack of resources in al Hol and Roj camps, and despite the best efforts of humanitarian organisations operating in the region, women and children living in the camps have consistently been subjected to unsafe and unsanitary conditions and lack adequate access to nutritious food and clean



water, in violation of the right to life and the prohibition on CIDT. In our view, these inhumane and degrading conditions lead to severe pain and suffering for children and women living in the camps. We thus conclude that people in the camps are enduring torture.

a. Shelter

- 44.** International standards require that, at a bare minimum, people must have ‘habitable’ shelter.⁵⁸ This means that the shelter should provide adequate space as well as protection from cold, damp, heat, rain, wind, or other threats to health.⁵⁹ Shelter should also protect against structural hazards and diseases.⁶⁰
- 45.** However, reports from UN and media sources indicate that women and children in al Hol and Roj camps have been living long-term in plastic tents that were designed to provide only temporary shelter.⁶¹ Evidence indicates that the tents do not provide adequate protection from the weather in the region: humanitarian and human rights organisations on the ground have reported instances of the tents collapsing in strong winds⁶² and being swept away by heavy rainfall and flooding.⁶³ One woman living in al Hol camp told RSI’s researcher in February 2020 that her tent had flooded twice and that she had had to buy all her provisions again.⁶⁴
- 46.** In addition, the tents are susceptible to fire, and in February 2021 Médecins Sans Frontières (‘MSF’) publicly reported that at least seven people had been killed and around 30 injured as a result of an accidental tent fire in the main al Hol camp caused by a child tripping over a heating device.⁶⁵ In September 2021, Save the Children reported that 13 children had died from fire-related injury in al Hol camp between January and September 2021.⁶⁶ Save the Children also reported that at least 12 children had died of burns in 2020.⁶⁷ Women in both camps told RSI’s researcher in February 2020 of their grave concerns that heating devices would explode and kill children or that children would die of carbon monoxide poisoning.⁶⁸
- 47.** Thus, in RSI’s view, the dangerous lack of adequate housing in the camps constitutes CIDT, at minimum, and contributes to the conditions that cumulatively amount to torture. In addition, the threats to life posed by this lack of adequate housing violate the women’s and children’s rights to life.⁶⁹

b. Sanitation

- 48.** International standards require that everyone has access to sanitation ‘in all spheres of life, that is safe, hygienic, secure, and socially and culturally acceptable and that provides privacy and ensures dignity.’⁷⁰
- 49.** However, RSI’s research and other reporting indicate that hygiene and sanitation standards in the camps are dangerously inadequate, creating risks of illness and death.



During a visit to al Hol camp in June 2019, Human Rights Watch reported that sewage was flooding into tents and that children had periodically fallen into open pits and cesspools.

During a visit to al Hol camp in June 2019, Human Rights Watch reported that sewage was flooding into tents and that children had periodically fallen into open pits and cesspools.⁷¹ Women interviewed by RSI and Human Rights Watch have alleged that a young child died in June 2019 after falling into an open cesspool in al Hol camp.⁷²

- 50.** In February 2020, RSI's researcher spoke to several women who alleged that they did not have safe access to sufficient or clean sanitation facilities. Women in both camps reported having to construct makeshift showers in their tents in order to wash⁷³ and, in the case of al Hol camp, one woman reported having to relieve herself in her tent as the shared toilet facilities were too unsanitary to use.⁷⁴ In Roj camp, women told RSI that toilet facilities were shared between four tents and were of a varying standard of hygiene.⁷⁵ RSI has been unable to determine the level of supply of hygiene items such as soap and menstrual products in the camps;⁷⁶ however, the shortages of all other basic goods raise serious concerns about access to these items.⁷⁷

In April 2021, Save the Children expressed grave concerns about the spread of COVID-19 in the camps due to overcrowding and the lack of adequate sanitation and hygiene facilities.

- 51.** In April 2021, Save the Children expressed grave concerns about the spread of COVID-19 in the camps due to overcrowding and the lack of adequate sanitation and hygiene facilities.⁷⁸ In October 2020, REACH reported that there were insufficient handwashing facilities in both camps,⁷⁹ and that in al Hol camp the living conditions did not allow for social distancing.⁸⁰
- 52.** As a result, it is RSI's view that the poor hygiene and sanitation standards constitute or contribute to CIDT, and are among the conditions that cumulatively amount to torture. In addition, the lack of hygiene and sanitation create a serious risk of life-threatening illnesses (for example, via exposure to raw sewage), in violation of the right to life.

c. Water

- 53.** International law⁸¹ entitles everyone to a sufficient quantity and quality of water for consumption and cooking, as well as personal and domestic hygiene.⁸² The UN Committee on Economic, Social and Cultural Rights ('CESCR') has reiterated the



importance of an adequate amount of safe water to prevent death from dehydration and to reduce the risk of water-related diseases.⁸³ The UN Committee on the Rights of the Child has pointed to the particular importance of clean drinking water for children's right to health.⁸⁴

- 54.** However, women in both camps told RSI's researcher in early 2020 that the water was unclean and, in al Hol camp, often in short supply.⁸⁵ Reports from media outlets, human rights groups, and humanitarian organisations on the ground support these claims.⁸⁶ Women in Roj camp interviewed by RSI's researcher in early 2020 reported finding worms and algae in water intended for drinking.⁸⁷ In June 2019, following visits to al Hol camp in June 2019, Human Rights Watch reported having seen worms in the water that children were drinking.⁸⁸ Kurdish Red Crescent staff operating in al Hol camp told RSI in February 2020 that the water provided for cleaning was not sanitary enough to clean the hospital's floor.⁸⁹

Dehydration and diarrhoea can be particularly life-threatening for children and were linked to some of the deaths recorded in the camps in August 2020.

- 55.** The inadequate quantity and quality of water in the camps has contributed to some cases of illness or death. Organisations such as Save the Children and MSF reported in February 2021 that there is a high prevalence of dehydration, diarrhoea, and other water-borne illnesses among women and children in the camps.⁹⁰ Dehydration and diarrhoea can be particularly life-threatening for children and were linked to some of the deaths recorded in the camps in August 2020.⁹¹
- 56.** The available evidence thus indicates that the insufficient and unsafe water supply in the camps contributes to CIDT and is among the conditions that cumulatively amount to torture. In addition, the threats of illness and death posed by the lack of adequate water violate the right to life.

c. Food

- 57.** Under international law, everyone has a right to enough food, and food of a good enough quality, to ensure their physical and mental health, growth, and development, taking account of their age and gender.⁹² The Committee on the Rights of the Child has recognised the particular importance of adequately nutritious food in early childhood.⁹³
- 58.** However, RSI's research suggests that food in both camps is inadequate. When RSI's researcher visited the camps in February 2020, women in both camps reported that the food packages they received contained only dried and canned food and that formula milk was not included despite the large number of very young children and babies in the camps.⁹⁴ Women stated that some fresh food, including fruit, vegetables, and meat, was available at the camp markets, but that they often did not have the money to buy it.⁹⁵ Women in al Hol camp also claimed that violence in the camps sometimes disrupted the food supply for weeks at a time.⁹⁶



In June 2021, Save the Children reported that an 11-year-old girl had collapsed in Roj camp as a result of malnutrition, and that the organisation was concerned that she would die as a result.

- 59.** RSI's research suggests that malnutrition is a common health concerns among women and children in the camps. In August 2020, Save the Children reported that eight children under the age of five had died in the space of five days in al Hol camp and linked some of these deaths to severe malnutrition, among other factors.⁹⁷ In June 2021, Save the Children reported that an 11-year-old girl had collapsed in Roj camp as a result of malnutrition, and that the organisation was concerned that she would die as a result.⁹⁸
- 60.** The lack of adequate and sufficiently nutritious food in the camps violates the prohibition on CIDT and is among the conditions that we conclude cumulatively amount to torture, both because of the physical impact and - we infer - the related psychological distress. In addition, the threats to life - especially the lives of young children in the camps - posed by the lack of adequate food violate the right to life.

II. Lack of adequate physical and mental healthcare

- 61.** Under international human rights law, everyone is entitled to the 'highest attainable standard of physical and mental health'.⁹⁹ Consequently, sufficient healthcare facilities and other health resources must be provided for everyone, without discrimination.¹⁰⁰ The ECtHR, IACtHR and HRC have stated that violations of the prohibition on CIDT and the right to life can occur where detainees are not provided with adequate medical services.¹⁰¹
- 62.** Of specific relevance to women and children living in the camps, under international humanitarian law (the law of war), people deprived of their liberty in the context of an armed conflict must be held in premises that safeguard their health and hygiene.¹⁰² The HRC has identified violations of the right to life where conditions of detention allowed for the fatal deterioration of the state of health of a detained individual.¹⁰³ Courts have regarded such conditions as especially harmful in the case of children.¹⁰⁴
- 63.** However, reports from humanitarian actors on the ground in March 2021 suggest that the health care required to treat the many serious physical and mental health conditions experienced by women and children in the camps is often not available.
- 64.** The most common physical health issues described in an account published by a Belgian medical team that visited al Hol camp in July 2019, include infected war wounds, acute diarrhoea, malnutrition, respiratory issues, gastroenteritis, and skin infections.¹⁰⁵ The most common physical health issues described in an account published by a Belgian medical team that visited al Hol camp in July 2019, include infected war wounds, acute diarrhoea, malnutrition,

respiratory issues, gastroenteritis, and skin infections.¹⁰⁶ Media reports also suggest that some women and children suffer from chronic conditions such as diabetes, asthma, and cancer. According to an interview RSI conducted in February 2020 with a Kurdish Red Crescent staff member working in al Hol camp, infectious diseases such as typhoid were spreading rapidly in the camp due to poor levels of hygiene and overcrowding.¹⁰⁷

- 65.** In May 2021, MSF raised alarm over the region's 'fragile and drastically underfunded' response to the coronavirus.¹⁰⁸ In late September 2021, cases of COVID-19 have reportedly been rising as fears grow of a new wave spreading across Syria, including in northeast Syria.¹⁰⁹ On 1 October 2021, the Kurdish Red Crescent's online COVID-19 dashboard reported that there have been 329 confirmed cases of COVID-19 across al Hol and Roj camps and, in al Hol camp, 15 deaths.¹¹⁰ In April 2021, Save the Children raised concerns regarding a lack of testing in the region, fearing that true numbers of infections could be much higher.¹¹¹
- 66.** While medical facilities are provided in the camps by humanitarian groups such as MSF and the Kurdish Red Crescent, reports suggest that only very basic health services are available and not always on a 24-hour basis.¹¹² A humanitarian actor on the ground told RSI in March 2021 that a main concern in al Hol camp is the ability of women and children to access humanitarian services, including healthcare services.¹¹³
- 67.** In addition, medical teams visiting the camps and other experts have diagnosed women and children in both al Hol and Roj camps with mental health conditions such as 'post-traumatic stress injury' and 'toxic stress' as a result both of trauma sustained prior to living in the camps and the ongoing pressures of living there.¹¹⁴ According to RSI's interviews with humanitarian actors in March 2021, the few mental health services available in the camps are provided by humanitarian organisations, and these tend to be services such as support groups rather than specialised psychological or psychiatric care.¹¹⁵ In February 2021, a media report on Roj camp suggested, based on statements made by Danish medical experts, that there was still no specialised treatment in the camps to provide psychological support to children - even though children in the camps are under continuous stress and exposure to trauma.¹¹⁶
- 68.** In addition to the general right to physical and mental health under international law, particular categories of people may have more specific health-related rights.
- 69.** The Committee on the Rights of the Child has stated that children have a specific right to health that extends 'not only to timely and appropriate prevention, health promotion, curative, rehabilitative and palliative services, but also to a right to grow and develop to their full potential and live in conditions that enable them to attain the highest standard of health'.¹¹⁷ Under the UN Convention on the Rights of the Child, States parties are under an obligation to reduce child mortality, ensure the provision of necessary medical assistance and healthcare, and combat disease and malnutrition.¹¹⁸



- 70.** However, in addition to the information detailed above, RSI's research has identified several potential breaches of children's specific rights to health. A humanitarian actor operating on the ground in the camps told RSI in March 2021, and media reports confirm, that mothers or other primary caregivers are not permitted to accompany children over the age of two to hospitals outside the camps.¹¹⁹ In addition, in February 2020, women in the camps described to RSI's researcher the psychological trauma they said children were experiencing as a result of their suffering prior to coming to the camps and whilst living in the camps.¹²⁰ The Danish medical experts who visited the camps in early 2021 reportedly expressed similar concerns.¹²¹
- 71.** Under international law, women (especially those deprived of their liberty) are entitled to appropriate, gender-specific health care services, including but not limited to reproductive and maternal health care.¹²² The UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment has noted that an absence of gender-appropriate healthcare in detention can amount to torture or CIDT.¹²³
- 72.** Despite these international legal standards, RSI's research suggests that there is limited access to maternal and reproductive healthcare in the camps; if true, these circumstances could put the lives of mothers and babies at risk. On a visit to Roj camp in early 2020, RSI's researcher recorded claims that at least one woman had given birth in a tent in Roj camp without medical assistance.¹²⁴ Another woman in Roj camp alleged that she had not been provided with any aftercare in the camps following a caesarean conducted prior to her arrival.¹²⁵
- 73.** People with disabilities are entitled to the healthcare services specifically required as a result of their disabilities.¹²⁶ However, RSI's research raises concerns that, whilst there are a number of women and children in both camps suffering from disabilities caused by wounds, infections, and chronic conditions, there is an absence of specialist care and medication in the camps.¹²⁷
- 74.** As a result, RSI is seriously concerned about the apparent lack of adequate physical and mental healthcare in the camps, which may violate the prohibition on CIDT. The resulting severe pain and suffering are also among the cumulative conditions amounting to torture. In addition, the threats to life posed by the lack of adequate healthcare could violate women's and children's rights to life.

