

INTERNATIONAL LEGAL FRAMEWORKS ON CHILD SOLDIERS PROTECTION

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Abstract

Tens of thousands of children are recruited and used as soldiers in armed conflicts around the world. The recruitment and use of children during conflict is one of the six grave violations identified and condemned by the UN Security Council. Children affected by armed conflict can be injured or killed, internally displaced or refugees, orphaned or separated from their parents and families, subjected to sexual abuse and exploitation, victims of trauma as a result of being exposed to violence, deprived of education and recreation, at risk of becoming child soldiers.

This paper examines the use of children as soldiers in armed conflict and the various international legal frameworks governing their use. The legal basis discussed in this paper encompasses three categories;

- a) International humanitarian law and customary international law;*
- b) International jurisprudence relevant to international criminal law especially case law of the International Criminal Tribunals and international criminal court;*
- c) International human rights law and different bodies of united nations including resolutions of security council.*

The paper ends with conclusions in two parts; The good results and the bad ones. The good news is that most states and some non-state armed groups now recognize the harm that recruiting children causes. Between 2001 and 2016, the number of countries restricting their military to adults has grown from 83 to 126, which is 71 percent of states with armed forces. The bad news is that some armed forces and groups still insist that they need children to fill their ranks. Every year, the UN Secretary-General publishes a “list of shame” showing which state and non-state armed groups recruit and use children. On the 2016 list are the armed forces of seven countries.

Finally, there are some recommendations to reduce the harm caused to children by military recruitment.

Keywords: *Child Soldiers, armed conflicts, Protection in conflicts, military recruitment*

JEL Classification: [K39]

1. Introduction

Tens of thousands of children are recruited and used as soldiers in armed conflicts around the world. The global number of child soldiers has grown significantly in the last two decades despite a series of protocols designed to curb this trend. They are generally employed in wars where belligerents spend

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more time attacking civilian populations than fighting professional armies. Used by both governments and rebel groups, child soldiers epitomize many of the problems associated with states at risk: intergenerational violence, poverty, and the failure of efforts to instill the rule of war (Achvarina & Reich 2006). The existence of child soldiers is a problem of the ages, and there are no positive signs that it is abating. The difference now is that, with the development of modern weapons technology, children can be involved in large scale and horrific acts during conflicts (Freeland & Walther 2014).

The recruitment and use of children during conflict is one of the six grave violations identified and condemned by the UN Security Council. The international community has tried to curb these crimes by shaming and punishing leaders who commit them - in short, making the crimes costlier (Beber & Blattman 2013).

War affects every aspect of a child's life. Child soldiering affects approximately 300,000 children worldwide. Abducted and forced into combat, victims experience trauma that may have life-long effects (Brownell & Praetorius 2015). Children affected by armed conflict can be injured or killed, uprooted from their homes and communities, internally displaced or refugees, orphaned or separated from their parents and families, subjected to sexual abuse and exploitation, victims of trauma as a result of being exposed to violence, deprived of education and recreation, at risk of becoming child soldiers. "War violates every right of a child – the right to life, the right to be with family and nurtured and respected", (Machel 1996). Economic and educational impacts are widespread and persistent: schooling falls by nearly a year, skilled employment halves, and earnings drop by a third. Military service seems to be a poor substitute for schooling. Psychological distress is evident among those exposed to severe war violence and is not limited to ex-combatants (Blattman & Annan 2010).

Since 1998 there have been armed conflicts involving child soldiers in at least 36 countries. In Syria alone, the number of children recruited and used during the reporting period more than doubled compared to 2015, with 851 verified cases. In Somalia, this number reached 1,915 children recruited and used. Afghanistan recorded the highest number of verified child casualties since the UN started documentation of civilian casualties in 2009, with 3,512 children killed or maimed in 2016, an increase of 24% compare to the previous year.¹ It is estimated that over the last 15 years 10,000 children have been abducted by the Lord's Resistance Army (LRA) around Gulu in northern Uganda, alone. Children are deliberately targeted as they are manipulated more easily than adults and can be indoctrinated to perform crimes and atrocities without asking questions.² Protecting children from the effects of

¹ Secretary-General's Annual Report on Children and Armed Conflict (A/72/361) – (2016).

