

Written evidence to the APPG's inquiry into trafficked Britons in Syria

Introduction

1. Child Rights International Network (CRIN) is a creative think tank working on human rights issues, with a focus on children's rights. We press for rights - not charity - and campaign for a genuine shift in how governments and societies view and treat children.
2. In this submission we focus on aspects of the United Kingdom's policies towards trafficked nationals in North East Syria that particularly affect children or interact with questions of children's rights and the UK's international legal obligations in this area.
3. An estimated 60 British children¹ are in the camps in North-East Syria, experiencing extreme levels of 'violence, hardship, deprivation and trauma'.² They are 'dying regularly from preventable and treatable causes, including malnutrition, pneumonia, dehydration and tent fires', are 'killed, sexually abused [or go] missing', and are sometimes 'placed in solitary confinement with their mothers', or 'left alone in the tents [to survive on their own]'.³

The UK Government's policies towards UK nationals detained in North East Syria

Citizenship deprivation

4. The UK Home Secretary has the power to deprive British citizens of their citizenship in limited circumstances under the British Nationality Act 1981.⁴ The Act applies to all citizens, irrespective of their age.
5. Deprivation of citizenship impacts children and children's rights in three circumstances, namely where the person deprived of British citizenship: (a) is a child, (b) was a child when travelling to Syria, or (c) is an adult whose deprivation order indirectly affects the situation of a child.
 - a. It is our position that the UK must never deprive a child of their nationality.⁵ Under international law, in all actions concerning children, including in decisions on the deprivation of citizenship, the best interests of the child must be a primary consideration.⁶ They have high priority and are not just one of

¹ Save the Children International, *When am I Going to Start to Live? The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps*, 2021, p. 22. Available at:

https://resourcecentre.savethechildren.net/pdf/when_am_i_going_to_start_to_live_final_0.pdf

² Idem, p. 3.

³ Rights and Security International, *Europe's Guantanamo: The indefinite detention of European women and children in North East Syria*, 2020, p. 55. Available at:

https://www.rightsandsecurity.org/assets/downloads/Europes-guantanamo-THE_REPORT.pdf

⁴ Section 40 of the British Nationality Act 1981. Available at:

<https://www.legislation.gov.uk/ukpga/1981/61>

⁵ CRIN et al., *Bringing Children Home: A children's rights approach to returning from ISIL*, 2020, p. 3. Available at:

<https://resourcecentre.savethechildren.net/node/16725/pdf/childreturneespositionpaperfinaljanv.2020.pdf>

⁶ Article 3 (1) of the Convention on the Rights of the Child (CRC). Available at:

<https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

several considerations.⁷ It can never be in a child's best interests to lose their nationality,⁸ given the profound consequences this has for their future, particularly regarding the protection of their rights in situations of armed conflict. Moreover, international law requires that children trafficked to armed groups be treated primarily as victims.⁹ Children with a less protected status due to citizenship deprivation might also be more at risk of being exploited by armed groups.¹⁰ In a letter to the Home and Foreign Secretaries, the Children's Commissioner for England acknowledged that it is '[n]ever appropriate to remove British citizenship from a child.'¹¹

- b. The UK has stripped people who had been trafficked to Syria as children of their British citizenship.¹² Where a person cannot return to the UK to challenge the legality of the deprivation decision, the possibility is left open that the decision to deprive them of nationality was unlawful, but impossible to challenge in practice, because the conditions within displacement camps do not allow for meaningful participation in legal proceedings. In our view, this policy fails to treat those who were trafficked to Syria as children primarily as victims.

