

Addressing Challenges and Development in Enforcing International Laws on Child Soldiers: The Need for Legal Reform

Obinna Nnanna Okereke^a, Uche Nnawulezi^b, Salim Bashir
Magashi^c, Septhian Eka Adiyatma^d, Kasim Balarabe^e

^a Faculty of Law, Prince Abubakar Audu University, Nigeria

^b College of Law, Bowen University, Iwo, Osun State, Nigeria

^c Faculty of Law, Ahmadu Bello University, Nigeria

^d Faculty of Law, Universitas Diponegoro, Semarang, Indonesia

^e Jindal Global Law School, OP Jindal Global University, India

✉ corresponding email: uche.nnawulezi@bowen.edu.ng

Abstract

The purpose of this paper is to examine the challenges of enforcing the international legal framework on child soldiering. The paper reveals that, as the offense of child soldiering escalates, the multi-dimensional scope for protecting child soldiers spans various legal regimes under international law. It argues that, despite several prohibitive norms established in International Humanitarian Law (IHL), International Human Rights Law (IHRL), the International Labour Organization

(ILO), and International Criminal Law (ICL), their application or enforcement against child soldiering remains ineffective and inadequate due to numerous impediments and challenges. This is because "law on paper," like a baby in the womb, must align with "law in action" to achieve adequate effectiveness. The methodology employed is doctrinal research. Major gaps were identified, and the paper provides comprehensive recommendations to enhance the enforcement of global treaties against child soldiering. The paper concludes with recommendations to address the technical and legal complexities associated with child soldiering.

Keywords *Child Soldiering, Enforcement, International, Legal Framework, Challenges*

Introduction

The legal prohibition of conscription of children in armed forces along with their protection in situations of military hostilities have accentuated across many regimes of Law of Nations.¹ Looking at the enforcement of single regime of law along with the intentions of solving the menace of conscription of children into armed forces oftentimes failed to effectively bring remedy.² To be specific, the broader the menace of child soldiering grows, the more complex the prohibitive regimes become. To apply the multi-dimensional legal framework for child soldier's protection, it is imperative one construes not only the contributions of regimes of legal standards like the IHL, IHRL, ICL, ILO among others but also the complementary and interactional links of these standards.

¹ Mohamed M. El Zeidy, "Principle of Complementarity: A New Machinery to Implement International Criminal Law, The," *Michigan Journal of International Law* 23, no. 4 (2001), http://heinonlinebackup.com/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/mjil23§ion=35.

² Eliot A. Cohen, Guy Goodwingill, and Ilene Cohn, "Child Soldiers: The Role of Children in Armed Conflicts," *Foreign Affairs* 74, no. 3 (1995), <https://doi.org/10.2307/20047146>.

Some applicable global regulations comprised of the CRC,³ along with its Optional Protocol on Armed Conflict,⁴ ACRWC,⁵ ILO Guidelines No. 182 on the Eradication of Harmful Practices on Child Labor,⁶ GCs, 1949,⁷ along with the APs, 1977,⁸ RS of ICC;⁹ UN Statute of ICC Sierra-Leone;¹⁰ ACHPR on RW in Africa and its Protocol,¹¹ amongst others. However, the fact remains that most states in Africa have their domestic military and CRLs that prohibit child soldiering. In this regard, this suggests that the existence of several regulatory legal measures seems to be ineffective, and not capable of addressing the challenges of war crime totally out of Africa due to endemic clogs working against the enforcement processes of the standards. Child soldiering cannot be properly exterminated without the evaluation and application of the interrelationships among the legal regimes with the intention of bringing out their commonalities,

³ See CRC adopted November, 20 1989 by UNGA Res, 44/25 and entered into force September 2, 1990.

⁴ See OPAC to CRC on the Prohibition of Children in Armed Conflict adopted by Res. A/Res/54/263 of May 25, 2000).

⁵ See ACRWC adopted July 11, 1990 by Res. No OAU Dec, CAB/LEG/TSG/REV/ and entered into force November 28, 1999.

⁶ International Labour Organisation's Convention 182 Concerning the Prohibition and Immediate Action for the Elimination of Worst Forms of Child Labour, adopted by the Conference at its 87th Session, Geneva on 17 June 1999.

⁷ See GC for the Amelioration of the Condition of the Harmed and Ailing in Armed Forces in the Field 12 Aug 1949; GC for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea II 12 Aug 1949. GC Relative to the Treatment of Prisoners of War III 12 Aug 1949 and Geneva Convention Relative to the Protection of Civilian Persons in Time of War IV 12 Aug 1949.

⁸ Protocol Additional to the GCs of 12 August 1949 and Relating to the Protection of Victims of International Armed Conflicts was adopted on 8 June 1977 at Geneva and entered into force on 7 Dec 1978, and Protocol Additional to the GCs of 12 Aug 1949 and Relating to the Protection of Victims of Non-International Armed Conflicts was adopted on 8 June 1977 at Geneva and entered into force on 7 Dec 1978.

⁹ See RS of ICC adopted July 17, 1998 and entered into force on 1 July 2002 by 2187 UNTS 90.

¹⁰ See Special Court for Sierra-Leone established in 2000 by U.N. Doc S/RES/1315.

¹¹ Protocol to the ACHPR on Rights of Women in Africa, adopted by the 2nd Ordinary Session of the Assembly of the Union, Maputo, 11 July 2003.

divergences, contributions and impacts in their codifications against the phenomenon.

More importantly, a whole essence of IHL is geared towards the restriction of armed conflicts and hostilities to the lowest level along with placement of certain restrictions on unwarranted bombing of civilians or their properties.¹² Strictly speaking, a major challenge to IHL is for its rules to remain relevant in the wake of emerging nature of armed conflicts especially as it affects the children.¹³ To this end, prohibitive rules of IHL remain dormant when it cannot march up the dynamic nature of armed conflicts especially with children playing adult roles as soldiers.¹⁴

On the other hand, ICL aims at deterring and prohibition of specific aspects of behaviours along with imposition of criminal liabilities on persons for such breach. ICL creates certain global regulatory measures for categories of offences that are viewed inhuman to world populace.¹⁵ It can be pointed out that ICL is centered on prohibiting and penalizing certain behaviours and its approach follows a broad-based interpretation of statutes prohibiting such conducts.¹⁶ It is imperative to note that the developments within the ICL *vis-à-vis* the IHL, IHRL and ILO require an interplay of the bodies in their endeavour to end child soldiering. To buttress the foregoing, the RS of ICC forbids conscription, enlistment along with enrollment of minors below fifteen yrs into military operations which is construed as an offence committed in military warfares as well as abused of IHL.¹⁷

¹² Edoardo Greppi, "The Evolution of Individual Criminal Responsibility under International Law," *International Review of the Red Cross* 81, no. 835 (1999): 26, <https://doi.org/10.1017/s1560775500059782>.

¹³ Jed Odermatt, "Between Law and Reality: 'New Wars' and Internationalised Armed Conflict," *Amsterdam Law Forum* 5, no. 3 (2013), <https://doi.org/10.37974/alf.258>.

¹⁴ Okubor Cecil Nwachukwu, "Armed Conflict under International Humanitarian Law," *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 5, no. 0 (2014): 62, <https://www.ajol.info/index.php/naujilj/article/view/136284>.

¹⁵ Gus Waschefort, *International Law and Child Soldiers* (Oxford: Hart Publishing, 2014), 54, <https://ssrn.com/abstract=2465877>.

¹⁶ Leslie C. Green, *The Contemporary Law of Armed Conflict, The Contemporary Law of Armed Conflict*, 2018, <https://doi.org/10.1093/jcsl/5.2.290>.

¹⁷ See Rome Statute, Art 8 (2).

Equally, forceful or mandatory enlistment of minors may be viewed as slavery according to the ILO No 182¹⁸.

In further x-raying the complementary nature of IHL, ICL, ILO and IHRL as multiple legal regimes especially bordering on the involvement of the child in military hostilities, a landmark judgment simply known as '*The Wall*' was pronounced by the ICJ¹⁹. In this case, ICJ however, submitted that the security provided by IHRL was no sufficient does in the wake of the military conflicts. Hence, it is generally assumed that the CRC which does not have derogation clause remains applicable during peace and armed conflicts.²⁰ This decision upholds that such relationships between IHL along with IHRL are complementary or not mutually exclusive. Thus, CRC's Committee of Experts" (CRC Committee),²¹ also holds the same opinion on the applicability of the provisions of CRC in peace and war situations. According to the Report to the UNs,²² where it was expounded that the complementarity between IHL along with IHRL appears remarkable, distinct in status, but related in approach as both can be systematically integrated into the other.

Lending credence, the UNSG in 2005 pointed out six notable infringements usually committed in situations of military warfares against children, which cut across the boundaries of IHL, IHRL, ILO and ICL.²³ Be that as it may, according to CRC,²⁴ an acceptable guideline's is that in situations of military warfare, IHL remained a *lex specialis* to IHRL. This position means that IHL takes precedence over

¹⁸ ILO Worst Forms of CLC, Article 3(a).

¹⁹ See ICJ July 9, 2004 GL No. 131.

²⁰ Ibid, para 113.

²¹ Britta Lisa Krings, "Principles of Complementarity and Universal Jurisdiction in International Criminal Law: Antagonists or Perfect Match, The," *Goettingen Journal of International Law* 4 (2012): 737–63, <https://doi.org/10.3249/1868-1581-4-3-krings>.

²² See Resolution A/RES/51/77 Report of Graca Machel at 6-13.

²³ Office of the Special Representative of the Secretary General for Children and Armed Conflicts, 'the Six Grave Violations Against Children During Armed Conflicts: The Legal Foundation,' Working Paper No 1, Oct, 2009.

²⁴ See CRC's Concluding Observation, US 15 June 2008, CRC/C/OPAC/USA/CO/1/Part I, UK and Northern Ireland, 7 March 2012, CR/C/OPAC/CO/CO/1.