² Children in Conflict: Child Soldiers, viewed at 1 March (2018), from <http://www.child-soldier.org/>.

armed conflict is a moral imperative, a legal responsibility and a question of international peace and security.

2. Literature Review

Both scholars in security studies and policymakers have largely regarded child soldier recruitment as a humanitarian issue. "But recent events have linked child soldiering to insurgency and terrorism, suggesting that this issue is also developing a security dimension". In their article, Achvarina and Reich examine contrasting arguments about the causes of child soldiering. Using data drawn from nineteen African conflicts, the authors argue that the major explanation for the significant variation in the percentage of child soldiers recruited is the degree of protection against abduction provided by governments and external actors to camps housing internally displaced persons and refugees (Achvarina & Reich 2006). There are also recent researches in the importance of understanding the experience of child soldiers to develop appropriate intervention Brownell and Praetorius in their Study on lived experiences of ex-child soldiers in Sierra Leone, Northern Uganda, and Liberia revealed the experiential nuances of four phases ex-child soldiers experience: abduction; militarization; demilitarization and reintegration; and civilian life (Brownell & Praetorius 2015).

There is a dearth of research on the long-term effects of war trauma experienced in childhood or children's active participation in armed conflicts. Dickson-Gómez (2002) in his research explores the long-term effects of children's active participation in the war in El Salvador by examining four young adults who fought with the guerrilla army as children and adolescents. Comparing these four cases with members of the community who joined and fought with the guerrilla as adults, it will be argued that traumatic experiences were even more devastating when they occurred in early childhood as they destroyed the ability to establish basic trust in competent and nurturing caretakers. Becoming a soldier created additional conflicts as these adolescent soldiers behaved in ways they felt were morally incorrect. Adolescent soldiers were also not given the opportunity to develop autonomy and learn adult peace-time roles. Both the psychological trauma suffered as children as well as continued economic scarcity and violence contribute to these campesinos' difficulties in creating meaningful lives as adults.

This ease of manipulation interacts with the costliness of war crimes to influence rebel leaders' incentives to coerce children into war. Beber and Blattman (2013) used a case study and a novel survey of former child recruits in Uganda to illustrate this argument and provide hard evidence that children are more easily manipulated in war. The case of Uganda is especially under examination of some researchers due to rebel recruitments (Blattman & Annan 2010).

The good news is past researches show that former child soldiers who are provided rehabilitative services and accepted back into their families and

communities are able to become productive, responsible and caring adults. In 1988, 39 captured or escaped child soldiers were brought by the Mozambican government to the Lhanguene Rehabilitation Center in Maputo, Mozambique's capital city. Interventions that focused on rehabilitating the children both psychologically and physically were initiated during their 6-month stay at the Lhanguene center, and reintegration assistance was provided for 2 years thereafter to support their return to families and communities. Boothby, Crawford, and Halperin in their research continued to follow these former child soldiers for 16 years, and focused on their psychological, social and economic functioning. The study included qualitative and quantitative data collection methods to obtain adult well-being outcomes and was also designed to identify interventions that enabled these child soldiers to re-enter civilian life and lead relatively productive lives. Efficacious rehabilitation activities included those that strengthened individuals' coping skills for anticipated trauma and grief, instilled a sense of social responsibility and promoted self-regulation and security (versus survival) seeking behavior. Activities that supported long term reintegration and self-sufficiency included community acceptance and forgiveness, traditional cleansing and healing rituals, livelihoods and apprenticeships. (Boothby, Crawford & Halperin 2006).

3. Discussion

Who is a child soldier?

