



HUMAN
RIGHTS
WATCH

“Everyone Must Confess”

Abuses against Children Suspected of ISIS Affiliation in Iraq



“Everyone Needs to Confess”

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Summary

“Nasim” grew up in Mosul, Iraq, and attended school for five years until the Islamic State (ISIS) took control of the city in 2014. Nasim, who was 13 at the time, didn’t like the curriculum ISIS imposed in his school, so he dropped out and started working with his father, selling groceries. During the battle for Mosul, he said, the family moved from neighborhood to neighborhood, trying to avoid airstrikes by the US-led coalition.

After Iraqi forces retook the city in July 2017, Nasim said there was “nothing” in Mosul, so he and his brother went to Erbil, in the semiautonomous Kurdistan region of Iraq, looking for work. At a checkpoint entering Erbil, Asayish (the Kurdistan Regional Government’s security forces) officers told him his name was on a list of ISIS suspects, and arrested him. Nasim said neither he nor any members of his family had been part of ISIS. “I was shocked when I was arrested,” he said. “I always wonder why my name was on the list.”

After Nasim’s arrest, he said Asayish officers interrogated and threatened him. He said, “They told me that if I didn’t confess to joining ISIS, that they would send me to the Hashad [Popular Mobilization Forces, military units under the Iraqi prime minister’s command] and they would kill me. I agreed to admit that I had been with ISIS for 15 days. They said that wasn’t enough, so I said 30 days.” After a week, he was taken to an investigative judge, who asked if his confession was correct. Nasim said it was. “I was afraid if I didn’t, they would torture me.”

When Human Rights Watch interviewed Nasim, now 17, in November of 2018, he was in detention, awaiting trial on charges of terrorism. “I always wonder why I am here,” he said. “I miss my family a lot. I think about them every day, every second.”

Since re-taking control over large portions of Iraqi territory that ISIS had captured in 2014, Iraqi and Kurdistan Regional Government (KRG) authorities have arrested thousands of children on suspicion of ISIS membership. Based on information from multiple sources Human Rights Watch estimates that at the end of 2018, Iraqi and KRG authorities were detaining approximately 1,500 children for alleged ISIS affiliation.

Hundreds of children, including at least 185 foreign children, have been convicted on terrorism charges and sentenced to prison terms in Iraq.

International law prohibits any recruitment or use of children by non-state armed groups. According to international standards, children who are recruited in violation of this principle are primarily victims who should be provided with assistance for their rehabilitation and reintegration. If the children committed crimes, international standards on juvenile justice require national authorities to seek alternatives to prosecution and to prioritize rehabilitative measures with the aim of reintegrating children into society. Authorities should detain children only as a measure of last resort and for the shortest appropriate period of time.

In Iraq, however, children with any association with ISIS are treated as criminals. Security officers often torture them to coerce confessions—regardless of their actual involvement—and courts in the KRG and federal Iraqi territory prosecute and sentence them to prison as terrorists.

Iraq and the KRG have pursued justice for ISIS crimes by conducting thousands of trials of ISIS suspects, including children, often solely on the charge of ISIS membership, with no regard for the extent of the defendants' actual involvement or whether they committed any violent crimes. The counterterrorism laws being used by both Iraqi government and KRG authorities have allowed investigative judges to bring charges against individuals who did not commit violent acts, but played support roles, for example, by working as cooks or in hospitals. Human Rights Watch has previously criticized this approach for being disproportionate and failing to prioritize and punish the most serious crimes under ISIS. It has also needlessly subjected children to arbitrary arrest, detention, and prosecution in violation of international standards.

The consequences of these punitive policies are profound, creating long-term stigma, family separation, displacement, and severely limiting youths' ability to reintegrate into society and support themselves. Once branded as ISIS, these children fear revenge attacks if they return home after their release from detention. Children who have been arrested and detained by Kurdish authorities in northern Iraq risk re-arrest by Iraqi forces if they return to areas falling under Baghdad's control. Many ISIS suspects believe they have no option beyond living indefinitely in camps for displaced persons or leaving the country.

The detention and prosecution of children who may have had little or no involvement with ISIS may also foster future grievances. One 17-year-old boy told Human Rights Watch, “You have many kids detained based on fabricated testimonies. Once they are released, maybe they will take revenge on the government and the people who took them to prison.”

Beginning in 2014, ISIS recruited thousands of children in Iraq as it captured large portions of Iraqi territory as part of its self-declared “caliphate.” ISIS used children as front-line fighters, as suicide bombers, to manufacture and plant explosive devices, conduct patrols, serve as guards and spies, and for a variety of support roles. Hundreds of foreign children were also associated with ISIS, either traveling to Iraq alone or brought by family members and originating from dozens of countries in the Middle East, Asia, Europe, and North America.

ISIS recruited some children by force or coercion, while other children joined because of peer or family pressure, financial need, to escape family problems, or to gain social status. These factors mirror the drivers of child recruitment in most armed conflicts around the world. Multi-country research has found that ideology is rarely the primary force motivating children’s association with violent extremist groups. Of 29 children and youth accused of ISIS involvement interviewed for this report, none of those that admitted ISIS association said that ideology played a factor in their decision to join. One boy who joined at age 16 said, ““I had no idea about their goal,” but joined because he wanted to feel “brave and powerful.”

The screening, investigation, and prosecution of children as ISIS suspects by Iraqi and KRG authorities is deeply flawed, often leading to arbitrary detention and unfair trials. Security forces often apprehend children based on “wanted lists” of names collected from other suspects through interrogation and torture, and reports from families from ISIS-controlled areas. The US Defense Department estimated that 3,000-5,000 ISIS fighters defended Mosul, one of the group’s strongholds, but according to senior Iraqi intelligence officials, lists of ISIS suspects reportedly grew to include approximately 100,000 names. The lists include people who were suspected of involvement with ISIS in any capacity, including support functions such as drivers or cooks. Some on the list may have had no involvement with ISIS at all, but be under suspicion because of family members’ involvement, or because community members suggested names for the lists based solely on personal or local grievances. According to the UN Human Rights Committee, detaining individuals

solely because they are family members of alleged criminals is an “egregious” form of arbitrary detention. International law allows imposing punishment for crimes only on people responsible for the crimes, after a fair trial to determine individual guilt. Imposing collective punishment on families, villages, or communities violates the laws of war and amounts to a war crime.

Once apprehended, children who spoke to Human Rights Watch said that security officers often interrogated and tortured them until they confessed to ISIS association, regardless of whether they were actually involved. In November 2018, Human Rights Watch interviewed 29 current or former detainees from ages 14 to 18 who were charged or convicted of ISIS affiliation by the KRG, including 24 held at the Women and Children’s Reformatory in Erbil, the capital of the Kurdistan Region of Iraq. Nineteen said that Asayish officers tortured them to get confessions, beating them all over their bodies with plastic pipes, electric cables, or rods. Some were subjected to electric shocks or tied in painful stress positions. Security forces threatened others with torture if they refused to confess to ISIS association. The methods of torture the boys described were similar to the accounts of 17 boys held for alleged ISIS association at the same detention center who spoke with Human Rights Watch in December 2016.

Many of the children told Human Rights Watch that they confessed to ISIS involvement simply to stop the torture, but in reality, had little or no actual involvement with ISIS. For example, some said they took some religious training with ISIS, but had no further association. Others said they served only in support roles, working as cooks or drivers. Some denied any involvement at all. Human Rights Watch was not able to independently assess their possible involvement with ISIS.

During the period of research for this report, Human Rights Watch did not have access to child detainees held by Iraqi federal authorities, with the exception of one who had been released and himself was tortured while in custody. However, previous research by Human Rights Watch and others demonstrates that Iraqi federal authorities also torture children for alleged ISIS association. The Committee Against Torture reported in 2015 that people suspected of terrorism, including children, had been arrested without warrant, detained incommunicado, and “severely tortured” to extract confessions. One Nineveh judge told Human Rights Watch that “many” ISIS suspects alleged torture in his courtroom. A

previous investigation by Human Rights Watch found that Iraqi judges routinely ignore allegations of torture by ISIS suspects.

Of the children in KRG custody, many didn't know whether they had a lawyer or said they feared that even asking for one would lead to a more severe sentence. Most reported that their court hearings lasted no more than five or 10 minutes, and were typically conducted in Kurdish, a language they did not understand. The hearings appeared to be based almost entirely on the boys' confessions, despite these allegedly being extracted under torture. Several boys said that they told the judge in their case that they made their confession under torture, but each said that the judge appeared to ignore their claim.

Human Rights Watch is also deeply concerned regarding conditions in KRG detention at the Women and Children's Reformatory, including excessive periods of confinement, lack of education and rehabilitation, inadequate medical care, lack of family contact, and abuse by some guards, including beatings, verbal abuse, and death threats. Several boys at the reformatory reported that guards removed them from their rooms and took them outside, out of sight of security cameras, and beat them with plastic pipes, their hands, or shoes. One child was clearly suicidal and cutting himself, but said he received no psychological or special treatment.

Next steps

Iraq and the KRG should significantly change their approach to children suspected of ISIS affiliation. To uphold the rights of children, they should recognize children recruited by ISIS primarily as victims, end the detention of children solely for ISIS membership, and prioritize their rehabilitation and reintegration. Both the Iraqi and KRG parliaments should amend their counter-terrorism laws to end the criminalization of membership in terrorism organizations for children under the age of 18. Pending changes in law, the Iraqi and KRG judicial councils should instruct judges, prosecutors, and law enforcement to end the arrest, detention, and prosecution of children on suspicion of mere membership in ISIS and order the release of all children detained for alleged ISIS affiliation unless they are suspected of having committed a violent offense. Authorities should cooperate with UNICEF and child protection agencies to develop rehabilitation and reintegration programs for children formally associated with ISIS, including education programs, vocational training, medical and psycho-social counseling, and initiatives for social reintegration.

In cases where children are alleged to have committed violent acts as members of ISIS, government authorities should ensure they are treated in line with international juvenile justice standards—notably ensuring that detention is a last resort and is imposed for the shortest appropriate period of time, that children are detained separately from adults, that they have access to legal counsel, that the best interest of the child is the primary consideration, and that rehabilitation and reintegration into society are prioritized.

Iraqi and KRG authorities should also immediately act to end all torture and ill-treatment of children arrested for suspected ISIS affiliation, and investigate and hold perpetrators accountable. Judges should exclude any confessions obtained as a result of torture or ill-treatment.

Methodology

Human Rights Watch conducted research for this report in northern Iraq in November 2018 and drew on other research conducted since 2016. Human Rights Watch researchers interviewed 29 boys and youth who had been detained for alleged ISIS association, including 24 detainees at the Women and Children's Reformatory in Erbil and 5 boys who had been detained and subsequently released. Of those interviewed at the reformatory, 22 were boys between the ages of 14 and 17, and two were 18 years old and detained on the basis of alleged ISIS association while they were children. Of the 24, 8 had been convicted, while the remainder were detained awaiting trial. Fourteen of the 22 had been arrested in 2018; 6 were arrested in 2017; and 2 in 2016. No girls were detained on national security charges at the reformatory during the time of Human Rights Watch's visit.

Human Rights Watch also interviewed family members of eight other children who had been arrested as ISIS suspects by Iraqi authorities, staff at the Women and Children's Reformatory in Erbil, and consulted with international nongovernmental organizations working on justice issues in Iraq, as well as local lawyers and other legal experts. Interviews took place in both the Kurdistan region and federal Iraqi territory.

Human Rights Watch was unable to access detention facilities in areas of Iraq controlled by the federal government based in Baghdad during its November 2018 research trip, but in 2017 visited three detention centers in Baghdad-held territory, two in the town of Qayyarah, 60 kilometers south of Mosul, and the third at a local police station in Hammam al-Alil, 30 kilometers south of Mosul.

Human Rights Watch researchers spoke to almost all the interviewees in person and in Arabic, except for two interviews with family members that were conducted by telephone. Some of the interviews were conducted in Arabic with translation into English. Researchers informed all interviewees about the purpose and voluntary nature of the interviews, the ways in which they would use the information, and obtained consent from all interviewees, who understood they would receive no compensation for their participation. For reasons of personal security, Human Rights Watch has withheld the names and identifying information of most interviewees. The names of children provided are pseudonyms.

