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## Child soldiers in Palestinian groups: forced recruitment and use of minors as a violation of International Humanitarian Law

### Abstract

The forced recruitment and use of children has become one of the main forms of violation of children's rights in recent years. It is a phenomenon characterised by its heterogeneity, given the breadth of war scenarios, the recruitment and training processes, and the multitude of roles for which children are recruited. In this context, Palestinian groups have been denounced for decades for involving children in their violent campaigns, as well as training and using them for armed action. This article explores the phenomenon of child soldiers through the lens of violations of International Humanitarian Law and the specific case of the forced recruitment and use of children by Hamas, Palestinian Islamic Jihad and the Palestinian National Authority.

**Keywords:** Child Soldiers, International Humanitarian Law, Palestine, Minors, Armed Conflicts

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**Received**

11/11/2022

**Accepted**

12/05/2022

**To cite this article:** Pérez-García, D. (2022), Child soldiers in Palestinian groups: forced recruitment and use of minors as a violation of International Humanitarian Law, *Revista Internacional de Estudios sobre Terrorismo*, issue 7: 21-33.

## 1. Introduction

The systematic violation of the rights of minors and of International Humanitarian Law is as common as it is widespread in contemporary conflicts. Specifically, the participation of child soldiers is a quasi-inherent element in these war scenarios and without significant progress in their global eradication. This situation is such that the forced recruitment of minors in situations of armed conflict has become one of the main causes of the violation of their rights.

In this regard, there is an international consensus that 300,000 children are enlisted in the ranks of armed actors around the world (Child Soldiers International, 2018; United Nations, 2022a). Even so, the international community recognizes the added difficulty that the phenomenon itself poses for the monitoring of these figures, which is why it is assumed that the real number of children recruited is higher than the official statistics. Moreover, this phenomenon has been exacerbated by the COVID-19 pandemic, given the global health constraints that have made it difficult or impossible to deploy humanitarian professionals dedicated to monitoring, verifying, and releasing child soldiers around the world (United Nations, 2021).

Given the importance of the phenomenon, this article focuses on analysing the problem of child soldiers from the perspective of compliance with International Humanitarian Law. To this end, some of the main international legal frameworks for the protection of minors in contexts of armed conflict will be analysed, such as the Additional Protocols to the Geneva Conventions, the Convention on the Rights of the Child, the Statute of the International Criminal Court, the African Charter on the Rights and Welfare of the Child and the Convention on the Worst Forms of Child Labour. All in all, the aim is to explain how the phenomenon of child soldiers is a clear violation of their rights and of International Humanitarian Law throughout the world's geography.

In this regard, the Palestinian-Israeli conflict is no exception to this phenomenon and, according to the United Nations (2021, 2022b), it is one of the many international scenarios where attacks against the fundamental guarantees of children occur. Specifically, for the purposes of this research, Palestinian armed groups have swelled their ranks with children and adolescents, trained them for combat and killed them for their cause. Actions which, moreover, correspond to the asymmetrical strategy followed by such groups and which are justified within their narrative of violent "resistance" against Israeli aggression and crimes, as well as in the socialisation of popular culture of martyrdom.

Thus, in order to delve deeper into the practice of this phenomenon, it has been decided to carry out a case study on the forced recruitment and use of minors in terrorist organisations such as Hamas and Palestinian Islamic Jihad, as well as in the Palestinian National Authority. Finally, the aim

is to present recent initiatives in the fight against the forced involvement of minors in armed contexts, as well as new ways of eradicating this phenomenon.

## 2. Recruitment, training, and roles of child soldiers

A child soldier is defined as “anyone under the age of 18 who is a member of any regular or irregular armed force, in whatever capacity”. (UNICEF, 2006a:9). In addition to this canonical definition, minors involved in armed conflicts must be framed within a context of high vulnerability, given that they are deprived of the guarantee of respect for their rights. These situations of lack of protection occur throughout the world, from Nigeria to Myanmar, passing through Syria and as developed in this article, also in Palestine (United Nations, 2022b:14-16).

