

# How Can the International Community Best Respond to the Problem of Child Soldiers?

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## Abstract

The child soldier phenomenon is not recent and has been manifested throughout centuries; as such the use of children in armed conflicts receives universal condemnation.

Currently child soldiers of different age groups are forced to kill and commit other violent acts in many wars and other conflicts around the world; however it is impossible to know their exact numbers.

In 1998 The Rome Statute of the International Criminal Court (ICC) has criminalized the use of children in armed conflicts, nevertheless to this day minors are being abused indiscriminately in many armed conflicts around the world. This article argues for the creation, use and application of a single universal definition of what constitutes child soldiering, recognition and protection of children as a vulnerable group in armed conflicts, as well as attempts to put forward ideas how can international community best respond to the problem of the child soldiers.

**Key words:** child soldiers; root causes; recruitment; international community; armed conflict;

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## 1. Introduction

This article will address the problem of the children's participation in armed conflicts, including the recruitment and use of child soldiers. Furthermore it will address the root causes of the child soldier phenomenon, set out the main responses of the international community to address this problem, as well as evaluate the effectiveness of those responses.

The use of children under the age of fifteen in armed conflicts is prohibited under international humanitarian law, international human rights law, international labour law and international criminal law, however children are still being used and recruited in wars and other armed conflicts in many parts of the world (Dhanota, 2015, p.1).

Although the international community has made numerous attempts to curb this phenomenon more than 250.000 children, many of them below the age of fifteen, are still actively involved in armed conflicts as members of armed organizations (Dhanota, 2015, p.1). Accurate data and information on the number of child soldiers is almost impossible to obtain, since there are no credible records of their numbers and ages, and those who use children in hostilities deny their existence. These children are often deployed in the remote areas of conflict and as such are out of reach of the media and public view (Dhanota, 2015, p.1). The international responses to the problem of child soldiers include political, social, economic and legal measures. These responses will be explored in the forthcoming paragraphs.

## 2. Background

Historically the recruitment of children in the armed forces and their participation in armed conflicts was not a matter of a great concern, and as such the involvement of children was accepted and has been manifested throughout the centuries. Various historical and mythical accounts from different parts of the world portray children as fighters, heroes and leaders who have made distinguished contributions in the battlefield as recently as the Second World War (Waschefort, 2014, p.1).

However, in the mid to late 20<sup>th</sup> century, initial prohibitions against the use of child soldiers were introduced under international law. The first prohibitions against the use of child soldiers appeared in 1977 in the two Additional Protocols to the 1949 Geneva Conventions. Article 77(2) of

Protocol I define children as persons under fifteen years old and prohibited the recruitment and participation of children in armed conflicts. Article 4(3) of Protocol II further states 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". (Additional Protocols Geneva Conventions 1949, p.56)

The next international instrument to address the problem of child soldiers is the United Nations Convention on the Rights of the Child (CRC) promulgated in 1989. CRC Article 38 provides:

- (1) *States 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;*
- (2) *States Parties will take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities;*
- (3) *States Parties will refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties will endeavour to give priority to those who are oldest.*
- (4) *In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties will take all feasible measures to ensure protection and care of children who are affected by an armed conflict.*

These provisions prohibit the involvement of children in armed conflicts, defining children as persons below the age of fifteen. The CRC attempts to standardize the definitions and the minimal age of children involved in hostilities. CRC provisions aim for the complete exclusion of children below fifteen from armed conflicts and their compulsory recruitment in the armed forces. With regards to recruiting persons who are between ages of fifteen and eighteen, the CRC calls on States Parties to prioritize the recruitment of those who are the oldest. Article 38 (3) also prohibits the recruitment of children below fifteen in armed forces in times of conflict or during peacetime (Convention on the Rights of the Child 1989, p.10-11).

While the CRC called for the exclusion of children below fifteen from armed conflicts, the provisions of the Optional Protocol to the Convention

on the Rights of the Child on the Involvement of Children in Armed Conflict (“Optional Protocol to the CRC”), adopted by the United Nations General Assembly on 25<sup>th</sup> May 2000, lifted the minimum recruitment age to eighteen years for compulsory recruitment, however voluntary recruitment for government forces remained at the age of fifteen. As such the Optional Protocol represents significant development of standards with regards to recruitment and protection of child soldiers, although ultimately unsuccessful in prohibiting all forms of recruitment and participation in hostilities of children under eighteen (Cullen, 2007 p. 91-93).

Given this, there has been a significant progress with regards to international standards regarding the protection of children since the introduction of the Optional Protocols to the Geneva Conventions. However, the Optional Protocols to the Geneva Conventions, as well as the Rome Statute of the International Criminal Court (ICC), as described below, have been criticized for setting a fifteen-year age limit for voluntary recruitment instead of eighteen years. Indeed, many countries recruit persons below the age of eighteen. The United Kingdom still uses voluntary recruitment into the government forces for persons below the age of eighteen (Williams, 2011, p. 1076).