In December 2018, Human Rights Watch sent the Iraqi government and KRG authorities letters outlining our preliminary findings and requesting information regarding children who were detained for alleged ISIS association. Human Rights Watch sent follow-up letters to both the government of Iraq and KRG in February 2019. The KRG responded to the first letter on December 14, and the second on February 18, 2019. Both responses are reflected in this report. At time of publication, the Iraqi government had not responded to either letter.

Human Rights Watch maintains a dialogue with the Iraqi government and KRG authorities and is grateful for the cooperation we received.

In this report “child,” “children,” and “boy” are used to refer to anyone under the age of 18, consistent with usage under international law.

I. ISIS Recruitment and Use of Children

Beginning in 2014, ISIS took control of large portions of Iraqi territory, committing grave human rights violations. ISIS was responsible for hundreds of suicide and car bombing attacks, mass executions, sexual violence, public beheadings, and acts of torture. For three years, ISIS had millions of people under its control. It taxed families, confiscated property, and destroyed religious and architectural sites. Iraqi and Kurdish forces, joined by an international coalition, fought against ISIS and by the end of 2017, had retaken most of the country. Forces combatting ISIS also committed serious abuses, including torture, extrajudicial executions, and indiscriminate attacks on civilian areas.¹

During its period of control in Iraq, ISIS recruited thousands of children, using them as suicide bombers and combatants, and for manufacturing and planting explosive devices. Children also acted as spies and scouts, transported military supplies and equipment, conducted patrols, manned checkpoints, videotaped attacks for propaganda purposes, and served in other support positions.² ISIS' own personnel records indicate that up to 41 percent of some of its Syrian units were under the age of 18.³

Children interviewed by Human Rights Watch who said they were affiliated with ISIS identified several reasons for joining the group, including financial incentives, peer or family pressure, an escape from family problems, or a desire for social status. Based on Human Rights Watch research on the recruitment and use of child soldiers in more than a dozen armed conflicts around the world, these motivations are typical of children who join armed groups during armed conflict. Multi-country research by the United Nations University also has found that contrary to conventional wisdom, ideology is rarely the primary force motivating children's association with violent extremist groups.⁴ None of the

¹ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, December 2017, <https://www.hrw.org/report/2017/12/05/flawed-justice/accountability-isis-crimes-iraq>.

² UN, Report of the Secretary-General on children and armed conflict in Iraq, November 9, 2015, S/2015/852, para. 29, http://www.un.org/ga/search/view_doc.asp?symbol=S/2015/852&Lang=E&Area=UNDOC (accessed February 14, 2019).

³ Mara Revkin in Siobhan O'Neil and Kato van Broeckhoven, eds., *Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict*, United Nations University, 2018, p. 110.

⁴ *Ibid.*, p. 17.

children interviewed for this report indicated that ISIS ideology played a role in their decision to join.

Several children said they joined ISIS to earn a salary. “Ayman,” age 16, said, “I didn’t have any money, so I decided to join for the sake of the money. They offered 60,000 dinar (US\$51.60) a month. I did nothing, just standing under a bridge and carrying a weapon. That was it.”⁵ “Salam,” age 17, said he joined ISIS in Mosul in 2015, when he was 14. He said he made 65,000 dinar (US\$55.90) a month, working as a cook. “I never wanted to fight, that’s why I stayed a cook,” he said.⁶

Most said that schools in their villages stopped functioning within a year of ISIS’ arrival and that ISIS had taken over many local businesses. “Yusef,” age 17, said he had been working at a restaurant in Mosul, but that the restaurant closed less than a month after ISIS took control of the city. After that he said he worked for three months at another restaurant that prepared food for ISIS. Yusef said that ISIS took his identification so he could be paid, and speculated that that was why his name appeared on a list of ISIS suspects.⁷

“Faraj,” from Mosul, said he dropped out of school in 2014 because ISIS was using schools to recruit children. Two years later, at age 16, he decided to join ISIS to make money. He said he went through 20 days of religious and military training and was made an officer. “I was in charge of policing in the streets and protecting some public buildings. I wasn’t involved in hurting anyone, even in the policing work,” he said.⁸

“Fawaz,” 16, said that peer pressure often motivated people to join ISIS. “If your cousin or friend joins, they will come to convince you to join. If one person from a tribe joins, the others will go.”⁹ “Daoud,” from Hawija, said that he joined ISIS in 2015, when he was 14. “I was with a group of other guys around the same age, about 15 of us, and we decided to

⁵ Human Rights Watch interview with “Ayman,” Erbil, November 18, 2018.

⁶ Human Rights Watch interview with “Salam,” Erbil, November 21, 2018.

⁷ Human Rights Watch interview with “Yusef,” Erbil, November 22, 2018.

⁸ Human Rights Watch interview with “Faraj,” Erbil, November 18, 2018.

⁹ Human Rights Watch interview with “Fawaz,” an IDP camp south of Mosul, November 19, 2018.

join a training.” After one day of training, however, he said he changed his mind and decided to leave.¹⁰

“Nawar,” age 17, said his older brother pressured him to join ISIS. “I didn’t want to join, I didn’t want ISIS. My [maternal] uncles are Shia and I love my mother’s side of the family. I feel more Shia than Sunni, so I’m against the ideology of ISIS. I didn’t want to pray their way.” His brother eventually forced him to join. Nawar said he spent 10 days in training and worked as a guard for another ten days. Then his brother was killed and Nawar left ISIS. “When he died, there was no reason to stay,” Nawar said.¹¹

Several boys told Human Rights Watch that they participated in ISIS’ religious training but had no further involvement with ISIS. “Sami,” from Mosul, said he dropped out of school at age 13 to work in a factory, and said his only involvement with ISIS was joining a 15-day Quran course at a mosque after work.¹²

Two boys said that they joined ISIS because of family trouble. “Sadoon,” age 17, said that his mother had died, and a neighbor took him to ISIS because he thought they could provide help. He participated in religious and weapons training for several days but said he didn’t want to join and do *baiya* [a formal statement of allegiance]. “They threatened that I had to come back, but I didn’t want to. I hid at home, behind the house, and slept outside. They were doing bad things I don’t support, so I wanted to leave.”¹³

“Mahmood,” said he joined ISIS at age 15 because he was unhappy at home. His father had beaten him for getting involved in a fight, and he decided to leave his family and join ISIS. However, during his initial exam for induction, he said he changed his mind and went back home. Three or four months later, an airstrike hit his uncle’s house, killing all of his uncle’s children. Mahmood decided to join again. This time, he said he underwent 25 days of Islamic law and weapons training, and then spent several days on patrol in Mosul with a Kalashnikov assault rifle. He said he was transferred to Karemlash, a Christian town 17 kilometers east of Mosul, and in late 2015, was ordered to participate in an attack against the Peshmerga (Kurdish military forces). “Everyone took a gun and we were sent to the

¹⁰ Human Rights Watch interview with “Daoud,” an IDP camp south of Mosul, November 19, 2018.

¹¹ Human Rights Watch interview with “Nawar,” Erbil, November 22, 2018.

¹² Human Rights Watch interview with “Sami,” Erbil, November 22, 2018.

¹³ Human Rights Watch interview with “Sadoon,” Erbil, November 22, 2018.

front line. I was shooting randomly towards the Peshmerga. I was afraid, I thought, ‘This is death.’ The fight lasted about six hours, but then there was an airstrike on us, so the [ISIS] fighters started running away.” He said that after the battle, he spent several days helping to carry injured ISIS fighters and dead bodies, but then decided to quit and go home.¹⁴

“Jabar,” said that he joined ISIS for social status in June 2017, when he was 16. “I joined [ISIS] because you feel brave and powerful,” he said. “Everyone will look at you. You feel powerful when you are walking down the street with your gun.” He said that most of his friends had joined, so he decided to join as well. He said about ISIS, “I had no idea about their goal, but I thought I would enjoy it.” He said he received Islamic law training for 15 days, but no weapons training. Nevertheless, he was given a Kalashnikov. Jabar said he spent three months working as a driver for ISIS, delivering water and receiving a salary of 60,000 dinars (US\$51.60) a month. When the anti-ISIS coalition began the offensive to liberate Hawija, a city 125 kilometers south of Mosul, in September of 2017, he fled. He said that ISIS told him he should stay and fight, but that he paid a smuggler to escape.¹⁵

Several boys said they became very disillusioned with ISIS. Mahmood, mentioned above, who fought in Karemlash, said, “I started thinking that this was self-interest. Senior commanders weren’t sending their own sons to the front line, only those of us without good connections. ISIS families had a better life than us, they got better food. We were only eating onions, but our neighbors who were ISIS got chicken and meat every day.”¹⁶ “Muhammed” said he went through 60 days of training with ISIS, but then decided to quit. “ISIS is a terrible group,” he said. “They are destructive. The only reason we joined is because we were young and didn’t think. I really didn’t know what they were like. We were just kids.”¹⁷ “Jabar” says he now regrets having joined ISIS. “If you gave me the chance again, I would not join. There was no benefit. The only ‘benefit’ I got from joining ISIS was being in prison.”¹⁸

Human Rights Watch was not able to independently assess the possible involvement with ISIS of the children interviewed.

¹⁴ Human Rights Watch interview with “Mahmood,” Erbil, November 22, 2018.

¹⁵ Human Rights Watch interview with “Jabar,” Erbil, November 21, 2018.

¹⁶ Human Rights Watch interview with “Mahmood,” Erbil, November 22, 2018.

¹⁷ Human Rights Watch interview with “Muhammed,” Erbil, November 18, 2018.

¹⁸ Human Rights Watch interview with “Jabar,” Erbil, November 21, 2018.

II. “Wanted” Lists and Screening of ISIS Suspects

During the conflict with ISIS, various Iraqi and Kurdish security agencies began compiling lists of suspected ISIS members. The US Defense Department estimated that 3,000-5,000 ISIS fighters defended Mosul,¹⁹ the group’s stronghold, but according to senior Iraqi intelligence officials, the lists of suspects reportedly grew to include approximately 100,000 names.²⁰ Security officials obtained names from detainees during interrogation or from people who had left ISIS areas and supplied names of ISIS suspects in their communities, as well as from information published by ISIS itself. The lists included individuals who were suspected of involvement with ISIS in any capacity, including support functions such as drivers or cooks, or simply if a person’s relative was involved with ISIS.²¹ According to the UN Human Rights Committee, detaining individuals solely because they are family members of alleged criminals is an “egregious” form of arbitrary detention.²² Human Rights Watch also received numerous allegations from families of detained ISIS suspects that neighbors or other individuals had proposed the addition of individuals to one of the “wanted lists” simply because of familial, land, or personal disputes.²³

In late 2016 and early 2017, Human Rights Watch observed authorities²⁴ at checkpoints checking the identity cards of men and boys leaving ISIS territory and detaining those whose names appeared on a wanted list. In some cases, individuals were arrested when individuals from their neighborhoods who were traveling with them denounced them as being affiliated to ISIS, even though their names did not appear on a wanted list.

¹⁹ Briefing by Peter Cook, Assistant to the Secretary of Defense for Public Affairs, Arlington, Virginia, October 17, 2016, <https://www.c-span.org/video/?417070-1/peter-cook-briefs-reporters-military-operations-mosul> (accessed February 14, 2019).

²⁰ Ben Taub, “Iraq’s Post-ISIS Campaign of Revenge,” *The New Yorker*, December 23, 2018.

²¹ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, December 2017.

²² UN, Human Rights Committee, “General Comment No. 35,” <https://www.refworld.org/docid/553e0f984.html> (accessed February 14, 2019), para. 16.

²³ “Iraq: Displacement, Detention of Suspected ‘ISIS families,’” Human Rights Watch news release, March 5, 2017, <https://www.hrw.org/news/2017/03/05/iraq-displacement-detention-suspected-isis-families>.

²⁴ Human Rights Watch has observed a range of actors screening and detaining ISIS suspects, including army, and military intelligence; the Counterterrorism Service; the National Security Service; the Emergency Response Division; the Federal Police; the intelligence branch of the Ministry of Interior; the Popular Mobilization Forces; Asayish (KRG security forces); and the Peshmerga (KRG military forces).