For its part, the recruitment of minors to participate in the ranks of armed actors is a heterogeneous and fairly cross-cutting issue in today’s conflicts. The fact is that they are not only recruited by regular armies, but also by terrorist groups, guerrillas and other insurgent and irregular armed actors<sup>1</sup>. This recruitment of minors to participate in military hostilities is categorised into three variables: compulsory, forced and voluntary recruitment (Hinestroza-Arena, 2007).

Firstly, compulsory recruitment is in line with a nation’s internal legality for participation in the actions of its armed forces. This is particularly controversial, as many countries, under their national legislation, can force minors to join their ranks, as in Burundi or Liberia (Becker, 2004), even though this contravenes international law, which will be discussed in the following section. On the other hand, forced recruitment - as occurs in multiple terrorist and guerrilla groups - takes place under conditions of imposition, extortion, or coercion to join such groups on the basis of threats, quotas for territory, kidnapping, etc. (McConnan & Uppard, 2001). Finally, voluntary recruitment<sup>2</sup> is highly vulnerable and may be motivated by a thirst for revenge, desperation, or very unfavourable socio-economic conditions (McConnan & Uppard, 2001).

Although the training of minors varies greatly depending on their recruitment and the purpose for which they are recruited, there are a number of common factors in this process. One of them is the mutability of the mind in the formative stages, where ideological indoctrination is more feasible without confrontational mechanisms (Almohammad, 2018), something that armed groups are aware of and take advantage of to mould the thinking of minors to the armed cause they are going to defend.

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1 Despite this, the UN Secretary-General’s latest report on the situation of children in conflict attests that most of the jihadist terrorist groups currently active have allegations of forced recruitment and use of children (United Nations, 2022:46-50).

2 Although it is not considered forced recruitment, the willingness of these minors to participate in the actions of an armed group is induced by the context in which they live. In other words, although they are not forced to become actively involved in a conflict, it cannot be considered that in all cases they do so in conditions of full freedom or alignment with violent methods. On the other hand, this voluntary recruitment can also be motivated by campaigns for the socialization of violence, education that legitimizes armed action or exposure to extremist propaganda that instigates the following of such procedures.

Therefore, this indoctrination can take place prior to recruitment, through education, common meeting places, and propaganda. Another of these similar training elements is the crudeness and harshness to establish, once recruited, the necessary discipline to carry out the tasks commanded; without the physical and psychological integrity assumed of an adult, even if they are able to carry out the same tasks in an efficient manner (Almohammad, 2018). A clear example of this is the Daesh terrorist group, which has a whole network of recruiters<sup>3</sup> and trainers who provide individual and group monitoring of those it wishes to recruit (Almohammad, 2018).

A commonly misunderstood issue in international and security studies, even their nomenclature reflects this, is that these minors are soldiers as usual. Since their captors may be divergent, the roles that child soldiers may play are also varied and go far beyond wielding a weapon. In this sense, among the most standardised roles are active participation as a combatant, intelligence and espionage work, induced immolation, messaging, cooking or even for sexual exploitation (Amador and Palacián de Inza, 2017). Furthermore, this phenomenon does not only involve male minors, but there are also numerous cases of girls who are recruited against their will. On the one hand, these minors are often subjected to abduction, rape and all kinds of sexual and bodily humiliation (ICRC, 2022), a common practice among Boko Haram jihadist terrorists (Habiba, 2016). On the other hand, the involvement of girls in armed conflicts also occurs on the front line, as in the case of the female section of the Kurdish YPJ groups (Hauch, 2019).

### **3. Why the direct involvement of children in conflict is a crime against International Humanitarian Law**

In order to analyse how the recruitment and use of children is a violation of International Humanitarian Law (IHL), this article aims to frame the related legislation on the basis of the Geneva Conventions and their Additional Protocols, the Convention on the Rights of the Child and its Optional Protocol, the Rome Statute of the International Criminal Court, the African Charter on the Rights and Welfare of the Child, and the Convention on the Worst Forms of Child Labour. From these regulations, the international legal principles that prohibit the existence and use of child soldiers as active parties in armed conflict will be established.

