



# **Alternative report to the Committee on the Rights of the Child**

On the implementation of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict

## **Saudi Arabia**

## **2018**

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# 1. Summary of core questions and recommendations

Child Soldiers International submits the following report in advance of the Committee on the Rights of the Child's ('the Committee') consideration of Saudi Arabia's initial report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict (OPAC). The report focuses on military recruitment; armed groups; and protection, recovery and reintegration.

## Recommendations

The State party should:

- Amend its national legislation and binding OPAC declaration to unambiguously set 18 years as the minimum age for all forms of military recruitment in law and practice without exception;
- Ensure that the minimum age for any form of participation in hostilities is explicitly set in law at 18 years or above, without exception;
- Criminalise all forms of military recruitment and use in hostilities by state armed forces in law and practice without exception, and ensure that perpetrators are prosecuted;
- Review and amend its legislation to ensure that children may not be prosecuted solely for suspected association with non-state armed groups, and that they are treated primarily as victims;
- Expressly prohibit and criminalise the recruitment of children by non-state armed groups and their use in hostilities, and ensure that perpetrators are prosecuted;
- Ensure that all children deprived of their liberty for suspected association with parties to conflict are detained only as a measure of last resort and for the shortest appropriate period of time, and that they are handed over to an appropriate, mandated, independent civilian-led child protection process without delay;
- Ratify the Rome Statute of the International Criminal Court and the Arms Trade Treaty, and endorse the Safe Schools Declaration;
- In full cooperation with the office of the Special Representative of the UN Secretary-General on children and armed conflict, take urgent measures to end grave violations of child rights<sup>1</sup> in Yemen committed by the Saudi-led coalition, and commit to implementing an Action Plan with the UN to end grave violations;
- Fully cooperate with the international investigation of the Group of Eminent Experts on Yemen, and ensure that perpetrators of grave violations of child rights are held accountable.

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<sup>1</sup> The six "grave violations" affecting children during war, as defined by resolutions of the UN Security Council, are: Killing and maiming of children; Recruitment or use of children as soldiers; Sexual violence against children; Abduction of children; Attacks against schools or hospitals; Denial of humanitarian access for children. See "the six grave violations," Office of the Special Representative of the Secretary-General on children and armed conflict, available at: <https://childrenandarmedconflict.un.org/effects-of-conflict/six-grave-violations/>

## Questions

- What is the minimum enlistment age currently applicable in law and practice?
- If the minimum enlistment age is below 18, please provide figures for the number of children enlisted annually.
- Has the State party prosecuted any children for membership of, or association with an armed group? If so, please provide details of their ages, dates of their trial(s), relevant offence(s) and sentence(s).
- How long were the 57 children suspected of association with parties to the conflict in Yemen detained by the State party before being released?
- What steps were taken to ensure that the 57 children detained for suspected association with parties to the conflict in Yemen were protected, rehabilitated and prevented from taking part in further armed conflict as noted in the State party's report?
- What preventive and corrective measures has the State party put in place to protect children and end grave violations of child rights by the Saudi-led coalition in Yemen?
- What is the mandate of the child protection unit established at the headquarters of the Saudi-led coalition to restore legitimacy in Yemen and what activities has it undertaken?

## 2. Prevention

### Recruitment

The minimum age for voluntary enlistment into state armed forces is unclear in law. According to article four of the Enlistment Act<sup>2</sup> and the State party's binding declaration submitted on its accession to OPAC, it is 17 years.<sup>3</sup> However, these provisions appear to conflict with article eight of the Child Protection Act (2014), which prohibits the employment of anyone under 18 "in activities that may harm their integrity or their physical or moral health, *or their involvement in military activities* or armed conflict."<sup>4</sup>

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<sup>2</sup> Enlistment Act, promulgated pursuant to Royal Decree No. M/9 of 24 Rabi' I A.H. 1397 (15 March A.D. 1977. Committee on the Rights of the Child, Initial Report under the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict, Saudi Arabia, UN Doc. CRC/C/OPAC/SAU/1, Para 24, available at:

[http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fSAU%2f1&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fOPAC%2fSAU%2f1&Lang=en)

<sup>3</sup> 1. "Saudi laws and regulations include neither texts nor provisions that allow any form of compulsory recruitment into the armed forces; 2. Joining the national armed forces is limited to formal employment (voluntary); and the law requires that the person requesting to be recruited should be at least 17 years old." Declarations and Reservations submitted under the Optional Protocol to the Convention on the Rights of the Child, Saudi Arabia. Available at: [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=IV-11-b&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11-b&chapter=4&clang=en)

<sup>4</sup> Op Cit. UN Doc. CRC/C/OPAC/SAU/1, Para 24.

Article 8/14 of the implementing regulations of that Act explicitly forbids “the recruitment of persons under the age of 18 into the armed forces or equivalent bodies.”<sup>5</sup>

## **Recommendations**

The State party should:

- Amend its national legislation and binding OPAC declaration to unambiguously set 18 years as the minimum age for all forms of military recruitment in law and practice without exception;
- Ensure that the minimum age for any form of participation in hostilities is explicitly set in law at 18 years or above, without exception;
- Criminalise all forms of military recruitment and use in hostilities by state armed forces in law and practice without exception, and ensure that perpetrators are prosecuted.

## **Questions**

- What is the minimum enlistment age currently applicable in law and practice?
- If the minimum enlistment age is below 18, please provide figures for the number of children enlisted annually.

## **Armed groups**

The State party’s initial report notes that its domestic law forbids the formation of armed groups distinct from its armed forces, and forbids children and adults from joining such groups or participating in armed conflict inside or outside the country. Furthermore, anyone found criminally responsible of having participated in combat operations outside Saudi Arabia, for whatever reason, faces a penalty of between three and 20 years’ imprisonment.<sup>6</sup>

Child Soldiers International is concerned that under this legislation, children could effectively be victimised twice, punished for having been exploited by armed groups seeking to unlawfully recruit them for use in hostilities in violation of Article four of OPAC.

The Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, 2007 (Paris Principles), which Saudi Arabia has endorsed, clarifies that:

“children who have been associated with armed forces or armed groups should not be prosecuted or punished or threatened with prosecution or punishment solely for their membership of those forces or groups.”<sup>7</sup>

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<sup>5</sup> Op Cit. UN Doc. CRC/C/OPAC/SAU/1, Para 46.

<sup>6</sup> Op Cit. UN Doc. CRC/C/OPAC/SAU/1, Para 31.

<sup>7</sup> Paris Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, 2007, principle 8.7. Available at: <https://www.unicef.org/emerg/files/ParisPrinciples310107English.pdf>. This principle is supported by the UN Secretary General and the Special Representative of the Secretary-General on children and armed conflict, and the International Committee of the Red Cross. See: Report of the UN Secretary General on children and armed conflict, UN Doc. A/72/361–S/2017/821, Para 237, available at: <http://undocs.org/A/72/361>; Office of the Special Representative of the Secretary-General for children and

If state authorities choose to prosecute children formerly associated with armed groups, they must do so only for the most serious crimes, and in accordance with international human rights standards. In particular, prosecution of children must be conducted in line with international juvenile justice standards that take into account the child's age; respect the child's dignity; and are aimed at ensuring the recovery of the child and their reintegration into society.<sup>8</sup> These guarantees should apply to all children, including those accused of terrorist offences or acts purported to threaten national security.

## **Recommendations**

The State party should:

- Review and amend its legislation to ensure that children may not be prosecuted solely for suspected association with non-state armed groups, and that they are treated primarily as victims;
- Expressly prohibit and criminalise the recruitment of children by non-state armed groups and their use in hostilities, and ensure that perpetrators are prosecuted.

## **Questions**

- Has the State party prosecuted any children for membership of, or association with an armed group? If so, please provide details of their ages, dates of their trial(s), relevant offence(s) and sentence(s).