### **3. Root Causes and Recruitment of Child Soldiers**

In most conflicts child soldiers originate from the least educated, underprivileged, poor and marginalized segments of society. In order to understand the modern problem of child soldiers these factors should be taken into account along with discrimination and human rights abuses that these children and their families suffer. In societies where some of these conditions exist, children are the most vulnerable to involvement in armed groups (Hedkvist, 2009, p.7).

Types of child recruitment vary from voluntary to compulsory, unlawful and/or forced. Generally child soldiers join the armed forces or groups voluntarily for a variety of reasons. In most cases children are forced to or don't have many alternatives and the reasons for enlisting are usually linked with their cultural upbringing, ideology, socio-economic or financial reasons, or due to family or society pressure. Large numbers of children volunteers in order to seek protection, due to personal or family harassment. Many girls enlist to escape from domestic violence or avoid arranged marriage. Some experience loss of home or family members

and/or attacks on their ethnic or religious community. For example in Palestine children volunteers join armed groups for ideological, political and religious reasons, as well as the perceived sense of injustice and the hatred towards the state of Israel (Peters, 2005, p. 4-10).

Conscription by governments is the most common form of recruitment, since joining the armed forces can provide prestige, a better standard of living and personal and family benefits. For example in the state of Jordan many children join the armed forces at the age of seventeen in order to gain prestige and benefit from the educational opportunities and career security in the army (Peters, 2005, p. 4-10).

Forced recruitment occurs through abduction or pressure from the armed groups on the children or their families. This type of recruitment usually targets certain ethnicities, tribes or groups, like in the cases of Ivory Coast and Sierra Leone where children were forcibly recruited to fight and provide assistance to combatants. Forced recruitment is considered illegal in all circumstances, while unlawful recruitment refers to the recruitment of children below the age of fifteen, as specified in the international law treaties (Peters, 2005, p. 4-10).

#### **4. International Responses**

International responses to the problem of child soldiers include political, social, economic and legal responses. Some of the most common international responses in countering child soldiering and recruitment are legal in nature. These responses focus on the criminalization of child soldier recruitment and are aimed at the prosecution and punishment of perpetrators. Apart from the legal aspect, the practice known as 'naming and shaming' initiated by various international human rights groups has formed the basis of an international consensus with regards to the responses to problem of child soldiers (Haer, 2016, p.2-4) To this effect, the United Nations publishes various periodical reports 'naming and shaming' specific armed groups and governments who use child soldiers. The implementation of child-centred programs of Disarmament, Demobilization and Reintegration (DDR) is another response provided by the international community. DDR programs are specifically aimed at addressing the damage caused to the child soldiers after they leave the armed groups. However these international measures have had limited

success and so far have failed to provide a reliable system to counter the recruitment of child soldiers in the armed forces (Haer, 2016, p.2).

Regarding legal responses, as noted above, international legal prohibitions were first set out in the Additional Protocols to the Geneva Conventions, and later, in the CRC and the Optional Protocol to the CRC.

Following the adoption of these international treaties, further international policy responses were attempted to prevent the recruitment of child soldiers and address the consequences of this practice on the well-being of children. For example, in 1997, UNICEF and the non-governmental organizations (NGO's) Working Group on the CRC organized a symposium in Cape Town, South Africa, bringing together academics and non-governmental organizations to develop strategies aimed at preventing the recruitment of child soldiers, as well their demobilisation and reintegration into society (Cape Town Principles, 1997, p.1). This meeting resulted in the adoption of the 'Cape Town Principles', which contained a comprehensive definition of a child soldier that was adopted by relief agencies around the world. The Principles define child soldiers as:

*"Any person who is under 18 years of age who is part of any kind of regular or irregular armed force or armed group in any capacity, including but not limited to cooks, porters, messengers and anyone accompanying such groups, other than family members. The definition includes girls recruited for sexual purposes and for forced marriage. It does not, therefore, only refer to a child who is carrying or has carried arms" (p.11).*

The Cape Town Principles also recommended actions to be taken by governments and communities in affected countries to end the use of child soldiers. For example, the Principles called on governments to adopt and ratify the Optional Protocol to the CRC, thereby raising the minimum age for the participation in hostilities from 15 to 18 years of age. They also called on governments to ratify and implement other regional and international treaties and incorporate them into national law, including the two Additional Protocols to the Geneva Conventions, and the CRC. They further recommended governments to adopt national legislation setting 18 years as the minimum age of voluntary and compulsory recruitment and providing that persons responsible for illegal recruitment are brought to justice. Further, they recommended that: "A permanent International

Criminal Court should be established with jurisdiction covering, *inter alia*, the illegal recruitment of children" (Cape Town Principles, 1997, p.1-2).

