

BRIEFING PAPER

Strengthening responses to conflict-related sexual violence against boys deprived of their liberty in situations of armed conflict





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1 ASP's mission is to support global efforts to eradicate conflict-related sexual violence (CRSV) and strengthen national and international responses through research and action on CRSV against men, boys and/including people with diverse sexual orientation, gender identity, gender expression and/or sex characteristics (SOGIESC). For more information visit: allsurvivorsproject.org

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Acronyms

CAAC	Children and armed conflict
CAAFAG	Children associated with armed forces and armed groups
CAR	Central African Republic
CRC	Convention on the Rights of the Child
CRSV	Conflict-related sexual violence
DRC	Democratic Republic of the Congo
GBV	Gender-based violence
ICCPR	International Covenant on Civil and Political Rights
ICRC	International Committee of the Red Cross
IHL	International humanitarian law
IHRL	International human rights law
I/NGO	International/national non-governmental organisation
ISIL	Islamic State in Iraq and the Levant (also referred to as Da'esh)
ISIL-KP	Islamic State in Iraq and the Levant-Khorasan Province
LDHR	Lawyers and Doctors for Human Rights
LGBTI+	Lesbian, gay, bisexual, transgender, and intersex
MARA	Monitoring, Analysis and Reporting Arrangements on Conflict-related Sexual Violence
MHPSS	Mental health and psychosocial support
MRM	Monitoring and Reporting Mechanism on Grave Violations against Children in Situations of Armed Conflict
NSAG	Non-State armed group
OPAC	Optional Protocol to the CRC on the Involvement of Children in Armed Conflict
OSRSG CAAC	UN Office of the Special Representative of the Secretary-General for Children and Armed Conflict
SDF	Syrian Democratic Forces
SOPs	Standard operating procedures
UAE	United Arab Emirates
UNAMI	UN Assistance Mission in Iraq
UNCRC	UN Committee on the Rights of the Child
UNSC	UN Security Council

Executive summary²

Each year thousands of children are deprived of their liberty in situations of armed conflict, many because of their actual or alleged association with parties to the conflict or on alleged national security-related grounds. The increasing numbers of children being detained is a concern in itself, but also because child detainees are highly vulnerable to a wide range of human rights violations and abuses, including conflict-related sexual violence (CRSV).

The vast majority (over 95%) of children detained in armed conflict are boys.³ So, although all children are at risk of sexual violence in detention settings, and girls are disproportionately impacted by CRSV generally, this discussion paper focuses on how detained boys are exposed to the risk of CRSV in particularly high numbers and examines possible responses to this.

Based on available data, rape and other forms of sexual violence against males, including boys, are reported more frequently in situations of deprivation of liberty than in most other settings.⁴ Although many, possibly most, incidents are never reported, CRSV against boys deprived of their liberty has been documented in recent years in countries including Afghanistan, Central African Republic (CAR), Iraq, Myanmar, Nigeria, South Sudan, Syria and Yemen. Most documented incidents relate to boys held by state security forces but CRSV against boys deprived of their liberty by non-State armed groups (NSAGs) has also been reported. In both instances, CRSV has been used as a form of torture, to punish, to extract information or to exert authority. In some contexts, it is also committed by other detainees.

Chronic under-reporting of CRSV in general, combined with challenges involved in gathering data in detention settings, means that the true scale of the problem is not known and the risks to, vulnerabilities of, and impacts on young detainees are poorly understood. This, by extension, hampers efforts to effectively prevent and respond to it.

However, CRSV in detention settings is not a standalone issue, but must be addressed as part of broader, ongoing efforts to protect children in situations of armed conflict. It is also necessarily a collective endeavour, requiring dedicated attention from a wide range of different stakeholders.

2 The views expressed in the document do not imply endorsement of its content by the Secretariat of the United Nations.

3 Based on the number of verified cases of deprivation of liberty contained in United Nations, Annual reports of the Secretary-General on Children and Armed Conflict, June 2020, A/74/845-S/2020/525. Available at: <https://undocs.org/S/2020/525>; May 2021, A/75/873-S/2021/437. Available at: <https://undocs.org/S/2021/437>; and June 2022, A/76/871-S/2022/493. Available at: <https://undocs.org/S/2022/493>. Although deprivation of liberty is not one of the six grave violations against children identified and condemned by the UN Security Council, it is an issue of concern (along with the military use of schools of hospitals) on which the UN-led Monitoring and Reporting Mechanism (MRM) on grave violations against children in armed conflict systematically collects data.

4 See for example, United Nations, Secretary-General Report on Conflict-related Sexual Violence, March 2021, S/2021/312. Available at: <https://undocs.org/S/2021/312>; and ASP, Checklist on Preventing and Addressing Conflict-related Sexual violence against Men and Boys, 10 December 2019.

Recommendations on how this could be done emerged from research for this paper, that included consultations with experts working on policy and/or programming relating to the deprivation of liberty of children, CRSV, the release and reintegration of children associated with armed forces and armed groups (CAAFAG), and in the field of mental health and psychosocial support (MHPSS) in different countries across the globe.⁵

Respondents highlighted the need for further in-depth research and analysis to establish a more complete understanding of conflict-related deprivation of liberty and its links to human rights abuses, including CRSV. They also emphasised the need for coordinated strategies to strengthen prevention and ensure the availability of and access to survivor-centred, gender and age-appropriate responses, including medical care, MHPSS for both boy and girl victims/survivors, and effective accountability processes.

Specific issues in need of attention were also identified, many of them equally applicable to girls as well as boys:

- I. Addressing data gaps and overcoming practical obstacles to documentation: Available data shows that there is already much cause for concern, but many respondents considered the scale of CRSV against detained boys to be much greater than documented. There was consensus that more consistent monitoring and reporting are needed to inform and support effective responses, although opinions diverged on how data could be collected and how potential harm to affected children (resulting for example from reprisals by detaining authorities or lack of follow-up support for affected children) could be mitigated.

Working on the assumption that it is likely that boys may have been subjected to some form of abuse, including potentially CRSV, whether in detention or before, it was widely considered that making appropriate responses available was a good starting point and indeed is already a *modus operandi* for some. However, others pointed out that details of individual cases and an understanding of trends are needed to establish patterns, identify perpetrators and understand causes in order to inform effective prevention strategies and to hold those responsible to account.

Also highlighted was the scope for improved coordination and information-sharing between the many and varied government, UN and non-governmental actors involved in protecting the rights of detained children and responding to victims/survivors of CRSV.

The importance of high-level political engagement with parties to armed conflict to secure regular, independent, unhindered access to all places of detention was also stressed, with lack of or limited access consistently raised as an obstacle to effective protection of detained children. At the same time, emphasis was placed on the need for increased capacity to enable the safe and ethical documentation of sexual violence against children in detention settings.

⁵ Among the respondents were individuals with current or past experience in countries including Afghanistan, the Democratic Republic of the Congo (DRC), Iraq, Nigeria, Somalia, South Sudan, Sudan, Syria and Yemen.

II. Mapping potential risks of CRSV in detention settings: A mapping of detention practices can help to identify potential risks to children in support of advocacy and other interventions. Among the risk factors identified were: (a) Detaining authorities and places of detention – for example, the risk of CRSV may be higher when children are detained by military actors (both state and NSAGs), or when held in unofficial or secret places of detention; (b) Detention procedures – the absence of juvenile justice systems or non-compliance with procedural safeguards to protect children deprived of their liberty, such as access to families, legal counsel, medical care and judicial oversight, are all potential indicators of risk of CRSV. The lack of age verification processes is also a risk factor; (c) Physical conditions of detention: Poor conditions such as overcrowding, mixing of children with adults, and use of punishments such as solitary confinement, were among those identified as risk-heightening factors for CRSV.

III. Analysing the role of gender and other intersectional factors: Pervasive stereotyping based on gender is increasingly recognised as among the reasons for the disproportionate number of boys detained in situations of armed conflict – with boys often presumed to be associated with opposing forces or labelled “terrorists” or “violent extremists” and therefore treated as perpetrators rather than the victims of human rights violations that they often are. This has resulted in the apparently arbitrary detention of increasing numbers of boys in many modern conflicts. Once detained, gender and other intersecting diversity characteristics (such as ethnicity, religion, sexual orientation and gender identity or disability) may combine to increase the risk of CRSV, while stigma resulting from real or perceived association with a particular armed group can result in ill-treatment by detaining officials or other detainees. Systematically applying an intersectional gender lens to analysis of data is therefore necessary to establish context-specific understandings of and effective responses to factors that may place certain children in situations of heightened risk of, or increase their vulnerability to, CRSV.

IV. Addressing root causes: CRSV in detention settings is facilitated by or connected to other human rights abuses. Respondents therefore emphasised the need to tackle root causes and their underlying causes, including enhancing efforts to prevent and end child recruitment and use. They likewise stressed the need for reinforced efforts to reduce the numbers of detained children, including through strict compliance with child rights standards which require children affected by armed conflict to be treated primarily as victims, their best interests to be a primary consideration in all actions, and detention to be used only as a measure of last resort and for the shortest appropriate time.

Moreover, consistent with best practices, parties to armed conflict should be encouraged to establish and implement protocols for the swift handover of any child who is detained to civilian child protection actors for reintegration and other support. These protections should apply to all children irrespective of whether the armed group to which they allegedly belong has been designated as a terrorist organisation. Respondents also emphasised that principles of child rights protection must be fully reflected and guaranteed in counter-terrorism laws, policies and action.

V. Understanding and addressing the needs and wishes of boy victims/survivors: Respondents stressed the need to address and treat multiple layers of trauma experienced by child detainees, whether before, during or

after their incarceration, and for greater recognition that CRSV may be among the abuses experienced. In practice, there is often little in the way of care and support for incarcerated children, and support for their recovery and reintegration following release is also highly variable. There was consensus among respondents that there is still insufficient recognition that boys deprived of their liberty can be subjected to CRSV, and concern about the capacity of reintegration programmes, whether residential or community-based, to systematically identify and provide appropriate support to boy victims/survivors of CRSV. Particular concerns were raised about the way in which counter-terrorism narratives and the failure to see CAAFAG first and foremost as victims of human rights violations have contributed to a reluctance by governments and funders to support programmes to assist children detained on account of their association with armed groups designated as terrorist.

Consistent with recommendations made by child protection and other stakeholders over the years, there was therefore a call for increased funding for child protection programming in detention settings, and for long-term, community-based programming for the recovery and reintegration of children upon their release from detention. Such funding should be provided without discrimination of any kind, including on the basis of which armed forces or armed group the child may have been affiliated with.

1. Introduction

1.1 Background

Each year thousands of children are deprived of their liberty in situations of armed conflict, in many cases solely based on their actual or alleged association with parties to the conflict or because they are considered as threats to national security. Conditions of detention for such children are frequently poor and procedures and safeguards to ensure their protection weak or absent, making child detainees highly vulnerable to a wide range of human rights abuses, including CRSV.⁶

Boys constitute the vast majority of children whose deprivation of liberty is conflict-related – more than 95% according to recent UN figures.⁷ So, while both girls and boys are at risk of CRSV both in state detention settings and when deprived of their liberty by NSAGs, and although girls are disproportionately impacted by CRSV generally, detained boys are exposed to the risk of CRSV in particularly high numbers. Indeed, based on available data, rape and sexual violence against males, including boys, are reported more frequently in situations of deprivation of liberty than in most other settings.⁸

However, chronic under-reporting of CRSV in general, and the challenges associated with gathering data on the experiences of detained children, means that the true scale of the problem is not known and the risks to, vulnerabilities of, and impacts on young detainees are poorly. By extension, preventive and remedial measures, including medical care and MHPSS, do not adequately reflect or respond to the risks boys may face when detained, or to the needs and wishes of boy victims/survivors during incarceration or after their release.

