

THE SONS AND DAUGHTERS OF THE THUNDER: THE ISLAMIC STATE/DAESH AND THE CHILDREN AFFECTED BY THE FOREIGN FIGHTER PHENOMENON

Filhos e Filhas do Trovão: O Grupo Terrorista Estado Islâmico e as *Crianças Afetadas pelo Fenômeno dos Combatentes Estrangeiros*

SUMMARY

This paper examines the situation of *children affected by the foreign fighter phenomenon* in Iraq and Syria following the Islamic State (ISIL/DAESH)'s defeat in 2018. The research, which combines documentary analysis of UN documents, electronic literature, and the researcher's observations, aims to address the legal limbo surrounding these children and contribute to International Human Rights Law scholarship. The text provides essential legal terminology and concepts pertaining to *children affected by the foreign fighter phenomenon*, offering readers a comprehensive framework for understanding the legal issues surrounding this vulnerable population. The author highlights the severe human rights violations faced by these children in displacement camps, where they are vulnerable to exploitation, abuse, and indoctrination. The paper emphasizes the urgent need for action to protect these children's rights, prevent further radicalization, and mitigate the risk of the Islamic State resurgence, arguing that addressing their legal issues is crucial for rehabilitation, reintegration, and long-term regional peace and security.

KEYWORDS: CHILDREN AFFECTED BY THE FOREIGN FIGHTER PHENOMENON; ISLAMIC STATE; ISIL/DAESH; FOREIGN TERRORIST FIGHTERS; TERRORISM; INTERNATIONAL HUMAN RIGHTS OF CHILDREN.

RESUMO

Este artigo examina a situação das crianças afetadas pelo fenômeno dos combatentes estrangeiros no Iraque e na Síria após a derrota do Estado Islâmico (ISIL/DAESH) em 2018. A pesquisa, que combina análise documental de relatórios da ONU, literatura eletrônica e observações pessoais do pesquisador, visa abordar o limbo jurídico que envolve essas crianças e contribuir para o estudo do Direito Internacional dos Direitos Humanos. O texto fornece terminologia e conceitos jurídicos essenciais relacionados às crianças afetadas pelo fenômeno dos combatentes estrangeiros, oferecendo aos leitores um quadro abrangente para compreender as questões legais que cercam essa população vulnerável. O autor destaca as graves violações dos direitos humanos enfrentadas por essas crianças em campos de deslocados, onde estão vulneráveis à exploração, abuso e doutrinação. O artigo enfatiza a necessidade urgente de ação para proteger os direitos dessas crianças, prevenir uma maior radicalização e mitigar o risco de ressurgimento do Estado Islâmico, argumentando que abordar suas questões legais é crucial para a reabilitação, reintegração, paz e segurança regional a longo prazo.

PALAVRAS-CHAVE: CRIANÇAS AFETADAS PELO FENÔMENO DOS COMBATENTES ESTRANGEIROS; ESTADO ISLÂMICO; ISIL/DAESH; FOREIGN TERRORIST FIGHTERS; TERRORISMO; DIREITOS HUMANOS DAS CRIANÇAS.

The Sons and Daughters of the Thunder: The Islamic State/DAESH and Children affected by the foreign fighter phenomenon.

1. Introduction

The self-proclaimed Islamic State in Iraq and the Levant (ISIL/DAESH) occupied substantial territories in Iraq and Syria from 2014 to 2017, exercising multiple layers of authority in the controlled regions. During this period, ISIL/DAESH members perpetrated egregious violations of International Criminal Law, including crimes against humanity, war crimes, and genocide.

At the hands of Islamic State terrorists, children were subjected to heinous atrocities, including but not limited to murder, mass killings, ill-treatment, torture, arbitrary deprivation of liberty, forced religious conversions, kidnapping, hostage-taking, suicide bombings, use as human shields, recruitment and exploitation in hostilities, enslavement, human trafficking, forced transfers, sale as war spoils, forced marriage, rape, sexual slavery, and various forms of monstrous sexual violence.

Following ISIL/DAESH's defeat in Syria and Iraq in 2018, children whose parents were suspected of being current or former *foreign terrorist fighters* (FTFs) affiliated with the group were left stranded in squalid, overcrowded, dangerous, and ill-equipped displacement camps throughout the region. In Northern Iraq, within the Duhok Governorate, children were left in Khanke, Sharia, Domiz, Bajid, Kabala, Daka, and Bersiva camps, all managed by the Autonomous Administration (AA). In Syria, children were left in the al-Hol and Roj camps, controlled by the Syrian Democratic Forces (SDF). These children are legally categorized as those *affected by the foreign fighter phenomenon*.

Children residing in these overcrowded camps are highly vulnerable to exploitation, enforced disappearances, arbitrary killings, sexual abuse, rape, torture, harassment, and human trafficking. Many lack personal identification documents and suffer from various mental illnesses

and severe malnutrition. The camps' water, sanitation, and hygiene (WASH) conditions are deplorable, particularly for children under five years of age.

Tuberculosis is widespread in these camps. The economic collapse of the Syrian Arab Republic, exacerbated by the COVID-19 pandemic, has further deteriorated these conditions.¹ The circumstances endured by these children in the camps constitute a critical disregard for their *best interest* and a severe violation of International Human Rights Law.

