



A Path to Reintegration:

The Role of Handover Protocols in Protecting the Rights of Children Formerly Associated with Armed Forces or Armed Groups

December 2020

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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Executive Summary and Recommendations

Conflicts today are increasingly intractable, intense, and complex, creating unprecedented threats to children's rights.

Children in these contexts are doubly victimized; they not only fall prey to violence and abuse from armed groups but, in at least 15 countries affected by conflict, are also imprisoned by government authorities for their alleged association with those groups. Empowered by new or amended counterterrorism legislation, these governments are more likely to treat children recruited or used by armed groups as security threats or criminals. Security forces sometimes detain children in inhumane conditions, without sufficient access to food, health care, or education. Many children are never formally charged and are held incommunicado for indefinite periods of time. Some children have even died in custody.

Handover protocols are practical tools to prevent or reduce the detention of children in armed conflict. They are agreements either between relevant government ministries, supported by the United Nations, or between the UN and the government, to swiftly transfer children allegedly associated with armed groups to civilian child protection agencies for reintegration. They sometimes come in the form of standard operating procedures (SoPs) and typically include provisions on the treatment of children while in the custody of security forces and details about notification and handover procedures. Handover protocols are not guarantees of immunity. If a child is suspected of a serious, internationally recognized crime – beyond mere association with an armed group – he or she may be prosecuted in

line with international juvenile justice standards where the judge considers his or her recruitment a mitigating factor in the criminal proceedings.

Governments have signed handover protocols in a number of conflict-affected countries, including the Central African Republic (CAR), Chad, Mali, Niger, Somalia, Sudan, and Uganda. Additionally, a non-state armed group has signed a directive for the handover of children in Yemen. At the time of this writing, Burkina Faso has endorsed a handover protocol, which is awaiting signature. The UN has initiated protocol negotiations in Cameroon, Nigeria, Mauritania, and CAR, and is contemplating negotiations in the Democratic Republic of Congo (DRC).¹ Countries such as Afghanistan, Iraq, Israel, and Syria have large numbers of children in detention, but have not begun discussions on handover protocols. International peacekeeping forces in countries where governments detain children also have their own operational orders regarding the transfer of children in detention.

Despite the inconsistent implementation of handover protocols, all countries with these agreements have reported successful releases of children from detention facilities. Over time, handovers in some countries have become more standardized and routine. While the specific data regarding the number of children released under handover protocols is not readily available, anecdotal evidence suggests that in some cases, the rate of release is

¹ Note: The UN and Government of CAR have initiated new protocol negotiations because one of the signatories to the first protocol, the French Sangaris forces, has left CAR and the protocol has not been implemented since their departure.

relatively high. In Mali, for example, between July 2017 and March 2020, 79 out of 94 children were released from detention and transferred to civilian child protection agencies, per the terms of the protocol.² The Government held the remaining 15 children because of disputes about their ages.

As one interviewee explained:

“Believe you me, if we did not have [the protocol], I don’t know where [the children associated with armed groups] would have ended up. A couple of hundred children have been released thanks to the protocol. Once you are detained, people forget about you. There are no magistrates to hold the sessions. You may be held for years before being prosecuted. Children would be losing opportunities... the protocol is a blessing...”³

Another interviewee described the protocols as “absolutely necessary” and having a “huge impact” for abducted children.⁴

Factors Contributing to the Signing of Handover Protocols

A number of factors have contributed to the successful signing and adoption of existing handover protocols. The UN has used specific events to galvanize support for these agreements, such as the sudden mass detention of a large number of children, the inclusion or listing of an armed group or force in the Secretary-General’s annual report on children and armed conflict (‘annual report’), and the negotiations between warring parties during peace talks. The UN has then conducted strategic stakeholder analysis to identify the most influential actors within the government and potential champions for the protocols. Securing

buy-in from security actors is often challenging, but strong relationships with human rights focal points and other representatives from national militaries have helped to ensure the support of these parties. When key ministries are unresponsive, mobilizing support from executive leadership, such as the presidency’s office, has yielded positive results.

The UN has helped to build trust among negotiating parties by encouraging governments to release children, even when they have not signed a handover protocol, to demonstrate the strength of the systems in place for reintegration. They have also regularly debriefed relevant government ministries on the activities of the children transferred.

Governments are reticent to sign handover protocols without strong reintegration programs to support children allegedly associated with armed groups. The UN has invested in these programs during and after negotiations to not only provide children with support when they are released, but to also assure governments the children are at minimal risk of re-recruitment or retaliation from the community. Children typically spend a few months in either a transit center or other facility, or with a host family. They receive health, nutrition, basic education, psychosocial services, and vocational training in skills such as woodcraft or sewing. Where possible, civilian child protection agencies trace the children’s families and prepare communities for their return.

One of the most important factors influencing the signing of handover protocols is the ability of stakeholders to strike difficult balances between security, operational, and child rights concerns. This balance takes many forms, depending on the country and conflict dynamics. In some countries, security forces hand children over directly to civilian child protection actors, while in others, children

² UN Security Council, Report of the Secretary-General on Children and Armed Conflict in Mali, S/2020/1105 (November 11, 2020), advance copy on file at Watchlist.

³ Watchlist interview (name and location withheld), UN representative, September 29, 2020.

⁴ Watchlist interview (name and location withheld), UN representative, September 23, 2020.

must go through a judicial process before being placed in transit centers for reintegration. The protocols also vary in the nature of the interviews the government in question may conduct before a child is handed over. Ideally, the protocols should include a robust set of safeguards, in line with the Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups ('Paris Principles'), to limit interrogations that may endanger children. In light of logistical and safety concerns, protocols also differ significantly on the amount of time required for security forces to alert and transfer children to civilian child protection agencies; with some requiring immediate action and others allowing up to five days for the alert and up to two weeks for the handover of children from security actors. International law requires that children be detained for the shortest appropriate period of time. Finally, stakeholders sometimes debate to what extent the protocols allow the government to hold certain children accountable for crimes they may have committed during their association.

Donor governments and governments of countries that have already signed handover protocols have, in some cases, used their influence to support handover negotiations in other countries. Ambassadors have at times used their positions to encourage the signing of the protocols and reinforce messages about international standards for child protection. Governments supporting the security sector could play a meaningful role in this advocacy by conditioning their security assistance on the adoption and effective implementation of handover protocols, including for joint military operations. In situations of regional conflict, governments that have signed handover protocols have helped to support the adoption of these agreements in neighboring countries. For example, in preparation for negotiations of the protocol in Burkina Faso, a delegation from the Government met with authorities in Niger to discuss the implementation of its protocol.

Unique Considerations for Negotiating Handover Protocols in Counterterrorism Contexts

Stakeholders face unique challenges when negotiating handover protocols in counterterrorism contexts. Many governments are quick to classify children allegedly associated with groups designated as terrorist, including those whose only link is through the alleged association of family members, as security threats and perpetrators. In some cases, the UN has also provided conflicting messages about the status of these children as victims.

The heightened sensitivities surrounding a government's response to armed groups designated as terrorist can make it difficult for UN agencies to initiate handover protocol negotiations. UN staff sometimes fear that such advocacy puts them at risk of becoming a *persona non grata* (PNG).

Moreover, counterterrorism legislation in many countries is often at odds with juvenile justice standards, creating ambiguity about which laws should apply or take precedence. In some cases, it is conceivable that a handover protocol might not be in line with a state's counterterrorism laws, requiring the government to amend these laws before negotiations can proceed.

Features Strengthening the Implementation of Handover Protocols

Once a protocol has been signed, the government in question and the UN should develop an implementation plan that assigns roles and responsibilities to ensure its operationalization. These plans may include activities for dissemination so that government authorities at the local level

are aware of the protocol. The government and UN may also assign focal points for overseeing the implementation of the protocol.

Stakeholders consistently cited difficulties in determining children's ages as one of the biggest obstacles to implementing existing protocols. In countries where birth registration is low, efforts to train the parties implementing the protocol on age assessment guidelines have been an important part of promoting the release of children allegedly associated with armed groups from government custody.

The Impact of Handover Protocols on Children's Rights

Handover protocols are an explicit recognition by states that children allegedly associated with armed groups are, first and foremost, victims of grave human rights and humanitarian law violations. They strengthen the systematic coordination between the military and civilian child protection actors to provide these children with much-needed reintegration support. Children allegedly associated with armed groups who are able to return to school or attend training programs are generally able to increase their employment opportunities and achieve a sense of normalcy in their lives. Those who enter the labor force are better able to shift identities from soldier to civilian. Even when releases do not take place as routinely as stipulated in the handover protocols, child protection actors have relied heavily on these agreements in their advocacy.

Key Recommendations

To States Affected by Armed Conflict

- Commit to ending the detention of children for their actual or alleged association with armed groups.
- Amend national counterterrorism legislation to ensure it is consistent with international child protection standards.
- Ensure that if a child above the minimum age of criminal responsibility, as recognized under international law, is implicated in a violent, internationally recognizable criminal offense, he or she is treated in accordance with international human rights standards, and detained only as a measure of last resort and for the shortest appropriate length of time, in line with the best interests of the child.
- Prioritize non-judicial measures as alternatives to prosecution and detention that focus on the reintegration of children formerly associated with armed forces and armed groups.
- For those governments that have not yet signed handover protocols, do so immediately and develop robust plans for their implementation. Support all efforts to provide released children with appropriate, tailored reintegration assistance.
- Governments that have already signed handover protocols should review means for strengthening their implementation and direct state security forces and other relevant government officials to ensure that children are transferred within the stipulated time to civilian child protection agencies for reintegration.

To UNICEF

- Prioritize the negotiation, adoption, and effective implementation of handover protocols in those countries where children are detained in the context of armed conflict.
- Coordinate with other UN agencies, in particular the UN Office on Drugs and Crime (UNODC), the UN Office of Counter-Terrorism (UNOCT), and the Justice and Corrections Divisions in UN peace operations to ensure a unified UN position regarding the status of children allegedly associated with armed groups, including groups designated as terrorist, as victims of serious rights violations first and foremost.

- Work with relevant national authorities to support tailored, comprehensive reintegration programs for children affected by armed conflict and national juvenile justice mechanisms. Conduct periodic assessments of the programs to inform future interventions. Build partnerships with local nongovernmental organizations (NGOs) to provide community-based reintegration services in remote areas.

To the UN Security Council

- Remind all warring parties that all children, including those suspected of association with armed forces or armed groups, including those designated as terrorist, 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 of serious violations of international law.
- Building on UN Security Council Resolution 2427, expressly call on all relevant member states to, as a priority, end the military detention of children, and effectively implement formal handover protocols to ensure the swift transfer of children from government custody to civilian child protection authorities. In particular, make recommendations in this regard, as relevant, in resolutions, presidential statements, and other statements, as well as through the Security Council Working Group on Children and Armed Conflict's (SCWG-CAAC) conclusions on the Secretary-General's country-specific reports on children and armed conflict.

To the UN Secretary-General

- Continue to call for the signing and adoption of handover protocols in country reports and the annual report on children and armed conflict.
- Remind governments that have signed handover protocols to fully implement these agreements.

To the Special Representative of the Secretary-General for Children and Armed Conflict

- Continue to highlight the detention and ill-treatment of children for their actual or alleged affiliation with armed groups and call for the signing and adoption of handover protocols in public statements and in the course of advocacy with relevant high-level government officials.
- Remind governments that have signed handover protocols to fully implement these agreements.
- Advocate for an increase in financial resources to support multi-year, predictable, sustained, and flexible funding for the reintegration of children allegedly associated with armed groups.