In this context, Clause 51 of the Nationality and Borders Bill gives rise to concerns.¹³ Creating caveats to the protection of victims of human trafficking on the basis that they are a threat to the public order and setting a low threshold for what such a threat consists of departs from the international legal definition of trafficking under the Palermo Protocol.¹⁴

- c. Children can be impacted indirectly when their caregivers are deprived of their citizenship. At the very least, this might mean that children have a less secure

⁷ Committee on the Rights of the Child, *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)*, CRC/C/GC/14, para. 39. Available at: https://www2.ohchr.org/English/bodies/crc/docs/GC/CRC_C_GC_14_ENG.pdf

⁸ Institute on Statelessness and Inclusion and Open Society Justice Initiative, *Principles on Deprivation of Nationality as a Security Measure*, 2020, Principle 9.7.4. Available at: <https://files.institutesi.org/PRINCIPLES.pdf>

⁹ Committee on the Rights of the Child, *General Comment No. 24 (2019) on children's rights in the child justice system*, CRC/C/GC/24, para. 100. Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPRICAqhKb7yhsqkirKQZLK2M58RF%2F5F0vEnG3QGKUxFivhToQfjGxYjV05tUAlgpOwHQJsFPdJXCiixFSrDRwow8HeKLLh8cgOw1SN6vJ%2Bf0RPR9UMtGkA4>

¹⁰ 'Children without nationality risk being marginalised and exploited by designated terrorist groups in the long run'. See UN Counter-Terrorism Centre (UNCCT), *Children affected by the foreign-fighter phenomenon: Ensuring a child rights-based approach*, 2019, para. 84. Available at: https://www.un.org/counterterrorism/sites/www.un.org.counterterrorism/files/0918_ff_handbook_web_reduced.pdf

¹¹ Children's Commissioner for England, *Response to the Home and Foreign Secretaries regarding British children in Syria*, 5 November 2019. Available at: <https://www.childrenscommissioner.gov.uk/2019/11/05/response-to-the-home-and-foreign-secretaries-regarding-british-children-in-syria/>

¹² Reprieve, *Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State*, 2021, p. 41. Available at: <https://reprieve.org/uk/2021/04/30/trafficked-to-syria/>

¹³ Available at: <https://publications.parliament.uk/pa/bills/cbill/58-02/0141/210141.pdf>

¹⁴ Article 3, Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Available at: <https://www.ohchr.org/en/professionalinterest/pages/protocoltraffickinginpersons.aspx>

legal status and a higher risk of statelessness.¹⁵ Children born after the deprivation decision are at a particular risk of statelessness, despite the recognition under the British Nationality Act of the need to avoid rendering people stateless. This increases the risk of children being recruited and exploited by terrorist groups,¹⁶ with long term consequences for the well-being of the children, as well as undermining efforts to prevent terrorism. For instance, research on the ground indicates that at least one British child may have become stateless because her mother's citizenship was stripped when she was pregnant.¹⁷

Discrimination

6. The UK has committed to respect the prohibition on discrimination enshrined in the Convention on the Rights of the Child (CRC),¹⁸ the European Convention on Human Rights (ECHR),¹⁹ and a number of other international instruments.²⁰ Under the CRC, the UK is prohibited from discriminating against children based on their or *their parents' 'race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status'* [emphases added].²¹
7. The UK must also ensure that children are 'protected against all forms of discrimination and punishment due to the *status, activities, expressed opinions, or beliefs* of the child's *parents, legal guardians, or family members'* [emphases added].²²
8. In our view, the UK's approach to its nationals detained in North East Syria is in conflict with these obligations in at least two respects.
9. First, public statements indicate that the UK seems to consider repatriating only unaccompanied or orphaned children.²³ This policy adopts a 'hierarchy of victimhood'

¹⁵ Open Society Justice Initiative, *European States' Obligations to Repatriate the Children Detained in Camps in Northeast Syria*, July 2021, para. 89. Available at:

<https://www.justiceinitiative.org/uploads/d9762590-424c-4cb6-9112-5fedd0d959d1/european-states%E2%80%99-obligations-to-repatriate-the-children-detained-in-camps-in-northeast-syria-20210722.pdf>

¹⁶ See UN Counter-Terrorism Centre (UNCCT), *Children affected by the foreign-fighter phenomenon: Ensuring a child rights-based approach*, 2019, para. 84.