Sadly and inexplicably, many of these children end up in far-off Libya's Judaydah Detention Centre in Tripoli, allegedly accused of ISIL/DAESH affiliation.² For instance, in February 2021, the United Nations Support Mission in Libya (UNSMIL) reported that several children from the Syrian Arab Republic "had spent over five years in arbitrary detention, with some children born in detention."³

The human rights violations of *children affected by the foreign fighter phenomenon* have two significant implications: 1) they amplify the risks of ISIL/DAESH resurgence, posing a serious threat to long-term international peace and security, as well as national security, particularly in Turkish borders; and 2) they raise challenging, complex, and urgent legal questions concerning the international legal framework for child protection.

The primary research question of this research is whether the existing International Human Rights Law and International Criminal Law framework adequately protects *children affected by the foreign fighter phenomenon*. The two sub-research questions of this paper are: 1) whether the existing international human rights instruments can assist in the repatriation process of *children affected by the foreign fighter phenomenon* whose parents were former ISIL/DAESH combatants; 2) what practical legal solutions can mitigate the problems faced by *children affected by the foreign fighter phenomenon*.

This paper is structured as follows: Section 2 provides a comprehensive problem statement and defines key legal terms for understanding the complex issues surrounding *children affected by the foreign fighter phenomenon*. This section lays the groundwork for the subsequent analysis by clarifying essential concepts and terminology.

Section 3 delves into the demographic composition and living conditions of displacement and refugee camps hosting children in Iraq and Syria. It examines displacement camps in detail,

¹ UNITED NATIONS, A/HRC/51/45, 2022, § 97.

² UNITED NATIONS, S/2021/451 (May 11, 2021), §48.

³ UNITED NATIONS, S/2021/451 (May 11, 2021), §48.

discussing their overcrowded conditions, lack of proper documentation for children, risks of indoctrination, and severe deficiencies in water, sanitation, hygiene, and healthcare. This section highlights the urgent humanitarian crisis facing these children and the potential long-term consequences of their current situation.

Section 4 analyzes the human rights of children associated with the foreign fighter phenomenon in Syrian and Iraqi displacement camps. It outlines the various international conventions and principles that are being violated by the current treatment of these children. This section also addresses the critical issue of statelessness and the right to nationality, emphasizing the legal obligations of states to protect these fundamental rights.

By structuring the paper in this manner, the author aimed to provide a comprehensive examination of the legal and humanitarian challenges facing *children affected by the foreign fighter phenomenon*, while also highlighting the urgent need for action to protect their rights and prevent further radicalization.

The children caught in the aftermath of the foreign fighter phenomenon in Iraq and Syria stand as silent witnesses to a brewing storm of potential radicalization. These "sons and daughters of thunder" embody a critical yet often overlooked aspect of the ongoing conflict. Like thunder following lightning, they signal a deeper, more pervasive issue: the systematic neglect of their human rights in displacement and *de facto* camps. This paper delves into the urgent need for the international community to heed these warning signs.

By addressing the rights and needs of these vulnerable children, the international community may prevent the formation of a new generation susceptible to extremist ideologies. The metaphor of thunder serves as a powerful reminder that these children are not inherently dangerous, but rather victims of circumstances whose plight demands immediate attention. In this paper, the reader will have the opportunity to explore this theme, which is rarely addressed in human rights scholarship, shedding light on a critical issue that sits at the intersection of child rights, counterterrorism, International Human Rights Law, International Criminal Law, and Public International Law.

2. Problem statement and key legal terms

The self-proclaimed Islamic State in Iraq and the Levant (ISIL/DAESH) occupied vast territories in Iraq and Syria from 2014 to 2017, exercising multiple layers of power in the controlled

regions. During this period, the Islamic State terrorist members perpetrated grave violations of International Human Rights Law, International Criminal Law, and International Humanitarian Law, including crimes against humanity, war crimes, and possibly genocide.

Children endured horrific atrocities at the hands of these terrorists, including murder, mass killings, ill-treatment, torture, arbitrary deprivation of liberty, forced religious conversions, kidnapping, hostage-taking, suicide bombings, use as human shields, recruitment and exploitation in hostilities, enslavement, human trafficking, forced transfers, sale as spoils of war, forced marriage, rape, sexual slavery, and other forms of sexual violence.

By July 2016, the Security Council estimated that ISIL/DAESH commanded up to 30,000 fighters in the Levant region alone.⁴ Of this total, the Security Council Chair estimated that 25,000 were foreign terrorist fighters (FTFs), constituting an indispensable and crucial asset of the ISIL/DAESH terrorist network.⁵ In 2015, the Chair estimated that thousands of civilians, predominantly men from more than 100 Member States, traveled to Iraq and Syria, primarily to join terrorist entities such as ISIL/DAESH.⁶

Large-scale joint military operations led by the United States – the Global Coalition – reportedly defeated the Islamic State in Iraqi territory in December 2017 and Syrian territory in December 2018. Following its defeat, thousands of child victims of ISIL/DAESH were left stranded in displacement camps in Iraq – particularly in Khanke, Sharia, Domiz, Bajid, Kabala, Daka, Bersiva, and other camps within the Duhok Governorate – and in Syria – notably in al-Hol and Roj camps. These children are affected by the *foreign fighter phenomenon*. The appalling living conditions of these children pose challenging, complex, and urgent legal questions concerning the international legal framework for child protection.

Foreign children represent a critical demographic aspect of displacement camps. These *foreign children* are legally defined as either (1) those born in foreign countries and subsequently brought to Iraq and Syria by their foreign terrorist fighter parents while still minors or (2) those born within the territories of Iraq and Syria to parents of different nationalities, who, at the time of birth, did not meet the domestic legal requirements to be considered Iraqi or Syrian nationals. This demographic composition reflects a complex issue prevalent in all such regional displacement camps.

