

**Mandates of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; the Working Group on Arbitrary Detention; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; the Special Rapporteur on violence against women and girls, its causes and consequences and the Working Group on discrimination against women and girls**

Ref.: UA CAN 1/2023  
(Please use this reference in your reply)

12 May 2023

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; Working Group on Arbitrary Detention; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; Special Rapporteur on violence against women and girls, its causes and consequences and Working Group on discrimination against women and girls, pursuant to Human Rights Council resolutions 49/10, 51/8, 51/21, 52/7, 50/7 and 50/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received concerning **seven Canadian nationals, who include a mother and her six minor children, currently detained in Al Roj camp, in the North-East region of the Syrian Arab Republic.**

Special Procedures mandate holders have previously raised concerns about the human rights situation of Canadian nationals detained in the North-East region of the Arab Republic of Syria with your Excellency's Government, on 8 June 2022 ([CAN 3/2022](#)); on 26 November 2021 ([CAN 8/2021](#)); on 26 January 2021 ([CAN 1/2021](#)), and on 12 May 2020 ([CAN 2/2020](#)), where mandate holders reiterated the necessity to repatriate your nationals and grant them safeguards and protections. We thank your Excellency's Government for the responses provided to all the above mentioned letters ([24 August 2022](#), [25 January 2022](#), [14 April 2021](#), and [10 July 2020](#)).

According to the information received:

Ms. [REDACTED], a Canadian national, was born on [REDACTED]. She is the mother of six children, Ms. [REDACTED], born on [REDACTED] in Canada, Ms. [REDACTED], born on [REDACTED] in Canada, Mr. [REDACTED], born on [REDACTED] in Canada, Mr. [REDACTED], born on [REDACTED] in Canada, Mr. [REDACTED], born on [REDACTED] in Raqqa, Syria and Mr. [REDACTED], born on [REDACTED] in Al Hol camp in Syria. They are all currently detained in Roj camp in North-east Syria, where they were transferred after being detained in Al Hol camp.

In December 2021, Ms. [REDACTED] was attacked by guards in Al Roj camp. At this time, a description of the health situation of all seven family members was undertaken and has been recently shared with the Special Procedures mandate holders, at the request of the Canadian authorities. Overall, the situation described is one of an extremely traumatised family in very poor health. The report states that Ms. [REDACTED] suffered from abscesses and permanent infection from shrapnel/gas/chemicals in the buttocks/perianal/upper thigh area that needed surgery. She had a pass for a wound draining puss, fever, was weak and in pain. She also suffered the post-childbirth consequences of delivering her child alone in frightening conditions, including malformed healing tissues and internal bleeding. She suffered from anaemia, was underweight, and her teeth revealed calcium deficiency. Ms. [REDACTED] was also described as mentally traumatised by the years she had spent in the camps, multiple imprisonments and torture leading to broken bones, and sudden separation from her children. She was described as suffering from anxiety and depression, and occasionally suicidal. As a result of the attack, she feared the camp's military police and camp administration, as well as her own inability to protect her children in the camp.

Her children were also described as highly traumatised and in poor health. Both [REDACTED] and [REDACTED] suffered from hair loss and calcium deficiencies, were underweight and had no appetite. [REDACTED] has had hepatitis twice. Three of the four young boys have all had hepatitis at least three times, and two have had it four times since they arrived in the camps. Three of them had parasites and worms affecting their digestion. As the six children were all already old enough to understand that their mother had been attacked and was unwell, this caused them a great deal of distress, being aware that their mother relied highly on them. Both girls were described as showing signs of depression and anxiety, as well as severe stress due to helping their mother incessantly with their four younger siblings. [REDACTED] was described as speech impaired, with much crying at night, as well as being very quiet and bewildered, while [REDACTED] was described as having speech difficulties. [REDACTED] and [REDACTED] both had severe anxiety of being separated from their mother and woke up four to five times a night just to check she was still there. All children were afraid of the military police and camp administration, given what they had done to their mother. At the same time, they were all said to be loving, caring, bright, children who wanted to leave the camp, go to school and lead a normal life in Canada.

On 24 November 2022, the Special Procedures mandate holders were informed that the Canadian government determined that Ms. [REDACTED] and her six children were eligible for evaluation as to whether Canada would extend extraordinary assistance to them under Canada's Policy Framework of January 2021. Their eligibility was based on "the deteriorating conditions in Roj camp, including threats to Ms. [REDACTED] and her children's safety given the dangerous security conditions inside the camp" as well as "declining sanitary and living conditions inside the camp, including possible cholera and outbreaks and intermittent access to food and clean water, as well as limited schooling for children". In the ensuing five months, while all six children have

been assessed and are eligible for repatriation, Ms. [REDACTED] has not been given the same determination. Canadian authorities have indicated that if Ms. [REDACTED] consented to separation from her children, they would be separated from their mother and repatriated to Canada, before being placed as three pairs of two children through social services.