## **3. Prohibition and related matters**

### **Protection, recovery and reintegration**

As noted in the UN Secretary General's (UNSG's) 2017 annual report on children and armed conflict, in 2016 the UN verified 517 cases of the recruitment and use in hostilities of boys as young as eleven in Yemen, the majority of which were attributed to the Houthis and affiliated forces. Fifty cases were attributed to the pro-government Popular Resistance, 29 to Ansar al-Sharia, 27 to Al-Qaida in the Arabian Peninsula and 26 to the Yemeni Armed Forces. In June 2016, during UN-facilitated peace talks, the coalition to restore legitimacy in Yemen led by Saudi Arabia (the Saudi-led coalition) released from custody 52 children who had reportedly been associated with parties to conflict, who were handed over to the Government of Yemen and some of whom were reunified with their families.<sup>9</sup>

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armed conflict, Working Paper No 3, Children and Justice During and in the Aftermath of Armed Conflict, 2011, p 28, available at: [https://reliefweb.int/sites/reliefweb.int/files/resources/Full\\_Report\\_1957.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_1957.pdf); International Committee of the Red Cross, Guiding Principles for the Domestic Implementation of a Comprehensive System of Protection for Children Associated with Armed Forces or Armed Groups, p 384. available at: <https://www.icrc.org/en/download/file/1032/guiding-principles-children-icrc.pdf>

<sup>8</sup> Committee on the Rights of the Child, General Comment number 10, Children's rights in juvenile justice, section III, available at: <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GC.10.pdf>

<sup>9</sup> Report of the UN Secretary General on children and armed conflict, UN Doc. A/72/361–S/2017/821, Paras 188–9, available at: <http://undocs.org/A/72/361>.

In its initial report, the State party notes that during the armed conflict in Yemen, its armed forces have detained large numbers of Houthi militiamen and followers of the late former President Saleh, including 57 children ranging in age from eight to 17, a figure which presumably includes the 52 children mentioned above. The report also states that the children were protected and rehabilitated, and that steps were taken to prevent their further involvement in armed conflicts. The report further states that the children “made statements to the legitimate authorities of Yemen in the presence of ICRC representatives in order to ensure that the criminals in the Houthi militias and the forces of deposed President Saleh who recruited them may be duly brought to trial.”<sup>10</sup>

The UNSG’s 2017 annual report on children and armed conflict documented 1,340 child casualties in the conflict in Yemen, over half of which were attributed to the Saudi-led coalition, and 52 incidents of attacks on schools and hospitals, 73 per cent of which were attributed to the Saudi-led coalition.<sup>11</sup>

These violations prompted the UNSG to list the Saudi-led coalition as a party to armed conflict that has killed and maimed children and engaged in attacks on schools and/or hospitals in violation of applicable international law. The UNSG also noted that:

“...grave violations against children continued at unacceptably high levels in 2016. In this regard, I remain deeply concerned about the plight of children in Yemen and strongly request parties to take urgent measures to end violations against children. Furthermore, I urge the coalition, in particular Saudi Arabia as leader of the coalition, to continue to refine and fully implement the preventive and corrective measures put in place in 2016 to protect children, and to deepen its engagement with the United Nations and my Special Representative on this issue. In this regard, I wish to note that at the time of preparation of the present report, Saudi Arabia has created a child protection unit at the coalition headquarters.”<sup>12</sup>

Human rights organisations continued to document apparently unlawful airstrikes by the Saudi-led coalition in Yemen that killed children during 2017.<sup>13</sup> The Saudi-led coalition has also denied humanitarian access,<sup>14</sup> and may have violated the prohibition under international humanitarian law of using starvation as a method of warfare.<sup>15</sup>

In September 2017, the UN Human Rights Council passed Resolution 36/31 on human rights, technical assistance and capacity-building in Yemen, which requested the High Commissioner to establish a group of eminent international and regional experts with

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<sup>10</sup> Op Cit. UN Doc. CRC/C/OPAC/SAU/1, Para 52.

<sup>11</sup> Op Cit. UN Doc. A/72/361-S/2017/821, paras 190-93.

<sup>12</sup> Op Cit. UN Doc. A/72/361-S/2017/821, Para 200.