Mindful that there is a distinction between legal obligations under international human rights law (IHRL) and international humanitarian law (IHL) and mandated responsibilities, the primary duty to prevent CRSV

6 This discussion paper will focus on sexual violence taking place in the context of armed conflict, rather than sexual violence generally, as that is the mandate of the SRSG CAAC.

7 Based on the number of verified cases of deprivation of liberty contained in United Nations, Annual reports of the Secretary-General on Children and Armed Conflict, June 2020, A/74/845-S/2020/525. Available at: <https://undocs.org/S/2020/525>; May 2021, A/75/873-S/2021/437. Available at: <https://undocs.org/S/2021/437>; and June 2022, A/76/871-S/2022/493. Available at: <https://undocs.org/S/2022/493>

8 See for example, United Nations, Report of the Secretary-General on Conflict-related Sexual Violence, March 2021, S/2021/312. Available at: <https://undocs.org/S/2021/312>; and ASP, Checklist on Preventing and Addressing Conflict-related Sexual violence against Men and Boys, 10 December 2019.

and respond to incidents of it rests with those in whose custody children are held – for the purposes of this briefing paper, parties to armed conflict. However, a wide range of other stakeholders – from the UN, humanitarian organisations, and national and international child rights and child protection NGOs, through to second governments and donors – are typically involved in efforts and have varying responsibilities to strengthen compliance with international standards aimed at protecting children against CRSV and other serious violations of IHL and IHRL.

Recognising that protecting children deprived of their liberty is a collective endeavour, this briefing paper is intended to support discussions among all relevant stakeholders on how to strengthen responses to sexual violence against boys in conflict-related detention settings. It looks at what is known about patterns, risks and vulnerabilities of boys in relation to CRSV in this context, and identifies gaps in information and analysis and the implications of this deficit. Based on the findings, it provides recommendations on actions needed to gain a better understanding of this issue and to strengthen responses to it.

1.2 Methodology and scope of briefing paper

Research for this paper (which was undertaken by All Survivors Project) involved an initial scoping exercise that included preliminary background reading and interviews with seven representatives of organisations and individuals working on the issues of deprivation of liberty of children in armed conflict and/or CRSV. This was followed by a detailed review of secondary information⁹ and semi-structured, remote interviews with 13 key respondents working on policy and/or programming in relation to the deprivation of liberty of children, CRSV, the release and reintegration of children associated with armed forces and armed groups (CAAFAG) and MHPSS. Among the respondents were individuals with current or past experience in countries including Afghanistan, the Democratic Republic of the Congo (DRC), Iraq, Nigeria, Somalia, South Sudan, Sudan, Syria and Yemen. Information, analysis and recommendations provided by respondents are reflected throughout the paper. However, their views are their own and do not necessarily represent those of the organisations they work for; hence respondent comments are not attributed by their name or that of the organisation they belong to.

A draft version of the paper was reviewed by the UN Office of Legal Affairs, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG SVC), the Office of the Special Representative of the Secretary-General on Children and Armed Conflict (OSRSG CAAC), and UNICEF. This paper was presented at and discussed at a workshop on ‘Conflict-related sexual violence against boys: From recognition to response,’ on Nov 2-3, 2022, at Princeton University, co-hosted by the Liechtenstein Institute on Self-Determination at Princeton University, OSRSG CAAC and All Survivors Project (ASP).

⁹ Reviewed documents include Secretary-General reports on Children and Armed Conflict (annual and country-specific) and on Conflict-related Sexual Violence; reports of UN-mandated inquiries and investigations and by UN special rapporteurs and other experts, reports and other publications by I/NGOs, and academic articles.

The paper focuses specifically on sexual violence against children detained by parties to armed conflict, primarily on account of their alleged association with opposing forces and/or under national security laws. It includes children held by state security forces in administrative or judicial detention. It also includes children deprived of liberty by NSAGs. In some countries affected by armed conflict, migrant or refugee children may also have been held by parties to armed conflict and subjected to CRSV. Such cases are referenced where relevant.

Detention definition

The Committee on the Rights of the Child (UNCRC) defines detention as: “any form of detention or imprisonment or the placement of a person in a public or private custodial setting, from which this person is not permitted to leave at will, by order of any judicial, administrative or other public authority.”¹⁰

The International Committee of the Red Cross (ICRC) similarly notes that a person can be considered deprived of their liberty, or detained, when they are confined in a narrowly bounded place, under the control or with the consent of a State or non-State actor, and cannot leave at will. People can be considered to be detained from the time they are apprehended or held without permission or authority to leave, until their release.¹¹

10 UNCRC, General Comment No. 24 (2019) on children’s rights in the child justice system, September 2019.

11 See ICRC, “That Never Happens Here”. Sexual and Gender-based Violence against Men, Boys, and/including LGBTIQ Persons in Humanitarian Settings, February 2022.

2.

International law protections, including against CRSV, for children deprived of their liberty

There is an extensive framework of international law prohibiting CRSV, including in detention settings, as well as legal standards that place limits on the deprivation of liberty of children and guarantee their rights if detained. As outlined below, there are provisions to these ends under IHL as well as IHRL, and regarding the latter body of law, “the protection offered by human rights conventions does not cease in times of armed conflict”.¹² Non-discrimination is a basic principle in the protection of human rights, and both IHRL and IHL prohibit discrimination in the application of their provisions.¹³

Prohibition of sexual violence

Rape and sexual violence are prohibited under IHRL and IHL as forms of torture or other cruel, inhuman or degrading treatment and violations of the right of all persons deprived of their liberty to be treated with humanity and with respect for the inherent dignity of the human person.¹⁴ The UN Committee against Torture has affirmed the absolute, non-derogable prohibition of torture and other ill-treatment in all circumstances, including during international or non-international armed conflicts and in the face of the threat of terrorist acts. Rape and sexual violence, including against males, are among the violations of the Convention Against Torture that the Committee has called on States to identify and to report on what measures have been taken to punish and prevent them.¹⁵

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- 12 Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, International Court of Justice, Advisory Opinion, 9 July 2004, para. 106. Also Human Rights Committee, General Comment No. 31 (2004), The nature of the general legal obligation imposed on States parties to the Covenant.
- 13 See ICRC Customary IHL Study, Rule 88 (Non-Discrimination). Also, for example, International Convention on the Elimination of All Forms of Racial Discrimination; CRC, art. 2 and International Covenant on Civil and Political Rights (ICCPR), art. 2.
- 14 Human Rights Committee, General Comment No. 29 (2001) on States of Emergency, paras. 7 and 13(a) (affirming non-derogability of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment and of the right of all persons deprived of their liberty to be treated with humanity and respect for the inherent dignity of the human person). See also, for example, Committee Against Torture, General Comment No. 2 (2008), para. 3 (“The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment [ill-treatment] are indivisible, interdependent and interrelated... The Committee has considered the prohibition of ill-treatment to be likewise non-derogable under the Convention and its prevention to be an effective and non-derogable measure”). On IHL, see Article 3 common to the four Geneva Conventions (Common Article 3); Article 75(2) (b) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Additional Protocol I); Article 4(2)(e) of Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Additional Protocol II).
- 15 Committee against Torture, General Comment No. 2 (2008), Implementation of article 2 by States parties.

The Convention of the Rights of the Child (CRC), the most widely ratified human rights treaty, states that no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. The Convention also requires States parties to take appropriate legislative, administrative, social and education measures to protect the child from all forms of physical or mental violence, including sexual exploitation and abuse.¹⁶

Under customary IHL, applicable both in international and non-international armed conflicts and to all parties including NSAGs, sexual violence is prohibited against any person, including men, boys and/ including those with diverse sexual orientation or gender identity.¹⁷ International criminal law also prohibits sexual violence, which can constitute war crimes and crimes against humanity.¹⁸

In addition, rape and other sexual violence against children in armed conflict are among the six grave violations identified and condemned by the UN Security Council (UNSC).¹⁹ Moreover, in its resolution 1820 (2008) the Security Council demanded the “immediate and complete cessation by all parties to armed conflict of all acts of sexual violence against civilians with immediate effect”.

Treating children involved in armed conflict as victims

International standards and principles relating to the treatment of children involved in armed conflict require that they are treated primarily as victims, are never prosecuted or punished solely for their association with armed forces or armed groups, and have their physical and psychological recovery and social reintegration prioritised.²⁰ UNSC resolutions have stressed the importance of “peace agreements that put strong emphasis on the best interest of the child, the treatment of children separated from armed groups as victims and focus on family and community-based reintegration”.²¹

Limits on the detention of children

Strict limits on the detention of children are set out in the CRC which also requires that in all actions concerning children, the best interests of the child must be a primary consideration.²² It prohibits the unlawful or arbitrary deprivation of liberty of children, requires that any detention or imprisonment of children be a measure of last resort and for the shortest appropriate time, and encourages use of

16 CRC, arts. 19(1), 34 and 37.

17 ICRC, *Customary International Humanitarian Law, Rule 93*.

18 Rome Statute of the International Criminal Court, arts. 6-8.

19 See UNSC resolution 1261 (1999) and subsequent UNSC resolutions on Children and Armed Conflict. Available at <https://childrenandarmedconflict.un.org/virtual-library/>

20 CRC, art. 39; Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC), arts. 6 and 7; and Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups (Paris Principles), February 2007, Principle 3.6.

21 See for example, UNSC resolution 2427 (2018).

22 CRC, art. 3.

alternatives to detention measures for dealing with accused children without resorting to judicial proceedings, as long as human rights and legal safeguards are fully respected.²³ (see Appendix I for additional details on juvenile justice standards).

Guarantees for the protection of detained children

The CRC requires “every child deprived of liberty [to] be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age”.²⁴ Certain basic guarantees apply to all persons deprived of their liberty, and children accused of crimes under international or national law allegedly committed while associated with armed forces or armed groups are entitled to be treated in accordance with international standards for juvenile justice (see Appendix I).

Protecting children deprived of liberty by NSAGs

The UN Human Rights Committee has stated that States parties must protect individuals against abduction or detention by individual criminals or irregular groups, including armed or terrorist groups (including those designated as terrorist by the United Nations), operating within their territory.²⁵ NSAGs are also bound under IHL to ensure certain fundamental protections for persons deprived of liberty by them, including children.²⁶ There is also growing consensus that NSAGs are bound by IHRL, particularly when they exercise stable control over a territory and act as the de facto authorities of that territory.²⁷

Support for the recovery and reintegration of detained children

International standards such as the CRC and OPAC contain obligations to accord assistance for the physical and psychological recovery and social reintegration of child victims of armed conflicts when necessary.²⁸ Children accused of serious crimes committed in connection with their association with armed forces or armed groups should be treated in a framework of “restorative justice and social rehabilitation”.²⁹

23 CRC, arts. 37 (b) and 40 (3b). For an outline of leading principles for the use of deprivation of liberty of children, see UNCRC General Comment No. 24 (2019) on children’s rights in the child justice system, paras. 85-88.

24 CRC, art. 37 (c).

25 See Human Rights Committee, General Comment No. 35 (2014) on Article 9 (Liberty and Security of Person), para. 7; UNCRC, General Comment No. 24 (2019) on children’s rights in the child justice system.

26 Common Article 3 and Additional Protocol II oblige all parties to non-international armed conflicts to ensure certain fundamental protections for persons deprived of liberty.