IHRL in armed conflicts situation as it is more specific. Some Scholars,²⁵ support this position stating that the general principle governing a particular situation takes precedent over the regulations governing the entire situations. However, this doesn't suggest's that HRs mechanisms are not applicable in armed conflict situations. On that pedestal, the issue of conscription of children required cooperation of IHL, IHRL, ILO, ICL, among others. Be that as it may, numerous challenges within and outside the omnibus prohibitive legal standards glut the enforcement prowess of the international treaties in their aim to exterminate the engagement of children in situations of military warfares. The paper analyses some of these enforcement impediments and brings out solutions and recommendations addressing them.

The methodology employed in this paper is doctrinal research, focusing on an in-depth analysis of secondary legal sources,²⁶ including academic journals and relevant online materials. The study examines international legal texts such as the Convention on the Rights of the Child (CRC), the Optional Protocol on the involvement of children in armed conflict, and other related international guidelines, assessing how these norms are applied and enforced in the context of protecting children from military recruitment. Through comparative analysis and case studies, the paper identifies gaps in the enforcement of these laws and offers recommendations to enhance the effectiveness of international legal frameworks in addressing the challenges of child soldiering.

²⁵ Iuliia Kononenko, "Prohibiting the Use of Child Soldiers: Contested Norm in Contemporary Human Rights Discourse," *Nordic Journal of Human Rights* 34, no. 2 (2016): 2, <https://doi.org/10.1080/18918131.2016.1200293>.

²⁶ Yati Nurhayati, Ifrani Ifrani, and M. Yasir Said, "Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum," *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021), <https://doi.org/10.51749/jphi.v2i1.14>; Qamar. Nurul, *Metode Penelitian Hukum Doktrinal Dan Non-Doktrinal*, Universitas Nusantara PGRI Kediri, vol. 01, 2020; Arie Kartika, Windy Sri Wahyuni, and Dessy Agustina Harahap, "Aspek Hukum Fasilitas Ruang Laktasi Pada Pusat Perbelanjaan (Mall) Di Kota Medan," *Ejurnal.Seminar-Id.Com* 1, no. 10 (2021).

Challenges to the Enforcement of the Legal Standards against Child Soldiering

A. Non-Binding Global Definitional Approach to Child Soldiering

The understanding of the term ‘child soldier’ appears elusively sly as there is no binding and authoritative denotation of the concept in all known global instruments that condemned the menace.²⁷ The inability of the treaties to fathom a definite definition of child soldier goes a long way in smoldering the legal conclusion on the vulnerability or accountability of child soldiers in military warfares. This lacuna remained challenging as solution cannot be ascribed to a social or legal challenge that has not been precisely diagnosed and defined. To be specific, an issue not properly defined by a legal framework cannot be adequately cured by the standard.

Tackling child soldiering from an undefined perspective presupposes that states parties have ratified the prohibitive treaties irrespective of the lack of uniformity of obligations as applicable to the subject in the country.²⁸ Apparently, the non-definition of the term simmers the light on the legal standard’s prohibitional prowess.²⁹ However, ‘Soft Laws’ attempted to define the concept. However, UNICEF adopted CTP definition of the concept as follows:

As an individual below the age of 18 yrs who forms part of the military operations of a particular country whether in illegal

²⁷ See Rome Statute of ICC, Article 2 (b) (xxvi) and 8 (e) (vii), SCSL, Article 4; CRC Art 38 (3); ACWRC, Article 22 (2); ILO Worst Forms of Child Labour, Articles 1 and 3; AP 1, Article 77 (2) AP II, Art 22 (2).

²⁸ Sarah Diaz, “An Elusive Mandate: Enforcing the Prohibition on the Use of Child Soldiers,” *SSRN Electronic Journal* 39, no. 3 (2024), <https://doi.org/10.2139/ssrn.4855634>.

²⁹ K Hanson, “International Children’s Rights and Armed Conflict,” *Human Rights & International Legal Discourse (HR&ILD)* 5, no. 1 (2011): 40–63, <https://www.jurisquare.be/en/journal/hrild/5-1/international-childrens-rights-and-armed-conflict/>.

or legal basis which includes stewards, porters; errand persons along with similar persons outside the member of the person's family. It also comprised of girl child abducted for the purposes of sexual exploitations along with forceful marital union. This does not only refer's to children engaged in arms proliferation or in possession of weaponries.³⁰

As a fillip to the foregoing was a notable report of Graca Machel in 1996 wherein she made certain clarification on the challenges of plight of CS and defined them in line with 'Paris Principles' which coined the term 'children associated with armed conflict'.³¹ Unlike the binding legal instruments, the soft laws have by their definition of a child soldier improved their legal protection.³² Unfortunately, the non-binding nature of soft laws though persuasive in nature does not have enough legal strength to capture the hydra headed phenomenon. Going further, the lack of definite definition of child soldier by international treaties obscures the legal understanding and appreciation of the concept. Worst, it places the global problem to subjective solutions. Pathetically, the provisions of IHL, IHRL and ILO, ICL on the subject do not adequately capture the status or agency of a child called the 'child soldier'.³³ In all, the term child soldier remains a subterfuge and calumny calloused by legal standards with no specific and binding denotation.

³⁰ See UNICEF, CapeTown Principles and Best Practices 12 ,1997. Available at: <<https://www.unicef.org/emerage/files/cape-town-principles-pdf>>. Accessed September 23, 2023.

³¹ Joanna Santa Barbara, "The Impact of War on Children," in *War and Public Health*, 2009, <https://doi.org/10.1093/acprof:oso/9780195311181.003.0011>.

³² Deborah Casalin, "Recruitment and Use of Child Soldiers in International Law: Prohibition and Elimination," 2021, https://doi.org/10.1007/978-3-319-95867-5_4.

³³ AP to the GCs 1949, Protocol 1,1977, Article 77(2), AP 11, Article 4(3)(c), CRC, Article 38(3), OPAC, Articles 2,3,4,6.7, ACRWC, Article 22(2), ILO Worst Forms of Child Labour Convention, Article 3(a), RS of ICC, Article 8 (2) 9b) (xxvi) and 8 (e) (vii).

B. Non-Conformity with the International Instruments on the Age of Child Soldier Protections in Military Warfares

There is no acceptable standard in Law of Nations bordering on acceptable minimum age threshold for conscription of minors into military warfares of a Country along with his engagement in warfare as a soldier. The scale of protection in international treaties tilts more to under 15 years than to under 18 years. This position is found within the provisions of the omnibus legal standards across IHL, ICL, IHRL and ILO prohibiting child soldiering.³⁴ Take for instance, APs I & II, 1977 categorically proscribed conscription along with the enrollment of minors below 15yrs into military warfares within the IAC and NAIC by militias or military organization of a Nation.³⁵ IHRL in 1989 vide CRC urged contracting parties to desists from engagement of minors below 15yrs in military warfares.³⁶

Notwithstanding ACRWC in 1990 stipulated under 18 years³⁷ threshold as against under 15 years provision of CRC in 1999, the OPAC adopted in 2000 vide articles 1 and 2 raised the acceptable age of conscription or engagement in military warfares to 18 yrs old for compulsory conscription only.³⁸ Going further, article 3(1) of the OPAC speaks with double standard as it required contracting parties to increase the statutory age of persons willing to be recruited to an acceptable age of 16yrs. Hence, upon confirmations, member states are to submit a formal report that will set out minimum age to be utilized in achieving the responsibilities of OPAC. This creates a gap wherein states parties may not issue obligation to abide by higher standard of under 18 years threshold. Towing the same line, the ICL through the instrumentalities of the RS and SCSL, declare that conscription along with recruitment of children below 15 yrs or their engagement in military warfares amounts to crimes of warfare, as well as a grievous

³⁴ Maryam Kandi-Dayeni and Navid Mollaei, "International Legal Framework on Child Soldiery Protection," *Cluj Napoca Journal* 12 (2018): 175–81.

³⁵ AP 1, Article 77(3) and AP 11, Article 4(3).

³⁶ See CRC, Article 38(3).

³⁷ ACRWC, Article 22.

³⁸ OPAC, Articles 2, 4 and 6.

abused of IHL.³⁹ In contra distinction, the ILO vide its ILO NO 182 provides that forceful or mandatory engagement of minors below 18 yrs in military warfares remained an act akin to abduction or servitude.⁴⁰ More importantly, conscription along with engagement of minors below 15yrs in military warfares is prohibited by the vagaries of IHL, IHRL, ILO and ICL.

The paper argued that under 15 years protection threshold of child's engagement in military warfares is not wholesome as ACRWC and most African countries stipulate under 18 years as the age definition of a child in their child rights laws.⁴¹ The stipulation of under 15 years and 18 years affects execution of regulatory measures put in place to restrict minors into military warfares.⁴² This foreshadows the point that child soldiers who were 15 years to under 18 years were not protected by the legal framework. To be specific, girls of 15 years and above who were used as war wives and sexually assaulted have no protection under the foregoing child soldiering provision. Furthermore, in Africa, where birth registration process and data are not well documented and where they cannot be easily produced due to hostile situations of military warfares, determination of age becomes orally subjective. By the foregoing limitation of age, the offence terminates when the child reaches 15 years. Hence, a child within the age bracket of 15 yrs still in the camp of the military operations is not a child soldier.

The double standard on the age of protection of child soldiers is clearly pronounced in the legal framework of many countries around the world as there is no clear uniformity between under 15 years and 18 years. Juxtaposing the foregoing, the following countries criminalized the conscription along with the engagement of minors below 15 yrs into military operations by militias in their national legal framework:

³⁹ Rome Statute of ICC, Article 8 (2b) (xxvii) and 8 (2a) vii, SCSL Article 4 (c).

⁴⁰ ILO WF of Child Labour, Article 1 and 3.

⁴¹ Robbie JA Robinson, "The Right of Child Victims of Armed Conflict to Reintegration and Recovery," *Potchefstroom Electronic Law Journal* 15, no. 1 (2017), <https://doi.org/10.17159/1727-3781/2012/v15i1a2456>.

⁴² AP I, Article 77 (2); AP II, Article 4 (3) (c). RS of ICC, Article 8 (2) (b) (XXVI).

