



**Submission to the Special Rapporteur on trafficking in persons, especially women and girls
in response to the call for input on “the access to international protection of victims of
trafficking in persons or persons at risk of trafficking” pursuant to resolution 44/4 of the
Human Rights Council**

February 2022

About Reprieve

Reprieve is a charitable organization registered in the United Kingdom (No. 1114900) in special consultative status with the United Nations Economic and Social Council (“**ECOSOC**”) that provides free legal and investigative support to those who have been subjected to state-sponsored human rights abuses. Our clients belong to some of the most vulnerable populations in the world. In particular, we protect the rights of those facing the death penalty and deliver justice to victims of arbitrary detention, torture, and extrajudicial execution.

I. Introduction

1. This submission is made by Reprieve to the United Nations (“UN”) Special Rapporteur on trafficking in persons, especially women and children (“SR on Trafficking”), in respect of the call for input on the access to international protection of victims of trafficking in persons or persons at risk of trafficking.
2. The objective of this submission is to highlight the protection gaps, including the lack of international protection, faced by victims of trafficking in the context of terrorism. The submission will examine this gap by outlining violations by the Government of the United Kingdom (“UK”) of the rights of British trafficking victims detained in North East Syria (“NES”), particularly the refusal to provide consular assistance and the arbitrary deprivation of citizenship. These violations of the obligation to investigate and protect and of the non-punishment principle have left trafficking victims without state or international protection.
3. The submission begins with an overview of the detention of trafficking victims in NES (Section II). Section III examines the UK’s denial of state protection to British trafficking victims in NES, and Section IV outlines the resulting absence of international protection for victims of trafficking in NES. Section V discusses the gendered inequalities in access to protection for victims of trafficking in NES, while Section VI focuses on the specific protection gaps experienced by children and ethnic minority communities. Lastly, Section VII provides recommendations.

II. The Detention of Trafficking Victims in NES

4. Approximately 68,000 people are detained in NES for a presumed association with the Islamic State (“ISIS”). They are held by the Autonomous Administration of North and East Syria (“AANES”) (the Kurdish non-State group in de-facto control of NES) and the Syrian Democratic Forces (“SDF”) (the AANES’ military arm). Around 58,000 women and children are held in two open-air camps: Al Hol and Roj. A further 10,000 men and 750 boys are imprisoned in multiple detention centres.ⁱ
5. Reports suggest that more than 10,000 non-Syrian and non-Iraqi nationals (“Third Country Nationals”) are detained in NES.ⁱⁱ This includes some 8,000 Third Country National children held in

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Al Hol and Roj camps.ⁱⁱⁱ No Third Country ^[OBJ]^{iv} Their detention has repeatedly been found to be arbitrary and unlawful.^{vi}

6. The grave conditions in the detention camps in NES are well documented.^{vii} The Independent International Commission of Inquiry on the Syrian Arab Republic (“UN Syria Col”) recently found that “humanitarian conditions in the camps have plummeted”, noting that there is “no regular water supply; insufficient sanitation; lack of adequate nutrition, health care and housing”.^{viii} It concluded that “conditions in both camps may amount to cruel or inhuman treatment”, “a violation of the right to health” and, in some cases, a violation “of the right to physical integrity and to life.”^{ix}
7. Conditions in the prisons are particularly catastrophic.^x Detainees in these prisons are held incommunicado, with no external contact with legal counsel or family members. The UN Syria Col has found that the SDF “may have perpetrated acts tantamount to enforced disappearances.”^{xi}
8. There is good reason to believe that many of the detainees are victims of trafficking in persons. The so-called Islamic State (“ISIS”) used human trafficking to further its strategic aims, including forced recruitment. This included:

“relying on family members to recruit children, luring recruits with promises of business opportunities, manipulation of social media in order to ‘groom’ potential recruits, deceptive recruitment for sexual exploitation, including in forced marriage; and kidnapping for the purpose of training children ‘in terror tactics, including beheadings and suicide missions.’”^{xii}
9. As the SR on Trafficking has herself noted, “significant bodies of evidence are now available on the recruitment and use of children, including in particular girl children and young women, by ISIL and Da’esh, for purposes of forced labour, sexual exploitation, forced criminality and forced marriage.”^{xiii} Boys were also trafficked by ISIS, including for recruitment and use in hostilities.^{xiv}
10. Based on such information, the UN High Commissioner for Human Rights has found that many of the individuals detained in NES “have been trafficked or otherwise forced into marriage, sexual slavery and exploitation.”^{xv}

III. The UK’s denial of state protection to British trafficking victims in NES

11. While there is no official public information about the nationalities of those detained, Reprieve’s investigations indicate that a small group of British families are detained in NES – only about 25 British families, with the majority of the detainees being children. The vast majority of those children are under 10 years old.^{xvi}
12. Reprieve’s investigations also indicate that many of the British detainees are likely victims of human trafficking. Over 60 percent of British women currently detained in NES were likely trafficked to the region and at least 44 percent were coerced by a male partner or relative.^{xvii} Of current British detainees not born there, almost half were children at the time of travel to Syria, and are therefore likely victims of trafficking.^{xviii} It is not possible to assess the status of British boys and men in the prisons, because of their incommunicado detention.

