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December 14, 2018

Dr. Dindar Zebari
KRG Coordinator for International Advocacy
Kurdistan Regional Government



HRW.org

Your Excellency,

We write to share with you the general findings of research conducted by Human Rights Watch regarding the Kurdistan Regional Government (KRG)'s treatment of children held on suspicion of committing terrorism offenses or affiliation with the Islamic State (ISIS) and to ask for the KRG's input and clarification on several key questions. Thank you for sharing information with us previously, including information on prosecutions of terrorism suspects, including children, and the KRG's legal system.

Responses received by December 22, 2018 will be reflected in our reporting on this topic.

Human Rights Watch researchers visited the Women and Children's Reformatory in Erbil in November 2018 and conducted private interviews with 24 child terrorism suspects, all of them males ages 14 to 18. Human Rights Watch asked reformatory staff to identify at random both boys convicted of terrorism charges, as well as boys held pre-trial. Human Rights Watch researchers also interviewed family members of some of the boys, as well as reformatory staff and independent experts on the KRG legal process and court procedures.

We thank KRG authorities for allowing Human Rights Watch researchers to visit the reformatory and speak with detainees. Granting access to detention facilities demonstrates the KRG's transparency and increases confidence that detainees are treated in accordance with international standards.

Human Rights Watch is gravely concerned that some Asayish officers have physically and mentally abused these children during questioning, which could amount to torture, and that their treatment and conditions of detention fall far short of international standards for humane treatment and due process.

Nineteen of the children interviewed by Human Rights Watch said that KRG intelligence or security forces from the Asayish, generally at the General Security Directorate in Erbil, ill-treated them while in detention, especially during interrogation sessions. The children said the abuse included holding them in stress positions, punching and kicking them, and beating them with plastic pipes and cables. Three of the children told Human Rights Watch that Asayish interrogators shocked them with electricity during interrogation sessions. Four

additional children said that they were threatened with physical violence during their interrogations.

In some cases the abuse described would appear to amount to torture. Under the Convention Against Torture, torture means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Article 37(1) of the Iraqi Constitution also stipulates that “all forms of psychological and physical torture and inhuman treatment are prohibited,” and that “any confession made under force, threat or torture shall not be relied on, and the victim shall have the right to seek compensation for material and moral damages incurred in accordance with the law.”

All of the children who alleged that they were tortured by Asayish members said that they ultimately made and fingerprinted confessions in order to stop the torture. Some of the children freely admitted that they had worked with ISIS, but others denied any association with ISIS. Some of the boys said that their interrogations told them explicitly what they should confess. None of the children whom Human Rights Watch interviewed were allowed to read the confessions they fingerprinted.

None of the children said they were provided with lawyers or permitted to have their parents or an adult guardian present during interrogation sessions or appearances before authorities whom they thought were judges. All said they had not seen anyone they thought was a judge within 24 hours of their detention.

Seven of the children interviewed by Human Rights Watch said that they had no contact with their family members since their arrest. Most of the children reported that Asayish allowed family visits before trial, but were denied phone calls until after conviction.

Only five of the boys appeared to have any access to legal representation. Some had no idea whether or not they had a lawyer and most were unaware of their right to legal representation.

Most of the children said that reformatory officials treated them well. However, fourteen of the boys interviewed reported that reformatory guards beat them for perceived misbehavior or that they were aware of guards beating other boys. Several boys identified three or four specific guards who engaged in physical or verbal abuse, providing their names and examples of violent behavior. Those boys who had been beaten said that guards removed them from their rooms and took them outside, out of sight of security cameras, and beat them with plastic pipes, their hands, or shoes. Several said guards had beaten them on multiple occasions.

The boys also described inadequate medical care. Some said they had been denied medication or treatment. One said that his family had come to the reformatory to bring him medication needed for an ongoing medical problem, but that guards refused them access and would not accept the medication. One of the boys said that he was suicidal, and another described psychological problems, but said he had received no psychological assistance.

According to reformatory staff, several children convicted of terrorism charges were still being detained at the reformatory despite having served their full sentence. Several children also stated that they had been detained past the end of their sentence. Reformatory staff also said that children were given credit for time served at the reformatory, but not for time spent in Asayish custody, even though some children had been held by Asayish for several months before transfer to the reformatory.

