

Human Rights Watch

Children's Rights

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UN Experts Express Concern Over Afghanistan Attacks, Detention

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(Geneva) The [United States](#) government should promptly carry out the recommendations of a United Nations committee of experts to improve protection of children abroad from armed conflict. The UN Committee on the Rights of the Child released a report and recommendations to the US government on February 5, 2013.

The committee raised a number of concerns regarding US practices during armed conflict that were harmful to children, Human Rights Watch said. The committee said it was alarmed at reports of the deaths of hundreds of children from US attacks and air strikes in [Afghanistan](#) since the committee last reviewed US practices in 2008. It also expressed deep concern at the arrest and detention of children in Afghanistan, laws that exclude former child soldiers from securing asylum in the US, and presidential waivers to US laws that have allowed governments using child soldiers to receive US military assistance.

The US can and should do more to protect children affected by armed conflict, said [Jo Becker](#), children's rights advocacy director at Human Rights Watch. The US should take decisive action on the child rights committees common-sense recommendations.

On January 16, the 18-member, Geneva-based committee conducted a formal review of US compliance with an international treaty, the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. The protocol was ratified by the US in 2002. It bars governments from forcibly recruiting children under 18 and from using them in direct hostilities. It also requires countries to take steps to prevent the use of child soldiers and to rehabilitate and assist children who have been involved in armed conflict. The committee's report and recommendations regarding US compliance with the protocol were adopted on January 28.

Among its recommendations, the committee urged the US to:

Take precautionary measures to prevent killing and maiming civilians, including children, and investigate and bring to justice members of the US armed forces responsible for violations against children;

Detain children associated with armed groups only as a measure of last resort, provide all children under 18 with special care and education, and ensure they are not transferred to another government's custody if there is a risk of torture or ill-treatment;

Apply a full prohibition on US arms exports and military assistance to countries where children are used as soldiers; and

Improve access to asylum or refugee protection in the US for former child soldiers.

The US has taken some important steps by ending its deployment of 17-year-old soldiers in armed conflict, and by passing groundbreaking laws that allow the US to prosecute those who recruit children and that prohibit military aid to governments using child soldiers, Becker said. However, the committee has identified significant gaps in US practice that put children at risk and should be addressed.

US forces have detained hundreds of children in Afghanistan, holding many of them for over a year with inadequate access to legal assistance, education, or rehabilitation services. Children under 18 have been detained with adults, contrary to international standards. Although most of these children have been transferred to Afghan custody, Human Rights Watch expressed concern that such children may be subject to torture. [UN reports](#) have documented torture of numerous children by Afghan security forces.

The committee urged the US to separate detained children from adults, to grant the UN children's fund, UNICEF, and other humanitarian agencies access to detained children, to provide detained children with legal assistance and juvenile justice procedures, to investigate cases of torture or ill-treatment, and to provide education and rehabilitation assistance for detained children.

In 2008, the US adopted a groundbreaking law, the Child Soldiers Prevention Act, which prohibits several categories of US military

assistance to governments using child soldiers. However, President Barack Obama has invoked the laws presidential waiver to allow continued military aid to governments using child soldiers including [Chad](#), the [Democratic Republic of Congo](#), [Libya](#), [South Sudan](#), [Sudan](#), and [Yemen](#). The committee urged a full prohibition on military assistance to such countries and encouraged the US to consider amending the Child Soldiers Prevention Act to remove the presidential waiver provision.

Former child soldiers, including those who have been forcibly recruited into armed groups, face hurdles to asylum or refugee protection in the US. The US considers nearly all non-state armed forces to be terrorist organizations for purposes of immigration law, and people who fought with such groups are considered ineligible for asylum. The committee urged the US to adopt a discretionary exemption from the terrorist activity bar to allow former child soldiers to be considered on a case-by-case basis for asylum or refugee protection.

The Child Soldiers Prevention Act can put real pressure on governments to stop using child soldiers, Becker said. Obama needs to give fewer waivers to countries abusing their children this way.

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