Belgium⁴³, Canada⁴⁴, Congo⁴⁵, Germany⁴⁶, Ireland⁴⁷, Mali⁴⁸, Netherlands⁴⁹, New Zealand⁵⁰, Norway⁵¹, Korea⁵², South Africa⁵³, Switzerland⁵⁴, United Kingdom⁵⁵, and United States of America⁵⁶ among others. On the other hand, the following countries criminalized conscription along with engagement of minors below 18yrs into armed violence by militias: Australia⁵⁷, Colombia⁵⁸, Denmark⁵⁹, Finland⁶⁰, Lithuania⁶¹, Nicaragua⁶², Philippines⁶³, Rwanda⁶⁴, Slovenia⁶⁵, Spain⁶⁶, Sri Lanka⁶⁷, Nigeria⁶⁸, South Sudan⁶⁹, Sierra Leone⁷⁰, Uganda⁷¹, Liberia⁷², Sudan⁷³, Democratic Republic of Congo⁷⁴ among others. An appreciation of the foregoing unveils the fact that more countries by

⁴³ Belgium: Criminal Code 2003, Article 136.

⁴⁴ See Rome Statute, Article 8(2).

⁴⁵ War Crimes and Crimes Against Humanity Act 1998, Article 4.

⁴⁶ International Crimes Code 2002, Article 1, 8(1)(5).

⁴⁷ GCs Act, Section 4(1) and (4) (as amended in 1998)

⁴⁸ Penal Code 2001, Article 31(i)(26).

⁴⁹ See International Crimes Act, 2003, Sections 5(5)(r) and 6(3)(f).

⁵⁰ ICC Act 2000, Article 11(2)(b) and (d).

⁵¹ See MPC 1981, Section 108.

⁵² See ICC Act 2007, Article 10(3)(5).

⁵³ Ibid, Schedule 1, Part 3, Sections (b)(xxvi) and (e)(vii) 2002.

⁵⁴ See CC 2012, Section 264(f).

⁵⁵ ICC Act 2001, Article 50(1).

⁵⁶ See CSA Act 2008, Section 2442 (a)(1).

⁵⁷ See CCA, Sections 268.68 (4-6) and 268.88 (4-6).

⁵⁸ See PC (Law NO 599 of 2000), Article 162.

⁵⁹ See MPC 2005, Section 36(2).

⁶⁰ See C/C Article 105(2).

⁶¹ See C/C, Chapter 11, Section 5(1)(5).

⁶² See P/C, Article 509 (2008).

⁶³ See A/S Handbook, Page 55, Section 4 (2006).

⁶⁴ See Article 10-11.

⁶⁵ P/C, Article 378.

⁶⁶ P/C, 1995, Article 612(3).

⁶⁷ P/C, 2006, Section 358A.

⁶⁸ CRA 2003 of Nigeria, Article 27.

⁶⁹ CRA 2008 of South Sudan, Article 5.

⁷⁰ CRA 2007 of Sierra Leone, Article 2.

⁷¹ CFRU, 1995, Article 34.

⁷² CLL, 2011, Article 4.

⁷³ CRA 2008, Southern Sudan, Act No. 10, Article 1.

⁷⁴ CPL 2009, DRC, Article 1.

their legal framework support the shift towards under 18 yrs of age for conscription or engagement of children in military warfares.⁷⁵

To lend credence to the foregoing, it has been argued that the 15 yrs benchmark suggestions may be seen as a social construct, unreasonable and unacceptable age barrier that should be increased to 18yrs in order to conform with CRC's guidelines on maturity age along with ACWRC provisions on age of protection of children in situations of military warfares. Furthermore, inconsistencies amongst IHL, ICL along with IHRL guidelines, especially on the age of protection of children during military warfares oftentimes results to weakening the enforcement powers of the legal framework.⁷⁶ In other words, it is on record that restrictions on the conscription of children or engagement of those below 15yrs of age has reached the minimum standard of CIL. This was attested to by AC of SC for Sierra Leone in 2004.⁷⁷

In similar vein, the proposed 18yrs of age for child conscription seems to be an acceptable position.⁷⁸ This position as embedded in the OPAC and Paris Principles are non-binding and is yet to attain an acceptable standard for CIL. Although, it may be exerted that there much influence in the shaping of states' policies on the prohibition of child conscription into military operations in situations of military warfares.⁷⁹ The non uniformity in age the security of children conscripted for military operations goes a long way in distorting the smooth enforcement strength of the legal framework against the menace

⁷⁵ See ACRWC, Article (2), OPAC, Article 2 and 4.

⁷⁶ OCHA, 'Analysis: Available at: <<https://www.reliefweb.int>>. Accessed July 30, 2023.

⁷⁷ *Prosecutor v. Sam Hinga Norman* SCSL 2004-14-AR72 E, Appeals Chambers ,31 May, 2004.

⁷⁸ Anuradha Lingappa, "Application of the Child Soldiers Prevention Act to Myanmar: A Case Study in How a Simple Statute Insufficiently Addresses a Complex Problem," *Hastings International and Comparative Law Review* 39 (2021), https://repository.uclawsf.edu/hastings_international_comparative_law_review/vol45/iss1/4.

⁷⁹ Hakeem Onapajo, "Children in Boko Haram Conflict: The Neglected Facet of a Decade of Terror in Nigeria," *African Security* 13, no. 2 (2020), <https://doi.org/10.1080/19392206.2020.1770919>.

especially.⁸⁰ For instance, many countries in Africa that conscripted children in to military operations pegged 18 years as a benchmark that forms their military laws.⁸¹ On this note pegging the protection bracket to under 15 years alone is not healthy and effective to march the extermination of the problem.

C. Lack of Consensus on the Acceptable Age of Child's Culpability in Law of Nations

The acceptable age of criminal responsibilities suggests the age a person is mature enough to be liable for his actions and can be legally prosecuted.⁸² This lapse originates from the discrepancies created by international standards in the definition of a child along with the age of involvement in military warfares. This borders on the controversies between the 18 years of a child status and below 15 yrs of engagement in military warfares. It follows therefore that if a child's liability does exist, then the age of corresponding criminal liability is unsettled.⁸³ Unfortunately, the above question has been a legal rhetoric as there is

⁸⁰ Oren J Litwin, "Weaponized Noncombatants, Child Soldiers, and Targeting Innocents," *Journal of Military Ethics* 19, no. 1 (January 2, 2020): 56–68, <https://doi.org/10.1080/15027570.2020.1771842>.

⁸¹ Among the African Countries with laws exempting under 18 years from military are: Algeria, Benin, Botswana, Burkina Faso, Malawi, Mauritania, Morocco, Mozambique, Namibia, Niger, Cameroon, Cote D'ivoire, Egypt, Ethiopia, Gabon, Gambia, Guinea Bissau, Mali, Rwanda, Sao Tome and Principle, Senegal, Togo, Tunisia, Zambia, Zimbabwe. Across the world, the below listed countries prescribed recruitment to military service to person up to 18 years of age: Hungary, Indonesia, Iran, Iraq, Malaysia, Mexico, Netherland, Nicaragua, Norway (17 years voluntary for men and 18 years for women), Albania, Argentina, Australia (18 years voluntary and years with parental consent), Bahamas, Bangladesh, Belgium Hosnia and Herge Covina, Brazil, Bulgaria, Poland, Portugal, Sweden, Ukraine (20 years) United Kingdom, USA (18 years) 17 with parental consent).

⁸² Darko Marković and Ivana Spaić, "Minimum Age of Criminal Responsibility as Part of Criminal Policies," *Kultura Polisa* 19, no. 3 (2022), <https://doi.org/10.51738/kpolisa2022.19.3r.131ms>; Aaron Brown and Anthony Charles, "The Minimum Age of Criminal Responsibility: The Need for a Holistic Approach," *Youth Justice* 21, no. 2 (2021), <https://doi.org/10.1177/1473225419893782>.

⁸³ See CRC, Article 1; ACWRC, Article 2; ILO Worst Forms of Child Labour Convention 182, Article 3.

no unified agreement on acceptable standard in terms of age for criminal responsibilities of children. Simply put, MACR of child in ICL is not fixed as it is subjectively assessed nation by nation. In Africa, MACR varies greatly and is subjectively fixed per country.⁸⁴ Nigeria for instance, issues on children are in the concurrent list, Second Schedule, Part 2 of the 1999 Constitution (as amended in 2011), each state have different ages for children's criminal liability.⁸⁵ The differences ascribed to MACR may be deduced from the differences that exists in the administration of criminal justice system of several States.

At the international level, an acceptable guideline's for determining the MACR is provided with regard to IHRL. On fair trial guarantee in ACRWC, articles 6 and 7 do not prescribe who may or may not be tried by age and do not preclude the trial of minors. It recognized that minors are prosecuted in accordance with the domestic penal instruments. This standard therefore provides for special protection to children during the prosecutorial process. Going further, USMR otherwise known as Beijing Guidelines provides thus:

Those countries that recognized the issue of age of criminal responsibilities in their criminal law jurisprudence are to prosecute in strict adherence to the laws. An understanding of the issue of age of minors should take into cognizance the mental capacities of such a child.⁸⁶

Thus, the paper revealed that lack of bindingness of the proposition was expressed in the CRC as follows:

Member States should strive to established regulations, procedures, agencies along with organizations whose responsibilities is to ensure that children who are culpable of infringing the criminal laws of the State are punished in accordance with the laws, as well as establishing an acceptable age standard in such a manner that such a child

⁸⁴ See CJA 2008, Sections 7 and 11.

⁸⁵ The Federal Act, CRA 2003 does not specify any age for criminal liability.

