



WATCH LIST ON CHILDREN AND ARMED CONFLICT

HUMAN
RIGHTS
WATCH

Military Detention of Children in Armed Conflict

THE ROLE OF HANDOVER PROTOCOLS
IN PROTECTING CHILDREN'S RIGHTS

December 2019

About Watchlist

Watchlist on Children and Armed Conflict (“Watchlist”) strives to end violations against children in armed conflicts and to guarantee their rights. As a global network, Watchlist builds partnerships among local, national, and international nongovernmental organizations (NGOs), enhancing mutual capacities and strengths. Working together, we collect and disseminate information on violations against children in conflicts in order to influence key decision-makers and implement programs and policies that effectively protect children. Watchlist is a fiscally sponsored project of United Charitable, a US-based 501(c)3 not-for-profit organization.

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Human Rights Watch (HRW) investigates and reports on abuses happening in all corners of the world. We are nearly 500 people of 70-plus nationalities who are country experts, lawyers, journalists, and others who work to protect the most at risk, from vulnerable minorities and civilians in wartime, to refugees and children in need. We direct our advocacy towards governments, armed groups, and businesses, pushing them to change or enforce their laws, policies, and practices. We partner with organizations large and small across the globe to protect embattled activists and to help hold abusers to account and bring justice to victims.

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Military Detention of Children in Armed Conflict

A Global Problem

In at least 15 countries affected by armed conflict, governments imprison children suspected of involvement with non-state armed groups or other national security offenses. Recent investigations have found that children are often detained based on little or no evidence, subjected to torture in order to force confessions, and held in horrific conditions for months or even years.

International law recognizes children involved in armed conflict primarily as victims of serious violations who require rehabilitation and social reintegration.¹ Over the past 20 years, at least 130,000 child soldiers have been released or demobilized from armed forces

or armed groups and benefited from rehabilitation assistance.² Yet increasingly, governments are treating children affected by armed conflict – even those that may not have any history as combatants – as criminals and security threats.

¹ *Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict*, May 25, 2000, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACCRC.aspx> (accessed December 4, 2019).

² UN Special Representative of the Secretary-General for Children and Armed Conflict, “Lessons learned and best practices,” <https://childrenandarmedconflict.un.org/lessons-learned-and-best-practices/> (accessed November 12, 2019).

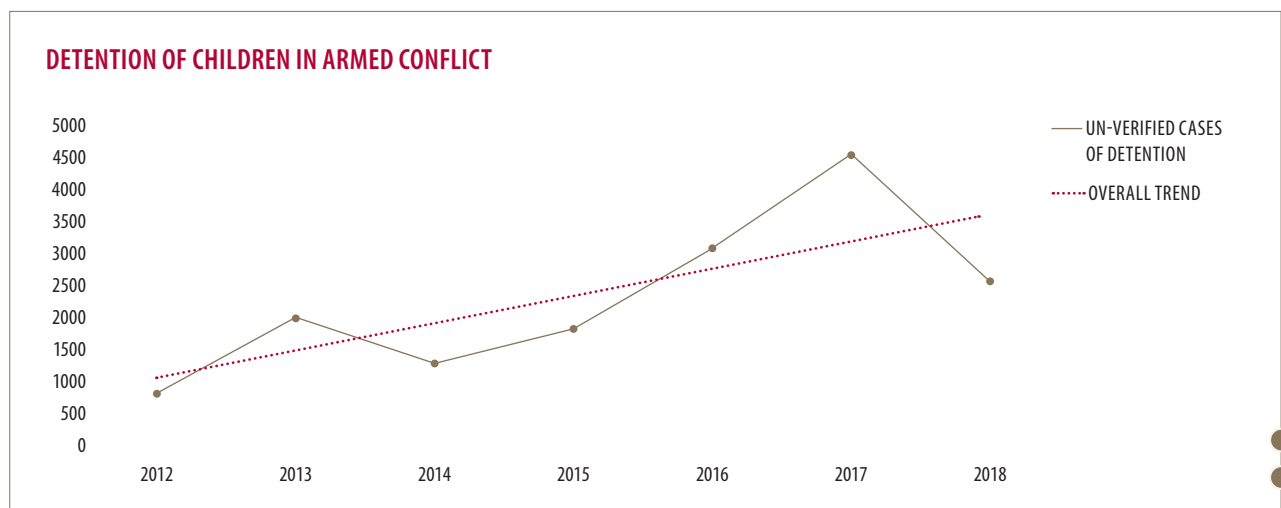
According to the United Nations Secretary-General, at least 4,471 children were detained in the context of armed conflict in 2017, a fivefold increase from 2012.³ The number of children detained in 2018 dropped to 2,637, but remains worryingly high.⁴ Particularly in conflicts involving designated terrorist or violent extremist groups, governments have become more likely to detain children than to provide them with rehabilitation and reintegration.

If a child is implicated in a war crime or violent criminal offense, international law allows for detention as a last resort and for judicial proceedings in line with juvenile justice standards. However, in practice such cases are the exception rather than the rule.