⁴ UNITED NATIONS, S/2015/739, 2016, §11.

⁵ UNITED NATIONS, S/2015/975, 2015, §78.

⁶ UNITED NATIONS, S/2015/975, 2015, §78.

By its turn, the term *children affected by the foreign fighter phenomenon* is a legal concept that may include those who fall into one or more of the following categories:

- [1] Children accompanying family members who crossed borders to join designated terrorist groups;
- [2] Children who were taken by such groups across borders;
- [3] Children who were born in conflict zones or areas impacted by the foreign fighter phenomenon and
- [4] Children who were identified by authorities to be linked with such groups by virtue of familial relationships.⁷

Another critical aspect of these camps' demographic structure – reflecting a similar issue in all displacement camps hosting ISIL/DAESH children in Iraq and Syria – pertains to *unaccompanied* and *separated children* (UASC). Reports from the Human Rights Council indicate the presence of hundreds of these children, many of whom are the result of rape.⁸

In the context of displacement camps in Iraq and Syria, a *separated child* refers to a person under eighteen years old separated from one parent who was generally killed in the context of hostilities between ISIL/DAESH and the Global Coalition or is detained as a result. An *unaccompanied minor* is a person under 18 years old who is not in the care of either a parent or a legally responsible adult guardian. This term describes children who are separated from their usual caregivers and lack the protection and supervision typically provided by parents or designated guardians.⁹

Reports from the Human Rights Council indicate the presence of at least 3,500 foreign children in al-Hol, many of whom have (or had) parents who possess (or possessed) nationality of European states.¹⁰ Additionally, it is estimated that 17,000 children in Syria's al-Hol and Roj camps are Iraqi.¹¹ However, the exact figures of how many children live in displacement camps in Iraqi and Syrian territories remain unknown.

Similarly, the presence and possible numbers of children *affected by the foreign fighter phenomenon* in neighboring Jordan are uncertain. There is insufficient research or reliable data from the Zaatari and Azraq camps. Even more concerning is the isolated, besieged, and secluded Rukban camp, located on Syria's border with Jordan and Iraq, which is almost completely cut off from the external world.

⁷ UNITED NATIONS, 2019, §24.

⁸ UNITED NATIONS, A/HRC/42/51, 2019, §85.

⁹ UNHCR, 1997.

¹⁰ See, for example: UNITED NATIONS, A/HRC/42/51, 2019, §85.

¹¹ UNITED NATIONS, A/HRC/51/45, 2022, §97.

It is reported that Syrian authorities have been separating children from their mothers and transferring them from confinement in the Hawl camp to military detention facilities without any apparent significant security reasons.¹² These children are often placed alongside former ISIL/DAESH fighters.¹³ Alarming, reports from the Independent Fact-Finding Mission on Libya have gathered substantial evidence that Turkey has been facilitating the recruitment of Syrian children to fight in Libya in combat units alongside the Government of National Accord against the Libyan National Army.¹⁴

Foreign children are of particular significance because there is the option to repatriate them to their home countries, unlike Iraqi and Syrian children in these *de facto* detention camps.¹⁵ Concerned about logistical difficulties and the risk that repatriation of children would result in importing extremist cells into their territories, many European states have been refusing to take these children back.¹⁶ Several states legitimately argue that the return, deradicalization, disengagement, rehabilitation, reintegration, and resocialization of children associated with the foreign fighter phenomenon raise polarized security concerns. The states' rationale is that the repatriation process may threaten national security policies and anti-terrorism programs by introducing extremist ideologies into their countries.^{17 18}

Turkey, like many countries, has similar concerns. The International Crisis Group estimated that between 5,000 and 9,000 Turkish citizens left the country to join ISIL/DAESH in the territories occupied by the terrorist group in Iraq and Syria, bringing with them an unknown number of children.¹⁹ Hundreds of other children of Turkish parents who joined the Islamic State were born in Syrian-Iraqi lands. Turkish authorities do not have exact figures of how many adult and infant *returnees* have illegally crossed back through the porous Iraqi-Syrian borders.²⁰ A few of those adults who have returned were involved in the perpetration of a series of sixteen ISIL/DAESH terrorist attacks on Turkish soil that killed nearly 300 civilians.²¹

¹² UNITED NATIONS, A/HRC/51/45, 2022, §102.

¹³ UNITED NATIONS, A/HRC/51/45, 2022, §98.

¹⁴ UNITED NATIONS, A/HRC/48/83 (Nov. 29, 2021). §67.

¹⁵ LUQUERNA, 2020, p. 152.

¹⁶ LUQUERNA, 2020, pp. 152, 158.

¹⁷ LUQUERNA, 2020, p. 159.

¹⁸ LUQUERNA, 2020, p. 158.

¹⁹ CRISIS GROUP, 2020, p. 11.

²⁰ CRISIS GROUP, 2020, p.10-11.

²¹ CRISIS GROUP, 2020, p. i, 27-30.

As a direct consequence of states preventing national children from being repatriated, these children are left in legal limbo, indefinitely living in refugee camps, displacement camps, or *de facto* detention camps. Therefore, promptly addressing the legal issues pertaining to foreign, unaccompanied, and separated children constitutes one of the main keys to helping them rebuild their lives, lessening the conditions conducive to anger and revenge. The legal protection of these children plays a substantial role in countering extremist ideologies, radicalization, prejudice, and discrimination, ultimately preventing future atrocities and terrorist attacks.