The Cape Town Principles became a key instrument used to influence the development of international and national policies concerning child soldiers as demonstrated by the adoption of the Rome Statute and the establishment of the ICC one year later, in 1998, which criminalized the use of child soldiers (Rome Statute of the ICC, 1998, p.7).

Article 8 of the Rome Statute contains provisions relating to criminal accountability with regards to use of child soldiers in hostilities. The ICC has charged and prosecuted individuals such as Congolese warlord Thomas Lubanga Dyilo, who was the first person to be accused for enlistment, use and conscription of children below the age of fifteen in the armed conflict in Democratic Republic of Congo (Begley, 2012, p.623). Within these definitions of the Rome Statute, conscripting, enlisting or using children below the age of fifteen in international and/or internal armed conflict constitutes a war crime. The inclusion of this provision shows the determination of the international community to prosecute and punish those who use children in the armed conflicts. In 2012 Thomas Lubanga was found guilty and sentenced to fourteen years of imprisonment for the war crime of enlisting and conscripting children under the age of 15 years and using them to participate actively in hostilities (Begley, 2012, p.623).

Another international response to the problem of the child soldiers is the implementation of child-centred disarmament, demobilization and reintegration programs (DDR), where attempts are made to rehabilitate former child soldiers. Firstly, child soldiers are gathered at designated pick-up points and moved to disarmament centres to be disarmed. Secondly, child soldiers go through a screening process during which their identity is confirmed. The care centres provide them with educational and recreational activities, as well as counseling, before receiving discharge documents. Finally the reintegration is initiated at transit facilities designed to help child soldiers adjust when they return home (Haer, 2016, p.3, 4).

This gradual process allows the non-governmental organizations enough time to trace and prepare the families and communities to receive these children and include them in the appropriate education programs. However, responding to the child soldier phenomenon cannot be limited to only dealing with its consequences. The child-centred DDR programs often are inefficient and fail to recognize community needs, as well being costly

and time consuming, without producing tangible results (Haer, 2016, p.3, 4).

Finally, the international response referred to as 'naming and shaming' of government and non-government military forces that use and recruit children was developed by the United Nations in 2002. The United Nations Security Council Working Group on Children and Armed Conflict (SCWG) monitors and reports the listed countries suspected of using the child soldiers. According to a 'Child Soldiers International' 2012 report, thirteen countries have featured on this list, with countries such as Afghanistan, Somalia and Uganda agreeing to action plans for the release of children under eighteen from armed forces and preventing future recruitment (Cullen, 2007, p. 115).

The Special Representative on Children and Armed Conflict has identified three elements to any strategy for eliminating the use of child soldiers: (1) putting political pressure on the offending parties;(2) addressing the political, social and economic factors that make soldiering attractive to children and (3) mobilizing resources for the rehabilitation and reintegration of former child soldiers (Cullen, 2007, p.132).

The criminalization of child soldiering, DDR programs and 'naming and shaming' campaigns have had some success, however it is difficult to conclude whether these measures have served as a deterrent for the recruitment of children by various armed groups despite the efforts made by the international community (Haer, 2016, p.3, 4). Child soldiers continue to be used in conflicts throughout the globe despite these efforts.

## 5. Conclusion

In conclusion, the available international instruments with regards to the protection of children in armed conflicts have evolved within the last decades. However, in order to ensure that all children are protected, the international community must create and use a single universal definition of what constitutes child soldiering, applicable to both boys and girls. As noted by Hedkvist (2009, p.36) "Today it seems as if all treaties and statutes have their own definition of child soldiers".

The various international conventions and treaties implemented since the Additional Protocols to the Geneva Convention in 1977 have also failed to increase the minimum voluntary and compulsory recruitment age to eighteen, thus leaving vulnerable and offering no protection to children

between fifteen and eighteen caught up in hostilities. The absence of a universal definition of child soldiers, coupled with ambiguities regarding the age limit for recruitment have created vulnerabilities in the efficiency of the international responses (Hedkvist, 2009, p.36-38).

Hundreds of thousands of children continue to suffer from sexual violence, drug addiction, psychological trauma, physical disabilities and inhumane deaths, partially due to lack of efficient responses from the international community to increase the recruitment age to eighteen (Williams 2011, p. 1084). Establishment of a minimum age of eighteen for voluntary recruitment, as well as shifting the emphasis towards the ICC and using the Rome Statue provisions to prosecute and punish individuals who use children in hostilities would enable the international community to be more successful in curbing the phenomenon of the child soldiers in the future. Finally better funding and improvement of the DDR programs would enable these children to break their ties with the armed forces and aid in their rehabilitation and reintegration with their families and communities (Williams, 2011, p. 1084).

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