To UN Offices and Agencies Engaging on Counterterrorism

- Carry out trainings with staff in conflict settings to clarify and raise awareness of the UN's position regarding the status of children allegedly associated with armed groups, including designated terrorist groups, as victims first and foremost.

To States Providing Security and Other Assistance to States Detaining Children in Armed Conflict

- Require the adoption and effective implementation of a handover protocol as a condition for security assistance, including for joint military operations.
- Support in-country advocacy for handover protocols, as well as long-term assistance for programs supporting children affected by armed conflict.

Methodology

Watchlist conducted a desk-based review of the relevant literature on the military detention of children in armed conflict. This included a review of UN, humanitarian, and human rights reports on the detention of children in armed conflict, counterterrorism, violent extremism, and reintegration; policies, guidelines, and international law on the detention of children in armed conflict; the Secretary-General's annual and country-specific reports on children and armed conflict; relevant Security Council resolutions and statements; and the SCWG-CAAC's country conclusions. Watchlist also reviewed the texts of existing handover protocols and SoPs for CAR, Chad, Mali, Niger, Somalia, Sudan, and Uganda.

Watchlist conducted bilateral discussions with members of its network and other subject-matter experts to identify key issues for the research. Watchlist developed a list of potential interviewees and a series of questionnaires to guide interviews.

Between July and September 2020, Watchlist conducted 47 virtual interviews with representatives from NGOs, humanitarian agencies, UN offices and agencies (including those working on counterterrorism), peacekeeping missions, military experts, child protection experts, and one Member State. Watchlist spoke with UN and other humanitarian staff in eleven countries: Afghanistan, Burkina Faso, CAR, Chad, DRC, Iraq, Mali, Niger, Nigeria, Somalia, and Yemen.

The report was shared internally and with external subject-matter experts for feedback and inputs before publication.

Introduction

Background on the Military Detention of Children in Armed Conflict

Children in at least 15 countries affected by armed conflict not only suffer at the hands of violent armed groups, but are also imprisoned by government authorities for their suspected involvement with those groups.⁵ Between 2012 and 2017, the UN Secretary-General reported a fivefold increase in the number of children detained in the context of armed conflict, reaching a high of nearly 4,500 in 2017.⁶ More recent data shows a drop in the number of children detained, but the number in 2019 remained worryingly high with over 2,500 children held.⁷ In reality, this number is likely to be even higher because children are often detained in official and unofficial sites, with limited or no access for monitors or child protection actors.

The rise in the number of children detained is in part explained by an increase in governments fighting groups designated as terrorist or labeled as violent extremist.⁸ Empowered by new or amended counterterrorism legislation, these governments are more likely to treat children affected by armed conflict, including

those who have no known history as combatants, as security threats or criminals and to detain them, often in facilities known for their mistreatment of detainees.

Under international law, children involved in armed conflict are considered primarily as victims of serious violations who require reintegration.⁹ If the child is implicated in an internationally recognized crime, the law allows for detention as a measure of last resort, for the shortest period of time, and for prosecution in line with international juvenile justice standards.¹⁰ The law does not allow exceptions based on national emergency or the seriousness of the offense.

Children are subjected to detention by a range of actors, including different members of government forces, militias, non-state armed groups, or international forces. These parties apprehend children during military operations, or after children have escaped or been released from armed groups or surrendered to the government. They also round up children in massive sweeps, in areas where armed groups are known to operate, regardless of their actual or alleged association. Some children, including infants, are detained when their mothers are arrested on suspicion of

⁵ UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/74/845-S/2020/525 (June 9, 2020), <https://undocs.org/s/2020/525> (accessed September 29, 2020).

⁶ Annual Reports of the UN Secretary-General on Children and Armed Conflict, 2013-2019, available at <https://childrenandarmedconflict.un.org/virtual-library/>.

⁷ UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/74/845-S/2020/525 (June 9, 2020), para. 13.

⁸ Nowak, Manfred, "The United Nations Global Study on Children Deprived of Liberty," November 2019, <https://omnibook.com/view/e0623280-5656-42f8-9edf-5872f8f08562> (accessed October 4, 2020), pp. 567-568.

⁹ Convention on the Rights of the Child (CRC), adopted November 20, 1989, G.A. res 44/25, annex, 44 U.N. GAOR Supp. (No. 49) at 167, U.N. Doc. A/44/49 (1989), entered into force September 2, 1990, <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> (accessed October 4, 2020), art. 39; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, adopted May 25, 2000, G.A. res 54/263, annex I, 54 U.N. GAOR Supp. (No. 49) at 7, U.N. Doc. A/54/49, Vol. III (2000), entered into force February 12, 2002, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPACRC.aspx> (accessed September 30, 2020), arts. 6-7; UN Children's Fund, "The Paris Principles. Principles and Guidelines on Children Associated with Armed Forces or Armed Groups," February 2007, <https://www.unicef.org/mali/media/1561/file/ParisPrinciples.pdf> (accessed October 4, 2020), paras. 8.7, 3.6; UN Security Council, Resolution 2427 (2018), S/RES/2427 (July 9, 2018), [https://undocs.org/S/RES/2427\(2018\)](https://undocs.org/S/RES/2427(2018)) (accessed September 30, 2020), para. 20.

¹⁰ CRC, art. 37(b).

security-related offenses. Children might also be detained for alleged offenses by family members; religious, ethnic, or tribal identity; place of origin; punishment; hostage-taking; ransom; intelligence-gathering; prisoner swaps; or sexual exploitation.¹¹

Governments often hold children in deplorable conditions in facilities run by military and/or other security actors. Children sometimes lack sufficient access to food or health care and are kept in unsanitary, overcrowded cells, many times with adults.¹² Such conditions heighten children's risk of contracting diseases such as COVID-19, and in fact, children have even died in custody from starvation, dehydration, and communicable diseases.¹³ Security forces have tortured children and subjected them to other cruel, degrading, and inhuman treatment to extract confessions, gather intelligence, or as a form of punishment.¹⁴ Children are sometimes held incommunicado for indefinite periods of time without access to lawyers or a chance to challenge their detention before a judge.¹⁵

Military detention has severe, long-term impacts on children, including physical and mental health issues, disruption to their education, separation from their families, and displacement.¹⁶ Upon returning home, children may face stigma and retaliation from their communities.¹⁷

The novel coronavirus COVID-19 has had a mixed impact on the treatment of children detained for their alleged association with armed groups. Some states, such as the DRC, CAR, Chad, and, in some cases, Iraq, have included children associated with armed groups in releases of children from detention facilities. However, others, such as Afghanistan, have explicitly excluded detainees charged with terrorism or national security offenses, possibly excluding children allegedly associated with armed groups.¹⁸ In addition, reduced humanitarian capacity has left these children more vulnerable; due to restrictions on movement to mitigate the spread of the virus, UN staff and partners have less capacity to monitor and advocate for children in detention facilities, or provide interim care and reintegration support. In at least one case, the security voids appear to have led to a rise in the number of children participating in hostilities, which could lead to more arrests of children allegedly associated with armed groups.¹⁹

Background on Handover Protocols

Handover protocols are practical tools to prevent or reduce the detention of children in armed conflict. They are agreements between government ministries, or governments and the UN, to swiftly transfer children allegedly associated with armed groups to civilian child protection actors for reintegration.

¹¹ Nowak, Manfred, "The United Nations Global Study on Children Deprived of Liberty," November 2019, pp. 584-591, 613.

¹² Human Rights Watch, "Extreme Measures: Abuses against Children Detained as National Security Threats," July 2016, https://www.hrw.org/sites/default/files/report_pdf/crd_detained0716web_1.pdf (accessed October 4, 2020).

¹³ Nowak, Manfred, "The United Nations Global Study on Children Deprived of Liberty," November 2019, p. 597.

¹⁴ Human Rights Watch, "Extreme Measures: Abuses against Children Detained as National Security Threats," July 2016; Nowak, Manfred, "The United Nations Global Study on Children Deprived of Liberty," November 2019, pp. 599-601.

¹⁵ Nowak, Manfred, "The United Nations Global Study on Children Deprived of Liberty," November 2019, p. 602.

¹⁶ Human Rights Watch, "Extreme Measures: Abuses against Children Detained as National Security Threats," July 2016, p. 4; Nowak, Manfred, "The United Nations Global Study on Children Deprived of Liberty," November 2019, pp. 606-607.

¹⁷ Human Rights Watch and Watchlist on Children and Armed Conflict, "Military Detention of Children in Armed Conflict: The Role of Handover Protocols in Protecting Children's Rights," December 2019, https://watchlist.org/wp-content/uploads/2362-watchlist-military-detention-policy_note-lr.pdf (accessed September 30, 2020), p. 3.

¹⁸ Human Rights Watch, "Detained Children Left Out of Covid 19 Response," press release, May 14, 2020, <https://www.hrw.org/news/2020/05/14/detained-children-left-out-covid-19-response> (accessed October 5, 2020).

¹⁹ Watchlist interview (name and location withheld), UN representative, September 10, 2020.

Defining Handover Protocols

Handover protocols sometimes come in the form of SoPs. For the purposes of this policy note, Watchlist's use of the term handover protocols includes SoPs. Watchlist defines handover protocols as follows:

Handover protocols are typically agreements by a government and/or allied armed forces or groups, to swiftly transfer children to civilian authorities (which may include an appropriate government ministry, and/or the UN and its partners) for reintegration when these children are detained/in the custody of/under the command and control of security actors for their alleged association with an armed group or force.

The children referenced include boys and girls under the age of 18, who may initially have been victims of grave violations by armed groups, as well as children detained for their presumed association with an armed group. Those accused of criminal offenses may, in some cases, be prosecuted in line with juvenile justice standards, although under the Paris Principles, they should not be prosecuted or punished solely for their membership in an armed group.²⁰

Watchlist documented only one handover directive signed with an armed non-state actor – the Ansar Allah (previously known as the Houthis) – in Yemen in April 2020 as part of an effort to secure the release of 68 children detained by the armed group. Our definition, research, and recommendations, however, focus on handover protocols with governments.

Handover protocols are distinct from, but complementary to, action plans signed between the UN and armed forces or groups to address grave violations against children. Sometimes action plans include provisions for governments to transfer children allegedly associated with armed groups to civilian child protection actors. If they are sufficiently robust, the UN may not pursue a separate handover protocol. Typically, the UN addresses the issue of detention by armed non-state actors through action plans rather than handover protocols.

The UN has developed interim SoPs on detention for all its peace operations in line with applicable international human rights, humanitarian, and refugee laws, norms, and standards, in particular the principle of non-refoulement. The SoPs include an annex with special considerations on children. In the event that a child is detained by peacekeepers, the mission's child protection personnel should be kept informed at all stages of the detention and should have unimpeded access to the child throughout their stay in the holding facility.²¹ Children below the age of 14 should be handed over within a maximum of 48 hours to government or humanitarian child protection actors.²² Handover to national authorities is contingent on the outcome of a risk assessment and would not take place if there were substantial grounds to believe that a child would be, for example, tortured, arbitrarily deprived of life, detained by military authorities, or prosecuted before a military court.²³

In addition to handover protocols, there are other mechanisms in place for the transfer of custody of children. These include, for example, disarmament, demobilization, and reintegration (DDR) frameworks, which sometimes cover the handover of children, but often focus specifically on the demobilization of children from an armed group or force rather

²⁰ Paris Principles, para. 8.7.