III. Violence and threats of violence

- 75.** The ECtHR has held that the right to life entitles people deprived of their liberty to protection from the intentional and unlawful taking of life not only by the detaining authorities themselves, but also by third parties.¹²⁸ The right to life also includes the right to be protected against reasonably foreseeable threats to life even where such threats do not actually result in death.¹²⁹



- 76.** Similarly, the ECtHR, IACtHR, AfCHPR, and HRC have concluded that a violation of the prohibition on torture and CIDT can occur when a detaining authority resorts to physical force,¹³⁰ especially in a situation where such force is not strictly necessary.¹³¹ The ECtHR and IACtHR have found that a violation of the prohibition on torture and CIDT may occur when the detaining authority has failed to detect and prevent violence by third parties against an individual deprived of liberty.¹³² The ECtHR and IACtHR have also recognised that even if a threatened act of torture or CIDT does not materialise, the threat itself may violate the prohibition if it is sufficiently real and immediate.¹³³
- 77.** RSI's field- and desk-based research indicates that women and children living in al Hol and Roj camps face constant threats of abuse, violence, serious injury, and death.
- 78.** RSI has recorded multiple claims of the use of lethal force by armed individuals against women and children living in both camps,¹³⁴ and although we have been unable to confirm these alleged events, it appears that camp residents believe themselves to be at risk of violence and threats to their lives. For example, in February 2020, RSI's researcher recorded several claims from women living in al Hol camp that in December 2019, a camp guard had responded to children throwing stones by opening fire.¹³⁵ In September 2019, MSF reported¹³⁵ that security forces had opened fire on women and children protesting conditions in al Hol camp.¹³⁶ In December 2019, RSI's researcher spoke with two women living in Roj camp who alleged that camp authorities had assaulted them, although we could not confirm these allegations.¹³⁷
- 79.** RSI's research also suggests that violence between women in the camps is common. Interviews with women in the camps and reports from other humanitarian organisations suggest that the scarce and unequally divided resources in the camps can fuel distrust and tensions between the women.¹³⁸ In addition, multiple women in al Hol and Roj camps told RSI's researcher in early 2020 that women who express a desire to return to their home countries or who allow their children to return, who do not wear clothing deemed sufficiently conservative, who speak to men in the camps, or who are not perceived as opposing local authorities may face threats and violence from other groups of women in the camps.¹³⁹ All 11 of the women living in Roj camp with whom RSI's researcher spoke in early 2020 cited violence from other women as one of their main concerns about living in the camp.¹⁴⁰

Save the Children has claimed that between January and mid-August 2021, 79 people were murdered in al Hol camp, including three children who were shot.

- 80.** Save the Children has claimed that between January and mid-August 2021, 79 people were murdered in al Hol camp, including three children who were shot.¹⁴¹ RSI was unable to confirm who allegedly committed these reported killings.



81. RSI takes the view that whilst individual accountability for violence is an important element of human rights principles, respect for human rights also means that States should avoid victim-blaming. As is the case in prisons, States are responsible for preventing violence or exploitation between confined people in a rights-compliant manner. States should also avoid assigning blame for violence based on gender, racial, religious, or other bias. Insofar as violence is a foreseeable human reaction to deprivation and other rights violations of the kind allegedly happening in al Hol and Roj camps, it follows that States should prevent violence - including deaths - by ending these underlying conditions.

a. Sexual and gender-based violence

82. It is a fundamental rule of international law that no one should face sexual or gender-based violence.¹⁴² The Committee on the Elimination of Discrimination against Women defines gender-based violence as 'violence that is directed against a woman because she is a woman or that affects women disproportionately. It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty'.¹⁴³ Children, too, have a specific right to be protected from all forms of physical or mental violence, sexual exploitation, and sexual abuse.¹⁴⁴

83. International tribunals, UN experts, and regional courts have concluded that gender-based or sexual violence may amount to torture or CIDT in some circumstances, including in cases of rape.¹⁴⁵

84. In an interview with RSI in March 2021, a humanitarian actor operating in the camps raised concerns that sexual violence may have been perpetrated against both adult women and children, although RSI was not able to verify these claims.¹⁴⁶ The same humanitarian actor alleged that pregnancies in al Hol Annex have been common for years and estimated the birth rate to be around three per 1,000 women.¹⁴⁷ Given that no adult men are held in this section of the camp and that many women have now lived there for years, these pregnancies - if occurring - raise questions about potential sexual exploitation or assault.

85. When RSI's researcher visited al Hol camp in February 2020, a woman living there alleged that her son had been sexually assaulted by another child.¹⁴⁸ RSI was unable to investigate this claim; however, the question of whether children are sufficiently protected from sexual or other violence by adults or fellow children is a crucial one in any detention situation.

86. International legal standards prescribe that immediate protection, support and counselling should be provided to those who experience abuse, including sexual abuse, and that their claims should be investigated by competent and independent authorities; moreover, alleged perpetrators should be prosecuted where evidence so warrants.¹⁴⁹ However, a humanitarian actor on the ground told RSI in March 2021 that requests they had made for the development of 'safe spaces'¹⁵⁰ in Roj camp's new



extension area for women and girls to reduce the risks, and promote the disclosure, of sexual or gender-based violence in the camps had so far been denied.¹⁵¹ RSI was not able to confirm these claims; however, our research did not reveal any other reporting mechanisms or response services in the camps.

- 87.** Thus, RSI is gravely concerned that women and children in the camps face a real risk of physical, sexual, and other violence contrary to the prohibition on torture and CIDT.



SECTION III. THREATS TO CHILDREN, SEPARATION OF FAMILIES, AND ENFORCED DISAPPEARANCE

Key points

- RSI concludes that conditions in the camps violate children’s rights under international law.
 - Young children growing up in the camps have limited access to education and play, and are allegedly exploited for labour.
 - An estimated 300 to 350 boys have reportedly been separated from their mothers or other caregivers through forcible removal by security personnel and transferred to other detention facilities, after which their family members are unable to communicate with them. If true, these reports raise concerns that the boys might be victims of enforced disappearance.
 - RSI is also concerned that the governments of some European states are pursuing a policy of separating children from their mothers for repatriation. Such separations are contrary to the overall best interests of the children and puts them at risk of serious irreversible harm.
 - There is no indication that proper independent assessments are carried out prior to such separation. Regardless, research has previously established that the forcible separation of children from their primary caregivers has severe and permanent impacts on the children’s physical and psychological development.
- 88.** RSI’s research gives rise to serious concerns that children living in the camps may not be able to develop properly due to the lack of adequate nutrition and healthcare, as well as the absence of education or other resources necessary to foster their development. In addition, the camp setting poses serious threats to the family environment of children living there, with potentially devastating impacts on their short- and long-term mental and physical development.
- 89.** In addition to the rights detailed in Section II above, which have an impact on both women and children living in the camps, international law recognises additional and specific rights belonging to children. Thus, children have a right to the treatment of their best interests as a primary consideration in any decision-making process if the outcome could affect them.¹⁵² The goal of making children’s best interests a primary factor in decisions about them is to protect both the rights and healthy development of the child.¹⁵³
- 90.** The Committee on the Rights of the Child has stated that, in determining what is in the best interests of the child, several key elements should be taken into consideration.¹⁵⁴ Among others, these considerations include the care, protection and safety of the child; the child’s right to health; the child’s right to education; and preservation of the family environment and relationships.¹⁵⁵



I. Lack of appropriate stimulation required for childhood development

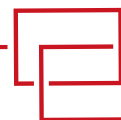
91. Children growing up in al Hol and Roj camps lack access to the necessary stimulation through education and play that is required for them to develop cognitively. This lack of cognitive stimulation compounds the physical damage that inadequate nutrition, lack of health care, and the climate of violence in the camps could cause. At the same time, the lack of adequate nutrition and health care could also impede children's ability to learn.
92. Under international law, everyone is entitled to an education, and this right is crucial for children.¹⁵⁶ When determining what is in the best interests of the child, the preservation of the child's right to education is a key consideration.¹⁵⁷ The UN Security Council has recognised the importance of ensuring that children continue to have access to education during conflict and post-conflict periods.¹⁵⁸ The IACtHR has held that a lack of education for detained children interferes with development, contrary to the children's right to life and in such a way as to amount to CIDT.¹⁵⁹ The IACtHR has also highlighted that education is especially critical for children deprived of their liberty, as 'failure to provide an adequate education limits their chances of actually rejoining society and carrying forward their life plans'.¹⁶⁰
93. However, RSI has serious concerns about the lack of educational and other development opportunities for children living in the camps.
94. RSI's research indicates that education is seriously limited in the camps. In September 2021, Save the Children reported that only 40% of children aged between three and 17 in al Hol camp are currently receiving education, and only 60% in Roj camp.¹⁶¹ When RSI's researcher visited al Hol camp in February 2020, many women were not aware of any schooling facilities in the camps.¹⁶² Women in Roj expressed concerns that although the children in their care went to the school, they did not learn anything.¹⁶³
95. Whilst Save the Children provides some schooling in both camps from early childhood upwards, this education is limited to informal learning adapted for children living in humanitarian crises.¹⁶⁴ A staff member of Save the Children told RSI in March 2021 that it is not possible to deliver more sustainable programmes due to a number of barriers, including donor restrictions on the curriculum provided - meaning that education providers can only teach children non-formally and in a limited number of subjects - as well as too few physical spaces for children to learn.¹⁶⁵ Though some women reported trying to home school their children, women in both camps told RSI's researcher that it is difficult to do so due to insufficient resources and/or knowledge on the part of the women.¹⁶⁶ In addition, many of the children living in the camps may struggle to concentrate due to untreated physical and mental health conditions, and a lack of adequate nutrition.¹⁶⁷



96. In April 2021, Save the Children expressed concerns about the interruption of educational services in the camps, which were suspended as a result of a strict ten-day lockdown announced by the AANES intended to curb the spread of COVID-19.¹⁶⁸ In late September 2021, Save the Children reported that many of its services, including temporary learning spaces, child-friendly spaces and mother-baby spaces, had been suspended due to another COVID-19 lockdown.¹⁶⁹
97. Under international law, children are also entitled to rest and leisure, play time and recreational activities appropriate to the age of the child.¹⁷⁰ However, the Delegate for Child Rights of the Francophone community of Belgium has highlighted that children in the camps have grown up without any toys, books, or other resources necessary for their stimulation and development.¹⁷¹ In addition, some women reported to RSI's researcher in February 2020 that they felt too frightened of the violence and insecurity of the camps, as well as the unhygienic conditions, to let their children outside of their tents to play.¹⁷²
98. RSI's research suggests that instead of being provided with educational opportunities or other sources of stimulation, children sometimes carry out labour in the camps to enable their families to buy basic goods, such as fresh food from the markets. In September 2021, Save the Children stated that 55% of households in Roj camp reported being aware of child labour among children under the age of 11, and that children under the age of 11 are likewise reportedly engaging in labour in al Hol camp.¹⁷³
99. A woman interviewed by RSI's researcher in early 2020 alleged that children in al Hol camp have been undertaking tasks such as digging, selling food cooked by their mothers, pulling heavy carts, and assembling tents in exchange for money to support their families.¹⁷⁴ Women interviewed by RSI's researcher alleged that children in Roj camp have been undertaking tasks such as tent assembly, gutting and plucking chickens, installing televisions in tents, washing people's dishes and clothes, and carrying food or water to tents in exchange for money.¹⁷⁵ One woman living in Roj camp interviewed by RSI's researcher in December 2019 expressed concern about her son being exploited to pitch tents.¹⁷⁶ Another woman living in Roj camp told RSI's researcher in December 2019 that children were working very hard to earn money for their families.¹⁷⁷

RSI has serious concerns that the labour that women have said their children are undertaking in the camps may be hazardous for the children's health and/or may interfere with their ability to access the limited educational opportunities on offer in the camps.

100. International legal standards dictate that children should be protected from economic exploitation and kept away from any work that is likely to interfere with their education, threaten their health, or jeopardise their physical, mental, spiritual,



moral, or social development.¹⁷⁸ RSI has serious concerns that the labour that women have said their children are undertaking in the camps may be hazardous for the children's health and/or may interfere with their ability to access the limited educational opportunities on offer in the camps.

- 101.** In sum, children in the camps are experiencing a lack of education, stimulation, and resources necessary for their cognitive development. This deprivation is harmful to the children and compounds the physical and mental harms caused to everyone living in the camps as a result of the conditions detailed in Section II.¹⁷⁹

II. Threats to preservation of the family environment

- 102.** Under international law, everyone is entitled to respect for their family life.¹⁸⁰ When determining what is in the best interests of the child, preservation of the child's family environment and relationships is a key consideration.¹⁸¹
- 103.** RSI is concerned by allegations that children are being separated from their mothers or primary caregivers both within the camp setting - for example, as a result of alleged forcible removals of boys from the camps - and when children are separated from their mothers for the purposes of repatriation to their home countries (explained more fully in the recommendations section of this report).
- 104.** The Convention on the Rights of the Child states that children must not be separated from their parents or primary caregivers except where such separation is necessary for the best interests of the child.¹⁸² The Committee on the Rights of the Child has further indicated that separations should take place only where there are no less intrusive measures that could be taken to protect the child.¹⁸³ In any case of child separation, the Committee on the Rights of the Child has called on States to guarantee that the situation of the child and his or her family has been assessed by a multidisciplinary team of well-trained professionals with appropriate judicial involvement to ensure that no other option can fulfil the best interests of the child.¹⁸⁴
- 105.** We are not aware of any evidence indicating that local authorities in northeast Syria have conducted such an assessment before separation takes place within the camps. Similarly, ahead of repatriation, it is not possible for home countries to provide the necessary assessment of what is required to fulfil the best interests of the child whilst children and their mothers or other primary caregivers remain living in the camps and cannot be properly assessed by a multidisciplinary team of medical and legal professionals.
- 106.** It is highly likely to be contrary to the best interests of children currently living in the camps for them to be separated from their mothers or other primary caregivers. Independent medical professionals have established the severe and permanent impacts to children's short- and long-term physical and psychological development



when the children are forcibly separated from their primary caregivers,¹⁸⁵ particularly in situations where - as in the camps - children are already suffering trauma and are in a position of particular vulnerability.