According to a senior Iraqi intelligence official, thousands of ISIS suspects in custody have been arrested based on incorrect information or because their names were falsely reported.²⁵ Human Rights Watch has also documented cases in which men and boys were arrested because their names matched an ISIS suspect with the same name on a list.

Because authorities identify ISIS suspects based on interrogations that may involve torture,²⁶ speculation about family affiliations, mistaken identity, and accusations by community members with no concrete evidence, they have detained adults and children who had only minimal association with ISIS, or no affiliation at all.

²⁵ Ben Taub, “Iraq’s Post-ISIS Campaign of Revenge,” *The New Yorker*, December 23, 2018.

²⁶ Human Rights Watch interview with “Jabar,” Erbil, November 21, 2018.

III. Treatment of Children Suspected of ISIS Affiliation by Iraqi Federal Forces

Arrests

Iraqi forces have arrested thousands of children for suspected ISIS involvement.²⁷ In November 2018, Human Rights Watch documented several cases of children arrested by Iraqi forces from camps for displaced persons. A man told Human Rights Watch his son, “Abdullah,” then 13, had lost a leg in an air strike in Mosul. The family fled to a camp for displaced persons in 2017. After living there for a year, uniformed Special Weapons and Tactics (SWAT) forces under Interior Ministry command came in August 2018 and arrested Abdullah, then 14, insisting that he had been part of ISIS. The father said, “I think someone from our village reported on him because his uncle was ISIS. People said they had seen him in Mosul with ISIS. He was hanging out with ISIS just because they were his friends and cousins, that was it.” Three months after the boy’s arrest, the man said that the family had received no information about Abdullah’s whereabouts or well-being.²⁸

A woman in a camp for displaced persons said that Iraqi police arrested her 13-year-old son from the camp in August of 2018, along with his 70-year-old grandmother. She said that her husband and his brothers had belonged to ISIS and had been killed in an airstrike in Mosul. Her son had been only 12 when they fled Mosul. She said the police told her that a complaint had been made that her son was seen wearing Kandahari-style clothes, a long tunic and pants set preferred by many ISIS members, and carrying weapons. She denied that her son ever carried weapons. “I think probably they took the two of them because they don’t believe my husband and his brothers are dead, because we cannot show them the bodies. So, they arrested them to try to lure my husband in. Or it could be about money. Locals are making fake complaints to the security forces and getting paid for them.”²⁹

²⁷ Human Rights Watch telephone interview with a UN official (name withheld), February 13, 2019.

²⁸ Human Rights Watch interview (name withheld), an IDP camp south of Mosul, November 20, 2018.

²⁹ Human Rights Watch interview (name withheld), an IDP camp south of Mosul, November 20, 2018.

Another woman at a camp told Human Rights Watch that Iraqi security forces arrested her 15-year-old son, “Ahmed,” in May of 2018. She said a soldier came to her tent to ask about her son while he was out playing football. She said an hour or two later, a car returned with seven soldiers. She said they told her that her son was not in any trouble, but that they wanted to ask him some questions in her presence. She said that when her son returned home, however, the officers took him away. “My son started crying when they took him,” she said. “He said, ‘Mom, come with me, come with me.’ I went with him to the military car, but they pushed me back.” She said the officers said that they would bring him back, but six months later, he had yet to return. According to the boy’s family, his father and brothers had been part of ISIS and were killed in Mosul, but Ahmed was not involved. His mother said that Ahmed was able to call her from a prison in Shirgat, and that his grandmother was able to see him twice – once at the prison in Shirgat and again after he was transferred to Tikrit – but they had no information about his case or when he might be released.³⁰

Human Rights Watch spoke to two other families who said security forces arrested a child from the family from camps on suspicion of ISIS membership. One man said his 17-year-old brother, “Ibrahim,” was arrested by police in September 2017 from Hammam al-Alil camp, but that when the family went to the police station, officers denied holding the boy. Over a year later, the family had no idea of the boy’s whereabouts. “Ibrahim didn’t join or work for ISIS,” said the brother. “I don’t know why they took him.”³¹ In another case, a father reported that police arrested his son in October 2017, when he was 14 years old. He said he was able to see him once at the Hammam al-Alil prison, but authorities there only allowed him to talk with him for two minutes. He went back two weeks later but the police told him his son had been transferred. One police officer told him he was transferred to Mosul, but another said he was taken to Baghdad. “Now I am confused,” he said. “I’m not sure what happened to him.”³²

A woman told Human Rights Watch that Iraqi Counter Terrorism Services (CTS) forces manning a checkpoint south of Mosul detained her sons “Atheer,” 15, and “Saddam,” 17, in August 2017.³³ She said CTS forces took her sons, both students due to go back to

³⁰ Human Rights Watch interview (name withheld), an IDP camp south of Mosul, November 20, 2018.

³¹ Human Rights Watch telephone interview (name withheld), November 21, 2018.

³² Human Rights Watch telephone interview (name withheld), November 21, 2018.

³³ Human Rights Watch interview (name withheld), Nimrud, January 31, 2018.

school in September, out of the family's car at the checkpoint after inspecting their identity cards.

We were all in a car together, the officers stopped the car, and took them out of the car, and said we would see them again in four days. I have no idea why they wanted to question them, they are just boys. While we were there, I saw the officers take at least 10 people who really looked like boys out of buses transporting large numbers of displaced families.³⁴

She said that despite the assurances from the officers that her sons would return in four days, since their arrest they have vanished and no government entity has given her any information about their fate or whereabouts, despite her requests for information.³⁵

Several of these cases constitute enforced disappearances. Enforced disappearance is defined under international law as the arrest or detention of a person by state officials or by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the arrest or to reveal the person's fate or whereabouts. Human Rights Watch has previously reported on the enforced disappearance of hundreds of Iraqi men and boys by Iraqi military and security forces, in one report documenting 74 cases of men and 4 cases of boys detained and forcibly disappeared between April 2014 and October 2017.³⁶

Interrogation and Torture

Iraqi authorities have prosecuted thousands of detainees, including hundreds of children, for alleged ISIS affiliation.³⁷ Investigations rely heavily on interrogations, often accompanied by torture, to elicit confessions. Because Iraq's counterterrorism law provides harsh penalties for mere membership in ISIS, Iraqi courts rarely seek victim or

³⁴ Ibid.

³⁵ Ibid.

³⁶ Human Rights Watch, *"Life without a Father is Meaningless," Arbitrary Arrests and Enforced Disappearances in Iraq 2014-2017*, September 2018, <https://www.hrw.org/report/2018/09/27/life-without-father-meaningless/arbitrary-arrests-and-enforced-disappearances-iraq>.

³⁷ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, December 2017.



“Karim” said interrogators raised and bound his legs and beat him on the soles of his feet.

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witness testimonies to prove the culpability of ISIS suspects in any specific crimes, like murder or rape.³⁸

“Karim,” 17, said he was arrested by Iraqi security officers in the spring of 2017 because his name was on a “wanted list.” Karim said he was held with 60 other prisoners in a room of approximately 4x5 meters, and that security forces often came into the room and beat everyone in the group with cables. He said that of the 60 prisoners, approximately 15 were other children under the age of 18.³⁹

Karim said that in addition to the group beatings, he was also individually interrogated. During his interrogations, he said security officers told him to confess to joining ISIS. He said they forced him onto his back on the ground, with his legs in the air and ankles tied together, and then beat him on the soles of his feet. He said interrogators also tied his wrists behind his back, and then hung him in the air by his arms for 10 minutes at a time. After a two-minute pause, interrogators hung him again for another 10 minutes, he said.

³⁸ Ibid.

³⁹ Human Rights Watch interview with “Karim,” town south of Mosul, November 20, 2018.

They repeated this four times in total, he said.⁴⁰ Karim said his interrogators told him that he should confess to joining ISIS for three days which he eventually did.⁴¹

Karim said he was taken to a judge after about a week, but that interrogators told him in advance that if he denied his confession, he would be tortured further. He said, “The officers were in the room with us. I was afraid to deny my confession, so I told the judge I joined ISIS for three days. I was too afraid to say I was tortured.”⁴²

After 45 days at the prison, Karim said he was transferred with approximately 100 other prisoners to a prison at Baghdad airport. He said security officers at the prison tied his hands with plastic and then beat him all over his body with a plastic pipe. He was detained for seven and a half months in Baghdad, and said, “Every day was torture. We were beaten every day, all of us.” Eventually, in December 2017, he saw another judge who ordered his release two weeks later and he was able to return to his family.⁴³

Court Appearances and Trials

According to an Iraqi lawyer who has represented children accused of terrorism in Iraq, approximately 400 to 500 children have been tried in Iraq for ISIS affiliation.⁴⁴ Sentences for children convicted of terrorism under Iraqi law are much longer—typically 5 to 15 years— than those under the KRG’s counterterrorism law.

Under Iraqi criminal procedure, police must bring suspects before a judge within 24 hours of their detention.⁴⁵ Iraqi law also grants detainees the right to pick their own lawyer, or have one appointed by the state, who is present throughout the investigative period. Our research suggests that in practice, however, authorities often fail to bring ISIS suspects before a judge within 24 hours and suspects often do not have lawyers present during interrogations or court appearance.⁴⁶

⁴⁰ Ibid.

⁴¹ Ibid.

⁴² Ibid.

⁴³ Ibid.

⁴⁴ “Iraq: Change Approach to Foreign Women, Children in ISIS-Linked Trials,” Human Rights Watch news release, June 21, 2018, <https://www.hrw.org/news/2018/06/21/iraq-change-approach-foreign-women-children-isis-linked-trials>.

⁴⁵ Iraq Criminal Procedural Code (no. 23/1971).

⁴⁶ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, December 2017.

Several Iraqi judges interviewed by Human Rights Watch said that they rely primarily on confessions as the basis for prosecutions of ISIS suspects, as well as written testimony from friends or neighbors supporting claims of ISIS affiliation.⁴⁷ Human Rights Watch is gravely concerned that judges conducting trials in areas under Baghdad control frequently ignore allegations that confessions were procured through torture or coercion. In June and July of 2018, Human Rights Watch monitored 18 trials of ISIS suspects in Baghdad. In 16 of the 18 trials, defendants alleged that they had been tortured, including to extract confessions. In some instances, judges asked the defendant in the courtroom to reveal marks of torture, but in no case did judges take any other action with regard to defendants' claims that their confessions were extracted under torture.⁴⁸

Detention

Based on information from multiple sources Human Rights Watch estimates that at the end of 2018, Iraqi and KRG authorities were detaining approximately 1,500 children for alleged ISIS affiliation.⁴⁹ Of the 1,036 children detained in Iraq on national security charges in 2017, approximately 80 percent were held by Iraqi federal authorities, and the rest were held by the KRG.⁵⁰

In 2017, Human Rights Watch visited three detention centers in Baghdad-controlled territory where federal forces were detaining children. Two were in the town of Qayyarah, 60 kilometers south of Mosul, and the third was at a local police station in Hammam al-Alil, 30 kilometers south of Mosul. Human Rights Watch was not permitted to interview detainees, but according to prison staff, at least 80 of the detainees at Qayyarah were children under 18, with the youngest being 13.⁵¹ Human Rights Watch also observed that the Hammam al-Alil police station also detained children.⁵²

⁴⁷ Ibid.

⁴⁸ "Iraq: Judges Disregard Torture Allegations: Failure to Investigate, Punish Security Forces Implicated in Abuse," Human Rights Watch news release, July 31, 2018, <https://www.hrw.org/news/2018/07/31/iraq-judges-disregard-torture-allegations>.

⁴⁹ Human Rights Watch interview with Judge Raed al-Maslah, head of the Nineveh Counterterrorism Court, February 4, 2019; Human Rights Watch email correspondence, February 15, 2019.

⁵⁰ UN, Report of the Secretary-General to the Security Council on children and armed conflict, May 16, 2018, S/2018/465, para. 76.

⁵¹ "Iraq: Hundreds Detained in Degrading Conditions," Human Rights Watch news release, March 13, 2017, <https://www.hrw.org/news/2017/03/13/iraq-hundreds-detained-degrading-conditions>.

⁵² Ibid.