27 For a detailed discussion of the applicability of IHRL to deprivation of liberty by NSAGs see, Katherine Fortin, “[Which legal framework applies to deprivation of liberty by non-State armed groups and do they address the particular challenges when detention is conducted by non-State armed groups?](#)”, September 2018.

28 CRC, art. 39 and OPAC, arts. 6 and 7.

29 Paris Principles, Principle 3.6.

Holding perpetrators to account

The UNCRC has stated that States must ensure “absolute prohibition of all forms of violence against children in all settings and effective and appropriate sanctions against perpetrators”.³⁰ States have a general obligation to combat impunity for violations of IHRL or IHL including the duty to “undertake prompt, thorough and impartial investigation of violations of international human rights and international humanitarian law,” and to provide reparations, including compensation, to survivors.³¹ Survivors have the right to equal and effective access to justice, adequate, effective and prompt reparation for harm suffered; and access to relevant information concerning violations and reparation mechanisms.³² Justice processes should be survivor-centred and special procedures put in place to enable the safe participation of child survivors.

30 UNCRC, General Comment No. 13 (2011) on the right of the child to freedom from all forms of violence, para 41(d). See also para. 4.

31 Principle 19, Set of principles for the protection and promotion of human rights through action to combat impunity, 2005, E/CN.4/2005/102/Add.1. See also Human Rights Committee, General Comment No. 31 (2004), The nature of the general legal obligation imposed on States parties to the Covenant; Committee against Torture, General Comment No. 2 (2008), Implementation of article 2 by States parties; United Nations, Guidance Note of the Secretary-General: Reparations for Conflict-related Sexual Violence, June 2014. Available at: <https://www.ohchr.org/sites/default/files/Documents/Press/GuidanceNoteReparationsJune-2014.pdf>

32 Principle VII, Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, 2005, A/RES/60/147. See also Committee Against Torture, General Comment No. 3 (2012), Implementation of article 14 by States parties; United Nations, Guidance Note of the Secretary-General. Reparations for Conflict-Related Sexual Violence, June 2014. Available at: <https://www.ohchr.org/sites/default/files/Documents/Press/GuidanceNoteReparationsJune-2014.pdf>

3.

Increasing levels of child detention and resulting risks of CRSV

3.1 Deprivation of liberty of children in armed conflict – the scale of the problem

There has been growing concern in recent years about the increasing numbers of children detained in situations of armed conflict. The UN Secretary-General first drew attention to the growing practice of arresting and detaining children with or without criminal charges, as a perceived threat to national security, for alleged membership in an armed group or for acts committed while participating in hostilities as a violation of concern nearly a decade ago, and has continued to raise concerns, both generally and in relation to specific country situations, since then.³³ UNICEF has highlighted the upward trend, noting that between 2016 and 2020 at least 3,000 children were deprived of their liberty annually for their alleged or actual association with parties to conflict or on national security-related charges – more than three times the average recorded during the previous five-year period.³⁴

In the past five years (2017-2021), the UN has recorded over 17,500 conflict-related detentions of children.³⁵ In 2021, this included at least 2,864 children held in 17 countries, primarily held by state security forces.³⁶ However, as the 2019 UN Global Report on the Deprivation of Liberty of Children (“Global Study”) noted, many cases are never documented or recorded, including of children held in camps, military barracks, intelligence facilities, and makeshift centres run by military or government-aligned militias, to which access is often restricted for monitors and child protection actors.³⁷

33 United Nations, Report of the Secretary-General on Children and Armed Conflict, May 2013, A/67/845 - S/2013/245. Available at: <https://undocs.org/S/2013/245>. Although deprivation of liberty is not one of the six grave violations against children identified and condemned by the UN Security Council, it is an issue of concern (along with the military use of schools of hospitals), and the UN-led Monitoring and Reporting Mechanism (MRM) on grave violations against children in armed conflict has systematically collected data on it since 2012.

34 UNICEF, 25 Years of Children and Armed Conflict: Taking Action to Protect Children in War, June 2022. Available at: <https://www.unicef.org/reports/25-years-children-armed-conflict>

35 United Nations, Reports of the Secretary-General on Children and Armed Conflict, 2018-2022. Available at: <https://childrenandarmedconflict.un.org/virtual-library>

36 Afghanistan, Burkina Faso, Cameroon, Central African Republic (CAR), DRC, India, Iraq, Israel and the State of Palestine, Lebanon, Libya, Mali, Myanmar, Nigeria, the Philippines, Somalia, Syrian Arab Republic and Yemen. United Nations, Report of the Secretary-General on Children and Armed Conflict, June 2022, A/76/871-S/2022/493. Available at: <https://undocs.org/S/2022/493>

37 United Nations, Global Study on Children Deprived of Liberty, November 2019. Available at: <https://www.ohchr.org/en/treaty-bodies/crc/unit-ed-nations-global-study-children-deprived-liberty>

Many cases of deprivation of liberty by NSAGs are also thought to go unrecorded. UN verified data on children and armed conflict (CAAC) – as reflected in UN Secretary-General’s Reports – addresses deprivation of liberty by NSAGs only where the group exercises stable control over and is acting as the de facto authority of a territory.³⁸ In 2021, this included cases attributed to the Syrian Democratic Forces (SDF), and the Houthis (who refer to themselves Ansar Allah) in Yemen.³⁹ Previously, it has included other NSAGs such as Islamic State in Iraq and the Levant (ISIL) in both Iraq and Syria and Al Shabaab in Somalia.⁴⁰ However, actual numbers of children detained by such groups are not known, and other groups which do not necessarily fit the criteria of controlling or acting as de facto controller of a territory also detain children with serious protection and humanitarian implications for those held (see section 3.5 below).⁴¹

In addition, tens of thousands of children (mainly Iraqi and Syrian, but also an estimated 7,300 children from 60 other countries) remain deprived of their liberty in displacement camps administered by the self-administration in northern and eastern Syria and the SDF, where they have been held since the collapse of the Islamic State caliphate in early 2019.⁴²

3.2 Deprivation of liberty and its connection with CRSV

The high numbers of children deprived of their liberty in situations of armed conflict is of concern in and of itself, not least because their detention is frequently arbitrary or otherwise unlawful. However, it is also of concern because of the risks of other human rights abuses that are associated with deprivation of liberty, including CRSV.

The links between detention and violence are well established. In 2006, a UN study found that children in detention are frequently subjected to violence.⁴³ In 2019, the UN Global Study on Children Deprived of their Liberty found that children, especially girls and/including lesbian, gay, bisexual, transgender, and intersex (LGBTI+) children, are particularly vulnerable to sexual and other forms of violence in detention

38 See United Nations, Office of the Special Representative of the Secretary-General for Children and Armed Conflict (OSRSG CAAC) and UNICEF, Guidance Note on Abduction, April 2022. Available at: https://childrenandarmedconflict.un.org/wp-content/uploads/2022/05/22-00040_Abduction-Guidance-for-CAAC_FINAL_WEB-1.pdf

39 United Nations, Report of the Secretary-General on Children and Armed Conflict, June 2022, A/76/871-S/2022/493. Available at: <https://undocs.org/S/2022/493>

40 United Nations, Reports of the Secretary-General reports on Children and Armed Conflict, 2017, A/72/361-S/2017/821. Available at: <https://undocs.org/S/2017/821>, and 2018, A/72/865-S/2018/465. Available at: <https://undocs.org/S/2018/465>. And United Nations, Report of the Secretary-General on Children and Armed Conflict in Somalia, March 2020, S/2020/174. Available at: <https://undocs.org/S/2020/174>

41 It has been noted that detention by armed groups is neither infrequent nor, necessarily, small-scale. See Katherine Fortin, [Which legal framework applies to deprivation of liberty by non-State armed groups and do they address the particular challenges when detention is conducted by non-State armed groups?](#), October 2018; and David Tuck, [Detention by armed groups: overcoming challenges to humanitarian action](#), International Review of the Red Cross, Volume 93, No. 883, September 2011.

42 Save the Children, [“Speed up Repatriations or Foreign Children Could be Stuck in North East Syria Camps for up to 30 Years, Warns Save The Children”](#), 23 March 2022.

43 United Nations, Report of the independent expert for the United Nations study on violence against children, August 2006, A/61/299. Available at: <https://undocs.org/A/61/299>

settings. It noted that, although less information is available, detained boys are also subjected to sexual violence.⁴⁴ The ICRC has also highlighted the particular risks of CRSV in detention settings, noting that the nature of detention – isolated, closed, with unequal power and control – combined with the many deficiencies in detention systems, can increase vulnerability to sexual violence, while at the same time creating barriers to accessing victims/survivors to provide them with the services they need.⁴⁵

3.3 Patterns of CRSV against boys deprived of their liberty

Rape and other forms of sexual violence have been used against boys in detention settings as a form of torture to obtain information, to punish or to exert authority. Although the risk of CRSV is particularly high during arrest and interrogation, it can take place at any point in the detention process. For example, in both Syria and Yemen, there are reports of children including boys, being taken out of their cells by members of detaining authorities to “satisfy their sexual needs”, a practice which has been described as a form of sexual slavery.⁴⁶ Sexual violence can also be committed by other detainees – boys are particularly vulnerable to such “inter-detainee violence” when held with adults, but also from other children where there is inadequate protection (see section 4.3 below for risk factors).

Recent annual reports of the UN Secretary-General on CRSV have noted that men and boys face heightened risks of different forms of sexual violence by parties to armed conflict in detention settings. These reports have included reference to incidents involving boys that took place during the five-year period 2017-2021 in: Iraq (Da’esh); Myanmar (Tatmadaw); Syria (Syria Government Forces and Da’esh); Yemen (Yemen Armed Forces, the Houthis and Security Belt Forces).⁴⁷ Reports of the UN Secretary-General on CAAC have also occasionally included verified cases of sexual violence against children in detention settings, but for the most part these are not disaggregated by gender.

These reports have highlighted the chronic under-reporting of CRSV against in general, and including where victims/survivors are male. Respondents interviewed for this report also noted the challenges faced by UN Security Council-mandated mechanisms (the Monitoring, Analysis and Reporting Arrangements on conflict-related sexual violence (MARA) and the Monitoring and Reporting Mechanism on grave violations against children in situations of armed conflict (MRM)) in obtaining verified data on

44 See UN Global Study on Children Deprived of their Liberty, 2019. Available at <https://www.ohchr.org/en/treaty-bodies/crc/united-nations-global-study-children-deprived-liberty>

45 ICRC, “That Never Happens Here”. Sexual and Gender-based Violence against Men, Boys, and/including LGBTIQ Persons in Humanitarian Settings, February 2022.

46 See Lawyers and Doctors for Human Rights (LDHR), “Dying a Thousand Times a Day”: Sexual Slavery in Syrian Detention, June 2022, and United Nations, Situation of human rights in Yemen, including violations and abuses since September 2014. Report of the UN High Commissioner for Human Rights containing the findings of the Group of Eminent International and Regional Experts, August 2018, A/HRC/39/43. Available at: https://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/39/43. The Group of Experts was established at the request of the UN Human Rights Council under Resolution 36/31, 29 September 2017.

