

FULL UN COMPLAINT IS NOT PUBLICLY AVAILABLE, BELOW IS A DETAILED SUMMARY

### UN Complaint Summary

#### OVERVIEW

- Representatives of Jack Letts, a 25-year-old Canadian detained in North East Syria, have submitted a complaint to the UN against the Canadian and British governments.
- The Special Rapporteurs have been asked to open an investigation into both the action and inaction of the Canadian and the British governments, which have amounted to a violation to Jack's right to life.
- Jack has been held incommunicado and without charge since 2017 and his exact location is unknown. Reports suggest he has been tortured and subjected to long periods in solitary confinement.
- British and Canadian statements about not having the consular presence required to facilitate repatriation are weak in light of US, French, German, Finnish, and even Kazakh repatriations.
- Canada has also already repatriated a child called "Amira" in 2020.
- Kurdish forces do not have the resources to give Jack, or any of the other detainees, a fair trial.
- The UK and Canada have breached their obligations to Jack by failing to take necessary and reasonable steps to assist him and have violated international law by arbitrarily and/or discriminatorily withholding consular assistance to him.

A UN complaint has been submitted against the Canadian and British governments to Ms Fionnuala Ni Aolain (UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism) and Mr Morris Tidball-Binz (UN Special Rapporteur on extra-judicial summary or arbitrary executions) by the lawyers representing Jack Letts, a 25-year-old Canadian citizen. It is believed that Jack and many others accused of being "foreign terrorist fighters" are detained in Northern Syria without proper due process. Many individuals are being held without charge.

Jack is being held incommunicado and his exact condition and location is not known. Jack has previously informed his parents that he has been tortured by the detaining authority and asked questions on behalf of the British (and other) authorities.

The lawyers have complained that the action - or lack of action - taken by the UK and Canadian governments has in effect created a policy which violates the rights of their own citizens in the most serious manner, including:

1. Right to life
2. Right not to suffer torture or inhuman degrading treatment or punishment
3. Right to liberty and security
4. Right to a fair trial
5. Right to respect for family life
6. Right to not suffer punishment without law
7. Right to an affective remedy

This policy amounts to extrajudicial punishment for unproven allegations. There is also concern that this will amount to extrajudicial killing as it is well known that detainees held by the Kurdish authority are liable to be killed in the camps and detention centres as a result of the conditions or mistreatment and/or lack of medical care.

The UK and Canada have a duty to take positive steps to protect vulnerable individuals located outside of their territory where they are at risk of serious human rights violations or abuses and where their acts or omissions can positively affect these individual's human rights. The complaint posits that the UK and Canada have breached their obligations to Jack by failing to take necessary and reasonable steps to assist him. It goes further to say that they have violated international law by arbitrarily and/or discriminatorily withholding consular assistance to him.

The right to life is a universally recognised, foundational right, applicable at all times and in all circumstances, including during armed conflict or other public emergency. Therefore, the policies of the Canadian and British governments have been borne of political expediency. This is supported by clear evidence that the UK Foreign Office "drew up plans" to assist Jack but then abandoned them because there was "no public sympathy" for Jack's predicament.

### Treatment of foreign fighters in detention

Prisons in Northern Syria are grossly overcrowded, lacking in food, water, sanitation and medical care. In some prisons there are at least 100 men packed into one cell without windows. These conditions have been dramatically worsened by the coronavirus pandemic, as social distancing is impossible. Contact with Jack in mid 2017 suggested he had been tortured and denied food.

### Access to Medical Care

Conversations with Jack in 2017 show he was denied medical access for at least 7 months after finding out he had inflamed kidneys and cysts. Jack also has a history of mental ill-health which has deteriorated significantly. In a conversation with a GAC representative, Jack revealed he had tried to hang himself but been cut down by the guards during his 35 days in solitary confinement.