Firstly, children are covered both by specific legislation on the protection of children in armed conflict and by general guarantees for the treatment of the civilian population (ICRC, 2002). Even so, there are divergences in treatment depending on their status within the conflict. Despite the illegality of recruiting children, as will be argued later, their direct involvement in the hostilities of a conflict

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3 Palestinian terrorist groups such as Hamas also have this type of youth recruitment process, in which martyrdom also has a special symbolic charge in the recruitment and monitoring of their terrorist actions (Pérez, 2022).

entails the immediate loss of their protected status as a civilian population. In other words, the general provisions of international protection would change their status to that of combatants and active parties to the conflict. However, in the specific case of children, there are a series of guarantees that remain unchanged despite this situation.

On the one hand, Article 77 of the First Additional Protocol to the Geneva Conventions (ICRC, 1977a), concerning the situation of victims in international conflicts, recognises the special protection of minors in contexts of war. It calls for preventing their participation in hostilities and refraining from recruiting them into the ranks of any armed actor (ICRC, 1977a). Likewise, Article 4 of the Second Additional Protocol shares the prohibition of enlistment of children under 15 years of age (ICRC, 1977b). With regard to the above approach, it considers that their special treatment as minors will continue to apply, even if they adopt the status of combatants in non-international armed conflicts (ICRC, 1977b).

These general principles of protection and prohibition are also shared by the Convention on the Rights of the Child and its Optional Protocol. On this occasion, article 38 of the document drawn up by the United Nations includes the need for an express commitment by the signatory parties not to compromise the safety of children in conflicts (UNICEF, 2006b). Likewise, the following point states, as in the Geneva Conventions, that children under 15 years of age may not be involved in direct participation in armed actions in war (UNICEF, 2006b). On the issue of recruitment, the Convention on the Rights of the Child replicates the prohibition - neither voluntary<sup>4</sup> nor forced - of recruiting minors to join the ranks of an armed actor, as well as the commitment to protect and not harm civilians considered to be minors (UNICEF, 2006b).

These agreements are minimum consensus and show the difficulties of dealing with this phenomenon. This refers to the fact that those over 15 and under 18 are equally minors and should be equally protected by international legislation and the institutions that guarantee its enforcement. This controversy is deepened by the difficulty of harmonising international laws with national codes, as well as the delimitation of the age of majority. Not all countries are prohibited from recruiting minors into their armed forces, nor do all legislations have a common demarcation for the exact figure that the category of “adulthood” entails.

Progress on the agreements reached in the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict is therefore particularly useful. In its Articles 1 and 2, the UN document advocates that all signatory parties do everything possible to prevent the recruitment of children under 18, an age older than that recognised in the legal frameworks

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4 In other words, although there are different ways of recruitment, as discussed in the previous section, all those that involve minors as active parties in an armed conflict are prohibited by international conventions.

previously analysed, both in compulsory and voluntary enlistment, as well as in forced recruitment (OHCHR, 2002). In this sense, Article 6 of this Optional Protocol has a more ambitious projection internationally by advocating for the transposition into the national legislation of each signatory state of all the commitments acquired at the international level (OHCHR, 2002). Furthermore, another issue that is particularly useful for our object of study is the extension of these obligations to non-state actors and armed groups, in addition to conventional and regular armed forces.

The Rome Statute of the International Criminal Court also catalogues crimes relating to children in conflict along similar lines to those discussed above. Even so, the Rome Statute elevates it to the category of a war crime (International Criminal Court, 2002). This is particularly valuable at the level of prosecution of international crimes as it covers, in Article 8, both the commission of sexual crimes against children and the recruitment of children under the age of 15 (International Criminal Court, 2002). The added value of this legislation is to understand the broad and complex nature of the phenomenon of child soldiers, as the functions of these minors range from purely armed actions to cooking or gathering information. Likewise, this legislation applies to the prosecution of sexual crimes, mainly committed against girls, although it does not exclude boys. Similarly, considering the recruitment of minors as a war crime advances the international prosecution and criminal prosecution of this long-standing phenomenon.