Numerous challenges arise in defining child soldiers. Notions of childhood are culturally constructed and vary across societies. Western countries view a person under 18 years of age as a child. This view is enshrined in the 1989 Convention on the Rights of the Child (CRC), the world's most widely endorsed human rights instrument. In non-Western societies such as those of sub-Saharan Africa, however, particularly in rural areas where traditional ways remain strong, a person is regarded as an adult once he or she has completed the culturally scripted initiation ceremony or rite of passage into manhood or womanhood (Boyden 1997). Typically, such rites occur around 14 years of age. Owing to this definitional gap, a 15-year-old boy carrying an automatic rifle and traveling with a military group might be viewed as a child by international human rights observers, but the same individual might be viewed as a young adult by people in the rural African village. Fortunately, local elders and traditional leaders often refer to speak of young people such as 15-year-old described above as "underage soldiers" or "minor soldiers" rather than child soldiers. Humanitarians often use these terms interchangeably (Wessells 2006).

The definition of child soldiers as stated by Paris Principles on the Involvement of Children in Armed Conflict 2007 holds: "A child associated with an armed force or armed group refers to any person below 18 years of age who is, or who has been, recruited or used by an armed force or armed group

in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, spies or for sexual purposes".³

Based on the need to have an understanding on the international legal frameworks on child soldiers' protection, this paper examines the use of children as soldiers in armed conflict and the various international legal frameworks governing their use. The legal basis discussed in this paper encompasses three categories;

3.1. International humanitarian law and customary international humanitarian law;

Recruiting or using children under the age of 15 as soldiers is incontrovertibly prohibited under international humanitarian law. As stated in Art. 77(2), Additional Protocol I to the Geneva Conventions; "The Parties to the conflict shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces".⁴

International humanitarian law is codified in the four 1949 Geneva Conventions and the two 1977 Additional Protocols. As shall be discussed below, the scope of international humanitarian law relative to the use of children in armed conflict is rather limited, especially in conflicts of a non-international nature. The 1949 Geneva Conventions anticipate both international and non-international conflicts.⁵

Common Art. 3 of the Geneva Conventions applies to internal armed conflicts and sets out basic protections which apply to "persons taking no active part in the conflict."⁶

Therefore, since Common Art. 3 does not explicitly address the issue of child combatants, children who directly participate in armed conflicts are not protected by the Geneva Conventions, thus falling between the gaps of international humanitarian law (Wells 2004). However, because the obligations contained in Common Art. 3 are considered customary international law, "rebels and governments against which they fight are always bound by the duties and obligations of Common Art. 3," regardless of whether they deny its applicability.⁷

³ The Paris Principles and Guidelines on Children Associated With Armed Forces or Armed Groups, viewed at 20 February (2018), p. 7, from. https://childrenandarmedconflict.un.org/publications/ParisPrinciples_EN.pdf.

⁴ Additional Protocol I to the Geneva Conventions, 1977, Art. 77(2).

⁵ The four Geneva Conventions, (1949), Art. 2 & Art. 3.

⁶ Persons protected under common article 3 to the Geneva Convention are those "persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed hors de combat by sickness, wounds, detention, or any other cause ...". These persons are protected from "violence to life and person" and "outrages upon personal dignity, in particular humiliating and degrading treatment."

⁷ Commentary on the Protocol Additional to the Geneva Conventions of 12 August (1949), and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II), para. 4448.

Nevertheless, the four Geneva Conventions, despite their good intentions, fail to adequately protect child soldiers, especially those in internal armed conflict.

The 1977 Additional Protocols to the Geneva Conventions were the first international instruments to regulate the role of children in armed conflict.⁸ Additional Protocol I, which applies to conflicts of an international nature, obligates parties to the conflict to “take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities and, in particular, they shall refrain from recruiting them into their armed forces.” Also, “in recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years the parties to the conflict shall endeavor to give priority to those who are oldest.”⁹ Additional Protocol II develops and supplements Common Article 3 to the Geneva Conventions without modifying the existing conditions of application.¹⁰ Additional Protocol II only applies to internal conflicts that reach a certain level of intensity, and where the opposition armed forces meet the criteria of responsible command and control over the territory, and where there is capacity to implement the Protocol. Because of Additional Protocol II’s high threshold application, States are able to deny that their internal conflicts are covered by claiming that their conflicts are merely internal disturbances, riots, or sporadic acts (Cohn, & Goodwin-Gill 1993).