47 United Nations, Reports of the Secretary-General on Sexual Violence in Conflict, 2018-2022. Available at <https://www.un.org/sexualviolencein-conflict/digital-library/reports/sg-reports/>

CRSV in detention settings (see sections 4.1 and 4.2 below).⁴⁸ However, when combined with information from other sources, a more detailed, albeit still limited, picture of the extent of sexual violence against boys deprived of their liberty begins to emerge:

3.4 CRSV against boys held by state security forces or armed groups associated with them

The vast majority of reported incidents of CRSV against detained boys have taken place in state-run detention facilities – official, unofficial and secret. In recent years, these have included reports in:

- **Afghanistan:** Boys were arrested and or held by members of the former Afghan National Defence and Security Forces and in some cases reportedly used for bacha bazi (a harmful practice whereby boys are used by men for entertainment including being made to dance at parties dressed in female clothes and subjected to sexual violence). Following the August 2021 takeover by the Taliban and its establishment of a de facto government, concerns have been raised that the arbitrary detention of boys and lack of judicial oversight and independent monitoring of detention facilities may have increased the risk of CRSV.⁴⁹
- **Iraq:** Sexual violence is among the forms of torture used during interrogations of individuals accused of affiliation with Da'esh, including in at least one recorded case, against a boy.⁵⁰
- **Myanmar:** Multiple cases of sexualised torture and abuse against male detainees, including boys, have been documented in government-run prisons and detention centres, including in the context of mass arrests during the 2016-2017 “clearance operations” against Rohingya people. Among the forms of sexual violence against boys reported are oral and anal rape, beating and other mutilation of the genitals, and forced nudity.⁵¹
- **Nigeria:** Sexual violence against boys, primarily by other male detainees, has been reported in military detention facilities where children allegedly associated with Boko Haram have been held, often

48 The MARA was established by UNSC resolution 1960 (2010), to ensure the systematic gathering of timely, accurate, reliable and objective information on conflict-related sexual violence. The MRM was established by UNSC resolution 1612 (2005) to provide for the systematic gathering of accurate, timely, objective and reliable information on six grave violations committed against children in situations of armed conflict, including rape and sexual violence. Both gather information and report only on incidents of CRSV committed by parties to armed conflict.

49 United Nations, Reports of the Secretary-General on Children and Armed Conflict in Afghanistan, September 2019, S/2019/727. Available at: <https://undocs.org/S/2019/727> and July 2021, S/2021/662. Available at: <https://undocs.org/S/2021/662> and ASP publications, [Submission to the UN Committee on the Rights of the Child on Afghanistan, 85th Session, 8 August 2021](#) and [Conflict-related sexual violence: New dangers facing men and boys in Afghanistan](#), January 2022.

50 United Nations, UN Assistance Mission in Iraq (UNAMI) and OHCHR, Human Rights in the Administration of Justice in Iraq: Legal conditions and procedural safeguards to prevent torture and ill-treatment, August 2021. Available at: https://previous.ohchr.org/Documents/Countries/IQ/UNAMI_Report_Administration_of_Justice_EN.pdf

51 Women's Refugee Commission, [“It's Happening to Our Men as Well”: Sexual Violence against Rohingya Men and Boys](#), 8 November 2018; United Nations, Report of the Independent International Fact-Finding Mission on Myanmar, September 2018, A/HRC/39/64. Available at: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G18/274/54/PDF/G1827454.pdf> and UN Human Rights Council, Sexual and gender-based violence in Myanmar and the gendered impact of its ethnic conflicts, August 2019, A/HRC/42/CRP.4. Available at: https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/FFM-Myanmar/sexualviolence/A_HRC_CRP_4.pdf

for months or years having surrendered or having been taken into custody during security sweeps by Nigerian state security forces.⁵²

- **South Sudan:** UN-mandated investigations have found a “prevalence of sexual violence against men and boys in detention settings, mostly in facilities managed by the National Security Services”. Among the forms of sexual violence documented by the Commission on Human Rights in South Sudan are rape, sexual assaults, sexual humiliation and torture, and genital mutilation often causing serious injury and disability, and sometimes causing or leading to death.⁵³
- **Syria:** According to UN-mandated investigations, male detainees, including boys as young as 11 years old, are among those who have been subjected to various forms of sexual violence including rape, sexual torture, and humiliation with the purpose of forcing confessions, or to humiliate or punish them.⁵⁴ I/NGOs paint a similar picture of the use of sexual violence during interrogation and torture sessions as well as incidents in which boys were forced by prison guards to engage in acts of a sexual nature with guards or other prisoners.⁵⁵
- **Yemen:** According to investigations by the Group of Eminent International and Regional Experts on Yemen, boys detained by Yemen Armed Forces in the Ma’rib political security prison are among those reported to having been subjected to torture, including beating, electrocution and burning of genitals and threats of sterilisation. Acts of sexual violence by United Arab Emirates (UAE) forces committed before their withdrawal from Yemen in mid-2019 in secret detention facilities have also been documented, including against boys.⁵⁶

3.5 CRSV against children deprived of liberty by NSAGs

Whereas information on CRSV against children held by state actors may be limited, even less is known about CRSV in the context of deprivation of liberty by NSAGs. However, the link between deprivation of liberty and the risk of CRSV is nevertheless clearly present:

52 See for example, Amnesty International, “*We Dried Our Tears*”: *Addressing the Toll on Children of Northeast Nigeria’s Conflict*, 27 May 2020, and “*Nigeria: Children and Women Face Sexual Violence in Borno prisons*”, 29 April 2019.

53 United Nations, Commission on Human Rights in South Sudan, Conference room paper on Conflict-related sexual violence against women and girls in South Sudan, March 2022, A/HRC/49/CRP.4. Available at: https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/A_HRC_49_CRP_4.pdf and Report of the Commission on Human Rights in South Sudan, February 2019, A/HRC/40/CRP.1. Available at: <https://undocs.org/A/HRC/40/CRP.1>

54 United Nations, Independent International Commission of Inquiry on the Syrian Arab Republic, “I lost my dignity”: Sexual and gender-based violence in the Syrian Arab Republic, March 2018, A/HRC/37/CRP.3. Available at: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/CoISyria/A-HRC-37-CRP-3.pdf>

55 UNHCR, “*We Keep it in Our Heart*”: *Sexual Violence Against Men and Boys in the Syria Crisis*, October 2017, LDHR, **No Silent Witnesses: Violations against Children in Syrian Detention Centres**, December 2019, Human Rights Watch (HRW), “*They Treated Us in Monstrous Ways*”: *Sexual Violence Against Men, Boys, and Transgender Women in the Syrian Conflict*, July 2020, and LDHR, “*Dying a Thousand Times a Day*”: *Sexual Slavery in Syrian Detention*, June 2022.

56 United Nations, Detailed findings of the Group of Eminent International and Regional Experts on Yemen, September 2020, A/HRC/45/CRP.7. Available at: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/GEE-Yemen/A-HRC-45-CRP.7-en.pdf>

- **Central African Republic (CAR):** an INGO providing psychosocial support and other social services to survivors of gender-based violence (GBV) reported having assisted male victims/survivors including boys who had been subjected to sexual violence by armed groups (mainly the Lord’s Resistance Army), and that such acts typically occurred when the individual was held captive by such groups.⁵⁷
- **Iraq:** There have been reports of rape and other forms of sexual violence against boys held by Da’esh, including in military training camps.⁵⁸
- **Somalia:** Al Shabaab is reported to have publicly raped and executed a 15-year-old boy accused of homosexuality in 2017.⁵⁹
- **Syria:** There are past reports of rape or other forms of sexual violence against boys detained by various armed groups, including the Al-Nusra Front, Da’esh, and the SDF.⁶⁰ There are also ongoing concerns that children deprived of their liberty in dire humanitarian conditions in displacement camps and prisons controlled by the self-administration in northern and eastern Syrian Arab Republic are exposed to multiple dangers, including sexual exploitation and assault, and there are anecdotal accounts of sexual assaults on children, including boys, by other camp residents and detaining authorities.⁶¹
- **Yemen:** Cases of sexual violence and other forms of torture or other ill-treatment, including against at least one boy, have been documented in the Houthi-operated national security section of Al-Saleh Prison in Ta’izz. Alleged incidents of rape, attempted rape, forced nudity and other forms of sexual violence against migrant boys held on “national security grounds” by the Security Belt Forces have also been documented.⁶²

57 ASP, “I don’t know who can help”: Men and Boys Facing Sexual Violence in Central African Republic, 23 February 2018.

58 United Nations, Report of the Secretary-General on Conflict-related Sexual Violence, March 2018, S/2018/250. Available at: <https://undocs.org/S/2018/250>

59 UN Assistance Mission in Somalia and OHCHR, *Protection of Civilians: Building the Foundation for Peace, Security and Human Rights in Somalia*, December 2017.

60 ASP, “Destroyed from Within”: Sexual Violence against Men and Boys in Syria and Turkey, 6 September 2018.

61 For example, ICRC, *Syria: ICRC President urges new approach by international community after decade of brutal crisis*, 29 March 2021, *Position of the United Nations Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights of adolescents/juveniles being detained in North-East Syria*, May 2021, Rights and Security International (RSI), *Abandoned to Torture: Dehumanising rights violations against children and women in northeast Syria*, 13 October 2021, HRW, *Thousands of Foreigners Unlawfully Held in NE Syria*, 23 March 2021, and respondents’ interview, 7 July 2022.

62 United Nations, Detailed findings of the Group of Eminent International and Regional Experts on Yemen, September 2020, A/HRC/45/CRP.7. Available at: <https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/HRCouncil/GEE-Yemen/A-HRC-45-CRP.7-en.pdf>.

4.

Strengthening understandings of and responses to CRSV against boys

While the risks of CRSV in situations of deprivation of liberty are evident from the above examples, the lack of real time data and the patchy nature of the information that is available, undermine effective prevention and mean that the care and support for victims/survivors in custody or post-release are rarely available.

Although documenting and responding to CRSV in detention settings pose particular challenges, there was no doubt among respondents interviewed for this paper that the issue requires dedicated attention and that, in parallel with efforts to reduce the number of children detained in armed conflict, there is a need for better understanding of the experience of children who are detained and the impact of their experiences, including of CRSV.

The following section sets out gaps in data and analysis that emerged from the research and priority areas for action that were identified. While by no means exhaustive, they point to areas where further research is needed, coordination could be improved, advocacy efforts focused to strengthen prevention of CRSV against boys deprived of their liberty, and responses (medical and MHPSS) better designed to address boy victims/survivors of CRSV in detention settings.

4.1 Addressing data gaps

While available data shows that there is already much cause for concern, almost without exception those interviewed for this study believed that the scale of CRSV against detained boys is greater than has been documented to date. For example, respondents who work or have worked with child detainees in Afghanistan, Iraq and north-eastern Syria, believed that sexual violence against detained boys there, whether committed by officials or other detainees, was widespread, even though there are few verified cases. There is therefore a need to study socio-cultural aspects of violations by region in order to identify the best entry points to change behaviour patterns that might lead to increased risk of CRSV against boys.

The UN Secretary-General has called for “more consistent monitoring, analysis and reporting on sexual violence against men and boys particularly in the context of formal and informal detention settings.”⁶³ However, progress has been limited and, where incidents are reported, information is not consistently disaggregated by age or gender and boys are often subsumed within broader categories of “males” or “children”, and thereby effectively rendered invisible. Others have called for better understandings of context-specific socio-cultural drivers underpinning CRSV, which to date are often not well researched.

All respondents considered it essential to remedy this situation citing a range of different reasons. These included for advocacy purposes (including direct engagement with parties to armed conflict/detaining authorities to prevent and address CRSV), to inform the design and implementation of programmatic responses including medical care and MHPSS both for incarcerated children and post release, and to further accountability.

However, opinions diverged on how data on CRSV should be collected and, indeed, whether it is appropriate to do so. A number of respondents took the view that gathering data on CRSV in detention would never be consistent with the principles of the best interests of the child and “do no harm”.⁶⁴ Particular concerns were raised about lack of confidentiality in detention facilities where it is often impossible to interview a child without the presence of guards or other detainees; re-traumatisation and possible reprisals for affected children; and about the lack of referral pathways to health care and other support for victims/survivors.