<sup>13</sup> See for example, Human Rights Watch, Yemen: Coalition Airstrikes Deadly for Children UN Should Create International Inquiry, Return Coalition to ‘List of Shame,’ 12 September 2017, available at: <https://www.hrw.org/news/2017/09/12/yemen-coalition-airstrikes-deadly-children>; see also, a joint letter to the UNSG signed by 44 organizations working to protect the rights of children in armed conflict, including Child Soldiers International., 2 June 2017, available at: <https://www.child-soldiers.org/news/an-open-letter-to-un-secretary-general-antnio-guterres>

<sup>14</sup> Op Cit. UN Doc. A/72/361-S/2017/821, para 198.

<sup>15</sup> Human Rights Watch, Yemen: Coalition Blockade Imperils Civilians UN Should Sanction Senior Saudi Leaders, 7 December 2017, available at: <https://www.hrw.org/news/2017/12/07/yemen-coalition-blockade-imperils-civilians>; see also, Human Rights Watch, Yemen: All Sides Fuel Humanitarian Crisis Coalition Blockade Imperils Civilians; Houthis Hinder Aid, 18 January 2018, available at: <https://www.hrw.org/news/2018/01/18/yemen-all-sides-fuel-humanitarian-crisis>

knowledge on human rights law and the context of Yemen for a period of at least one year, renewable as authorised. Among other things, the group of experts was mandated to carry out a comprehensive examination of all alleged violations and abuses of international human rights and other appropriate and applicable fields of international law committed by all parties to the conflict since September 2014, and, where possible, to identify those responsible.<sup>16</sup>

## **Recommendations**

The State party should

- Ensure that all children deprived of their liberty for suspected association with parties to conflict are detained only as a measure of last resort and for the shortest appropriate period of time, and that they are handed over to an appropriate, mandated, independent civilian-led child protection process without delay;
- Ratify the Rome Statute of the International Criminal Court and<sup>17</sup> the Arms Trade Treaty,<sup>18</sup> and endorse the Safe Schools Declaration.<sup>19</sup>
- In full cooperation with the office of the Special Representative of the UN Secretary-General on children and armed conflict, take urgent measures to end grave violations of child rights in Yemen committed by the Saudi-led coalition, and commit to implementing an Action Plan with the UN to end grave violations;
- Fully cooperate with the international investigation of the Group of Eminent Experts on Yemen, and ensure that perpetrators of grave violations of child rights are held accountable.

## **Questions**

- How long were the 57 children suspected of association with parties to the conflict in Yemen detained by the State party before being released?
- What steps were taken to ensure that the 57 children detained for suspected association with parties to the conflict in Yemen were protected, rehabilitated and prevented from taking part in further armed conflict as noted in the State party's report?
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- What is the mandate of the child protection unit established at the headquarters of the Saudi-led coalition to restore legitimacy in Yemen and what activities has it undertaken?

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<sup>16</sup> UN Human Rights Council, Resolution 36/31 on Human rights, technical assistance and capacity-building in Yemen, UN Doc. A/HRC/RES/36/31, 29 September 2017, available at:

[http://ap.ohchr.org/documents/dpage\\_e.aspx?si=A/HRC/36/L.8](http://ap.ohchr.org/documents/dpage_e.aspx?si=A/HRC/36/L.8)

<sup>17</sup> Rome Statute of the International Criminal Court, A/CONF.183/9, 1998, available at: [https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome\\_statute\\_english.pdf](https://www.icc-cpi.int/nr/rdonlyres/ea9aeff7-5752-4f84-be94-0a655eb30e16/0/rome_statute_english.pdf)

<sup>18</sup> Arms Trade Treaty, 2014, available at: <https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/2013/06/English7.pdf>

<sup>19</sup> Safe Schools Declaration, 2015, available at:

[http://www.protectingeducation.org/sites/default/files/documents/safe\\_schools\\_declaration-final.pdf](http://www.protectingeducation.org/sites/default/files/documents/safe_schools_declaration-final.pdf)