²¹ UN Department of Peacekeeping Operations, Department of Field Support, and Department of Political Affairs, "Policy: Child Protection in United Nations Peace Operations," June 1, 2017, <http://dag.un.org/handle/11176/400655> (accessed November 11, 2020), para. 32.

²² Ibid., para. 33.2.

²³ Ibid., paras. 33.4-33.5.

than on children who have been detained. Some actors in the DRC with whom Watchlist spoke felt that the presence of a strong DDR framework there made handover protocols less relevant. However, the Secretary-General reported that government authorities in the DRC detained 111 children in 2019, suggesting the DDR framework is perhaps insufficient for preventing the detention of children allegedly associated with armed groups.²⁴

In other contexts, handover procedures are enshrined in national legislation. On January 10, 2019, the Government of the Philippines signed into law the Act Providing for the Special Protection of Children in Situations of Armed Conflict, requiring authorities to transfer children detained in armed conflict to the local social welfare and development officer within a maximum of 72 hours.²⁵

International Bodies Calling for the Establishment of Handover Protocols

Several international bodies and guidelines have called on governments to establish handover procedures for the transfer of children associated with armed groups to civilian actors.

In Resolution 2427 (2018), the UN Security Council stressed “the need to pay particular attention to the treatment of children associated or allegedly

associated with all non-state armed groups, including those who commit acts of terrorism, in particular by establishing standard operating procedures for the rapid handover of these children to relevant civilian child protection actors.”²⁶ When setting the mandates of peacekeeping missions, the Security Council has also, on occasion, called on governments to establish SoPs for the handover of children.²⁷

The Secretary-General has called for the adoption of handover protocols in several of his annual reports.²⁸ The SCWG-CAAC has also made recommendations in its conclusions on the Secretary-General’s country-specific reports on children and armed conflict, in countries like CAR and Nigeria, to adopt handover protocols for the transfer of children.²⁹

In November 2019, the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) issued a statement on children and armed conflict, urging states to “end military detention of children and adopt formal handover protocols that provide for the swift transfer of children from military custody to civilian child protection authorities.”³⁰ The Committee reiterated this statement in September 2020, in its General Comment on Article 22 of the African Charter on the Rights and Welfare of the Child, on Children in Situations of Conflict, calling for “States... [to] develop handover protocols to prevent detention and ensure

²⁴ UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/74/845-S/2020/525 (June 9, 2020), para. 57.

²⁵ *An Act Providing for the Special Protection of Children in Situations of Armed Conflict and Providing Penalties for Violations Thereof, Republic Act 11188*, July 23, 2018, <https://www.officialgazette.gov.ph/downloads/2019/01jan/20190110-RA-11188-RRD.pdf> (accessed September 29, 2020), sec. 24(e).

²⁶ Security Council Resolution 2427, para. 19.

²⁷ See e.g. UN Security Council, Resolution 2499 (2019), S/RES/2499 (November 15, 2019), [https://undocs.org/en/S/RES/2499\(2019\)](https://undocs.org/en/S/RES/2499(2019)) (accessed September 29, 2020), para. 24.

²⁸ See e.g. UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/74/845-S/2020/525 (June 9, 2020), paras. 39, 194, 215; 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 September 29, 2020), paras. 42, 215; UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/72/865-S/2018/465 (May 16, 2018), <https://undocs.org/s/2018/465> (accessed September 29, 2020), para. 232.

²⁹ UN Security Council Working Group on Children and Armed Conflict, Conclusions on Children and Armed Conflict in the Central African Republic, S/AC.51/2020/3 (June 17, 2020), <https://undocs.org/S/AC.51/2020/3> (accessed September 29, 2020), paras. 5(n), 7(b); UN Security Council Working Group on Children and Armed Conflict, Conclusions on Children and Armed Conflict in Nigeria, S/AC.51/2017/5 (December 13, 2017), <https://undocs.org/S/AC.51/2017/5> (accessed September 29, 2020), paras. 5(q), 7(k), 9(d).

³⁰ African Committee of Experts on the Rights and Welfare of the Child (ACERWC), Outcome Statement for the Day of General Discussion on Children Affected by Armed Conflict, November 26, 2019, <https://www.acerwc.africa/wp-content/uploads/2019/12/Outcome-Statement-ACERWC-Day-of-General-Discussion-final.pdf> (accessed October 4, 2020), para. A(7).

that children taken into military custody are swiftly transferred to civilian child protection authorities for rehabilitation and community reintegration.³¹

The 2007 Paris Principles, endorsed by over 100 countries, state that release and reintegration measures should be carried out without any conditions. During release, children should be handed over to “an appropriate, mandated, independent civilian process,”³² and “the majority of children should be returned to their family and community or integrated into a family and community environment as soon as possible after their release.”³³

The 2017 Vancouver Principles on Peacekeeping and the Prevention of the Recruitment and Use of Child Soldiers (‘Vancouver Principles’), endorsed by nearly 100 countries, call for children to be “handed over expeditiously to child protection actors and civilian authorities,” with detention only as a last resort.³⁴

The 2019 UN Global Study on Children Deprived of Liberty, requested by the UN General Assembly, also recommends “states... adopt and implement standard operating procedures for the immediate and direct handover of children from military custody to appropriate child protection agencies.”³⁵

Key Components of Handover Protocols

Each handover protocol is negotiated on an individual basis, either between relevant government ministries, with support from the UN, or between the UN and

the government in question. UNICEF typically leads these discussions. In some cases, such as Somalia, the handover protocols are in the form of SoPs from the ministry of defense and ministry of the interior.

Handover protocols typically stipulate the following:

1. An assigned government agency will notify the relevant civilian child protection authorities of the presence of children allegedly associated with armed groups in its custody. The timeframe for the alert varies depending on the country.
2. Armed forces should hand the children in custody over to the relevant civilian authorities. Ideally this should take place in as little time as possible, though this varies depending on the country; with Mali, for example, calling for children to be handed over immediately when they are detained within the capital city, and with Sudan allowing up to two weeks for the handover of children from security actors.
3. While in the custody of the armed forces, children should be separated from adult detainees, and boys should be separated from girls. They should receive basic care such as food, shelter, and medical attention and should be protected from violence, abuse, and neglect. Most protocols prohibit armed forces from gathering military intelligence from children but allow a limited amount of information to be collected to facilitate their reintegration. Some protocols also highlight children’s need for privacy.

³¹ African Committee of Experts on the Rights and Welfare of the Child (ACERWC), General Comment on Article 22 of the African Charter on the Rights and Welfare of the Child: Children in Situations of Conflict, September 2020, https://www.acerwc.africa/wp-content/uploads/2020/10/General-Comment-on-Article-22-of-the-ACRWC_English_Web_version_final-1.pdf (accessed October 26, 2020), para. 58.

³² Paris Principles, para. 7.21.

³³ *Ibid.*, para. 7.45.

³⁴ Government of Canada, “Vancouver Principles on Peacekeeping and Prevention of Recruitment and Use of Child Soldiers,” November 15, 2017, https://www.international.gc.ca/world-monde/assets/pdfs/issues_development-enjeux_developpement/human_rights-droits_homme/principles-vancouver-principes-english.pdf https://www.international.gc.ca/world-monde/issues_development-enjeux_developpement/human_rights-droits_homme/principles-vancouver-principes-pledge-engageons.aspx?lang=eng (accessed September 30, 2020), Principle 9.

³⁵ UN General Assembly, Global Study on Children Deprived of Liberty, A/74/136 (July 11, 2019), <https://undocs.org/A/74/136> (accessed September 30, 2020), para. 134.

4. Civilian child protection actors should ensure swift, orderly cross-border repatriation, interim care, family reunification, or some other durable solution.
5. The government will undertake a number of preparedness measures to ensure the orderly and swift transfer of children, such as appointing focal points for the implementation of the protocol, or dissemination of the protocol.
6. Some protocols also describe the type of services to be provided by UNICEF and its partners once the children are handed over.

Over the years, UNICEF and the UN Department of Peace Operations (DPO) have developed a handover template that can be adapted for different conflict situations.

Signed Protocols and Those Under Negotiation

Below is a summary of countries where children are or have been detained in the context of armed conflict and the status of the handover protocol or SoPs in each country.

Country	Number of Children Detained in 2019 per the Secretary-General's Annual Report ³⁶	Status of Handover Protocol or SoPs
Afghanistan	146 ³⁷	No protocol or SoPs in place
Burkina Faso	Not included in the annual report	Protocol endorsed, signature pending
Cameroon	Not included in the annual report	Negotiations initiated
Central African Republic	4	Signed 2014; negotiations initiated for a new protocol ³⁸
Chad	No longer in the annual report	Agreement including handover procedures signed May 2007; handover protocol signed September 2014 ³⁹
Democratic Republic of Congo	111	Possible negotiations pending
India	68	No protocol or SoPs in place
Iraq	984	No protocol or SoPs in place
Israel	529	No protocol or SoPs in place

³⁶ UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/74/845-S/2020/525 (June 9, 2020).

³⁷ In addition, the UN is verifying reports that among 506 children who surrendered with thousands of individuals allegedly associated with the Islamic State in Iraq and the Levant-Khorasan Province (ISIL-KP), all children over the age of 12 were transferred to the Kabul Juvenile Rehabilitation Center.

³⁸ The UN and Government of CAR have initiated new protocol negotiations because one of the signatories to the protocol signed in January 2014, the French Sangaris forces, has left CAR and the protocol has not been implemented since their departure.

³⁹ Chad signed an agreement in May 2007 which broadly responds to the detention of Chadian children associated with armed groups. It signed a handover protocol in September 2014 to respond to the detention of both Chadian children and foreign children associated with armed groups.

continued

Country	Number of Children Detained in 2019 per the Secretary-General's Annual Report	Status of Handover Protocol or SoPs
Lebanon	20	No protocol or SoPs in place
Libya	8	No protocol or SoPs in place
Mali	56	Signed July 2013
Mauritania	Not included in the annual report	Negotiations initiated
Myanmar	18	No protocol or SoPs in place
Niger	Not included in the annual report	Signed February 2017
Nigeria	160 ⁴⁰	Negotiations initiated
Philippines	35	National legislation in place for the handover of children
Somalia	236	Signed February 2014
Sudan	None reported	Signed April 2018
Syria	218	No protocol or SoPs in place
Uganda	No longer included in the annual report	Signed May 2011
Yemen	97 ⁴¹	No protocol or SoPs signed by the Government of Yemen ⁴²

⁴⁰ Note: In 2019, the Nigerian authorities released 160 children who had been arrested for their alleged association with Boko Haram. The UN was unable to verify the number of children still in detention, as access to the detention facilities was denied.

⁴¹ Of the 97 children detained, the Ansar Allah (formerly known as the Houthis) detained 68 children, Yemeni armed forces detained 26 children, and the Coalition to Support Legitimacy in Yemen detained three children.

⁴² Note: While the Government of Yemen has not signed a handover protocol, in April 2020, the Ansar Allah (formerly known as the Houthis) signed a directive for the handover of children in its custody to the UN and partners.

Factors Contributing to the Initiation, Signing, and Adoption of Handover Protocols

A number of factors have contributed to the signing and adoption of existing handover protocols. These include specific events during a conflict that the UN has used to galvanize support for handover protocols, followed by targeted advocacy and trust-building initiatives with specific individuals and ministries within a given government. During and after negotiations, the UN has invested in reintegration programs to assure governments that children who are released from detention receive necessary support and are at minimal risk of re-recruitment by armed groups or retaliation from the community. Stakeholders have struck difficult balances between security, operational, and child rights concerns to facilitate the signing of handover protocols. Donor governments and governments of countries that have signed handover protocols have used their influence to support handover negotiations.