⁸⁶ See UNDMR for the Administration of Juvenile Justice (Beijing Rules) adopted by GA Assembly Res.40/33 of Nov 1985.

may not have known the Implications of violating criminal laws.⁸⁷

Being advisory in nature, the CRC that has the mandate of interpreting the provisions of CRC, suggests that MACR should appear reasonable. It further suggested that member States should increase their acceptable age standard as incorporated into their national regulations. Although, this suggestion seems persuasive, as council has limited powers in deciding what amount to an acceptable age standard for criminal responsibilities in the Law of Nations.⁸⁸

In this regard, Council submit that criminal responsibilities is dependent on basic issues like age, and not on personal believe anchored on attainment of maturity age or other subjective reasons as the case may be. Going further, the SCSL is empowered statutorily to prosecute children above the age of 15yrs, however, is yet to prosecute children below the age of 18yrs.⁸⁹ Moreso, it is observed that RS on its own empowered ICC in the prosecution of persons above 18yrs of age vide its article 26. From the purport of the foregoing, ICL is not certain and clear on the MACR. This is because while ICC lacked jurisdictions in the prosecution of children below 18yrs, SCSL vide its article 7(1) has Jurisdiction on those of 15 years and above.⁹⁰ It should be noted that children does not have the required intention along with the capacity of taking a reasonable decision's for or against their actions.⁹¹ Worst, when

⁸⁷ See CRC, Article 49.

⁸⁸ See CRC Report on the 10th Session UN Doc CRC/C/46/1995.

⁸⁹ Catherine Baillie Abidi, "Prevention, Protection and Participation: Children Affected by Armed Conflict," *Frontiers in Human Dynamics* 3 (2021), <https://www.frontiersin.org/journals/human-dynamics/articles/10.3389/fhumd.2021.624133>.

⁹⁰ Afolasade A. Adewumi and Victor O. Adenekan, "Towards a Legislative Reform of the Doctrine of Doli Incapax Under the Nigerian Criminal Code Act," *Journal of Law, Policy and Globalization* 95 (2020): 32–37, <https://doi.org/10.7176/jlpg/95-05>.

⁹¹ I.V. Bushuev and E.V. Ivanchenko, "On the Age of Criminal Responsibility," *Закон и Право*, no. 2 (2023), https://doi.org/10.56539/20733313_2023_2_164; Thomas Crofts, "Act Now: Raise the Minimum Age of Criminal Responsibility," *Current Issues in Criminal Justice* 35, no. 1 (2023), <https://doi.org/10.1080/10345329.2022.2139892>;

they are coerced or influenced by hostile conditions of war, they may not act independently. To this end, raising a definite acceptable age standard for criminal responsibilities will go a long way in enthrone enforcement of legal standards on child soldiering. In all, international law has not addressed the MACR for children adequately. Hence, it is a contested norm particularly on issues of military warfares. However, the paper revealed that non-global consensus on the subject provokes the issue on whether a child may be responsible for criminal acts considering his capacity or ability to form the required intention in situations of military warfares.

D. The Unsettled Questions of Prosecution of Minors for War Crimes

There has been arguments and opinions concerning children conscripted in military warfares that are responsible for the commission of heinous crimes during armed conflicts on whether they are to be construed as casualties and accountability for their crimes be placed squarely on adults who recruit and use them.⁹² Another variable is that they should be held liable for crimes committed as child soldiers and be prosecuted adequately.⁹³

The nexus and dichotomy of found in child soldiering as war casualties or orchestrators of global offences still remains unsettled in the jurisprudence of Law of Nations. It is illustrative that if the victims are children, then those who harassed them should be punished where they are found guilty of perpetrating egregious war offences, they should face prosecution. In general, the IHL and IHRL do not exclude children from being held liable for offences perpetrated in situations of military warfares. Although not necessarily addressed to children, CRC foresees

Brown and Charles, "The Minimum Age of Criminal Responsibility: The Need for a Holistic Approach."

⁹² Euro-Med Monitor, *Militarized Childhood A Report on the Houthis' Recruitment of Yemeni Children during War Euro-Mediterranean Human Rights Monitor SAM for Rights and Liberties*, 2021.

⁹³ Nadia Akseer et al., "Women, Children and Adolescents in Conflict Countries: An Assessment of Inequalities in Intervention Coverage and Survival," *BMJ Global Health* 5, no. 1 (2020), <https://doi.org/10.1136/bmjgh-2019-002214>.

the trials of minors below 18yrs of age.⁹⁴ The foregoing development foreshadows criminal liability of children and the salient conditions that must be followed as per juvenile criminal justice. Indirectly, it purports that the world at large have formed the impression that children are likely to have intention at the commission of crimes, although, their best interest is paramount.⁹⁵ This is laid down by Article 38(1) CRC which enjoins contracting parties to respect IHL. Hence, all vagaries of opinions on MACR affect the move for the prosecution of minors.⁹⁶ There is no specific provision in the ICL or other bodies of law prohibiting the trial or prosecution of infants for offences perpetrated in situations of military warfares or in time of peace.⁹⁷ This established the fact that apart from ICL, IHL, and ILO, IHRL do not create criminal powers to try offenders although they can recommend same to state parties.

In Africa for example, children conscripted in military warfares are prosecuted in the national regulations for global offences such offences committed during military warfares. However, in 2000, DRC hanged a child of 14 yrs of age who are found to be engaged in military warfare, while in 2001, four children between the ages of 14 and 16 were slammed with death sentence. In this sense, they were freed as a result of several clamours for their release by NGOs. Moreso, the Ugandese government accused two former child soldiers for treason,⁹⁸ and the said charges against them was later withdrawn as a result several pressures from HRW on the basis that Ugandese government is a contracting party to global organizations on the rehabilitation of children who are conscripted into military warfares.⁹⁹ In a similar note, in Rwanda, there are two major agencies charged with the enforcement of children conscripted into military operations such

⁹⁴ See CRC, Article 40.

⁹⁵ See ACWR Articles 17, 30 and AP I Article 6 (4) and AP 11.

⁹⁶ UNSMR for the Administration of Juvenile Justice (Beijing Rules) Rule 4.1 and UNG for the prevention of juvenile delinquency (Riyadh Guidelines).

⁹⁷ See Article 7 of the SCSL.

⁹⁸ See AI "DRC: Children at War," (2003),4. Available at: <<https://www.amnesty.org>> Accessed September 30, 2023.

⁹⁹ Alice S. Debarre, "Rehabilitation & Reintegration of Juvenile War Criminals: A De Facto Ban on Their Criminal Prosecution?," *Denver Journal of International Law and Policy* 44, no. 1 (2015): 1–20.

as the national Courts along with the Gacaca enforcement mechanisms. The Gacaca enforcement mechanisms differs from the conventional courts as they are traditional methods of ADR set up for the promotion of accountabilities for genocidal offences.¹⁰⁰

Gacaca ADR provides soft landing for children at trial stage for any criminal offences arising from military operations. Hence, children below 14 yrs of age is free from any forms of prosecution, but rather should be quarantined in a rehabilitation camp. Also, it should be noted that Rwandan national regulations ensured that crime perpetrators below the age of 14 yrs should not be subjected to any form of criminal liabilities.¹⁰¹ This depicts that children conscripted into military operations should be charged under the national regulations on the basis that their position as under age persons should be taken into cognizance. Hence, this does not imply that they are innocent offenders, but are to be seen as offenders of global offences. Additionally, prosecution of child offenders sometimes are not in line with the guidelines of the ICT, which aimed at prosecuting persons that are found culpable.¹⁰² It would incur major difficulties to prosecute children who are considered victims of conscription into military operations.

The main aim of administration of justice system for minors is primarily for reformation, while remained the last to be explored.¹⁰³ This goes a long way to buttress the fact that military warfares are not meant for minors as well as being prosecuted in any criminal tribunal.¹⁰⁴ Currently, only SCSL are permitted to enforced charges against children conscripted into military operations vide article 7(1). The problem of victim's participation or double roles of children in armed struggles is a

¹⁰⁰ Kristin Conner Doughty, *Remediation of Rwanda: Harmony and Punishment in Grassroots Legal Forums*, *Remediation of Rwanda: Harmony and Punishment in Grassroots Legal Forums*, 2016.

¹⁰¹ Jordan Nowotny, "The Limits of Post-Genocide Justice in Rwanda: Accessing Gacaca from the Perspective of Survivors," *Contemporary Justice Review* 23, no. 4 (October 1, 2020): 401–29, <https://doi.org/10.1080/10282580.2020.1719365>.

¹⁰² Andrea Römmele et al., "Reimagining Child Soldiers in International Law and Policy," *Party Politics* 20, no. 3 (2014).

¹⁰³ See CRC, Article 39, 40(3) (a), SCSL, Article 17(1) (2).

¹⁰⁴ Michael W. Brough, John W. Lango, and Harry Van Der Linden, *Rethinking the Just War Tradition*, *Rethinking the Just War Tradition*, 2007, <https://doi.org/10.1515/9780791479698>; Römmele et al., "Reimagining Child Soldiers in International Law and Policy."

big challenge. The dilemma on whether to enforced charges against CS that committed heinous offences remained a setback in the wheel of Justice on the prohibition of child soldiering in Africa. Hence, it would be unjust to prosecute a child who is presumed a victim. There is at present no guidelines or practice direction of the international courts for assessing when appropriate to bring a prosecution against any individual that is below 15yrs or 18urs as at the time of perpetration of the alleged offence. It should be noted that issues of culpabilities of minors is a complex international legal issue that is boggling at present. However, this work takes a protectionist stance on the agency of minors who are prone to attack by their nature during military warfares. Peradventure the commit heinous crimes in the wake of armed conflict originated by adult strict administration of juvenile justice schemes by utilized to trial and rehabilitate them.

E. Absence of a Definite Legal Regime of Minors in Military Warefares

Generally speaking, no specific international or regional legal standard exists for minors in military warfares. However, CS being an emerging global phenomenon which has attained customary international law lacked regulatory measures that addressed the conscription of minors into military operations and these has remained a draw back to the call or enforcement for its extermination.¹⁰⁵ A specific legal regime that captures the rights of minors along with actions exhibited by the in situations of military warfares is salutary.

This assertion is clear because understanding a child soldier is a difficult exercise because the phenomenon appears elusive. It is double faced and laws meant to cure it are multi dimensionally shrouded in confusion and conflict. Take for instance, the child soldier appears as a victim of a war crime on one hand and in another a perpetrator of a war crime.¹⁰⁶ This differing conceptualization or representation of innocence and agency is crucially not captured in any international legal

¹⁰⁵ Odermatt, "Between Law and Reality: 'New Wars' and Internationalised Armed Conflict."