There were various suggestions about how these challenges might be overcome. This included placing less emphasis on counting/verifying individual cases, but rather working on the assumption that it is highly likely that boys will have been subjected to some form of abuse, including potentially CRSV, whether in detention or before, and therefore making available appropriate responses as a matter of course, including protection, referrals for targeted medical care and MHPSS. Other suggestions included more systematic data gathering among released children in the context of reintegration programmes or among refugee communities (having first ensured that necessary support services are available).

Both approaches are valid, but as other respondents noted, only go so far. A working assumption that detained boys may have experienced CRSV (or other human rights violations) is a good starting point particularly for programming purposes – although as one child protection expert noted, even then a

63 See United Nations, Report of the Secretary-General on Conflict-related Sexual Violence, March 2019, S/2019/280. Available at: <https://undocs.org/S/2019/280>

64 The principle of best interests of the child refers to the right of the child to have his or her best interests assessed and taken as a primary consideration in reaching a decision. It refers to the well-being of a child and is determined by a variety of individual circumstances (age, level of maturity, the presence or absence of parents, the child’s environment and experiences). See UN Committee on the Rights of the Child, General Comment No. 14 (2013) on the right of the child to have his or her interests taken as a primary consideration. The principle of “do no harm” refers to the concept of avoiding unintended negative consequences for affected persons and not undermining communities’ capacities for peace-building and reconstruction. See, The Alliance for Child Protection in Humanitarian Action (Alliance CPHA), [Minimum Standards for Child Protection in Humanitarian Action](#), 2019 Edition.

certain level of evidence is needed to design appropriate responses. Several others pointed out that details of individual cases and an understanding of trends are needed to establish patterns, identify perpetrators and understand causes in order to inform effective prevention strategies and to hold those responsible to account.

Gathering testimonies from individuals who have been released from detention is a method already widely employed by UN investigative bodies and human rights organisations. This can help build a picture of individual experiences as well as of the potential risks facing other children who are still detained but it must necessarily be carried out in accordance with child protection minimum standards by trained staff with referrals to support services in place. Whether children are interviewed directly or accounts of adult witnesses or family members are relied upon, this approach can help build a picture of individual experiences as well as of the potential risks facing other children who are still detained.

Several respondents believed that there were also opportunities to fill gaps in data and analysis through improved coordination and information sharing between different actors, and concerns were raised that this is not yet happening systematically. For example, one respondent described coordination between some UN actors at country-level as ad hoc and often dependent on personal relations.⁶⁵ But data on sexual violence is gathered by many UN and non-UN stakeholders for a range of different purposes (inter alia, human rights investigations, protection and GBV programming and health responses), and more systematic sharing among all relevant stakeholders could contribute to developing a fuller picture of vulnerability and risk factors and more coordinated response strategies.

This must necessarily be done with great care and in accordance with established standards to ensure the safety and privacy of victims/survivors based on their consent, to preserve relationships with communities being served, and to ensure the security of staff and programmes.⁶⁶ Nevertheless, sharing analysis can contribute to a better understanding of protection issues and their impact on various populations at risk, while sharing of anonymous and consented victim/survivor testimonies can support advocacy that another organisation may be better placed to conduct.

4.2 Overcoming practical obstacles to monitoring and documentation

In addition to ethical considerations and protection concerns around documenting CRSV against children in detention settings, there can also be significant practical barriers. Chief among these, and one that many of the respondents pointed to as an obstacle in their own work, is lack of or limited access to facilities in which children are held.

65 Respondent's interview, 1 July 2022. The respondent noted that coordination was stronger at headquarters level.

66 See for example, The Alliance CPHA, *Minimum Standards for Child Protection in Humanitarian Action*, 2019; The Inter-Agency Standing Committee (IASC), *Guidelines on Mental Health and Psychosocial Support in Emergency Settings*, 2007, and ICRC, *Guidelines on Professional Standards for Protection Work carried out by Humanitarian and Human Rights Actors in Armed Conflict and Other Situations of Violence*, 2009.

In Nigeria, for example, the UN is denied access to military facilities in the northeast of the country where boys and girls allegedly associated with Boko Haram and other armed groups have been detained, making it difficult to assess numbers and hindering support and documentation efforts.⁶⁷ In Iraq, access is possible to some facilities but not to others. For example, child protection actors provide services in juvenile detention facilities where hundreds of boys are imprisoned for their alleged association with Da'esh, but do not have access to other children who are held in adult prisons because of overcrowding in the juvenile facilities. A programme, established in 2019 by the UN Assistance Mission in Iraq (UNAMI) and the Office of the High Commissioner for Human Rights (OHCHR), to monitor Ministry of Justice-run detention facilities is also reported to have encountered difficulties in securing the regular, unannounced and unhindered access that is necessary for effective monitoring.⁶⁸

In Syria, despite sustained international pressure, the UN continues to be denied access to all state-run detention facilities, including unofficial and secret places of detention.⁶⁹ Achieving access to children detained in north-eastern Syria has also proved challenging. Although protection support visits and provision of relief supplies has been permitted since 2019/20 to boys held in juvenile rehabilitation centres and prisons, it is not guaranteed and, according to one informant, relies heavily on personal relationships between I/NGO service providers and detention officials.⁷⁰

Where access to detained children is granted, it is often for the provision of humanitarian assistance and other services, rather than for monitoring purposes. Nevertheless, these visits can have a deterrent effect as well as providing opportunities to work with detaining authorities to enhance protection. However, respondents highlighted the challenges often encountered in establishing protection needs, including whether children are at risk of or had experienced CRSV. Among these is the lack of confidential spaces in which to speak to children because of overcrowding and/or because interaction with children is supervised by detention officials. A child protection expert working with an INGO providing support to detained boys in one conflict-affected country raised a particular dilemma faced by its social workers when they suspected some boys may have been subjected to sexual violence by prison guards but were concerned about raising it with the prison authorities for fear of putting the children at greater risk.⁷¹

67 United Nations, Report of the Secretary-General on Children and Armed Conflict in Nigeria, July 2020, S/2020/652. Available at: <https://undocs.org/S/2020/652> and Report of the Secretary-General on Children and Armed Conflict, June 2022, A/76/871-S/2022/493. Available at: <https://undocs.org/S/2022/493>

68 UN Assistance Mission in Iraq (UNAMI) and OHCHR, Human Rights in the Administration of Justice in Iraq: Legal conditions and procedural safeguards to prevent torture and ill-treatment, August 2021. Available at: https://previous.ohchr.org/Documents/Countries/IQ/UNAMI_Report_Administration_of_Justice_EN.pdf. According to the report, dates and locations of visits required at least four weeks' notice and, even with approval, on several occasions the UN had not been able to access a place of detention and/or privately speak to detainees.

69 United Nations, Independent International Commission of Inquiry on the Syrian Arab Republic, *Syria's Missing and Disappeared: Is There a Way Forward?*, 17 June 2022. Available at: https://www.ohchr.org/sites/default/files/2022-06/PolicyPaperSyriasMissingAndDisappeared_17June2022_EN.pdf

70 United Nations, Report of the Secretary-General on Children and Armed Conflict in Syria, April 2021, S/2021/398. Available at: <https://undocs.org/S/2021/398> and respondents' interview, 7 July 2022.

71 In circumstances where unmet protection needs or a serious abuse or violation of IHL or IHRL are suspected, guidelines recommend alerting and encouraging the involvement of other protection actors with the requisite competencies and capacity and requisite mandate to take action. See ICRC, Guidelines on Professional Standards for Protection Work carried out by Humanitarian and Human Rights Actors in Armed Conflict and Other Situations of Violence, Third Edition, 2009.

There was consensus among most respondents of the importance (in addition to access for service provision) of regular, independent, unhindered monitoring of places of detention by national and or international humanitarian and human rights actors, both for preventing abuses and to identify elements (such as rules and procedures, physical conditions of detention and adequacy of safeguards) that lead, or might lead in the future, to torture or other ill-treatment, including CRSV.

This points to the need for sustained engagement to secure access to detained children, including via high-level political engagement with authorities in conflict-affected countries by the UN and diplomatic missions (including via Groups of Friends (GoFs) on CAAC where they exist).⁷²

Respondents also emphasised the importance of monitors having the skills and experience needed to interview child detainees safely and ethically and or document concerns that may contribute to the risk of CRSV. Finding or creating safe conditions for children to discuss a sensitive and often stigmatising topic was also stressed, but as noted above, this can be difficult, as can ensuring follow-up including access to services, which cannot always be guaranteed.

Questions were raised about the roles of different stakeholders – whether for example, the MRM is the most appropriate mechanism for gathering such data, or whether other actors would be better placed to perform this role. While these discussions centred primarily on capacity, they also relate to what data is collected (for example, the MRM and MARA are mandated to gather data on CRSV committed by parties to armed conflict but do not conduct monitoring and reporting on inter-detainee violence). Additional questions arose over the purpose for which data is gathered – for example, careful consideration is needed about when it is helpful or appropriate to make information public, and when direct engagement and private dialogue with parties responsible for detaining children may be a more effective approach to achieve protection/prevention objectives.

4.3 Mapping potential risks of CRSV in detention settings

Even where access to detention facilities is limited or not possible at all, mapping of detention practices by both state security forces and NSAGs in specific contexts can help to identify potential risks to children, including CRSV, and thereby help inform engagement and advocacy strategies and protection programming. Among the possible risk factors are:

- **Detaining authorities and places of detention:** The level of risk of CRSV that children face in detention can depend on who they are detained by and where they are held. The risk may be higher for those deprived of liberty by military actors (both state and NSAG) and held in military bases or other

⁷² GoFs on CAAC are informal platforms that bring together concerned UN member States and UN stakeholders in support of the CAAC agenda. They currently exist in Geneva, at the African Union, in Afghanistan, Colombia, DRC, Mali, Philippines, Somalia, South Sudan, Sudan, Syria, and Yemen.

military-run detention facilities which are more likely to be outside the purview of civilian oversight. Likewise, the existence of unofficial places or secret places of detention pose particular risks to children detained in them, including of CRSV.⁷³ While specialised juvenile detention facilities do not guarantee protection, risks are exacerbated when children are held in adult facilities, particularly when boys share accommodation with adult male detainees or prisoners.

- **Detention procedures:** Robust adherence to juvenile justice standards is essential to the protection of the rights of all detained children, including those accused of committing terrorism-related offences or offences against national security. Alternatives to detention should be sought but if considered necessary to deprive a child of their liberty, it should be for the shortest appropriate period of time and their protection, care and developmental needs prioritised in order to ensure that they can be reintegrated into their communities. Effective age verification processes should also be in place to ensure that children are not detained with adults and, if they are detained, are provided with age-appropriate care and support. In practice though, juvenile justice frameworks are often weak or poorly implemented in conflict settings, and procedural safeguards that can protect children against human rights violations, including CRSV, such as access to family members, legal counsel, medical care and judicial oversight, are frequently lacking.⁷⁴
- **Physical conditions of detention:** Poor conditions of detention – which in certain circumstances can themselves amount to ill-treatment or even torture⁷⁵ – can also exacerbate risks. Respondents working in different conflict-settings described conditions of chronic overcrowding, under-resourcing and lack of management and effective oversight as being commonplace in many facilities where children are held. As above, the mixing of children with adults, in contravention of international law and juvenile justice standards, was widely seen as a significant risk factor for CRSV.⁷⁶ Punishments meted out to detained children, such as solitary confinement, were also identified as another risk-heightening factor.

