



Submission by Human Rights Watch to the Committee on the Rights of the Child's review of Canada's periodic report for the 90th pre-sessional

April 2022

We write in advance of the 90th pre-session of the Committee on the Rights of the Child relating to Canada's compliance with the Convention on the Rights of the Child. This supplementary submission is primarily based on research conducted from 2019 onward. It focuses on the plight of Canadian children arbitrarily detained in northeast Syria and access to education for Canadian children during the Covid-19 pandemic.

The plight of Canadian children arbitrarily detained in Northeast Syria

Canada is failing to take adequate steps to assist and repatriate an estimated two dozen Canadian children, most age 7 and under, unlawfully detained in camps and prisons for suspected members of the Islamic State and their families in northeast Syria. The Canadian children, along with their surviving parent(s), have been detained since February or March 2017 and in some cases longer in life-threatening, deeply degrading, and often inhumane conditions. Like the thousands of other foreigners held in northeast Syria for suspected ISIS links, the Canadians have not been charged with any crime. The innocent, such as the children who never chose to be born or live under ISIS, have no hope of leaving without the Canadian government's intervention. The arbitrary detention of these children solely on the basis of their families' suspected ties to ISIS amounts to guilt by association and collective punishment, prohibited under international law.

The humanitarian and security situation in the camps holding women and children in northeast Syria, including Canadians, continues to deteriorate, highlighting the urgent need for repatriation. In al-Hol, the larger of the two camps, security incidents have increased significantly in the last two years, with violence among residents that includes the killing of child and adult detainees as well as [aid workers](#); the removal of male children aged 12 and above to detention centers that are in many cases unknown and separating them from their mothers; and allegations of regrouping of detainees who remain loyal to ISIS. [Several hundred](#) children are reported by the Kurdish Red Crescent to have died since 2019 as well as adults including parents.

Conditions are even worse in the overcrowded prisons holding thousands of male ISIS suspects including up to 850 boys, one of which was assaulted by ISIS in January, leading to a deadly, 10-day battle. While no Canadian boys are known to be imprisoned at this time, they are destined for such detention centers as they reach adolescence or early adulthood.

Given this untenable situation, the Kurdish-led authorities in northeast Syria who are detaining the Canadians and other foreigners have repeatedly urged home countries to repatriate their nationals. However, Canada has only allowed three of its detained nationals to come home to date: a 5-year-old orphaned girl in 2020; a 4-year-old girl in March 2021; and, eight months later, the second girl's mother, whom Canada only provided with emergency travel documents after a lawyer took the case to court. The Canadian government has said that repatriating its nationals could pose a security risk and that it is too dangerous for its diplomats to travel inside war-torn northeast Syria to extract them.

In January 2021, Global Affairs Canada adopted a policy framework that allows for the “potential extension of extraordinary assistance” on “a case-by case basis” to Canadians detained in northeast Syria. In practice, the policy has done nothing to facilitate repatriations since its adoption and suggests discriminatory provision of consular assistance.

Article 2: Freedom from Discrimination

The Canadian government is apparently limiting consular assistance to its citizens detained in northeast Syria in a discriminatory or arbitrary manner based on their suspected links to ISIS or simply their being in northeast Syria, compared with how it has provided assistance to its citizens in other parts of the world.

The Convention on the Rights of the Child holds that States Parties shall respect and ensure the rights set forth in the Convention without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (Article 2 as well as the Committee on the Rights of the Child, General Comment 5). It further states that States Parties shall take all appropriate measures to ensure that the child is protected against all such forms of discrimination or punishment based on these factors.

Although the government of Canada interprets the 1963 [Vienna Convention on Consular Relations](#), to which it is a party, as discretionary authority to provide consular services rather than a legal obligation, this interpretation does not absolve it of its obligations to respect and ensure the rights of the child without discrimination of any kind.

Canada's adoption of a consular policy framework specifically for this group of citizens underscores the discriminatory nature of its provision of consular assistance. Under the framework, the government claims that it has "no positive obligation under domestic or international law to provide consular assistance, including repatriation." However, it will "consider" providing assistance to unaccompanied children; children separated from their parent(s) who are now de facto unaccompanied; and detainees whose situation has "changed significantly since the adoption of the policy framework."

For a full year, Global Affairs Canada did not share the framework for "potential," "extraordinary assistance" with the detainees or their Canada-based family members seeking the government's help to repatriate them. The government only disclosed the policy when brought to court over its inaction on assisting the detainees. In contrast, Canada's consular assistance policies for all citizens are publicly posted on its website.

As of April 8, 2022, Global Affairs Canada had, to our knowledge, designated only one Canadian, a severely ill adult, for repatriation consideration under its special policy for citizens in northeast Syria. It had not designated any of the children, many of whom, as noted above, have severe asthma and other physical conditions requiring medical care, and most if not all of whom are deeply traumatized, according to Human Rights Watch interviews with mothers and the children's Canada-based family members and advocates.