Human Rights Watch observed that all three facilities were so overcrowded that no detainee could lie down to sleep. Human Rights Watch visited one cell of roughly 4x6 meters that had been housing 114 detainees for four months, with a single toilet. The windows were bricked up, and the temperature and stench in the room were overpowering. At least four had died in cases that, according to prison staff, were linked to the lack of proper medical care and hygiene standards. They said that despite repeated requests to Baghdad authorities, the government had not provided any medical support to the detention centers for months.⁵³

At Qayyarah prison, staff said that they had recently begun detaining children in a separate building from adult detainees. They said that the children were not allowed outside of their cell, and that they had no opportunities for activities, exercise, education, or contact with their families. The only exception was for a small number of children who provided uncompensated labor for the prison staff by distributing food and water, including for the adult detainees.

At the Hammam al-Alil prison, children were detained together with adults, in violation of international standards. Staff said that they did not know how many detainees were under 18, but that it was a “considerable number.” They said the children had no opportunities for activities, including exercise, education, or contact with their families. Human Rights Watch observed crowded and unsanitary conditions, including sinks blocked with water, and that the detainees had no furniture or mattresses or access to showers.⁵⁴

The Iraqi government has specialized juvenile justice systems for children. However, not all children suspected of ISIS affiliation are held in juvenile justice facilities throughout their investigation and trial. A lawyer who handled dozens of cases of children charged for terrorism told Human Rights Watch that many children were held in Baghdad for months in adult counterterrorism facilities, and not transferred to juvenile facilities.⁵⁵

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Human Rights Watch interview (name withheld), Baghdad, September 19, 2017.

IV. KRG Treatment of Children Suspected of ISIS Affiliation

Arrests by KRG Forces

The Kurdistan Regional Government (KRG) has arrested hundreds of boys for alleged ISIS association at checkpoints as they were fleeing ISIS territory, from camps for displaced persons, or when entering the Kurdistan region to find work.⁵⁶ “Malik” fled military operations in Hawija in late 2017, when he was 17. At a KRG checkpoint, he said authorities asked the family if they were with ISIS. “Someone else in the group said I was ISIS. I didn’t know the person.” He was arrested along with two of his uncles. He said his only involvement with ISIS was taking a 15-day course to learn about the Quran.⁵⁷

“Sami,” 17, said that Asayish officers arrested him at a checkpoint in September 2018 as he was on his way to Erbil to find work. “They said my name was on a list, because I had a link to ISIS,” he said. Like “Malik,” he said that he had participated in a 15-day religion course run by ISIS in 2015, but that he had no weapons training or further involvement with ISIS.⁵⁸

“Tahir” fled his village in June of 2016 and had been in a camp for displaced persons for more than a year when Asayish officers arrested him at age 16. He said, “Someone at the camp complained about me, an old friend who I had a long-time issue with.” He said: “Some of my family was ISIS, but never me, my dad, or my brother.”⁵⁹

“Fawaz,” 16, said that his father had owned several shops and been quite wealthy, generating resentment from other villagers. Fawaz said he had not joined ISIS, but had a cousin who joined and fought on the front lines. He learned after his arrest that people in his village had reported that he had joined ISIS. “People wanted to take revenge on my

⁵⁶ The UN Secretary-General has reported that the KRG detained 172 children for suspected ISIS affiliation in 2016, and 345 in 2017. See also “Kurdistan Region of Iraq: New Detentions of Fleeing Men, Boys,” Human Rights Watch news release, June 3, 2017, <https://www.hrw.org/news/2017/06/03/kurdistan-region-iraq-new-detentions-fleeing-men-boys>.

⁵⁷ Human Rights Watch interview with “Malik,” Erbil, November 21, 2018.

⁵⁸ Human Rights Watch interview with “Sami,” Erbil, November 22, 2018.

⁵⁹ Human Rights Watch interview with “Tahir,” Erbil, November 21, 2018.



Several boys interviewed described being tortured in a stress position called “scorpion” for up to two hours at a time. © 2018 John Holmes

family,” he said. “The government should depend on actual sources when arresting ISIS suspects. Then only ISIS people will be arrested.”⁶⁰

Interrogation and Torture

Nineteen of the 29 boys and youth interviewed said that during their interrogation, Asayish officers beat them with plastic pipes, electric cables, or rods. Several said they were beaten all over their bodies, sometimes by multiple officers at once. Three boys said that they were subjected to electric shocks. Others described being tied into a stress position called “the scorpion” with one arm extended over their shoulder and another pulled behind their back, with their wrists bound together. Several of the boys said the torture continued over consecutive days, and only ended when they confessed.

All but one of the boys interviewed said they eventually confessed to ISIS association during their interrogations, regardless of their actual involvement. Most said they believed they had no choice but to confess in order to stop the torture, with many saying they lied. “Tahir,” 17, said his interrogators told him, “You need to say you were with ISIS. Even if you

⁶⁰ Human Rights Watch interview with “Fawaz,” an IDP camp south of Mosul, November 19, 2018.

weren't, you need to say it.”⁶¹ “Lokman,” a 17-year-old who was arrested in August of 2018, said, “Everyone needs to confess, even if it is just for one day [of ISIS involvement]. They say to you, ‘No matter what, you need to confess.’”⁶² “Fawaz,” 16, said “My confession says that I joined ISIS for 16 days, but actually, I didn’t join at all. I said 16 days to stop the torture.”⁶³

Most of the boys said that their interrogators instructed them on what they should confess, often ordering them to confess to specific periods of time with ISIS. “Khalaf,” 14, was arrested at a checkpoint with his father in October 2017 when he was 13 years old. He said that six days after his arrest, Asayish officers interrogated and tortured him. “They were beating me all over my body with plastic pipes. First they said I should say I was with ISIS, so I agreed. Then they told me I had to say I worked for ISIS for three months. I told them I was not part of ISIS, but they said, ‘No, you have to say it.’” After two hours of interrogation and torture, he said he agreed.⁶⁴

“Shamal,” 16, said that during his interrogation,

I think there were three officers, but I was blindfolded, so I am not sure. They kept saying, ‘You are ISIS,’ and hit me many times with long rods. On the second day, the same thing happened, so finally that day I confessed. They said to say that I was with ISIS for six months, but I said no, that I would only confess to two months.⁶⁵

“Hussein,” said Asayish interrogated and tortured him in September 2017, when he was 14 years old. He said,

They beat me all over my body with a plastic water pipe, and then tied my hands like a scorpion [one arm over the shoulder, and the other behind his back] for two hours. They asked me about ISIS, saying, ‘You have to confess you are ISIS.’ They forced me to confess that I worked with ISIS for one

⁶¹ Human Rights Watch interview with “Tahir,” Erbil, November 21, 2018.

⁶² Human Rights Watch interview with “Lokman,” Erbil, November 18, 2018.

⁶³ Human Rights Watch interview with “Fawaz,” an IDP camp south of Mosul, November 19, 2018.

⁶⁴ Human Rights Watch interview with “Khalaf,” Erbil, November 22, 2018.

⁶⁵ Human Rights Watch interview with “Shamal,” Erbil, November 21, 2018.

month. They also said I should say I used Kalashnikovs, M-16's, and BKC's.⁶⁶

Hussein said none of it was true, but that his interrogators told him that if he didn't confess, they would keep torturing him and shock him with an electric cable.⁶⁷

"Samir," age 17, said,

There were three officers. They bound my hands behind my back, one from above and one below. They beat me with a stick and they gave me 5-10 electric shocks. They put the pads on my left shoulder and on my stomach. And while they gave me the shocks they were beating me with a rod. They did this three days in a row. I was in the room for hours, with them coming in and out and taking breaks. On the third day I confessed. They said to admit to two months with ISIS. I did, but it was a lie. I was never with ISIS.⁶⁸

"Tahir" reported that Asayish officers applied electric shocks to his body during his interrogation in late 2017. He said that he was interrogated and tortured for three days.

My hands were bound and there were six or seven officers in the room. They were all hitting me. They hit my legs and upper arms. Each day they gave me five electric shocks in a row, on my arms, chest and upper legs. On the third day, I confessed to [being with ISIS for] four days. They said, 'You need to say more.' I didn't say more, I refused to.⁶⁹

"Mahmood," 17, said that during his first day of interrogation, a man holding a cable told him to confess. "I said no, and he started hitting me with a cable." He said the man pushed him onto a table, breaking the table, then forced him onto his back on the ground, put a chain around his ankles, raised his legs, and began beating him on the soles of his feet. According to Mahmood, two days later, his interrogators repeated the same

⁶⁶ Human Rights Watch interview with "Hussein," Erbil, November 21, 2018.

⁶⁷ Ibid.

⁶⁸ Human Rights Watch interview with "Samir," Erbil, November 21, 2018.

⁶⁹ Human Rights Watch interview with "Tahir," Erbil, November 21, 2018.

treatment. Mahmood said they told him to confess to joining ISIS for two years, fighting in Qayyarah and Mosul, and killing a CTS officer. He said he ultimately confessed, but “In reality, I’ve never been to Qayyarah. They kept pushing me to say I killed an Asayish officer, but I refused.”⁷⁰

Admitting to ISIS involvement did not preclude additional torture. Jabar said that when Asayish first asked him about ISIS involvement, he immediately admitted that he had joined ISIS and worked as a driver for three months. Nevertheless, he said Asayish officers beat him on his back with a plastic pipe for 40 minutes and tied him in “scorpion” pose for an hour, asking for the names of ISIS commanders and friends who had joined ISIS. Jabar said he didn’t know the names of any commanders but gave the names of his friends. He said after the interrogation, he was in such pain that he was unable to lie on his back for a week.⁷¹

Several boys said they were not beaten but were threatened with torture. “Aziz,” for example, said that his interrogators told him, “If you don’t tell us the truth, I will call [the guys] and they will beat you and break your bones.”⁷² A few boys said that after they were arrested, they confessed immediately to ISIS involvement, and were not tortured.⁷³

The KRG states that “Inappropriate treatment towards detainees on behalf of Asayish and other security department is not permissible or tolerable under any circumstances,”⁷⁴ and that if such treatment occurs, immediate action is taken, including punishment of the perpetrators.⁷⁵ The KRG did not provide any information regarding any investigations or disciplinary action that has been taken in regards to torture or ill-treatment of children in its custody.

⁷⁰ Human Rights Watch interview with “Mahmood,” Erbil, November 22, 2018.

⁷¹ Human Rights Watch interview with “Jabar,” Erbil, November 21, 2018.

⁷² Human Rights Watch interview with “Aziz,” Erbil, November 21, 2018.

⁷³ Human Rights Watch interviews with “Salam” and “Salahaden,” Erbil, November 18, 2018.

⁷⁴ Email correspondence to Human Rights Watch from Dr. Dindar Zebari, KRG Coordinator for International Advocacy, February 18, 2019.

⁷⁵ Ibid.

Access to Lawyers

The KRG states that it provides lawyers for detainees, and that the Erbil Reformatory for Women and Children has worked with civil society to provide lawyers for child detainees charged with terrorism.⁷⁶ Only five of the 29 boys Human Rights Watch interviewed in the Kurdistan region appeared to have any access to legal representation, however. Some said they had no idea whether or not they had a lawyer, and most were unaware of their right to legal representation. Some reported that staff at the reformatory had told them that lawyers were only available if they were willing to pay. One expressed a fear that asking for a lawyer could result in a longer sentence.

Only two boys reported any access to a lawyer apart from the trial hearings. “Hussein,” 15, said that a lawyer came to the reformatory and spoke with him before his trial in July 2018, asking about his background and any involvement with ISIS. He said that at his trial, the lawyer urged the judge to take the boy’s young age into account and sentence him to less than six months.⁷⁷

Three boys said that they saw someone that they believed was a lawyer for the first time only at their trial. Even then, they said they had little to no interaction with the lawyer, and if the lawyer spoke to the judge, it was in Kurdish, a language most of the boys did not understand. “Samir,” was tried in July of 2018 and said, “Maybe there was a female lawyer for me, I am not sure. During my case she was speaking to the judges in Kurdish. She never spoke to me and did not meet me before or after the trial.”⁷⁸

Several boys at the reformatory said that guards showed them lists of lawyers that were available for a fee. “Sami” said, “Here in prison they come by, the staff, with lists of lawyers, and say how much it would cost to get one. You cannot get a lawyer for free.” He had not yet been sentenced and said “I am too scared to ask for a lawyer when I go to the judge. They may punish me with a longer sentence.”⁷⁹

⁷⁶ Ibid.

