



Note No.: GENEV-7703

Reference: Canada's response to JUA CAN 8/2021

The Permanent Mission of Canada to the Office of the United Nations and World Trade Organization at Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honour to refer to the joint urgent appeal letter JUA CAN 8/2021 dated 26 November 2021. The Permanent Mission of Canada further has the honour to submit Canada's response.

The submission consists of one document.

The Permanent Mission of Canada to the Office of the United Nations and World Trade Organization at Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

A red circular stamp from the Permanent Mission of Canada to the UN and WTO at Geneva. The stamp contains the text "Mission permanente du Canada auprès de l'ONU, de la OMC et de l'OMC" and "Permanent Mission of Canada to the UN, WTO and WCO". In the center is the Canadian coat of arms. A blue ink signature is written over the stamp, and the date "Geneva, 25 January 2022" is printed below it.

Geneva, 25 January 2022

**Response by the Government of Canada to the Joint Urgent Appeal from Special Procedures,
reference UA CAN 8/2021**

1. Additional info and comments on the allegations in the letter;

Canada takes very seriously its international human rights treaty obligations, including those described in the Joint Urgent Appeal, and fully supports the important mandates of the Special Rapporteurs enumerated therein. Canada does its utmost to cooperate with the Special Rapporteurs and gives serious, good faith consideration to their views.

After careful consideration of the views of the Special Rapporteurs in this case, Canada has the following comments regarding the Joint Urgent Appeal:

Page 3 of the Joint Urgent Appeal includes comments on the extraterritorial scope of Canada's obligations under international human rights law, notably the obligation to protect the rights recognized in the *International Covenant on Civil and Political Rights* ("ICCPR"). According to the Appeal, this positive obligation is said to include a legal obligation to facilitate the return of one's nationals detained by foreign entities in the territory of another sovereign state.

Canada's position is that the obligation to respect and ensure human rights is primarily restricted to the sovereign territory of a state and is limited by the sovereign rights of the other relevant states. International human rights law (including the ICCPR, other human rights treaties, and customary international law) does not create a positive obligation on states to protect the rights of persons who are detained by foreign entities in another state's territory. Such persons are entirely outside of Canada's territory and jurisdiction. Rather, the obligations apply to the state in whose territory the detentions are occurring.

Moreover, the Government of Canada is aware of the reports mentioned in the letter and appreciates that the Special Rapporteurs share Canada's concern. The Government of Canada is monitoring the situation closely and is concerned by the ongoing health challenges facing Canadians in Kurdish detention. Canadian government officials are actively engaging with Syrian Kurdish authorities and with international organizations on the ground for information on, and assistance to, Canadians in the Syrian camps. Canadian government officials continue to advocate for their health and safety while exploring possible ways to address the concerns.

2. Info on the measures taken by the Canadian government to protect Ms. Polman, whose detention in these camps makes her vulnerable to harm, abuse and violation of her fundamental rights, including the risk of trafficking in persons;

The safety and well-being of Canadian citizens abroad is a priority for the Government of Canada. Canada aims to deliver consular services to its citizens in a consistent, fair and non-discriminatory manner. Consular services are delivered in accordance with the rules of international law applicable to consular matters

In the context of providing consular assistance to Canadian citizens who travelled to Syria the Government of Canada took measures as early as 2011 to advise Canadian citizens to avoid travel to Syria and to depart the country. In 2012, Canada closed its embassy in Damascus and further updated its travel advisory for Syria to reflect the closure of the Embassy and to advise

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Canadians that, due to the lack of a physical presence in country, Canada's ability to provide consular and other support throughout Syria is very limited.

In Syria, Canada's ability to provide consular support remains very limited and Canada's Embassy in Syria remains closed; we have no consular or diplomatic representation in the country at this time. Nevertheless, as noted above, Canada continues to reach out to Syrian Kurdish authorities and to international organizations on the ground to advocate for the well-being of all Canadians in the camps and to provide assistance to the extent possible.

The Government of Canada continues to advocate for the well-being of all Canadian citizens detained in north-eastern Syria. Canadian officials have repeatedly conveyed to the Syrian Kurdish authorities Canada's expectation that all Canadian citizens in their custody be treated humanely, in line with the applicable principles of international humanitarian law and international human rights law.

3. Info on the steps taken by the Canadian government to maintain contact with Ms. Polman in view of protecting her rights, safety, well-being;

Canada has been able to provide some consular assistance to Canadians detained in north-eastern Syria, mainly through continued engagement with the Syrian Kurdish authorities. This has included verifying the whereabouts and well-being of Canadians, requesting available medical care and conveying Canada's expectations that Canadians be treated humanely and in a manner consistent with the applicable principles of international humanitarian law and international human rights law.

Whenever a specific issue regarding the well-being of a Canadian is brought to the attention of consular officials by family members or a third party such as international organizations or NGOs, the Government of Canada brings it to the attention of Syrian Kurdish authorities, and requests intervention. The Government of Canada has also made general requests that affect all Canadians on multiple occasions to the Syrian Kurdish officials, such as an update on their current status, and to have phone/messaging access to the Canadian detainees.

The Government of Canada cannot publicly release information on individual cases due to the prohibition against sharing personal information found in Canada's *Privacy Act*.

4. Info on the measures taken by the Canadian government to repatriate Ms. Polman to Canada.

Despite the existing challenges mentioned above, Canadian government officials continue to explore possible ways to extend assistance to Canadians detained in north-eastern Syria, while also advocating for their health and safety on an ongoing basis. As noted above, due to privacy concerns, the Government of Canada cannot publicly comment on its provision of consular services to specific individuals.