

The Right Honourable Justin Trudeau, PC, MP  
Prime Minister of Canada  
Office of the Prime Minister  
80 Wellington Street  
Ottawa, ON  
K1A 0A2

January 15, 2020

Dear Prime Minister,

**Re: Canadian Citizens Detained in North East Syria**

We write regarding the urgent need to repatriate and reintegrate Canadian children in North East Syria (NES), and provide active consular assistance to all Canadian citizens presently detained there, in a manner that protects their human rights and respects obligations with respect to family unity.

The five-year conflict with the Islamic State in Iraq and Syria (ISIS) has left in its wake a population of foreign nationals with alleged links to the group living in NES – including approximately 45 Canadians, about half of whom are children.

Women and children who are allegedly linked to ISIS live in two camps in NES: Al-Hol (in a separate area referred to as the 'Annex'), and Al-Roj camp. There are currently an estimated 12,300 foreign nationals present in these camps, including 8,704 children representing more than 40 different nationalities, including Canadian. Of these, an estimated 8,013 are below the age of 12, of whom approximately 4,338 are under the age of five.<sup>1</sup> The Syrian Democratic Forces (SDF), the official military force of the Kurdish-led Autonomous Administration of NES, is managing the camps where Canadian women and young children are detained.

The conditions in these camps raise serious human rights concerns. They are severely overcrowded, the water is often contaminated, and there is inadequate access to humanitarian assistance. Malnutrition and infectious diseases are particular concerns in the camps, especially for young children. Save the Children reported that at least 75 children under the age of five have died on their way to the camps or upon arrival, most from hypothermia, pneumonia, and hunger-related illnesses.<sup>2</sup> Additionally, essential services in the camps including food, water, shelter, health, education and protection are severely limited.

Since the onset of Turkey's military operation on October 9, 2019, the situation has become even more dire.<sup>3</sup> On October 10, 2019, the United Nations (UN) mandated Commission of Inquiry on Syria expressed grave concern about the military offensive and aerial campaign being waged in NES, indicating, that "more than 100,000 previously displaced individuals, the majority of whom are women and children with presumed links to [ISIS] fighters, are lingering in makeshift camps, with limited access to basic services and at risk of radicalization in the absence of age and gender-sensitive rehabilitation programmes."<sup>4</sup>

Human Rights Abuses

Canadians detained in NES are experiencing serious violations of their fundamental human rights.

As you are aware, the *Canadian Charter of Rights and Freedoms* (Charter) and the *International Covenant on Civil and Political Rights* (ICCPR) guarantee the right to life, liberty, and security of the person. The ICCPR further guarantees the right to be treated with humanity and respect. Those in detention in NES are being subjected to

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<sup>1</sup> Save the Children, Syria Response Office.

<sup>2</sup> Ibid.

<sup>3</sup> United Nations Office for the Coordination of Humanitarian Affairs, Syria Flash Update #11 (October 2019).

<sup>4</sup> UN Commission of Inquiry on Syria, "A new wave of violence is the last thing Syrians need," (10 October 2019).

conditions which threaten their lives and undermine their security, due to a lack of access to adequate food, water, sanitation and medicine, as well as tensions between different groups of detainees. They do not stand charged of any crimes, nor have they been brought before a judge to review the legality and necessity of their detention, making their ongoing detention arbitrary.

### Rights of the Child

In addition to the overall human rights situation, we are particularly concerned about the child rights abuses that Canadian children are suffering as a result of their ongoing detention in Syria. Discrimination and stigmatization based on their status leaves already vulnerable children at increased risk of harassment, exploitation, and abuse.<sup>5</sup> For many, their births have not been registered by a recognized authority, and the lack of civil documentation, birth certificates and/or other identity documents mean they are at greater risk of statelessness and denial of basic rights and services – including by the countries where they have nationality, such as Canada.

Most of these children have previously lived under ISIS control and some have reported experiencing traumatic events to Save the Children field teams. They have witnessed daily acts of extreme violence, lived in deprivation for weeks, months or years, and nearly all have lost loved ones. For most, there has been little or no schooling.<sup>6</sup> As a result, the children's mental health and psychosocial well-being is likely to have been seriously impacted and will require high quality and comprehensive support to ensure their short- and long-term wellbeing. Specialized support to help children and their families and, upon return, their (re)integration in their country of origin, is required. In addition, the uncertainty about what their future holds may exacerbate anxiety and depression, exposing them to toxic stress.

According to Save the Children teams operating in NES, the availability of humanitarian services across the camps is limited, and even fewer services are available inside the 'Annex'. At the same time, 'Annex' residents face extreme movement restrictions that constrain their access to services outside that location. This has severe implications for children's emotional, physical and mental wellbeing.

Canada is a party to the United Nations *Convention on the Rights of the Child* and the fair, safe and dignified treatment of children has been a key priority for the Government of Canada. Moreover, Canada played an important role in forming the *Principles and Guidelines on Children Associated with Armed Forces or Armed Groups* (the "Paris Principles"), which calls for children who are associated with armed groups not to be arbitrarily deprived of their liberty and to be provided with the appropriate, gender-sensitive reintegration support.

Canada's leadership and dedication in this matter are most welcome, and Canadian children in NES must also be permitted to have their rights fulfilled. This means that all discussions and decisions in relation to children must be made with their best interests as paramount, in a manner which respects the concept of family unity, with the ultimate goal of fostering and encouraging children's security, mental health, wellbeing, and emotional development into young adulthood. Canada has further contributed to this important body of international child protection norms through the creation of the Vancouver Principles on Peacekeeping and Prevention of the Recruitment and Use of Child Soldiers in 2017 which specifies that "children must be treated in a manner that is consistent with international norms and standards, as well as the special status, needs, and rights of children and to ensure that detention is used as a measure of last resort, for the shortest possible time, and with the best interests of the child as a primary consideration." The ongoing detention of Canadian children in the camps is incompatible with those standards and is evidently not in their best interest.

