

ISIS/ISIL fighters escaping international justice in Canada
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Founded in 2004, “the Islamic State of Iraq” formed following the U.S. invasion of Iraq in 2003 with the objective to replace the current western occupation with a Sunni Islamist regime ([History](#)). Furthermore, after the civil war in Syria began, the Islamic State of Iraq expanded into Syria where they renamed themselves “ISIS” standing for the “Islamic State of Iraq and Syria.”

At this point, ISIS began targeting and recruiting young adults from areas in the Levant that were facing consequences of the war: high unemployment and lack of basic social services. As ISIS began to spread and take over regions in Iraq and Syria, foreigners began fighting with or supporting ISIS in Iraq and Syria. In 2015, it was estimated that more than 20,000 foreigners were joining ISIS where more than 4,000 of those coming from Europe, the U.S. and Canada ([Global News](#)).

The big question is how a terrorist organization founded and located in an area almost 10,000 kilometers away from Canada could be recruiting and bringing thousands of Canadians to the Levant. According to terrorism expert J.M. Berger, ISIS’s main recruitment method is social media, a tool extremely accessible and used primarily by young adults—their main target. Berger calculated over 46,000 Twitter accounts currently affiliated with ISIS and over 125,000 ISIS related accounts that had been shut down as part of Twitter’s anti-terror policies ([The Atlantic](#)).

Recently, many ISIS fighters are beginning to return back to their home countries in the West as the Islamic State is beginning to collapse with more than 60 having returned to Canada and many more on the way ([iPolitics](#)). Conversations of what to do with returning ISIS fighters has begun within several countries worldwide—some taking extremely strict measures such as stripping nationals from their citizenship and returning them to the Levant to be tried under their justice system. Under international criminal law, there is no criminal liability for being a part of a terrorist group but section 83.221 (1) of the *Criminal Code of Canada* states that anyone that “advocates or promotes the commission of terrorism offences in general... is guilty of an indictable offense,” ([Criminal Code](#)). Furthermore, individuals can be prosecuted for not only committing the crime but also for aiding and abetting in the crime, even if it was not committed in Canada. Canada has a fiduciary obligation under the UN Convention on the Prevention and Punishment of the Crime of Genocide to punish perpetrators involved in genocides committed by ISIS ([Canadian Global Affairs Institute](#)).

Currently, very few people who left Canada to join ISIS have been charged upon their return, a major issue that has repeatedly been discussed in the House of Commons ([Global News](#)). It should be clear for ex-ISIS fighters of Canadian citizenship that there are consequences for leaving Canada and engaging in a heinous organization committed to perpetrating horrific crimes against humanity. The reason for this is that convicting these returnees in a court of law in Canada without evidence of their criminal activity while they were abroad is extremely difficult.

Upon return to Canada, these ex-ISIS fighters are subject to screening by a group within the government called the High Risk Returnee Interdepartmental Taskforce, where many are

interrogated or possibly detained only to be released to continue living their life in Canada, forgetting the heinous crimes they committed abroad.

It is hard to believe that someone that left a democratic, constitutionally protected country to a warzone to murder or aid in the murder of thousands of innocent civilians around the world would have a change of morals as soon as they return to Canada. For this reason, returning ex-ISIS fighters may pose a public security threat in Canada as it is possible that these people may choose to engage in terrorism as they previously had. Even if they were to express remorse and change their mentality—the reality is they still committed crimes abroad and justice must be served.

Recently the Trump administration in the United States called upon other nations to repatriate and prosecute ex-ISIS returnees which seems like a better resolution than Canadian prime minister Trudeau calling these ex-ISIS fighters a “powerful voice” in our community ([Toronto Sun](#)). Prime minister Trudeau argues that a Canadian is a Canadian no matter what and suggests that they are to be accepted back into Canada only to attend thorough rehabilitation. The only concern is whether or not these former ISIS fighters deserve to be ‘let off the hook’ for crimes that cannot be proven.

Another common opinion of Canadians is to have these ex-ISIS fighters stay abroad and face the justice system in the country that they committed the crimes. In Iraq, any affiliations with ISIS results in a 10-minute trial usually resulting in immediate death penalty. Similarly, in Syria, those prosecuted for affiliations with ISIS are subject to extreme consequences. This is a very valid opinion as in any other area of criminal law, you are expected to be tried in the country that you committed the offense with more than a thousand Canadians detained in foreign countries and Canada does not attempt to bring them back—especially if we can’t prosecute them in Canada.

If Canada truly stands for multiculturalism, pluralism, law, justice, humanity, international order and justice, then we must be brave enough to prosecute those who are returning to Canada from ISIS. Including our own citizens.