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13. After a months-long inquiry into the trafficking of British nationals by ISIS, the UK's All-Party Parliamentary Group on Trafficked Britons in Syria ("APPG") similarly concluded that "ISIS' trafficking operation extended into the UK, and that many British women and girls meet the criteria of a potential victim of human trafficking".^{xix}
 14. UK courts and tribunals have also identified that British nationals, in particular, young women and girls, were "specifically targeted [by ISIS]",^{xx} and "recruited, transferred and harboured"^{xxi} for "the purposes of sexual exploitation."^{xxii} In a recent case involving a British teenager who travelled to Syria in 2015, the Special Immigration Appeals Commission (SIAC) found in addition that "[t]here were possible violations of the state's protective duties in the months leading up to [her] departure in 2015, which were not and have never been properly investigated."^{xxiii}
 15. As such, the UK would be aware that there is credible information that British detainees in NES are victims of human trafficking.^{xxiv} Nonetheless, the UK Government has not only refused to fulfil its positive obligations to offer assistance and protection, it has also committed egregious violations of the non-punishment principle, as discussed further below. The result is the complete denial of state protection for these victims.
- 16. Failure to provide protection and assistance**
17. Under international law, States are required to prevent trafficking, to investigate and prosecute perpetrators, to identify trafficked persons, to assist and protect victims, and to ensure remedies for victims. The UK is bound by such obligations through regional and international anti-trafficking instruments, including the Council of Europe Convention on Action Against Trafficking in Human and the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children ("Trafficking Protocol").^{xxv}
 18. The UK has however refused to provide any assistance or protection to British trafficking victims in NES, including by refusing to provide them consular assistance or meaningfully investigate their statuses as potential victims of trafficking. Although it has the evident capacity to assist them,^{xxvi} it has abandoned the vast majority of British detainees in NES to arbitrary detention in horrific conditions for nearly four years.
 19. The UK Government maintains an apparent general policy of refusing to assist or repatriate adult British detainees. It has stated that it is open to repatriating "unaccompanied" or "orphaned" children, but overwhelmingly refusing to repatriate full family units.^{xxvii} In the vast majority of cases of which Reprieve is aware, the UK has offered to repatriate British children only if their mothers consent to being separated from them and left in unlawful detention in NES. The UK Government has sent letters to British families in NES to this effect.^{xxviii}
 20. In these letters, the UK Government cites one of the reasons for the refusal to repatriate that the individuals travelled "of [their] own volition to join a proscribed terrorist organisation"^{xxix}, apparently without any consideration that these individuals are potential victims of human trafficking, and may not have travelled "of [their] own volition".

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21. The UK Government's policy towards this group violates the UK's "positive obligation to take operational measures" under Article 8 of the Trafficking Protocol.^{xxxii} The UK Government takes the position that "no international or domestic law or policy requires it to determine whether persons situated outside the UK are victims of human trafficking."^{xxxiii} However, as the SR on Trafficking has noted, the obligation to take operational measures to assist and protect victims of trafficking is "strict" and applies extraterritorially.^{xxxiv}

22. Moreover, the UK's failure to protect and assist victims of trafficking detainees in NES also amounts to a violation of the non-punishment principle. The SR on Trafficking has found that the denial of consular assistance and the separation of children to be violations of this principle.^{xxxv}

i. Citizenship Deprivations

23. In addition to denying protection and assistance to trafficking victims, the UK has pursued a policy of depriving adults detained in NES of British nationality, having done so in respect of at least 19 detainees.^{xxxvi} However, the real number "is likely to be higher due to the Government's failure to provide transparent public reporting about this practice and because [...] it has failed to tell some UK nationals that they have been deprived of citizenship."^{xxxvii}

24. The policy appears to be carried out on a blanket basis without regard to whether the individual may be a victim of trafficking.^{xxxviii} Notably, the Government has "frequently justified its decision to strip women of their citizenship and deny them repatriation on the basis that they 'travelled to Syria of their own volition,'"^{xxxix} despite evidence that they were groomed, coerced or deceived into travelling to Syria, as noted above.

25. It appears that the UK has adopted the draconian measure of depriving detainees of British citizenship as a punishment for their perceived association with ISIS. Despite having barely used this power before, from 2010 to 2021, the Home Secretary deprived at least 217 individuals of their citizenship on the basis that it was conducive to the public good, with 104 people stripped in 2017 alone.^{xl} The UK uses citizenship deprivation far more than almost all other states; it is second only to Bahrain in its use of deprivation since 2000.^{xli} The UK has been called a "global leader in the race to the bottom" in its use of citizenship deprivations.^{xlii}

26. Deprivation of citizenship in the NES context has been found to be "distinctly punitive" because it "appears primarily to involve the prevention of return, or because of [individuals'] travel to a conflict zone in the first place."^{xliii} For this and other reasons, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms which countering terrorism ("SR on Counter-Terrorism and Human Rights") concluded that citizenship deprivations of individuals currently in NES are arbitrary under international law.^{xliv}