¹⁷ Reprieve, *Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State*, 2021, p. 20.

¹⁸ Article 2, CRC.

¹⁹ Article 14, ECHR: The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Available at: https://www.echr.coe.int/documents/convention_eng.pdf

²⁰ Article 2, Universal Declaration of Human Rights (UDHR), available at:

<https://www.un.org/en/about-us/universal-declaration-of-human-rights> Articles 2 (1) and 26,

International Covenant on Civil and Political Rights (ICCPR), available at:

<https://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx> Article 2 (2), International Covenant on Economic, Social and Cultural Rights (ICESCR), available at:

<https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

²¹ Article 2 (1), CRC.

²² Article 2 (2), CRC.

²³ 'The United Kingdom facilitates the return of unaccompanied or orphaned children on a case-by-case basis and subject to national security concerns.' See the Statement by Ambassador Jonathan Allen at the Security Council briefing on international threats to peace and security caused by terrorist acts, *Addressing the global threat of Daesh*, 10 February 2021. Available at: <https://www.gov.uk/government/speeches/addressing-the-global-threat-of-daesh>

based on perceptions of what group of children is ‘most helpless and unthreatening’,²⁴ and possibly more amenable to reintegration. The approach also seems to be motivated by the determination not to give parents a legal argument to return to the country.²⁵

10. It excludes the individualised consideration of other children, because of their assumed family connections with alleged members of ISIS. In particular, this blanket approach fuels the stereotype of adolescent boys as presumed security threats, which causes them to be forcibly removed from the camps and taken to separate facilities.²⁶ They are treated ‘by virtue of gender (male), religious affiliation (Muslim) and geography (Syria) [as] a ‘non-child’ for the purposes of international law protection’.²⁷
11. Second, the UK’s citizenship-stripping policy creates a ‘tiered system of punishment’.²⁸ Those who are British by birth cannot be deprived of their British citizenship if it would render them stateless.²⁹ Therefore, in practice, it is individuals who have or could acquire a second nationality that are more vulnerable to being stripped of their British nationality. The UK Government’s policy then disproportionately targets people of non-British heritage, from migrant or minority backgrounds.
12. Citizenship deprivation is an extreme power with severe consequences for those targeted, and research shows that deprivation may actually increase rather than decrease security risks.³⁰ Therefore, our assessment is that the policy is very likely to infringe the prohibition on discrimination (for example, on the basis of race, religion, political or other opinion, national or ethnic origin, birth or other status).

²⁴ Joana Cook and Gina Vale, *From Daesh to ‘Diaspora’ II: The Challenges Posed by Women and Minors After the Fall of the Caliphate*, 2019, p. 32. Available at: <https://ctc.usma.edu/wp-content/uploads/2019/07/CTC-SENTINEL-062019.pdf>

²⁵ The Independent, *Children of British Isis members will not be allowed to return to UK, government rules*, 13 August 2019. Available at: <https://www.independent.co.uk/news/uk/home-news/isis-children-syria-shamima-begum-al-hol-terrorism-immigration-a9054306.html>

²⁶ Rights and Security International, *Europe’s Guantanamo: The indefinite detention of European women and children in North East Syria*, 2020, pp. 24-26. Save the Children International, *When am I Going to Start to Live? The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps*, 2021, p. 20.

²⁷ United Nations Human Rights Special Procedures, *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*, May 2021, p. 6. Available at: https://www.ohchr.org/Documents/Issues/Terrorism/SR/UNSRCT_Position_human-rights-of-boys-adolescents-2021_final.pdf

²⁸ Liberty, *Misuse of extreme powers latest threat to rule of law, says Liberty following Shamima Begum ruling*, 26 February 2021. Available at: <https://www.libertyhumanrights.org.uk/issue/misuse-of-extreme-powers-latest-threat-to-rule-of-law-says-liberty-in-shamima-begum-case/>

²⁹ Section 40(4), British Nationality Act 1981.