¹⁰⁶ Tim Allen, *Trial Justice: The International Criminal Court and the Lord's Resistance Army* (London: Bloomsbury Academic, 2006).

instrument. The multifaceted effects of child soldiering place the existing international legal framework on slippery ground of dichotomizing between child and adult soldier.¹⁰⁷ This problem is much more disturbing as there exists no clear interpretation of a minors in Law of Military warfares or IHL. Also, no uniform but variegated interpretations of a minor and no binding one for child soldier in legal standards.¹⁰⁸ This also applies to international legal systems as differing ages are ascribed to the definition of child.¹⁰⁹ On this note the actual definition of a minor sought to be safeguarded in situations of military warfares appears difficult and illusory in nature. Worst, in many international legal instruments there exist non adequate prohibitory provisions against child soldiering.¹¹⁰

Convoluting the scenario, no specific interpretation of the word 'minor' exist in CIL as well as in military warfares either customary or treaty regulations.¹¹¹ Apart from the foregoing, there is no single article that deals with the rights of minors in military warfares in UN Charter.¹¹² In ICPRDP, there seems to be no single article that penalized abuses of children on child soldiering.¹¹³ Ironically, in Africa where child soldiering seems to be in its worst situation, there is no specific domestic legal framework on child soldiering.

The child rights legal standards in most African countries that have guidelines restricting conscription of minors into military warfares fall short of standards. For instance, the Nigerian government enacted the CRA 2003 aimed at safeguarding the rights of minors from any form

¹⁰⁷ Milena Jakšić, "Looking for the Child Soldier," *Journal of Legal Anthropology* 4, no. 1 (2020), <https://doi.org/10.3167/jla.2020.070703>.

¹⁰⁸ African Conference on the Use of Children as Soldiers, Maputo Declaration on the Use of Children held in Maputo Mozambique from 19-22 April 1999, para. 7,8,9.

¹⁰⁹ See CRC, Article I.

¹¹⁰ Statute of ICC, Article 8 (2) (b) (xxvi) and 8 (2) SCSL, Article 4 (c); CRC, Article 38 (3); AP I 1977 of GCs 1949, Article 77 (11); AP II 1997 of GCs 1949, Article 4 (3c).

¹¹¹ The Nuremberg Trial and the Tokyo War Crimes Trials (1945-1948).

¹¹² See UDHR, 1948, Article 25.

¹¹³ See The Convention Relating to the Status of Refugee Convention of 1951; AU Convention for the Protection and Assistance of IDPs in Africa (Kampala Convention).

of violations.¹¹⁴ Be that as it may, Nigeria, in particular the northern axis has in recent time been engulfed in crises culminating into child soldiering among others. The incursion of Boko Haram and Herdsmen menace have incidents of child soldiering.¹¹⁵ However, the non-penalization of the above offence of usage of children as soldiers in CRA 2003 boggles the mind on the seriousness of the Government on its emasculation as Article 34 CRA, 2003 provides as follows:

- i. No minor should be conscripted into any aspects of military warfares of FRN.
- ii. State or it's agencies or bodies should guide against direct involvement of minors in armed hostilities or warfares.

The above provision is merely super flux as it has no punitive sanction when flawed. Section 11 specifically prohibits direct involvement of children in military operation or hostilities. The provision is unmindful of indirect participations such as espionage, cooks, messengers, sex slaves among others. The provision under rated the DDR of child soldiers.¹¹⁶ Worst, there is no provision on MACR of children.

Going further, Sierra Leonian government has experienced several activities on conscription of minors in the region of Africa. However, conscription of minors by rebel groups and their concomitant trials by the SCSL are all evidences of the palpable negative effects of child soldiering in the country. The slim prohibitory provision on child soldiering in the CRA 2007 boggles the mind as to the country's

¹¹⁴ Cap C 50 LFN, 2004.

¹¹⁵ Tarila Marclint Ebiede, "Beyond Rebellion: Uncaptured Dimensions of Violent Conflicts and the Implications for Peacebuilding in Nigeria's Niger Delta," *African Security* 10, no. 1 (January 2, 2017): 25–46, <https://doi.org/10.1080/19392206.2016.1270140>.

¹¹⁶ Sergey E. Smirnykh, "International Legal Status of Child Soldiers as Participants in Armed Conflicts," *Gosudarstvo i Pravo* 2021, no. 11 (2021), <https://doi.org/10.31857/S102694520017528-1>; Kononenko, "Prohibiting the Use of Child Soldiers: Contested Norm in Contemporary Human Rights Discourse."

determination to stamp it out.¹¹⁷ This is because the act has no weighty provisions to exterminate the menace. Just like Nigeria, it has no punitive penalty for the usage of children in soldiering and hostilities.¹¹⁸ Section 28 of the CRA 2007 provides that:

1. All minors are entitled to adequate safeguard from engagement in military warfares or similar act capable of endangering their lives. Also, acceptable age standard for conscription into military operations should be 18yr.
2. Government should not:
 - a. Conscribed or engaged any minor into armed operations or similar operations or allowed such enrollment or engagement in military activities,
 - b. Application or permission to use land mines along with other ammunition prohibited by international regulations as injurious to minors.

A cursory perusal of the above provision exposes that there is an oversight on the indirect involvement of children in soldiering which does not include carrying of arms. The provision also overlooks the DDR of child soldiers. A crucial provision in section 70 of the act on MACR is its stipulation at below the age of fourteen years.¹¹⁹ Hence, in Sierra Leone, a minor is not criminally liable for acts perpetrated by him unless deemed not to have attained the age of 14 yrs.

Another African country Sudan enacted a Child Right Law in 2010.¹²⁰ The law guaranteed the rights of minors against usage as soldier.

¹¹⁷ William Boothby, "Direct Participation in Hostilities – A Discussion of the ICRC Interpretive Guidance," *Journal of International Humanitarian Legal Studies* 1, no. 1 (2010): 143–64, <https://doi.org/https://doi.org/10.1163/187815210X12766020139929>.

¹¹⁸ John Williamson, "The Disarmament, Demobilization and Reintegration of Child Soldiers: Social and Psychological Transformation in Sierra Leone," *Intervention* 4, no. 3 (2006), <https://doi.org/10.1097/wtf.0b013e328011a7fb>.

¹¹⁹ Brown and Charles, "The Minimum Age of Criminal Responsibility: The Need for a Holistic Approach."

¹²⁰ Child Rights Act 2010 CAP 10 Sudan.

Issues on minors in military warfares is enshrined in Chapter VII of the foregoing Act. It provides in sections 43 and 44 thus:

In Section 43 (1) There should be prohibition on conscription of minors into military operations, militias or enrollment for any form of military operations.

In Sub-section (2) armed forces regulations along with guidelines should clearly specify proper punishment against those that violates subsection (1).

A perusal of the above section unveils that section 43(1) which prohibits child soldiering anticipates usage of children only in the state military parlance.¹²¹ Hence the punitive measures are left with the Armed Forces laws along with the regulations. However, the omission of minors in military struggles directly and indirectly by non-state violent groups is a major gap. The provision on demobilization and re-accommodation in sections 44(1) and (2) overlooks the disarmament and is not gender sensitive. There is also no provision on the MACR of a child.

South Sudan promulgated her Child Act in 2008.¹²² It has one of the most exhaustive provision on child soldering in Africa. The provisions of the Act capture's explicitly the country's scenario and negative experiences associated with child soldering. A remarkable aspect of the above is its gender sensitive value and stipulation of punitive sanction on the offence of child soldering. Sections 31 along with 32 of Southern Sudan's CA provides thus:

Section (31)(1) Acceptable age standard for conscription or personal enrollment into military operations or otherwise should be 18yrs of age.

Subsection (2) State should endeavor to see that no minor is conscripted into military operations or similar nature or to be used for sexual exploitations etc.

¹²¹ Child Right Act 2007 of Sierra Leone.

¹²² South Sudan's Child Act, Chapter 11 South Sudan Gazette 2009 Child (Supplement 1(1) 10 Feb 2009.

Although this Act did not capture the MACR of a child, it stipulated eighteen years as acceptable standard of age for enrollment into armed operations that is in compliance with ACRWC guidelines.¹²³ The addition of the words voluntary recruitment is a fillip to the foregoing provision. Section 31 (2) and (3) are very exhaustive on the governmental DDR policy. It captured strongly the unarmed activities of the vulnerable child soldier.

This provision is salient because whenever child soldiering is mentioned people atune it to armed struggles only, neglecting heinous activities carried out against the child as unarmed child soldier. Fortunately, section 32 captures the usage of children as soldiers as an offence which carries punitive penalty. In comparison, Liberia enacted her Children's Act in 2011 for the achievement of adequate safeguard of minors in Liberia.¹²⁴ It must be emphasized that the rights of minors is particularly slim, disjuncted by a civil war from 1989-2003. Most of them witnessed and endured atrocities and many drafted as child soldiers. The dearth provision in the law on child soldiering smacks the mind whether the country really experienced same. Article III, section 22 provides that:

Children are entitled to adequate safeguard from engagement into military operations or similar operations that exposed them to dangers. No agencies of government should enroll minors into military warfares.

From the purport of the foregoing, it is pertinent that the non-specific legal framework on child soldiering is a major gap to the fight against the menace. This is because the international, regional and country based instruments that have provisions on the issue are ill equipped or not adequate to face the emerging nature of minor's engagement into military warfares. Hence, there is need for a definite legal standard for child in armed conflict situations.

¹²³ ACRWC, Article 22, CRC Article 2 and 38.

¹²⁴ Children Law 2011 (1st September 2011) of Liberia.

F. Gender Blind Approach to Girl Child Participation in Military Warfare

Girls suffer unspeakable atrocities during armed conflict, as the effect of hostilities to them differ in dimension and parameter with males even after the crises. The effects of war linger years after the transition period to peace as several womenfolk are left bereaved of their husbands, while others are made orphans. Also, involvement of female minors as child soldier in military warfare or militias remained notorious in recent years in Africa.¹²⁵ Women and girls served in the armed forces during military warfare in Uganda, Sierra Leone, South Sudan, Rwanda, along with Liberia amongst others.¹²⁶ Girls just like their male counterparts have their own units where they directly participated and indirectly in armed conflict. They were routinely raped and sexually assaulted by their group soldiers and enemy camps.¹²⁷ Inferentially whether they carried or welded gun, they were exposed to the risk of the hostility of military operations.