27. The deprivation of British detainees' citizenship therefore violates the principle of non-punishment, as the removal of British trafficking victims' citizenship is directly linked to their trafficking to the region.^{xlv}

28. Reprieve is also aware of British detainees who gained British citizenship after fleeing violence, conflict, or persecution in the country of their second nationality. Others may not be able to go to

their country of second nationality due to a well-founded fear of torture, cruel, inhuman or degrading treatment or punishment. By stripping these individuals of their citizenship, the UK is, in effect, violating the principle of non-refoulement.^{xlvi}

29. It has also been recognised (including by the UK Supreme Court) that individuals detained in NES who have been deprived of British citizenship are unable to have a “fair and effective” appeal from where they are.^{xlvii} Despite this, the UK Government has refused to repatriate them, leaving the detainees NES stuck with the unjust prospect of an unfair appeal, or no appeal. The lack of effective domestic legal remedies available to potential victims of trafficking in NES were further highlighted in the recent ruling in the case of *Shamima Begum v Home Secretary*. The Commission found that there was “credible suspicion” that Ms Begum may have been trafficked,^{xlviii} but decided that a finding that Ms Begum has been trafficked does not operate as a form of limitation on the Secretary of State’s “wide powers” under section 40 of the British Nationality Act 1981.^{xlix} Essentially, victims of trafficking can be stripped of citizenship and denied protection if the UK Government claims they present a risk to national security.

IV. Gap in international protection for trafficking victims in NES

30. Through a combination of denial of consular assistance and deprivation of citizenship, the UK has in effect completely removed British victims of trafficking detained in NES from state protection. When a person cannot avail themselves of the protection of their country of nationality, they may benefit from international protection. However, as currently understood, international protection is accorded to persons outside of their own country who are unable to return home because they would be at risk there and their country is unable or unwilling to protect them, such as refugees or asylum seekers. Stateless persons also receive protection under Convention Relating to the Status of Stateless Persons (“Convention on Statelessness”).¹
31. This regime does not appear to extend to victims of trafficking who are outside their country of nationality and who have been deliberately denied state protection, such as trafficking victims detainees in NES. Because they do not fall into a category of persons who benefit from international protection, these victims are left in a protection gap – without protection from the human rights violations they are currently experiencing and at risk of a range of further harms. This regime does not appear to extend to victims of trafficking who are outside their country of nationality and who have been deliberately denied state protection, such as trafficking victims detainees in NES. Because they do not fall into a category of persons who benefit from international protection, these victims are left in a protection gap – without protection from the human rights violations they are currently experiencing and at risk of a range of further harms.
32. Notably, without state or international protection, British victims of trafficking detained in NES have no realistic chance of being released from indefinite detention. The AANES does not deport individuals from NES to their countries of origin, but will only release individuals in their custody upon official request from their governments.ⁱⁱ As the British government has steadfastly refused to do so,ⁱⁱⁱ this refusal to extend state protection to these victims amounts to complicity in their unlawful detention. As far as Reprieve is aware, there is also no international mechanism to seek a permanent solution to their ongoing detention.

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33. With respect to those deprived of their British citizenship, most (if not all) of these individuals do not enjoy the protection of the state of their second nationality. British nationals are deprived of their citizenship pursuant to an assessment by UK authorities that they hold another nationality, rather than confirmation by the State in question. The result has been to render the individual effectively stateless. As the SR on Counter-Terrorism and Human Rights has noted, there are “several instances where an individual detained in North-East Syria has been deprived of one nationality only to have the State of their second nationality disclaim their citizenship, rendering the individual stateless and stranded in the camps in a legal limbo from which there is virtually no positive resolution possible.”^{liii}
34. In other cases, the individual in question may have no real life ties to the country of their second nationality, and no practical means of establishing their second nationality given the conditions of their detention, such as by accessing consular services or possessing or obtaining relevant paperwork.
35. As such, while the deprivation of their British nationality may not have left them *de jure* stateless, the vast majority of formerly-British detainees are *de facto* stateless. While such individuals should arguably be considered stateless pursuant to the Convention on Statelessness,^{liv} it does not appear that the international community considers them as such; notably, no international organisation appears to consider that they fall under their mandate. The result is that these detainees also currently have no realistic chance of release from indefinite detention.
36. The protection gap these trafficking victims are experiencing is also likely to lead to a range of serious violations of their human rights and further harm. Trafficking victims detained in NES face an acute risk of re-trafficking and further exploitation. Against a background of human rights violations, abandonment by their home country, and the message that they will never be able to live together as a family unit, desperation is steadily increasing in the detention facilities, increasing the detainees’ vulnerability to traffickers.
37. There is evidence to suggest that trafficking and re-trafficking from the detention facilities is already occurring. Reports have emerged of detained women “marrying” men they meet online, who then arrange for them to be smuggled out of the detention camps.^{lv} Moreover, ISIS is targeting the detention camps as sources of potential recruits. Danish intelligence confirmed in March 2021 that at least 30 children were kidnapped from a camp by ISIS,^{lvi} and the US has sanctioned individuals involved in “smuggling children out of the camps and delivering them to ISIS foreign fighters as potential recruits.”^{lvii}
38. It should also be noted that the UK is therefore aware, or ought to be, that British detainees in NES, including children, are at real and immediate risk of being trafficked. This also gives rise to the obligation to take operation measures of protection and assistance under the Trafficking Protocol.