⁷⁷ Human Rights Watch interview with “Hussein,” Erbil, November 21, 2018.

⁷⁸ Human Rights Watch interview with “Samir,” Erbil, November 21, 2018.

⁷⁹ Human Rights Watch interview with “Sami,” Erbil, November 22, 2018.

Court Appearances and Trials

Terrorism suspects are brought before an investigative judge, typically while in Asayish custody, who may then order the suspect's transfer to the reformatory for detention pending trial before a three-judge panel. None of the boys interviewed said they were brought before a judge within 24 hours of their initial detention, as required by the Iraqi penal code. Most said they saw a judge only several days after their arrest.

Most of the boys said that their appearances before both investigative and trial judges lasted no more than five or ten minutes. They said the judge typically read their confession and asked if they had joined ISIS. Although the judges spoke Arabic to the boys, they generally spoke Kurdish to others in the courtroom and among themselves. "Salam," 17, said, "All the papers were in Kurdish and there was no one to translate so I never knew what anything said."⁸⁰

Several boys said that they told the judge in their case that they made their confession under torture. Each said that the judge appeared to ignore their claim. "Shamal" said that when he told his investigative judge that he had confessed under torture, "The judge just nodded and told me to leave the room. He didn't order a medical exam or anything like that." Two months later, Shamal was tried before a panel of three judges. He had no lawyer, but again told the judges that he had been tortured. "They ignored it," he said. He was sentenced to six months.⁸¹ According to the KRG, if a suspect has been subjected to torture during interrogation or detention, they must inform the investigating judge, and the judge must then investigate.⁸²

The boys tried by the KRG said no witnesses appeared at their trials, and none were aware of any evidence presented apart from their confession. "Malik" who said he took a 15-day Islamic law course but denied any other ISIS involvement, said, "If someone complains against you, they should bring that person in front of you, so you can see if that person's story is real."⁸³

⁸⁰ Human Rights Watch interview with "Salam," Erbil, November 21, 2018.

⁸¹ Human Rights Watch interview with "Shamal," Erbil, November 21, 2018.

⁸² Email communication to Human Rights Watch from Dr. Dindar Zebari, KRG Coordinator for International Advocacy, February 18, 2019.

⁸³ Human Rights Watch interview with "Malik," Erbil, November 21, 2018.

Although the KRG's counter-terrorism laws allow for life sentences for terrorism, in practice, children charged with ISIS association in KRG courts receive much more lenient sentences than children tried in Baghdad-controlled Iraq. Most of the children Human Rights Watch interviewed who said they had been convicted said their sentences were between six and nine months. The KRG states that sentences have ranged from one month to five years.⁸⁴

Detention

According to the United Nations, in 2017 the KRG detained 345 children on national security charges, mostly for alleged affiliation with ISIS.⁸⁵ The KRG informed Human Rights Watch that in the first half of 2018, it detained at least 121 children as ISIS suspects⁸⁶ According to children interviewed, after arrest, Asayish typically takes detainees to the General Security Directorate (also known as Asayish Gishti) or other Asayish locations, where the Asayish interrogate them before they appear before an investigative judge. If the judge confirms the charges, Asayish takes them to a detention facility to await trial.

In November 2018, at the time of Human Rights Watch's visit, 63 boys were detained at the Women and Children's Reformatory in Erbil for alleged ISIS association, including 43 who had been convicted, and 20 who were detained pending trial.⁸⁷ By February 2019, the number had increased to 84, including 20 girls.⁸⁸ In the reformatory, children charged with terrorism are segregated from other detainees. Between 12 and 20 boys share a large room with bunk beds around the perimeter. The boys reported that generally, they are treated and fed well. However, Human Rights Watch has grave concerns about excessive periods of confinement, lack of education and rehabilitation, abuse by some guards, inadequate medical care, and lack of family contact.

⁸⁴ Email communication to Human Rights Watch from Dr. Dindar Zebari, KRG Coordinator for International Advocacy, February 18, 2019.

⁸⁵ UN, Report of the Secretary-General on children and armed conflict, May 16, 2018, S/2018/465, para. 76, http://www.un.org/ga/search/view_doc.asp?symbol=S/2018/465&Lang=E&Area=UNDOC (accessed February 14, 2019).

⁸⁶ Letter to Human Rights Watch from Dr. Dindar Zebari, KRG coordinator for international advocacy, December 14, 2018, https://www.hrw.org/sites/default/files/supporting_resources/response_dindar_zebari_dec18_english.pdf.

⁸⁷ Human Rights Watch interview with director of the Women and Children's Reformatory in Erbil, November 18, 2018.

⁸⁸ Email communication to Human Rights Watch from Dr. Dindar Zebari, KRG Coordinator for International Advocacy, February 18, 2019.

Excessive confinement

Boys interviewed by Human Rights Watch at the reformatory in November 2018 said that guards confined them to their rooms for up to 48 hours at a time, and that they had little to occupy them apart from talking with each other. According to both detainees and reformatory staff, the boys are permitted to go outside to play football for an hour every other day. “Hussein,” 15, said, “If a guard is nice, they will let us out a couple of times a day to go from one room to another.”⁸⁹ “Ali,” 14, said, “I stay on my bed, I don’t talk to anyone, thinking, sometimes crying. There is a TV in the room, but it doesn’t work. There are no books or games. . . I just look at the wall and miss my family.”

Inadequate education, recreation, and rehabilitation

Children detained on suspicion of ISIS association do not have access to Arabic-language education at the reformatory. Kurdish education is available, but most of the boys charged with ISIS affiliation do not speak Kurdish. The reformatory’s director told Human Rights Watch that the KRG Ministry of Education had not given permission for the boys to receive an Arabic curriculum.⁹⁰ A KRG representative informed Human Rights Watch that UNICEF was overseeing an initiative coordinated by the KRG and the Iraqi ministries of education and labor to provide the detainees with education in Arabic.⁹¹

“Sadoon,” 17, had been detained for six weeks and said, “I want to go to school, develop my ideas, but they don’t allow us.” He said reformatory staff allowed him to visit the library once.⁹²

“Ayman,” 16, had been at the reformatory for two and a half months, and said that during that time, he had participated in one psychosocial workshop, but had no other activities besides playing soccer.⁹³ Two boys reported that they had been able to participate in

⁸⁹ Human Rights Watch interview with “Hussein,” Erbil, November 21, 2018.

⁹⁰ Human Rights Watch interview, Erbil, November 19, 2018.

⁹¹ Letter to Human Rights Watch from Dr. Dindar Zebari, KRG coordinator for international advocacy, December 14, 2018.

⁹² Human Rights Watch interview with “Sadoon,” Erbil, November 22, 2018.

⁹³ Human Rights Watch interview with “Ayman,” Erbil, November 18, 2018.

painting classes.⁹⁴ One said that he had also been allowed to visit the library every week or two to get a book.⁹⁵

Several boys reported that apart from soccer, their only activity was playing with a Playstation in their room. They said that seven boys had pooled money from their families, each contributing 10,000 dinars (US\$8.40), and that a guard had purchased the game for them.⁹⁶

Reformatory staff told Human Rights Watch that convicted detainees had access to music classes, and workshops on how to fix air conditioners and mobile phones and become barbers.⁹⁷ None of the children interviewed by Human Rights Watch said they had participated in any of these activities, however. When asked why only convicted detainees were allowed to participate in these programs, the staffer said that global standards do not allow pre-trial detainees access to such activities.⁹⁸ In fact, international juvenile justice standards require appropriate rehabilitation activities for all children deprived of their liberty.⁹⁹

Lack of adequate medical and mental health care

According to the KRG coordinator for international advocacy, detainees have constant access to medical personnel at detention facilities and access to hospitals, if necessary.¹⁰⁰ Several boys described inadequate medical care, however, saying that they had been denied medication or treatment. One said that his family had come to the reformatory three times to bring him medication needed for an ongoing medical condition, but that guards refused them access and would not accept the medication.¹⁰¹ One of the boys said that he was suicidal and showed signs of self-harm, and another described psychological problems, but neither had received specialized psychological assistance.

⁹⁴ Human Rights Watch interviews with “Khaled,” an IDP camp south of Mosul, November 19, 2018 and “Hussein,” Erbil, November 21, 2018.

⁹⁵ Human Rights Watch interview with “Hussein,” Erbil, November 21, 2018.

⁹⁶ Human Rights Watch interview with “Jabar,” Erbil, November 21, 2018.

⁹⁷ Human Rights Watch interview, Erbil, November 22, 2018.

⁹⁸ Ibid.

⁹⁹ United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“The Beijing Rules”), A/RES/40/33, adopted November 29, 1985, provisions 13.5, 24.1, 26.1.

¹⁰⁰ Letter to Human Rights Watch from Dr. Dindar Zebari, KRG coordinator for international advocacy, December 14, 2018.

¹⁰¹ Human Rights Watch interview with “Ziad,” Erbil, November 22, 2018.

Several boys said that they had seen a doctor at the reformatory but did not receive the treatment they needed. “Tahir,” 17, said, “The doctor here, whenever we go to him, says that we are lying and are not actually sick, so he doesn’t help us.”¹⁰² A staffer at the reformatory also disbelieved their claims, saying, “They are lying in what they say. The doctor sees them and can tell they are lying.”¹⁰³

“Nawar” said he had suffered psychological problems since he was six years old. He said he had asked staff for help and that they promised to take him to the hospital, but hadn’t done so, saying the doctor was not available.¹⁰⁴

One boy was clearly suicidal. “Sadoon,” age 17, had been detained for about six weeks, and during that time had one visit, lasting five minutes, from the grandfather who had raised him. He said that after his grandfather’s visit, he had cut himself. “I am getting nightmares, thinking of him, telling me to cut myself. I have cut myself in lots of places.” He said he hadn’t gone to the doctor, because he was afraid that he would be punished. He was denied phone calls and was uncertain when he could see his grandfather again. “I will kill myself if he can’t see me in the coming months and I can’t see him.” Later, he said, “If I stay here three more months, I will kill myself.”¹⁰⁵

Contact with family

All of the boys said they were not allowed to communicate with their families while in Asayish custody. Once at the reformatory, children were allowed family visits before trial, but most said they were denied phone calls until after sentencing. For some detainees, the inability to make phone calls meant that their families had no idea where they were. One boy had been detained for nearly two years without contact with his family.

According to reformatory staff, Asayish determines whether or not detainees are allowed to receive visits or phone calls.¹⁰⁶ The KRG coordinator for international advocacy stated in a

¹⁰² Human Rights Watch interview with “Tahir,” Erbil, November 21, 2018.

¹⁰³ Interview with staff at the Women and Children’s Reformatory, Erbil, November 22, 2018.

¹⁰⁴ Human Rights Watch interview with “Nawar,” Erbil, November 22, 2018.

¹⁰⁵ Human Rights Watch interview with “Sadoon,” Erbil, November 22, 2018.

¹⁰⁶ Human Rights Watch interview with staff at the Women and Children’s Reformatory, Erbil, November 22, 2018.

letter to Human Rights Watch that families of detainees are notified immediately about the detention of a family member and the reason for the detention. It said that detainees are allowed visits from relatives and that “if necessary” they are allowed to make telephone calls in the presence of a security officer.¹⁰⁷ Human Rights Watch does not know of a single instance since 2016 where KRG authorities notified a family member of an ISIS suspect directly that the suspect was in custody.