While we do not wish to prejudge the accuracy of these allegations, we wish to express our utmost concern at the situation of Ms. [REDACTED] and her six young children in this complex, volatile and unsafe detention facility that is Roj camp, as your Excellency's government has itself recognised. We are deeply concerned that a disabled, wounded and highly vulnerable mother of six young children, who are now 13, 12, 11, 9, 6 and 3, is reportedly still detained in a camp where she and her children do not have access to necessary and specialized medical care and education. We are also extremely concerned that although her children have been assessed as eligible for repatriation, she still has not despite a recognition that there are risks to her safety and security. There are further concerns relating to the proposed solution by the Canadian authorities which is the separation of this already highly traumatised family unit with the "consent" of Ms. [REDACTED] the repatriation of the children to Canada, and the ensuing envisaged separation of the children through their placement in pairs in different settings.

While we are clear that the children's repatriation can only be considered in their best interest, we stress that preventing family separation and preserving family unity are essential components of the child protection system. Separation from parents should not happen unless such separation is considered to be in the best interest of the child, subject to judicial review and in accordance with applicable law and procedures (Convention on the rights of the child, article 9(1)). According to the Committee on the Rights of the Child, separation from parents in general and from mothers, in particular, have potentially serious implications on children, including on their right to development. It is especially so for young children, who are especially vulnerable to adverse consequences because of their physical dependence on and attachment to their parents. Their limited ability to comprehend the circumstances of any separation also increases their vulnerability. Given the gravity of the impact on the child of separation from their parents, such separation should only occur as a last resort, when there are no less intrusive measures to protect the child (general comments no. 7 (2005) para. 36 and no. 14 (2013), paras 60 and 61).

It is clear to us that given the situation of these six children, the immense closeness and attachment that they have to their mother as the only element of stability in their lives, and the distress they feel due to the camp conditions, the attack she suffered at the hands of the camp guards and her deteriorating health condition, any separation from their mother, particularly one where the mother would remain alone in the camp, would cause these young children irreparable trauma. We note here that given the ages of the children, most of them have known nothing else than conflict and the camps – we highlight that [REDACTED] and [REDACTED] were born in a conflict zone, and that little [REDACTED] was born in Al Hol. For most, fences and guards are all they can remember. The Special Rapporteur on human rights and counter-terrorism notes particularly the centrality of the mother-child bond, and the emotional, social, cultural, and economic realities that in general children thrive when

they are supported by their mothers. Her expert and practical assessment of return and reintegration by third country nationals to countries of citizenship makes clear that children will thrive when their mothers return with them. When they do not — reintegration, with emotional distress, traumatic experience, and other harms — are more difficult to resolve.<sup>1</sup> For children, this is likely to result in life-long trauma, loss, and a sense of guilt, which absolutely undermines their dignity. Family separation increases distress and instability in children, and negatively impacts their capacities to cope and integrate.

We are also clear that any consent to the repatriation of her children that would be given by Ms. ██████ in the context and circumstances that she finds herself in, can never be considered as meaningfully procured. Should Ms. ██████ consent be considered as the basis for the repatriation of the children without her, this could amount to forced and arbitrary separation, a clear violation of international law. We highlight that the harm of separation of children from their parents is the subject of evolving consideration by international criminal law.

We recall that separation of a child from his parents should only be considered when there are reasonable grounds to believe that a child is, or likely to be, exposed to severe abuse or neglect by parents, according to article 9(1) of the Convention on the Rights of the Child. For the Committee on the rights of the Child, abuse or neglect that may warrant separation has been interpreted to include “mental violence”, a form of abuse that includes scaring or threatening a child (Committee on the Rights of the Child, general comment no. 13). Where such grounds exist, the situation of the child and the family must be assessed by a multidisciplinary team of well-trained child protection professionals with judicial involvement, ensuring that no other option can fulfil the child’s best interest.

We highlight challenges faced by orphaned and unaccompanied children on return to countries of origin and affirm that in all circumstances family return is the best option for the child. We are concerned that should the children be repatriated without their parents; the siblings would be separated. We note that the Guidelines for the Alternative Care of Children adopted by the General Assembly (A/RES/64/142) state that “siblings with existing bonds should in principle not be separated by placements in alternative care unless there is a clear risk of abuse or other justification in the best interests of the child. In any case, every effort should be made to enable siblings to maintain contact with each other, unless this is against their wishes or interests”. In the present case, the principle of family unity should clearly extend to these six children, at risk of causing further trauma.

Finally, we would like to highlight urgent concerns regarding the physical and mental health of Ms. ██████ and her six children. We note that even after her physical aggression by the camp guards, Ms. ██████ had reportedly not been provided with medical assistance, usually provided by NGOs in the camp, despite the wounds that she sustained. We note that the extremely poor physical and mental health situation of the family depicted in December 2021 can only have deteriorated given the material

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<sup>1</sup> Preliminary findings of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on her visit to Uzbekistan <https://www.ohchr.org/Documents/Issues/Terrorism/Preliminary-findings-En.docx>

conditions and the complete lack of adequate and specialized medical care in the camp. We recall that the profound concerns for the extremity and uniqueness of the material situation in the camps have been recently addressed by the European Court of Human Rights in the case of *H.F. and Others v France* as constituting “a real and immediate threat to [women and children’s] lives and physical well-being, on account both of the living conditions and safety concerns in the camps, which were regarded as incompatible with respect for human dignity, and of the health of those family members and the extreme vulnerability of the children, in particular, in view of their age.”