V. Gendered inequalities in access to protection for victims of trafficking in NES

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39. The lack of state and international protection for trafficking victims detained in NES has been distinctly gendered. The majority of adult detainees in NES are women, many of whom are mothers who are detained alongside their children. The impacts on children of the deprivation of citizenship and refusal to repatriate are discussed at greater length in Section VI(i) below. Mothers in the camp are forced to watch their children suffer indefinitely in conditions that are widely acknowledged to be life-threatening, at risk of re-trafficking, disappearance or death (see Section II), or be compelled to subject their children to the trauma of family separation (see Section VI(i)).
40. Female detainees are also often held on the basis of their association with male relatives or husbands. The commonly used term “ISIS Bride” is inherently gendered and charged. Women are assumed by this term to be affiliated with ISIS, often with no evidence to prove this, and in a circumstances where many are potential victims of trafficking. As noted above, over 60 percent of British women currently detained in NES were likely trafficked to the region; of these, a significant proportion were coerced into travel by a male partner or relative.^{lviii}
41. UK Courts and the Government have acknowledged that that “the primary role for most women [under ISIS] will typically be as wives of fighters and mothers of their children”,^{lix} that “young women have been specifically targeted [by ISIS],”^{lx} that the trafficking was “for the purpose of sexual exploitation”^{lxi} and that “[t]he reality is that the future for such girls [held] only as we know, exploitation, degradation and the risk of death.”^{lxii} Many of the detained women are now - having already suffered a series of gender-based harms under ISIS - being doubly punished for a presumed but unproven affiliation with ISIS, on the basis of being married to or the relative of a presumed ISIS fighter.
42. Boys and male adolescents in this context also face particular vulnerabilities and subject to unique harms, notably family separation in violation of the Convention on the Rights of the Child (“CRC”), and subsequent ill-treatment, disappearance, and death.
43. Boys who are held in detention camps with their mothers, caregivers, and/or families are at risk of forcible separation from them on the basis of their gender and age. As boys approach adolescence, they are violently separated from their families in the middle of the night by Kurdish security forces.^{lxiii} They may also be taken during the day from communal areas, such as the market. They are taken without warning, with no opportunity to say goodbye to friends or family, or to take any belongings. Their mothers and caregivers may only find out later, through second-hand sources, that their child is gone.^{lxiv}
44. Removals have been reported since 2019,^{lxv} and the practice is now “routine and systematic”,^{lxvi} with hundreds of boys thought to have been forcibly removed from the detention camps.^{lxvii}
45. There is “little to no” transparency about where the boys are taken.^{lxviii} After their separation, the boys have very limited or no contact with family members.^{lxix} However, multiple sources report that boys have been placed in military detention facilities, where adult men are also detained.^{lxx} Reportedly, boys have been held in the same cells as adult men,^{lxxi} in contravention of the UN Standard Minimum Rules for the Administration of Juvenile Justice, 1985.^{lxxii} Otherwise, boys may be placed in what local authorities refer to as “rehabilitation” centres.^{lxxiii} Once they turn 18, those

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boys are also moved to adult detention facilities on the basis of age and gender, rather than alleged criminality.

46. The forcible separation of boys and male adolescents is done simply on the basis of age and gender, rather than any allegation of wrongdoing.^{lxxiv} The SR on Counter-Terrorism and Human Rights has found that “no human rights and rule of law compatible determination has been made to justify their detention.”^{lxxv} While the AANES has acknowledged the practice, it refuses to clarify how many boys have been separated or specify where they are.^{lxxvi} The failure to acknowledge their whereabouts amounts to an enforced disappearance.^{lxxvii}
47. Rather than being viewed primarily as victims, including of trafficking and forced recruitment and use, these boys have been deemed by the UK and other States to be “inherently unworthy” of protection due to their presumed association with ISIS.^{lxxviii} Indeed, boys are often the “silent victims of trafficking, less visible than their female counterparts.”^{lxxix} However, in the counter-terrorism context, these boys are “presumed by virtue of gender (male), religious affiliation (Muslim) and geography (Syria) to be a ‘non-child’ for the purposes of international law protection.”^{lxxx}
48. After their transfer to the prisons, boys are likely to be held incommunicado, like the men, many of whom have not been heard from since 2019. Given the lack of access, the UN has concluded that this may amount to an enforced disappearance.^{lxxxi} Reporting also indicates that conditions of detention are catastrophic, meeting the threshold for torture, inhuman and degrading treatment.^{lxxxii}
49. Boys in these prisons are at risk of violence, sexual violence, trafficking, forced recruitment, and death, as exemplified by the January 2022 attack on the al-Sina’a prison in Hasakah which saw the use of boys as human shields^{lxxxiii} and resulted in at least two deaths and many injuries among the teenage prisoners.^{lxxxiv} As of April 2022, that at least 100 boys remained unaccounted for after the attack, which may amount to enforced disappearance.^{lxxxv}
50. In addition to refusing state protection to British children at risk of forcible separation in the detention camps in line with international law, the UK Government is also facilitating this practice by funding detention facilities in NES.^{lxxxvi} UN Special Procedures have alerted the UK government that this support “directly implicates” the UK in the process of detention and creates responsibility for the continued arbitrary detention of individuals.^{lxxxvii}