3. Demographic composition and living conditions of the displacement/refugee camps hosting children in Iraq and Syria

After the defeat of ISIL/DAESH in Syria and Iraq, children whose parents were believed to be (or to have been) foreign terrorist fighters affiliated with the group were left stranded in squalid, overcrowded, dangerous, and ill-equipped displacement camps scattered throughout the region, particularly in the al-Hol and Roj camps in Syria. In Northern Iraq, camps are controlled by the Autonomous Administration, while in Syria, they are under the control of the Syrian Democratic Forces (SDF).

Due to its immense size and appalling living conditions, the al-Hol camp gained international notoriety for its systematic violations of children's rights under international law. Initially established by the United Nations High Commissioner for Refugees to house refugees from the 1991 Gulf War, the camp has exceeded its capacity by more than 600%. According to the Chair of the Independent International Commission of Inquiry on the Syrian Arab Republic, the camp currently hosts over 73,000 individuals, including internally displaced persons (IDPs) and refugees fleeing the consequences of the ISIL/DAESH conflict in the region.²²

The Chair's Statement indicated that the al-Hol camp's demographic composition predominantly comprised Iraqis and Syrians (85%). However, 11,000 individuals come from 70 other countries, with authorities consistently refusing to repatriate these persons "due to their perceived familial links with ISIL fighters."²³ Women and children constitute the vast majority of the al-Hol Camp population, accounting for over 90%.²⁴

²² PINHEIRO, 2019, *passim*.

²³ PINHEIRO, 2019, *passim*.

²⁴ PINHEIRO, 2019, *passim*.

A humanitarian protection cluster in Syria, formed by the International Rescue Committee and the UN High Commissioner for Refugees, estimated that among the total population of 73,000 individuals, children of all nationalities constituted approximately 64 percent, with 50 percent under 12 years old and 25 percent 5 years of age or younger.²⁵ In a more recent document, the European Parliament's Committee on Social Affairs and Sustainable Development estimated that 90% of all children in al-Hol Camp were younger than 12 years old.²⁶

As the civil conflict in Syria marked its tenth anniversary in 2021, it is a disturbing realization that thousands of children have experienced war since birth. Tragically, children account for 75% of total deaths in refugee/displacement camps in Syria.²⁷ In most instances, children perish from preventable ailments such as malnutrition and hypothermia. Reports from the Human Rights Council indicate that newly arrived children are often admitted to al-Hol with alarming symptoms of exhaustion and acute mental distress. Many do not survive the arduous journey from conflict areas to the displacement camp.²⁸

3.1. The living conditions of children at the camps

3.1.1. Refugee/displacement camp or *de facto* detention?

In the al-Hol Camp, the scenario is highly complex because "there are few clear lines between victims, bystanders, sympathizers, adherents, and fighters."²⁹ Consequently, children are held in legal limbo by the Syrian Democratic Forces.³⁰ This situation is mirrored in camps managed by the Autonomous Administration in Iraq. In practice, these authorities' security services prevent children from leaving the camps, even for urgent medical cases with appropriate referrals for hospital treatment, barring sporadic exceptions.

In these instances, the term "refugee/IDP camp" is often a misnomer. Severe movement restrictions are imposed, and camp residents are not accorded the rights and dignity guaranteed under international humanitarian and human rights law.³¹ The reality of these *de facto* detention

²⁵ UNHCR, 2019.

²⁶ EUROPEAN PARLIAMENT, 2021.

²⁷ FOREIGN POLICY, 2020.

²⁸ UNITED NATIONS, A/HRC/42/51, 2019, §85.

²⁹ UNITED STATES INSTITUTE OF PEACE, 2020.

³⁰ UNITED NATIONS, A/HRC/42/51, 2019.

³¹ SAAD, 2020, p.2.

camps inevitably leads to preventable deaths of numerous children, primarily due to inadequate on-site medical and humanitarian assistance.³²

3.1.2. Lack of personal identification documents

The lack of proper civil documentation for children in ISIS-controlled areas, including those born to foreign fighters, is a critical issue.³³ This problem is particularly acute for foreign children in camps who lack legal documentation, presenting numerous challenges.

According to the UN Office for the Coordination of Humanitarian Affairs (OCHA), the absence of personal identification documents may impede internally displaced individuals and returnees from accessing essential services such as education and healthcare.³⁴ Moreover, the lack of civil documents increases the risk of arrest and detention, precludes the official registration of significant life events (births, marriages, and deaths), and may result in exclusion from recovery and reconstruction programs.³⁵

OCHA has identified several reasons for the absence of identification documents among children in IDP and refugee camps in Iraq and Syria: (1) loss or destruction during the conflict, including ISIL/DAESH hostilities; (2) confiscation at checkpoints or during security screenings; and (3) deliberate concealment due to fear of arrest.³⁶ Consequently, the issuance of new personal documents or the restitution of those confiscated by authorities is crucial for both immediate and long-term legal solutions for children of foreign fighters in al-Hol and other camps within Iraqi and Syrian territories.

3.1.3. Indoctrination camps?

Various reports from the European Parliament indicate that children residing in camps across Syria and Iraq are acutely vulnerable to exploitation, forced disappearances, arbitrary killings, sexual abuse, rape, torture, harassment, and human trafficking.³⁷ The most critical aspect

³² HUMAN RIGHTS COUNCIL, 2019.

³³ SAVE THE CHILDREN, 2020.

³⁴ OCHA, 2020, p. 1.