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<sup>5</sup> Save the Children, Syria Response Office.

<sup>6</sup> Ibid.

## Responsibility for Criminal Acts

Canadian adults detained in NES may have actual or perceived links to ISIS and some may be implicated in serious international criminal offences which are covered by various provisions in the *Criminal Code of Canada*. Moreover, the *Crimes Against Humanity and War Crimes Act* provides extraterritorial jurisdiction over serious international crimes committed by Canadians abroad.

As with any other individual implicated in a crime, the appropriate course of action is to investigate, have charges laid, a trial held, and a verdict delivered by a competent court. Where Canadian nationals return to Canada, this will permit credible, independent, and impartial investigations and prosecutions to take place, which is particularly important given that the Kurdish-led Autonomous Administration in NES has made clear that they do not have the capacity to prosecute foreign ISIS suspects.<sup>7</sup> Canadian judicial authorities are also well placed to maximize cooperation with UN-mandated investigative teams to obtain relevant evidence to facilitate proceedings where possible.<sup>8</sup> The victims of the alleged crimes committed by ISIS are deserving of no less, and Canada can further the cause of international justice by investigating and, where warranted, prosecuting those who are allegedly linked to criminal activity.

## Conclusion

Prime Minister, in view of the situation, in which Canadian children and other citizens are experiencing ongoing and very serious human rights violations, of which the Canadian government has clear knowledge, the government should take all reasonable steps to provide those individuals with protection from these violations. At least 17 other governments have reportedly facilitated or supported the return home of their nationals – particularly their children – from the region.<sup>9</sup> Those experiences can now be of benefit to the Canadian government in assessing what support is most effective and how best to provide it. As noted above, this can and should be combined with a commitment to pursue investigations, leading to prosecutions against any individual who evidence suggests may be responsible for acts constituting crimes under international law.

In 2015, you stated that “a Canadian, is a Canadian, is a Canadian.” Those words are as true today as they were then. We stand ready to support Canada in immediately working to repatriate the Canadian children in these camps, as well as robustly and meaningfully exercising its rights to provide consular services to all Canadian citizens who are detained in Syria. We would be pleased to discuss this further at your convenience.

Prime Minister, we trust you will agree with us that there is clearly a need for a concerted international response to this deeply troubling situation, which demands an effective remedy that puts an end to the human rights abuses which are currently taking place. While we have highlighted the particular situation of Canadian citizens in our letter, we have also noted that the individuals held in the Al-Hol and Al-Roj camps hold more the 40 different nationalities, all of whom have experienced or are at risk of serious human rights violations.

In view of the foregoing, the Canadian government should:

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<sup>7</sup> European Council on Foreign Relations, “Beyond good and evil: Why Europe should bring ISIS foreign fighters home,” (25 October 2019).

<sup>8</sup> The International, Impartial and Independent Mechanism to Assist in the Investigation and Prosecution of Persons Responsible for the Most Serious Crimes under International Law Committed in the Syrian Arab Republic since March 2011 has noted its improved capacity to respond for requests for judicial cooperation, see United Nations General Assembly A/74/313/ (22 August 2019).

<sup>9</sup> Countries which have reportedly facilitated or supported the return of their citizens include Australia, Austria, Denmark, France, Germany, Italy, Kazakhstan, Kosovo, Morocco, the Netherlands, Norway, Sweden, Tajikistan, Turkey, the United Kingdom, the United States and Uzbekistan.

- immediately and actively institute a plan for the repatriation and reintegration of Canadian children in the camps, in a manner that accords with obligations under the *Convention on the Rights of the Child* and other international treaties, namely that all actions be in keeping with the 'best interests of the child' and respect obligations with respect to family unity;
- work with other governments and actors in the international community to ensure a coordinated response that will address the ongoing human rights concerns and humanitarian concerns related to the detention of thousands of people in NES, including providing meaningful protection to those at risk and ensuring that individuals who may be responsible for crimes under international law face justice in line with international fair trial standards;
- provide robust and active consular assistance to Canadian citizens detained in NES, including by issuing any necessary travel documents and providing support necessary to ensure people are able to exercise their right to return safely to Canada. Consular assistance must not be withheld or limited on a discriminatory or arbitrary basis and would benefit from the experience of other governments who have provided support to their citizens who have returned home; and,
- ensure that Canadian law enforcement, national security and justice officials are adequately resourced and prepared to work in a collaborative manner, consistent with obligations under international human rights law, international criminal law, international humanitarian law and the Canadian Charter of Rights and Freedoms, to advance investigations and prosecutions of any Canadian nationals held at Al-Hol or Al-Roj who may have committed offences under international law.

Sincerely,

Amnesty International Canada (English branch)

Amnistie internationale Canada (Francophone branch)

Canadian Coalition for the Rights of Children

Human Rights Watch

International Bureau for Children's Rights

International Civil Liberties Monitoring Group

Organization for the Prevention of Violence

Roméo Dallaire Child Soldiers Initiative

Save the Children Canada

Amarnath Amarasingam, PhD, Queen's University

cc: Hon. François-Philippe Champagne, Minister of Foreign Affairs

Hon. Bill Blair, Minister of Public Safety and Emergency Preparedness

Hon. Marco E. L. Mendicino, Minister of Immigration, Refugees, and Citizenship

Hon. David Lametti, Minister of Justice and Attorney General