VI. Specific protection gaps

51. The lack of state and international protection which British trafficking victims detained in NES endure has particularly deleterious impacts on children and members of Britain’s minority communities.
 - i. **Child protection**
52. As noted above, the vast majority of British detainees detained in NES are children. Like their parents, none of these children have been charged with any offence.^{lxxxviii} The mass detention of

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children based on the presumed culpability of their family members is a form of collective punishment, and an “egregious example” of arbitrary detention,^{lxxxix} and a war crime.^{xc} As has been emphasised by several UN Special Procedures, “no child is responsible for the circumstances of his birth and cannot be punished [...] by virtue of the status or acts of his parents”.^{xc}

53. Children suffer particularly acutely in the conditions of detention in NES. The UN Committee on the Rights of the Child (“CRC Committee”) has found that the conditions “pose an imminent risk of irreparable harm to the children’s lives, their physical and mental integrity and their development”^{xcii} and present “an imminent risk of death.”^{xciii} The CRC Committee concluded that children’s prolonged detention in these conditions amounts to cruel, inhuman and degrading treatment or punishment.^{xciv}
54. In addition to the consequences of their detention in such inhumane conditions, the UK’s apparent policy of making repatriations of British children from NES conditional on their separation from their family is motivated not by regard for the best interests of the child, but by the UK’s unwillingness to repatriate British adults from NES.^{xcv} By applying that policy on a blanket basis, and allowing it to displace any individual consideration of the best interests of the child, the UK’s policy violates the rights of British children detained in NES under the CRC. Indeed, the CRC Committee has previously held another State to be in violation of Article 3 of the CRC in similar circumstances.^{xcvi}
55. Under international human rights standards, family separation should only be a last resort, following an appropriate assessment of the child’s best interests.^{xcvii} However, the UK “is simply not in a position to conduct these assessments while children and their primary caregivers are in detention camps”.^{xcviii} Instead, such an assessment may only be undertaken following a child’s repatriation with their caregiver.^{xcix} By offering repatriations which require or encourage arbitrary separation of children from their mothers or primary caregivers, the UK is in violation of the prohibition of arbitrary family separation.
56. Further, the UK’s practice of stripping British adults of their citizenship has a catastrophic impact on their children and the enjoyment of their rights. As the SR on Counter-Terrorism and Human Rights has found, the act of depriving a parent of citizenship constitutes a “de facto deprivation of citizenship for children”.^c The Special Rapporteur explained that “a mother’s loss of citizenship fundamentally affects her child’s subsequent ability to access her citizenship and return to the country of the parent’s nationality.”^{ci}
57. Even where a child is not rendered stateless, the stripping of their mother’s citizenship risks leaving that child with a different nationality to the rest of their family. For instance, Reprieve is aware of a British mother with two children, born to men of different nationality whom she was forced to marry, on either side of her citizenship deprivation. The effect of stripping the mother is to leave the elder child as the sole British citizen of his immediate family, while the younger child, unable to derive citizenship via her mother’s alternative nationality, is left sharing citizenship only with her deceased father. The result is that the family are left without the right to live together anywhere in the world. The youngest child is also *de facto* stateless, with no realistic possibility of establishing citizenship in the county of her father.^{cii}

58. Moreover, there have been multiple cases where the UK was found to have stripped an individual of their citizenship unlawfully, as they were rendered stateless.^{ciii} In one case, a child born during the period of unlawful deprivation was found not have British nationality, as the restoration of the parent's citizenship was prospective.^{civ} Reprieve is aware of cases where this has impacted children detained with their British mothers in NES.
59. The UK's practice of deprivation of citizenship of all adults detained in NES en masse may amount a violation of the CRC on the grounds that it denies the children of these adults their right to preserve their identity and nationality; it discriminates against the children on the basis of the status of their parents; and it fails to take the children's best interest into account as a primary consideration.^{cv}
60. As a result of the removal of state protection from their parents, British children (and children who would have been British but for their parents deprivation) have been left in exceedingly precarious circumstances. By leaving children stateless, whether *de facto* or *de jure*, and creating conditions where family units cannot legally remain together, the British policy concerning detainees in NES risks the arbitrary separation of families and exposes children to a range of serious violations of their human rights.