“Salahadin,” 17, arrived at the reformatory in November of 2017. He said he asked staff to call his family, but was told he would only be allowed to call after he was sentenced. It was not until August 2018—nine months later—that he was tried and allowed phone calls.¹⁰⁸ “Mahmood,” told Human Rights Watch he had been detained for nearly two years but had no contact with his family. “We are not allowed to call our families. If I could call them, I would ask for money and hire a lawyer. They don’t know that I am here.”¹⁰⁹ “Aziz,” 17, said, “I’ve been here for a month and a half. Until now, they haven’t allowed me to see my family. When I ask, the guards say, ‘You’re a terrorist case, you can’t see your family.’”¹¹⁰

Once given permission to make phone calls, the boys said they were allowed two calls per week, but for a fee.¹¹¹ Most said that their families gave them money for the phone calls, but not all could afford them. “Salahadin,” who had been detained for a year, said he could no longer call his family. “I have no money.”¹¹²

“Nasim,” 17, had received several visits from his family but found the separation very difficult. “If I could see my family only one day, I would give 100 years off my life. I miss my family a lot. I think about them every day, every second.”¹¹³

Beatings, verbal abuse, and death threats by guards

Some of the children said that reformatory officials treated them well. However, 14 of the boys interviewed reported that reformatory guards beat them for perceived misbehavior or

¹⁰⁷ Letter to Human Rights Watch from Dr. Dindar Zebari, KRG coordinator for international advocacy, December 14, 2018.

¹⁰⁸ Human Rights Watch interview with “Salahadin,” Erbil, November 21, 2018.

¹⁰⁹ Human Rights Watch interview with “Mahmood,” Erbil, November 22, 2018.

¹¹⁰ Human Rights Watch interview with “Aziz,” Erbil, November 18, 2018.

¹¹¹ Human Rights Watch interviews with “KhalaF” and “Jabar,” Erbil, November 21, 2018.

¹¹² Human Rights Watch interview with “Salahadin,” Erbil, November 21, 2018.

¹¹³ Human Rights Watch interview with “Nasim,” Erbil, November 22, 2018.

that they were aware of guards beating other boys. Several boys identified the same three or four specific guards who engaged in physical or verbal abuse, providing their names, and examples of violent behavior. Those boys who said they had been beaten said that guards removed them from their rooms and took them outside, out of sight of security cameras, and beat them with plastic pipes, their hands, or shoes.

“Mahmood,” 17, said that reformatory guards had beaten him several times. In October of 2018, he had a fight during lunch with one of his friends, and said that several guards took him outside, where they slapped and hit his hands with a plastic pipe. Mahmood said that the following day, a guard took him outside again and beat him, kicked him, slapped him, and tied his hands above his head. He said the guard then took off his shoes and used one to hit his face.¹¹⁴

“Muhammed,” 17, said, “Some staff here hit the kids with shoes, sticks, water pipes. There are cameras in the cells and if you are talking when you aren’t meant to, or are not sleeping, they will hit you.”¹¹⁵ “Shamal” said that the day before he spoke to Human Rights Watch, guards had beaten him with a stick on the bottom of his feet. “They said I had been disrespectful when we were grabbing some clothes they brought us.”¹¹⁶

“Sami” identified a specific guard that beat detainees. He said that eight days before Human Rights Watch spoke with him, the guard “started hitting me after I didn’t do what he said. On the leg and on the cheek with his hand, sometimes a stick on my feet. He comes to the room, takes us out, and beats us.”¹¹⁷

Several boys also said that guards shouted and cursed at them. “Nawar” said “One guard told us, ‘If it’s my choice, I will kill you all.’”¹¹⁸ “Sadoon” said that one guard called the boys “sons of bitches” and said, “I will strangle you boys to death.”¹¹⁹ He said the guard bound the hands of boys from his cell and left them in the hallway for three hours.

¹¹⁴ Human Rights Watch interview with “Mahmood,” Erbil, November 22, 2018.

¹¹⁵ Human Rights Watch interview with “Muhammed,” Erbil, November 18, 2018.

¹¹⁶ Human Rights Watch interview with “Shamal,” Erbil, November 21, 2018.

¹¹⁷ Human Rights Watch interview with “Sami,” Erbil, November 22, 2018.

¹¹⁸ Human Rights Watch interview with “Nawar,” Erbil, November 22, 2018.

¹¹⁹ Human Rights Watch interview with “Sadoon,” Erbil, November 22, 2018.

A senior staff person at the reformatory said that guards were not permitted to physically punish detainees and that he was not aware of any such behavior in the previous two years. He said that permissible disciplinary action included denying detainees phone calls, visits, or football privileges.¹²⁰ The KRG's coordinator for international advocacy stated in a letter to Human Rights Watch that all forms of torture and ill-treatment are prohibited and the practice of ill-treatment is rare in KRG detention facilities. In the case of any allegations, he said that the KRG would immediately investigate and hold perpetrators accountable.¹²¹ He did not respond to Human Rights Watch's request for information regarding the number of allegations received, how many had been investigated, and whether any officers had been punished for ill-treatment.¹²²

Detention beyond sentencing

According to both reformatory staff and children interviewed, children convicted of terrorism charges may be detained at the reformatory despite having served their full sentence. "Salam," for example, had been detained for more than two years when he spoke with Human Rights Watch, despite receiving a six-month sentence. Asayish detained him for a year and seven months before his transfer to the reformatory in May of 2018. He was given a six-month sentence in August of 2018. He said, "I don't know why I can't leave," he said. "I have been imprisoned for so much longer than that."¹²³

Reformatory staff said that when sentenced, children were given credit for time served at the reformatory, but not for time spent in Asayish custody, even though some children had been held by Asayish for several months before transfer to the reformatory. Staff also said they were not allowed to release detainees without permission from Asayish. Staff said that at the time of Human Rights Watch's visit, twelve boys were still detained at the reformatory, despite having served their sentence.¹²⁴ The KRG states that the Court of Appeals must approve the release of detainees.¹²⁵

¹²⁰ Human Rights Watch interview with senior staff at Women and Children's Reformatory, Erbil, November 22, 2018.

¹²¹ Letter to Human Rights Watch from Dr. Dindar Zebari, KRG coordinator for international advocacy, December 14, 2018.

¹²² Human Rights Watch letter to Dr. Dindar Zebari, KRG coordinator for international advocacy, December 14, 2018. https://www.hrw.org/sites/default/files/supporting_resources/hrw_letter_to_krg_deco8.pdf.

¹²³ Human Rights Watch interview with "Salam," Erbil, November 21, 2018.

¹²⁴ Human Rights Watch interview with staff at Women and Children's Reformatory, Erbil, November 22, 2018.

¹²⁵ Email communication to Human Rights Watch from Dr. Dindar Zebari, KRG Coordinator for International Advocacy, February 18, 2019.

Two boys had been detained for 14 months, even though each had been sentenced to nine months detention. Salahadin was arrested in September of 2017 and held by Asayish for two months before his transfer to the reformatory. He was tried in August 2018, nearly a year after his initial arrest, and sentenced to nine months imprisonment. When he spoke to Human Rights Watch in November 2018, he had no information about when he might be released.¹²⁶

Foreign Children Accused of ISIS Association

Iraqi and KRG authorities have detained an estimated 1,400 foreign women and children who surrendered with ISIS fighters in August 2017. According to Iraqi security forces, the number of detained foreign children is over 800.¹²⁷ Iraqi authorities have charged many of these women and children as young as nine with illegal entry, and most of the women and some of the children on charges of membership in or assistance to ISIS under Iraq's counterterrorism law.

According to the Supreme Judicial Council, at least 185 foreign children had been convicted on terrorism charges and sentenced to prison terms by the end of 2018.¹²⁸ A 16-year old German national, for example, was sentenced to six years in jail—five years for ISIS membership and one year for entering Iraq illegally.¹²⁹ Human Rights Watch observed the trials of two children from Azerbaijan, ages 13 and 14 respectively, who were both sentenced to six months in jail for entering the country illegally, despite the fact that they said they had no choice in the matter and were only 10 and 11 when their parents brought them to Iraq.¹³⁰

At the time of Human Rights Watch's visit to the Women and Children's Reformatory in Erbil, the director said that approximately 40 children from foreign countries were held at

¹²⁶ Human Rights Watch interview with "Salahadin," Erbil, November 21, 2018.

¹²⁷ "Iraq/KRG: 1,400 women and children from ISIS areas detained," Human Rights Watch news release, September 20, 2017. <https://www.hrw.org/news/2017/09/20/iraq/kr-1400-women-children-isis-areas-detained>.

¹²⁸ "The Judiciary Reveals the Number of Foreigners Accused of Terrorism during the Current Year," *National Iraq News Agency*, December 31, 2018.

¹²⁹ "Iraq: Change Approach to Foreign Women, Children in ISIS-Linked Trials," Human Rights Watch news release, June 21, 2018.

¹³⁰ Ibid.

the facility with their mothers, who originated from Iran, Turkey, and Indonesia.¹³¹ The KRG also confirmed that at least 14 Turkish and Iranian women were held at the reformatory in 2018.¹³² Human Rights Watch was not permitted to interview the women or their children.

¹³¹ Human Rights Watch interview with staff at Women and Children's Reformatory, Erbil, November 19, 2018.

¹³² Letter to Human Rights Watch from Dr. Dindar Zebari, KRG coordinator for international advocacy, December 14, 2018.

V. Consequences of Detention and Prosecution

Iraqi and KRG policies of detention and prosecution for association with ISIS have profound negative consequences for children, including long-term stigma, family separation, displacement, and nearly insurmountable challenges to societal reintegration. Nearly all of the boys interviewed by Human Rights Watch believed that they had few options after serving their sentence. Some said that regardless of whether or not they were active with ISIS, their arrest and detention would automatically stigmatize them as ISIS and make it dangerous to return to their home communities. In addition, those who served sentences in the Kurdistan region feared that if they returned to territory controlled by Baghdad, they could be arrested again, due to the lack of coordination between Iraq's two separate judicial systems. Children released from KRG custody are not automatically provided with their court documents, but have to request them from the court.¹³³

After “Badir” was released from the reformatory in June of 2018, he went to live at a camp for displaced people. He felt there was no other place he could go and believed that if he tried to return home to his village, he would be killed, either by the Popular Mobilization Forces (PMF) or by members of the community. He said that neither he nor anyone from his community had joined ISIS, but that his arrest and detention would convince others of his guilt. “They [villagers] will say, ‘Since you were arrested, you are ISIS.’”¹³⁴

“Fawaz” was also living in a camp after his release from the reformatory and was afraid to go home. He said his cousin had fought for ISIS and was killed on the front lines. “Other tribes in the village suffered from ISIS and see my family as ISIS. ...The PMF might come and cut off my head. Maybe I will only live three days. Once they know I’m in the village, they will come and take me.”¹³⁵

“Hussein,” 15, said that once he was released, he would have no choice but to go to a camp. He said that his relatives had belonged to ISIS, so he could not go home. He also voiced fear of re-arrest. “Maybe the PMF will take me and I will be in prison for 15 years.”

¹³³ Email communication to Human Rights Watch from Dr. Dindar Zebari, KRG Coordinator for International Advocacy, February 18, 2019.

¹³⁴ Human Rights Watch interview with “Badir,” an IDP camp south of Mosul, November 19, 2018.

¹³⁵ Human Rights Watch interview with “Fawaz,” an IDP camp south of Mosul, November 19, 2018.

He said he had heard from other detainees about a boy who had been released from the reformatory had gone home to Hawija and after three or four days, been arrested by the PMF.¹³⁶

Human Rights Watch interviewed one boy, “Karim,” (described earlier) who was arrested and detained twice—once by Kurdish authorities and then again by Iraqi authorities.

Karim was first arrested by KRG military forces at a military checkpoint when fleeing his home in March of 2016. He was detained in the Kurdistan region for over a year before being released without charge for lack of evidence in April 2017. After his release from the reformatory in Erbil, Karim said he returned home to Baghdad-controlled territory and applied for a new identity card. When he sought security clearance from the Ministry of Interior for the card, security forces told him his name was on a “wanted list” of ISIS suspects. They arrested him and took him to a nearby prison.¹³⁷

Karim said he was held at the prison for 45 days during which interrogators tortured him and told him that he should confess to joining ISIS for three days. He told his interrogators that he had already been in prison in Erbil, and had a paper ordering his release, but said the interrogators said they wouldn’t recognize the documents. Eventually, he said he confessed to joining ISIS for three days. He was only released after he saw another judge in December 2017 and told him that he had confessed under torture and had previously been detained in the Kurdistan region. The judge ordered his release two weeks later and he was able to return to his family.¹³⁸

His mother said,

He used to love school but now sits at home all day and doesn’t go to school. He is scared if he leaves the village, and security forces find him at a checkpoint they will arrest him yet again because his name has likely not

¹³⁶ Human Rights Watch interview with “Hussein,” Erbil, November 21, 2018.