### Risks posed by conducting proceedings in Iraq or Syria

Individuals should not be tried for offences in regions where the resources, experience and infrastructure to support human rights compliant trials simply do not exist. With thousands of prisoners to try and sentence, the burden on the unfunded Kurdish authorities in North East Syria is overwhelming and due process violations are an inevitability. Reports suggest that at the rate that trials are happening, authorities in Syria will need more than 10 years to process the thousands of prisoners currently in custody. A 2018 UN report by the Independent International Commission of Inquiry exposes real concerns about corruption, bribery, due process violations including lack of legal representation, arbitrary detention and confessions extracted by torture. It is not clear whether "foreign fighters" will even be afforded the opportunity to be tried.

There are real concerns about how Jack can have a fair trial in Syria. There is no indication that defendants will be provided with independent counsel; be able to see the evidence against them; provided with all they require to sufficiently rebut it; what standards of proof will apply; who will preside over these trials and; what measures are in place to ensure the trials will be conducted independently and fairly.

### Complaints in relation to the Canadian government

The Canadian government is obliged to provide its citizens with consular assistance, including basic medical care. As a signatory to the Convention Against Torture, Canada also has obligations to assess whether to assume jurisdiction over the allegations of torture made by their citizens and demand an inquiry if a citizen makes an allegation of torture. Although initial correspondence with Canadian consular services in 2017 was promising, it took a pessimistic turn after Jack's British citizenship was revoked.

In 2018 Jack's parents were told that none of the available methods of getting Jack out of Syria could feasibly be implemented. Despite Canada's claims that they "continue to provide consular assistance to Mr Letts within the limits of the current circumstances" they have offered no practical assistance to Jack whatsoever. Jack's open criticism of ISIS means he is at great risk if the principle of refoulement is breached. Canada claims it cannot repatriate due to a lack of consular presence, despite many other countries' (US, France, Germany, and Finland) similar repatriations. Kazakhstan have managed to repatriate more than 700 Kazakh nationals from Syria. The Canadian repatriation of "Amira" is clear evidence that the barriers previously posited by the Canadian Government can – and have – been overcome.

Canada cannot continue to avoid taking responsibility for its citizens except for when it suits them politically. This dual standard citizenship is even more unacceptable when set against their recent "Declaration against the Use of Arbitrary Detention in State-to-State Relations." Canada's timing in its change in position towards Jack illustrates that they are acting in bad faith. The failure of Canada to provide adequate consular assistance amounts to a violation of its responsibility to protect the right to life.

### Complaints in relation to the UK government

In December 2015, Jack was actively seeking safe passage out of Syria. He was in frequent communication with his parents who involved the Foreign and Commonwealth Office and the British Police. Despite assurances from the Police that sending money to Jack would not constitute an offence if they were trying to assist him in safely

fleeing ISIS territory, in January 2016 both Sally and John Letts were charged with offences under the UK Terrorism Act.

In March 2017, having safely made it out of ISIS territory, Jack's parents channelled their efforts into seeking British assistance in repatriating Jack. The British Government justify – and continue to justify – their inaction on the basis that there is “no consular assistance” in Syria. The ability of British officials to visit Jack in detention and the repatriations of other jurisdictions disputes this.

In August 2019, shortly after his parents' trial, Jack's British citizenship was revoked. The act of citizenship stripping in these circumstances is inherently discriminatory – and in enforcing it the UK has created two classes of citizens; ones they accept responsibility for, and others that they do not. Reports from British MP Lloyd Russell-Moyle go so far as to imply that the British government intervened with Canadian repatriation plans.

Therefore, the action and inaction taken by the British Government (culminating in the revocation of his citizenship) represent a violation of his right to life.

#### Conclusions and requests

There is serious and grave concern for Jack's wellbeing, particularly as the coronavirus pandemic continues to be fatal to many individuals detained in prisons worldwide. Furthermore, the complaint questions whether the UK and Canada may have been compromised in providing proper protection to their own citizens because (a) they have themselves assisted in the training of the YPJ/YPG and possibly proscribed groups, and (b) are aware of and acquiesced to the human rights violations conducted in places of detention across North East Syria.