- 107.** Separation of children from their mothers or primary caregivers is also likely to be contrary to both the children's and the women's rights to respect for family life.

a. Alleged forcible removal of boys from their families in the camps

Women in the camps, humanitarian actors on the ground and UN experts have long raised fears that boys – mostly teenagers, although some allegedly as young as ten – are being separated from their mothers and siblings in al Hol and Roj camps, forcibly removed from the camps, and taken to other facilities.

- 108.** Women in the camps, humanitarian actors on the ground and UN experts have long raised fears that boys - mostly teenagers, although some allegedly as young as ten - are being separated from their mothers and siblings in al Hol and Roj camps, forcibly removed from the camps, and taken to other facilities.¹⁸⁶ Women interviewed by RSI's researcher in December 2019 alleged that boys had been taken from tents by security personnel, sometimes in the middle of the night.¹⁸⁷ The women also maintained that the boys lose all contact with their families in the camps once they have been removed.¹⁸⁸ A humanitarian professional RSI interviewed in March 2021 estimated that 300 to 350 teenagers had been forcibly removed in this manner from all sections of the camps (i.e. not only the sections where third-country nationals live, but also the sections where Syrian and Iraqi nationals live).¹⁸⁹

- 109.** If true, this alleged forcible separation of boys from their families - and the lack of communication thereafter - raises concerns that these children may be the victims of enforced disappearance, in breach of fundamental principles of international law.¹⁹⁰ The UN Convention on Enforced Disappearances defines enforced disappearance as the arrest, detention, abduction, or any other form of deprivation of liberty by agents of the State, or by persons or groups of persons acting with at least the acquiescence of the State or a political organisation, followed by a refusal to acknowledge the deprivation of liberty or by a concealment of the person's fate or whereabouts.¹⁹¹ From their jurisprudence, it is clear that the AfCHPR and HRC consider that the practice of enforced disappearance itself can amount to torture or CIDT.¹⁹² The HRC and IACtHR have also considered that enforced disappearances may violate the right to life.¹⁹³ The IACtHR has held that enforced disappearance amounts to an arbitrary deprivation of liberty.¹⁹⁴

- 110.** All States Parties to the Convention on Enforced Disappearances¹⁹⁵ are under



an obligation to assist one another in searching for and identifying any missing children and to return them to their families.¹⁹⁶

RSI is also concerned that the arbitrary removal of boys – if true – would subject both them and their other family members in the camps to torture or CIDT.

- 111.** RSI is also concerned that the arbitrary removal of boys – if true – would subject both them and their other family members in the camps to torture or CIDT. The HRC and the ECtHR have acknowledged that the anguish and stress caused to relatives of missing persons due to the disappearance of their family members can constitute a violation of the prohibition of torture and CIDT.¹⁹⁷ The AfCHPR has similarly held that incommunicado detention of individuals without access to their families amounts to inhuman treatment of both the detainees and their families.¹⁹⁸ In addition, RSI is concerned that even the implicit threat that children in the camps could be forcibly or arbitrarily removed from their families could amount to torture or CIDT, given the psychological distress such a threat would create.¹⁹⁹ Indeed, mothers of young boys living in the camps told RSI’s researcher in February 2020 of the deep anxiety that the fear of these removals was causing them.²⁰⁰
- 112.** Reports from UN experts, media sources, and multiple humanitarian actors on the ground interviewed by RSI in March 2021 suggest that some boys are being transferred from the camps to other detention facilities in northeast Syria, including one facility known as the Hourri Rehabilitation Centre.²⁰¹ The UN Special Rapporteur on the protection and promotion of human rights while countering terrorism has reported that, whilst living conditions in the Hourri Rehabilitation Centre are somewhat ‘better’ than in the camps, there remains no legal basis for the detention of these boys, and there is no way for them to leave the centre unless their home countries repatriate them.²⁰² In addition, RSI is not aware of any formal education opportunities in the ‘rehabilitation centre’, and it is unclear whether and to what degree the boys are allowed to have contact with their families.
- 113.** Of particular concern to RSI, following a visit to detention facilities in northeast Syria, a BBC journalist reported in July 2021 that boys who are moved from the camps to secure children’s homes are then moved directly to adult prisons at age 18 if their countries have not repatriated them.²⁰³ Such allegations are particularly concerning as they suggest that boys may be trapped in a cycle of incarceration because of discrimination based on their connection to their parents and/or their home countries’ decisions not to repatriate them, rather than on the basis of anything they themselves have done. It is a foundational principle of international human rights law that no one should be imprisoned unless they have been convicted of a crime following a fair and public trial.²⁰⁴
- 114.** In addition, the UN Special Rapporteur on human rights and counterterrorism has



stated that 'the de facto culling, separation and warehousing of adolescent boys from their mothers is an abhorrent practice inconsistent with the dignity of the boy child'.²⁰⁵ Indeed, the separation and resulting detention of boys in this way appears to be distinctly gendered; under human rights law, no one should be punished or denied their rights based on their gender or age.

b. Separation of children from their primary caregivers in the camps

- 115.** UN standards on women deprived of liberty state that '[d]isciplinary sanctions ... shall not include a prohibition of family contact, especially with children'²⁰⁶ and that '[p]unishment by close confinement or disciplinary segregation shall not be applied to pregnant women, women with infants and breastfeeding mothers in prison'.²⁰⁷
- 116.** However, women in both al Hol and Roj camps told RSI's researcher in December 2019 that some women had been separated from their children and subjected to further deprivations of liberty as punishment for real or perceived violations of camp rules - for example, after a woman tried to flee the camp, and after a mobile phone was discovered in the possession of a woman during a tent search.²⁰⁸ According to a woman living in Roj camp with whom RSI's researcher spoke in December 2019, children were sometimes left alone without appropriate care arrangements and without contact with their mothers following such alleged infractions.²⁰⁹ One woman living in Roj camp told RSI's researcher in December 2019 that in at least one case a mother was subjected to further detention which separated her from the child that she was breastfeeding.²¹⁰ RSI has been unable to verify these claims but is concerned that, at minimum, the environment in the camps appears to be leaving women and children in fear of a risk of such separations.
- 117.** RSI is of the view that the separation of children from their mothers or primary caregivers within the camp setting, without rights-respecting procedures, would violate the rights of both the children and the adults to the preservation of their family environment and would be contrary to the best interests of the child. In addition, separations could violate the rights of women not to be separated from their children as a punishment. RSI also regards a risk of arbitrary or excessive separations - if such a risk exists - as potentially amounting to CIDT and contributing to the conditions that cumulatively amount to torture.



SECTION IV. ARBITRARY, INDEFINITE, AND INCOMMUNICADO DETENTION

Key points

- RSI concludes that third-country women and children are being arbitrarily and indefinitely detained in the camps: they are not allowed to leave freely, and the camps are surrounded by wire fences and armed guards.
- There is no evidence that trials took place prior to the detention of these third-country nationals, and they have not been informed of any legal basis justifying their continued forced confinement. They have also not been given the opportunity to challenge the lawfulness of their ongoing detention before an independent authority.
- RSI's research suggests that third-country women and children are likely being detained in the camps on the basis of presumed familial associations with male alleged IS members. If so, this practice violates human rights because it is discriminatory, arbitrary, and may amount to a form of collective punishment. It may also constitute intersectional discrimination on the basis of a combination of sex and religion.
- In addition, detaining children on the basis of alleged family ties is contrary to international law.
- In many cases, it is virtually impossible for third-country women and children to communicate with lawyers or family members outside the camps. This situation deprives them of their due-process rights.
- The refusal to repatriate these women and children to their home countries means they have no realistic prospect of safe release from the camps and continue to suffer the dire humanitarian conditions detailed in this report. Having no prospect of safe release places women and children in the camps at risk of attempting dangerous escapes or being exploited by traffickers.

118. RSI's research indicates that third-country women and children are being arbitrarily and indefinitely detained in the camps. In many cases, they are being held incommunicado - that is, without a practical ability to communicate with the outside world, including their other family members and lawyers.

119. It is a fundamental principle of international law that no one should be subjected to arbitrary arrest or detention.²¹¹ Detention is considered 'arbitrary' where there is no legal basis for it, where it is discriminatory, or where the person detained has not been given a fair trial.²¹² Incommunicado detention is also prohibited under international law.²¹³

120. Of particular relevance to the camps, children should only ever be detained as a measure of last resort and for the shortest appropriate period of time.²¹⁴



121. There is no question that third-country women and children are not free to leave al Hol and Roj camps: the sections where they live are surrounded by wire fences several metres high and are monitored by armed guards.²¹⁵ In many cases, third-country women and children have not been permitted to leave the confines of the camps since they arrived - in most cases since 2019, but for some as early as 2016 - except with the express permission of camp authorities in rare cases such as referrals to hospitals outside the camps.²¹⁶

RSI is also concerned that the arbitrary removal of boys - if true - would subject both them and their other family members in the camps to torture or CIDT.

122. In July 2021, the Guardian reported that some women had paid smugglers to help them escape from al Hol camp.²¹⁷ The report alleged that the money paid to smugglers is sometimes obtained through online 'marriages' to men allegedly associated with IS. In addition to revealing the lengths to which women may go to escape camp conditions and protect their children, such reports as these raise serious concerns about how the inability to leave the camps is leading to a risk of trafficking and other exploitation of women.²¹⁸ The reported practice of remote 'marriage' with women in the camps, if true, raises serious concerns about sex trafficking in particular.

123. In RSI's view, the detention of third-country women and children in al Hol and Roj camps is arbitrary. There is no proper basis in law justifying their forced confinement to the camps; instead, their detention appears to be based on discriminatory assumptions by local authorities and/or home country governments rather than fair and public proceedings of any kind. Third-country women and children in the camps do not have any opportunity to challenge their detention in court, as required by international law. In many cases, third-country women and children are being held without the ability to communicate with the outside world.

a. Absence of a legal basis justifying detention

124. RSI's research has not uncovered any instances in which third-country women and children living in the camps have been informed of any legal basis justifying their detention,²¹⁹ and there is no evidence that any trial took place prior to their forcible relocation to the camps.²²⁰ Instead, media reporting²²¹ and statements from home country governments²²² suggest that third-country women and children are being confined in the camps on the basis of their presumed familial associations with alleged IS members, and not on the basis of any criminal conviction or other decision resulting from a fair adjudication process. Certainly, children born in the camps are there because of their family associations.

125. The HRC has characterised the indefinite detention of family members of those who have allegedly committed crimes, and who are not themselves accused of any wrongdoing, as an 'egregious example of arbitrary detention'.²²³ The detention of family members may also amount to a form of collective punishment,

which is prohibited under international law.²²⁴

- 126.** So far as the women are concerned, the UN Special Rapporteur on human rights and counterterrorism has warned that it would be discriminatory to put women in a category on the basis of their husbands' - or male family members' - beliefs, or on the basis of a presumed but unproven connection to an armed group.²²⁵ Indeed, to the extent that States are not subjecting men to similar treatment based on their connections to particular women, this could amount to discrimination against women in violation of international law.²²⁶ Similarly, if States are exhibiting such assumptions regarding Muslim women specifically - or Muslim women with particular beliefs - but not women of other faiths or beliefs, such a situation could constitute intersectional discrimination against women: that is, less favourable treatment of certain people not only because they are women, but because they are women who hold (or are believed to hold) certain religious or political views.
- 127.** So far as the children are concerned, international law requires that States must give protection and assistance to all children without discrimination. In particular, children must be protected against discrimination or punishment on the basis of their connection to their parents or other family members - for example, because someone in their family has expressed a certain opinion or has been accused of a crime. Leaving children detained in the camps because they belong to families with alleged ties to an armed group, and not because of anything the children themselves have done, would be discriminatory and contrary to international law. International law further requires that all children allegedly associated with armed groups be treated primarily as victims.²²⁷
- 128.** The AANES has long been calling for third-country children in the camps to be repatriated by their home countries, in recognition of the fact that their ongoing detention is not in the best interests of the child.²²⁸
- 129.** Thus, it is RSI's view that third-country women and children are being arbitrarily detained in the camps, as there is no proper basis in law justifying their detention; instead, their detention appears to be based on discriminatory assumptions.

b. Inability to challenge the lawfulness of continued detention

- 130.** Contrary to international law, third-country women and children have not been provided with any opportunity to challenge the lawfulness of their ongoing detention.²²⁹ Under international law, they should have been given a fair and public hearing within a reasonable time by an independent and impartial tribunal.²³⁰ As a result, third-country women and children have been left in a legal black hole in which they are unable to assert their human rights. This complete lack of due process violates international law regardless of whether the women and children are best categorised as detainees in an armed conflict context,²³¹ internally displaced persons,²³² or something else.