Additional Protocol II extends its protections to children involved in non-international armed conflicts by providing that “children who have not attained the age of fifteen years shall neither be recruited in the armed forces or groups nor allowed to take part in hostilities.”¹¹ This total prohibition is stronger than that in Protocol I, since it prohibits voluntary enlistment and indirect participation. That is to say, “not only can a child not be recruited or enlist himself, but furthermore, he will not be “allowed to take part in hostilities”, i.e., to participate in military operations such as gathering information, transmitting orders, transporting ammunition and foodstuffs, or acts of sabotage” (Wells 2004). Moreover, Additional Protocol II extends special protections to children in conflict by providing that children who have not attained the age of fifteen, who end up participating in hostilities despite the provisions of sub-paragraph c, shall continue to enjoy the special protections afforded them by Art. 4.¹²

⁸ Protocol Additional to the Geneva Convention of 12 August (1949) and relating to the Protection of Victims of international armed Conflicts, June 8, (1997), art. 77, 1125 U.N.T.S. 17512 [hereinafter Protocol I]; Protocol Additional to the Geneva Conventions of 12 August (1949) and Relating to the Protection of Victims of Non - International Armed Conflicts, art 4, 1125 U.N.T.S. 609 [hereinafter Protocol II].

⁹ Protocol I, Art. 77(2).

¹⁰ Protocol II, Art. 1(1).

¹¹ Protocol II, Art. 4(3)(c).

¹² Protocol II, Art. 4(3)(d).

Nevertheless, States will only be bound by Additional Protocol II if they have ratified the treaty or have made a valid unilateral declaration of intent to respect the rules of international humanitarian law. Other armed groups, however, will be bound by the rules of customary international law relating to the conduct of hostilities and treatment of vulnerable groups, such as children (Cohn, & Goodwin-Gill 1993).

In summary, international humanitarian law, as it stands today, is incapable of reaching children involved in armed conflicts, especially conflicts of a non-international nature. There are no international conflicts today in which children are fighting to which Additional Protocol I would apply. Most of the conflicts children are involved in today are internal in nature and because of the high threshold issues in Additional Protocol II, children participating in internal conflicts cannot benefit from it. Also, Additional Protocol II is rarely ratified by the State in conflict, and Common Article 3 of the four Geneva Conventions places no restrictions on the recruitment or participation of children in armed conflict (Cohn, & Goodwin-Gill 1993). The failure of international humanitarian law to reach children involved in armed conflict prompted the development of other international and regional standards in other arenas (Renteln 1999).

On the other hand, Rule 136 of ICRC study on customary international law states that “Children must not be recruited into armed forces or armed groups”, knowing the fact that it is applying equally in situations of international and non-international armed conflict, and to both government armed forces and non-State armed groups. In addition, based on Rule 135 “Children affected by armed conflict are entitled to special respect and protection” (Henckaerts & Doswald-Beck 2005).

3.2. International jurisprudence relevant to international criminal law especially case law of the International Criminal Tribunals and international criminal court;

Judicial affirmation came in 2004, when the Special Court for Sierra Leone (SCSL) ruled in the Hinga Norman case that the recruitment and use of children in armed conflict is a war crime under customary international law.¹³ In addition, the statutes of the international tribunals for the former Yugoslavia, Rwanda and Sierra Leone also declared that the recruitment and use of children under the age of 15 years in armed conflict is a war crime. The Rome

¹³ Art. 4(c) Statute of the Special Court for Sierra Leone (2002). Prosecutor v. Hinga Norman (Decision on Preliminary Motion), SCSL (May 2004). In 2007 the SCSL which has paid special attention to the prosecution child-recruiters found three commanders guilty of crimes against humanity and war-crimes for, inter alia, recruiting children under the age of 15 and allowing them to participate in hostilities: Prosecutor v. Hinga Norman, Fofana and Kondewa, SCSL (2007).