³⁵ OCHA, 2020, p. 1.

³⁶ OCHA, 2020, p. 1.

³⁷ For example: PACE, 2021.

of this situation, however, is the significant influence that remaining Islamic State factions in the region continue to exert over these children.

The camps have become potential incubators for terrorism due to inadequate or non-existent educational services, a lack of social bonds exacerbated by unaddressed trauma and isolation, and the numerous physical and psychological hardships to which the children are exposed.³⁸ Consequently, these environments provide ISIL/DAESH with opportunities to raise a new generation of fighters, indoctrinated into the Islamic State's extremist ideologies, endemic violence, radicalization, brutality, cult of martyrdom, and disregard for human life.³⁹

This situation of children in displacement camps amplifies the risk of ISIL/DAESH's resurgence, posing a severe threat to long-term international peace and security, as well as to national security, particularly along Turkish borders. Mr. Stefan Schennach, Rapporteur of the European Parliament Committee on Social Affairs, Health, and Sustainable Development, emphasized the urgency of the situation, stating that "with every passing day, more children's lives will be lost or ruined, unless [...] States concerned act without further delay."⁴⁰ Furthermore, General Kenneth Frank McKenzie, the US commander for the Middle East, cautioned that failing to address the issue of children affected by the foreign fighter phenomenon now means that "ISIS will never be truly defeated."⁴¹

3.1.4. Water, Sanitation, and Hygiene (WASH-Cluster)

The water, sanitation, hygiene (WASH), and shelter conditions at al-Hol camp are severely inadequate. Reports from non-governmental organizations (NGOs)⁴² and intergovernmental bodies, including the Human Rights Council,⁴³ the UN Office for the Coordination of Humanitarian Affairs (OCHA),⁴⁴ and the European Parliament,⁴⁵ have highlighted the following issues:

³⁸ See: UNITED NATIONS, A/HRC/42/51, 2019, §85.

³⁹ See: EUROPEAN PARLIAMENT, 2020, §1.

⁴⁰ EUROPEAN PARLIAMENT, 2020, §1.

⁴¹ MCKENZIE *apud* SELDIN, 2021.

⁴² For example: HUMAN RIGHTS WATCH, 2019.

⁴³ For example: UNITED NATIONS, A/HRC/42/51, 2019, §83.

⁴⁴ For example: OCHA, 2019, p. 2.

⁴⁵ For example: EUROPEAN PARLIAMENT, 2020.

[1] Many areas of the camp lack sanitation facilities entirely or have insufficient provisions. Girls face an alarming risk of sexual violence when accessing latrines due to poor or non-existent lighting at night and inadequate door locks. Furthermore, feral dogs roaming the grounds after dark and open pits and cesspools throughout the camp pose additional barriers to children's access to sanitation facilities, compelling many to relieve themselves near their tents.

[2] The existing latrines are frequently overflowing.

[3] There is a critical shortage of towels, diapers, and sanitary pads.

[4] Garbage is strewn across the ground, attracting disease-carrying insects.

[5] Potable water is scarce and often contaminated with worms or debris. Reports indicate that ice distributed to families during summer months contains contaminants 100 times higher than permissible standards.⁴⁶

[6] High child mortality rates have been reported, attributed to hypothermia in winter and extreme heat during summer.

[7] During the rainy season, tents frequently collapse and are inundated with rainwater or sewage.

[8] Fatal fires are a recurring hazard in the camp due to improvised cooking and heating devices inside tents.

Exacerbating these issues, numerous reports indicate that the COVID-19 pandemic has further restricted or suspended the WASH cluster and other essential humanitarian support services for children in the field.⁴⁷

⁴⁶ OCHA, 2020, p. 2.

⁴⁷ For example: UNITED NATIONS, S/2021/98, Jan. 29, 2021, §43.

3.1.5. Access to health

The physical and mental health conditions of children in al-Hol and Roj camps are dire, particularly for those under five years of age. Humanitarian organizations have consistently reported high child mortality rates in these areas, primarily due to preventable diseases and conditions. These include acute malnutrition, gastrointestinal infections (such as diarrhea and dysentery), tuberculosis, pneumonia, respiratory diseases, measles, hepatitis, general infections, leishmaniasis, dehydration, and hypothermia.⁴⁸ Furthermore, untreated shrapnel injuries often lead to tetanus infections and, in some cases, necessitate limb amputations in infants.⁴⁹

Most children in these camps have directly experienced extreme violence, either through Islamic State terrorist activities or during the Global Coalition's efforts to defeat the group in Syria and Iraq. Consequently, they suffer from severe mental health issues, including post-traumatic stress disorder, acute anxiety disorder, depression, panic disorder, sleep disturbances, emotional distress, acute fear, and difficulty coping with loss.⁵⁰ Children who have survived conflict-related sexual violence face additional challenges, such as stigmatization, prejudice, and social exclusion.⁵¹

Medical assistance in the camps is severely limited. The existing medical facilities are inadequately equipped to provide age-appropriate, tailored, and gender-sensitive responses to the children's urgent physical and psychological needs. The situation at the al-Hol camp, in particular, deteriorated further following Turkey's "Operation Peace" in October 2019.⁵² This military operation, aimed at creating a safe zone for the return of Syrians living in Turkey under temporary protection status, involved Turkish forces advancing 20 miles into northern Syria.