ii. Discriminatory impact on minority ethnic communities

61. The UK's discriminatory policy of citizenship stripping has left trafficking victims from minority ethnic communities particularly vulnerable to a lack of state protection and impermissible punishments.
62. Both international human rights law and the UK's Equality Act recognise that discrimination is impermissible even if it is *de facto*.^{cvi} As the Special Rapporteur on Contemporary Forms of Racism has emphasised, this can include broad laws permitting citizenship deprivations, which are often cloaked in national security justifications, but "in practice have a disproportionate effect on marginalized racial, national and religious groups."^{cvi} While "seemingly neutral," laws that permit deprivations of dual nationals or naturalised citizens create "stigmatising effect[s] on minority communities."^{cvi}
63. In a communication sent to the British Government in February 2022, multiple UN human rights experts expressed consternation about the disproportionate impacts of the UK legislation on citizenship stripping, the British Nationality Act 1981, noting that approximately two in five individuals of minority backgrounds would likely be eligible to have their citizenship revoked, compared to just one in twenty white individuals.^{cix} The experts said that the impacts of the very law utilised to deprive trafficking victims in NES of protection "will likely constitute prohibited discrimination on the grounds of race, colour, descent, and national or ethnic origin, as well as other grounds such as religion."^{cx}
64. The discriminatory impact of Britain's citizenship stripping, and thus removal of state protection from trafficking victims, is not merely theoretical. The Institute of Race Relations has gathered evidence that the UK Government has used its citizenship deprivation power "almost exclusively

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against Muslims, mainly those of South Asian, Middle Eastern, and African heritage.”^{cxii} The result of this policy has been to convey the message that British Muslims are not “real, full British citizens.”^{cxiii} After its inquiry, the APPG reported that “many family members of those detained report feeling like second-class citizens as a result of the Government’s approach.”^{cxiii}

65. The impact of the British Government’s policy has been to render a certain class of trafficking victims, disproportionately of minority background, unable to receive state or international protection. Thus, the policy is part of “[t]he troubled history of arbitrary deprivation of nationality,” one that is “rooted in histories of racism,” as governments aim to “exclude and limit the application of human rights law on discriminatory grounds.”^{cxiv}

66. It is noteworthy that in all of the citizenship stripping cases of women detained in NES of which Reprieve is aware, the individuals are of Black, Brown, or minority ethnic origin.

VII. Recommendations

67. Reprieve makes the following recommendations to the SR on Trafficking and other Special Procedures of the Human Rights Council:

- Call on States to reinstate the citizenship of all their nationals detained in NES and to end the practice of citizenship stripping in the context of NES. Children born during periods of deprivation should be granted citizenship.
- Call on States to facilitate the voluntary repatriation of their nationals from NES without undue delay.
- Call on States to provide support to trafficking victims and their children, upon repatriation.

ⁱ UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 17 August 2022, A/HRC/51/45/, paras. 92, 97, available at: <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/report-coi-syria-september2022>; International Crisis Group, *Containing a Resilient ISIS in Central and North-eastern Syria*, p. 26, fn 130, available at: <https://www.crisisgroup.org/middle-east-north-africa/east-mediterranean-mena/syria/236-containing-resilient-isis-central-and-north-eastern-syria>

ⁱⁱ Human Rights Watch, *Many Children Returned from Syria Detention Doing Well*, 21 November 2022, available at: <https://www.hrw.org/news/2022/11/21/many-children-returned-syria-detention-doing-well>; UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 13 August 2021, A/HRC/48/70, para. 110, available at: <https://www.ohchr.org/en/documents/country-reports/ahrc4870-report-independent-international-commission-inquiry-syrian-arab>.

ⁱⁱⁱ Human Rights Watch, *Thousands of Foreigners Unlawfully Held in NE Syria*, 23 March 2021, available at: <https://www.hrw.org/news/2021/03/23/thousands-foreigners-unlawfully-held-ne-syria?fbclid=IwAR0J-3FUAWG7VgSh6Q4rOU4bB5nZ1uYiixivW4IOHyQAzjwyD7CHQoRyvGk#>

^v UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 8 February 2022, A/HRC/49/77, para. 108, available at: <https://www.ohchr.org/en/documents/country-reports/ahrc4977-report-independent-international-commission-inquiry-syrian-arab>; *Report of the Inquiry by the All-Party Parliamentary Group on Trafficked*

Britons in Syria, February 2022, p. 13, available at: <https://appgtraffickedbritons.org/wp-content/uploads/2022/03/Report-of-the-Inquiry-by-the-APPG-on-Trafficked-Britons-in-Syria.pdf>.

^{vi} See UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 11 March 2021, A/HRC/46/55, para. 96, available at:

<https://www.ohchr.org/en/documents/country-reports/ahrc4655-report-independent-international-commission-inquiry-syrian-arab>. See also UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 8 February 2022, A/HRC/49/77, para. 112, available at: <https://www.ohchr.org/en/documents/country-reports/ahrc4977-report-independent-international-commission-inquiry-syrian-arab>.

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^{viii} UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, 17 August 2022, A/HRC/51/45, para. 97, available at: <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/report-coi-syria-september2022>.