- 131.** As a result, it is RSI's view that third-country women and children are being arbitrarily detained in the camps, contrary to international law, as they have never been given the opportunity to challenge their ongoing deprivation of liberty before a judge or other independent authority.
- 132.** Attempts have been made by the AANES to set up a hybrid domestic-international tribunal in the region to try women held in the camps.²³³ While some home countries, including the UK,²³⁴ have issued statements supporting this suggestion, no such tribunal has yet been established and UN experts have confirmed, as recently as late September 2021, that there is no realistic prospect of such trials occurring.²³⁵ Were such a tribunal ever to be established, RSI would have grave concerns regarding the legitimacy of trial by a non-State actor, the capacity of the local authorities to try people with full regard for their fair trial and other human rights, and the fate of those convicted or acquitted. RSI would also have serious questions as to whether and how children would be tried, and for what alleged offences.
- 133.** Likewise, in light of the grave violations of fair trial procedures that have already been documented in Iraq,²³⁶ RSI has serious concerns regarding the suggestion reported in April 2021 that women in the camps might be transferred to Iraq for prosecution.²³⁷
- 134.** Lawyers representing third-country women and children living in the camps have attempted to secure protections for their clients under international law and the domestic laws of their clients' home countries.²³⁸ However, some home countries have claimed that they lack jurisdiction over women or children in the camps - including those they have recently deprived of citizenship - and that therefore they cannot or are not obligated to help.²³⁹ These claims are the subject of ongoing challenges before courts, including the ECtHR.²⁴⁰

c. Inability to communicate with the outside world

- 135.** Under international law, detained people must be permitted to maintain contact with their family members and lawyers through correspondence and visits.²⁴¹ In addition, family members must be provided with information on the whereabouts of those detained.²⁴² The HRC, IACtHR and AfCHPR have held that detention without communication with the outside world ('incommunicado detention') can amount to torture or CIDT.²⁴³

RSI's interviews with women in the camps, their family members and lawyers have indicated that third-country women and children have only sporadic contact – at most – with their family members outside of the camps and with their lawyers. In some cases, there is no contact at all.

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have indicated that third-country women and children have only sporadic contact - at most - with their family members outside of the camps and with their lawyers. In some cases, there is no contact at all.

- 137.** RSI's interviews with women in the camps in early 2020 suggest that in the sections where third-country nationals live, having a mobile phone is prohibited.²⁴⁴ This means that women are only able to contact their families and legal representatives using phones that they or another woman have kept hidden. A woman in Roj camp claimed in these interviews that camp authorities engage in extensive surveillance and that it is therefore especially hard for women to keep phones hidden.²⁴⁵ As a result, access to phones in both camps appears to be unreliable and risky at best, and our research experience suggests that even the hidden phones are often shared between several women, making regular and private conversations with families and legal representatives virtually impossible.
- 138.** In addition, French lawyers representing women in the camps reported being denied entry to the camps when they attempted to visit their clients in December 2020 and late February 2021.²⁴⁶ In an interview with RSI in late 2019, the family members of a woman and her children living in Roj camp also reported that they had been denied entry to the camp when they had attempted to visit.²⁴⁷
- 139.** As a result, RSI is seriously concerned that women and children are being subjected to incommunicado detention in al Hol and Roj camps, contrary to fundamental principles of international law and possibly amounting to torture or CIDT.

The lack of confidential communication with legal representatives leaves women and children in a legal black hole.

- 140.** The lack of confidential communication with legal representatives leaves women and children in a legal black hole. It impedes access to legal help and redress for the women and children living in the camps - in circumstances where, as outlined above, they face serious threats to their lives and health. The lack of confidential communication also threatens the due process rights of those women already facing legal proceedings in their home countries. These practical barriers to challenging the denial of their rights and arguing for their release from the camps likely compounds the existing trauma of living in the dire conditions described in Sections II and III of this report.



RECOMMENDATIONS

By now, all home country governments know - or have abundant reason to know - about the life-threatening and, as RSI concludes, torturous conditions in al Hol and Roj camps. In addition to our reports on the topic, journalists, UN experts, and other non-governmental organisations have been recording serious harms to both adults and children in the camps for years. Despite this knowledge, and despite calls from the detaining authorities and UN experts for home country governments to take back their citizens (and former citizens, governments have continued to make decisions that leave women and children at risk of death, torture, and other grave harms. Home country governments have often refused to repatriate their nationals, and some - such as the British, Belgian, and Danish governments - have also engaged in legally controversial practices of stripping their nationals of citizenship²⁴⁸ in what may be an attempt to distance themselves from legal responsibility for the people in the camps. These actions are tantamount to abandoning human beings in conditions where, as this report has established, they are arbitrarily detained and ultimately may not survive. Those children who do survive are harmed every day by educational deprivation and other conditions that could have a lifelong negative impact. Children and adults face preventable sickness and death as well as other serious, needless suffering that could result in long-term physical and psychological effects.

Many home country governments have the practical ability to remove people from the camps, as demonstrated by the fact that some repatriations that have already taken place. In most cases, however, home country governments are choosing not to take these steps. As a result, RSI finds home country governments responsible - at least in practice - for the continuing harm suffered by their nationals and former nationals in the camps.

For these reasons, RSI recommends that home country governments do the following:

I. REPATRIATION

- **Take all necessary steps to secure the repatriation of, and appropriate post-return treatment and support for, their nationals and others they could bring back from the camps - including those they have deprived of citizenship.**
 - The provision of humanitarian aid by home country governments to the detaining authorities, if occurring, is not sufficient to alleviate the ongoing human rights abuses. Although an examination of the provision of humanitarian aid by home country governments to the camps it is not within the scope of this report, such provision could also be viewed as propping up the existence of these camps and thus directly contributing to the rights violations occurring there.
 - Home countries governments should stop hiding behind legal claims that they lack jurisdiction over women or children in the camps. Such claims distract from the fact that regardless of whether there is a legal obligation under international human rights law requiring home country governments to protect the human rights of people outside of their territory, there is nothing in international law that prevents home country governments from taking the necessary steps to protect the human rights of women and children in the camps, including through repatriation (at least where the government of Syria does not object on state sovereignty grounds - something it has not done).



- **Ensure that children are repatriated with their mothers or other primary caregivers, and that adults are repatriated regardless of their parental status.**
 - Reports suggest that some home countries such as Denmark,²⁴⁹ Belgium,²⁵⁰ France,²⁵¹ and the UK²⁵² have been seeking, or at least offering, to repatriate children without adults, which would separate children from their mothers or primary caregivers.²⁵³
 - It is highly likely to be contrary to the best interests of the children for them to be separated from their mothers or primary caregivers and repatriated alone. Under human rights law, children have a right to family life, and children in the camps have grown up alongside and are presumably bonded with their mothers or primary caregivers. Moreover, children in the camps are growing up in a setting in which they have experienced - and are still experiencing - prolonged, repeated, and intense early stress.²⁵⁴ Separating them from their main attachment figures could be extremely traumatic and have a serious, long-term, and potentially irreversible impact on their development.²⁵⁵
 - Home country policies that only allow for the repatriation of children from the camps without their mothers or primary caregivers could additionally violate the international principle that children must not experience discrimination due to a parent's beliefs or status. Such policies could also amount to a form of collective punishment, which is prohibited under international law.
 - It is possible that women in the camps are not able to give valid (i.e. free and informed) consent to the repatriation of their children without them: the women are being held in a position of real vulnerability against their will, and have found it difficult or impossible to contact lawyers for advice. While women's agency and decision-making ability must be appropriately respected, the power disparity between these vulnerable women and their home country governments is so vast that there is a strong risk that any purported 'consent' by the women to separation from their children will not be freely given.
 - In any case of child separation, home country governments should guarantee that the situation of the child and the child's family has been assessed by a multidisciplinary team of well-trained professionals with appropriate judicial involvement to ensure that no other option can fulfil the best interests of the child.²⁵⁶ At present, RSI is not aware of any information to suggest that home country governments are arranging for such assessments in the camps.

II. INVESTIGATION AND PROVISION OF INFORMATION

- **Cooperate with other governments and the AANES to search for and locate any individuals - especially children - who have gone missing from or within the camps.²⁵⁷**
- **Investigate the situations of people in the camps who may have been trafficked or may be at risk of trafficking,²⁵⁸ and provide support for victims and potential victims of exploitation.**
- **Provide family members with information on the whereabouts of those detained in the camps.²⁵⁹**

III. AVOIDING DISCRIMINATION AND DE FACTO STATELESSNESS

- **Ensure that policies towards women and children in the camps are not based on**



discriminatory assumptions, including on grounds of race, religion, belief, or gender (or a combination of such characteristics). Instead, home country governments should take an individualised approach to assessing the specific situation and needs of each person.

- Leaving women and children in the camps because they are believed to belong to families with alleged ties to IS, and not because of anything the women or children themselves are alleged to have done, is contrary to international law and may be discriminatory. It may also be contrary to the international prohibition on collective punishment.
- Depriving women of citizenship due to familial connections they are believed to have, such as relationships with male alleged IS members, would be discriminatory and arbitrary.
- In many cases, deprivation of citizenship renders women and their children stateless in law or in practice. Home country governments should not deprive women in the camps of their citizenship without providing for effective and accessible appeal rights and other rights protections. Home country governments must ensure that women are able to participate effectively in appeal proceedings and communicate with their lawyers. In practice, effective participation in an appeal requires repatriation.
- Home country governments should reverse deprivation decisions already taken and proceed in accordance with fundamental rights.

IV. DECISION-MAKING REGARDING CHILDREN

- **Ensure that what is in the best interests of the child is a primary consideration in any decision that concerns a child or group of children.²⁶⁰ Such decisions should be based on individualised evidence, documented, and subject to rights protections for the child involved.**
 - The goal of making children's best interests a primary factor in decisions about them is to protect both the rights and healthy development of the child.²⁶¹
 - In determining what is in the best interests of the child, several key elements should be taken into consideration.²⁶² Among others, these considerations include the care, protection, and safety of the child; the child's right to health; the child's right to education; and preservation of the family environment and relationships.²⁶³
- **Take all steps to remedy any policy towards children that is discriminatory on the basis of their race, ethnicity, religion, gender, or their connection to their parents or other family members - for example, because someone in their family has allegedly expressed a certain opinion or has been accused of a crime.**
 - Leaving children detained in the camps because they belong to families with alleged ties to an armed group, and not because of anything the children themselves have done, is discriminatory and contrary to international law.
- **Ensure that all policies conform with the international obligation to treat all children allegedly associated with armed groups primarily as victims.**
 - RSI asserts that it is necessarily ill-founded to view any child as a threat to national security, and recommends that home country governments take a supportive and remedial approach to children for whom there is evidence of any involvement or interest in violence.



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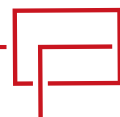
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Rights & Security International ('RSI') is a registered charity in England and Wales with over 30 years of experience in defending human rights in the national security context. RSI has been conducting research regarding the situation of third-country nationals living in al Hol and Roj camps in northeast Syria since 2019 and published its first report on the issue, *Europe's Guantanamo: The indefinite detention of European women and children in North East Syria*, in November 2020.