In the case of other international legislation related to the protection of minors, the African Charter on the Rights and Welfare of the Child follows the approaches set out in the Geneva Conventions and the Rome Statute. Thus, Article 15 prohibits child labour in all its forms and recognises that no child under the age of 18 may be involved in child labour (African Union, 1990). Furthermore, the document has a specific article, Article 16, which establishes the special protection that children must be afforded from torture or abuse, such as those related to their participation as child soldiers (African Union, 1990). Finally, the African Charter on the Rights and Welfare of the Child calls for the enforcement of all rules of international humanitarian law relating to their participation in armed conflict, their special status in war hostilities and to take all necessary measures to give effect to international law (African Union, 1990). Likewise, the Convention on the Worst Forms of Child Labour recognises, in Article 2, that the age of majority is 18 years, and that any person under that age shall be considered a “child” (ILO, 1999). Similarly, in article 3 of the Convention, the International Labour Organisation identifies compulsory or forced recruitment of children for active participation in armed conflict as one of the worst forms of child labour (ILO, 1999).

Therefore, it can be argued that the international legal frameworks analysed here strongly typify the crimes against the violation of children’s rights in conflict, and the obligations and guarantees

that should be fulfilled. These serve as a reference for framing the subsequent specific crimes of Palestinian organisations in the recruitment and use of children in their armed actions.

#### 4. Recruitment and use of children in Palestinian groups

Having argued how the recruitment and use of children is a violation of International Humanitarian Law, the phenomenon of child soldiers will now be analysed with a focus on Palestine. Specifically, this article focuses on the related activity of Hamas, Palestinian Islamic Jihad and the Palestinian National Authority.

In the UN Secretary-General's 2021 report on the situation of children in conflict, António Guterres expressed concern about the overall increase in numbers in the context of the COVID-19 pandemic (United Nations, 2021). He also acknowledged the inability to deploy the usual UN staff tasked with monitoring, prevention and demobilisation of children in conflict due to global health constraints (United Nations, 2021). Within this general framework, the document details and denounces the updated internal situation of armed forces or armed groups involved in the use of child soldiers, country by country. Thus, mention is made of FARC dissidents and ELN in Colombia, the Burmese army and Daesh, among others (United Nations, 2022). In the 2021 document, forced recruitment of children was established as the number one cause of violations of children's rights (United Nations, 2021), while in the last report it was categorised as the second most common cause, after sexual crimes against children (United Nations, 2022b).

In the specific case of Palestine, the Secretary-General's 202 special report directly singles out the armed wing of Hamas for continuing to recruit and involve children in the conflict (United Nations, 2021:15). Likewise, the UN official calls on all Palestinian groups to enforce international protection for children in conflict and to ensure that they are not used as another tool in their strategy (United Nations, 2021):

*“I call upon the al-Qassam Brigades to cease the recruitment and use of children and to abide by their national and international legal obligations. I urge all Palestinian armed groups to protect children, including by preventing them from being exposed to the risk of violence or from being exploited for political purposes”* (United Nations, 2021:15).

In the following sections, the paper focuses on denouncing the recruitment of children in refugee camps in Lebanon by Palestinian groups such as Jund Ansar Allah or Fatah al-Islam (United Nations, 2021). Both are critical of Hamas and Palestinian Authority management, respectively, and are part of another analysis scenario. It also denounces Israel for systematic viola-

tions of children's rights in the Palestinian territories (UN, 2021), particularly acute after the May 2021 hostilities.