73 For example, UN-mandated investigations found that torture and sexual violence, including against boys occurred between 2016 and May 2018 in a network of unofficial detention facilities on military bases in Yemen operated by the UAE, Security Belt and Shabwah Elite forces. See United Nations, Report of the detailed findings of the Group of Eminent International and Regional Experts on Yemen, September 2019, A/HRC/42/CRP.1. Available at https://www.ohchr.org/sites/default/files/Documents/HRBodies/HRCouncil/HRCouncil/GEE-Yemen/A_HRC_42_CRP_1.pdf

74 The Global Study found that the majority of children deprived of liberty in the context of armed conflict have their procedural rights violated, and children charged with national security offences may be more likely to be detained without charge or trial for long periods and prosecuted in adult or military courts that have no child justice safeguards. See UN Global Study on Children Deprived of their Liberty, 2019.

75 “All persons under any form of detention or imprisonment shall be treated in a humane manner and with respect for the inherent dignity of the human person”. Principle 1, Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment. The Human Rights Committee has stated that this principle, contained in ICCPR art. 10(1), is “a fundamental and universally applicable rule” which “complements for [persons deprived of their liberty] the ban on torture or other cruel, inhuman or degrading treatment or punishment”. Such persons may not be subjected “to any hardship or constraint other than that resulting from the deprivation of liberty; respect for the dignity of such persons must be guaranteed under the same conditions as for that of free persons”. Human Rights Committee, General Comment No. 21 (1992) on Article 10 (humane treatment of persons deprived of their liberty). Under the CRC, art. 19.1’s prohibition of mental violence against children can be violated by “placement in solitary confinement, isolation or humiliating or degrading conditions of detention”. UNCRC, General Comment No. 13 (2001).

76 CRC, art. 37(c) and see UNCRC General Comment No. 24 (2019), para. 92. ICCPR, art. 10(3); the Human Rights Committee has said that the detention of children with adults can violate both art. 10(3) and the right of children to special measures of protection under art. 24. *Damian Thomas v. Jamaica*, CCPR/C/65/D/800/1998 (1999). See also UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), Rules 11 and 112.

4.4 Understanding the role of gender and other intersectional factors

Attention is increasingly being paid to the different impacts of armed conflict on boys and girls.⁷⁷ Nevertheless, general and context-specific understandings of the way in which gender shapes an individual's experience of armed conflict and how gender intersects with other factors including age, class, disability, race, ethnicity, national origin, religion and sexual orientation remain incomplete. Specifically in relation to deprivation of liberty and CRSV, gender and other stereotypes persist which can create vulnerabilities to abuse as well as having negative consequences for how they are responded to.

That there are gender disparities among children deprived of their liberty is clear. In the context of armed conflict and national security, the Global Study found that 94% of all children deprived of their liberty were boys.⁷⁸ Analysis of the data from the past three years of the Secretary-General annual reports on CAAC likewise shows that the vast majority of children in conflict-related detention are boys (between 95.5% and 97%).⁷⁹

The Global Study attributed this disproportionate numbers of boys to the fact that they are recruited and used by armed forces and armed groups in greater numbers than girls and, when associated with fighting forces, boys are more likely to perform combat or other roles directly related to the conflict.⁸⁰ Respondents interviewed for this research and other experts also pointed to broader, more systemic reasons. These include pervasive stereotyping under which boys (particularly adolescent boys), because of their gender and age, are often detained because they are presumed to be associated with opposing forces, whether or not they are in reality.

With reference to boys detained in prison facilities in north-eastern Syria, the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism has highlighted the way in which “ill-grounded presumptions” that boys over a certain age are “violent extremists” or “terrorists” have resulted in their unlawful detention and other human rights violations against them.⁸¹

77 See for example, ICRC, *Gendered Impacts of Armed Conflict and Implications for the Application Of International Humanitarian Law*, June 2022, and United Nations, OSRSG CAAC, *The Gender Dimensions of Grave Violations Against Children in Armed Conflict*, May 2022. Available at: https://childrenandarmedconflict.un.org/wp-content/uploads/2022/05/UN_Gender-Dimensions-Grave-Violations-Against-Children-WEB-2.pdf

78 UN Global Study on Children Deprived of their Liberty, 2019.

79 Based on the number of verified cases of deprivation of liberty contained in United Nations, Annual reports of the Secretary-General on Children and Armed Conflict, June 2020, A/74/845-S/2020/525. Available at: <https://undocs.org/S/2020/525>; May 2021, A/75/873-S/2021/437. Available at: <https://undocs.org/S/2021/437>; and June 2022, A/76/871-S/2022/493. Available at: <https://undocs.org/S/2022/493>

80 UN Global Study on Children Deprived of their Liberty, 2019. According to the Secretary-General's 2022 report on Children and Armed Conflict, 90% of verified cases of recruitment and use were boys, June 2022, A/76/871-S/2022/493. Available at: <https://undocs.org/S/2022/493>

81 United Nations, Position of the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism on the human rights of adolescents/juveniles being detained in North-East Syria, May 2021. Available at: https://previous.ohchr.org/Documents/Issues/Terrorism/SR/UNSRCT_Position_human-rights-of-boys-adolescents-2021_final.pdf

Elsewhere, similar stereotypes around age and gender persist which can make boys particularly vulnerable to detention. As noted by one informant, “the detention of boys in many modern conflicts is indiscriminate and pervasive”.⁸² Other intersecting identities, such as race, religion, ethnicity or place of origin, may also influence which boys are most at risk. For example, in Iraq, the vast majority of detained boys are Sunni Muslims, from areas formerly under the control of Da’esh.⁸³

Once detained, gender and other intersecting diversity characteristics may combine to increase a child’s risk of CRSV. For example, non-conforming sexual orientation and/or gender identity and expression and disability are recognised as increasing vulnerability, including to CRSV.⁸⁴

Respondents also pointed to other possible factors that can create particular vulnerabilities for conflict-related child detainees. These include stigma resulting from real or perceived association with a particular armed group that can result in detained children being blamed and punished for the actions of this group. Several respondents explained that boys detained in Iraq for their alleged association with ISIL are deeply resented both by other detainees and by officials and often punished for minor infractions. There is no indication that such punishments involve CRSV, but specific concerns were raised about the use of solitary confinement as a form of punishment (in violation of international law)⁸⁵ and its potential to enhance risks because the child is removed from the general prison population and does not have access to social workers or family visits.⁸⁶

A similar dynamic was described in Afghanistan (pre-August 2021) where, according to one informant, boys detained for alleged association with Islamic State in Iraq and the Levant-Khorasan Province (ISIL-KP) were at particularly high risk of abuse both from officials and other detainees because of the stigma of being associated with this group. This was considered particularly so for foreign-born children who did not speak local languages and were detained far away from their families and communities.⁸⁷

However, much of the available data is anecdotal, and there remains a need for more systematic monitoring and detailed analysis to provide the level of detail needed to identify and respond to context-specific risks and vulnerabilities of children both to being detained and to CRSV and other human rights abuses when in detention.

82 Respondent’s interview, 27 June 2022.

83 According to UNAMI/OHCHR, the system of punishment imposed for ‘membership’ of a terrorist organisation, in particular ‘ISIL membership’, risks being perceived as indiscriminate in its application, imposing disproportionate penalties and at times resembling collective punishment for certain (predominantly Sunni) communities. UNAMI and OHCHR, Human Rights in the Administration of Justice in Iraq: Trials under the anti-terrorism laws and implications for justice, accountability and social cohesion in the aftermath of ISIL, January 2020. Available at: https://www.ohchr.org/sites/default/files/Documents/Countries/IQ/UNAMI_Report_HRAAdministrationJustice_Iraq_28January2020.pdf

84 See for example, UN Global Study on Children Deprived of their Liberty, November 2019; and Association for the Prevention of Torture, *Towards the Effective Protection of LGBTI Persons Deprived of Liberty: A Monitoring Guide*, 2018.

85 UNCRC, General Comment No. 24 (2019), para. 95(g) and (h). (“Disciplinary measures in violation of article 37 of the Convention must be strictly forbidden, including corporal punishment, placement in a dark cell, solitary confinement or any other punishment that may compromise the physical or mental health or well-being of the child concerned, and disciplinary measures should not deprive children of their basic rights, such as visits by legal representative, family contact, food, water, clothing, bedding, education, exercise or meaningful daily contact with others”).

86 Respondent’s interview, 1 July 2022.

87 Respondent’s interview, 27 June 2022.

4.5 Addressing root causes

CRSV in detention settings is rarely, if ever, a stand-alone violation, but is facilitated by or connected to other human rights abuses. Tackling root causes is therefore essential to preventing CRSV in detention settings.

- **Reducing the numbers of detained children**

Reducing the numbers of children detained in situations of armed conflict is a key element in reducing the number of boys (and girls) exposed to CRSV in detention settings. Working with national authorities to effectively implement child rights and juvenile justice standards is core to this – including to ensure that deprivation of liberty is only used as a measure of last resort and for the shortest appropriate period of time.

Where children are detained by parties to armed conflict, practical tools such as “handover protocols” or other similar arrangements are proving effective in some settings in facilitating the swift release and transfer to child protection actors for reintegration and other support.⁸⁸

For example, in Somalia standard operating procedures (SOPs) were agreed in 2014 which require the Somali National Security Forces to alert the UN of children in their custody and to transfer them within 72 hours to UNICEF-supported interim care centres for reintegration and other necessary care and support. Concerns remain about the inconsistent application of the SOPs and the high numbers of children still detained for their alleged association with NSAGs (195 in 2021 according to the UN Secretary-General’s 2022 Report on Children and Armed Conflict). Nevertheless, according to a child protection expert interviewed for this paper, the SOPs have contributed to reducing the length of time that children are detained and thereby help to reduce their possible exposure to CRSV and other detention-related human rights violations.⁸⁹

Another route through which release of children can be secured is via Action Plans agreed by parties to armed conflicts with the UN to prevent and end grave violations against children in which provisions for the transfer of children detained for their alleged association with opposing forces have been included. OSRSG CAAC’s Practical guidance for mediators to protect children in situations of armed conflict also recommends that seeking agreement among parties to prioritise the release of child detainees (accompanied by tailored, long-term reintegration programmes) can act as a confidence-building measure in peace or ceasefire negotiations.⁹⁰

88 For detailed information and guidance on handover protocols see, Watchlist on Children and Armed Conflict (Watchlist), *A Path to Reintegration: The Role of Handover Protocols in Protecting the Rights of Children Formerly Associated with Armed Forces or Armed Groups*, December 2020, and Watchlist and the Alliance for Child Protection in Humanitarian Action, and its Children Associated with Armed Forces and Armed Groups Task Force, *Operational Guidance: Negotiating and Implementing Handover Protocols for the Transfer of Children Associated with Armed Forces and Armed Groups*, March 2022.

89 Respondent’s Interview, 4 July 2022.

90 United Nations, OSRSG CAAC, *Practical guidance for mediators to protect children in situations of armed conflict*, February 2020. Available at: <https://childrenandarmedconflict.un.org/wp-content/uploads/2020/10/Practical-guidance-for-mediators-to-protect-children-in-situations-of-armed-conflict.pdf>

- **Ensuring child rights compliant responses to countering terrorism and violent extremism**

Part of efforts to reduce the numbers of children in detention must also focus on addressing the detention of children under national security laws, which has become increasingly common in recent years and frequently occurs in violation of established child rights standards.