ENDNOTES

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- 33 In the United Kingdom, see *Begum v Secretary of State for the Home Department* [2020] 2 WLUK 60 (Special Immigration Appeals Commission) [130]; *Begum v Special Immigration Appeals Commission* [2020] EWCA Civ 918 (Court of Appeal). In Belgium, see Tribunal de première instance francophone de Bruxelles, Section Civile (Francophone Tribunal of First Instance of Brussels, Civil Section), 19/129/C, 30 October 2019, [48] ff; Tribunal de première instance francophone de Bruxelles, Section Civile, (Francophone Tribunal of First Instance of Brussels, Civil Section), 19/87/C, 2 December 2019, [51]. In Germany, see Oververwaltungsgericht Berlin-Brandenburg (Higher Administrative Court of Berlin-Brandenburg), OVG 10 S 30/20, 7 July 2020 [17].
- 34 '[Syria: UN Experts Urge 57 States to Repatriate Women and Children From Squalid Camps](#)' (*United Nations Office of the High Commissioner for Human Rights*, 8 February 2021); '[UN experts welcome return to Canada of five-year-old orphaned in Syria](#)' (*United Nations Office of the High Commissioner for Human Rights*, 7 October 2020);
- 35 [Declaration on the Protection of All Persons from Being Subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment](#) ('Declaration against Torture'), Article 1 (1); [Convention Against Torture](#) ('CAT'), Article 1; [Rome Statute of the International Criminal Court](#) ('Rome Statute'), art 7 (2) (e). The Declaration against Torture also distinguishes between 'torture' and 'CIDT' on the basis that torture is an aggravated form of CIDT: Article 1 (2). The ECtHR has held that the main distinction between 'torture' and other forms of CIDT is a difference in the intensity of harm inflicted, and that 'torture' amounts to 'very serious and cruel suffering': *Ireland v. United Kingdom* (n 32), para. 167.
- 36 Declaration against Torture (n 35), Article 1 (1); [Inter-American Convention to Prevent and Punish Torture](#), Article 2; CAT (n 35), Article 1; Rome Statute (n 35), Article 7 (2) (e). The ECtHR has spoken of 'deliberate' inhuman treatment: *Ireland v. United Kingdom* (n 32), para. 167.
- 37 [European Convention on Human Rights](#) ('ECHR'), Article 2; [International Covenant on Civil and Political Rights](#) ('ICCPR'), Article 6; CRC (n 3) Article 6 (1); [Geneva Conventions of 1949](#) ('Geneva Conventions'), Common Article 3; [ICRC Customary International Humanitarian Law database](#) ('CIHL'), Rule 89; [Guiding Principles on Internal Displacement](#) ('IDP Principles'), Principle 10; Rome Statute (n 35), Article 8 (2) (c) (i). As part of the child's inherent right to life, States must ensure to the maximum extent possible the survival and development of the child: CRC (n 3), Article 6 (2).
- 38 ECHR (n 37), Article 3; ICCPR (n 37), Article 7; CRC (n 3), Article 37 (a); Geneva Conventions (n 37), Common Article 3; [Additional Protocol \(II\) to the Geneva Conventions](#) ('APII'), Article 4 (2) (e) APII; CIHL (n 37), Rule 90; IDP Principles (n 37), Principle 11 (2) (a). Note: torture and CIDT are considered war crimes when committed during an armed conflict, see Rome Statute (n 35), Article 8 (2) (a) (ii), (c); CAT (n 35), Articles 2, 16.
- 39 CRC (n 3), Articles 6, 37 (a).
- 40 ECtHR: *Chahal v United Kingdom* [1996] ECHR 54, para 79; see also *Aleksanyan v Russia* [2008] ECHR 132, para 133; *Pocasovschi and Mihaila v Moldova and Russia* [2018] ECHR 434, para 61; *Gjini v Serbia* [2019] ECHR 34, para 72; IACtHR: *Berenson-Mejía v Peru*, Judgement (Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 119 (25 November 2004), para 100; *Tibi v Ecuador*, Judgement (Preliminary Objections, Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 114 (7 September 2004), para 143; CAT: CAT, [Report of the UN Committee Against Torture: Twenty-seventh Session \(12 to 23 November 2001\) and Twenty-eighth Session \(29 April to 17 May 2002\), 1 November 2002](#), A/57/44, paras 17, 18; *Agiza v Sweden* (24 May 2005) Communication No 233/2003 CAT/C/34/D/233/2003, para 13.8.
- 41 [Additional Protocol \(I\) to the Geneva Conventions](#) ('API'), Articles 50 (1), 51 (2) and APII (n 38), Article 13 (2) exclude civilians from attack during armed conflict; ICCPR (n 37), Article 4 makes the right to life non-derogable. Note: though ICCPR (n 37), Article 6 (2) permits the imposition of the death penalty for serious crimes, the [Second Optional Protocol to the ICCPR](#) aims at abolishing the death penalty and prohibits State parties to the Protocol from executing a death sentence.
- 42 ECtHR: *Peers v Greece* [2001] ECHR 296, para, 75; see also *Kalashnikov v Russia* [2002] ECHR 596, para 95; *Gjini v Serbia* (n 40), paras 73, 76; *Kudla v Poland* [2000] ECHR 512; IACtHR: *Montero-Aranguren and Others v Venezuela*, Judgement (Preliminary Objections, Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 150 (5 July 2006), para 97.
- 43 ECtHR: *Dougoz v Greece* [2001] ECHR 213, para 46; *Kalashnikov v Russia* (n 42) [95]; *Korneykova and Korneykov v Ukraine* [2016] ECHR 303, para 146; *Clasens v Belgium* [2019] ECHR 391, para 33.
- 44 ECtHR: *Dougoz v Greece* (n 43), para 44; *Peers v Greece* (n 42), para 67; *Kalashnikov v Russia* (n 42), para 95; *Aleksanyan v Russia* (n 40), para 134; IACtHR: *Montero-Aranguren and Others v Venezuela* (n 42), para 97; *Gómez-Paquiyaury Brothers v Peru*, Judgement (Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 110 (8 July 2004), para 113; HRC: *Vuolanne v Finland* (2 May 1989) Communication No 265/1987 CCPR/C/35/D/265/1987, para 9.2.
- 45 Ibid.
- 46 *Peers v Greece* (n 42), para 74; *Kalashnikov v Russia* (n 42), para 101.
- 47 *Soering v United Kingdom* [1989] ECHR 14, paras 106, 111.
- 48 *Lantsova v Russia* (26 March 2002) Communication No 763/1997 CCPR/C/74/D/763/1997, para 9.2.
- 49 *Juvenile Reeducation Institute v Paraguay*, Judgement (Preliminary Objections, Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 112 (2 September 2004), paras 159, 160.
- 50 [International Covenant on Economic, Social and Cultural Rights](#) ('ICESCR'), Article 11; IDP Principles (n 37), Principle 18.
- 51 CIHL (n 37), Rules 118, 121; HRC, '[General Comment no. 21: Article 10 \(Humane Treatment of Persons Deprived of Their Liberty\)](#)', 10 April 1992, para. 3; IACtHR: *Juvenile Reeducation Institute v Paraguay* (n 49), para 152; *Montero-Aranguren and Others v Venezuela* (n 42), para 87; *Caesar v Trinidad and Tobago*, Judgement (Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 123 (11 March 2005), para 97; *Tibi v Ecuador* (n 40), para 129; HRC: *Lantsova v Russia* (n 48), para 9.2.
- 52 ECtHR: *Pocasovschi and Mihaila v Moldova and Russia* (n 40), para 62; *Clasens v Belgium* (n 43), para 33.



- 53 ECtHR: *Dougoz v Greece* (n 43), para 46; *Kalashnikov v Russia* (n 42), para 102; *Korneykova and Korneykov v Ukraine* (n 43), para 147; *Clasens v Belgium* (n 43), paras 33 - 34; IACtHR: *Caesar v Trinidad and Tobago* (n 51), paras 99 - 100; *Montero-Aranguren and Others v Venezuela* (n 42), para 97; *Raxcacó Reyes v Guatemala* (2005), Judgement (Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 133 (15 September 2005), para 95; *Berenson-Mejía v Peru* (n 40), paras 102, 106, 108; *Tibi v Ecuador* (n 40), para 150; HRC: *Mukong v Cameroon* (10 August 1994) Communication No 458/1991 CCPR/C/51/D/458/1991, para 9.3; *Patterson Matthews v Trinidad and Tobago* (31 March 1998) Communication No 569/1993 CCPR/C/62/D/569/1993, paras 5.4, 7.3; *Gorji-Dinka v Cameroon* (17 March 2005) Communication No 1134/2002 CCPR/C/83/D/1134/2002, para 5.2; *Griffin v Spain* (5 April 1995) Communication No 493/1992 CCPR/C/53/D/493/1992, paras 3.1, 9.3; *Brown v Jamaica* (11 May 1999) Communication No 775/1997 CCPR/C/65/D/775/1997, para 6.13; *Sextus v Trinidad and Tobago* (16 July 2001) Communication No 818/1998 CCPR/C/72/D/818/1998, para 7.4; *Kennedy v Trinidad and Tobago* (26 March 2002) Communication No 845/1998 CCPR/C/74/D/845/1998, para 7.8; AfCHPR: *Huri-Laws v Nigeria* (6 November 2000) Communication No 225/98, para 40; *Malawi Africa Association and Others v Mauritania* (11 May 2000) Communication Nos 54/91-61/91-96/93-98/93-164/97-196/97-210/98, para 116.
- 54 ECtHR: *Korneykova and Korneykov v Ukraine* (n 43), para 140; *Pocasovschi and Mihaila v Moldova and Russia* (n 40), para 62; HRC: *Brown v Jamaica* (n 53), para 6.13; *Mika Miha v Equatorial Guinea* (10 August 1994) Communication No 414/1990 CCPR/C/51/D/414/1990, para 6.4.
- 55 ECtHR: *Korneykova and Korneykov v Ukraine* (n 43), para 147; *Pocasovschi and Mihaila v Moldova and Russia* (n 40), para 62; IACtHR: *Tibi v Ecuador* (n 40), paras 151, 152; *Berenson-Mejía v Peru* (n 40), paras 106, 108; HRC: *Mukong v Cameroon* (n 53), para 9.3; *Sextus v Trinidad and Tobago* (n 53), para 7.4; *Brown v Jamaica* (n 53), para 6.13; *Kennedy v Trinidad and Tobago* (n 53), para 7.8; *Mika Miha v Equatorial Guinea* (n 54), para 6.4; AfCHPR: *Malawi Africa Association and Others v Mauritania* (n 53), para 116; *Civil Liberties Organisation (in respect of the Nigerian Bar Association) v Nigeria* (22 March 1995) Communication No 101/93, para 27; *Achuthan (on behalf of Aleke Banda) and Amnesty International (on behalf of Orton and Vera Chirwa) v Malawi* (22 March 1995) Communication No 64/92-68/92-78/92_8AR, para 7.
- 56 *Juvenile Reeducation Institute v Paraguay* (n 49), para 179.
- 57 ECtHR: *Korneykova and Korneykov v Ukraine* (n 43); IACtHR: *Juvenile Reeducation Institute v Paraguay* (n 49), para 147.
- 58 Committee on Economic, Social and Cultural Rights ('CESCR'), '[General Comment No. 4: The Right to Adequate Housing \(Art. 11 \(1\) of the Covenant](#)', 13 December 1991, E/1992/23, at para. 8 (d).
- 59 Ibid.
- 60 Ibid.
- 61 Christele Harrouk, '[Refugee Camps: From Temporary Settlement to Permanent Dwellings](#)' (*ArchDaily*, 27 May 2020); Fionnuala Ní Aoláin, '[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 of adolescents/juveniles being detained in North-East Syria](#)' (*United Nations Office of the High Commissioner for Human Rights*, May 2021).
- 62 Human Rights Watch, '["Bring Me Back to Canada": Plight of Canadians Held in Northeast Syria for Alleged ISIS Links](#)', 29 June 2020.
- 63 '[Northern Syria Flooding: thousands of children at risk of further displacement](#)' (*Save the Children*, 20 December 2019).
- 64 RSI (n 1) interview no. 07/2020 with a woman living in al Hol camp, February 2020.
- 65 '[MSF denounces unsafe environment in Al-Hol camp in wake of staff killing](#)' (*Médecins Sans Frontières*, 2 March 2021).
- 66 Save the Children, '["When am I going to start to live?": The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps](#)', September 2021, p. 12.
- 67 Ibid. p. 45.
- 68 RSI (n 1) interview no. 10/2020 with a woman living in al Hol camp, December 2019; RSI (n 1) interviews nos. 12/2020, 17/2020, 18/2020, 19/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 69 The UN Special Rapporteur on adequate housing has confirmed that shelter and the right to life are linked, see '[Statement to the General Assembly, presenting the report on "Right to life & right to housing: interconnected and indivisible"](#)' (*United Nations Office of the High Commissioner for Human Rights*, 25 October 2016).
- 70 United Nations General Assembly, '[Resolution adopted by the General Assembly on 17 December 2015: 70/169. The human rights to safe drinking water and sanitation](#)', 22 February 2016, A/RES/70/169, para. 2.
- 71 Human Rights Watch, '["Bring Me Back to Canada": Plight of Canadians Held in Northeast Syria for Alleged ISIS Links](#)', 29 June 2020.
- 72 Ibid.; RSI (n 1) interview no. 10/2020 with a woman living in al Hol camp, December 2019.
- 73 RSI (n 1) interviews nos. 08/2020, 09/2020, 10/2020 with women living in al Hol camp, December 2019-February 2020; RSI (n 1) interviews nos. 17/2020, 18/2020, 19/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 74 RSI (n 1) interview no. 08/2020 with a woman living in al Hol camp, December 2019.
- 75 RSI (n 1) interviews nos. 17/2020, 18/2020, 19/2020 with women living in Roj camp, December 2019-February 2020.
- 76 In January 2021, UNICEF reported that it had provided soap bars to 49,000 residents across al Hol camp and had disinfected WASH facilities for about 29,040 residents. It is unclear whether this covered the Annex and how, if at all, the remaining residents are being supplied by other partners or not, see: '[Whole of Syria: Humanitarian Situation Report](#)' (*UNICEF*, January 2021), p. 5.
- 77 '[Virus Fears Spread at Camps for ISIS Families in Syria's North East](#)' (*International Crisis Group*, 7 April 2020).
- 78 '[North East Syria: COVID-19 Spreads Through Camps as Ramadan Begins Under Emergency Lockdown](#)' (*Save the Children*, 15 April 2021).
- 79 '[Camp Profile: Roj](#)' (*REACH*, October 2020); '[Camp Profile: Al-Hol](#)' (*REACH*, October 2020).