Furthermore, Global Affairs Canada may have intentionally obstructed a child national from reaching a consulate for assistance based on their presumptions of the detainees' religion or beliefs. Human Rights Watch highlights the [following example](#) from 2022:

Peter Galbraith, a former US ambassador who had evacuated Canadians and other nationals from northeast Syria, told Human Rights Watch that in February 2022, he notified Global Affairs Canada that he was willing to bring out the two gravely ill Canadians including a child suffering from life-threatening asthma who is younger than 12. That offer meant that no Canadian official would take the risk of entering northeast Syria.

Ambassador Galbraith said he was already in northeast Syria and that all he needed was for Global Affairs Canada to email a ranking northeast Syrian official stating that Canada would not object if he took the two Canadians across the border to a Canadian consulate.

Global Affairs Canada turned Galbraith down. As Ambassador Galbraith noted, Canada's position appears to be that "It is too dangerous to send our diplomats into Syria to help Canadian citizens detained in Syria, but we will provide consular services to any Canadian who reaches a Canadian diplomatic mission. However, Canada will also not make it possible for a Canadian detained in Syria to actually reach a Canadian diplomatic mission."

The contrast between Canada's assistance to its citizens in northeast Syria and to citizens during the first wave of the Covid-19 pandemic is also striking. From March through June 2020, Canada repatriated or assisted the returns of more than 40,000 citizens and permanent residents from 100 countries in response to Covid-19, including 29 from Syria—but not one of at least 47 citizens then held without charge in northeast Syria, more than half of them children.

Article 6: Right to life

The Kurdish-led authorities have arbitrarily detained Canadian children in appalling and life-threatening conditions since February and March 2019. As elsewhere in northeast Syria, there are severe shortages of food, healthcare, and access to clean water in the camps. Hundreds of detained children as well as adults have died of preventable illness, accidents, or violence between detainees or detainees and guards.

During [three visits](#) to al-Hol camp in June 2019, Human Rights Watch found women and children living in tents that collapsed in strong winds or had flooded with rain or sewage. At the time, ten camp residents told Human Rights Watch that a young boy had drowned days earlier in an open cesspool.

In 2021 alone, [74 children died](#) in al-Hol, including eight children who were murdered. From January to March 2022, at least three children died: [two](#) in separate [clashes](#) involving detainees and guards, and [one](#) from burns suffered during a fire. Many others were injured.

The illness, filth and overcrowding in the camps have also created a prime environment for the spread of Covid-19 and are increasing the despair of detainees and their families.

On January 20, 2022, ISIS assaulted Al-Sana'a prison in the city of al-Hasakeh holding about 4,000 male detainees, including 700 boys, sparking a 10-day battle that according to local authorities left hundreds of detainees and scores of regional fighters dead, and many detainees unaccounted for. Human Rights Watch and humanitarian organizations received firsthand accounts and other reports that several imprisoned children were among the dead and wounded. At least three Canadian adults including at least one father of children held in the northeast Syrian camps were held in that prison, according to sources. At least two detained boys are [reported](#) to have died in these clashes.

As highlighted earlier, in February 2022, Canada effectively [prevented](#) a Canadian woman and a young Canadian child detained in northeast Syria from coming home for life-saving medical care. The families of the two Canadians, who are not related, have repeatedly implored government authorities to repatriate the woman and child and have sent them medical records attesting to their need for life-saving care.

Article 8: Right to Nationality

Canada has not facilitated verification of citizenship for the 20 or more children born in Syria to Canadian parents, leaving them without an officially recognized nationality. At least five of the children were born to one foreign as well as one Canadian parent. Under [Canadian law](#), children born abroad are Canadian citizens provided that at least one of their parents was a Canadian citizen at the time of their birth.

The identity papers the Canadians had were confiscated by ISIS or, upon capture or surrender, by the Syrian Democratic Forces, the regional fighting force that also guards the camps and prisons for ISIS suspects and family members. Children born in ISIS-held territory had only ISIS birth certificates at most, leaving them without any without official documents to verify their nationality.

Article 24: Right to health

During Human Rights Watch's visits to al-Hol camp in June 2019, along with women and children living in tents that collapsed in strong winds or had flooded with rain or sewage, researchers also saw worms in the water that children were drinking and pouring over their heads to keep cool. The rations did not include fresh food, even for children. Wild dogs roam the grounds at night and children have periodically fallen into open pits and cesspools.

These detainees, particularly the children, lived through unspeakable horrors under ISIS. As Human Rights Watch has documented, they now suffer from acute shortages of clean water, fresh food, and health care. Contagious diseases reportedly have killed several hundred detainees since 2019.

Of the Canadian children detained in the camps, at least five children, all young, have medical conditions—two have asthma, one has neck tumors, one is anemic, and one is autistic — according to Families Against Violent Extremism (FAVE), a Canadian non-governmental organization that works closely with Canadian detainees and their families. Human Rights Watch is not [able](#) to independently verify all of the detainees' health conditions.

Article 28 and 31: Right to Education and Play

The northeast Syrian camps also lack schools and playgrounds although two-thirds of all camp detainees are children. Detainees and others interviewed by Human Rights Watch [complained](#) of almost no schooling for children or counseling for a severely traumatized population.