Strategic Approaches to Negotiations

Government security forces are often reluctant to transfer children allegedly associated with armed groups from their custody to civilian actors. Sometimes they deny detaining children, and other times, they argue against handing children over for logistical and/or security reasons.

UN and other civilian child protection actors have garnered support for handover protocols following the sudden mass detention of a large number of children, the inclusion or listing of an armed group or force in the Secretary-General's annual report on children and armed conflict, and negotiations between warring parties during peace talks. They

have also strategically identified partners within governments to support negotiations and taken steps to build government trust and buy-in.

Timing of Negotiations

Several handover protocols were negotiated and signed in response to emergency situations where government authorities detained large groups of children who they prevented child protection actors from accessing.

For example, in January 2014, Chadian forces detained 240 members of the Séléka armed group, including 46 children, from CAR who had crossed into Chad. The Government of Chad did not charge the children, and there were a number of political and judicial barriers to visiting the detainees. The UN supported with drafting a handover protocol and setting up an interim care facility for the children. The Government signed the protocol on September 10, 2014 and subsequently handed over the children.

Similarly, in Niger, a surge in military operations around 2015 to counter violence primarily related to Boko Haram, led to the detention of a large number of children in the Lake Chad Basin. The UN advocated for the transfer of these children to a juvenile justice center and then began negotiations for a handover protocol to secure their release. Government authorities signed a handover protocol with the UN on February 17, 2017.

Sometimes the listing of an armed group or force in the annexes of the Secretary-General's annual report on children and armed conflict – or even simply the threat of listing – has made governments more

amenable to negotiating a handover protocol. For example, in 2020 the Secretary-General announced that going forward, Burkina Faso would be included in his annual reports as a 'situation of concern'.⁴³ In response, the Government has been keen to take measures to show its support for the protection of children affected by the conflict. This, in turn, opened the door for the UN's further engagement on a handover protocol, which the Government has endorsed and is pending signature.

The listing of a state armed force in the annexes of the Secretary-General's annual report opens the door for the UN to engage with the listed party and develop an action plan with the government in question to end violations for which it is listed. The successful signing of such action plans created favorable conditions for the signing of the protocol in Chad in 2014 and the SoPs in Uganda in 2011. In Sudan, the government committee responsible for overseeing the implementation of the action plan drafted the current SoPs on the handover of children separated from armed groups, as part of its activities.

Finally, peace talks have provided strategic opportunities to engage in discussions on the handover of children from detention. For example, the UN first initiated discussions for an agreement

including handover procedures in Chad in 2007, following a peace agreement between armed groups and the Government. The aim was to develop a framework to provide services to children affected by the conflict, including long-term reintegration. In countries like Afghanistan, child protection advocates have noted that current peace talks offer an important advocacy opportunity to push for the release of child prisoners and initiate negotiations for a handover protocol.

Identifying Strategic Allies for Negotiations

Successful handover protocol negotiations have often depended on strategic stakeholder analysis to ensure the most influential actors within government are included early in the negotiating process. Some NGOs have helped to provide insights into whom the UN should target within a said government. In some countries, UN staff have identified champions within governments to support the protocols; in at least one case, a government champion has even drafted the first version of the protocol. In other countries, like the DRC, the multisectoral joint technical

As seen in the examples above, the listing of an armed group or force in the Secretary-General's annual report on children and armed conflict – or even the threat of listing – serves as an important tool for prompting government action to better protect children in conflict. In recent years, the process for determining which perpetrators are listed has become increasingly politicized, threatening to undermine the annual report's credibility and weaken its strength as a tool for promoting accountability and compliance with applicable international law. Ensuring a credible, evidence-based list of perpetrators in the Secretary-General's annual report is critical to the integrity of the report and to encouraging governments and non-state armed actors alike to respond to grave violations against children.

⁴³ UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/74/845-S/2020/525 (June 9, 2020), para. 243.

working groups on children and armed conflict may be a more natural entry point for engaging a wide range of stakeholders on such protocols.

Buy-in from security actors is particularly challenging and critical for negotiations. When a handover protocol is signed by the ministry of defense, troops implementing the protocol are directly answerable to the immediate chain of command, helping to strengthen accountability. Several countries have human rights focal points within their national militaries who have been instrumental in providing an opening for protocol negotiations. For example, in Uganda, military officers specializing in human rights within the ranks of the Ugandan Peoples' Defense Forces (UPDF) conducted significant internal advocacy for the negotiation and adoption of the 2009 action plan and the 2011 SoPs for the handover of children in detention. Even without these focal points, finding a sympathetic representative from the military who can help UN staff gauge the receptiveness of the military to the handover protocol and accelerate discussions can be helpful.

UN staff with whom Watchlist spoke suggested that in those countries where the ministry responsible for child welfare is sufficiently strong and resourced, it should play a leading role in discussions in order to promote government ownership and sustainability of the protocol. In Niger, for example, the Ministry of Population, Women's Promotion, and Child Protection played a vital role in negotiations; today, the ministry oversees the implementation of the protocol and runs the transit centers and community-based social cohesion program for reintegration, with financial and technical support from UNICEF.

Sometimes, when individuals at the ministry level are unresponsive, engaging with the highest levels of government, such as with the president of the country in question, can yield positive results. In both Burkina Faso and Niger, the SRSG-CAAC approached the respective presidents about the detention of children allegedly associated with armed groups

in order to encourage their commitments. In other cases, interviewees noted that working through the office of the UN resident coordinator, who serves as the liaison between the UN system and government in a given country, can better facilitate access to a range of government ministries, as compared to working through specialized agencies.

Once the relevant stakeholders have been identified, trainings and awareness-raising events on relevant international standards for the treatment of children allegedly associated with armed groups, such as the Paris Principles and the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC), can also help to build support within the government before and during negotiations.

Neutral actors like the International Committee of the Red Cross (ICRC) can play a role in reinforcing the message that children allegedly associated with armed groups are victims. Their support in Mali and Niger was reportedly important for the final signing of the handover protocols.

Building Trust Between the Government and the UN

UN and other child protection actors have attempted to overcome some governments' reluctance to negotiate handover protocols by showcasing the strengths of the systems in place to receive and reintegrate children allegedly associated with armed groups.

For example, even though Nigeria has not signed a handover protocol, UN staff have continued to encourage the transfer of children to civilian child protection actors for reintegration support. The UN supports a transit/reintegration center run by the Borno State Ministry of Women Affairs and Social Development, highlighting its readiness and commitment to support children released from detention. Over the last few years, the Government

of Nigeria has released children allegedly associated with armed groups to this facility, although this practice is not standardized or systematic.

In Niger, the Government established an inter-ministerial committee to oversee the implementation of the protocol. In an effort to defend and strengthen support for the protocol, UN staff and partners provided trainings to the committee and regularly briefed its members on what was happening at the transit center where the children were receiving reintegration support.

Availability of Quality, Civilian-Run Reintegration Programs

Governments are reticent to sign handover protocols without strong reintegration programs to support children allegedly associated with armed groups. In particular, governments want to ensure that any child released is not a security threat to the local population, or at risk of re-recruitment by armed groups or retaliation from the community. Governments will often assess the availability, absorption capacity, and quality of the programs on offer before relinquishing custody of the children.

The Paris Principles define reintegration as “the process through which children transition into civil society and enter meaningful roles and identities as civilians who are accepted by their families and communities in a context of local and national reconciliation.”⁴⁴ Daily work is guided by the following principles: the best interests of the child, the notion that children allegedly associated with armed groups should be considered primarily as victims, and the belief that children have the right to life, survival, and development.⁴⁵

In some situations, the swift pace of negotiations of handover protocols has left little time to establish full-fledged reintegration programs. In countries such as Burkina Faso and Mali, the UN established interim care centers to receive children as soon as the governments signed their respective protocols. In order to quickly boost the human resource capacity in these settings, one interviewee suggested creating a trained rapid respond team that could deploy for a finite period of time and provide local service providers much-needed training and support.

In other countries, protracted negotiations have provided the UN and partners time to establish more robust reintegration programs either prior to, or in parallel with, protocol negotiations. For example, even though negotiations for a handover protocol are still pending in Nigeria, the UN, together with government ministries, has established transit centers for the reintegration of children allegedly associated with Boko Haram. In Niger, the UN established reintegration centers while negotiations were taking place.

Where more robust reintegration programs exist, children transferred to civilian child protection actors may spend a few months in either transit centers or other facilities, or with host families. These children generally receive health, nutrition, basic education, psychosocial services, and vocational training in skills such as woodcraft or sewing. Where possible and as a best practice, some programs and accommodations are specifically tailored for girls. The transit center staff or partners trace the children’s families for reunification. Restoring family links is a strong protective mechanism.

Once the period in the transit center is complete, and when it is safe to do so, civilian actors attempt to return the children home to their families. Often,

⁴⁴ Paris Principles, para. 2.8.

⁴⁵ Office of the Special Representative of the Secretary-General for Children and Armed Conflict, “Reintegration of former child soldiers,” <https://childrenandarmedconflict.un.org/wp-content/uploads/2018/09/Reintegration-brochure-layout.pdf> (accessed October 29, 2020).

affected children come from remote locations far from main cities, which may require unique arrangements for their return, such as air travel.

Ideally, civilian partners then prepare the groundwork for community-based reintegration. Community acceptance is crucial for the successful reintegration of children allegedly associated with armed groups. In Niger, civilian NGO and government partners have established a Committee for Social Cohesion that prepares communities for affected children's return. In a given case, the committee goes to the child's village of origin and talks to the child's parents, chief of the village, youth, and other concerned parties about the child's reintegration. All relevant stakeholders sign an agreement stating they will take care of the child and refrain from stigmatizing him or her. If community members refuse to sign the agreement, the Social Cohesion Committee seeks alternative arrangements with other family members. Social workers then conduct follow-up visits to monitor the child's progress. Since 2017, there have been no recorded cases of released children returning to armed groups, although implementing partners have not been able to follow up on every case.

Country-specific reviews of reintegration efforts once children are released from detention and handed over to child protection actors may help to encourage ongoing commitment from governments to these programs. In Mali, for example, the UN is conducting an evaluation of reintegration programs to better understand and show how children fare once they return to their communities.

Child protection interventions, including reintegration programs, are too often underfunded. These programs require long-term investment and technical capacity-building. The lack of resources is exacerbated by the fact that some donors have strict conditions aimed at preventing so-called terrorist or violent extremist groups from benefiting from their assistance.⁴⁶ In practice, these clauses can complicate the prospects for funding programs for children allegedly associated with those groups.⁴⁷

The UN and other child protection actors may reduce the pressure on reintegration programs by supporting the voluntary repatriation of children allegedly associated with armed groups, who are nonnationals, to their countries of origin, provided it is in the best interests of the child.⁴⁸ In their home countries, these children may be reunited with their families and receive medical, mental health, and psychosocial support. Their repatriation may help to strengthen the capacity of the UN and civilian authorities to support the release of local children held in detention.

Balancing Security and Operational Concerns with Children's Primary Status as Victims

Two key tensions underlie many handover negotiations: a government's desire to retain some autonomy over its operations and its need to mitigate what are believed to be security risks posed by children allegedly associated with armed groups.

⁴⁶ Watchlist on Children and Armed Conflict, "Countering Terrorism and Violent Extremism: The Erosion of Children's Rights in Armed Conflict," January 2020, https://watchlist.org/wp-content/uploads/watchlist-policy-note_jan2020_lr.pdf (accessed October 1, 2020), p. 21.