- 80 [‘Camp Profile: Al-Hol’](#) (REACH, October 2020).
- 81 Whilst not explicitly mentioned in the ICESCR (n 50), CESCR (n 58) [‘General Comment No. 15: The Right to Water \(Arts. 11 and 12 of the Covenant\)’](#), 20 January 2003, E/C.12/2002/11, confirms at para. 3 that Article 11 (the right to an adequate standard of living) and Article 12 (the right to the highest attainable standard of health) imply a right to a sufficient quantity and quality of water. See also CRC (n 3), Article 24 (2) (c).
- 82 CESCR (n 58) [‘General Comment No. 15: The Right to Water \(Arts. 11 and 12 of the Covenant\)’](#), 20 January 2003, E/C.12/2002/11, paras. 2, 12.
- 83 Ibid., para. 2.
- 84 Committee on the Rights of the Child (‘CommRC’), [‘General Comment No.15 \(2013\) on the right of the child to the enjoyment of the highest attainable standard of health \(art. 24\)’](#), 17 April 2013, CRC/C/GC/15, para. 48.
- 85 RSI (n 1) interviews nos. 08/2020 and 09/2020 with women living in al Hol camp, December 2019-February 2020; RSI (n 1) interviews nos. 17/2020, 19/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 86 [‘Syria: Violations and abuses rife in areas under Turkish-affiliated armed groups - Bachelet’](#) (United Nations Office of the High Commissioner for Human Rights, 18 September 2020); World Health Organization, [‘Syria Crisis: Al-Hol Camp, Hasakeh Governorate, Issue 9: 7-21 June 2019’](#); [‘Whole of Syria: Humanitarian Situation Report’](#) (UNICEF, January 2021).
- 87 RSI (n 1) interviews nos. 17/2020, 19/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 88 Human Rights Watch, [“Bring Me Back to Canada” Plight of Canadians Held in Northeast Syria for Alleged ISIS Links](#), 29 June 2020.
- 89 RSI (n 1) interview with a Kurdish Red Crescent (‘KRC’) staff member, February 2020.
- 90 Robert Edwards, [‘What next for children of Daesh detainees confined in Syrian camps?’](#) *Arab News* (London, 19 February 2021).
- 91 Imran Riza, United Nations Resident Coordinator and Humanitarian Coordinator in Syria, [‘Statement on the Humanitarian Situation in Al Hol’](#) (Office for the Coordination of Humanitarian Affairs, 13 August 2020); [‘Syria: Humanitarian Response in Al Hol camp: Flash Update No. 6 as of 7 March 2019’](#) (Office for the Coordination of Humanitarian Affairs, 7 March 2019); [‘Eight children die in Al Hol camp, northeastern Syria in less than a week’](#) (UNICEF, 12 August 2020); [‘Deaths of children in northeast Syria ‘could have been averted’: UNICEF’](#) *UN News* (13 August 2020); Lisa Schlein, [‘8 Children in Syria’s Al-Hol Camp Die From Preventable Illnesses’](#) *Voice of America* (Geneva, 16 August 2020).
- 92 CESCR (n 58) [‘General Comment No. 12: The Right to Adequate Food \(Art. 11\)’](#), 12 May 1999, E/C.12/1999/5, paras. 8, 9.
- 93 CommRC (n 84), [‘General Comment No.15 \(2013\) on the right of the child to the enjoyment of the highest attainable standard of health \(art. 24\)’](#), 17 April 2013, CRC/C/GC/15, para. 45.
- 94 RSI (n 1) interviews nos. 01/2020, 08/2020, 09/2020, 10/2020 with women living in al Hol camp, December 2019-February 2020; RSI (n 1) interviews nos. 12/2020, 15/2020, 17/2020, 18/2020, 19/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 95 RSI (n 1) interviews nos. 01/2020, 08/2020, 09/2020, 10/2020 with women living in al Hol camp, December 2019-February 2020; RSI (n 1) interviews nos. 15/2020, 17/2020, 18/2020, 19/2020 with women living in Roj camp, December 2019-February 2020. Many women cannot access money as family members living in their home countries are prevented by terrorism financing laws from sending the women money.
- 96 This has been confirmed in reports from media sources, the UN and human rights organisations, see [‘Denmark to repatriate Daesh fighters’ children from YPG-run camps’](#) *Daily Sabah* (Istanbul, 19 May 2021); Fionnuala Ní Aoláin, [‘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 of adolescents/juveniles being detained in North-East Syria’](#) (United Nations Office of the High Commissioner for Human Rights, May 2021); Human Rights Watch, [“Bring Me Back to Canada” Plight of Canadians Held in Northeast Syria for Alleged ISIS Links](#), 29 June 2020.
- 97 [‘Syria: Child death rate triples in Al-Hol camp as medical access deteriorates’](#) (*Save the Children*, 13 August 2020).
- 98 Daniel Hurst, [‘Australian girl collapses in Syrian camp, sparking renewed calls to repatriate women and children’](#) *The Guardian* (14 June 2021).
- 99 ICESCR (n 50), Article 12; CRC (n 3), Article 24.
- 100 CESCR (n 58) [‘General Comment No. 14: The Right to the Highest Attainable Standard of Health \(Art. 12\)’](#), 11 August 2000, E/C.12/2000/4, paras. 9, 12; IDP Principles (n 37) Principle 19. See also, Committee on the Elimination of Discrimination Against Women (‘CEDAW’) [‘General Recommendation No. 24: Article 12 of the Convention \(Women and Health\)’](#), 1999, A/54/38/Rev.1, chap. I, para. 16: ‘women in especially difficult circumstances, such as those trapped in situations of armed conflict and women refugees’ should be afforded ‘adequate protection and health services, including trauma treatment and counselling’.
- 101 ECtHR: *Kalashnikov v Russia* (n 42), para 102; *Aleksanyan v. Russia* (n 40), paras 138, 140, 158; *Korneykova and Korneykov v Ukraine* (n 43), paras 128, 132; *Pocasovschi and Mihaila v Moldova and Russia* (n 40), para 62; IACtHR: *Tibi v Ecuador* (n 40), paras 156, 157; *Montero-Aranguren and Others v Venezuela* (n 42), para 103; *Caesar v Trinidad and Tobago* (n 51), paras 99, 100; *Berenson-Mejía v Peru* (n 40), paras 106, 108; *De la Cruz-Flores v Peru*, Judgement (Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 115 (18 November 2004), paras 131, 132; HRC: *Linton v Jamaica* (2 November 1992) Communication No 255/1987 CCPR/C/46/D/255/1987, para 8.5; *Bailey v Jamaica* (31 March 1993) Communication No 334/1988 CCPR/C/47/D/334/1988, para 9.3; *Brown v Jamaica* (n 53), para 6.13; *Lantsova v Russia* (n 48), para 9.2; AfCHPR: *Huri-Laws v Nigeria* (n 53), para 41; *Malawi Africa Association and Others v Mauritania* (n 53), para 116; *Civil Liberties Organisation (in respect of the Nigerian Bar Association) v Nigeria* (n 55), para 27; *Achuthan (on behalf of Aleke Banda) and Amnesty International (on behalf of Orton and Vera Chirwa) v Malawi* (n 55), para 7.



- 102 Geneva Conventions (n 37), Common Article 3; CIHL (n 37), Rule 121.
- 103 HRC: Lantsova v Russia (n 48), para 9.2; see also ECtHR: Dzieciak v Poland [2008] ECHR 1653, para 101.
- 104 ECtHR: Korneykova and Korneykov v Ukraine (n 43); IACtHR: Juvenile Reeducation Institute v Paraguay (n 49), para 172.
- 105 Gerrit Loots, Hannah Jamia & Nadia Fadil, '[Een Jaar later. Belgische Kinderen in Lourdische detentiekampen in Noordoost-Syrie](#)', 3 July 2020..
- 106 '[French Mother on Hunger Strike to Bring Home Daughter from Syria Camp](#)' The New Arab (8 February 2021); Nicky Harvey, '["Seriously Ill" British Woman and Child in ISIS Camp Denied Help By the UK](#)' The National News (5 December 2020); '["In Al-Hol Camp, Almost no Healthcare is Available"](#)' (Médecins Sans Frontières, 27 August 2020).
- 107 RSI (n 1) interview with a Kurdish Red Crescent ('KRC') staff member, February 2020.
- 108 '[Syria: Hospitals run out of supplies as second COVID-19 wave hits](#)' (Médecins Sans Frontières, 6 May 2021).
- 109 Suleiman Al-Khalidi, '[Syria sees spike in COVID-19 cases as fears grow of new wave](#)' Reuters (Amman, 22 September 2021); '[4 deaths, 273 new COVID 19 cases in NE, Syria](#)' Hawar News Agency (18 September 2021); '5 deaths, 187 new COVID 19 cases in NE, Syria' Hawar News Agency (11 September 2021); '[Northern Syria: COVID-19 claims a 20 day-old baby and a 17-year-old pregnant girl](#)' (Save the Children, 30 September 2021).
- 110 Kurdish Red Crescent, '[Northeast Syria COVID-19 Dashboard](#)' (accessed 1 October 2021).
- 111 '[North East Syria: COVID-19 Spreads Through Camps as Ramadan Begins Under Emergency Lockdown](#)' (Save the Children, 15 April 2021).
- 112 This has also been confirmed in publicly available reports, see: '["In Al-Hol camp, almost no healthcare is available"](#)' (Médecins Sans Frontières, 27 August 2020).
- 113 RSI (n 1) interview no. 05/2021 with a humanitarian actor on the ground, March 2021.
- 114 Délégué général aux droits de l'enfant, '[Syrie L'Indispensable Rapatriement. Une Trilogie Arguments en Faveur du Retour des Enfants Belges et Leurs Mères](#)', January 2021, Vol 2 Prends-En D'La Graine; Gabriel Geiger, '[She's 4, Lives in Syria and Has PTSD. Her Country's Debating If She Can Come Home](#)' VICE (10 February 2021); Malthe Sommerand & Puk Damsgård, '[Ekspert til Udenrigsministeriet i ny undersøgelse: Fireårig dansk pige har PTSD og skal fjernes fra syrisk fangelejr](#)' DR (7 February 2021).
- 115 RSI (n 1) interview no. 05/2021 with a humanitarian actor on the ground, March 2021.
- 116 Malthe Sommerand & Puk Damsgård, '[Ekspert til Udenrigsministeriet i ny undersøgelse: Fireårig dansk pige har PTSD og skal fjernes fra syrisk fangelejr](#)' DR (7 February 2021).
- 117 CommRC (n 84), '[General Comment No.15 \(2013\) on the right of the child to the enjoyment of the highest attainable standard of health \(art. 24\)](#)', 17 April 2013, CRC/C/GC/15, para. 2.
- 118 CRC (n 3), Article 24.
- 119 RSI (n 1) interviews no. 05/2021 with a humanitarian actor on the ground, March 2021; Sarah Gnanaseharam, '[The world needs to open its eyes to the suffering in Al Hol](#)' The Canberra Times (3 October 2021).
- 120 RSI (n 1) interviews nos. 01/2020, 03/2020, 05/2020, 08/2020 with women living in al Hol camp, December 2019-February 2020.
- 121 Malthe Sommerand & Puk Damsgård, '[Ekspert til Udenrigsministeriet i ny undersøgelse: Fireårig dansk pige har PTSD og skal fjernes fra syrisk fangelejr](#)' DR (7 February 2021).
- 122 [Convention on the Elimination of all forms of Discrimination Against Women](#) ('CEDAW Convention'), Article 12.2; CIHL (n 37), Rule 134; [United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders](#) ('Bangkok Rules'), Rules 6-18.
- 123 Juan E. Méndez, '[Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Human Rights Council](#)', 5 January 2016, A/HRC/31/57, para. 26.
- 124 RSI (n 1) interview no. 18/2020 with a woman living in Roj camp, December 2019-February 2020.
- 125 RSI (n 1) interview no. 19/2020 with a woman living in Roj camp, December 2019-February 2020.
- 126 [Convention on the Rights of Persons with Disabilities](#) ('CRPD') Article 15; CRC (n 3) Article 23.
- 127 RSI (n 1) interviews nos. 01/2020, 02/2020, 06/2020 with women living in al Hol camp, December 2019-February 2020.
- 128 ECtHR: Osman v United Kingdom [1998] ECHR 101, para 115; Renolde v France [2008] ECHR 1085, paras 80, 81; Keller v. Russia [2013] ECHR 985, paras 80, 88.
- 129 HRC, '[General Comment no. 36, Article 6 \(Right to Life\)](#)', 3 September 2019, CCPR/C/GC/35, para. 7; Keller v Russia (n 128), para 82.
- 130 ECtHR: Tekin v Turkey [1998] ECHR 53, para 53; IACtHR: Loayza-Tamayo v Peru, Judgement (Merits), Inter-American Court of Human Rights Series C No 33 (17 September 1997) (IACtHR), para 148; Tibi v Ecuador (n 40), para 148; HRC: Linton v Jamaica (n 101), para 8.5; AfCHPR: Achuthan (on behalf of Aleke Banda) and Amnesty International (on behalf of Orton and Vera Chirwa) v Malawi (n 55), para 7.
- 131 ECtHR: Tekin v Turkey (n 130), para 53; IACtHR: Loayza-Tamayo v Peru (n 130), para 148.
- 132 ECtHR Gjini v Serbia (n 40), paras 76 - 79, 83; IACtHR: Mapiripán Massacre v Colombia, Judgement (Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 134 (15 September 2005), para 111; Servallón-García v Honduras, Judgement (Merits,