¹³⁷ Human Rights Watch interview with “Karim,” town south of Mosul, November 20, 2018.

¹³⁸ Ibid.

been removed from the list of people who are wanted. He sits here so scared to be rearrested.¹³⁹

Most of the boys believed that after release, their only options were to live in a camp or to leave Iraq. “Tahir,” who denied any personal involvement with ISIS, but said other family members had been involved, said he didn’t believe he could go home safely and would need to go to a camp. “I don’t think we can ever leave the camp because our situation is too difficult.”¹⁴⁰ “Nasim” said that once released, “We will never feel free walking on the streets.”¹⁴¹

Some boys faced long-term separation from their families, even after their release. “Badir” had been detained for nearly two years and hadn’t seen his family since his arrest in June 2016, when he was 15. Now in a camp, he didn’t have their contact information and had no way to locate them. “I’m always sad,” he said. “I haven’t seen my family in two years. I miss them so much.”¹⁴²

Children detained for alleged ISIS association have often missed out on years of schooling, making it difficult to either re-enter school or find employment. Many dropped out of school when ISIS took over or closed down schools in their home community, and then fell further behind in detention, where schooling often was not available. Seventeen-year old “Tahir” had been detained for over a year and said, “I was a student before ISIS came, but then the schools closed and I just stayed home. I miss school, but now I am too old to go back. I don’t know what will happen to my future.”¹⁴³

Iraq and the Kurdistan region’s detention and prosecution policies may also foster resentment that could lead to future violence. “Malik,” 17, who denied ISIS involvement but was sentenced to nine months, said, “You have many kids detained based on fabricated testimonies. Once they are released, maybe they will start hating the

¹³⁹ Human Rights Watch interview (name withheld), town south of Mosul, November 20, 2018.

¹⁴⁰ Human Rights Watch interview with “Tahir,” Erbil, November 21, 2018.

¹⁴¹ Human Rights Watch interview with “Nasim,” Erbil, November 22, 2018.

¹⁴² Human Rights Watch interview with “Badir,” an IDP camp south of Mosul, November 19, 2018.

¹⁴³ Human Rights Watch interview with “Tahir,” Erbil, November 21, 2018.

government and taking revenge on the government and the people who took them to prison.”¹⁴⁴

¹⁴⁴ Human Rights Watch interview with “Malik,” Erbil, November 21, 2018.

VI. Legal Standards

International Legal Standards

Regarding the Involvement of Children in Armed Conflict

In 1994, Iraq ratified the UN Convention on the Rights of the Child, which defines a child as any person under the age of 18 and requires states to “take all feasible measures to ensure protection and care of children who are affected by an armed conflict.”¹⁴⁵ In 2008, Iraq acceded to the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (the “Optional Protocol”). The Optional Protocol prohibits any forced recruitment or conscription of children under 18 by government forces, and the participation of children under 18 in active hostilities by any party. The Optional Protocol also places obligations upon non-state armed groups, which include insurgent and militia groups. Article 4 states that “armed groups that are distinct from the armed forces of a state should not, under any circumstances, recruit or use in hostilities persons under the age of eighteen.”¹⁴⁶ The recruitment or use of children under the age of 15 in armed conflict is also considered a war crime.¹⁴⁷

International standards recognize that children who have been involved in armed conflicts are entitled to special treatment, placing a priority on their rehabilitation and reintegration into their communities. These standards—including both hard and soft law—recognize these children primarily as victims of violations of international law, not perpetrators, and reject the use of detention, except in exceptional cases where children may have committed grave offenses or pose a serious threat to a state’s security. Even in such exceptional cases, international law still requires the application of due process and international juvenile justice standards and does not allow exceptions based on national emergency or the seriousness of the offense.

¹⁴⁵ CRC, art. 38.

¹⁴⁶ 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. Resolution 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.

¹⁴⁷ See ICRC, Customary International Humanitarian Law, rule 138. The Rome Statute of the International Criminal Court lists “conscripting or enlisting children under the age of 15 years” into “armed forces or groups” or “using them to participate actively in hostilities” as war crimes (arts. 8(2)(b)(xxvi) and 8(2) (e)(vii).

The Optional Protocol calls on states to provide appropriate assistance for the physical and psychological recovery and social reintegration for children who have been recruited or used in armed conflict contrary to the protocol.¹⁴⁸ The Convention on the Rights of the Child states that any prosecution of children for criminal acts should prioritize the best interest of the child and be conducted with the objective of rehabilitating the child and promoting the child's reintegration and assumption of a constructive role in society.¹⁴⁹

Since 1999, the UN Security Council has adopted a series of resolutions on children and armed conflict that call on member states to ensure the rehabilitation and reintegration of children recruited in violation of international law. These include resolutions 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2225 (2015), and 2427 (2018). Resolution 2225, adopted in 2015, addresses detention specifically, urging UN member states:

To consider non-judicial measures as alternatives to prosecution and detention that focus on the rehabilitation and reintegration for children formerly associated with armed forces and armed groups taking into account that deprivation of liberty of children should be used only as a last resort and for the shortest appropriate period of time, as well as to avoid wherever possible the use of pretrial detention for children.¹⁵⁰

A non-binding 2017 Presidential Statement elaborated the Security Council's concerns further, stressing the need to pay "particular attention" to the treatment of children allegedly associated with all non-state armed groups, including those who commit acts of terrorism, "including through establishing standard operating procedures for the rapid handover of these children to relevant civilian child protection actors."¹⁵¹

The Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (the "Paris Principles"), a non-binding set of international guidelines endorsed by over 100 countries, sets forth a wide range of principles relating to the protection of children from

¹⁴⁸ CRC Optional Protocol, art. 6(3).

¹⁴⁹ CRC, art. 3(1); art. 40(1).

¹⁵⁰ Security Council resolution 2225, S/RES/2225, adopted June 18, 2015, para 6.

¹⁵¹ Security Council Presidential Statement, S/PRST/2017/21, adopted October 31, 2017.

recruitment or use in armed conflict, their release, and their successful reintegration into civilian life.¹⁵² The Principles state that release and rehabilitation measures should be carried out without any conditions. During release, children should be handed over to “an appropriate, mandated, independent civilian process,” and the majority of children should be returned to their family and community or a family and community environment as soon as possible after their release.¹⁵³

The Paris Principles also state:

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 of those forces or groups.¹⁵⁴

Furthermore, children who are accused of crimes committed while they were associated with armed groups “should be considered primarily as victims of offenses against international law; not only as perpetrators.”¹⁵⁵

Standards for Children Accused of Terrorism-Related Crimes

The Convention on the Rights of the Child stipulates a number of important rights for children accused of committing crimes. It prohibits torture and ill-treatment,¹⁵⁶ provides that children should only be detained as a last resort and for the shortest appropriate period of time,¹⁵⁷ and generally be allowed to maintain contact with his or her family through correspondence and visits.¹⁵⁸ Children have the right to prepare an appropriate defense with “legal or other appropriate assistance,”¹⁵⁹ the right “to have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate

¹⁵² Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (“The Paris Principles”), January 30, 2007, <http://www.unicef.org/protection/files/ParisPrinciples310107English.pdf>. Iraq has not endorsed the Principles.

¹⁵³ Paris Principles, paras. 3.11, 7.21, 7.45, 8.7, 8.8, and 8.9.

¹⁵⁴ Paris Principles 8.7.

¹⁵⁵ Ibid., para 3.6.

¹⁵⁶ CRC, article 37(a),

¹⁵⁷ CRC, article 37(b).

¹⁵⁸ CRC, article 37©.

¹⁵⁹ CRC, article 40(2)(b)(ii).

assistance,” including the child’s parents or legal guardian,¹⁶⁰ and the right to “not to be compelled to give testimony or to confess guilt.”¹⁶¹

The UN General Assembly, in its resolution on the UN Global Counter-Terrorism Strategy Review, strongly condemned the systematic recruitment and use of children to perpetrate terrorist attacks and acknowledged that children alleged or accused of committing terrorist acts may themselves be victims of terrorism. It stressed that they should be treated in a manner consistent with their rights, dignity and needs, in accordance with applicable international law, in particular obligations under the Convention on the Rights of the Child.¹⁶²

The 2016 Neuchatel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context puts forward guidelines for how states can uphold the rights of the child in terrorism-related cases. The memorandum was drafted under the auspices of the Global Counter-Terrorism Forum, with the participation of experts from governments, the judiciary, academia, international organizations, and civil society. The Memorandum identifies 13 good practices, stressing that the primary and preferred jurisdiction for children charged with terrorism-related crimes should be specialized juvenile justice systems. It reinforces that the best interests of the child should be a primary consideration, that particular attention should be paid to alternatives to prosecution, and that any justice action should aim at the child’s reintegration into society.¹⁶³ It encourages states to develop diversion mechanisms to avoid the negative effects of formal judicial proceedings. The guidelines state that “The successful completion of the diversion program by the child should result in a definite and final closure of the case, and no criminal or other forms of public records should be kept.”¹⁶⁴ They also call on courts to ensure individualized and proportional sentencing that takes in both the gravity of the crime, but also the child’s own situation and to take into account mitigating factors and consider non-custodial sentences even for terrorism-related crimes.¹⁶⁵

¹⁶⁰ CRC, article 40(2)(b)(iii).

¹⁶¹ CRC, article 40(2)(b)(iv).

¹⁶² UN General Assembly Resolution A/RES/70/291, adopted July 1, 2016.

¹⁶³ Neuchatel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context, August 25, 2016, Good Practice 1, <https://toolkit.thegctf.org/document-sets/neuchatel-memorandum-juvenile-justice/document> (accessed February 14, 2019).

¹⁶⁴ *Ibid.*, Good Practice 7.

¹⁶⁵ *Ibid.*, Good Practice 9.

The Paris Principles state that a child who is accused of illegal acts as part of an armed group should be considered primarily a victim of violations of international law, not only as a perpetrator.¹⁶⁶ Alternatives to judicial proceedings should be sought wherever possible,¹⁶⁷ and any criminal prosecution should be in accordance with international juvenile justice standards.¹⁶⁸ If a child is prosecuted, the Paris Principles state “the purpose of any sanction imposed on a child should be to promote rehabilitation and reintegration into the community and not to punish.”¹⁶⁹

The International Covenant on Civil and Political Rights¹⁷⁰ and the Convention on the Rights of the Child prohibit child offenders being sentenced to death.¹⁷¹ Life sentences without the possibility of release is prohibited under the Convention on the Rights of the Child,¹⁷² but the UN Committee on the Rights of the Child recommends that states abolish all life sentences for child offenders.¹⁷³

Iraqi Federal Law

Iraq’s leading piece of counter-terrorism legislation—the 2005 Anti-Terrorism Law (no. 13/2005) —defines terrorism in sweeping terms to include “every criminal act committed by an individual or an organized group” that targets an individual, group of individuals, or official or unofficial institutions and causes damage to public or private properties “with the aim to disturb the peace, stability, and national unity or to bring about horror and fear among people and to create chaos to achieve terrorist goals.”¹⁷⁴ The law punishes anyone who committed, incited, planned, financed or assisted a terror act with death, and gives a life sentence to anyone who covers up such an act or harbors those who participated.¹⁷⁵

¹⁶⁶ Paris Principles, para 3.6

¹⁶⁷ Paris Principles, para 3.7

¹⁶⁸ Paris Principles, para 8.8

¹⁶⁹ Paris Principles, para 3.6

¹⁷⁰ International Covenant on Civil and Political Rights (ICCPR), adopted December 16, 1966, G.A. Res. 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) at 52, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force March 23, 1976, art. 6(5). Iraq ratified the ICCPR on January 25, 1971.

¹⁷¹ CRC art. 37(a)

¹⁷² Ibid.

¹⁷³ UN Committee on the Rights of the Child, General Comment No. 10 (2007): Children’s Rights in Juvenile Justice, April 25, 2007, CRC/C/GC/10, para. 77 available at: <http://www.refworld.org/docid/467ofca12.html> (accessed November 2, 2017).