Since then, security conditions have worsened significantly. Azeem Ibrahim and Myriam François reported that, as a direct consequence of Turkey's invasion, numerous international aid organizations were compelled to suspend their operations in the camp to protect their staff from Turkish military shelling.⁵³ The subsequent withdrawal of US forces from the region further exacerbated the already dangerous and volatile security situation in the camp.

⁴⁸ HUMAN RIGHTS WATCH, 2019.

⁴⁹ HUMAN RIGHTS WATCH, 2019.

⁵⁰ SAAD, 2020, p. 2

⁵¹ SAAD, 2020, p. 2

⁵² IBRAHIM, FRANÇOIS, 2020.

⁵³ IBRAHIM, FRANÇOIS, 2020.

The COVID-19 pandemic has further complicated the already precarious medical situation for children in these camps. The scarcity of doctors, medication, and medical equipment, such as ventilators, has rendered virus diagnosis nearly equivalent to a death sentence for children whose immune systems are already compromised due to their vulnerable living conditions. Moreover, the acute shortage of clean water, severe overcrowding, and lack of protective masks make implementing preventive measures against the virus – such as hand hygiene, social distancing, and reducing the spread of respiratory droplets – an insurmountable challenge.⁵⁴

4. Human rights of children associated with the foreign fighter phenomenon in Syrian and Iraqi displacement camps

The upbringing of *children affected by the foreign fighter phenomenon* in Syrian and Iraqi displacement and refugee camps contravenes numerous obligations under International Human Rights Law, International Humanitarian Law, and International Refugee Law, to which Syria and Iraq are signatories.

This situation violates the following conventions: [1] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), Articles 11 and 16; [2] Convention on the Rights of the Child (1989), Articles 2-4, 8-9, 16, 19, 22, 24, 27-28, 31, and 37-39; [3] International Convention on the Elimination of All Forms of Racial Discrimination (1960), Article 5; [4] International Covenant on Civil and Political Rights (1966), Articles 2, 6-7, 9, 12, 16-17, and 24; and [5] Convention on the Rights of Persons with Disabilities (2006), Article 18.

Furthermore, it contradicts several principles enshrined in: the [1] Universal Declaration of Human Rights (1948), Articles 1-3, 6-9, and 13-15; [2] UNHCR Guiding Principles on Internal Displacement (July 22, 1998), Principles 4 and 11; [3] UN Key Principles for the Protection, Repatriation, Prosecution, Rehabilitation and Reintegration of Women and Children with Links to UN Listed Terrorist Groups (2019).

Syrian and Iraqi authorities at all levels should implement, respect, protect, and fulfill these rights and principles, ensuring their effectiveness for all *children affected by the foreign fighter*

⁵⁴ OCHA, 2019.

phenomenon within their territories. This implementation of international rules and principles should be carried out with full equality, without discrimination on any grounds, regardless of the child's parents' involvement with ISIL/DAESH.

All domestic policies, legal actions, and social programs addressing displaced children should be child-friendly and child-sensitive, prioritizing the child's *best interest* and inherent dignity. Safeguarding the human rights of these children is the only viable approach for the international community to prevent what the European Parliament has termed the "transgenerational transmission of violence."⁵⁵

4.1. Statelessness and the right to nationality

The United Nations Universal Declaration of Human Rights (1948) asserts that every child has the right to a nationality (Article 15.1). It further stipulates that signatory states must not arbitrarily deprive a child of their nationality (Article 15.2). Several other international human rights instruments also protect this right. For instance, the UN Convention on the Reduction of Statelessness (1961) prohibits any state from depriving a child of their nationality if such an action would render the child stateless (Article 1).

Significantly, the UN Convention on the Rights of the Child (1989) mandates that signatory states register a child immediately after birth (Article 7.1), thereby granting the child the right to a name and the right to acquire a nationality, irrespective of their parents' alleged connections to terrorist groups. To ensure the child's access to appropriate healthcare, educational assistance, freedom of movement, and critical protection, the Convention requires state parties to implement expeditious procedures to prevent a child from becoming stateless (Article 8.2).

According to the UN Counter-Terrorism Center, two scenarios typically pose significant risks of rendering a child associated with the *foreign fighter phenomenon* stateless in the children's camps in Syria and Iraq. Firstly, a child may be denied national recognition due to circumstances linking them to the issue of foreign fighters.⁵⁶ Secondly, a child could be affected by the loss of nationality as part of counter-terrorism efforts.⁵⁷

⁵⁵ EUROPEAN PARLIAMENT, 2018, §5.3.

⁵⁶ UN COUNTER TERRORISM CENTER, 2019, § 85.

⁵⁷ UN COUNTER TERRORISM CENTER, 2019, p. 86.

Crucially, in both scenarios, actions that alter a parent's nationality can directly impact a child's citizenship, their ability to return to their home country, and their capacity to enjoy their rights⁵⁸. Moreover, the Counter-Terrorism Center, drawing on data from numerous countries, has concluded that denying or depriving children of nationality is an ineffective counter-terrorism measure. Such actions impede children's return to their countries of nationality, thus hindering their rehabilitation and reintegration into society.⁵⁹

4.2. The right to enter one's own country

International human rights law enshrines the right of every child to enter or return to their country of origin. This right is codified in various instruments of soft and hard law, including the Universal Declaration of Human Rights (1948), Article 13, the International Covenant on Civil and Political Rights (1966) Article 12, and the Convention on the Rights of the Child (1989), Articles 7-8, 10.