³⁰ OSCE/ODIHR, *Guidelines for Addressing the Threats and Challenges of ‘Foreign Terrorist Fighters’ within a Human Rights Framework*, 2018, pp. 50-51. Available at: https://www.osce.org/files/f/documents/4/7/393503_2.pdf

13. The UK's approach also contributes to the marginalisation of affected racialised and religious communities,³¹ who are perceived and perceive themselves as 'others'.³² This is harmful in itself, but also undermines the UK's long-term security, because discrimination and 'real or perceived stigmatisation and marginalisation' fuel recruitment and mobilisation by terrorist groups,³³ as well as a reluctance to engage with authorities.

Repatriating UK and other nationals from North East Syria

Countries' repatriation efforts

14. A number of countries have successfully repatriated children, proving that the practical difficulties of doing so are far from insurmountable, and that any security concerns can and should be effectively dealt with domestically.

15. The vast majority of repatriations have been to Uzbekistan, Kosovo, Kazakhstan and Russia. Kazakhstan, in particular, has a remarkable record, having repatriated 410 children, which accounts for 36 percent of all the repatriations.³⁴

16. But it is also UK allies from the Global Coalition against Daesh that have actively sought to repatriate their nationals. Notably, the United States has repatriated almost all its nationals, explaining that 'beyond being the best option from a security standpoint, repatriation is also simply the right thing to do'.³⁵ Germany has repatriated 19 children, Belgium and Finland – 10 each.³⁶

17. The UK can draw useful lessons from these countries' efforts:

- Belgium: Upon arrival, children are taken to a paediatric hospital, where their medical, psychosocial, education and outpatient care needs are determined. Family members spend time with them in hospital until they are released in their community, where they benefit from specific services.³⁷
- Finland: The Government adopted a resolution to repatriate children as soon as possible. More generally, repatriation decisions have been vested in civil servants, not

³¹ For example, Fatima Rajina writes that 'we [racialised bodies] are all on the margins of this nation' and that 'those of us who exist in racialised bodies are being reminded that we never truly belong to this country we call home on a daily basis'. See Fatima Rajina, *Shamima Begum and the conditionality of British citizenship*, Al Jazeera, 19 March 2021. Available at:

<https://www.aljazeera.com/opinions/2021/3/19/shamima-begum-british-citizenship>

³² Shiraz Maher writes that '[f]or us, our citizenship is predicated on continued good behaviour, whereas for others, it exists in perpetuity.' Shiraz Maher, *How the Shamima Begum case reveals British citizenship is a two-tiered system*, The New Statesman, 2 March 2021. Available at: <https://www.newstatesman.com/world/2021/03/how-shamima-begum-case-reveals-british-citizenship-two-tiered-system>

³³ OSCE/ODIHR, OSCE/ODIHR, *Guidelines for Addressing the Threats and Challenges of 'Foreign Terrorist Fighters' within a Human Rights Framework*, 2018, p. 62.

³⁴ Save the Children International, *When am I Going to Start to Live? The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps*, 2021, p. 22.

³⁵ Middle East Eye, *Biden supports repatriating foreign nationals from Syria, says US diplomat*, 10 February 2021. Available at: <https://www.middleeasteye.net/news/biden-administration-syria-repatriating-nationals-us-diplomat>

³⁶ Save the Children International, *When am I Going to Start to Live? The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps*, 2021, p. 37.