Statute of the International Criminal Court (ICC) echoes this stance.¹⁴ Besides international humanitarian law, human rights law, regulating the use of child soldiers in armed conflict, international criminal law plays a vital role in punishing those that violate these rules. The Rome Statute of the International Criminal Court (ICC) is one of the instruments created by the international community that pertains to a child soldier's legal status and addresses criminal acts that are not limited by territorial boundaries (Davison 2004). The Rome Statute gives the court the jurisdiction to prosecute anyone who conscripts or enlists children below fifteen years of age or uses them to participate actively in both international armed conflicts and internal hostilities.¹⁵

The "commanding authority doctrine," codified in the Rome Statute, gives the ICC's jurisdiction to reach those who order children to commit crimes.¹⁶ Nevertheless, Art. 26 of the ICC Statute provides that no one under eighteen years of age at the time of commission of a war crime, crime against humanity, or genocide shall be tried in the tribunal.¹⁷ This presumably means that an eighteen-year-old, who is considered a minor under international law may volunteer to fight in combat and knowingly commit a war crime, and yet not have to suffer criminal liability. However, supposedly, this does not stop any state from prosecuting those who have committed war crimes when they were under eighteen-years-old in their domestic courts (Davison 2004).

By the Lubanga case before the ICC on March 2012, the International Criminal Court convicted Lubanga Dyilo of committing war crimes consisting of the enlisting and conscripting of children under the age of 15 into the *Forces Patriotiques Pour la Libération du Congo* and their use for active participation in hostilities. He was sentenced by the ICC to a total period of 14 years of imprisonment. The Lubanga case was the first of its kind before the ICC. Of great significance was the Court's acceptance that the line between voluntary and involuntary recruitment is legally irrelevant in the context of children's association with armed forces or armed groups in times of conflict. The court also decided to apply a broad interpretation of the term "active participation in hostilities" to ensure justice and protection for all children associated with armed conflicts from those on the front line to the boys and girls who were involved in multiple roles supporting the combatants.¹⁸

By the Charles Taylor case before the Special Court for Sierra Leone on April 2012, the SCSL found former President of Liberia, Charles Taylor, guilty of aiding and abetting war crimes committed by the Revolutionary United Front

¹⁴ Rome Statute of the International Criminal Court, July 17, 1998, Art. 8(2)(b) and 8(2)(e), U.N. Doc. A/CONF.183/9, [hereinafter Rome Statute.]

¹⁵ Rome Statute, Art. 8(2)(b)(xxvi).

¹⁶ Rome Statute, Art. 25 and Art. 28.

¹⁷ Rome Statute, Art. 26.

¹⁸ Prosecutor v. Thomas Lubanga Dyilo. ICC-01/04-01/06. ICC-PIDS-CIS-DRC-01-016/17, available at <https://www.icc-cpi.int/drc/lubanga/Documents/lubangaEng.pdf>.

during the 1990s civil war in Sierra Leone. The Special Court sentenced Taylor to 50 years in prison and this sentence was upheld by the Appeal Chamber in September 2013. The Court's judgement against Charles Taylor marks the first time that a former Head of State has been convicted of war crimes against children that were committed by an armed group found not to be under his direct command and control but to which he gave his practical assistance, encouragement and moral support. The Special Court was also the first international court to determine that the recruitment and use of children aged less than 15 years constituted a war crime under customary international law.¹⁹

3.3. International human rights law and different bodies of United Nations including resolutions of Security Council.

The Convention on the Rights of the Child (CRC)

The 1989 Convention on the Rights of the Child (CRC) provides children with protection during times of war and peace.²⁰ The CRC became the most ratified human rights treaty in history with 191 of the 193 participating nations ratifying it at record-breaking rates (Davison 2004). The CRC addresses the use of child soldiers by providing that "State Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child."²¹