- Inter-American Court of Human Rights Series C No 134 (29 July 1988), para 172; *Tibi v Ecuador* (n 40), para 151.
- 133 ECtHR: *Campbell and Cosans v United Kingdom* [1982] ECHR 1, para 26; see also IACTHR: *Urrutia v Guatemala*, Judgement (Merits, Reparations and Costs), Inter-American Court of Human Rights Series C No 103 (27 November 2003), para 92.
- 134 RSI (n 1) interviews nos. 03/2020, 05/2020, 08/2020, 09/2020, 10/2020 with women living in al Hol camp, December 2019-February 2020. RSI (n 1) interviews nos. 18/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 135 RSI (n 1) interviews nos. 07/2020, 08/2020, 09/2020, 10/2020 with women living in al Hol camp, December 2019-February 2020.
- 136 [‘Women treated for gunshot wounds amidst violence and unrest in Al-Hol camp’](#) (*Médecins Sans Frontières*, 30 September 2019).
- 137 RSI (n 1) interviews nos. 17/2020 and 20/2020 with women living in Roj camp, December 2019-February 2020.
- 138 International Crisis Group, [Women and Children First: Repatriating the Westerners Affiliated with ISIS](#), Report no. 208, 18 November 2019; RSI (n 1) interviews nos. 09/2020, 08/2020 with women living in al Hol camp, December 2019-February 2020.
- 139 RSI (n 1) interviews nos. 02/2020, 06/2020, 07/2020 with women living in al Hol camp, December 2019-February 2020. RSI (n 1) interviews nos. 11/2020, 12/2020, 14/2020, 15/2020, 17/2020, 18/2020, 19/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 140 RSI (n 1) interviews nos. 11/2020, 12/2020, 13/2020, 14/2020, 15/2020 (two women), 16/2020, 17/2020, 18/2020, 19/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.
- 141 Save the Children, [“When am I going to start to live?”: The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps](#), September 2021, p. 11.
- 142 CIHL (n 37), Rule 93; CEDAW (n 122) [‘General Recommendation No. 19: Violence against women’](#), 1992 and CEDAW (n 122) [‘General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19’](#), 14 July 2017, CEDAW/C/GC/35.
- 143 CEDAW (n 122) [‘General Recommendation No. 19: Violence against women’](#), 1992, para. 6.
- 144 CRC (n 3), Articles 19 and 34.
- 145 CEDAW (n 122) [‘General Recommendation No. 35 on gender-based violence against women, updating general recommendation No. 19’](#), 14 July 2017, CEDAW/C/GC/35, para. 16; Juan E. Méndez, [Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Human Rights Council](#), 5 January 2016, A/HRC/31/57, paras. 51, 52; ECtHR: *MC v Bulgaria* [2003] ECHR 651, para 166; *Aydin v Turkey* [1997] ECHR 75, para 86; IACommHR: *Raquel Martí de Mejía v. Peru*, Case 10.970, Report No. 5/96, OEA/Ser.L/V/II.91, Doc 7 at 157, 1 March 1996; ICTY: *Prosecutor v Delalić* (Judgement) ICTY-96-21 (16 November 1998), paras 494 - 496.
- 146 RSI (n 1) interview no. 05/2021 with a humanitarian actor on the ground, March 2021.
- 147 Ibid.
- 148 RSI (n 1) interview no. 07/2020 with a woman living in al Hol camp, February 2020.
- 149 *MC v Bulgaria* (n 145), para 153; Bangkok Rules (n 122), Rule 25.
- 150 See [‘Women and Girls Safe Spaces: Syrian Crisis response in Jordan’](#) (*Sexual and Gender-Based Violence Sub-Working Group*, August 2014): “A safe space is any kind of space, formal or informal, where groups or individuals can feel physically and emotionally safe. The word “safe” in this context refers to the absence of trauma, excessive stress, violence (or fear of violence) or abuse”.
- 151 RSI (n 1) interview no. 05/2021 with a humanitarian actor on the ground, March 2021.
- 152 CRC (n 3), Article 3 (1); CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 6.
- 153 CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 3.
- 154 Ibid., paras. 53-79.
- 155 Ibid.
- 156 ICESCR (n 50), Article 13; IDP Principles (n 37), Principle 23.
- 157 CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 79.
- 158 United Nations Security Council, [Resolution 2427 \(2018\) \[Children and Armed Conflict\]](#), 9 July 2018, S/RES/2427 (2018), para. 14; UNICEF, [Principles and Guidelines on Children Associated with Armed Forces or Armed Groups](#) (‘The Paris Principles’), February 2007, paras. 7.7.7-7.8.2.
- 159 *Juvenile Reeducation Institute v Paraguay* (n 49), paras 161, 174, 176.
- 160 *Juvenile Reeducation Institute v Paraguay* (n 49), para 174.
- 161 Save the Children, [“When am I going to start to live?”: The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps](#), September 2021, p. 14.
- 162 RSI (n 1) interviews nos. 01/2020, 02/2020, 03/2020, 08/2020, 10/2020 with women living in al Hol camp, December 2019-February 2020.
- 163 RSI (n 1) interviews nos. 12/2020, 15/2020, 18/2020, 20/2020 with women living in Roj camp, December 2019-February 2020.



- 164 RSI (n 1) interview no. 07/2021 with a humanitarian actor, March 2021.
- 165 RSI (n 1) interview with a Save the Children staff member, March 2021.
- 166 RSI (n 1) interviews nos. 08/2020, 10/2020 with women living in al Hol camp, December 2019-February 2020; RSI (n 1) interview no. 12/2020 with a woman living in Roj camp, February 2020.
- 167 RSI (n 1) interview no. 07/2021 with a humanitarian actor, March 2021.
- 168 [‘North East Syria: COVID-19 Spreads Through Camps as Ramadan Begins Under Emergency Lockdown’](#) (*Save the Children*, 15 April 2021).
- 169 [‘Northern Syria: COVID-19 claims a 20 day-old baby and a 17-year-old pregnant girl’](#) (*Save the Children*, 30 September 2021).
- 170 CRC (n 3) Article 31.
- 171 Délégué général aux droits de l'enfant, [‘Syrie L'Indispensable Rapatriement. Une Trilogie Arguments en Faveur du Retour des Enfants Belges et Leurs Meres’](#), January 2021, Vol 2 Prends-En D'La Graine.
- 172 RSI (n 1) interview nos. 01/2020 and 10/2020 with women living in al Hol camp, December 2019-February 2020.
- 173 Save the Children, [“When am I going to start to live?”: The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps](#), September 2021, p. 14.
- 174 RSI (n 1) interview no. 10/2020 with a woman living in al Hol camp, December 2019.
- 175 RSI (n 1) interviews nos. 17/2020, 18/2020, 19/2020 with women living in Roj camp, December 2019-February 2020.
- 176 RSI (n 1) interview no. 18/2020 with a woman living in Roj camp, December 2019.
- 177 RSI (n 1) interview no. 19/2020 with a woman living in Roj camp, December 2019.
- 178 CRC (n 2) Article 32; ICESCR (n 50) Article 10 (3).
- 179 Arne de Jaegere, [‘Experten: “Gaan We Blijven Toekijken Hoe Kinderen Sterven Aan Ondervoeding en Uitdroging in IS Kampen?”’](#) VRT NWS (6 November 2019).
- 180 ECHR (n 37) Article 8; ICCPR (n 37) Article 17; CRC (n 3) Article 16.
- 181 CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, paras. 58-70.
- 182 CRC (n 3) Article 9.
- 183 CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 61.
- 184 Ibid., para. 64.
- 185 See, for example, William Wan, [‘What separation from parents does to children: “The effect is catastrophic”](#) *The Washington Post* (18 June 2018); Michael Garcia Bochenek, [‘US: Family Separation Harming Children, Families’](#) (*Human Rights Watch*, 11 July 2019); Katherine Ellison & Hirokazu Yoshikawa, [‘Treating the growing trauma of family separation’](#) (*Knowable Magazine*, 23 January 2020); Jacek Debiec, [‘A sudden and lasting separation from a parent can permanently alter brain development’](#) (*The Conversation*, 21 June 2018); [‘Medical group warns family separation policy may lead to lifetime of harm to children’](#) *CBS News* (20 June 2018); Jessica Lussenhop, [‘The health impact of separating migrant children from parents’](#) *BBC News* (19 June 2018). The CommRC (n 84) has also recognised that ‘[c]hildren need to form an attachment to a caregiver at a very early age, and such attachment, if adequate, must be sustained over time in order to provide the child with a stable environment’: [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 72.
- 186 RSI (n 1) interview no. 08/2020 with a woman living in al Hol camp, December 2019; RSI (n 1) interviews nos. 16/2020, 17/2020, 18/2020 with women living in Roj camp, December 2019-February 2020; Fabrizio Carboni, ICRC Near and Middle East Regional Director, [Briefing on Humanitarian situation of Stranded and Detained People in Northeast Syria](#), statement of 30 June 2021; Fionnuala Ní Aoláin, [‘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 of adolescents/juveniles being detained in North-East Syria’](#) (*United Nations Office of the High Commissioner for Human Rights*, May 2021); RSI (n 1) interview no. 05/2021 with a humanitarian actor on the ground, March 2021.
- 187 RSI (n 1) interview no. 10/2020 with a woman living in al Hol camp, December 2019; RSI (n 1) interviews nos. 17/2020, and 18/2020 with women living in Roj camp, December 2019-February 2020
- 188 RSI (n 1) interview no. 08/2020 with a woman living in al Hol camp, December 2019; RSI (n 1) interview no. 18/2020 with a woman living in Roj camp, December 2019.
- 189 RSI (n 1) interview no. 05/2021 with a humanitarian actor on the ground, March 2021.
- 190 [International Convention for the Protection of All Persons from Enforced Disappearance](#) (‘CED’) Articles 1, 5; CIHL (n 47), Rule 98; IDP Principles (n 37), Principle 10 (1) (d); Rome Statute (n 35), Article 7 (2) (i).
- 191 CED (n 190), Articles 2, 5; Rome Statute (n 35), Article 7 (2) (i). See also [Inter-American Convention on Forced Disappearance of Persons](#) Article 2.
- 192 HRC: *Mojica v Dominican Republic* (10 August 1994) Communication No 449/1991 CCPR/C/51/D/449/1991, para 5.7; *Atachagua v Peru* (16 April 1996) Communication No 540/1993 CCPR/C/56/D/540/1993, para 8.5; AfCHPR: *Mouvement Burkinabé des Droits de l'Homme et des Peuples v Burkina Faso* (7 May 2001) Communication No 204/99, para 44.



- 193 HRC, '[General Comment No. 6: Article 6 \(Right to Life\)](#)', 30 April 1982, para. 4; IACtHR: *Atachahua v Peru* (n 192), para 8.4.
- 194 *Bamaca-Velásquez v Guatemala*, Judgement (Merits), Inter-American Court of Human Rights Series C No 70 (25 November 2000), para 128; *Blake v Guatemala*, Judgement (Merits), Inter-American Court of Human Rights Series C No 36 (24 January 1998), para 65; *Velásquez-Rodríguez v Honduras* (n 132), para 155.
- 195 Notably, the UK is not a State party.
- 196 CED (n 190) Article 25 (2), (3).
- 197 HRC: *Almeida de Quinteros et al v Uruguay* (1990) Communication No. 107/1981 CCPR/C/OP/2 at 138, para 14; ECtHR: *Cyprus v Turkey* [2001] ECHR 331, para 155; *Janowiec & Ors v Russia* [2013] ECHR 1003, para 177.
- 198 AfCHPR: *Amnesty International and Others v Sudan* (15 November 1999) Communication Nos 48/90, 50/91,52/91,89/93, para 54; *Law Office of Ghazi Suleiman v Sudan* (29 May 2003) Communication Nos 222/98, 229/99, para 44.
- 199 *Campbell and Cosans v United Kingdom* (n 133).
- 200 RSI (n 1) interviews nos. 17/2020 and 18/2020 with women living in Roj camp, December 2019-February 2020
- 201 Fionnuala Ní Aoláin, '[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 of adolescents/juveniles being detained in North-East Syria](#)' (United Nations Office of the High Commissioner for Human Rights, May 2021); Rojava Information Center, '[Hidden Battlefields: Rehabilitating ISIS affiliates and building a democratic culture in their former territories](#)', December 2020; Josie Ensor, '[Child of the caliphate: Teenager pays for the sins of his Isis father](#)' The Telegraph (15 August 2019); RSI (n 1) interviews nos. 05/2021 and 07/2021 with humanitarian actors, March 2021.
- 202 Fionnuala Ní Aoláin, '[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 of adolescents/juveniles being detained in North-East Syria](#)' (United Nations Office of the High Commissioner for Human Rights, May 2021).
- 203 '[Islamic State children in Syria face a lifetime in prison](#)' *BBC News* (14 July 2021).
- 204 ICCPR (n 37), Article 9(1).
- 205 Fionnuala Ní Aoláin, '[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 of adolescents/juveniles being detained in North-East Syria](#)' (United Nations Office of the High Commissioner for Human Rights, May 2021).
- 206 Bangkok Rules (n 122), Rule 23.
- 207 Bangkok Rules (n 122), Rule 22. See also CIHL (n 37), Rule 134.
- 208 RSI (n 1) interviews nos. 08/2020 and 09/2020 with women living in al Hol camp, December 2019.
- 209 RSI (n 1) interviews nos. 08/2020 and 09/2020 with women living in al Hol camp, December 2019; RSI (n 1) interview no. 17/2020 with a woman living in Roj camp, December 2019.
- 210 RSI (n 1) interview no. 17/2020 with a woman living in Roj camp, December 2019.
- 211 ECHR (n 37), Articles 5 (1), 6; ICCPR (n 37), Articles 9, 14 (1); IDP Principles (n 37), Principles 12, 14; CIHL (n 37), Rule 99. See also CIHL (n 37): 'common article 3 and Additional Protocols I and II require that all civilians and persons hors de combat be treated humanely, [and] arbitrary deprivation of liberty is not compatible with this requirement'.
- 212 Working Group on Arbitrary Detention ('WGAD'), '[Compilation of Deliberations](#)', Deliberation 9, para. 38. See also Geneva Conventions (n 47), Common Article 3, which expressly prohibits the 'passing of sentences ... without previous judgement pronounced by a regularly constituted court, affording all the judicial guarantees which are recognised as indispensable by civilised peoples'; HRC, '[General Comment no. 35, Article 9 \(Liberty and security of person\)](#)', 16 December 2014, CCPR/C/GC/35, para. 12. See also Rome Statute (n 43), Article 8 (2) (a) (vi): it is a war crime to wilfully deprive an individual deprived of their liberty of the rights of a fair and regular trial.
- 213 CED (n 215), Article 17 (2) (d); CIHL (n 47), Rules 105, 125, 126. If the person is a foreign national, they are entitled to communicate with officials from their country's local embassy or consulate: CED (n 215) Article 17 (2) (d); [Vienna Convention on Consular Relations](#) Article 36 (b), (c); ICJ: *LaGrand Case (Germany v USA)* (Judgment) [2001] ICJ Rep 466; HRC, '[General Comment no. 35, Article 9 \(Liberty and security of person\)](#)', 16 December 2014, CCPR/C/GC/35, para. 58).
- 214 CRC (n 3), Article 37 (6).
- 215 RSI (n 1) interviews nos. 08/2020 and 10/2020 with women living in al Hol camp, December 2019-February 2020; RSI (n 1) interview no. 17/2020 with a woman living in Roj camp, December 2019.
- 216 '[Syria: Dire Conditions for ISIS Suspects' Families](#)' (Human Rights Watch, 23 July 2019).
- 217 Bethan McKernan, Vera Mironova & Emma Graham-Harrison, '[How women of Isis in Syrian camps are marrying their way to freedom](#)' The Guardian (2 July 2021).
- 218 For a detailed analysis of the risks of re-trafficking for women in the camps see Reprive, '[Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State](#)', April 2021.
- 219 Individuals deprived of their liberty are entitled to be informed promptly, in a language which they understand, of the reasons for the deprivation of liberty: ECHR (n 47), Article 5 (2); ICCPR (n 47), Article 9 (2); CIHL (n 47), Rule 99.
- 220 ECHR (n 47), Article 5 (1); ICCPR (n 47), Article 9 (1); Geneva Conventions (n 47), Common Article 3; CIHL (n 47), Rule 100; APII (n 48), Article 6.