Children in armed conflict are doubly victimized – first by the armed groups that attack their homes and schools, and recruit or abduct them, and then by government authorities who imprison them.

In northeast **Nigeria**, for example, since 2013 authorities have detained over 3,600 children, including 1,600 girls, for suspected involvement with Boko Haram.⁵ Some of the children have been as young as five years old. Many of these children were arrested after escaping Boko Haram attacks, and girls have been arrested after forcible abduction and forced marriage to Boko Haram fighters. The vast majority of these children have never been charged with a crime. Children interviewed by Human Rights Watch in June 2019 described beatings in detention, overwhelming heat, and an overpowering stench from hundreds of detainees sharing a single open toilet. Many spoke of frequent hunger or thirst and said that deaths of detainees were common.⁶

In **Iraq**, Iraqi and Kurdistan Regional Government (KRG) authorities have detained thousands of children for alleged affiliation with the Islamic State (IS), used torture to coerce confessions, and have convicted hundreds of children of terrorism in hasty, unfair trials.



³ Annual reports of the United Nations Secretary-General on Children and Armed Conflict, 2013-2018, available at <https://childrenandarmedconflict.un.org/virtual-library/>.

⁴ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict, A/73/907-S/2019/509* (June 20, 2019), <https://undocs.org/s/2019/509> (accessed December 4, 2019).

⁵ Information provided by UNICEF Nigeria.

⁶ Human Rights Watch, *"They Didn't Know If I was Alive or Dead": Military Detention of Children for Suspected Boko Haram Involvement in Northeast Nigeria*, September 10, 2019, <https://www.hrw.org/report/2019/09/10/they-didnt-know-if-i-was-alive-or-dead/military-detention-children-suspected-boko> (accessed December 4, 2019).

Children may be prosecuted for any association with IS, including working as a cook or driver, or taking part in a religious training course. Detained children interviewed in late 2018 described torture during interrogation with plastic pipes, electric cables, and rods. Some said they confessed to IS involvement simply to stop the torture, despite having little or nothing to do with IS.⁷

Since 2015 in **Somalia**, military and intelligence forces have detained hundreds of children for suspected membership in the armed group al-Shabaab. Officials have subjected children to coercive treatment and interrogations, denied them access to family members and legal counsel, and in some cases, beaten and tortured them to obtain confessions. Dozens of children have been tried in military courts for alleged membership in al-Shabaab. In one case, a 15-year-old boy was abducted by al-Shabaab and forced to fight, and then captured and sentenced to 10 years in prison for al-Shabaab membership.⁸

In the occupied **West Bank**, Israeli security forces regularly use unnecessary force to arrest or detain Palestinian children as young as nine, often in the middle of the night, and threaten and physically abuse them in custody. Of 101 testimonies collected by Military Court Watch during 2018, 69 percent of children who had been detained reported various forms of physical abuse by Israeli forces during arrest,

transfer, or interrogation, including beatings with batons and rifles, kicks in the genitals, and being shot with rubber bullets.⁹ Israeli authorities have frequently interrogated Palestinian children in the West Bank without the presence of their parents or lawyers, and tried them in military courts that have a near 100 percent conviction rate. In a 2013 report, UNICEF said that the “the ill-treatment of [Palestinian] children who come in contact with the military detention system appears to be widespread, systematic and institutionalized throughout the process.”¹⁰

According to the UN, at least 15 countries detain children in the context of armed conflict, including Afghanistan, Cameroon, the Democratic Republic of Congo, Iraq, Israel, Lebanon, Libya, Mali, Myanmar, Niger, Nigeria, the Philippines, Somalia, Sudan, and Syria.¹¹

The consequences of military detention for children can be profound, creating long-term stigma, physical and mental health issues, family separation, and displacement, and severely limiting children’s ability to reintegrate into society and support themselves. Some children risk revenge attacks if they return home after their release from detention. The UN Secretary-General has warned that detention of children can exacerbate community grievances, and has repeatedly urged states to prioritize alternatives to detention.¹²

⁷ See Human Rights Watch, “Everyone Must Confess”: Abuses Against Children Suspected of ISIS Affiliation in Iraq, March 6, 2019, <https://www.hrw.org/report/2019/03/06/everyone-must-confess/abuses-against-children-suspected-isis-affiliation-iraq> (accessed December 4, 2019).

⁸ Human Rights Watch, “It’s Like We Are Always in a Prison”: Abuses Against Boys Accused of National Security Offenses in Somalia, February 21, 2018, <https://www.hrw.org/report/2018/02/21/its-were-always-prison/abuses-against-boys-accused-national-security-offenses> (accessed December 4, 2019).

⁹ Military Court Watch, *Monitoring the Treatment of Children Held in Israeli Military Detention*, Annual Report 2018/2019, June 24, 2019, [http://www.militarycourtwatch.org/files/server/MCW%20ANNUAL%20REPORT%20\(2019\).pdf](http://www.militarycourtwatch.org/files/server/MCW%20ANNUAL%20REPORT%20(2019).pdf) (accessed December 4, 2019).