⁴⁷ Ibid.

⁴⁸ Forced repatriations or other transfers must not take place in violation of the principle of non-refoulement. See Committee on the Rights of the Child, General Comment No. 6, Treatment of Unaccompanied and Separated Children Outside their Country of Origin, CRC/GC/2005/6 (September 1, 2005), <https://undocs.org/CRC/GC/2005/6> (accessed October 29, 2020), paras. 26-28; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture), adopted December 10, 1984, G.A. res 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), entered into force June 26, 1987, <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CAT.aspx> (accessed October 29, 2020), art. 3; Human Rights Committee, General Comment No. 31, The Nature of the General Legal Obligation Imposed on States Parties to the Covenant, CCPR/C/21/Rev.1/Add.13 (May 26, 2004), <https://undocs.org/CCPR/C/21/Rev.1/Add.13> (accessed October 29, 2020), para. 12.

Despite handover protocols calling for the swift transfer of children to civilian child protection actors, many interviewees stated that governments are reluctant to cede custody until they have conducted their own risk assessments. “Criminal investigation comes first, handover comes last,” remarked one interviewee.⁴⁹ Many governments have called on the UN to develop assessment tools on the risks posed by these children, in contradiction to the principle that children recruited and used by armed groups are and should be treated primarily as victims. They have also expressed concerns about the perceived permissive or soft approaches taken by civilian child protection agencies. Some governments have even argued that child protection actors prioritize the needs and safety of children over the rest of society.

Governments have an obligation to maintain national security but cannot do so in violation of children’s rights. The following sections explore what compromises stakeholders have made to balance operational, security, and child rights concerns in order to facilitate the handover of affected children from detention to civilian child protection actors.

Judicial Oversight of Reintegration

In some countries, security forces hand children over directly to civilian child protection agencies, while in others, like Sudan and Niger, children often go through a judicial process before being transferred to a transit center for reintegration.

The Sudanese Manual of Standard Operating Procedures (SoPs) for the Reception and Handover of Children Separated from Armed Groups in the Sudan requires the Sudan Government Security

Forces (SGSF) to hand over children allegedly associated with armed groups to the Child Prosecutor in the Family Child Protection Department who, pending the completion of an investigation within seven days, may release the children to their families in accordance with their best interests.⁵⁰

Under Niger’s antiterrorism law, government authorities may transfer children to an antiterrorist unit for investigation and then bring them before a specialist judge for minors who, if applying the protocol appropriately, will place an order for the child to be sent to a transit center for reintegration. In the event that the child has committed a serious crime, he or she may be held for prosecution. One interviewee explained that although the transfer of children is at a judge’s discretion, a positive benefit of this process is that the judgment helps to prevent security forces from re-arresting the child.

Intelligence Gathering

A government’s desire to collect intelligence from children before transferring them to civilian child protection actors has also posed challenges for protocol negotiations. The Paris Principles state that, while children may be interviewed in order to ascertain eligibility for release programs and to facilitate family tracing, such interviews should never be conducted to collect information for military purposes.⁵¹ The UN Security Council has expressed grave concern at the use of detained children for information-gathering purposes in Resolution 2427.⁵²

Governments sometimes claim that they need to gather information to save the lives of civilians and in some cases have even approached children

⁴⁹ Watchlist interview (name and location withheld), UN representative, August 17, 2020.

⁵⁰ The Republic of Sudan, High-Level Committee for the Implementation of the Action Plan on Child Protection in Armed Conflicts, Manual of Standard Operating Procedures (SOPs) for the Reception and Handover of Children Separated from Armed Groups in the Sudan, on file at Watchlist, para. 5.

⁵¹ Paris Principles, para. 7.25.

⁵² Security Council Resolution 2427, para. 20.

for intelligence after their release to transit centers. Civilian child protection actors argue that gathering military intelligence may put children's lives at risk. Each protocol reviewed by Watchlist addresses the nature of the interviews a government can conduct with children; some are more permissive, while others are quite restrictive.

The handover protocols signed by authorities in Mali, Chad, and Niger state that the only information that the security sector or civilian authority can gather from a child while in the custody of government armed forces, is the child's identity, origin, and health status.⁵³ Interviewees in Chad and Niger reported that despite these provisions, some children allegedly associated with armed groups were interrogated when first detained.

The SoPs on the handover of children signed in Uganda and Somalia do not explicitly prohibit the gathering of military intelligence and instead, include provisions that allow interviewers to collect information about how the child was recruited and/or abducted into the armed group, as well as about any other crimes committed against him or her.⁵⁴ At the time the SoPs were adopted in Uganda, the UN and Government agreed that the children could speak with military intelligence for a limited period of time, with a designated child protection actor or other adult sitting outside, in order to provide information about the location of the Lord's Resistance Army

(LRA). The children that were transferred at this time were prebriefed about the interview and about what they could answer. The children were cautioned not to say anything that would incriminate anyone else or put them in danger. The handover protocol states that the information cannot be taken under force or threat of force, real or implied.⁵⁵

Sudan is unique in that it provides for the legal advisors of the SGSF to brief the children on their rights. The protocol prohibits intelligence gathering but makes an exception for information that could help in the rescue of other groups of children.⁵⁶

Ideally, handover protocols should articulate a robust set of safeguards, in line with the Paris Principles, which may be invoked if security forces attempt to engage in interrogations that may endanger the child.

Time for Notification and Handover

One of the most critical and often most difficult operational issues to negotiate is the time required for notification and transfer of children allegedly associated with armed groups from government custody to civilian child protection actors. International law requires that children be detained for the "shortest appropriate period of time."⁵⁷

Reluctant to constrain their operations, governments have cited a host of reasons why they need to allow greater time for the safe transfer of children. This

⁵³ *Protocole D'Accord entre Le Système des Nations Unies au Mali et Le Gouvernement de la République du Mali Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, on file at Watchlist, para. I(6); *Protocole D'Accord entre Le Gouvernement de la République du Tchad et Le Système des Nations Unies au Tchad Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, on file at Watchlist, para. I(4); *Protocole D'Accord entre Le Gouvernement de la République du Niger et Le Système des Nations Unies au Niger Relatif aux Enfants Présumés Associés aux Groupes Armés et Groups Terroristes*, on file at Watchlist, para. I(4).

⁵⁴ Standard Operating Procedures (SOPs) for Reception and Hand Over of Children Rescued from the Lord's Resistance Army (LRA), on file at Watchlist, para. 4; Federal Republic of Somalia and Somali National Security Forces, Standard Operating Procedures (SOPs) for the Reception and Hand-Over of Children Separated from Armed Group(s) in Somalia, on file at Watchlist, para. 4.

⁵⁵ Standard Operating Procedures (SOPs) for Reception and Hand Over of Children Rescued from the Lord's Resistance Army (LRA), on file at Watchlist, para. 5.

⁵⁶ The Republic of Sudan, High-Level Committee for the Implementation of the Action Plan on Child Protection in Armed Conflicts, Manual of Standard Operating Procedures (SOPs) for the Reception and Handover of Children Separated from Armed Groups in the Sudan, on file at Watchlist, para. 3.

⁵⁷ CRC, art. 37(b); Security Council Resolution 2427, para. 21.

includes the fact that they may be in active combat when the child is first detained or that they may be a significant distance from a point where they can safely transfer a child to a civilian child protection actor. Child protection actors argue that the greater the time children spend in the custody of security forces, the less assured their safety and security.

As a result of these debates, there is wide variation among existing protocols on the amount of time required for security forces to alert and transfer children to civilian child protection actors. In Mali, the handover protocol calls for the immediate transfer of children within Bamako, and outside of the capital, the protocol calls for the notification of child protection actors within 24 hours and transfer within 48 hours.⁵⁸ In Somalia, the SoPs call for the UN to be alerted of children in the custody of the Somali National Security Forces (SNSF) within 72 hours and transferred to UNICEF within that same timeframe.⁵⁹ In Sudan, the SoPs allow for up to five days for the alert and up to two weeks for handover from the SGSF.⁶⁰ In several countries, security forces have failed to meet the shorter timeframes outlined in their handover protocols or SoPs for the alert and transfer of children.

The handover protocols signed in Chad and Niger do not specify any time constraints for notification or handover, leaving children vulnerable to potentially lengthy stays in government custody.⁶¹

Accountability for Serious Crimes

Governments often worry that handover protocols promote impunity by releasing children who have committed crimes during their association, possibly endangering local communities. Discussions have centered on whether a child who was recruited into an armed group should be held accountable for his or her actions, or whether he or she should be released to civilian child protection actors for reintegration. Child protection actors often also have to factor the risks to children in systems that lack sufficient juvenile justice safeguards and have unacceptably low ages of criminal responsibility, like age 9 in Iraq,⁶² and age 10 in Syria.⁶³

Under the Convention on the Rights of the Child (CRC), if a child is implicated in an internationally recognized crime, the law allows for detention as a measure of last resort, for the shortest period of time, and for prosecution in line with juvenile justice standards.⁶⁴ Wherever appropriate and desirable, it calls for “measures for dealing with such children without resorting to judicial proceedings” and for states to make available alternatives to institutional care.⁶⁵ UN Security Council Resolution 2427 urges Member States to comply with obligations under the CRC and “emphasizes that children who have been recruited in violation of applicable international law by armed forces and armed groups and are

⁵⁸ *Protocole D'Accord entre Le Système des Nations Unies au Mali et Le Gouvernement de la République du Mali Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, on file at Watchlist, paras. 1(2)-1(4).

⁵⁹ Federal Republic of Somalia and Somali National Security Forces, Standard Operating Procedures (SOPs) for the Reception and Hand-Over of Children Separated from Armed Group(s) in Somalia, on file at Watchlist, paras. 1-2.

⁶⁰ The Republic of Sudan High-Level Committee for the Implementation of the Action Plan on Child Protection in Armed Conflicts, Manual of Standard Operating Procedures (SOPs) for the Reception and Handover of Children Separated from Armed Groups in the Sudan, on file at Watchlist, paras. 1, 5.

⁶¹ *Protocole D'Accord entre Le Gouvernement de la République du Niger et Le Système des Nations Unies au Niger Relatif aux Enfants Présumés Associés aux Groupes Armés et Groupes Terroristes*, on file at Watchlist; *Protocole D'Accord entre Le Gouvernement de la République du Tchad et Le Système des Nations Unies au Tchad Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, on file at Watchlist.

⁶² Note: In Iraq, the federal age of criminal responsibility is 9 years old, but in the Kurdistan Region of Iraq, the age of criminal responsibility is 11 years old.

⁶³ Watchlist on Children and Armed Conflict, “Countering Terrorism and Violent Extremism: The Erosion of Children’s Rights in Armed Conflict,” January 2020, p. 17.

⁶⁴ CRC, arts. 37(b), 40.

⁶⁵ *Ibid.*, arts. 40(3)(b), 40(4).

accused of having committed crimes during armed conflicts should be treated primarily as victims of violations of international law.”⁶⁶

The Paris Principles similarly encourage states to consider children accused of crimes while associated with armed groups or forces primarily as victims and not only as perpetrators.⁶⁷ The Principles call for these children to be treated in accordance with international juvenile justice standards, and for states to seek alternatives to judicial proceedings and to placing children in institutions.⁶⁸ They explicitly state that children should not be prosecuted or punished solely for their membership in an armed group.⁶⁹

Most protocols are silent on the issue of whether the government can pursue prosecutions of children implicated in serious crimes. In these cases, governments often exercise their discretion and keep children who are involved in serious crimes for further investigation and prosecution.