- 221 Adam Lucente, '[Al-Hol camp: Amid hellish conditions, IS wives say they are ready to go home](#)' *Middle East Eye* (12 August 2019).
- 222 For example, Permanent Mission of the Federal Republic of Germany, [Note Verbale to the Office of the United Nations and to the other International Organizations](#), 25 March 2021, Ref.: Pol-10-381.70 SYR, Note No.: 50/2021.
- 223 HRC, '[General Comment no. 35, Article 9 \(Liberty and security of person\)](#)', 16 December 2014, CCPR/C/GC/35, para. 16. The WGAD (n 212) has expressed similar concerns in its '[Compilation of Deliberations](#)', Deliberation 9, para. 73.
- 224 The ICRC [defines collective punishment](#) as a situation in which a group is penalised or mistreated in retaliation for an act allegedly committed by a member of the group. Such punishment therefore targets people who bear no responsibility for having committed the alleged misdeed. Prohibition on collective punishment: CIHL (n 37), Rules 102, 103 CIHL; APII (n 38), Articles 4 (2) (b); ECHR (n 37), Article 5 (1); ICCPR (n 37), Article 9 (1); Geneva Conventions (n 37), Common Article 3; CIHL (n 37), Rule 100; APII (n 38), Article 6; HRC '[General Comment No. 29: Article 4: Derogations during a State of Emergency](#)', 31 August 2001, CCPR/C/21/Rev.1/Add.11.
- 225 Fionnuala Ní Aoláin, [Press Conference: Syria: Repatriation of Women & Children](#) (Geneva, 8 February 2021).
- 226 It is a fundamental principle of international law that everyone is entitled to their rights without discrimination of any kind based on factors such as race; colour; sex; language; religion; political or other opinion; national, ethnic or social origin; legal or social status; age; disability; property or birth. See ICCPR (n 37), Article 2 (1); ICESCR (n 50), Article 2 (2); CRC (n 3), Article 2 (1); Geneva Conventions (n 37), Common Article 3; APII (n 38), Article 2 (1); IDP Principles (n 37), Principle 4.
- 227 CommRC, '[General Comment No. 24 \(2019\) on children's rights in the child justice system](#)', 18 September 2019, para. 100; United Nations Secretary General, [Report of the Secretary-General to the General Assembly on Children and Armed Conflict](#), 9 June 2020, A/74/845-S/2020/525, para. 235; United Nations Security Council, [Resolution 2427 \(2018\) \[Children and Armed Conflict\]](#), 9 July 2018, S/RES/2427 (2018), para. 20; The Paris Principles (n 158), para. 3.6.
- 228 Autonomous Administration of North and East Syria, '[Press Release](#)', 18 March 2021.
- 229 Independent International Commission of Inquiry on the Syrian Arab Republic, [Report to the Human Rights Council](#), 14 August 2020, A/HRC/45/31, para. 77.
- 230 ECHR (n 37), Articles 5 (4), 6; ICCPR (n 37), Articles 9 (4), 14 ICCPR; Geneva Conventions (n 37), Common Article 3; CIHL (n 37), Rule 100; APII (n 38), Article 6.
- 231 Geneva Convention (IV) relative to the Protection of Civilian Persons in Time of War, Articles 43, 78.
- 232 IDP Principles (n 37), Principles 12, 14.
- 233 Permanent Mission of the Federal Republic of Germany, [Note Verbale to the Office of the United Nations and to the other International Organizations](#), 25 March 2021, Ref.: Pol-10-381.70 SYR, Note No.: 50/2021; Autonomous Administration of North and East Syria, '[Press Release](#)', 18 March 2021.
- 234 UK Mission Geneva, [Note Verbale No. 084 to the Special Procedures Branch, Office of the United Nations High Commissioner for Human Rights](#), 16 April 2021; Nicky Harley, 'Swedish female ISIS supporters may be tried in Syria for terrorism offences' *The National News* (12 October 2020); Wladimir van Wilgenburg, 'Swedish delegation concludes visit to northeast Syria' *Kurdistan 24* (Erbil, 22 October 2020).
- 235 Fionnuala Ní Aoláin, [Press Conference: Syria: Repatriation of Women & Children](#) (Geneva, 8 February 2021); Paulo Sérgio Pinheiro, Karen Koning AbuZayd & Hanny Megally, '[The world must bring children home from Syrian detention camps](#)' *The Times* (22 September 2021).
- 236 Simona Foltyn, '[Inside the Iraqi courts sentencing foreign Isis fighters to death](#)' *The Guardian* (2 June 2019).
- 237 Martin Chulov, '[Iraqi Kurds plan special court to try suspected Islamic State fighters](#)' *The Guardian* (30 April 2021).
- 238 Examples: in the UK, see *Begum v Secretary of State for the Home Department* [2020] 2 WLUK 60 (Special Immigration Appeals Commission) [130]; *Begum v Special Immigration Appeals Commission* [2020] EWCA Civ 918 (Court of Appeal). In Belgium, see Tribunal de première instance francophone de Bruxelles, Section Civile (Francophone Tribunal of First Instance of Brussels, Civil Section), 19/129/C, 30 October 2019, [48] ff; Tribunal de première instance francophone de Bruxelles, Section Civile, (Francophone Tribunal of First Instance of Brussels, Civil Section), 19/87/C, 2 December 2019, [51]. In Germany, see OVerwaltungsgericht Berlin-Brandenburg (Higher Administrative Court of Berlin-Brandenburg), OVG 10 S 30/20, 7 July 2020 [17].
- 239 UK Mission Geneva, [Note Verbale No. 084 to the Special Procedures Branch, Office of the United Nations High Commissioner for Human Rights](#), 16 April 2021; Permanent Representative of the Kingdom of the Netherlands, [Letter to OHCHR Ref. No. GEV-PA-76/2021](#), 12 April 2021.
- 240 See, for example, the communicated case of *H.F. et M.F. c. France* (App. no. 24384/19) pending before the Grand Chamber of the ECtHR at the time of publication.
- 241 CED (n 190), Article 17 (2) (d); CIHL (n 37), Rules 105, 125, 126. If the person is a foreign national, they are entitled to communicate with officials from their country's local embassy or consulate: CED (n 190), Article 17 (2) (d); Vienna Convention on Consular Relations Article 36 (b), (c); ICJ: *LaGrand Case (Germany v United States of America)* (n 213); HRC, '[General Comment no. 35, Article 9 \(Liberty and security of person\)](#)', 16 December 2014, CCPR/C/GC/35, para. 58).
- 242 CED (n 190), Article 20.2: relatives of individuals deprived of their liberty, and others with a legitimate interest, are entitled to a prompt and effective judicial remedy as a means of obtaining without delay information concerning persons deprived of their liberty.
- 243 HRC: *El-Megreisi v Libya* (24 March 1994) Communication No 440/1990 CCPR/C/50/D/440/1990, para 5.4]; IACtHR: *Suárez-Rosero v Ecuador*, Judgement (Merits), Inter-American Court of Human Rights Series C No 35 (12 November 1997), paras 90, 91; *De la Cruz-Flores v Peru* (n 101), paras 128 - 130; AfCHPR: *Zegveld and Ephrem v Eritrea* (20 November 2003) Communication No 250/02, para 55;



Article 19 v Eritrea (30 May 2007) Communication No 275/03, para 101; cf CAT: *Arkaouz Arana v France* (9 November 1999) Communication No 63/1997 CAT/C/23/D/63/1997, para 11.5 (the Committee takes the view that incommunicado detention creates a risk of torture rather than incommunicado detention itself amounting to torture).

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- 245 RSI (n 1) interview no. 17/2020 with a woman living in Roj camp, December 2019.
- 246 [‘Des avocats français interdits d’accès au Rojava’](#) (*Collectif des Familles Unies*, 22 December 2020); Christophe Ayad, [‘Pressions sur Emmanuel Macron pour repatrier en France les femmes et enfants de djihadistes détenus en Syrie’](#) *Le Monde* (1 March 2021).
- 247 RSI (n 1) interview with the family members of a woman living in Roj camp, November 2019.
- 248 Dan Sabbagh, [‘Watchdog steps in over secrecy about UK women in Syria stripped of citizenship’](#) *The Guardian* (29 March 2021); Wouter Hertogs, [‘Drie IS-vrouwen verliezen Belgische nationaliteit’](#) *Het Laatste Nieuws* (19 December 2019); [‘Opnieuw IS-weduwe ontsnapt uit Koerdisch kamp en onderweg naar België’](#), *Het Laatste Nieuws* (21 November 2019); [‘Female IS terrorist from Antwerp sentenced to 5 years in prison’](#) *The Brussels Times* (25 February 2020); Wouter Hertogs, [‘Brusselse Syriëstrijdster verliest Belgische nationaliteit’](#) *Het Laatste Nieuws* (25 February 2020); [‘Teruggekeerde IS-vrouw krijgt vijf jaar cel en verliest Belgische nationaliteit’](#) *De Standaard* (26 June 2020); Mark Eeckhaut, [‘Nationaliteit van nog elf jihadi’s afgenomen’](#) *De Standaard* (10 August 2020); Mark Eeckhaut, [‘Nog eens veertien jihadi’s zijn geen Belg meer’](#) *De Standaard* (18 December 2020); [‘Denmark to strip foreign fighters of Danish citizenship’](#) *Reuters* (Copenhagen, 14 October 2019); [‘What to do about Islamic State supporters still in Syria? Denmark’s decision sets a worrying trend’](#) (*The Conversation*, 3 June 2021).
- 249 In May 2021 Denmark announced that it intended to repatriate five Danish children, but only if their mothers stayed behind: [‘Nordic Countries: repatriate nationals from Northeast Syria’](#) (*Human Rights Watch*, 26 May 2021); [‘Denmark to repatriate women, children from Syrian camps’](#) *Reuters* (Copenhagen, 18 May 2021).
- 250 In March 2021 the Belgian Government announced that it would repatriate all children under the age of 12 from the camps, but that their mothers would only be considered on a case-by-case basis: [‘Belgium to repatriate children of jihadists held in Syria refugee camp’](#) *Euronews* (Brussels, 5 March 2021); [‘Save the Children welcomes decision to repatriate Belgian children from Syria, urges repatriation of all children and their mothers’](#) (*Save the Children*, 5 March 2021).
- 251 Media accounts of repatriations undertaken by France have documented instances in which children have been repatriated without their mothers or primary caregivers: [‘France repatriates more children from northeast Syria’](#) (*Human Rights Watch*, 24 June 2020); [‘France repatriates seven children from jihadist camp in Syria’](#) *France 24* (13 January 2021); Wladimir van Wilgenburg, [‘France repatriates sick French child from camp in northeast Syria’](#) *Kurdistan 24* (Erbil, 25 April 2020); [‘Return to France of 7 young minors from northeastern Syria’](#) *LINFO.re* (13 January 2021).
- 252 In January 2020, the UK’s Foreign Office reportedly offered to repatriate some children from the camps without their mother: Lizzie Dearden, [‘British government condemned for offering to repatriate children from Syrian Isis camp but not their mother’](#) *Independent* (15 January 2020).
- 253 Autonomous Administration of North and East Syria, [‘Press Release’](#), 18 March 2021.
- 255 Délégué général aux droits de l’enfant, [‘Syrie L’Indispensable Rapatriement. Une Trilogie Arguments en Faveur du Retour des Enfants Belges et Leurs Meres’](#), January 2021, Vol 2 Prends-En D’La Graine.
- 255 Ibid.
- 256 CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 64.
- 257 CED (n 190), Articles 15, 25 (2) and (3).
- 258 Such as those described in Reprieve, [‘Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State’](#), April 2021.
- 259 CED (n 190), Article 20.2: relatives of individuals deprived of their liberty, and others with a legitimate interest, are entitled to a prompt and effective judicial remedy as a means of obtaining without delay information concerning persons deprived of their liberty.
- 260 CRC (n 3), Article 3.1; CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 6.
- 261 CommRC (n 84), [‘General Comment No. 14 \(2013\) on the right of the child to have his or her best interests taken as a primary consideration \(art. 3, para. 1\)’](#), 29 May 2013, CRC/C/GC/14, para. 3.
- 262 Ibid. paras. 53-79.
- 263 Ibid.
- 264 CommRC, [‘General Comment No. 24 \(2019\) on children’s rights in the child justice system’](#), 18 September 2019, para. 100; United Nations Secretary General, [‘Report of the Secretary-General to the General Assembly on Children and Armed Conflict’](#), 9 June 2020, A/74/845-S/2020/525, para. 235; United Nations Security Council, [‘Resolution 2427 \(2018\) \[Children and Armed Conflict\]’](#), 9 July 2018, S/RES/2427 (2018), para. 20; The Paris Principles (n 158), para. 3.6.



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daniel@susakpress.com

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