¹⁷⁴ Anti-Terrorism Law, Act No. 13 of 2005, November 7, 2005, Article 1, unofficial English translation.

¹⁷⁵ Iraqi Counterterrorism Law, No. 13 of 2005.

In its December 2015 report, the Human Rights Committee expressed concern that this definition “is susceptible to wide interpretation,” and noted with alarm “the extensive use of this Act, including with respect to children, as well as to women who fail to report the activities of their husbands suspected of terrorism.”¹⁷⁶ The Committee recommended that the Iraqi government amend the definition to comply with international standards.¹⁷⁷

Article 37(1) of the Iraqi Constitution stipulates that “all forms of psychological and physical torture and inhuman treatment are prohibited,” and that “any confession made under force, threat or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law.”¹⁷⁸

Under Iraq’s 1983 Juvenile Welfare Act, the minimum age of criminal responsibility is nine years.¹⁷⁹ The law states that any juvenile who has been arrested is to be transferred to the custody of juvenile police, who in turn are to present the child before a judge of the Juvenile Court.¹⁸⁰ According to article 52, no child below the age of 14 is to be held in detention, and those above 14 are to be held only if accused of a felony carrying the death penalty.¹⁸¹ In the latter instance, the law states that the Juvenile Court should pass a judgment sending the child to a “youth rehabilitation school”—designed with the purpose of social rehabilitation and reintegration by way of education or vocational training¹⁸²—for not less than five years and not longer than 15 years.¹⁸³

The General Amnesty Law was passed in August 2016 and theoretically offers amnesty to any individual who joined ISIS or another extremist group against their will and did not

¹⁷⁶ Human Rights Committee, “Concluding observations on the fifth periodic report of Iraq,” CCPR/C/IRQ/CO/5, December 3, 2015, p. 2, para. 9, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CCPR/C/IRQ/CO/5&Lang=En (accessed February 14, 2019).

¹⁷⁷ Ibid., p. 3, para. 10.

¹⁷⁸ Constitution of the Republic of Iraq, Oct 15, 2005, <http://mofamission.gov.iq/documentfiles/IraqiConstitution.pdf>, (accessed February 14, 2019), art. 19.

¹⁷⁹ Juvenile Welfare Act, Law No. 76 of 1983. Published in *The Official Gazette No. 38*, Article 47(1), English language version available at: <http://gjpi.org/wp-content/uploads/juvenile-welfare-law-76-of-1983.pdf> (accessed February 14, 2019).

¹⁸⁰ Ibid., Article 48.

¹⁸¹ Ibid., Article 52(2).

¹⁸² Ibid., Article 10(3).

¹⁸³ Ibid., Article 77(2).

commit any serious offence such as possession or use of explosives, maiming, or killing.¹⁸⁴ Judges handling counterterrorism cases often refuse to apply the law, however.¹⁸⁵

KRG Law

In the Kurdistan Region of Iraq, the KRG has jurisdiction in the governorates of Dohuk, Erbil, and Sulaimaniya, and has passed and applied its own distinct laws since 1992. In 2006, the KRG passed its own counter-terrorism law (no.3/2006), which calls for the death penalty for anyone who committed an act of terror or joined, founded, coordinated, or cooperated with a terrorist organization, incited, planned, financed or assisted in a terror act. It gives a life sentence to a range of criminal acts including causing destruction to a building, hijacking, kidnapping, or financing a terror attack. It further stipulates a sentence not exceeding 15 years for publishing terrorist propaganda and knowing of a terror act without notifying the authorities.¹⁸⁶

The KRG court system has specialized criminal courts that handle counterterrorism cases, including judges specialized in handling cases of juveniles facing counterterrorism charges. As in Iraq, the KRG criminal procedure code requires authorities in the KRG to bring detainees before a judge within the first 24 hours of detention, after which a judge can order their continued detention for renewable periods of up to six months.¹⁸⁷

In the Kurdistan Region of Iraq, the minimum age of criminal responsibility is 11.¹⁸⁸

¹⁸⁴ General Amnesty Law no. 27/2016, provision 4(2).

¹⁸⁵ Human Rights Watch, *Flawed Justice: Accountability for ISIS Crimes in Iraq*, December 2017, p. 5, 33-35.

¹⁸⁶ KRG Counter-terrorism law No. 3/2006.

¹⁸⁷ Global Justice Project: Iraq, "Criminal Procedure Code 23 of 1971, Kurdistan region of Iraq (as amended to 14 February 2010)," <http://gjpi.org/wp-content/uploads/gjpi-cpc-1971-kurdish-v2.doc> (accessed February 14, 2019), art. 109 and art. 123.

¹⁸⁸ Coalition of NGOs in the Kurdistan Region, "Submission to the UN Universal Periodic Review," October 2014, <https://uprdoc.ohchr.org/uprweb/downloadfile.aspx?filename=1188&file=EnglishTranslation> (accessed February 14, 2019).

Recommendations

To the Iraqi and KRG Parliaments

- Amend counter-terrorism laws to end the criminalization of mere membership in a terrorism organization for individuals associated with such groups before the age of 18, recognizing that international law prohibits the recruitment of children into armed groups.
- Amend counter-terrorism laws to ensure that the treatment of children who committed criminal acts as members of ISIS are in line with international juvenile justice standards and are primarily targeted towards their rehabilitation and reintegration.
- Raise the minimum age of criminal responsibility to at least 12, and preferably higher, in line with international children's rights standards.

To the Iraqi Parliament

- Pass the draft Anti-Torture Law, which would require judges to order a medical examination of any detainee alleging torture within 24 hours of learning of the allegation and dismiss all evidence obtained through torture; provide criminal sanctions for the torturer as well as their commander; and require officials to allow detainees to have their lawyer present throughout the investigative period.
- Ratify and implement the Optional Protocol to the Convention against Torture (OPCAT).

To the Iraqi and KRG Judicial Councils

- Pending changes in law, issue a public instruction to all investigative judges, prosecutors and law enforcement that no child should be arrested, detained or prosecuted on suspicion of mere membership of ISIS.
- Order the release of children detained for alleged ISIS affiliation unless they are suspected of having committed a violent offense.
- Issue instructions to ensure that children who are accused of committing violent criminal acts as part of ISIS are treated in accordance with international juvenile

justice standards. This includes detaining children only as a last resort and for the shortest appropriate period of time, detaining children separately from adults, providing them with legal counsel, prioritizing rehabilitation and reintegration into society, and ensuring that the best interests of the child are the primary consideration.

- Instruct judges to halt trials where defendants allege ill-treatment, launch full and independent investigations into the allegations, and dismiss any forced confessions. Instruct judges to proactively ask defendants who provided a confession whether their confession was coerced.
- Instruct investigative judges to inform detainees of their right to free legal services before beginning the investigative hearing.
- Order transfers of custody of detainees immediately after they allege torture or ill-treatment, to protect them from retaliation.
- Ensure that all children released from detention automatically receive valid court documents in Arabic at the time of their release, stating that they have been released without charge, or have completed their sentence.

To the Iraqi and KRG Ministries of Interior, Justice, and Labor and Social Affairs

- Adopt and implement handover protocols to ensure that children who have been associated with ISIS but not implicated in violent crimes are transferred promptly to appropriate rehabilitation programs.
- Ensure, with international support, that any children accused of crimes under national or international law allegedly committed while associated with ISIS are treated in accordance with international juvenile justice standards—notably ensuring that detention is a last resort and is used for the minimum possible time, that children are separated from adults, that the best interest of the child is the primary consideration, and that rehabilitation and reintegration into society are prioritized.
- Ensure that children accused of crimes allegedly committed while associated with ISIS are adjudicated within a child-focused juvenile justice system.
- Develop and establish alternatives to detention and judicial proceedings for children charged with offenses while associated with ISIS, including diversion and

rehabilitation programs, community service and community-based supervision, and educational and vocational training programs.

- Ensure that all children who are deprived of their liberty be brought before a competent authority within 24 hours to review the legality of their detention.
- Ensure all children charged with a criminal offense or brought to trial are given free and appropriate legal assistance; ensure that legal counsel is present for all interviews for criminal justice purposes.
- Order all security forces to promptly notify relatives of the whereabouts of arrested children and ensure all children in government custody are given immediate access to their relatives or a guardian and legal counsel.
- Ensure that relatives or guardians are regularly updated about their child's detention, charges and court hearings.
- Allow unrestricted and unannounced monitoring by independent humanitarian agencies of all government detention facilities where children may be held.
- With international support, provide education and other reintegration and rehabilitation services to children in government custody, including by ensuring children in detention have access to case workers.
- Ensure that children are not detained beyond the completion of their sentence.
- Set up effective complaint mechanisms for children to report alleged torture or ill-treatment.

To the Ministries of Labor and Social Affairs

- Establish, in collaboration with UNICEF and child protection agencies, appropriate rehabilitation and reintegration programs for children formerly associated with ISIS, including vocational training, education programs, medical and psycho-social counseling, and initiatives for social reintegration.

To Foreign Governments with Child Nationals Accused of ISIS Affiliation

- Facilitate the return of child nationals and provide rehabilitation and reintegration support, in line with international standards.
- Urge Iraqi authorities to ensure that child nationals charged with violent offenses committed while associated with ISIS are treated in accordance with international juvenile justice standards.

To International Donors

- Publicly support the measures outlined above to ensure that Iraqi and KRG authorities strengthen their commitment and procedures so that children, including foreign nationals, alleged to have been associated with ISIS are given the protection and support they need.
- Publicly press for and support the review of federal and regional legislation, including counter-terrorism laws, and policies relating to the handling of ISIS, to bring them in line with international standards on children's rights and juvenile justice; provide technical support and assistance to these efforts.
- Support efforts to establish alternatives to detention and judicial proceedings, including diversion and rehabilitation programs, community service and community-based supervision, and educational and vocational training programs.
- Assist federal and KRG authorities in ensuring that the detention of children complies with international standards—notably that detention is used only as a measure of last resort, that children are detained separately from adults, that they have access to legal counsel, and that rehabilitation and reintegration and the best interests of the child are a priority.
- Support appropriate child protection activities, including rehabilitation and reintegration programs that include vocational training programs, education programs, and medical and psycho-social counselling activities.
- Support clinical mental health programs for children who require more intensive support than those offered in general community-based psycho-social programs.

To UNICEF

- Assist the Iraqi and KRG governments to establish rehabilitation and reintegration programs for children formerly associated with ISIS and help ensure that all eligible children are able to access appropriate programs.
- Work with the Iraqi and KRG governments to develop standard operating procedures on the reception and handover of children associated with ISIS, to ensure their transfer to appropriate child protection authorities.

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“Everyone Must Confess”

Abuses against Children Suspected of ISIS Affiliation in Iraq

Iraqi and Kurdistan Regional Government (KRG) authorities have arrested thousands of children for alleged affiliation with ISIS, used torture to coerce confessions, and have convicted hundreds of children of terrorism in hasty, unfair trials. Children may be prosecuted for any association with ISIS, including working as a cook or driver, or taking part in a religious training course. They may be detained in prison for years, with no access to rehabilitation or education.

“Everyone Must Confess”: *Abuses against Children Suspected of ISIS Affiliation in Iraq* is based on Human Rights Watch research conducted since 2016, including interviews conducted in November 2018 with 29 boys and youth who had been detained for alleged ISIS association by the KRG, family members of 8 other children who had been arrested by Iraqi authorities as ISIS suspects, child protection advocates, local lawyers, and other legal experts.

The consequences of Iraqi and KRG punitive policies are profound, creating long-term stigma, family separation, displacement, and severely limiting youths’ ability to reintegrate into society and support themselves. Once branded as ISIS, these children fear revenge attacks if they return home after their release from detention. Children who have been arrested and detained by Kurdish authorities in northern Iraq risk re-arrest by Iraqi forces if they return to areas falling under Baghdad’s control. Some child ISIS suspects believe they have no option beyond living indefinitely in camps for displaced persons or leaving the country.

(above) Cuffs are seen in front of cells housing ISIS members at a prison in Sulaymaniyah, northern Iraq, February 15, 2017.

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(front cover) Teenagers stand inside a prison cell at the Reformatory for Women and Children in Dohuk, northern Iraq, February 12, 2017.

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