¹⁰ UNICEF, *Children in Israeli Military Detention: Observations and Recommendations*, February 2013, p. 1, https://www.unicef.org/oPt/UNICEF_oPt_Children_in_Israeli_Military_Detention_Observations_and_Recommendations_-_6_March_2013.pdf (accessed December 4, 2019).

¹¹ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict*, A/73/907-S/2019/509 (June 20, 2019), <https://undocs.org/S/2019/509> (accessed December 4, 2019).

¹² *Ibid.*, para. 238. See also, UN Security Council, *Report of the Secretary-General on Children and Armed Conflict*, S/2016/360 (April 20, 2016), para. 16, <https://undocs.org/S/2016/360> (accessed December 4, 2019).

Status of Handover Protocols

The chart below depicts the number of children detained in 2018 and the status of handover protocols in each country.

	Children Detained 2018 ¹⁸	Status of Handover Protocols
Afghanistan	205	
Cameroon	57	Under discussion
Chad	18	☑ Signed 2014
Democratic Republic of Congo	146	
Iraq	902	
Israel/Palestine	203	
Lebanon	16	
Libya	N/A	
Mali	16	☑ Signed July 2013
Myanmar	5	
Niger	125	☑ Signed Feb 2017
Nigeria	418	
Philippines	4	
Somalia	375	SOP signed February 2014
Sudan	N/A	☑ Signed April 2018
Syria	51	
Yemen	96	

¹⁸ UN Security Council, *Report of the Secretary-General on Children and Armed Conflict, A/73/907-S/2019/509* (June 20, 2019), <https://undocs.org/s/2019/509> (accessed December 4, 2019).

Security Assistance and Military Detention of Children

The majority of countries that detain children in armed conflict also receive significant levels of foreign security assistance. Between 2012 and 2017, for example, the United States provided the six countries detaining the largest numbers of children with more than US\$60 billion in security assistance.¹⁹ Since 2012, the United Kingdom has provided over US\$2 billion in military assistance, trained over 100,000 members of security forces, and approved over US\$145 million in arms export licenses to the same countries.²⁰ Governments providing security assistance to countries detaining children in the context of armed conflict should consider conditioning such assistance on the adoption and effective implementation of a handover protocol and an end to military detention of children.



Boy prisoners in the yard of the Women and Children's Reformatory in Erbil, Kurdistan Region of Iraq. Many boys were detained on suspicion of links to the Islamic State.

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Recommendations

To states affected by armed conflict:

- Commit to ending the military detention of children.
- Adopt and effectively implement a formal handover protocol that ensures the swift transfer of children from military custody to civilian child protection authorities.
- Permit monitoring of military detention facilities by the United Nations or other relevant humanitarian and child protection agencies.
- Ensure that if a child is implicated in a violent criminal offense, he or she is treated in accordance with international juvenile justice standards, and detained only as a last resort and for the shortest appropriate length of time.
- Endorse and implement the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups,²¹ in order to end and prevent the unlawful recruitment and use by armed forces or groups and to protect the rights of affected children.
- Establish and implement reintegration programming – including for affected children in conflicts characterized by violent extremism – that supports the children's, families', and communities' resilience and social cohesion through child protection, education, psychosocial support, and livelihoods initiatives.

¹⁹ Security Assistance Monitor, "Security Aid Database," <http://securityassistance.org/> (accessed December 4, 2019).

²⁰ Afghanistan, Democratic Republic of Congo, Iraq, Israel, Nigeria, Somalia. See Action on Armed Violence, "UK arms exports to FCO countries of concern," <https://aoav.org.uk/category/uk-arms-export-countries/> (accessed November 5, 2019).

²¹ Available at <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf>.

To states providing security assistance to states involved in armed conflict:

- Require the adoption and effective implementation of a handover protocol as a condition for security assistance.
- Provide long-term assistance for programs to assist children affected by armed conflict with their rehabilitation and reintegration into society.
- Withhold assistance from any state implicated in the torture or ill-treatment of children in their custody.

To regional and international security alliances, and the UN Security Council and its Working Group on Children and Armed Conflict:

- Remind all warring parties that all children, including those suspected of association with armed groups, are entitled to special care and protection under international humanitarian law and international human rights law, and should be treated first and foremost as victims.
- Urge all relevant member states to, as a priority, end the military detention of children and adopt and effectively implement a formal

handover protocol to ensure the swift transfer of children from military custody to civilian child protection authorities.

To UN country teams:

- Make the negotiation, adoption, and effective implementation of handover protocols a priority in states where children are detained in the context of armed conflict.
- Strengthen efforts to monitor detention facilities.
- Work with relevant national authorities to support comprehensive rehabilitation and reintegration programs for children affected by armed conflict and national juvenile justice mechanisms.



Children released from military detention in Nigeria in July 2018.
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