Concerns about the violation of children’s rights, including their arbitrary or unlawful detention, in the context of countering armed groups designated as terrorist organisations have been repeatedly raised by UN experts, INGOs and others. Among the concerns are the lack of internationally agreed definitions of “terrorism” and “violent extremism” and the way in which this lack of clarity has allowed States to criminalise a wide range of actions protected by human rights law (such as freedom of expression and assembly), resulting in an increasingly punitive approach to children who are or are perceived as being associated with groups designated as “terrorist”, or at risk of being drawn into them.⁹¹

Procedural safeguards and best practices for protecting children in the context of justice processes are also commonly ignored where children are accused of association with groups designated as “terrorist”. This can result in children, predominantly boys, being held for extended periods, without charge, or tried in proceedings which contravene juvenile justice and fair trial standards.⁹²

Notwithstanding the challenges faced by governments in responding to the threat of terrorism, respondents emphasised the need for child rights to far more recognised and protected under laws, policies and action to counter terrorism than they currently are. The need to reframe the prevailing narrative was also stressed, from one where children associated with groups termed “terrorist” or “violent extremist,” in whose actions they are viewed as complicit, to one that is primarily focused on those responsible for recruiting and exploiting these children.⁹³

There is already detailed guidance available to assist States in upholding the rights of children in armed conflict, including those deprived of their liberty.⁹⁴ However, such guidance has yet to be translated into practice in many conflict-affected countries and/or countries facing threats to security from armed groups designated as terrorist organisations, and too often security considerations are prioritised over the rights and best interests of children. More systematic engagement with child rights/protection actors

91 For this and other concerns, see for example UN General Assembly, Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, August 2021, A/76/261. Available at: <https://undocs.org/A/76/261>. Also, Watchlist, *Countering Terrorism and Violent Extremism: The Erosion of Child Rights in Armed Conflict*, January 2020; and Child Rights International Network, *Caught in the Crossfire? An international survey of anti-terrorism legislation and its impact on children*, November 2018.

92 UN Global Study on Children Deprived of their Liberty, November 2019.

93 Respondent’s interview, 12 July 2022.

94 See for example, United Nations Office on Drugs and Crime (UNODC), *Handbook on Children Recruited and Exploited by Terrorist and Violent Extremist Groups: The Role of the Justice System*, 2017. Available at: https://www.unodc.org/documents/justice-and-prison-reform/Child-Victims/Handbook_on_Children_Recruited_and_Exploited_by_Terrorist_and_Violent_Extremist_Groups_the_Role_of_the_Justice_System.E.pdf, OPAC and Paris Principles.

by governments and others involved in developing and implementing counter-terrorism strategies, policies and laws with child rights/protection actors is needed to find pragmatic solutions to guaranteeing child rights, while at the same time protecting national security.

- **Ending child recruitment and use**

The continued effort to end child recruitment and use by parties to armed conflict, while imperative in itself, is also important for preventing secondary harms arising from children’s association with armed forces and armed groups, including deprivation of liberty. As one respondent noted, “child recruitment and use is a grave violation in itself, but it also creates the conditions for multiple other violations to take place, including sexual violence. In preventing recruitment and fostering criminal accountability for the crime of recruitment, we can prevent a wide range of related abuses from taking place.”⁹⁵

Pressuring and supporting parties to armed conflict to adopt measures to ensure that children are not recruited or used in hostilities and to release children associated with them is a necessary part of this. So too is building nuanced understandings of the underlying risks and vulnerabilities that lead to child recruitment and use, many of which will overlap with factors that make a particular child or group of children more (or less) vulnerable to being detained, including gender, age, ability/disability, as well as more structural socio-economic and cultural determinants.

Moreover, deprivation of liberty, far from being a way of reducing perceived security risks posed by children, may facilitate their recruitment by NSAGs, including groups designated by the UN as terrorist. For example, concerns have been raised about potential radicalisation and recruitment by ISIL and other jihadist groups of children held in camps in north-eastern Syria.⁹⁶ In Iraq, resentment generated by the widespread detention of boys held for their alleged association with ISIL and lack of support for their recovery and reintegration, is regarded by child protection actors in the region as creating fertile ground for recruitment.⁹⁷

- **Links between abduction and deprivation of liberty**

Overlaps between recruitment and use, “abduction” and, by extension, deprivation of liberty must also be teased out. As noted in a recent guidance note by the OSRSG CAAC, “the abduction of children in situations of armed conflict is commonly a ‘means to an end’ that often leads or is concomitant to other grave violations against children”. The note makes clear that the arbitrariness of a deprivation of liberty

95 Respondents’ interview, 12 July 2022.

96 Royal United Services Institute for Defence and Security Studies (RUSI), *Resolving the Stalemate: Foreign Fighters and Family Members in Syria*, 16 December 2021.

97 War Child, *Being a ‘Force for Good’: How the UK can Tackle Child Recruitment and Use by Armed Forces and Armed Groups*, forthcoming.

does not make it abduction.⁹⁸ However, one violation can compound the other. For example, abduction by an NSAG can lead to abducted children being detained by state security forces for their alleged association with the group that abducted them. Abducted children may also be subjected to unlawful deprivation of liberty by NSAGs and state actors.

In Nigeria, for example, where abduction is reported to be the most common pathway into the ranks of Boko Haram, abducted children are among those who have been detained by state security forces after they have been captured or surrendered.⁹⁹ Many children and youth who are abducted by Boko Haram are also reported to be detained by the group for a period of indoctrination in which they are made to undertake religious and military training.¹⁰⁰

While clear definitions are necessary for monitoring and reporting purposes, they should be applied in a way that avoids a siloed approach and creates connections between different violations.

4.6 Understanding and responding to the needs and wishes of boy victims/survivors

Although there is a very incomplete picture of patterns of CRSV, based on available information it is likely that some child detainees will have experienced CRSV before their incarceration (for example, in the ranks of armed forces or armed groups with which they are associated), in addition to CRSV that may occur during arrest and detention.¹⁰¹ The impact of such experiences is likely to be devastating, often involving physical injuries as well as profound psychological harms and social consequences for the victims/survivors. Left unaddressed (which is frequently the case in detention settings) these can deepen, jeopardising recovery and undermining prospects for reintegration of individual children, with potential knock-on effects for peace and security in conflict-affected countries.

However, as noted above, CRSV is likely to be only one of many human rights abuses experienced by an individual child. Respondents stressed the need to address and treat multiple layers of trauma experienced both before and during detention, while recognising that CRSV may be among the abuses experienced. Responding appropriately requires a more complete understanding of CRSV experienced by boys (as well as girls), and for safe, confidential, age and gender sensitive, disability inclusive and survivor-centred medical and health care and for MHPSS to be available to children both in detention settings and following their release.

98 United Nations, OSRSG CAAC and UNICEF, Guidance Note on Abduction, April 2022. Available at: https://childrenandarmedconflict.un.org/wp-content/uploads/2022/05/22-00040_Abduction-Guidance-for-CAAC_FINAL_WEB-1.pdf

99 United Nations University (UNU), Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict, 1 August 2018. Available at: <https://unu.edu/children-and-extreme-violence>

100 UNU, Cradled by Conflict: Child Involvement with Armed Groups in Contemporary Conflict, 1 August 2018. Available at: <https://unu.edu/children-and-extreme-violence>

101 For further information on CRSV against boys in the context of recruitment and use by armed forces and armed groups see ASP, Checklist on Preventing and Addressing Conflict-related Sexual violence against Men and Boys, 10 December 2019.

According to respondents, there is often little in the way of care and support for children while they are incarcerated, including for those who may have been subjected to sexual violence. Representatives from organisations providing child protection services to boy detainees in Afghanistan and Iraq described the limited reach and time-bound nature of their programmes, and the way the provision of the comprehensive support required for the recovery and reintegration of detained children has been hampered by a lack of coordinated responses among governmental and non-governmental stakeholders, lack of funding, and lack of capacity and expertise among service providers.¹⁰²

In the context of CAAFAG reintegration programmes, greater emphasis appears to be being placed, at least in some countries, on training and other capacity-building activities that promote awareness that CRSV can impact all genders. For example, according to one respondent, UN training for CAAFAG reintegration implementing partners in South Sudan promotes gender inclusive understandings of CRSV, and programmes are designed to respond to the needs and wishes of both boy and girl victims/survivors.¹⁰³

However, other respondents felt that there is still insufficient recognition that boys, as well as girls, can be subjected to CRSV. The result of this is that CAAFAG release and reintegration programmes, whether residential or community-based, are not systematically designed to identify and provide support to boy victims/survivors of CRSV, and boys released from detention, even where they are able to access reintegration support, often do not receive the specialist care needed to address the physical and emotional injuries resulting from CRSV.¹⁰⁴

This mirrors experiences documented in other studies which have found that multiple, reinforcing barriers are experienced by men and boy victims/survivors of CRSV in accessing quality, timely, survivor-centred medical care and MPHSS. These can include structural and social barriers such as discriminatory laws and policies (such as laws that criminalise consensual same-sex conduct) as well as stigmatising attitudes and behaviours of service providers (such as homophobia and transphobia) which can deter or prevent male victims/survivors from seeking and receiving care. Lack of recognition of male vulnerability to CRSV, and lack of knowledge and expertise among service providers on how to respond to it, can also contribute to a lack of preparedness to ensure the availability of appropriate care that addresses and responds to the rights, needs and wishes of male victims/survivors.¹⁰⁵

Respondents interviewed for this paper pointed to additional challenges in providing support to children detained for their alleged association with “terrorist” or “violent extremist” groups where political

102 Respondents’ interviews, 27 June and 1 July 2022.

103 E-mail communication with respondent, 12 September 2022.

104 Respondent interview, 20 July 2022.

105 See for example, ASP and Youth Health and Development Organization (YDHO), [Enhancing Survivor-Centred Healthcare Response for Male Victims/Survivors of Sexual Violence in Afghanistan](#), 19 March 2021, and ASP and the London School of Hygiene & Tropical Medicine, [The Health of Male and LGBT Survivors of Conflict-Related Sexual Violence](#), 7 April 2020.

sensitivities mean that national authorities are often unwilling to invest in comprehensive recovery and reintegration programmes, and local NGOs fear reprisals from populations who have been victims of human rights abuses committed by such groups. One respondent pointed to the way in which counter-terrorism narratives are used by governments to shut down programming which seeks to provide reintegration support to people (including children) accused of association with groups they regard as “terrorists” (whether or not they are designated as such by the UN).¹⁰⁶ Others highlighted the reluctance of donors to fund programmes involving assistance to children detained on account of their alleged affiliation with armed groups designated as terrorists, such as ISIL and the Taliban.¹⁰⁷

While there are often political sensitivities involved in providing support for children recruited, used or otherwise exploited by terrorist groups, including groups designated as such by the UN, failure to do so may violate the rights of these children, including the fundamental right to non-discrimination. Neglecting any child, including those who have suffered CRSV in the context of deprivation of liberty, is also counter-productive, both for individual children who are denied the support needed to enable them to recover, develop and grow into meaningful roles in society, but also to broader prospects for peace and security.

106 Respondent interview, 27 June 2022.

107 Respondent's interviews, 27 and 28 June 2022.

5.

Recommendations on the way forward

CRSV against boys deprived of their liberty is clearly an issue in need of attention. However, there remain many gaps in knowledge and understanding which, among other things, undermine prevention and mean that most boy victims/survivors are unable to access appropriate care and support. As this paper highlights, there is no single or simple solution – this is a complex issue that must be addressed as part of broader efforts to protect children against grave violations in armed conflict and which requires dedicated attention and coordinated responses from multiple different stakeholders at international and national levels.