It is observed that legal safeguard for females during military warfare are marred with lots of provisional deconstructions within the domain of enrollment along with engagement of minors in military operations.¹²⁸ However, female minors engaged in military warfare appears invisibly represented within the legal framework. To this end, no express prohibition on indirect engagement in military warfare by any standards. Hence, the inchoate dichotomy existing between voluntary along with involuntary engagement remained a crucial gap. This is because the clause participate actively in hostility as provided in statutes has generated contention whether direct or involuntary pattern

¹²⁵ K. Mlaba, "How Do Women and Girls Experience the Worst of War," *Vglobalcitizen*, 2022, www.vglobalcitizen.org.

¹²⁶ HRW, "No Place for Children: Child Recruitment in Northern Uganda," *Hrw.Org*, 2003, www.hrw.org.

¹²⁷ Louise Chappell, "Women, Gender and International Institutions: Exploring New Opportunities at the International Criminal Court," *Policy and Society* 22, no. 1 (2003), [https://doi.org/10.1016/S1449-4035\(03\)70011-3](https://doi.org/10.1016/S1449-4035(03)70011-3).

¹²⁸ ACRWC, Article 8.

of engagement in conflicts are provided.¹²⁹ The above opens up the debate whether indirect participation in hostilities as carried out by females such as cooks, spies, sex slaves etc are prohibited by the legal standards.¹³⁰ Hence, the gender dimension of active and inactive or voluntary or involuntary engagement in military warfares are contentious.

In dissecting the foregoing, ICC in Lubanga's case developed a criterion to roles as carried out by female soldiers are to be seen as voluntary engagement in military warfares. Appeal Chambers was tasked with providing guidelines on how to ascertain a particular situation that will be regarded as a voluntary engagement. Thus, the general notion is that what determines voluntary engagement is a personal service rendered by a minor that exposes him or her to dangers thereby becoming vulnerable to harmful practices.¹³¹ Nonetheless, the above assertion by the general opinion tends to excludes violations in any manner as it envisage voluntary engagement. Notably, as Judge Odio Benito's contrary view in Lubanga's case suggests that the offence of conscription of minors in military warfares includes sexual exploitations of female minors, in this regard, the general view also takes into cognizance this situation. Moreso, both formal and informal obstacles linked to the above assertion implies that this is not an effective method of prosecuting offences arising from sexual exploitations of female minors by members of their military formations.¹³²

The foregoing was corrected in the case of Ntaganda. At the early stage of the matter, a contentious issues was raised as to whether sexual exploitations of a female minor by the same members of the military formations amounts to an offence in military warfares under RS article

¹²⁹ See Rome Statute, Article 8(2)(6)(xxvi), 8(2)(e) (viii), SCSL Article 4(c) , Common Article 3 of GCs 1949, Article 72(2) of AP 1 to GCs 1949, Article 38(2) CRC; Article 4(3) (c) AP II to the GCs 1949, Article 22 (2) ACRWC.

¹³⁰ United Nations, "WHRGRC Concerns in Situations of Conflict and Instability (OHCHR) and WHRGE," *Ohchr.Org*, 2020, <https://www.ohchr.org>.

¹³¹ Justice Initiative, "Thomas Lubanga Appeal at the ICC, Background Briefing," *Justiceinitiative.Org*, 2023, www.justiceinitiative.org; Lubanga Appeal Judgment para 340. The argument is that domestic work isolated from war environment does not qualify as active participation.

¹³² Ibid, 19-20.

8(2)(e)(vi).¹³³ The decision in Ntaganda's case contributed to the criminal jurisprudence on sexual exploitations of female minors conscripted into military warfares. Also, the compensation to victims or reparation as provided by RS of ICC is not gender sensitive.¹³⁴ The effects of armed conflict against the females vis-à-vis compensations differ from the males. There is no dichotomy between the two sexes on reparation. The same is applicable to DDR programming of states.¹³⁵ The process appears masculine negating and relegating the biological vulnerability of girl soldiers who are either pregnant or nursing mothers vis a vis empowerment schemes.

G. Non-Provision of Adequate Training for Peace Keepers on Child Soldiering

The foregoing lapse is sublime due to the effects of the internationalization of armed conflicts worldwide along with non-adherence to prohibitory standards of IHL by NSAGs who are principal offenders of child soldiering. Apart from the engagement and enrollment of minors in military warfares, transitional period remained crucial to enforcement of the prohibition against the menace.¹³⁶ There is no war, armed conflict or hostility that lasts forever. This change from combatants to non-combatants life is difficult and if not properly handled by trained peace keepers, hostility can erupt again.¹³⁷ The Peace keeper in the transitional justice of child soldiering menace is one

¹³³ *Prosecutor v. Bosco Ntaganda* (Ntaganda), document containing the charges, ICC-01/04-02/06-203-AnxA 10 January 2014, Pretrial Chamber I, (107).

¹³⁴ Olga Jurasz, "Reparations for Gendered Harms at the International Criminal Court: Towards Transformative and Gender-Just Reparations?," in *Gender and War*, 2019, <https://doi.org/10.1017/9781780688466.010>.

¹³⁵ Wenche Iren Hauge, "Gender Dimensions of DDR-Beyond Victimization and Dehumanization: Tracking the Thematic," *International Feminist Journal of Politics* 22, no. 2 (2020), <https://doi.org/10.1080/14616742.2019.1673669>.

¹³⁶ UNICEF, "No Peace Without Justice: ICL and Children, UIRC, 2020," *Unicef.Org*, 2020, <http://www.unicef.org/emerge/files/icrc.pdf>.

¹³⁷ Franklyn Bai Kargbo, "International Peacekeeping and Child Soldiers: Problems of Security and Rebuilding," *Cornell International Law Journal* 32, no. 3 (2004), <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1622&context=cilj>.

adequately trained to facilitate the process of transition. The non-inclusion of adequate training and facilitates for peace keepers in the international legal frame work prohibiting child soldering is a big flaw affecting the enforcement of the standard.¹³⁸ This is because the post war process is as important as the prohibitional process. The transitional period being a healing process requires skills, facilities and adequate training for the peace keepers. In most African countries, the majority of transitional actors were foreigners. In Sierra Leone, the SCSL was a hybrid one. In DRC, Rwanda, Uganda, a good number of NGO's involved in the DDR were foreigners also.¹³⁹ They cannot be in the country forever. To sustain their work, the indigenous institutions must be trained in child related conflict management skills especially as it relates to gender main streaming along with disengagement, dislodgement or reincorporate.

While waters of child soldiering increasingly appears stagnant, international communities are relentless in cleansing the mess therein. The many principles and standards set to ameliorate the growth of minors in military warfares in Law of Nations is provided in the Vancouver guidelines on peace keeping along with the eradication of the engagement or enrollment of minors in military warfares,¹⁴⁰ this guidelines seek to prioritized and operationalized the safety of minors in the UN peace keeping operations. More importantly, Vancouver Principles has the mandate of preventing measures on the engagement or enrollment of minors in military warfares.¹⁴¹ Hence, it pledges for the inclusion of appropriate child protection provisions in all UN and regional peace keeping mission operations. On that note, the prevention

¹³⁸ Ekpotuatin Charles Ariye, "The United Nations and Its Peace Purpose: An Assessment," *Journal of Conflictology* 5, no. 1 (2014), <https://doi.org/10.7238/joc.v5i1.1827>.

¹³⁹ Jaremey McMullin, "Reintegrating Young Combatants: Do Child-Centred Approaches Leave Children-and Adults-Behind?," *Third World Quarterly* 32, no. 4 (2011), <https://doi.org/10.1080/01436597.2011.567006>.

¹⁴⁰ In November 15th 2017, a group of 55 UN State members launched the Vancouver Principles on Peace keeping and Prevention of Recruitment and use of child soldiers.

¹⁴¹ Sanskriti Sanghi, "A World With No Child Soldiers: Assessing The Impact Of The Vancouver Principles, 2017," *Cambridge International Law Journal*, 2018, <https://cilj.co.uk/2018/01/22/a-world-with-no-child-soldiers-assessing-the-impact-of-the-vancouver-principles-2017/>.

of child soldiering holds sway in such manners all peace keeping operations are designed. The principle advocates for support to UN efforts in identifying early warning signals of child recruitment.¹⁴² To achieve the foregoing, all peace keepers are to receive adequate training exercise on the safeguard of minors prior to their deployment.¹⁴³ This will enhanced full correspondence network amongst the stakeholders involved therein.

The principles strictly holds that child involvement in the war crime is treated within the ambit of juvenile standards of trial.¹⁴⁴ The soldiers or peacekeepers are not free as any of them that behaves or acts below the standard laid down such as sexual abuse of children under protection shall be investigated and prosecuted.¹⁴⁵ A salient provision of the principle is the recognition of the relevant impact of womenfolk to peace keeper's efficiency in operations.¹⁴⁶ This means that for the operations to be effective, there should be gender balance in resources, positions, facilities, roles and trainings on the preventive measures of child soldiering. Take for instance, if a girl is raped during conflict, a female peace keeper shall effectively interview her better than a male

¹⁴² David Curran, "Training for Peacekeeping: Towards Increased Understanding of Conflict Resolution?," *International Peacekeeping* 20, no. 1 (February 1, 2013): 80–97, <https://doi.org/10.1080/13533312.2012.761841>.

¹⁴³ S A Bokeriya, "Women's Participation in the United Nations Peacekeeping Operations: Overcoming Barriers BT - Africa and the Formation of the New System of International Relations: Rethinking Decolonization and Foreign Policy Concepts," ed. Alexey M Vasiliev, Denis A Degterev, and Timothy M Shaw (Cham: Springer International Publishing, 2021), 207–16, https://doi.org/10.1007/978-3-030-77336-6_15; Dustin Johnson, "A Critical Feminist Approach to Implementing Vancouver Principle 11," *Allons-y: Journal of Children, Peace and Security* 5 (2021), <https://doi.org/10.15273/allons-y.v5i0.10216>.