In the report published in 2022, the UN mentions cases of underage recruitment that were not verified during the pandemic, as well as continuing to point to Palestinian groups such as Hamas and Islamic Jihad for continuing to directly attack the rights of children (United Nations, 2022b). In particular, this recent document makes special reference to the mutilation of children in Israel as a result of rocket campaigns by Palestinian groups (United Nations, 2022b). In other words, this violation of international humanitarian law and children's rights is not a practice exclusive to Palestinian groups. Nevertheless, it is a long-standing and sustained phenomenon. In this sense, allegations against Hamas and Palestinian Islamic Jihad - as well as other Palestinian groups - for their involvement of children in the conflict are a constant and unceasing phenomenon. This is particularly serious not only because of the illegality of their actions but also because they contravene the commitments made by the Palestinian state to guarantee the protection of children.

For its part, two decades ago the Palestinian National Authority was already accused of having recruited minors to form part of the Palestinian police and security forces (Child Soldiers International, 2001). Similarly, Hamas's al-Qassam Brigades - its armed wing - was accused of having enlisted children under the age of 15 into its ranks, as were other Palestinian groups such as Islamic Jihad (Child Soldiers International, 2001). For its part, Amnesty International has repeatedly denounced the use of children in attacks or attempted attacks against the Israeli population. Eighteen years ago, the organisation detailed the planning and execution of attacks with explosive waistcoats carried out by minors (Amnesty International, 2004). It directly accused Palestinian groups such as Hamas and Islamic Jihad of using this *modus operandi* in their war strategy and called on them and other Palestinian armed groups to cease this illegal involvement of minors in the conflict (Amnesty International, 2004).

There is also a sustained allegation in international reports of military training of minors in summer camps run by Palestinian authorities (Child Soldiers International, 2001). This is something that continues to occur today, where every summer Hamas summons thousands of Palestinian children and adolescents to its 'summer camps' (Truzman, 2021). The armed wing of the Gazan organisation argues for sustaining these military instructions within the strategy against Israel and among the sacrifices necessary to curb the Israeli occupation (Truzman, 2021).

The camps of the 'Liberation Vanguard' - the name Hamas gives to its youngest members who train with the al-Qassam Brigades - have been going on for years and train them with tough physical



and mental tests (Mustafa, 2017). In addition to training in the handling of weapons such as the well-known AK-47, they are trained in the same way as the armed forces of a conventional army and in irregular tactics (Mustafa, 2017). Among other special training in asymmetric and irregular warfare, the armed factions of Hamas and Palestinian Islamic Jihad teach their youngest members to kidnap IDF soldiers (Truzman, 2021). In the propaganda publications of both groups, it can be seen how the individuals in question are minors and how these methods are disseminated on digital channels such as Telegram (Mustafa, 2021).

In the case of the Palestinian Authority, reports from both independent organisations and UN agencies such as UNICEF denounce the constant use of minors in their armed actions (United Nations General Assembly, 2021). Specifically, they detail how it is common practice to recruit children to become *shahids* (martyrs) as well as the popular culture of extolling martyrdom (United Nations General Assembly, 2021). The issue of martyrdom and minors is also shared by Hamas. In the case of the Gazan movement, this popular culture of martyrdom is reinforced by Hamas propaganda and education plans (Villanueva, 2018). Similarly, Hamas has a social infrastructure that takes care of the families of the fallen, similar to that of Hezbollah (Pérez, 2021). In both cases, a narrative of admiration for those martyrs who give their lives for the Palestinian cause is created for the younger generation, feeding back the feeling of adherence to the armed way and training in this sense (Brakoniecka, 2020).

All these practices violate the agreements reached and ratified by Palestine when it joined the Convention on the Rights of the Child and its Optional Protocol in 2014 and the Rome Statute of the International Criminal Court in 2015 (General Assembly, 2021). They also contravene the Geneva Conventions, the Worst Forms of Child Labour Convention, and the African Charter on the Rights and Welfare of the Child, applicable to both state and non-state actors, by illegally recruiting children and failing to protect them in accordance with the international standards analysed.