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^x UN 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. 3, available at:

https://www.ohchr.org/sites/default/files/Documents/Issues/Terrorism/SR/UNSRCT_Position_human-rights-of-boys-adolescents-2021_final.pdf

^{xi} UN Human Rights Council, *Report of the Independent International Commission of Inquiry on the Syrian Arab Republic*, A/HRC/51/45, 17 August 2022, para. 101, available at: <https://www.ohchr.org/en/hr-bodies/hrc/iici-syria/report-coi-syria-september2022>

^{xii} Prof. Jane C. Huckerby, *Written Opinion In the Matter of an Appeal under Section 2B of the Special Immigration Appeals Commission Act 1997 Between Shamima Begum and Secretary of State for the Home Department*, 1 July 2022, para. 12, available at:

<https://law.duke.edu/sites/default/files/humanrights/Huckerby-Opinion-Appeal-July2022.pdf>

^{xiii} UN Special Rapporteur on Trafficking in Persons, especially women and children, *Submission to the UK Special Immigration Commission in Shamima Begum v. Secretary of State for the Home Department*, 30 June 2022, para. 26, available at: <https://www.ohchr.org/sites/default/files/documents/issues/trafficking/2022-11-23/20220630-uk-begum.pdf>

^{xiv} UN General Assembly, *Report by the Special Rapporteur on trafficking in persons, especially women and children*, 3 August 2021, A/76/263, paras. 27-31, available at: <https://undocs.org/A/76/263>.

^{xv} OHCHR, *Bachelet urges States to help their nationals stranded in Syrian camps*, 22 June 2020, available at: <https://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=25986&LangID=E>

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^{xvii} Reprieve, *Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State*, 30 April 2021, p. 20, available at: <https://reprieve.org/uk/2021/04/30/trafficked-to-syria/>.

^{xviii} *Report of the Inquiry by the All-Party Parliamentary Group on Trafficked Britons in Syria*, February 2022, p. 16, available at: <https://appgtraffickedbritons.org/wp-content/uploads/2022/03/Report-of-the-Inquiry-by-the-APPG-on-Trafficked-Britons-in-Syria.pdf>.

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^{xx} [London Borough Tower of Hamlets v B](#) [2015] EWHC 2491 (Fam) 21 August 2015

^{xxi} *Shamima Begum v Secretary of State for the Home Department*, Special Immigration Appeals Commission (SIAC), Appeal No: SC/163/2019, Para 219.

^{xxii} *Idem*, Para 219.

^{xxiii} *Idem*, Para 224.

^{xxiv} See UN General Assembly, *Report of the Special Rapporteur on Trafficking in persons, especially women and children*, A/76/263, 3 August 2021, para. 50 (noting that a positive obligation to take operation measures arises where the State authorities were aware, or ought to have been aware, of circumstances giving rise to a credible suspicion that an identified individual had been, or was at real and immediate risk of being, trafficked), available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N21/214/53/PDF/N2121453.pdf?OpenElement>.

^{xxv} See Prof. Jane C. Huckerby, *Written Opinion In the Matter of an Appeal under Section 2B of the Special Immigration Appeals Commission Act 1997 Between Shamima Begum and Secretary of State for the Home Department*, 1 July 2022, paras. 6, 8, available at:

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^{xxvii} 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/>; *Report of the Inquiry by the All-Party Parliamentary Group on Trafficked Britons in Syria*, February 2022, p. 22, available at:

<https://appgtraffickedbritons.org/wp-content/uploads/2022/03/Report-of-the-Inquiry-by-the-APPG-on-Trafficked-Britons-in-Syria.pdf>. The UK has repatriated one British adult but confirmed following this that its policy to only repatriate “unaccompanied minors” and “orphans” remained the same (Dan Sabbagh, ‘First British woman and her child repatriated to UK from Syrian camp’, *The Guardian*, 13 October 2022, available at: <https://www.theguardian.com/politics/2022/oct/13/british-woman-and-her-child-repatriated-from-syrian-detention-camp-in-uk-first>).

^{xxviii} Reprieve, *Trafficked to ISIS: British families detained in Syria after being trafficked to Islamic State*, 2021, p. 42, available at: <https://reprieve.org/uk/2021/04/30/trafficked-to-syria/>; *Report of the Inquiry by the All-Party Parliamentary Group on Trafficked Britons in Syria*, February 2022, p. 36, available at:

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^{xxix} Letters on file at Reprieve.

^{xxxii} UN General Assembly, *Report of the Special Rapporteur on Trafficking in persons, especially women and children*, A/76/263, 3 August 2021, para. 50, available at: <https://www.ohchr.org/en/documents/thematic-reports/report-intersections-between-trafficking-and-terrorism>.

^{xxxiii} *Report of the Inquiry by the All-Party Parliamentary Group on Trafficked Britons in Syria*, February 2022, p. 21, available at: <https://appgtraffickedbritons.org/wp-content/uploads/2022/03/Report-of-the-Inquiry-by-the-APPG-on-Trafficked-Britons-in-Syria.pdf>, citing UK Mission Geneva, *Response to communication AL GBR 2/2021 of 26 January 2021 of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism et al*, 16 April 2021, available at: <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=36143>; Written Parliamentary Question,

British Nationality, UIN 139992, tabled on 19 January 2021 and answered on 27 January 2021, available at: <https://questionsstatements.parliament.uk/written-questions/detail/2021-01-19/139992>

^{xxxiv} UN General Assembly, *Report of the Special Rapporteur on Trafficking in persons, especially women and children*, A/76/263, 3 August 2021, para. 50, available at: <https://www.ohchr.org/en/documents/thematic-reports/report-intersections-between-trafficking-and-terrorism>; see also UN General Assembly, *Report of the Special Rapporteur on Trafficking in persons, especially women and children: Implementation of the non-punishment principle*, A/HRC/47/34, 17 May 2021, para. 44 (noting that since the non-punishment principle applies extraterritorially, States have positive obligations “to ensure non-punishment,” including by not denying consular assistance or refusing repatriation), available at: <https://www.ohchr.org/en/documents/thematic-reports/ahrc4734-report-implementation-non-punishment-principle>.