¹⁴⁴ Jolien Tegenbos and Koen Vlassenroot, "Going Home? A Systemic Review of the Literature on Displacement, Return and Cycles of Violence," *Politics of Return Working Paper*, no. 1 (2018): 1–38.

¹⁴⁵ Johnson, "A Critical Feminist Approach to Implementing Vancouver Principle 11."

¹⁴⁶ D. Johnson, "Women as the Essential Protectors of Children?: Gender and Child Protection in UN Peace keeping," (2022) 29 *IPKJ*, 2: 282-290.

during DDR process.¹⁴⁷ Hence, critical inputs of male along with the female should be dichotomized in transitional process.

To assist in successful translation of child soldiers into normal life, proper assimilation into the community in disputes or post-dispute conditions, this principle advocates inclusion of their issues in the DDR guidelines and agendas of UN, ECOWAS along with AU. Exquisite child related policies are germane for the realization of the above. Though disunity among African States are not far-fetched as a challenge to extirpate the enforceability of the peace keeping operational mandates, however issues bordering on the realization peace and unity surmount such clogs in transitional periods.¹⁴⁸ This is taking into consideration the basic needs, gender imbalance, age and identity factors in Africa. To buttress the above, the principle posits the incorporation of the safety measures guidelines in aspects agreed in the achievement of the peace processes.¹⁴⁹

Be that as it may, the training requisite for the peace operations are generic and should be made specific in accordance with the pattern of disputes at hand.¹⁵⁰ This training for personnels on peace mission in Nigeria where Boko Haram conflict holds way may be different from South Sudan's case. Also just like the Paris Principles, the Vancouver Principles are mere rules of action for peacekeepers of UN. It is not binding on nations, however, it can act as a precursor or catalyst to many regional peacekeeping rules. Having stated the foregoing, the non-provision for adequate training and sufficient fund and facilities for post

¹⁴⁷ Akseer et al., "Women, Children and Adolescents in Conflict Countries: An Assessment of Inequalities in Intervention Coverage and Survival."

¹⁴⁸ K P Apuuli, "The African Union and Peacekeeping in Africa: Challenges and Opportunities BT - Africa and the Formation of the New System of International Relations: Rethinking Decolonization and Foreign Policy Concepts," ed. Alexey M Vasiliev, Denis A Degterev, and Timothy M Shaw (Cham: Springer International Publishing, 2021), 169–81, https://doi.org/10.1007/978-3-030-77336-6_12.

¹⁴⁹ Georgina Holmes, "Situating Agency, Embodied Practices and Norm Implementation in Peacekeeping Training," *International Peacekeeping* 26, no. 1 (January 1, 2019): 55–84, <https://doi.org/10.1080/13533312.2018.1503934>.

¹⁵⁰ Natalie Glynn, "Understanding Care Leavers as Youth in Society: A Theoretical Framework for Studying the Transition out of Care," *Children and Youth Services Review* 121 (2021): 105829, <https://doi.org/https://doi.org/10.1016/j.childyouth.2020.105829>.

war conflict managers is a major flaw affecting the enforcement of the prohibitional provisions of legal standards on child soldiering especially when there is a signed peace pact. Owing to dearth of human resources and poor funding, the local and foreign NGO are majorly unable to carry out their peace enforcement programs after war effectively.

Conclusion

Adequate enforcement of the provisions of international legal standards is the key to stamping out child soldiering from the society. Laws, treaties, charters abound that prohibit the menace, but what is the meaning of or usefulness of such standards with application glut? This work exposed that impediments that hamper the effective enforcement of the legal framework are man-made either from within the provisions of the standards or outside and can be cured with man-made wholesome arsenals within the society. On this note the below recommendations are made:

- (i) The paper recommends the interpretation of conscription of minors into military warfares as provided by UNICEF in line with the Cape Town Guidelines as one under the age of 18 years among others to be incorporated in all the international legal framework as a binding denotation of the term.
- (ii) The provision of protection of under 15 years prescribed in GCs along with the APs, RS, SCSL, CRC, OPAC among others be amended to under 18 years.
- (iii) Acceptable standard of age for liabilities in criminal matters of a minor be tagged at 14 yrs, while below 18 yrs for war crimes of child soldiering. This cushions the debate on victimhood or perpetratorship of child soldiers in ICL. Hence, if criminal charges are brought against children associated with military warfares, prosecutions must comply with the global justice guidelines for minors.
- (iv) Parties are to streamlined their armed forces enrollment patterns as well as engaged in retraining of their military personnel for service delivery.

There should be a global, regional and domestic legal framework designed for situations of military warfares that will involves engagement of minors for military operations. This will take care of NSAGs adherence to IHL, gender protection to girls and other females, adequate DDR policies, eschew political unrests and changes in armed conflicts, adequate provision of for peace keepers mission on child soldiering, among others. There should be an establishment of IHR Courts along with the establishment of a unit on charge of the rights of minors.

References

- Adewumi, Afolasade A., and Victor O. Adenekan. "Towards a Legislative Reform of the Doctrine of Doli Incapax Under the Nigerian Criminal Code Act." *Journal of Law, Policy and Globalization* 95 (2020): 32–37. <https://doi.org/10.7176/jlpg/95-05>.
- Akseer, Nadia, James Wright, Hana Tasic, Karl Everett, Elaine Scudder, Ribka Amsalu, Ties Boerma, et al. "Women, Children and Adolescents in Conflict Countries: An Assessment of Inequalities in Intervention Coverage and Survival." *BMJ Global Health* 5, no. 1 (2020). <https://doi.org/10.1136/bmjgh-2019-002214>.
- Allen, Tim. *Trial Justice: The International Criminal Court and the Lord's Resistance Army*. London: Bloomsbury Academic, 2006.
- Apuuli, K P. "The African Union and Peacekeeping in Africa: Challenges and Opportunities BT - Africa and the Formation of the New System of International Relations: Rethinking Decolonization and Foreign Policy Concepts." edited by Alexey M Vasiliev, Denis A Degterev, and Timothy M Shaw, 169–81. Cham: Springer International Publishing, 2021. https://doi.org/10.1007/978-3-030-77336-6_12.
- Ariye, Ekpotuatin Charles. "The United Nations and Its Peace Purpose: An Assessment." *Journal of Conflictology* 5, no. 1 (2014). <https://doi.org/10.7238/joc.v5i1.1827>.
- Baillie Abidi, Catherine. "Prevention, Protection and Participation: Children Affected by Armed Conflict." *Frontiers in Human Dynamics* 3 (2021). <https://www.frontiersin.org/journals/human->

- dynamics/articles/10.3389/fhumd.2021.624133.
- Barbara, Joanna Santa. "The Impact of War on Children." In *War and Public Health*, 2009. <https://doi.org/10.1093/acprof:oso/9780195311181.003.0011>.
- Bokeriya, S A. "Women's Participation in the United Nations Peacekeeping Operations: Overcoming Barriers BT - Africa and the Formation of the New System of International Relations: Rethinking Decolonization and Foreign Policy Concepts." edited by Alexey M Vasiliev, Denis A Degterev, and Timothy M Shaw, 207–16. Cham: Springer International Publishing, 2021. https://doi.org/10.1007/978-3-030-77336-6_15.
- Boothby, William. "Direct Participation in Hostilities – A Discussion of the ICRC Interpretive Guidance." *Journal of International Humanitarian Legal Studies* 1, no. 1 (2010): 143–64. <https://doi.org/https://doi.org/10.1163/187815210X12766020139929>.
- Brough, Michael W., John W. Lango, and Harry Van Der Linden. *Rethinking the Just War Tradition. Rethinking the Just War Tradition*, 2007. <https://doi.org/10.1515/9780791479698>.
- Brown, Aaron, and Anthony Charles. "The Minimum Age of Criminal Responsibility: The Need for a Holistic Approach." *Youth Justice* 21, no. 2 (2021). <https://doi.org/10.1177/1473225419893782>.
- Bushuev, I.V., and E.V. Ivanchenko. "On the Age of Criminal Responsibility." *Закон и Право*, no. 2 (2023). https://doi.org/10.56539/20733313_2023_2_164.
- Casalin, Deborah. "Recruitment and Use of Child Soldiers in International Law: Prohibition and Elimination," 2021. https://doi.org/10.1007/978-3-319-95867-5_4.
- Chappell, Louise. "Women, Gender and International Institutions: Exploring New Opportunities at the International Criminal Court." *Policy and Society* 22, no. 1 (2003). [https://doi.org/10.1016/S1449-4035\(03\)70011-3](https://doi.org/10.1016/S1449-4035(03)70011-3).
- Cohen, Eliot A., Guy Goodwingill, and Ilene Cohn. "Child Soldiers: The Role of Children in Armed Conflicts." *Foreign Affairs* 74, no. 3 (1995). <https://doi.org/10.2307/20047146>.
- Crofts, Thomas. "Act Now: Raise the Minimum Age of Criminal Responsibility." *Current Issues in Criminal Justice* 35, no. 1 (2023).