## 5. New measures to curb such phenomena

As we have repeatedly mentioned, this is not a phenomenon confined to a particular geography or actor. Unfortunately, the phenomenon of child soldiers is global in nature, and therefore responses must be targeted globally. The violation of International Humanitarian Law and the protection of children in conflict should not underestimate the potential effectiveness of legal tools but should be directed toward the revision of global governance. Even so, significant progress has been made in the last five years, even if the pandemic has been slowing down on the ground.

International platforms and mechanisms exist to curb the phenomenon of child soldiers, such as the 2017 Vancouver Declaration of Principles (Global Affairs Canada, 2019). This document, signed by more than a hundred states, contains seventeen points aimed at reducing the suffering of children in conflicts. Thus, there are commitments related to early warning of violations of children's rights, follow-up and monitoring of the verification of cases of minors enlisted in armed actors, mobilisation processes or sanctions for this type of crime (Global Affairs Canada, 2019).

While it is true that the Vancouver Principles are among the most recent tools against the suffering of children in conflict, these measures have not been incorporated as successfully as expected (Laurence, 2020). These commitments driven by the Canadian administration have been more positive in terms of quantitative support for harmonisation of numbers in the UN system than in terms of child protection. The ambitious Vancouver Principles have not reduced the number of children left unprotected in conflict, in the violation of their rights, nor in enlistment in armed actors (Laurence, 2020).

Recently, and in the context of the health emergency, the United Nations launched almost twenty new plans aimed at reducing the effects of conflicts and the pandemic on children's rights (Plant, 2021). Similarly, the UN Secretary General's Office signed commitments with more than thirty countries that have been identified as hotspots of child rights violations (Plant, 2021). The effects of these global initiatives will begin to be measured in the next related report, although the forecasts are pessimistic given the trend of recent years.

## 6. Conclusions

As this article demonstrates, in the global phenomenon of child soldiers, Palestinian groups have deliberately recruited and used children as direct parties to the conflict, a practice as illegal as that of any other armed actor committing such crimes. Thus, Palestinian organisations have for decades systematically violated the rights of children by enlisting them into their ranks and involving them directly in the hostilities of the Israeli-Palestinian conflict. Contravening international humanitarian law and guarantees of protection for the very young in this way is a clear war crime that must be prosecuted and punished in international courts.

By reasoning on the basis of an asymmetrical conflict in which there is an unequal distribution of forces employed and resources available, one may be tempted to justify the actions of Palestinian groups within the narrative of resistance against the Israeli occupation. This would lead to legitimising the commission of international crimes and misdemeanours, as well as failing to uphold the authority of international humanitarian law.

In this sense, in order to combat the phenomenon of child soldiers, it can be concluded that new political will is needed to reduce the suffering of minors in conflicts. A reduction in violations of children's rights would be motivated by a decrease in the number of conflicts or insecure areas in the world, objectives that are possible but necessary to sustain in the long term. To this end, it is necessary to comply with current international legislation for the effective protection of minors in armed conflicts, as well as new global alliances for the real eradication of the phenomenon of child soldiers. It is also necessary to broaden the focus on children in the study and response to international conflicts, as they are the most unprotected and vulnerable parties in a context of war.

Likewise, this renewed willingness and broadening of alliances must be accompanied by more means and resources to provide an effective response on the ground in the verification, monitoring and release of children recruited into the ranks of armed actors, as well as new public policies aimed at improving the comprehensive protection of children in the world. Along these lines, it is more than necessary to strengthen the international system of sanctions to investigate, prosecute and punish to a greater extent those armed actors, from terrorist groups to States, who involve children in the hostilities of a conflict.

Finally, it would be necessary to reinforce the capacities and competencies of the United Nations in this regard, increasing its power of influence beyond the quantitative and monitoring aspects. Similarly, to complete the response to the phenomenon of child soldiers, a fundamental issue is the creation of international tribunals specialised in prosecuting this type of international crime, regardless of the perpetrator, as this article demonstrates that these crimes are perpetrated by all types of armed actors. Whether they are Palestinian groups, a state or a guerrilla group, these illegal actions would be subject to a forceful political, judicial and criminal response at the highest level.

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