The handover protocol in Niger is the sole example reviewed by Watchlist that explicitly limits the transfer of children to civilian child protection actors if they have committed a flagrant crime.⁷⁰

International Influence

Donor governments and the governments of countries that have already signed handover protocols can play a meaningful role in encouraging governments to sign handover protocols and end the detention of children in armed conflict.

The Role of Donor Governments

Donor governments can be powerful allies in protocol negotiations, especially if they provide funds to support the security sector. The nature of this assistance may include training and joint military operations on the ground with national forces that are detaining children. Between 2014 and 2019, the United States provided countries like Afghanistan, Iraq, Nigeria, and Somalia, known for some of the highest numbers of children in detention, with more than US\$36.5 billion in security assistance.⁷¹ Although all four countries are listed under the US Child Soldiers Prevention Act (CSPA), which restricts certain security assistance to countries that recruit or use child soldiers, the President has granted them partial or full waivers of the restrictions based, in part, on US national interest.⁷²

As part of their efforts to support children in conflict, the US and other governments should consider conditioning their security assistance on the adoption and effective implementation of handover protocols. Some UN staff with whom Watchlist spoke reported having received requests from influential governments to brief them on the detention of children allegedly associated with armed groups, so that they could raise these issues in negotiations; however, Watchlist was unable to document any specific actions taken to block or condition the provision of assistance on this basis.

In-country UN staff described collaborating with influential ambassadors to support advocacy for the signing of protocols and to reinforce messages about international standards for child protection.

⁶⁶ Security Council Resolution 2427, para. 20.

⁶⁷ Paris Principles, para. 3.6.

⁶⁸ *Ibid.*, paras. 3.7, 8.8-8.9.

⁶⁹ *Ibid.*, para. 8.7.

⁷⁰ *Protocole D'Accord entre Le Gouvernement de la République du Niger et Le Système des Nations Unies au Niger Relatif aux Enfants Présumés Associés aux Groupes Armés et Groups Terroristes*, on file at Watchlist, para. 1(2).

⁷¹ Security Assistance Monitor, “Security Aid Database,” <http://securityassistance.org/data/country/military/country/2014/2019/all/Global> (accessed October 4, 2020).

⁷² Congressional Research Service, “Child Soldiers Prevention Act: Security Assistance Restrictions,” November 6, 2020, <https://fas.org/sgp/crs/misc/IF10901.pdf> (accessed November 16, 2020).

One challenge in engaging donor governments in advocacy on this issue is that some historical champions of human rights and allies of the children and armed conflict agenda, including several Western European states, may have child nationals in foreign detention facilities whom they are reluctant to repatriate. Their own counterterrorism legislation may also criminalize mere association with an armed group, without distinction by age. In these situations, influential governments may be less likely to be outspoken on the need for release and reintegration.

The Role of Governments that Have Adopted Handover Protocols

The more handover protocols are signed, the more other countries will be open to negotiating and adopting them. UN staff reported the importance of showing governments other examples of countries that have signed handover protocols. For example, when negotiating the protocol in Mali, the UN described highlighting handover protocols in other states to encourage support from the Malian authorities. In preparation for negotiations

of the protocol in Burkina Faso, a delegation from the Government met with authorities in Niger to discuss the implementation of their protocol.

Many conflicts cross borders, underlining the importance of a harmonized regional approach to handover protocols so that affected children are not at risk of being detained when they return to their countries of origin. The Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG-CAAC) has, in some cases, adopted a more regional approach to advocacy on handover protocols. For example, in February 2017, Burkina Faso, Chad, Mali, Mauritania, and Niger (G5 Sahel) came together to combat armed groups and criminal activity in the region. At the time, Mali, Niger, and Chad had signed handover protocols, but Burkina Faso and Mauritania had not. The UN has used the fact that these three countries had already signed protocols in its advocacy with the G5 Sahel Joint Force and with Burkina Faso and Mauritania, respectively. Burkina Faso recently endorsed a handover protocol which is pending signature at the time of writing.

Unique Considerations for Negotiating Handover Protocols in Counterterrorism Contexts

Interviewees argued that it was easier to negotiate the first handover protocols because states had not had such broad counterterrorism agendas that criminalize association with armed groups. The proliferation of counterterrorism measures in recent years poses unique challenges to the signing of handover protocols.

More so than in other contexts, governments and the public are increasingly treating children allegedly associated with armed groups designated as terrorist, as security threats, failing to recognize their status as victims and their entitlement to be treated in accordance with child justice standards. Even within the UN system, governments receive conflicting messages about the status of these children. In some cases, governments may have to amend their own counterterrorism legislation in order to allow for the signing of handover protocols. UN staff are more reluctant to initiate handover protocol negotiations in these contexts because of the political sensitivities of these issues and the fear of becoming a PNG.

Governments today face a lot of pressure from their citizens and international bodies to respond to terrorism but must do so in a way that continues to recognize the special status of children and respects their rights.

Shifting Perceptions of Children as Security Threats and Perpetrators Rather than Victims

Under governments' expanding counterterrorism agendas, children allegedly associated with armed groups designated as terrorist are primarily viewed as security threats and perpetrators.

The principle of distinction, where persons fighting in armed conflict must at all times distinguish between civilians and combatants, is one of the cornerstones of international humanitarian law. However, the expansion of counterterrorism measures has led to the emergence of a new category of people in situations of armed conflict, that contradicts the principles of international humanitarian and human rights law, whom are considered neither as combatants nor civilians, but as "security threats."⁷³ Governments in countries such as Iraq, Libya, Nigeria, and Syria have detained children in areas where armed groups designated as terrorist are known to operate, on the basis that these children pose a security threat, but often with no evidence of any actual association with the armed group.⁷⁴

⁷³ Watchlist on Children and Armed Conflict, "Countering Terrorism and Violent Extremism: The Erosion of Children's Rights in Armed Conflict," January 2020, p. 17.

⁷⁴ Ibid.

The UN Committee on the Rights of the Child states that governments should refrain from charging and prosecuting children for mere association with a non-state armed group, including those designated as terrorist groups.⁷⁵

Historically, government authorities were more willing to hand over children associated with designated terrorist groups, like Al-Shabaab in Somalia and the LRA in Uganda. However, today, governments combating terrorism, including those that have historically respected and promoted children's rights and recognized the special status of children as victims, are less likely to release children associated with groups that have been designated as terrorist. For example, in the DRC, where security forces had typically released children soon after they were detained, authorities refused to release children detained in the conflict in the Kasai Province because they were affiliated with Kamwina Nsapu, an armed group that the Government had deemed a terrorist movement. In Chad, which signed its first agreement to hand over children in 2007, government authorities refused to release children associated with the *Union des Forces de la Resistance* (UFR), which it designated as a terrorist group, and insisted they be tried before a court. The judge eventually released the children because of their age. UN staff in Mali, which has had a protocol in place since 2013, remarked that it has been difficult to secure the release of children detained under the country's July 2019 counterterrorism law.

In reality, even if there are ideological differences among armed groups, the experiences of these children are similar.⁷⁶ The recruitment tactics of these groups all prey on needs like belonging,

purpose, and identity, or more practical financial needs. All the children are exposed to extreme violence. The protection needs of all child victims of recruitment and use by armed forces or groups are similar, and the frameworks in place for their reintegration are still relevant and effective.

Moreover, even though domestic and international counterterrorism laws may draw a distinction between so-called terrorist groups and armed groups not designated as such, under international humanitarian law and human rights law, the status of these groups, and the situation of children allegedly associated with these groups, does not differ.⁷⁷

United Messaging on Children Allegedly Associated with Armed Groups as Victims

The mixed messages from the UN on the status of children allegedly associated with armed groups are hindering efforts by child protection actors to convince governments to treat these children as victims and to sign handover protocols for their release. Under international law, there is no normative gap on the treatment of children associated with armed groups as victims – those standards are clearly established.⁷⁸ There is, however, a gap in the buy-in, understanding, and cohesive messaging on this issue within the UN.

In one case, the UNODC and the Justice and Corrections Division of a UN peacekeeping operation wanted to review the protocol that had already been signed by the government to include elements

⁷⁵ Committee on the Rights of the Child, General Comment No. 24 (201x), replacing General Comment No. 10 (2007), Children's rights in juvenile justice, CRC/C/GC/24, <https://www.ohchr.org/Documents/HRBodies/CRC/GC24/GeneralComment24.pdf> (accessed October 28, 2020), para. 112.

⁷⁶ For more information, see: United Nations University, "Cradled By Conflict: Child Involvement with Armed Groups in Contemporary Conflict," 2018, <https://unu.edu/children-and-extreme-violence> (accessed November 9, 2020).

⁷⁷ Watchlist on Children and Armed Conflict, "Countering Terrorism and Violent Extremism: The Erosion of Children's Rights in Armed Conflict," January 2020, p. 14.

⁷⁸ Security Council Resolution 2427, para. 20; Paris Principles, para. 3.6.

that allow for the prosecution of children allegedly associated with armed groups or to use them as witnesses. Security forces had complained to these departments that the handover protocol protects children in a way that hampers their investigation. The diverging voices between UNODC, the Justice and Corrections Division of the peacekeeping operation, and UN child protection actors in the country created confusion. The UN must take a more unified position on children affected by armed conflict as victims. It cannot have one department working towards the unconditional release of children allegedly associated with armed groups, only for another section to undermine that goal.

Overbroad Counterterrorism Legislation

The Paris Principles state that children who have been associated with armed forces or armed groups should not be prosecuted or punished, or threatened with prosecution or punishment, solely for their membership with those forces or groups.⁷⁹ Moreover, the Security Council has stressed “the need to pay particular attention to the treatment of children associated or allegedly associated with all non-state armed groups, including those who commit acts of terrorism, in particular by establishing standard operating procedures for the rapid handover of these children to relevant civilian child protection actors.”⁸⁰

Counterterrorism legislation in many countries is often at odds with child rights and juvenile justice standards, creating ambiguity about which law should be applied. For example, since 2001, at least 140 governments have adopted counterterrorism

legislation⁸¹ which often makes no distinction by age for action or association. Such legislation aims to recognize the gravity of terrorism-related offenses with a focus on a punitive approach, which is contrary to juvenile justice standards, which prioritize reintegration. Where possible, these laws should refer to the country’s national legislation protecting children’s rights.⁸² In practice, however, national security legislation often supersedes child rights protections.

In some cases, a handover protocol might not be in line with a state’s counterterrorism legislation. Ideally, stakeholders should avoid lengthy attempts to amend the law in order to facilitate the signing of handover protocols. In the recent handover protocol negotiations in Burkina Faso, UN negotiators faced challenges from the Government, which pointed out tensions between the penal code, antiterrorism law, and international frameworks, like the CRC, OPAC, and the Paris Principles. Acknowledging these contradictions, the UN negotiators successfully argued that the protocol should not be viewed as a new legal instrument, but rather an agreement between the Government and UN to make sure children allegedly associated with armed groups receive the care and reintegration support they need.

Another important point to raise with governments in these contexts is that a handover protocol is not a guarantee of immunity. If a child is suspected of a serious, internationally recognized crime – beyond association with an armed group – he or she may be prosecuted in line with international juvenile justice standards where the judge considers his or her recruitment a mitigating factor in the criminal proceedings.

⁷⁹ Paris Principles, para. 8.7.

⁸⁰ Security Council Resolution 2427, para. 19.