Despite the widespread global acceptance of the CRC, several imperfections render it incapable of protecting children in armed conflict (Hackenberg 2000). Specifically, while Art. 1 of the Convention defines a child as everyone under the age of eighteen, Art. 38 redefines a child as everyone under the age of fifteen for purposes of recruitment and participation in armed conflict.²² Second, with respect to the prohibition against recruitment and participation, Art. 38 is mostly confined to repeating Art. 77 of Additional Protocol I of the Geneva Conventions.²³

Furthermore, the CRC has a large number of reservations. Reservations like these weaken the requirements of the CRC. International human rights law, especially that concerning the world's children, becomes meaningless if States bound by it are permitted to pick and choose those provisions they will abide by and those they will not (Hackenberg 2000).

Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict

International human rights law has further strengthened the acceptable minimum age for direct participation in hostilities and raised it to 18 years.

¹⁹ Prosecutor v. Charles Ghankay Taylor (Judgement Summary), SCSL-03-1-T, Special Court for Sierra Leone, 26 April (2012), available at: <http://www.refworld.org/cases,SCSL,4f9a4c762.html>.

²⁰ Convention on the Rights of the Child, Nov. 20, 1989, Art. 38(4).

²¹ Convention on the Rights of the Child, Nov. 20, 1989, Art. 38(1).

²² Convention on the Rights of the Child, Nov. 20, 1989, Art. 1, Art. 38(2), Art. 38(3).

²³ Convention on the Rights of the Child, Nov. 20, 1989, Art. 38(2).

The Convention on the Rights of the Child's Optional Protocol on the Involvement of Children in Armed Conflict (2000) requires State parties to increase to 18 years the minimum age for compulsory recruitment and for participation in hostilities.

The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, adopted on May 25, 2000, generally strengthens protection for children in armed conflict: it establishes an international standard for the employment of children in armed conflict; it codifies a legal norm by which States can be held accountable; it sets a minimum age requirement that makes it more difficult for governments and non-state actors to fabricate the ages of children employed in armed conflict; it encourages States to implement existing national laws and policies or enact domestic standards that will reflect the standards enunciated in the statute; and it raises public awareness regarding the use of child soldiers.²⁴

African Charter on the Rights and Welfare of the Child

In 1990, the Organization of African Unity adopted the African Charter on the Rights and Welfare of the Child.²⁵ The Charter, in no uncertain terms, offers protection to children involved in armed conflict by providing that "State Parties to this Charter shall undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflicts which affect the child."²⁶

Unlike the CRC, the Charter recognizes that a child is anyone below eighteen, including those involved in armed conflict.²⁷ Also, unlike Additional Protocol II, the Charter applies to internal skirmishes, tension, and strife and therefore recognizes that the rights and welfare of a child are of more value than the type of conflict they are involved in.²⁸ Moreover, the Charter uses stronger language (necessary measures) than the CRC (feasible measures) in ensuring State Parties' protection of children involved in armed conflict.²⁹ Despite its good intentions, the Charter has shortcomings. First, the Charter is only binding on States that have ratified it (Hackenberg 2000). Second, "Any custom, tradition, cultural, or religious practice that is inconsistent with the rights and obligations contained in the present Charter shall to the extent of such inconsistency be null and void."³⁰

²⁴ Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, GA Res. 54/263, S. TREATY DOC. no. 106-37, Art. 1-6 (2000).

²⁵ African Charter on the Rights and Welfare of the Child, OAU Doc. CAB/LEG/24.9/49 (1990) [hereinafter African Charter].

²⁶ African Charter, Art. 22(1).

²⁷ African Charter, Art. 2. "For purposes of this Charter, a child means every human being below the age of 18 years." The Children's Convention generally defines a child as anyone below the age of eighteen, but redefines a child as anyone below fifteen years for purposes of armed conflict".

²⁸ African Charter, Art. 22(3).

²⁹ African Charter at Art. 22(2) & Convention on the Rights of the Child, Art. 38(2).

³⁰ African Charter, Art. 1(3).

Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (Convention 182)

In June of 1999, the International Labor Organization adopted a Convention Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor (Convention 182).³¹ The Convention commits each state that ratifies it to “take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency.”³² Art. 2 of Convention 182 define a child as anyone under eighteen-years-old.³³ Convention 182 further provides that the term “worst forms of child labor” includes: “All forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict.” The main drawback of Convention 182 is that it does not prohibit voluntary recruitment but only forced and compulsory recruitment.³⁴ Convention 182 was the first international treaty that set an eighteen-year minimum age limit in relation to child soldiering. It was also the first legal recognition of child soldiering as a form of child labor (Davison 2004). Therefore, children under eighteen years of age who volunteer to participate in armed conflict are not protected by Convention 182.

United Nations Security Council condemned the targeting of children in armed conflict including the recruitment and use of child soldiers, by several resolutions; Security Council Resolutions on children and armed conflict 1261 (1999), 1314 (2000), 1379 (2001), 1460 (2003), 1539 (2004), 1612 (2005), 1882 (2009), 1998 (2011), 2068 (2012) and 2225 (2015). UNSC, therefore, provide a comprehensive framework for addressing the protection of children affected by armed conflicts.

Conclusion

The paper ends with conclusions in two parts; the good results and the bad ones. The good news is that most states and some non-state armed groups now recognize the harm that recruiting children causes. Between 2001 and 2016, the number of countries restricting their military to adults has grown from 83 to 126, which is 71 percent of states with armed forces. The bad news is that some armed forces and groups still insist that they need children to fill their ranks. Every year, the UN Secretary-General publishes a “list of shame” showing which state and non-state armed groups recruit and use children. On

³¹ International Labor Organization Worst Forms of Child Labor Convention 182, S. Treaty Doc. no. 106-S (1999), 38 I.L.M. 1207, available at <http://www.ilo.org/public/english/50normes/whatare/index.htm> [hereinafter Convention 182].

³² Convention 182, Art. 1. An important note is that the ILO standards have no force in international law unless governments sign and ratify the recommendations set forth by the convention.

³³ Convention 182, Art. 2.

³⁴ Convention 182, Art. 3(a).

the 2016 list are the armed forces of seven countries (Afghanistan, Democratic Republic of Congo, Myanmar, Somalia, South Sudan, Sudan, Yemen). The Secretary General's children and armed conflict report for 2016 formally lists seven armed forces and 56 non-state armed groups in countries including Myanmar, Somalia and Syria. Additionally, non-state armed groups in several other countries are also known to recruit and use children to participate in hostilities, although the changing nature of conflicts often makes these situations difficult to formally verify. Four armed groups in Afghanistan and the Afghan Police are listed by the UN Secretary-General in 2017 for recruiting and using children

Recommendations

Finally, there are some recommendations to reduce the harm caused to children by military recruitment; launching campaigns, building bridges and networking with relevant authorities to prevent child recruitment in wars and conflicts (like what is done by UNICEF in 2014), reintegrating child soldiers families by returning them back to their families and communities, holding criminally responsible those who recruit children in any kind of conflicts, knowing the causes and context in which children become soldiers to identify practical solutions.

Children will always be in danger wherever conflict occurs, but it is possible to reduce the risk of them becoming involved in armed forces and groups. Establishing and enforcing 18 as the minimum age for recruitment is an essential first step. The majority of states have already done this, and many non-state armed groups have done so too. Political efforts continue to encourage those parties which have not done so already to do likewise.

Societal development is important, too. For many children and their families, whether they live in rich or poor countries, joining up is often seen as the only viable option for education, employment and protection. The number of children used for military purposes can reduce in the long term if children's full range of economic and social rights are respected and viable alternatives to military recruitment are made available – access to education is particularly important in this respect.

Since the idea that "costliness matters" is supported by some researches, foreign governments and international organizations can discourage child recruitment by withholding resources or punishing offenders. But punishing war crimes has limitations, and can only take us so far. Children's reintegration opportunities must be at least as great as adults' (something that demobilization programs sometimes fail to do).

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