The children were to start receiving education through a nongovernmental organization in early 2022 but when ISIS fighters assaulted al-Sina'a prison that timeline was thrown into doubt, a source told Human Rights Watch.

Article 37 and 38: Prevention against arbitrary detention and cruel, inhuman or degrading treatment or punishment and protection of children in armed conflict

Authorities in northeast Syria have never charged Canadians detained in the camps with any crime or taken them before a judge to review the legality and necessity of their detention, making their captivity both arbitrary and unlawful. Children who may have been affiliated with ISIS should be considered victims and only prosecuted in exceptional cases as a last resort.

The detention of Canadian children in the camps and prisons in northeast Syria solely on the basis of their suspected ISIS affiliation or their family ties to ISIS, with no judicial review or criminal charge, amounts to guilt by association and collective punishment, which are prohibited under international human rights law as well as the laws of war.

Human Rights Watch recommends that the Committee ask the government of Canada:

- What specific steps has Canada taken to facilitate proof of identity for its child nationals detained in northeast Syria, including recognition of citizenship for children born in Syria to its nationals?
- Has the government called on the Kurdish-led authorities to immediately end the detention of its nationals, given that these detentions are arbitrary and definite, and the conditions in the places of detention are life-threatening, inhuman or degrading?
- What humanitarian assistance, if any, does the government provide to its child nationals detained in northeast Syrian camps and prisons?
- Are any Canadian boys (males age 18 and under) detained in prisons or “rehabilitation centers” rather than camps? Are these boys able to communicate with family members in the camps or elsewhere and if so, how often and by what means (phone, video, in person)?

Human Rights Watch recommends that the Committee call on the government of Canada to:

- Repatriate, as a matter of urgent priority, all Canadian children detained in northeast Syria. In keeping with the rights of the child, Canada should recognize them first and foremost as victims. Children should not be repatriated without their mothers—who may themselves be victims of ISIS—absent compelling evidence that separation is in the best interest of the child.
- Promptly provide consular assistance to detained nationals, verify citizenship, issue travel documents, and coordinate safe passage from northeast Syria to Canadian consulates or territory.

II. Access to Education during Covid-19 Pandemic (Article 28)

Human Rights Watch has documented how Covid-related school closures affected children unequally, as not all children had the opportunities, tools, or access needed to keep on learning during the pandemic.

As of November 2021, all schools in Canada have been open. However, due to the pandemic, they were fully [closed](#) for 13 weeks, and partially closed (to certain ages or in certain areas) for 38 weeks, since the pandemic's start in 2020.

Fewer Hours of Instruction and Fewer Subjects

Some parents reported a greatly diminished quality of education, such as fewer hours of instruction, and fewer subjects. Students also had fewer, and sometimes no, interactions and informal learning experiences with teachers and peers.

A father in Toronto told Human Rights Watch in October 2020 that he found his children were studying only one or two hours a day. “I was extremely frustrated and disappointed. My whole view on the school changed. It’s been slow to progress and totally unacceptable ... The kids aren’t even getting two hours.”

This was sometimes also the result of teachers not being well equipped with the correct training or knowledge about teaching online. In June 2020, a mother in Ontario described her older daughter’s teacher as “not technologically savvy at all... I don’t blame him, but it is really tragic for my child to have such little interaction with the teacher. And he may be a good teacher in person... but his discomfort of communicating with the kids through videoconferencing inhibits how the children are learning.”

Inequalities in Internet Access

The lack of internet access and adequate equipment for online learning was a key obstacle for many children across Canada, however it also had a specific impact on Indigenous children. Annie Sneaky, then 15, a member of the Grassy Narrows First Nation, in Ontario spoke to Human Rights Watch about this issue in June 2020. Some teachers at Annie’s school—which is in a town 90 kilometers from where she lives—set up Google Classrooms and Zoom meetings, but, she explained: “Since I live in a reservation with no internet it’s been really difficult, I don’t have 24-hour access ... It’s hard for me to even email teachers for help ... I think my situation is harder than for ‘normal’ students, but I’m doing my best.” Annie said that being at home on her reserve was a welcome break from encounters at her school where she felt stigmatized or treated differently by school officials or students because she is Indigenous.

Human Rights Watch recommends that the Committee ask the government of Canada

- How does the government plan to remedy learning time lost by children due to Covid-19 related school closures?
- What strategies are being adopted to mitigate the impacts of in-person school closures on children's learning, and the disproportionate impact of increased child-care and teaching responsibilities on parents at home?
- What measures are being adopted to provide affordable, reliable, quality, and accessible internet, including targeted measures to provide free, equitable access to the internet for educational content, and capable devices for every student?

Human Rights Watch recommends that the Committee call on the government of Canada to:

- Adopt measures to provide affordable, reliable, quality, and accessible internet, including targeted measures to provide free, equitable access to the internet for educational content, and capable devices for every student. Children most likely to be excluded or have inadequate access, including those from marginalized or vulnerable communities, living in rural areas, with disabilities, or living in families with multiple children, or due to their gender, should receive targeted support.
- Explicitly allocate educational resources strategically to vulnerable and low-income groups, children traditionally at risk of exclusion from education, and those shown to have been particularly affected in their education during the pandemic.