³⁷ Ibid.

politicians, as Finland seeks to ensure compliance with the rule of law, and its national and international legal obligations.³⁸

- Germany: Services are coordinated through a case manager who oversees the cooperation of various structures like youth welfare, offices, schools, employment agencies. Returnees are supervised to assess reintegration.³⁹
- Kazakhstan: Children are given Kazakh birth certificates. They join an 'adaptation centre' for around a month, where they receive support from mental health professionals, religious scholars, lawyers, healthcare workers, and teachers in order to transition to life in the country. They receive individual learning to be able to begin formal education upon leaving the centre.⁴⁰

The UK's obligation and ability to repatriate its nationals

18. In our view, the UK must accept responsibility for children who are its citizens and ensure that they are able to return to the country.⁴¹

19. In a recent case under the Convention on the Rights of the Child,⁴² the Committee on the Rights of the Child found that France had jurisdiction over French children in Syrian camps. The Committee reasoned that France, 'as the State of the children's nationality, has the capability and power to protect their rights by acting to repatriate them or provide other consular responses'. In particular, the Committee addressed three factors: France's rapport with the Kurdish authorities, the Kurds' willingness to cooperate, and the fact that France had already repatriated children from the camps.⁴³

20. Applying these tests to the case of the UK, it becomes clear that it is the UK that has the power to protect the rights of British children by repatriating them. First, investigations by human rights organisations reveal that the UK has had diplomatic, intelligence, and/or military presence in the camps, though this has been disputed by the UK Government.⁴⁴ The UK has a rapport with the Syrian Democratic Forces (SDF) under the Global Coalition against Daesh.⁴⁵ Second, the SDF has repeatedly called for repatriations and it is willing to cooperate.⁴⁶ Third and crucially, the UK has already repatriated a number of British children from the camps, most recently three children in October 2021.⁴⁷

³⁸ Ibid.

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ CRIN et al., *Bringing Children Home: A children's rights approach to returning from ISIL*, 2020, p. 3.

⁴² *L.H. et al v. France*, Communications No. 79/2019 and No. 109/2019, CRC/C/85/D/79/2019–CRC/C/85/D/109/2019. Available at: https://www.ejiltalk.org/wp-content/uploads/2020/12/CRC_C_85_D_79_2019_E-1.pdf

⁴³ Idem, para. 9.7.

⁴⁴ Rights and Security International, *Europe's Guantanamo: The indefinite detention of European women and children in North East Syria*, 2020, p. 56.

⁴⁵ The website of the Global Coalition against Daesh is available at: <https://theglobalcoalition.org/en/>

⁴⁶ Rudaw, *SDF chief calls for repatriation of foreign nationals ahead of coalition meeting*, 28 June 2021. Available at: <https://www.rudaw.net/english/middleeast/syria/28062021>

⁴⁷ Middle East Eye, *Syria: UK repatriates three British children from Islamic State camps*, 19 October 2021. Available at: <https://www.middleeasteye.net/news/uk-syria-children-repatriation-islamic-state-camps>

21. The Council of Europe Commissioner for Human Rights agrees that the repatriation of children is ‘an absolute and mandatory priority’ from a children’s rights perspective.⁴⁸
22. At the domestic level, the Children’s Commissioner for England has also criticised the Government’s position that it does not have a duty towards British children in the camps, and that it can offer consular assistance on a case-by-case basis. The Commissioner referred to the Crown’s protective duty, recognised by English courts, a duty which, in the case of British children, ‘extends (...) to protect the child wherever he may be, whether in [the UK] or abroad’.⁴⁹

The question of the separation of children from families for repatriation

23. There have been reports of European governments pursuing policies to separate families detained in North East Syria, and repatriate children separately from their parents.⁵⁰ States are reportedly taking steps to secure the mothers’ agreement to their children’s return without them.⁵¹ The mothers, already victims of trafficking, are faced with an unpalatable choice: refuse the separation and have their children face the possibility of statelessness and transfer to other areas where they will risk re-trafficking and other human rights abuses, or agree and be separated from their children indefinitely.⁵² In view of the power dynamics between the mothers and the state, where the mothers might have been deprived of their citizenship and are unlikely to have meaningful access to legal advice,⁵³ it is not possible for their consent to be free and informed.
24. Research by human rights groups on the ground suggests that, in addition to stripping mothers of their citizenship, the UK has also established such a policy of family separation and seeking mothers’ ‘consent’.⁵⁴
25. The ECHR and the CRC protect children’s right to family life.⁵⁵ The CRC’s preamble recognises the family as ‘the fundamental group of society and the natural environment for the growth and well-being of children’. The term ‘family’ must be interpreted broadly to include ‘biological, adoptive or foster parents or, where applicable, the members of the extended family or community as provided for by local custom’.⁵⁶