States are prohibited from arbitrarily denying a child entry to their own country. In practice, this imposes a legally binding international obligation on states to facilitate the repatriation of children who are their citizens or who assert a claim to citizenship while in conflict-affected regions, particularly in cases involving foreign fighters.⁶⁰ The UN Secretary-General has stipulated that restrictions on children's right to enter their country of nationality are permissible only if they are lawful, serve a legitimate purpose, and are both necessary and proportionate to achieve that purpose.⁶¹

The UN Human Rights Committee recognizes multiple facets of an individual's right to enter their own country. This right extends beyond mere re-entry after departure; it may also encompass initial entry for individuals born outside the country.⁶² The refusal of states to repatriate children seeking voluntary return raises significant humanitarian concerns. These children are left in a state of legal limbo in displacement camps, enduring abysmal living conditions without access to rehabilitation and reintegration programs. Moreover, they remain vulnerable to ongoing

⁵⁸ UN COUNTER TERRORISM CENTER, 2019, p. 86.

⁵⁹ UN COUNTER TERRORISM CENTER, 2019, p. 86.

⁶⁰ UN COUNTER TERRORISM CENTER, 2019, p. 86.

⁶¹ UNITED NATIONS, 2019, p. 5.

⁶² UNITED NATIONS, CCPR/C/21/Rev.1/Add.9, Nov. 1, 1999, §19.

radicalization from residual ISIL/DAESH cells within the camps. Consequently, such refusal, particularly from neighboring states, perpetuates insecurity within their borders.

4.3. Whether the existing human rights instruments may assist *children affected by the foreign fighter phenomenon* in their repatriation process

The existing corpus of international human rights legislation provides a foundation for safeguarding minors affected by the foreign fighter phenomenon. Key international legal instruments, including the United Nations Convention on the Rights of the Child, the Geneva Conventions, and United Nations Security Council resolutions, address children's rights in conflict situations. These frameworks emphasize treating children as victims, prioritizing their best interests, and protecting them from violence and exploitation.

However, significant challenges and substantial obstacles persist in effectively implementing these protections. These include jurisdictional complexities regarding states' extraterritorial obligations, political resistance to repatriation due to security concerns, limited enforcement mechanisms, and issues related to children born to or recruited by terrorist organizations. Such children often lack proper documentation and face the risk of statelessness.

Despite the existence of a robust legal foundation, there remains an urgent need to clarify states' obligations regarding the repatriation and protection of affected children. It is crucial to enhance enforcement mechanisms, adapt existing frameworks to address the unique challenges faced by children associated with terrorism, and prioritize children's rights over national security interests. Moreover, increased international collaboration is essential to support repatriation and reintegration efforts.

4.4. What are the practical legal solutions to mitigate the problems faced by *children affected by the foreign fighter phenomenon*?

The issue of children affected by the foreign fighter phenomenon presents a complex legal challenge that requires a comprehensive and coordinated approach. International cooperation is essential in addressing this multifaceted problem. States must fulfill their treaty obligations towards

children and prioritize the urgent repatriation of those with nationalities connected to their countries.

The global nature of terrorism underscores the importance of this imperative, as it affects nations worldwide and necessitates collective action. The international community's concerted efforts are crucial in addressing the *de facto* detention camps in Iraq and Syria, which pose a significant risk of becoming indoctrination centers for future terrorist cells. By collaborating, states can more effectively combat this threat and safeguard the well-being of vulnerable children caught in geopolitical conflicts. This collaborative approach protects the rights and futures of these children and contributes to the broader goal of global security and stability.

International Organizations

Due to security concerns, precise figures on the *foreign fighter phenomenon* in Syrian and Iraqi displacement and refugee camps remain incomplete. International organizations should prioritize their budgets and objectives to conduct scheduled in-person visits to these camps. These visits aim to obtain accurate local data on the number of *children affected by the foreign fighter phenomenon* in Iraq and Syria. Additionally, international organizations should work to raise awareness of the critical roles of Egypt, Turkey, Jordan, and Qatar as stakeholders in the Middle East, North Africa, and Western Asia regions regarding this issue.

States

States must improve their response to the critical legal limbo surrounding *children affected by the foreign fighter phenomenon* in their domestic law. They should develop practical legal solutions that advance Human Rights Law on this matter.

As stakeholders in the Middle East, North Africa, and Western Asia regions, Egypt, Turkey, Jordan, and Qatar can play and must play a decisive role in securing peace and stability. Their approach to addressing the legal issues of foreign terrorist fighters' children in neighboring Iraq and Syria will be crucial.

Most children affected by the foreign fighter phenomenon can potentially be repatriated to their parents' countries of origin. Therefore, the international community of states should be mobilized to: [1] Identifying all foreign children in Iraqi and Syrian camps through documentary (birth certificates) or biological (DNA testing) means treating them as victims regardless of their

parents' association with the Islamic State/DAESH; [2] Define their legal status and expedite the immediate repatriation process for nationals; [3] Implement comprehensive, gender-sensitive, and age-appropriate programs for psychosocial rehabilitation, social inclusion, reconciliation, and reintegration in their countries of origin; [4] Work towards the immediate release of children held in arbitrary detention and facilitate their reunification with family members and [5] Prioritize orphans and unaccompanied children in displacement camps, irrespective of their parents' affiliation with ISIS/Daesh.

States should take all necessary diplomatic and logistical measures to repatriate children who are still hosted—effectively detained—in displacement camps in Syria and Iraq. Furthermore, states should provide these children with individual domestic assessments, psychological assistance, and support to facilitate their rehabilitation and lasting reintegration into society.