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^{xliiv} UN Human Rights Special Procedures, *Position of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms which counteracting terrorism on the human rights consequences of citizenship stripping in the context of counter-terrorism with a particular application to North-East Syria*, February 2022, p. 7, available at: <https://www.ohchr.org/sites/default/files/2022-03/Deprivation-of-Citizenship.docx>.

^{xliv} UN General Assembly, *Report of the Special Rapporteur on Trafficking in persons, especially women and children: Implementation of the non-punishment principle*, A/HRC/47/34, 17 May 2021, para. 42, available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/108/00/PDF/G2110800.pdf?OpenElement>

^{xlvi} As the UN High Commissioner for Refugees (UNHCR) has noted, “Where a State withdraws a person’s nationality and forces the person to leave the country ... and return to a territory where they may be subjected to life-threatening risks or to treatment amounting to torture or cruel, inhuman or degrading treatment or punishment, such State conduct is very likely to be inconsistent with non-refoulement obligations. States should also not transfer a person to a country where they may be at risk of further or onward removal to a country where they are subject to serious harm as

outlined in the preceding sentence.” See UNHCR, *Guidelines on Statelessness No. 5: Loss and Deprivation of Nationality under Article 5-9 of the 1961 Convention on the Reduction of Statelessness*, HCR/G2/20/05, May 2020, para. 114, available at: <https://www.refworld.org/docid/5ec5640c4.html>

^{xlvii} Begum v Secretary of State for the Home Department, ([2021] UKSC 7; [2021] AC 765).

^{xlviii} Shamima Begum v Secretary of State for the Home Department, Special Immigration Appeals Commission (SIAC), Appeal No: SC/163/2019, Para 219.

^{xlix} Shamima Begum v Secretary of State for the Home Department, Special Immigration Appeals Commission (SIAC), Appeal No: SC/163/2019, Paras 228-247.

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^{li} *Report of the Inquiry by the All-Party Parliamentary Group on Trafficked Britons in Syria*, February 2022, p. 6, <https://appgtraffickedbritons.org/wp-content/uploads/2022/03/Report-of-the-Inquiry-by-the-APPG-on-Trafficked-Britons-in-Syria.pdf>

^{lii} See, e.g., *C3 and C4 v. SSFCDA* [2022] EWHC 2772 (Admin), available at: <https://www.casemine.com/judgement/uk/63655e8da73d095233c2038e>

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^{liv} Article 1 of the Convention on Stateless defines a “stateless person” as “person who is not considered as a national by any State under the operation of its law.” Arguably, detainees in NES who have been deprived of their British citizenship are the citizens of a second state by operation of its law, and are therefore not stateless, but instead left in limbo because the second State refuses to recognise their right to citizenship. See further UNHCR, *Guidelines on Statelessness No. 1: The definition of “Stateless Person” in Article 1(1) of the 1954 Convention relating to the Status of Stateless Persons*, HCR/GS/12/01, 20 February 2012, available at: <https://www.refworld.org/docid/4f4371b82.html>

^{lv} Beth McKernan et al, ‘How Women of ISIS in Syrian Camps are Marrying their Way to Freedom,’ *The Guardian*, 2 July 2021, available at: <https://www.theguardian.com/world/2021/jul/02/women-isis-syrian-camps-marrying-way-to-freedom>.

^{lvi} Beatrice Eriksson, ‘A Visit to Northeast Syria Shows the Urgency for Governments to Repatriate their Citizens, Many of them Children, to Thwart ISIS,’ *Just Security*, 2 September 2021, available at: <https://www.justsecurity.org/78064/a-visit-to-northeast-syria-shows-the-urgency-for-governments-to-repatriate-their-citizens-many-of-them-children-to-thwart-isis/>.

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^{lix} Shamima Begum v Secretary of State for the Home Department, Special Immigration Appeals Commission (SIAC), Appeal No: SC/163/2019.

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^{lxi} Shamima Begum v Secretary of State for the Home Department, Special Immigration Appeals Commission (SIAC), Appeal No: SC/163/2019.

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^{lxiii} Information held on file by Reprieve. See also: Médecins Sans Frontières, *Between Two Fires: Danger and Desperation in Syria’s Al-Hol Camp*, 7 November 2022, p. 27, available at:

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^{lxiv} Médecins Sans Frontières, *Between Two Fires: Danger and Desperation in Syria’s Al-Hol Camp*, 7 November 2022, p. 27, available at: <https://www.msf.fr/sites/default/files/2022-11/Between-Two-Fires.pdf>

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^{lxxi} UN 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. 3, fn 7, available at:

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