⁴⁸ Third party intervention by the Council of Europe Commissioner for Human Rights before the European Court of Human Rights under Article 36, paragraph 3 of the European Convention on Human Rights, Applications Nos. 24384/19 and 44234/20, *H.F. and M.F. v. France and J.D. and A.D. v. France*, para. 28. Available at: <https://rm.coe.int/third-party-intervention-by-the-council-of-europe-commissioner-for-hum/1680a31834>

⁴⁹ Children’s Commissioner for England, *Response to the Home and Foreign Secretaries regarding British children in Syria*, 5 November 2019.

⁵⁰ Save the Children International, *When am I Going to Start to Live? The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps*, 2021, p. 32.

⁵¹ *Ibid.*

⁵² Reprieve, *Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State*, 2021, pp. 42 and 51.

⁵³ Rights and Security International, *Abandoned to Torture: Dehumanising rights violations against children and women in northeast Syria*, 2021, p. 39. Available at: https://www.rightsandsecurity.org/assets/downloads/Abandoned_to_Torture_-_Final_Report.pdf

⁵⁴ Reprieve, *Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State*, 2021, p. 51.

⁵⁵ Article 8, ECHR. Article 16, CRC. See also Articles 12 and 16 (3), UDHR and Articles 17 and 23 (1), ICCPR.

⁵⁶ Article 5, CRC. See also Committee on the Rights of the Child, *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)*, CRC/C/GC/14, para. 59.

26. It is a fundamental principle of children's rights law that in all actions concerning children, including in decisions on the repatriation of their families, the best interests of the child must be a primary consideration.⁵⁷
27. Under the CRC, it is important to preserve family unity, therefore children must not be separated from their parents against their will, except where competent authorities subject to judicial review determine that such separation is necessary for their best interests.⁵⁸ In the case of children separated from one or both parents, they are entitled to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to their best interests,⁵⁹ and the Committee has clarified that this extends to anyone 'holding custody rights, legal or customary primary caregivers, foster parents and persons with whom the child has a strong personal relationship.'⁶⁰
28. The Committee on the Rights of the Child has further emphasised the gravity of the impact of separation on the child, explicitly providing that separation should only occur as a measure of last resort, not used if less intrusive measures are possible. In particular, prior to resorting to separation, States should support parents and restore or enhance the family's capacity to take care of the child.⁶¹
29. The Committee has also urged States to guarantee that, in all separation cases, the situation of the child and their family has been assessed by a multidisciplinary team of well-trained professionals with appropriate judicial involvement.⁶²
30. In assessing the best interests of the children in the camps, it should be considered that they have already suffered physical and emotional trauma, most of them have never known life outside the camps, and their primary caregivers are their only stable reference point.⁶³ A broad interpretation of the concept of 'family' is particularly important in the case of nationals detained in North East Syria, who have formed family units that are a combination of full and partial biological families. These units are the very limited support networks that the children in camps have, and are especially significant given the frequent lack of a male role model or father figure.⁶⁴ More generally, studies have shown that the forcible separation of children from their parents has profound effects on children's development, leading to acute stress, depression and developmental regression.⁶⁵ It is therefore highly unlikely that the separation of children from their primary caregivers would be in their best interests. Moreover, Kurdish authorities might refuse to repatriate children without their mothers.⁶⁶

⁵⁷ Article 3 (1), CRC.