Based on the information received, it is clear to us that Ms. [REDACTED] and her six children are in urgent need of health care, highlighting the accumulation of both physical conditions due to a lack of medical services and of multiple layers of trauma that have caused psychological damage. We would like to bring to the attention of your Excellency’s Government article 12, coupled with article 2.2 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified on 20 May 1976 by Canada, which enshrines the right of everyone, including prisoners and detainees, to the enjoyment of the highest attainable standard of physical and mental health. In its general comment no. 14, the Committee on Economic, Social and Cultural Rights reiterates that “States are obliged to respect the right to health by, inter alia, refraining from denying or limiting equal access for all persons, including prisoners or detainees, to preventive, curative and palliative health services.”

In this regard, the former Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health makes reference to the fact that “[i]n contexts of confinement and deprivation of liberty, violations of the right to health interfere with fair trial guarantees, the prohibition of arbitrary detention and of torture and other forms of cruel, inhuman or degrading treatment, and the enjoyment of the right to life” and that [v]iolations of the right to health emerge as both causes and consequences of confinement and deprivation of liberty”.<sup>2</sup> He also stressed that “[t]he suffering experienced by women who are imprisoned or involuntarily confined and the related negative impact on the enjoyment of their right to health is understood to be significantly greater than that experienced by men.”<sup>3</sup>

The Working Group on Discrimination against Women and Girls emphasizes in its report on Women Deprived of Liberty (A/HRC/41/33) that women’s deprivation of liberty is a significant concern around the world and severely infringes their human rights. In the context of addressing conflict, crisis, terrorism and national security, the Working Group recommended States to include women’s rights focus and do not instrumentalise women’s deprivation of liberty for the purposes of pursuing government aims. As highlighted in its thematic report on Health and Safety (A/HRC/32/44), the Working Group stresses that women’s safety should be addressed as an integral aspect of women’s health. Women’s exposure to gender-based violence in both the public and private spheres, including conflict situations, is a major component of women’s physical and mental ill health and the destruction of their

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<sup>2</sup> Report of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, A/HRC/38/36, para. 18.

<sup>3</sup> Ibid., para. 71.

well-being, and constitutes a violation of their human rights.

We therefore urge for the **joint** urgent repatriation of Ms. [REDACTED] and her six children to Canada and to be provided with all the safeguards and protections so abjectly absent for them in Roj detention camp. We recall our view that States, including your Excellency's Government, have positive obligations to take necessary and reasonable steps to intervene in favour of their nationals abroad, in particular where there are reasonable grounds to believe that they face treatment in serious violation of fundamental international human rights law and amounting to jus cogens or non-derogable customary law norms. This duty to act with due diligence to ensure that the lives of your nationals are protected from irreparable harm to their life or to their physical and mental integrity also applies where acts of violence and ill-treatment are committed by non-state actors or armed groups and are further applicable in this extreme context. Furthermore, we recall paragraph 2 of general comment no. 20 of the Human Rights Committee provides that, "The aim of the provisions of article 7 [on the prohibition of torture and other cruel, inhuman and degrading treatment or punishment] of the ICCPR is to protect both the dignity and the physical and mental integrity of the individual. It is the duty of the State party to afford everyone protection through legislative and other measures as may be necessary against the acts prohibited by article 7, whether inflicted by people acting in their official capacity, outside their official capacity or in a private capacity."

Lastly, we would like to refer your Excellency's Government to article 8 of the UDHR, article 2 paragraph 3 of the ICCPR, articles 1, 14 and 16 of the UNCAT, and article 39 of the CRC, to which your Excellency's Government is a party. These legal provisions all provide for a right to a remedy for victims of serious human rights violations, including gender-related violence and sexual violence.

The full texts of the human rights instruments and standards recalled above are available on [www.ohchr.org](http://www.ohchr.org) or can be provided upon request.

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned person(s) in compliance with international instruments.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please provide details on the domestic mechanism in place for the assessment of the case of Ms. [REDACTED] under the Policy Framework in Canada, and any information as to why the process has already taken 5 months in Ms. [REDACTED] case.
3. Please provide information on what steps have been taken to address Ms. [REDACTED] and her children's deteriorating health situation including securing urgent interim medical assistance to Roj camp.

4. Please provide clarification on Canada's legal position on the separation of children from their families in the context of armed conflict.

While awaiting a reply, we urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible of the alleged violations.

We would also like to inform your Excellency's Government that after having transmitted the information contained in the present communication to the Government, the Working Group on Arbitrary Detention may also transmit the case through its regular procedure in order to render an opinion on whether the deprivation of liberty was arbitrary or not. The present communication in no way prejudices any opinion the Working Group may render. The Government is required to respond separately to the communication and the regular procedure.

We would appreciate receiving a response within 60 days. Past this delay, this communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#). They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

A copy of this communication has been sent to the Arab Republic of Syria.

Please accept, Excellency, the assurances of our highest consideration.

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Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism

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