In a related issue, we have documented the reality that dozens of Sunni Arab boys who have served or are serving time in prison in Erbil on counterterrorism charges risk re-arrest if upon release they try to reunite with their families in areas under the Government of Iraq's (GoI) jurisdiction, and their names are again flagged to security actors. Iraqi intelligence officers have rearrested at least one boy after he served a sentence in the KRG, and subjected him to torture. We were told that the Asayish did not give most boys released from the reformatory in Erbil court or release documents automatically and that the boys needed to later petition for the documents through lawyers in a lengthy process if they wanted them.

Questions from Human Rights Watch on Treatment of Child Terrorism Suspects by the KRG

In order to better understand and reflect the KRG's treatment of child terrorism suspects, Human Rights Watch requests answers to the following questions by December 21, 2018, so that we may reflect your responses in our reporting on this topic.

Kindly send all responses to my colleague Belkis Wille, senior Iraq researcher, at willeb@hrw.org.

1. How many children (ages 17 or under) are currently being detained by KRG authorities on suspicion of terrorism-related offenses including affiliation with ISIS?
2. How many child terrorism suspects have been formally charged with a terrorism-related crime? What crimes have they been charged with? How many children have been acquitted? How many children have been found guilty, and to what punishments have they been sentenced? If any children have been sentenced to the death penalty, how many?
3. What steps are KRG authorities taking to ensure that child terrorism detainees receive due process, and that no torture-tainted confessions are permissible in any trial proceedings?
4. Has the KRG received any complaints of torture or other inhumane treatment of child terrorism suspects in detention since January 2017? Does the KRG have an internal complaints mechanism through which detainees can submit complaints about their treatment? If so, how many allegations were received, how many were investigated, and with what result?
5. Have any Asayish officers been found to have ill-treated children in detention, and if so, how many, and what was the punishment? What steps is the KRG taking to prevent torture and other ill-treatment of child terrorism suspects?
6. Are Asayish officers instructed to allow child terrorism suspects to have their lawyer or a parent or guardian present during interrogation sessions as required by law? During appearances before judges? Have Asayish officers been penalized for failing to do so? In how many cases since January 2017?
7. What steps is the KRG taking to prevent torture and other ill-treatment of child terrorism suspects by guards or staff at the Erbil reformatory? Have any guards been found to have ill-treated children in detention, and if so, how many, and what was the punishment?

8. What steps are KRG authorities taking to ensure that child terrorism detainees have phone contact or visits with family members as soon as possible? To inform families of the whereabouts of the child detainee? Is there a place where families can go to inquire as to whether their relative is detained?
9. On what basis do Asayish officers decide which child terrorism suspects are denied permission to make phone calls and receive visits from family?
10. What psychological and medical services are available to child terrorism suspects? Does the KRG believe the current levels of care is adequate and if not, what is the KRG doing to improve and increase access to this care?
11. Why are some children being held at the reformatory past the completion of their sentence? Why are children not given credit for time served in Asayish custody?
12. Following our previous reporting on these issues in January 2017, we were informed that the KRG committed to establishing an investigative committee in conjunction with the United Nations Assistance Mission to Iraq to address allegations of torture and failure to ensure due process for child detainees. What have been the outcomes of this investigation?
13. As you know, international law requires that no one be punished twice for an offense for which he has already been convicted or acquitted. What coordination structure is in place between the KRG and Government of Iraq to ensure that this obligation is upheld? Do the KRG and Government of Iraq share information about details of those arrested, charged, sentenced, and released? How effective is judicial coordination at the moment?
14. What documents are detainees who are held and then released without charge pre-trial given upon their release? What documents are detainees who are convicted and sentenced given upon their release? Do they need to request these documents or are they given to them automatically?

We look forward to the KRG's responses to our findings and questions by December 22, 2018. We would also welcome the opportunity to meet with your representatives to discuss ways to promptly address these concerns.

Sincerely,



Lama Fakhri
Deputy Director
Middle East and North Africa
Human Rights Watch