⁸¹ Center for Strategic and International Studies, “Counterterrorism Measures and Civil Society, Changing the Will, Finding the Way,” March 2018, https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/180322_CounterterrorismMeasures.pdf (accessed November 13, 2020), p. 3.

⁸² See e.g. Tunisia’s counterterrorism law, specifying that children are subject to the provisions of the child protection code. *Loi organique n° 2015-26, du 7 août 2015, relative à la lutte contre le terrorisme et la répression du blanchiment d’argent*, August 7, 2015, https://lib.ohchr.org/HRBodies/UPR/Documents/Session27/TN/26Annexe16Loi2015_26fr.pdf (accessed October 1, 2020), art. 4.

Features Strengthening the Implementation of Handover Protocols

Although imperfect, almost all stakeholders in country situations with protocols in place that Watchlist examined in the course of this research, reported the successful release of children from detention facilities.

Implementation planning, periodic dissemination of handover protocols, assigned focal points to improve accountability, and robust systems for age assessment are among some of the features that have supported successful protocol implementation.

These measures are particularly important because governments are sometimes reluctant to apply protocols, which are not legally binding, once they are signed. In Niger, for example, it took over a year after the Government signed the protocol to transfer the full group of children allegedly associated with armed groups from a juvenile detention facility, to child protection actors. The UN and the Security Council can increase pressure on states to apply these agreements by consistently calling for their effective implementation.

Implementation Planning

Interviewees highlighted implementation plans for handover protocols as a best practice. The SoPs in Uganda, Somalia, and Sudan call for a meeting among

relevant stakeholders within four weeks of adoption of the protocol to agree on specific arrangements for the transfer of children.⁸³ In Niger and Chad, an inter-ministerial committee was established to help oversee the implementation of the protocols.

UNICEF and DPO recommend including some specific implementation activities directly in the handover protocols.⁸⁴ These include:

- Appointing local-level focal points and a senior focal point to oversee the implementation of the protocol and interface with the Country Task Force on Monitoring and Reporting (CTFMR) on progress;
- Disseminating a military order to commanding officers and a political directive to relevant government officials on the contents and practical implementation of the protocol;
- Designing a detailed operation plan guiding the implementation of the protocol, outlining roles and responsibilities and steps to be taken during the handover; and
- Sharing with the CTFMR regular compliance reports on the implementation of the protocol and informing the CTFMR of any children in custody.

⁸³ Federal Republic of Somalia and Somali National Security Forces, Standard Operating Procedures (SOPs) for the Reception and Hand-Over of Children Separated from Armed Group(s) in Somalia, on file at Watchlist, para. 7(a); Standard Operating Procedures (SOPs) for Reception and Hand Over of Children Rescued from the Lord's Resistance Army (LRA), on file at Watchlist, para. 10(a); The Republic of Sudan, High-Level Committee for the Implementation of the Action Plan on Child Protection in Armed Conflicts, Manual of Standard Operating Procedures (SOPs) for the Reception and Handover of Children Separated from Armed Groups in the Sudan, on file at Watchlist, para. 18(a).

⁸⁴ Draft Protocol on the handover of children encountered in the course of security operations from military authorities to civilian child protection actors, UNICEF and DPO, on file at Watchlist.

Some interviewees recommended that in countries where government authorities have failed to implement the protocols consistently, child protection actors should draft or update a protocol implementation plan.

Periodic Dissemination of Handover Protocols

The periodic dissemination of handover protocols is also critical to their successful implementation.

Handover protocols typically include provisions for their dissemination by different stakeholders. Some task the responsibility with the UN and/or the ministry in charge of child welfare.⁸⁵ Some call on all the relevant protocol stakeholders to take on this responsibility.⁸⁶ The Sudanese SoPs are uniquely robust, calling out each individual ministry involved by name and requesting them to disseminate the SoPs in their departments within four weeks of being signed.⁸⁷

Periodic dissemination is particularly important because of the fractured nature of many countries affected by conflict and the high level of turnover within government administrations. Stakeholders need to engage in repeat awareness-raising activities at the local level to ensure effective implementation of the protocols. In Mali, despite

having a protocol in place for seven years, child protection actors recently held a series of regional workshops, in areas where armed groups designated as terrorist are becoming more active, to sensitize local security forces. Conducting advocacy with those directly involved in transferring children on the ground has proven effective.

Interviewees recommended awareness-raising campaigns to reinforce the protocols. They also suggested hosting periodic workshops to assess the status of the implementation of the protocols and to continually sensitize government representatives of these agreements.

Assigned Focal Points for Accountability

Given that there is limited recourse when a government does not abide by its protocol, UN negotiators stressed the importance of identifying and naming focal points in the protocol, or its implementation plan, to promote accountability. Some handover protocols call for security forces to designate a focal point to oversee the transfer of children to civilian authorities.⁸⁸ Others call for local UN focal points, as well as appointed central liaison officers within UNICEF and the military, to alert the UN

⁸⁵ Standard Operating Procedures (SOPs) for Reception and Hand Over of Children Rescued from the Lord's Resistance Army (LRA), on file at Watchlist, para. 10(b); *Protocole D'Accord entre Le Système des Nations Unies au Mali et Le Gouvernement de la République du Mali Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, on file at Watchlist, para. I(11); Federal Republic of Somalia and Somali National Security Forces, Standard Operating Procedures (SOPs) for the Reception and Hand-Over of Children Separated from Armed Group(s) in Somalia, on file at Watchlist, para. 7(b).

⁸⁶ *Protocole D'Accord entre Le Gouvernement de la République du Tchad et Le Système des Nations Unies au Tchad Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, para. I(8); *Protocole D'Accord entre Le Gouvernement de la République du Niger et Le Système des Nations Unies au Niger Relatif aux Enfants Présumés Associés aux Groupes Armés et Groups Terroristes*, on file at Watchlist, para. I(9).

⁸⁷ The Republic of Sudan, High-Level Committee for the Implementation of the Action Plan on Child Protection in Armed Conflicts, Manual of Standard Operating Procedures (SOPs) for the Reception and Handover of Children Separated from Armed Groups in the Sudan, on file at Watchlist, paras. 18(b)-(f).

⁸⁸ *Protocole D'Accord entre Le Système des Nations Unies au Mali et Le Gouvernement de la République du Mali Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, on file at Watchlist, para. I(1); *Protocole D'Accord entre Le Gouvernement de la République Centrafricaine, L'Operation Francaise en Centrafrique "Sangaris" et Le Fonds des Nations Unies pour L'Enfance en Centrafrique, "UNICEF" Relatif au Transfert des Enfants Associés aux Forces ou Groupes Armés*, on file at Watchlist, para. I(1).

when children are in the custody of armed forces.⁸⁹ In Sudan, the SoPs state local and centrally appointed liaison officers within key government institutions and UNICEF should alert the Ministry of Social Security and Development (MoSSD), the National Council for Child Welfare (NCCW), and UN agencies of the presence of children formerly associated with armed groups within military custody.⁹⁰ Ideally, protocols should name the civilian authority receiving the children.

Age Assessment

Assessing the ages of children associated with armed groups in settings where adolescents are culturally considered adults and where birth registrations are low, is one of the primary challenges with implementing handover protocols. Some interviewees said that sometimes governments have used disputes about a child's age as a pretext for keeping him or her in detention. Training stakeholders on age assessment guidelines is an important part of ensuring the effective implementation of handover protocols.

Although a child is legally defined as below the age of 18 in the CRC,⁹¹ many communities consider the age of majority as when a child hits puberty. For example, in Somalia, interviewees described challenges advocating for the release of children ages 16 and 17, who government authorities deem "high risk." They remarked that most of the children transferred to child protection actors are visibly under the age of 15. There is also parliamentary debate to lower

the age of majority to 15, despite the Government ratifying the CRC in 2015. This development would also further hinder the application of the SoPs.

Many government authorities rely on legal documentation to prove a child's age. However, in conflict-ridden countries, birth registration is often low, making it challenging for child protection actors to transfer older children. Once a child is classified as an adult, it is much harder to advocate for his or her release.

In some countries, mixed teams of UN and government representatives receive training from UNICEF on age assessment guidelines. Absent scientific diagnostic tools, these teams often conduct interviews to determine the age of children allegedly associated with armed groups. In Somalia, a team of three to five people is designated to ask children questions such as whether they remember specific events. They may also speak to relatives or community leaders. In the DRC, the Government has certified certain experts from its DDR unit to conduct age verification. These people, along with UN representatives, and perhaps representatives from a national force, conduct interviews with potential children. In all cases, when the team is in doubt about the individual's age, minority prevails. These types of age assessment systems help to promote the release of children allegedly associated with armed groups from detention.

⁸⁹ Standard Operating Procedures (SOPs) for Reception and Hand Over of Children Rescued from the Lord's Resistance Army (LRA), on file at Watchlist, para. 1; Federal Republic of Somalia and Somali National Security Forces, Standard Operating Procedures (SOPs) for the Reception and Hand-Over of Children Separated from Armed Group(s) in Somalia, on file at Watchlist, para. 1.

⁹⁰ The Republic of Sudan, High-Level Committee for the Implementation of the Action Plan on Child Protection in Armed Conflicts, Manual of Standard Operating Procedures (SOPs) for the Reception and Handover of Children Separated from Armed Groups in the Sudan, on file at Watchlist, para. 1.

⁹¹ CRC, art. 1.

The Impact of Handover Protocols on Children's Rights

Handover protocols are an explicit recognition by states that children allegedly associated with armed groups are victims of grave human rights and humanitarian law violations first and foremost. They strengthen the systematic coordination between the military and civilian child protection actors to provide these children with much-needed reintegration support.

Despite the inconsistent implementation of handover protocols, all countries with these agreements reported successful releases of children from detention facilities. Over time, handovers in some countries have become more standardized and routine. While the specific data regarding the number of children released under the handover protocols is not readily available, anecdotal evidence suggests that in some cases, the rate of release is relatively high. In Mali, for example, between July 2017 and March 2020, 79 out of 94 children were released from detention and transferred to civilian child protection agencies, per the terms of the protocol.⁹² The Government held the remaining 15 children because of disputes about their ages.

Without handover protocols, governments often leave children languishing in detention for years without charge. Many children are only released at

the discretion of military forces, when detention facilities are full, or following the intervention of humanitarian, UN, or human rights advocates.

Governments' detention of children compounds the insecurity it seeks to address. When children are detained, they are sometimes kept in appalling conditions, with other alleged members of armed groups, where they may be vulnerable to sexual and other abuse. Prisons can be ideological breeding grounds where armed groups may radicalize children who have had little or nothing to do with the conflict. Children may build resentment towards the government, further fueling tensions and instability.

In Nigeria, for example, Amnesty International reported that because of their treatment in detention, some former child detainees expressed regret at having fled Boko Haram and would not advise those still in Boko Haram to surrender.⁹³ Human Rights Watch found that some children harbored negative feelings towards the Nigerian Government because of how they were treated while in detention.⁹⁴ The UN Secretary-General has warned that detention of children can create community grievances and has urged states to prioritize alternatives to detention.⁹⁵

⁹² UN Security Council, Report of the Secretary-General on Children and Armed Conflict in Mali, S/2020/1105 (November 11, 2020), advance copy on file at Watchlist.

⁹³ Amnesty International, "We Dried Our Tears': Addressing the Toll on Children of Northeast Nigeria's Conflict," May 2020, <https://www.amnesty.org/download/Documents/AFR4423222020ENGLISH.PDF> (accessed September 29, 2020), p. 8.