Respondents proposed suggestions for action that could help progress these efforts beginning with the need for further in-depth research and analysis to establish a more complete understanding of conflict-related deprivation of liberty of children and links to other human rights abuses, including CRSV, and develop coordinated strategies to address it. To this end, it was suggested that a working group could be formed (possibly within the existing UN Interagency Task Force on Children Deprived of Liberty) focused specifically on the deprivation of liberty of children by state security forces and NSAGs in situations of armed conflict, that could take the lead on carrying out research and provide a platform for joint strategy development and coordination among experts from all relevant fields including child rights, child protection, CAAC, GBV, counter-terrorism, and prevention of torture, as well as those involved in providing medical and health care and MHPSS to victims/survivors of CRSV.¹⁰⁸

In the meantime, urgent attention should be given to the following:

- **Strengthening data collection and analysis – for all stakeholders involved in data collection:**
 - Ensure that data on CRSV, including in detention settings, is consistently disaggregated by gender and age. Where possible, and consistent with the imperative to protect individual identities,

¹⁰⁸ This could coordinate with other structures working on complementary issues such as the OSRSG CAAC and UNICEF-led Global Coalition for the Reintegration of Child Soldiers; the Alliance CPHA's CAAFAG Task Force, as well as the NGO Panel for the Global Study on Children Deprived of Liberty which also works to support the implementation of recommendations contained in the Global Study.

additional information on race, ethnicity, migratory status, disability, geographic location and other characteristics relevant in national contexts should also be included.¹⁰⁹

- Systematically apply an intersectional gender lens to analysis of data in order to establish more complete, context-specific understandings of factors that contribute to risks and vulnerabilities of CRSV for boys as well as girls, including gender stereotyping and socio-cultural norms.
 - Consider ways in which data and analysis can be more systematically shared among relevant stakeholders at both field and international levels while respecting the safety, security, confidentiality and informed consent of those providing information.
 - Ensure that anyone involved in monitoring or data gathering in detention settings has the necessary skills and experience to appropriately support children who have experienced sexual violence, connect them with medical and MHPSS services as quickly as possible, document cases in a way that upholds safe and ethical principles, and otherwise respond in a manner that is consistent with the best interests of the child and “do no harm” principles.
- **Strengthening compliance by parties to armed conflict**
 - Efforts should continue to strengthen compliance with parties to armed conflict with their obligations under IHRL and IHL relating to the deprivation of liberty of children and prohibitions on CRSV. In working with States, this should include strengthening juvenile justice laws and systems and protections for children under counter-terrorism laws, including by prohibiting the criminalisation of children solely based on their association with armed groups.
 - Diplomatic missions and donors in countries where conflict-related child deprivation of liberty occurs, should use their engagement with national counterparts to support efforts by the UN, child protection and other relevant stakeholders to secure regular, unannounced, unhindered access to all places in which children are detained.
 - Donors providing support (financial, training or other) to security forces that detain children for their alleged association with opposing forces, should condition security assistance on the adoption and effective implementation of protocols or SOPs for the swift handover of children to child protection experts. Where there are credible allegations of CRSV against children deprived of liberty, security assistance should be suspended.

109 See UN General Assembly, Resolution 70/1, Transforming our World: the 2030 Agenda for Sustainable Development, 21 October 2015. Available at: https://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf

- **Strengthening support for boy survivors of CRSV in detention settings**

- All actors involved in providing medical health care and/or MHPSS should recognise the possibility that boys may have been subjected to CRSV, even where they are unable to disclose their experiences for reasons such as stigma or fear of reprisals, and ensure that staff have the skills and experience to respond appropriately.
- Donors should increase funding for child protection programming in detention settings, and for long-term, community-based programming for the recovery and reintegration of children on their release from detention. Funding should be provided without discrimination of any kind, including on the basis of which armed forces or armed group the child may have been affiliated with. Funding should also aim at strengthening social and child protection systems to ensure sustainability of interventions.

Appendix I - Principles of Juvenile Justice and Protection of Children from or in Detention

<p>Key international instruments relating to juvenile justice</p>	<p>Convention on the Rights of the Child (CRC)</p> <p>UN Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules)</p> <p>UN Guidelines for the Prevention of Juvenile Delinquency (Riyadh Guidelines)</p> <p>UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules)</p> <p>UN Guidelines for Action on Children in the Criminal Justice System (Vienna Guidelines)</p> <p>Economic and Social Council Guidelines on Justice in Matters Involving Child Victims and Witnesses of Crime (adopted in 2005)</p>	
<p>Core principles relating to detention of children and juvenile justice</p>	<p>In all actions concerning children, the best interests of the child must be a primary consideration.</p> <p>State parties must take all appropriate legislative, administrative, social and education measures to protect the child from “all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”. The use of the term violence “must not be interpreted in any way to minimize the impact of, and need to address, non-physical and/or non-intentional forms of harm (such as, inter alia, neglect and psychological maltreatment)”.</p> <p>Arrest, detention and imprisonment of a child shall be used only as a measure of last resort and for the shortest appropriate period of time. When children are arrested, notice of the arrest and the reasons for it should be provided directly to their parents, guardians, or legal representatives. Children should also not be held in transportation or in police cells, except as a measure of last resort and for the shortest period of time, and not held with adults, except where that is in their best interests.</p>	<p>CRC, art. 3. Committee on the Rights of the Child, General Comment No. 14 (2013).</p> <p>CRC, arts. 19 and 37 (a). Committee on the Rights of the Child, General Comment No. 13 (2011).</p> <p>CRC, art. 37(b). Committee on the Rights of the Child, General Comment No. 24 (2019). Human Rights Committee, General Comment No. 35 (2014).</p>

	<p>Every child alleged as, accused of, or recognised as having infringed criminal law should always be treated in a manner consistent with the promotion of their sense of dignity and worth. Their treatment must take account of their age and promote their reintegration and adoption of a constructive role in society.</p> <p>Children detained for acts carried out in the context of their association with groups designated as “terrorist” are entitled to the same rights and protections as any detained child.</p>	<p>CRC, art. 40(1). Committee on the Rights of the Child, General Comment No. 24 (2019). UN Human Rights Committee, General Comment No. 32 (2007).</p> <p>Committee on the Rights of the Child, General Comment No. 24 (2019), and Neuchâtel Memorandum on Good Practices for Juvenile Justice in a Counterterrorism Context.</p>
Prohibition of secret detention	<p>Enforced disappearance and secret detention are absolutely prohibited under international law, for children as well as adults. Such detention in and of itself amounts to torture or other ill-treatment, as well as facilitating such.</p>	<p>International Convention for the Protection of All Persons from Enforced Disappearance. ICCPR, arts. 6, 7, 9, 10, and 16. CAT, arts. 1 and 16. CRC, art. 37.</p>
Basic guarantees relating to detention	<p>Certain basic guarantees apply to all persons deprived of their liberty that are reiterated and reinforced in the case of children, including the right to prompt (for a child, within 24 hours of being detained) access to a court or other competent, independent or impartial authority to have prompt adjudication on the legality of the deprivation of liberty, to be able to communicate “confidentially and at any time with his or her lawyer”, independent medical assistance and contact with family members and others.</p>	<p>Committee on the Rights of the Child General Comment No. 24 (2019), paras. 89, 90, 95(a) and (h). Also Committee against Torture, General Comment No. 2 (2007).</p>
Prohibition on incommunicado detention and solitary confinement	<p>Neither incommunicado detention nor solitary confinement should be used against children, and any separation of the child from others should be a measure of last resort and for the shortest possible time.</p>	<p>Committee on the Rights of the Child, General Comments Nos. 13 (2011) and 24 (2019).</p>
Separation of detained children from adults	<p>Separation of detained children from adults is required, and no child should be held in a centre or prison for adults. The permitted exception on the separation rule is that it is in the best interests of the child not to do so, but the convenience of the State should not override these best interests.</p>	<p>CRC, art. 37(c), Committee on the Rights of the Child, General Comment No. 24 (2019). ICCPR, art. 10(3).</p>

<p>No trials of children in military tribunals or state security courts</p>	<p>Trials of civilians by military tribunals and state security courts are increasingly viewed as violating the right to fair trial by a competent, independent and impartial court, and “an even more concerning breach of rights for children, who should always be dealt with in specialized child justice systems”.</p>	<p>Committee on the Rights of the Child, General Comment No. 24 (2019).</p>
<p>Training and capacity-building</p>	<p>States have an obligation to develop training and capacity-building for all those involved in the implementation of the CRC – government officials, parliamentarians and members of the judiciary – and for all those working with and for children. These include, for example, community and religious leaders, teachers, social workers and other professionals, including those working with children in institutions and places of detention, the police and armed forces, including peacekeeping forces, those working in the media and many others. Training needs to be systematic and ongoing – initial training and re-training. The purpose of training is to emphasise the status of the child as a holder of human rights, to increase knowledge and understanding of the Convention and to encourage active respect for all its provisions.</p>	<p>Committee on the Rights of the Child, General Comment No. 5 (2003), General measures of implementation of the Convention on the Rights of the Child arts. 4, 42 and 44, November 2003; Committee Against Torture, General Comment No. 3 (2012).</p>
<p>Independent monitoring and data gathering</p>	<p>The Committee on the Rights of the Child encourages States parties to establish an independent institution for the promotion and monitoring of implementation of the CRC. The Committee stated that “rigorous monitoring” of implementation of the CRC is required, “which should be built into the process of government at all levels but also independent monitoring by national human rights institutions, NGOs and others.” The Committee has consistently expressed its support for systems of accountability, including in particular through data collection and analysis, indicator construction, monitoring and evaluation as well as support for independent human rights institutions. The Committee holds that “collection of sufficient and reliable data on children, disaggregated to enable identification of discrimination and/or disparities in the realization of rights”, is an essential part of implementation of obligations under the CRC.</p>	<p>Committee on the Rights of the Child, General Comment No 2 (2002). Also General Comment 19 (2016), para. 72(j), and General Comment 5 (2003).</p>

Appendix II – Principles on Preventing Conflict-Related Sexual Violence in Detention Settings¹¹⁰

Principle 1: Prohibition of CRSV in Detention	All forms of CRSV in detention settings are prohibited in all circumstances.
Principle 2: General Duty to Prevent CRSV in Detention	Detaining authorities have a general duty to take proactive and effective measures to prevent CRSV in detention settings.
Principle 3: Prevention of CRSV in Situations of Heightened Risk in Detention	Preventive policies and processes should address and mitigate heightened risks of CRSV during capture or arrest, interrogation, detainee transfer, and body searches.
Principle 4: Accommodation in Detention	Detainees should be kept in accommodation that takes into account their specific needs, risks and circumstances, including based on sex, sexual orientation, gender identity and/or expression and sex characteristics
Principle 5: Training of Detention Personnel	Detention personnel should be trained to prevent and appropriately respond to CRSV.
Principle 6: Medical Response to CRSV in Detention Settings	Detaining and other relevant authorities should ensure timely, effective, and adequate medical response, inclusive of physical, mental, and psychosocial care and services, to all survivors of CRSV in detention setting.
Principle 7: Independent Monitoring	Relevant independent monitoring bodies should have confidential and unhindered access to all detention settings to monitor treatment of detainees and document cases of CRSV and other abuse.
Principle 8: Complaint Mechanisms	Survivors of CRSV in detention settings, their families, and their representatives should have safe access to complaint mechanisms that allow them to report sexual violence.
Principle 9: Investigation and Prosecution of CRSV in Detention	CRSV in detention settings must be effectively investigated and, when appropriate, prosecuted.
Principle 10: Remedy and Reparation	Survivors of CRSV in detention settings are entitled to adequate, effective, and timely remedy and reparation.

110 ASP and IHRC, Preventing Conflict-Related Sexual Violence in Detention Settings Principles and Commentary, October 2020.



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CHILDREN AND ARMED CONFLICT