⁵⁸ Article 9 (1), CRC.

⁵⁹ Article 9 (3), CRC.

⁶⁰ Committee on the Rights of the Child, *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)*, CRC/C/GC/14, para. 60.

⁶¹ *Idem*, para. 61.

⁶² *Idem*, para. 64.

⁶³ Open Society Justice Initiative, *European States' Obligations to Repatriate the Children Detained in Camps in Northeast Syria*, July 2021, para. 151.

⁶⁴ Save the Children International, *When am I Going to Start to Live? The urgent need to repatriate foreign children trapped in Al Hol and Roj Camps*, 2021, p. 24.

⁶⁵ *Idem*, p. 32.

⁶⁶ Thomas Renard and Rik Coolsaet, *From bad to worse: The fate of European foreign fighters and families detained in Syria, one year after the Turkish offensive*, October 2020, p. 6. Available at: https://www.egmontinstitute.be/content/uploads/2020/10/SPB130_final.pdf?type=pdf

31. In our view, if the UK is pursuing a policy of separating children from families for repatriation, the UK is violating children's best interests and their right to family life.
32. Given the complex nature of the best interests assessments, we submit that, in very practical terms, the UK is simply not in a position to conduct these assessments while children and their primary caregivers are in the camps. Therefore, as recognised by the Council of Europe Commissioner for Human Rights,⁶⁷ the UK should repatriate children and caregivers together, and carry out the assessments domestically. The caregivers may face prosecution, but the UK should prioritise their rehabilitation and reintegration.

The steps the UK should take regarding children detained in North East Syria

33. We have set out a series of recommendations to guide States' responses to children detained in North East Syria.⁶⁸
34. Regarding the issue of repatriation, we submit that:
 - The UK should take the necessary measures in order to repatriate all British citizens in the camps, without discrimination based on their age, familial connections or involvement with ISIS.
 - The UK should provide assistance to the children detained in the camps, ensuring that they are able to access health, education and other services while awaiting return.
 - The UK should repatriate children together with their families.
 - The UK should never deprive children of their nationality, regardless of their involvement with ISIS. It should avoid measures which could have the effect of rendering children stateless, in law or in practice.
35. Regarding children's rehabilitation and reintegration into British society, we submit that:
 - The UK should develop specialised rehabilitation and reintegration services for child returnees, including health, education, vocational and social support that takes account of an individual child's gender, age and cultural background.

In particular, we agree that the design and delivery of these programmes should be based on the principles of the Convention on the Rights of the Child, therefore they should reflect the best interests of the child returnees, give due weight to their views, and be non-discriminatory and non-stigmatising.⁶⁹ These programmes should be localised and build on the strengths found in the community, including the support of extended families.⁷⁰ In order to facilitate the highest degree of reintegration,

⁶⁷ Third party intervention by the Council of Europe Commissioner for Human Rights before the European Court of Human Rights under Article 36, paragraph 3 of the European Convention on Human Rights, Applications Nos. 24384/19 and 44234/20, *H.F. and M.F. v. France* and *J.D. and A.D. v. France*, paras. 28-29.

⁶⁸ CRIN et al., *Bringing Children Home: A children's rights approach to returning from ISIL*, 2020, pp. 3-4.

⁶⁹ UN Counter-Terrorism Centre (UNCCT), *Children affected by the foreign-fighter phenomenon: Ensuring a child rights-based approach*, 2019, para. 158.

⁷⁰ *Ibid.*

communities should be sensitised before receiving child returnees,⁷¹ and factors that might impede the process (such as public concerns about security) should be addressed.⁷²

⁷¹ Ibid.

⁷² Parliamentary Assembly of the Council of Europe, *Resolution 2321 (2020): International obligations concerning the repatriation of children from war and conflict zones*, 30 January 2020, para. 8.1.5. Available at <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28581&lang=en>