- <https://doi.org/10.1080/10345329.2022.2139892>.
- Curran, David. "Training for Peacekeeping: Towards Increased Understanding of Conflict Resolution?" *International Peacekeeping* 20, no. 1 (February 1, 2013): 80–97. <https://doi.org/10.1080/13533312.2012.761841>.
- Debarre, Alice S. "Rehabilitation & Reintegration of Juvenile War Criminals: A De Facto Ban on Their Criminal Prosecution?" *Denver Journal of International Law and Policy* 44, no. 1 (2015): 1–20.
- Diaz, Sarah. "An Elusive Mandate: Enforcing the Prohibition on the Use of Child Soldiers." *SSRN Electronic Journal* 39, no. 3 (2024). <https://doi.org/10.2139/ssrn.4855634>.
- Doughty, Kristin Conner. *Remediation of Rwanda: Harmony and Punishment in Grassroots Legal Forums*. Remediation of Rwanda: Harmony and Punishment in Grassroots Legal Forums, 2016.
- Ebiede, Tarila Marclint. "Beyond Rebellion: Uncaptured Dimensions of Violent Conflicts and the Implications for Peacebuilding in Nigeria's Niger Delta." *African Security* 10, no. 1 (January 2, 2017): 25–46. <https://doi.org/10.1080/19392206.2016.1270140>.
- Euro-Med Monitor. *Militarized Childhood A Report on the Houthis' Recruitment of Yemeni Children during War Euro-Mediterranean Human Rights Monitor SAM for Rights and Liberties*, 2021.
- Glynn, Natalie. "Understanding Care Leavers as Youth in Society: A Theoretical Framework for Studying the Transition out of Care." *Children and Youth Services Review* 121 (2021): 105829. [https://doi.org/https://doi.org/10.1016/j.childyouth.2020.105829](https://doi.org/10.1016/j.childyouth.2020.105829).
- Green, Leslie C. *The Contemporary Law of Armed Conflict*. The Contemporary Law of Armed Conflict, 2018. <https://doi.org/10.1093/jcsl/5.2.290>.
- Greppi, Edoardo. "The Evolution of Individual Criminal Responsibility under International Law." *International Review of the Red Cross* 81, no. 835 (1999). <https://doi.org/10.1017/s1560775500059782>.
- Hanson, K. "International Children's Rights and Armed Conflict." *Human Rights & International Legal Discourse (HR&ILD)* 5, no. 1

- (2011): 40–63. <https://www.jurisquare.be/en/journal/hrild/5-1/international-childrens-rights-and-armed-conflict/>.
- Hauge, Wenche Iren. “Gender Dimensions of DDR-Beyond Victimization and Dehumanization: Tracking the Thematic.” *International Feminist Journal of Politics* 22, no. 2 (2020). <https://doi.org/10.1080/14616742.2019.1673669>.
- Holmes, Georgina. “Situating Agency, Embodied Practices and Norm Implementation in Peacekeeping Training.” *International Peacekeeping* 26, no. 1 (January 1, 2019): 55–84. <https://doi.org/10.1080/13533312.2018.1503934>.
- HRW. “No Place for Children: Child Recruitment in Northern Uganda.” *Hrw.Org*, 2003. www.hrw.org.
- Initiative, Justice. “Thomas Lubanga Appeal at the ICC, Background Briefing.” *Justiceinitiative.Org*, 2023. www.justiceinitiative.org.
- Jakšić, Milena. “Looking for the Child Soldier.” *Journal of Legal Anthropology* 4, no. 1 (2020). <https://doi.org/10.3167/jla.2020.070703>.
- Johnson, Dustin. “A Critical Feminist Approach to Implementing Vancouver Principle 11.” *Allons-y: Journal of Children, Peace and Security* 5 (2021). <https://doi.org/10.15273/allons-y.v5i0.10216>.
- Jurasz, Olga. “Reparations for Gendered Harms at the International Criminal Court: Towards Transformative and Gender-Just Reparations?” In *Gender and War*, 2019. <https://doi.org/10.1017/9781780688466.010>.
- Kandi-Dayeni, Maryam, and Navid Mollaei. “International Legal Framework on Child Soldiery Protection.” *Cluj Napoca Journal* 12 (2018): 175–81.
- Kargbo, Franklyn Bai. “International Peacekeeping and Child Soldiers: Problems of Security and Rebuilding.” *Cornell International Law Journal* 32, no. 3 (2004). <https://scholarship.law.cornell.edu/cgi/viewcontent.cgi?article=1622&context=cilj>.
- Kartika, Arie, Windy Sri Wahyuni, and Dessy Agustina Harahap. “Aspek Hukum Fasilitas Ruang Laktasi Pada Pusat Perbelanjaan (Mall) Di Kota Medan.” *Ejurnal.Seminar-Id.Com* 1, no. 10 (2021).
- Kononenko, Iuliia. “Prohibiting the Use of Child Soldiers: Contested

- Norm in Contemporary Human Rights Discourse.” *Nordic Journal of Human Rights* 34, no. 2 (2016). <https://doi.org/10.1080/18918131.2016.1200293>.
- Krings, Britta Lisa. “Principles of Complementarity and Universal Jurisdiction in International Criminal Law: Antagonists or Perfect Match, The.” *Goettingen Journal of International Law* 4 (2012): 737–63. <https://doi.org/10.3249/1868-1581-4-3-krings>.
- Lingappa, Anuradha. “Application of the Child Soldiers Prevention Act to Myanmar: A Case Study in How a Simple Statute Insufficiently Addresses a Complex Problem.” *Hastings International and Comparative Law Review* 39 (2021). https://repository.uclawsf.edu/hastings_international_comparative_law_review/vol45/iss1/4.
- Litwin, Oren J. “Weaponized Noncombatants, Child Soldiers, and Targeting Innocents.” *Journal of Military Ethics* 19, no. 1 (January 2, 2020): 56–68. <https://doi.org/10.1080/15027570.2020.1771842>.
- Marković, Darko, and Ivana Spaić. “Minimum Age of Criminal Responsibility as Part of Criminal Policies.” *Kultura Polisa* 19, no. 3 (2022). <https://doi.org/10.51738/kpolisa2022.19.3r.131ms>.
- McMullin, Jaremey. “Reintegrating Young Combatants: Do Child-Centred Approaches Leave Children-and Adults-Behind?” *Third World Quarterly* 32, no. 4 (2011). <https://doi.org/10.1080/01436597.2011.567006>.
- Mlaba, K. “How Do Women and Girls Experience the Worst of War.” *Vglobalcitizen*, 2022. www.vglobalcitizen.org.
- Nations, United. “WHRGRC Concerns in Situations of Conflict and Instability (OHCHR) and WHRGE.” *Ohchr.Org*, 2020. <https://www.ohchr.org>.
- Nowotny, Jordan. “The Limits of Post-Genocide Justice in Rwanda: Accessing Gacaca from the Perspective of Survivors.” *Contemporary Justice Review* 23, no. 4 (October 1, 2020): 401–29. <https://doi.org/10.1080/10282580.2020.1719365>.
- Nurhayati, Yati, Ifrani Ifrani, and M. Yasir Said. “Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum.” *Jurnal Penegakan Hukum Indonesia* 2, no. 1 (2021). <https://doi.org/10.51749/jphi.v2i1.14>.
- Nurul, Qamar. *Metode Penelitian Hukum Doktrinal Dan Non-*

- Doktrinal. Universitas Nusantara PGRI Kediri*. Vol. 01, 2020.
- Nwachukwu, Okubor Cecil. "Armed Conflict under International Humanitarian Law." *Nnamdi Azikiwe University Journal of International Law and Jurisprudence* 5, no. 0 (2014): 62-74-74. <https://www.ajol.info/index.php/nauijlj/article/view/136284>.
- Odermatt, Jed. "Between Law and Reality: 'New Wars' and Internationalised Armed Conflict." *Amsterdam Law Forum* 5, no. 3 (2013). <https://doi.org/10.37974/alf.258>.
- Onapajo, Hakeem. "Children in Boko Haram Conflict: The Neglected Facet of a Decade of Terror in Nigeria." *African Security* 13, no. 2 (2020). <https://doi.org/10.1080/19392206.2020.1770919>.
- Robinson, Robbie JA. "The Right of Child Victims of Armed Conflict to Reintegration and Recovery." *Potchefstroom Electronic Law Journal* 15, no. 1 (2017). <https://doi.org/10.17159/1727-3781/2012/v15i1a2456>.
- Römmele, Andrea, Viktoryia Schnose, John T Ishiyama, Michael Marshall, Alessandro Chiamonte, Vincenzo Emanuele, Stefanie Beyens, et al. "Reimagining Child Soldiers in International Law and Policy." *Party Politics* 20, no. 3 (2014).
- Sanghi, Sanskriti. "A World With No Child Soldiers: Assessing The Impact Of The Vancouver Principles, 2017." *Cambridge International Law Journal*, 2018. <https://cilj.co.uk/2018/01/22/a-world-with-no-child-soldiers-assessing-the-impact-of-the-vancouver-principles-2017/>.
- Smirnykh, Sergey E. "International Legal Status of Child Soldiers as Participants in Armed Conflicts." *Gosudarstvo i Pravo* 2021, no. 11 (2021). <https://doi.org/10.31857/S102694520017528-1>.
- Tegenbos, Jolien, and Koen Vlassenroot. "Going Home? A Systemic Review of the Literature on Displacement, Return and Cycles of Violence." *Politics of Return Working Paper*, no. 1 (2018): 1-38.
- UNICEF. "No Peace Without Justice: ICL and Children, UIRC, 2020." *Unicef.Org*, 2020. <http://www.unicef.org/emerge/files/icrc.pdf>.
- Waschefort, Gus. *International Law and Child Soldiers*. Oxford: Hart Publishing, 2014. <https://ssrn.com/abstract=2465877>.
- Williamson, John. "The Disarmament, Demobilization and Reintegration of Child Soldiers: Social and Psychological

Transformation in Sierra Leone.” *Intervention* 4, no. 3 (2006).
<https://doi.org/10.1097/wtf.0b013e328011a7fb>.

Zeidy, Mohamed M. El. “Principle of Complementarity: A New Machinery to Implement International Criminal Law, The.” *Michigan Journal of International Law* 23, no. 4 (2001).
http://heinonlinebackup.com/hol-cgi-bin/get_pdf.cgi?handle=hein.journals/mjil23§ion=35.

Acknowledgment

None

Funding Information

None

Conflicting Interest Statement

There is no conflict of interest in the publication of this article.

Publishing Ethical and Originality Statement

All authors declared that this work is original and has never been published in any form and in any media, nor is it under consideration for publication in any journal, and all sources cited in this work refer to the basic standards of scientific citation.

Notification

Starting from the 2024 issue, our journal has transitioned to a new platform for an enhanced reading experience. All new articles and content will now be available on this updated site. However, we would like to assure you that archived issues from 2020 to 2023 are still accessible via the previous site. Please check the following link:
<https://journal.unnes.ac.id/sju/jllr/issue/archive>.