⁹⁴ 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 2019, https://www.hrw.org/sites/default/files/report_pdf/nigeria0919_web.pdf (accessed September 29, 2020), p. 36.

⁹⁵ UN Security Council, Report of the Secretary-General on Children and Armed Conflict, A/70/836-S/2016/360 (April 20, 2016), <https://undocs.org/S/2016/360> (accessed October 4, 2020), paras. 16, 220.

Handover protocols provide for a safe avenue for children to leave armed groups and receive the reintegration support they need to become productive members of society. Children allegedly associated with armed groups who are able to return to school or attend training programs are generally able to increase their employment opportunities and achieve a sense of normalcy in their lives.⁹⁶ Those who enter the labor force are better able to shift identities from soldier to civilian.⁹⁷ By rejoining their communities, children are able to break cycles of violence and ensure long-term peace and security.⁹⁸ Handover protocols offer governments the opportunity to demonstrate their commitment to upholding international standards for child protection.

As a practical matter, handover protocols ensure that the appropriate authorities support children affected by armed conflict. Military forces are often the first to encounter children in conflict, which poses operational, ethical, and legal challenges. Civilian and child protection actors have more specialized expertise to rehabilitate and reintegrate these children. A handover protocol strengthens the cooperation between military, civilian, and child protection actors and provides clarity on the roles, responsibilities, and procedures for the treatment of children during security operations.

In many cases, handover protocols are less contentious to negotiate than other, multifaceted agreements, like action plans. They allow for clear, standardized, systematic planning for children in detention countrywide. Once protocols are adopted, civilian authorities can take steps to ensure they are adequately prepared to routinely receive children allegedly associated with armed groups. Handover protocols normally have no specified duration. As seen in countries like Chad and Mali, once such protocols are established, they may continue to be applied in new and emerging conflict situations.

Even when releases do not take place as routinely as stipulated in the handover protocols, child protection actors have relied heavily on these agreements in their advocacy. Handover protocols have proven particularly instrumental in challenging governments that have detained children for their alleged association with armed groups, including those designated as terrorist. Advocates have also used them when calling for a presidential pardon for children who have been prosecuted for crimes committed during their association.

⁹⁶ Betancourt, Theresa S., et al., "Research Review: Psychosocial adjustment and mental health in former child soldiers – a systematic review of the literature and recommendations for future research," *Journal of Child Psychology and Psychiatry*, Vol. 54(1), January 2013, <https://acamh.onlinelibrary.wiley.com/doi/epdf/10.1111/j.1469-7610.2012.02620.x> (accessed September 29, 2020), p. 29.

⁹⁷ Ibid.

⁹⁸ OSRSG-CAAC, "Reintegration of former child soldiers."

Conclusion and Recommendations

Children affected by armed conflict are exposed to a host of traumatic experiences and rights violations; first, at the hands of armed groups that recruit and use them in their ranks, and then by government forces who detain them for their alleged association. Handover protocols are critical for ensuring children allegedly associated with armed groups are treated as victims first and foremost and are able to access the reintegration services they need. Watchlist's study of existing and pending protocols reveals several factors that have influenced the successful signing, adoption, and implementation of handover protocols. It also reveals the challenges posed by an ever-expanding counterterrorism agenda. Although imperfect, handover protocols have strengthened advocacy efforts and led to the release of many children from detention in armed conflict situations all over the world.

Recommendations

To States Affected by Armed Conflict

- Commit to ending the detention of children for their actual or alleged association with armed groups.
- Ensure that if a child above the minimum age of criminal responsibility, as recognized under international law, is implicated in a violent, internationally recognizable criminal offense, he or she is treated in accordance with international juvenile justice standards, and detained only as a measure of last resort and for the shortest appropriate length of time, in line with the best interests of the child.
- Prioritize non-judicial measures as alternatives to prosecution and detention that focus on the reintegration of children formerly associated with armed forces and armed groups.
- Strengthen engagement with the child protection and children's rights community, including by requesting technical support when it comes to the treatment of children in security operations, including counterterrorism operations.
- Amend national counterterrorism legislation to ensure it is consistent with international child protection standards.
- **To States Who Have Not Signed Handover Protocols**
 - Adopt and effectively implement a formal handover protocol that ensures the swift and direct transfer of children from government custody to appropriate civilian child protection agencies. Ensure the participation of all relevant stakeholders in the discussions and empower the ministry in charge of children's welfare to play a meaningful role in the negotiations.
 - In particular, consider including the following within the text of the handover protocol:
 - Appointed focal points to oversee the implementation of the protocol and to interface with the CTFMR or, where the MRM is not in place, other relevant stakeholders, on progress.
 - Specific timeframes for the alert and swift handover of children in government custody to named civilian actors.
 - Robust safeguards for any interviews conducted by security forces with the child, in line with the Paris Principles, and ideally with a civilian child protection actor present.

- Provisions detailing the repatriation of nonnationals in line with the principle of non-refoulement.
- o Design a detailed operation plan to guide the implementation of the protocol, outlining roles, responsibilities, and steps to be taken during a handover. Share regular compliance reports on the implementation of the protocol and inform the CTFMR or other relevant stakeholders of any children in custody.
- o Ensure that children allegedly associated with armed forces and armed groups receive appropriate, tailored reintegration assistance that supports the children's, families', and communities' resilience and social cohesion through child protection, education, psychosocial support, and livelihood initiatives from civilian actors only. Such assistance should be gender- and age-sensitive, taking into account the specific situation and needs of each individual child, in order to guarantee equal access to reintegration assistance, as well as tailored measures.
- **To States Who Have Already Signed Handover Protocols**
 - o Publicly support and strengthen the implementation of handover protocols and direct state security forces and other relevant government officials to ensure that children are transferred within the stipulated time to civilian child protection agencies for reintegration.
 - o Host periodic workshops to assess the status of the implementation of the protocols and continue to sensitize government representatives of these agreements, especially at the local level.
 - o Consider establishing an inter-ministerial committee of stakeholders to help oversee the implementation of the protocols.

To UNICEF

- Prioritize the negotiation, adoption, and effective implementation of handover protocols in states where children are detained in the context of armed conflict.
- Where relevant, consider initiating negotiations for handover protocols in response to: the mass detention of a group of children during armed conflict, as part of the potential or actual listing of government forces in the Secretary-General's annual report on children and armed conflict, or during peace talks between warring parties.
- Identify champions for the protocol within the government in question. Support the participation of the ministry in charge of child welfare in protocol negotiations to ensure its ownership of the protocol.
- Consider creating and training a rapid response team to deploy for a finite period of time and provide local service providers training and support on reintegration measures.
- Coordinate with other UN agencies, in particular UNODC, UNOCT, and the Justice and Corrections Divisions in UN peace operations, to ensure a unified UN position regarding the status of children allegedly associated with armed groups, including groups designated as terrorist, as victims of serious rights violations first and foremost.
- Work with relevant national authorities to support tailored, comprehensive reintegration programs for children affected by armed conflict and national juvenile justice mechanisms. Conduct periodic assessments of the programs to inform future interventions. Build partnerships with local NGOs to provide community-based reintegration services in remote areas.

- Support efforts to unblock procedural and diplomatic hurdles for the repatriation of children who are nonnationals and have been detained for their actual or alleged association with armed conflict, provided it is in the best interest of the child.

To the UN Security Council

- Remind all warring parties that all children, including those suspected of association with armed forces or armed groups, including those designated as terrorist, 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 of serious violations of international law.
- Building on UN Security Council Resolution 2427, expressly call on all relevant Member States to, as a priority, end the military detention of children, and effectively implement formal handover protocols to ensure the swift transfer of children from government custody to civilian child protection authorities. In particular, make recommendations in this regard, as relevant, in resolutions, presidential statements, and other outcome documents, as well as through the SCWG-CAAC's conclusions on the Secretary-General's country-specific reports on children and armed conflict.
- Consider holding a discussion or Arria Formula meeting on strengthening the protection of children accused of association with armed groups, including those designated as terrorist.

To the UN Secretary-General

- Continue to call for the signing and adoption of handover protocols in country reports and the annual report on children and armed conflict.
- Remind governments that have signed handover protocols to fully implement these agreements.

To the Special Representative of the Secretary-General for Children and Armed Conflict

- Continue to highlight the detention and ill-treatment of children for their actual or alleged affiliation with armed groups and call for the signing and adoption of handover protocols in public statements and in the course of advocacy with relevant high-level government officials.
- Continue to call on countries involved in regional conflicts to sign handover protocols and harmonize their approaches to the detention of children associated with armed groups.
- Remind governments that have signed handover protocols to fully implement these agreements.
- Advocate for an increase in financial resources to support multi-year, predictable, sustained, and flexible funding for the reintegration of children allegedly associated with armed groups.

To UN Offices and Agencies Engaging on Counterterrorism

- Carry out trainings with staff in conflict settings to clarify and raise awareness of the UN's position regarding the status of children allegedly associated with armed groups, including designated terrorist groups, as victims first and foremost.

To the UN Department of Peace Operations

- Ensure the final SoPs on detention for peacekeeping missions include specific safeguards for handover protocols for children.

To States Providing Security and Other Assistance to States Who Detain Children in Armed Conflict

- Require the adoption and effective implementation of a handover protocol as a condition for security assistance, including for joint military operations.
- Publicly support in-country advocacy for the signing of handover protocols and the immediate release of children in detention who are not charged with criminal offenses, and their transfer to child protection authorities for family reunification and community reintegration.
- Encourage governments to grant access to detention facilities, including military detention sites, for UN, ICRC, and other independent observers.
- Provide long-term assistance for programs to support children affected by armed conflict with their reintegration into society, including through vocational training programs, education programs, and medical and psychosocial counseling activities. Refrain from introducing conditionality clauses in humanitarian funding agreements that could potentially cut off humanitarian access to children in need or violate the fundamental humanitarian principles of humanity, neutrality, impartiality, and independence.
- Withhold assistance from any state implicated in the torture or ill-treatment of children in its custody.
- Include comprehensive human security training as part of military training packages to partner militaries.

To Armed Groups Who Commit Grave Violations against Children in Armed Conflict

- Halt attacks against non-combatants and immediately release all children in custody.
- Immediately renounce and cease the abduction and recruitment, forced or otherwise, of anyone under the age of 18 for any purpose.
- Release all individuals in the group under the age of 18 and ensure their safe return to their families and communities by acting in cooperation with humanitarian agencies; permit anyone recruited under age 18 to leave without fear of punishment or reprisals by the group.

Acknowledgements

This policy brief was researched and written by independent consultant Janine Morna, with the support of Watchlist's Director Adrienne Lapar and Watchlist's Advisory Board.

The preparation of this report was made possible by the efforts, contributions, and feedback of several individuals, organizations, and UN representatives. In particular, Watchlist would like to thank: the Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG-CAAC); the UN Children's Fund (UNICEF); several UN peacekeeping and political missions; the UN Office of Counter-Terrorism (UNOCT); the UN Office on Drugs and Crime (UNODC); Amnesty International; Child Rights International Network (CRIN); the Dallaire Institute for Children, Peace and Security; Defense for Children International-Palestine (DCI-P); Geneva Call; Human Rights Watch; Save the Children; Terre des Hommes Germany; War Child Canada; War Child UK; World Vision International; as well as the following individuals: Laura Perez, Alec Wargo, Mathilde Bienvenu, Daniela Baro, and Isabelle Guitard. Watchlist would also like to thank those groups and individuals who participated on condition of anonymity.

Finally, Watchlist would like to thank the Federal Republic of Germany, whose generous contribution made this research possible.



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