Turkey, in particular, should mobilize and lead the international community, especially the member states of the Council of Europe, to urgently repatriate children whose nationality originates in their countries. Moreover, while these children await repatriation, Turkey should heed the European Parliament's call to provide urgent assistance—including health, education, consular support, and other services—to all children in the displacement camps in Syria and Iraq. This assistance should aim "to alleviate the humanitarian crisis in these facilities and deliver sustainable care and protection to all child victims, regardless of their nationality."⁶³

5. Conclusion

This paper has examined the critical situation of *children affected by the foreign fighter phenomenon* in Iraq and Syria, with a particular focus on their plight in overcrowded displacement camps following the defeat of ISIL/DAESH in 2018. The research has highlighted the severe human rights violations faced by these children and the complex legal challenges surrounding their protection, rehabilitation, and reintegration.

Many of these children have known nothing but war, having been born into conflict or brought to Islamic-State-controlled territories at a young age. This paper demonstrated that the living conditions in these camps are appalling, with inadequate access to necessities such as clean

⁶³ EUROPEAN PARLIAMENT, 2020, § 8.1.4.

water, sanitation, and healthcare. Children in these camps are highly vulnerable to exploitation, abuse, and radicalization, creating a potential breeding ground for future extremism.

One of the most pressing issues identified in this research is the legal limbo many of these children find themselves in. The lack of personal identification documents, coupled with the reluctance of many countries to repatriate children of suspected foreign terrorist fighters, has left thousands of children legally unprotected or stateless and without access to essential services. This situation violates numerous international human rights conventions and poses a significant threat to long-term regional and global security.

The paper has outlined several key legal concepts and terms crucial for understanding the complexities surrounding *children affected by the foreign fighter phenomenon*. These include the definitions of foreign children, unaccompanied and separated children, and the broader category of children affected by the foreign fighter phenomenon. Understanding these legal classifications is essential for developing appropriate policies and interventions to address the needs of these vulnerable children.

The research has also highlighted the inadequacy of current international legal frameworks in protecting *children affected by the foreign fighter phenomenon*. While numerous international conventions and treaties exist to safeguard children's rights, their implementation in the context of counter-terrorism efforts has been inconsistent and often insufficient. This gap in protection underscores the urgent need for a more comprehensive and coordinated international response to the plight of these children.

One of the most significant findings of this research is the potential long-term consequences of failing to address the needs of *children affected by the foreign fighter phenomenon*. The conditions in camps like al-Hol not only violate children's fundamental human rights but also create an environment conducive to further radicalization and extremism. As noted by military experts and international organizations, failing to rehabilitate and reintegrate these children could lead to the resurgence of ISIL/DAESH or similar extremist groups in the near future.

The paper has also emphasized the importance of upholding children's rights to nationality and the right to enter their own country. Denying or depriving children of nationality as part of counter-terrorism measures is ineffective and counterproductive. Instead, it impedes children's return to their countries of origin, hindering their rehabilitation and reintegration into society.

Moving forward, several key recommendations emerge from this research:

[1] Urgent action is needed to improve living conditions in displacement camps, focusing on providing adequate healthcare, education, and psychological support for children;

[2] States must prioritize the repatriation of their nationals, especially children, from these camps. This process should be guided by the *principle of the child's best interest* and should not discriminate based on the alleged actions of their parents;

[3] International cooperation is crucial in addressing the issue of statelessness among *children affected by the foreign fighter phenomenon*. States should work together to ensure that every child has access to a nationality and the associated rights and protections;

[4] There is a need for comprehensive rehabilitation and reintegration programs for children affected by the foreign fighter phenomenon. These programs should address trauma, provide education and vocational training, and work to counter extremist ideologies;

[5] The international community of states must strengthen the implementation of existing legal frameworks for child protection in the context of counter-terrorism efforts. This may require the development of new guidelines or protocols explicitly addressing the unique challenges posed by the foreign fighter phenomenon; and

[6] Further research is needed to fully understand the long-term impacts of displacement and exposure to extremist ideologies on children. This research should inform evidence-based policies and interventions.

The children affected by the foreign fighter phenomenon in Iraq and Syria represent a critical issue that demands immediate attention from the international community. These children, metaphorically likened to *thunders*, serve as harbingers of a looming crisis. Just as thunder follows lightning, these children are the audible manifestation of an underlying problem: the neglect of their human rights in displacement and *de facto* camps. If left unaddressed, this neglect may lead to a new generation of individuals vulnerable to radicalization and terrorism.

The title *The Sons and Daughters of Thunder*" aptly captures this concept, emphasizing that these children are not inherently dangerous, but rather victims of circumstances that signal a potential storm on the horizon. By ignoring the *sound of the thunders* – the urgent need to protect and rehabilitate these children – the international community risks leaving itself exposed to future security threats. It is crucial to recognize that addressing the rights and needs of these children is not only a moral imperative but also a strategic necessity in preventing the perpetuation of violent extremism.

In conclusion, the situation of *children affected by the foreign fighter phenomenon* represents one of the most pressing human rights and security challenges of this time. The international community's response to this crisis will have far-reaching implications for global peace and security. It is crucial that the international community moves beyond rhetoric and takes concrete action to address the needs of these vulnerable children. Failure to do so not only perpetuates human rights violations but also risks creating a new generation of individuals vulnerable to radicalization and extremism. It is imperative to keep the *best interests* of these children at the forefront of all policy decisions and interventions. By doing so, it is possible to break the cycle of violence and extremism, offering these children a chance at a better future and contributing to long-term peace and stability in the region and beyond.

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